

Best Practice Copyright Codes for Media Use, Re-Use & Preservation

Film & Media Studies Association of Canada
Canadian Communication Association

Congress 2024, Montreal



Background

Judicial Interpretation: The Supreme Court of Canada views the Copyright Act as balancing public interest in encouraging and disseminating works with obtaining just rewards for creators.

Fair Dealing: Similar to U.S. fair use, Canadian fair dealing balances copyright owners' rights with public use rights when the use is fair. Amendments in 2012 brought Canadian fair dealing closer to U.S. fair use.

Access Issues: Growing impermanence of access due to subscription-based licensing and technological protection measures threaten scholarly access to media works, risking the loss of unique cultural works.

Equity and Inclusion: Access issues also affect equity, as copyright law provisions often overlook the needs of traditionally marginalized groups, further complicating equitable access.

Preservation and Reuse: Current distribution practices, disinterest in archival mandates, and business shifts from physical to digital media pose challenges to media preservation and scholarly reuse.

Methods based on [Aufderheide and Jaszi \(2018\)](#)

Step 1: Socialize the idea of best practices codes

Step 2: Conduct surveys and focus groups to gather empirical data on media use issues.

Step 3: Develop codes of best practices through content analysis of focus group and survey data, reflecting participant consensus on fair dealing applications.

Our Aims

- Support informed decision-making in applying fair dealing and other statutory user rights in educational, preservation, and research-creation settings.
- Provide sound guidance to media scholars and librarians.
- Inspire other communities to adopt or customize these best practices.
- Benefit administrators by demonstrating reasonable and customary community norms, thus reducing institutional risk.

Bringing Up Baby (1938)

The setting: late March, classes resume following a 6-week faculty strike/lock-out, everyone scrambling to finish the much-shortened term

The class: a 4th year film course requiring students to view and make class presentations on selected films [all verified to be available online](#) at the start of term

The film:



Streaming source: Criterion-On-Demand

Bringing Up Baby (1938)

The crisis: the instructor learns the **link to the film no longer works**; the film isn't accessible on any other streaming platform; film is needed next week for class presentations

The solution:

What options do you have as the instructor?

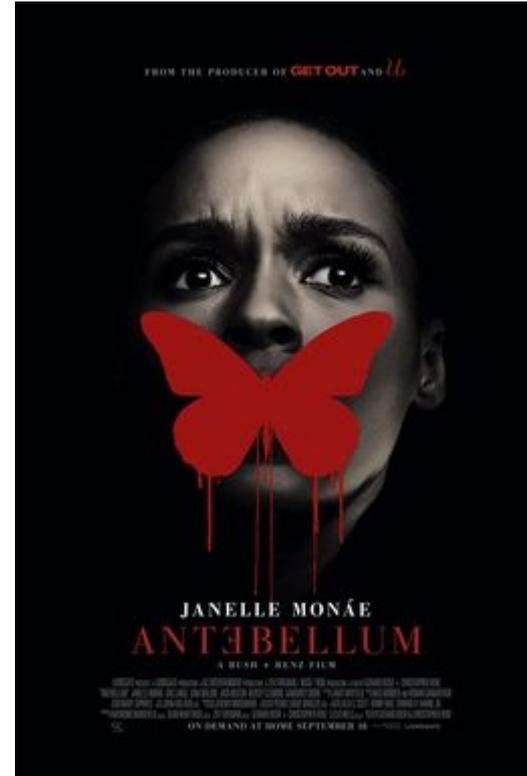
or

What is your institution's copyright specialist likely to suggest?



Antebellum (2020)

a *Lionsgate* film
requested for a Film Studies course
exploring Critical Studies of Race & Gender



Antebellum (2020)

a *Lionsgate* film
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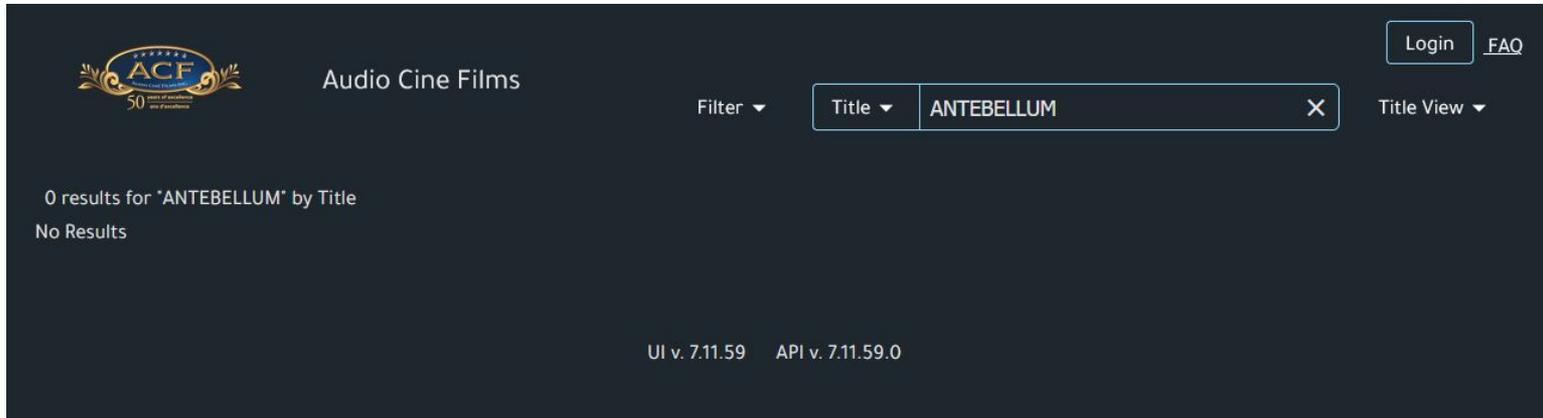
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Antebellum (2020)

a *Lionsgate* film

requested for a Film Studies course

exploring Critical Studies of Race & Gender



The screenshot shows the Audio Cine Films website interface. At the top left is the ACF logo, which includes the text "50 Years of Excellence and Foundation". To the right of the logo is the text "Audio Cine Films". In the top right corner, there are links for "Login" and "FAQ". Below the logo and text, there is a search bar with a "Filter" dropdown menu, a search input field containing "ANTEBELLUM", and a "Title View" dropdown menu. The search results area displays "0 results for 'ANTEBELLUM' by Title" and "No Results". At the bottom of the page, the version numbers "UI v. 7.11.59" and "API v. 7.11.59.0" are visible.

Antebellum (2020)

a *Lionsgate* film
requested for a Film Studies course
exploring Critical Studies of Race & Gender

Film is not available for Canadian academic institutional streaming
Film is available for purchase in DVD
Course is being offered remote/virtually

What options do you have as the instructor?

or

What is your institution's copyright specialist likely to suggest?

Visible: Out on Television (2020)

A docuseries released on AppleTV+
Requested episode 1
For Communication Studies course
Discussing the history of LGBTQ+
representation in the media industry



Season 1



EPISODE 1
The Dark Ages
Early TV portrayed LGBTQ+ people as homicidal maniacs and sexual deviants. A secret and the '70s that nothing portrayed began to change.
52 min • Feb 13, 2020 [TV-14] [Dolby Digital] [Dolby Atmos]



EPISODE 2
Television as a Tool
Following the Stonewall Uprising, LGBTQ+ activists began using television as a tool for change.
55 min • Feb 13, 2020 [TV-14] [Dolby Digital] [Dolby Atmos]



EPISODE 3
The Epidemic
HIV/AIDS was initially ignored by TV and fear of the disease started LGBTQ+ representation. Eventually, TV raised awareness of the issue.
1 hr 5 min • Feb 13, 2020 [TV-14] [Dolby Digital] [Dolby Atmos]

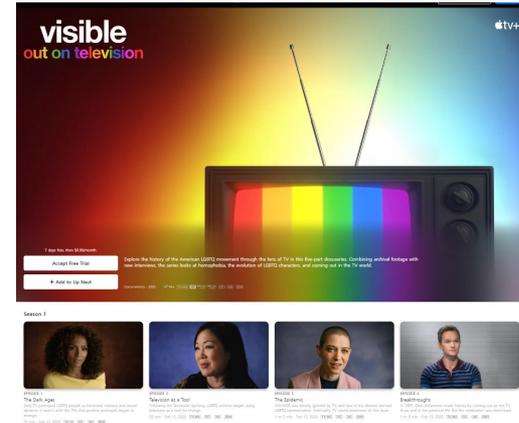


EPISODE 4
Breakthroughs
In 1997, Don McGarrett made history by coming out on the TV show and in his personal life. But the milestone was short-lived.
1 hr 8 min • Feb 13, 2020 [TV-14] [Dolby Digital] [Dolby Atmos]

Visible: Out on Television (2020)

A docuseries released on AppleTV+
Requested episode 1
For Communication Studies course
Discussing the history of LGBTQ+
representation in the media industry

Not available for Canadian academic institutional streaming
Not available for purchase in physical format
Course may be offered in person or remote



What options do you have as the instructor?

or

What is your institution's copyright specialist likely to suggest?

Canadian Collection in Lantern/CHiMERA Project



MEDIA HISTORY DIGITAL LIBRARY



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DATA & VISUALIZATIONS

LANTERN



Wisconsin Center
for Film & Theater Research

Canada's Film Press

By Paul Moore, Jessica Whitehead, and Louis Pelletier, 2024

Canadian Film Weekly Issues

Canadian Film Weekly [Jan 28, 1942]

Canadian Film Weekly [Sep 1, 1948]

Canadian Film Weekly [Feb 16, 1949]

Canadian Film Weekly [Aug 31, 1949]

Canadian Film Weekly [Oct 28, 1953]

Canada sub-collection in Media History Digital Library
mediahist.org/collections/canada

Is it copyrighted? Who owns the copyright?



Do we have permission?

What options do you have as the researcher?

or

What is your institution's copyright specialist likely to suggest?

Provide your contact information if you would like to be updated on our project:

<https://tiny.cc/fairmedia>



About Us

Session presenters:

Jessica L. Whitehead, Assistant Professor, Cape Breton University

Joceline Andersen, Assistant Teaching Professor, Thompson Rivers University

Tamar Hanstke, PhD Student, University of Toronto

Christine F. Smith, Head of Acquisitions and Serials, Concordia University

Cyrus Sundar Singh, Assistant Professor, University of Toronto / TMU

Rumi Graham, University Copyright Advisor, University of Lethbridge

Aaron Taylor, Professor, University of Lethbridge

Taylor, A., Christenson, A., Selman, B., Tepperman, C., Innerd, C., Baron, J., Blankenship, J., Stidwell, J., Langrell, K., Nair, M., Lyons, O., Graham, R., Rouleau, T., & Rioux, V. (2022). *How copyright impedes creativity and learning, and how Canadian media studies communities can take action: Final report of the Media Access and Copyright Working Group*, Film Studies Association of Canada.

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Image Sources

[https://en.wikipedia.org/wiki/File:Bringing_Up_Baby_\(1938_poster\).jpg](https://en.wikipedia.org/wiki/File:Bringing_Up_Baby_(1938_poster).jpg)

<https://tv.apple.com/us/show/visible-out-on-television/umc.cmc.1zkna505r4jre6fh7mjcncio0>

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