

# LEAPS IN MEDIA ACCESS & REUSE: COPYRIGHT CODES OF BEST PRACTICE

Christine F. Smith, Concordia University, Montreal, QC, Canada  
Rumi Graham, University of Lethbridge, Lethbridge, AB, Canada  
Eva Revitt, MacEwan University, Edmonton, AB, Canada



# Background examples

Between March 2020 and March 2022, faculty at Concordia University requested nearly 2,000 films in streaming format to be purchased or licensed by the university library for course and research use. Numerous requests were unable to be fulfilled due to licensing and rights limitations (See Smith, 2024).

We will be looking at two examples from the above in order to set the stage for, and illustrate the utility of, our project.

# Antebellum (2020)

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



# Antebellum (2020)

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

**LIONSGATE** \*

★ = Studios and distributors **exclusively** represented by ACF in Canada

Call us now at 1 800 289-8887

The ACF catalogue covers great films from all of these distributors and producers:

★ = Studios and distributors **exclusively** represented by ACF in Canada

The ACF catalogue cover mounts of the films produced by these production companies, through our exclusive partners studios and distributors. Please note that some of the titles produced by these companies may be released through other distributors than those represented by ACF.

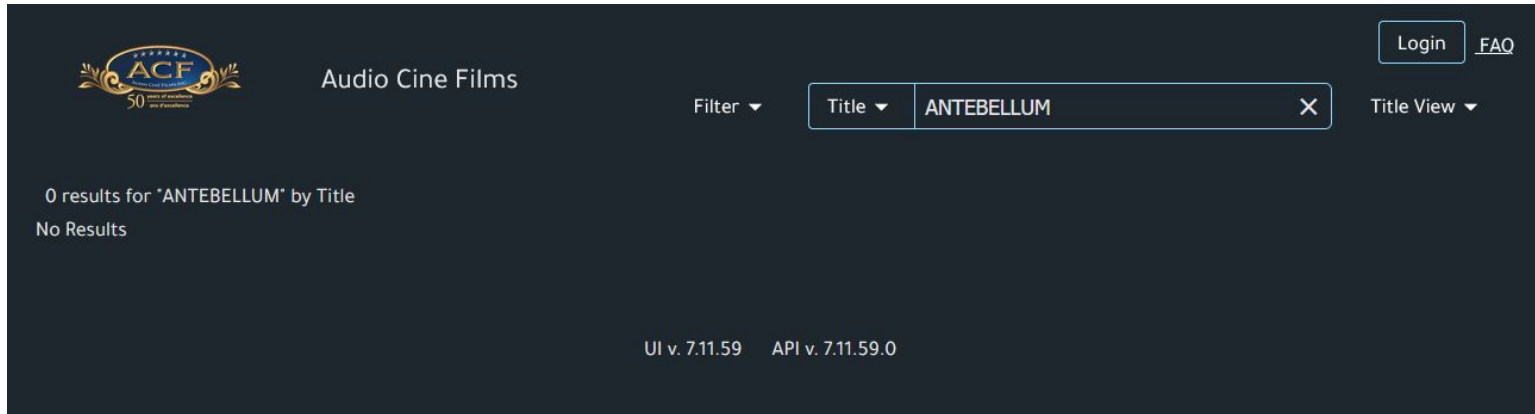
1 800 289-8887 ★ [www.acf-film.com](http://www.acf-film.com) ★ [info@acf-film.com](mailto:info@acf-film.com)  
Fax: 514 493-9058

# 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 section 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

How should you proceed?

# 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] [OO] [OO] [OO]



### 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] [OO] [OO] [OO]



### EPISODE 3

#### The Epidemic

Visible was initially ignored by TV and fear of the disease stalled LGBTQ representation. Eventually, TV moved away from the issue.

1 hr 5 min • Feb 13, 2020 [TV-14] [OO] [OO] [OO]



### EPISODE 4

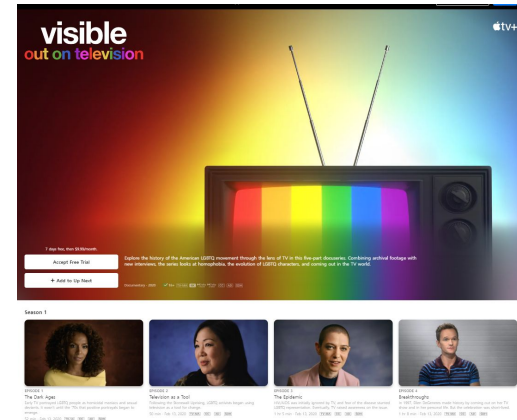
#### Breakthroughs

In 1997, Don McCarroll 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] [OO] [OO] [OO]

# 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

How should you proceed?



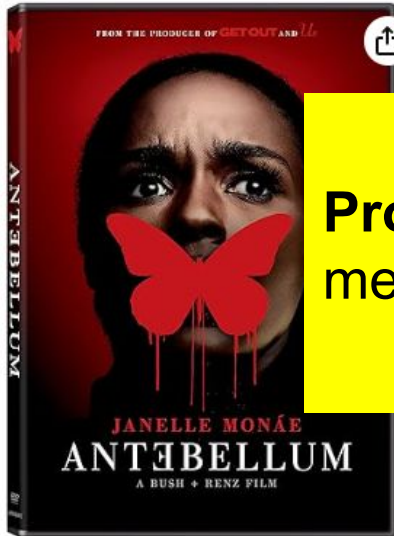
How can librarians provide access?



9 Inch Rectangle Plates Set of 6

WishDeco ★★★★★ 105 \$3

Back to results

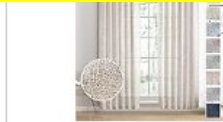


# ANTEBELLUM (DVD)

Format: DVD

**Problem:** film only available on physical media; the course is only available online

Roll over image to zoom in



Curtains Panels for Back Tab, Linen Textured, by MELTBIL...

★★★★★ 616

\$39.99 \$44.95 ✓prime

Save \$3 with coupon

Sponsored ⓘ

# Probable approach to access: Fair dealing

- Fair dealing is a provision in the Copyright Act
- It is a user right (CCH v. Law Society of Upper Canada, 2004)
- The Supreme Court has provided guidance on how to apply fair dealing (with flexibility):
  - 1) The use of the work must be for an **allowable purpose**: private study, criticism, review, education, parody, satire, news reporting
  - 2) The **dealing must be fair**: purpose of the dealing, character of the dealing, amount of the dealing, nature of the work, alternative to the dealing, effect of the dealing on the work.

visible  
out on television

**Problem:** film or series only available via  
paid subscription

Apple tv+

Probable approach to access: Inelegant, messy and very limited

- Fair dealing ??
  - Contracts versus fair dealing
  - Royal Trust v. Potash, 1986
  - Risk of losing access
- No institutional license available
- No ability to obtain permission

How can we ease this situation?

New norms are needed in the scholarly community to dispel the “*pervasive and well-founded culture of fear with respect to copyright*” (Soar, 2014)

# Interdisciplinary research team

- Media Access and Copyright (MAC) working group, 2021+
- Liaison and collections librarians, copyright specialists, film and media scholars, and communications scholars, 2022+
- Research project, Spring 2023+



# Codes of best practices in applying user rights

Why best practices (when we have guidelines)?

Who creates the codes?

How are they created?

Why do we need practitioners' (your) help?

What's involved?

# RECLAIMING FAIR USE



SECOND EDITION

*How to Put Balance Back in Copyright*

PATRICIA AUFDERHEIDE and PETER JASZI



Patricia Aufderheide  
American University



Peter Jaszi  
American University

# Build a Best Practices Code

## Step 1

- Identify and connect with members of the community of practice

## Step 2

- Discover their copyright problems

## Step 3

- Build a shared understanding of dealings that are fair

# GOAL

A robust and usable code  
built BY and FOR  
our community of  
LIS professionals

To participate in our project, please  
provide your contact info:

<https://bit.ly/cais2024>



# Works Cited

- Aufderheide, P., & Jaszi, P. (2018). *Reclaiming fair use: How to put balance back in copyright* (2nd ed.). University of Chicago Press.
- CCH Canadian Ltd v. Law Society of Upper Canada, 2004 SCC 13.  
<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2125/index.do>
- Smith, C.F. (2024, April 16). Lack of Collections as Data: Making Meaning Out of the Films We Cannot See [Conference presentation]. Concordia Library Research Forum, Montreal, QC, Canada  
<https://library.concordia.ca/about/staff/forum/index.php>
- Soar, M. (2014). If you're asking, it's not fair dealing: Animating Canadian copyright issues in a "read-write" classroom. In R. Coombe, D. Wershler, & M. Zeilinger (Eds.), *Dynamic fair dealing: Creating Canadian culture online* (pp. 154-163). University of Toronto Press.  
<https://mattsoar.com/fairdealing/SoarFairDealing.pdf>

# Image Sources

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

[https://upload.wikimedia.org/wikipedia/en/2/2e/Antebellum\\_poster.jpeg](https://upload.wikimedia.org/wikipedia/en/2/2e/Antebellum_poster.jpeg)

[https://www.acf-film.com/documents/ACF\\_EN-Studios.pdf](https://www.acf-film.com/documents/ACF_EN-Studios.pdf)

<https://press.uchicago.edu/ucp/books/book/chicago/R/bo28242133.html>

<https://www.american.edu/soc/faculty/paufder.cfm>

[https://en.wikipedia.org/wiki/Peter\\_Jaszi](https://en.wikipedia.org/wiki/Peter_Jaszi)