CODE OF FAIR PRACTICE FOR THE USE OF AV WORKS IN FILM EDUCATION

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DO WE NEED A CODE OF FAIR PRACTICE?

• **Uses with permission:** e.g. licensed services like BoB – which offers over 3M broadcasts under the ERA licence – are safe and reliable.

• **Uses without permission:** essential for educators but ambiguous and uncertain.

Copyright Bites: [https://www.copyrightuser.org/create/public-domain/copyright-bite-3-permission-or-permitted/](https://www.copyrightuser.org/create/public-domain/copyright-bite-3-permission-or-permitted/)
METHODOLOGY

• **Two online workshops** (30 June and 7 July 2020): identify the main copyright issues faced by film educators and at deliberating on what constitutes fair practice in relation to using protected audiovisual materials for educational purposes.

• **48 film academics from 32 different HE institutions** in England, Scotland, Wales and Northern Ireland.

• **3-step design:**
  i) Introductory survey and deliberation on ‘fair practice’ - statements;
  ii) Introduction to UK copyright law
  iii) Revision of statements based on guidance

• 3 broad areas of discussion: **Source of content – Use of content – Responsibility**

• Statements and notes coded into four categories: **Need – Challenge – Practice – Principles**

• **Follow-up deliberation questionnaire** (64 respondents: 21 workshop participants, 43 non-participants)
Q14

At the workshops held on 30 June and 7 July 2020, academics teaching scriptwriting indicated they often need to screen entire films to their students to show how a script is developed from beginning to end. Can you think of other examples of when you need to show an entire film to achieve your learning outcomes?

• General remarks

• Learning outcomes
  - Range of films
  - Enable students’ activities/examination
  - Critical analysis (general; narrative; production disciplines; authorship)

• Subject-specific considerations

• Clips vs whole films
Taking inspiration from the Codes of Best Practices in Fair Use, we adopted the following structure:

DESCRIPTION OF THE USE

PRINCIPLE

CONSIDERATIONS

HARD CASES
B. Allowing students to critically analyse films

DESCRIPTION

Students need to study film closely in order to understand the process of film-making and the development of film as a cultural and social phenomenon. This involves watching and re-watching specific parts of films, freeze-framing, playing at different speeds or in reverse, and interacting with source material in any way that produces insight and commentary. Etc.

PRINCIPLE

It is fair to screen and watch films, whether in parts or in their entirety when aimed at enabling and encouraging critical analysis, subject to the following:

CONSIDERATIONS

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CONSIDERATIONS

1. When the film is analysed for non-commercial educational purposes, more extensive uses are generally permitted by law. Educators can use film clips or entire films as required by their pedagogical aims.

2. Critical analysis of films may be allowed for commercial purposes and beyond educational settings, if the primary purpose for using the film is criticism or review of the film itself or of another work, rather than education.

3. Educators and students should only use as much of the film as is necessary to achieve their pedagogic and scholarly aims. Using a film for commercial purposes under fair dealing usually requires a larger amount of direct criticism or commentary than using it for non-commercial educational purposes. Educators should be prepared to explain the intended significance of the film used in relation to the purpose of the use.

4. ‘Commercial purpose’ relates to the use itself, not the status of the organisation using the work. Educational uses by for-profit organisations can be allowed if the use itself is not directly aimed at generating income.

5. Unless this is impossible for practical reasons, the authors of the film should be acknowledged. Under UK copyright law, these are the producer and the principal director.
HARD CASES

While in principle both in-classroom and online uses of films can be considered fair, subject to the considerations outlined above, the fairness assessment will change depending on the circumstances of the use. For example, showing an entire film in the classroom or via a password-protected Virtual Learning Environment (VLE) is likely to be fair if the use has clear pedagogical value. However, the same activity in a MOOC (Massive Online Open Course) is unlikely to be fair as making an entire film freely available on the internet may be commercially competing with the copyright owner’s work.
THE CODE

NEXT STEPS

- Peer-review by workshop participants (ongoing)
- Vetting by Learning on Screen’s Copyright Advisory Panel
- Publication
- Endorsement and adoption