

# Exploring Article 8 in the film archive

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## My research to date

- Exploring whether Article 8 can be successfully implemented in film archives
- Ethnographic research of 2 film archives in the UK and 2 in the Netherlands to date (with a primary focus on the BFI and EYE)
- Current practices within film archives and their current approaches to copyright, to explore whether (and how) out of commerce works could be utilised





## Preliminary themes: functional or core issues

- There is no representative CMO for film
- Archives having at least a partial commercial aspect vital to their funding structure
- A strong desire not to cause potential reputational harm with current or future donors (either financial or material)
- Funding and issues such as technology obsolescence and material degradation are of a more urgent nature for some archives

## Preliminary themes: implementation issues

- Concern that the “reasonable effort” requirement is akin to the cumbersome “diligent search”
- Lack of clarity about what works would be out of commerce, a desire from some archives to have clear cut off dates
- Lack of clarity/ difference of opinion of what purposes would be “non-commercial”, and particularly which websites are “non-commercial”





## Preliminary themes: contextual issues

- A 'backlog' in the archives of un-catalogued or un-accessioned items
- Concern that it would be a substantial financial and staffing effort to ascertain the copyright status of the works
- The UK CHIs have a more risk-adverse approach than in the Netherlands



What are your thoughts on the issues raised? Do you agree with these concerns? Do you have additional concerns?



# Which of those issues concerns you the most?

- 1st** No representative CMO (if applicable)
- 2nd** Issue with commercial aspect
- 3rd** Avoiding potential reputational harm
- 4th** More urgent concerns e.g. funding or preservation
- 5th** "Reasonable effort" search requirement
- 6th** Lack of clarity over "out of commerce"
- 7th** Lack of clarity over "non-commercial" uses or "non-commercial" website
- 8th** Existing archival backlog
- 9th** Significant cost and effort to determine the copyright status
- 10th** A general risk-adverse approach