

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

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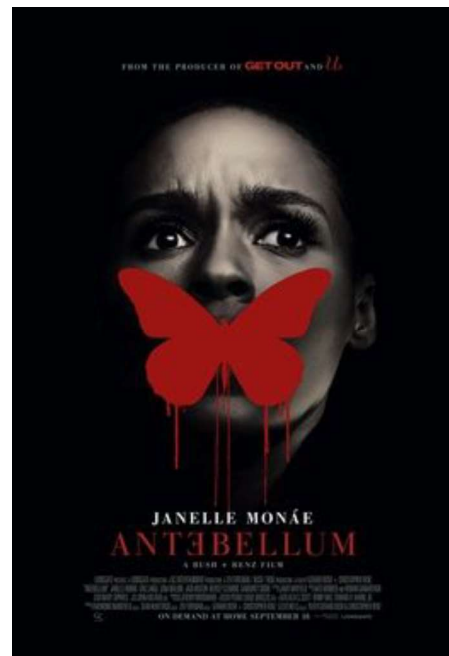
Background examples

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



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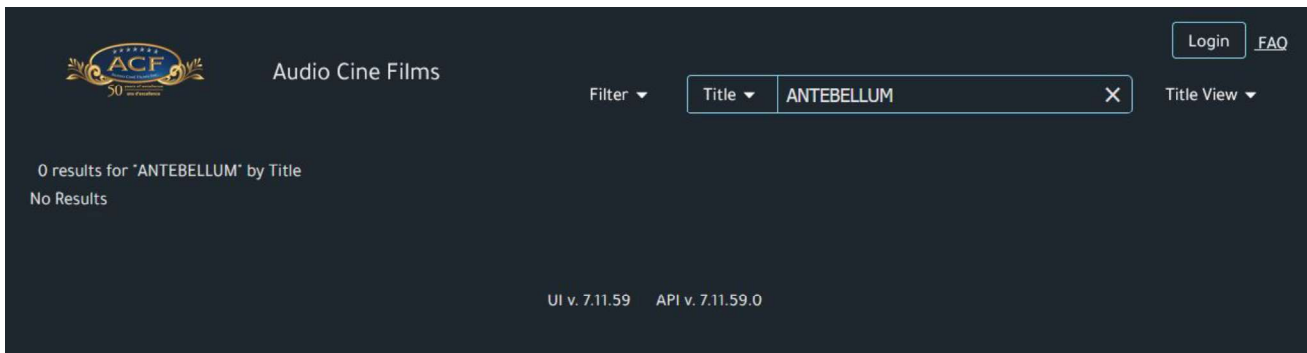
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Antebellum (2020)

a *Lionsgate* film
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The screenshot shows the Audio Cine Films website interface. At the top left is the ACF logo with '50th Anniversary' text. The site name 'Audio Cine Films' is in the top center. On the top right are 'Login' and 'FAQ' links. Below the site name is a 'Filter' dropdown menu. A search bar contains the text 'ANTEBELLUM' with a 'Title' dropdown and a clear 'X' button. To the right of the search bar is a 'Title View' dropdown menu. The main content area displays '0 results for "ANTEBELLUM" by Title' and 'No Results'. At the bottom center, 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

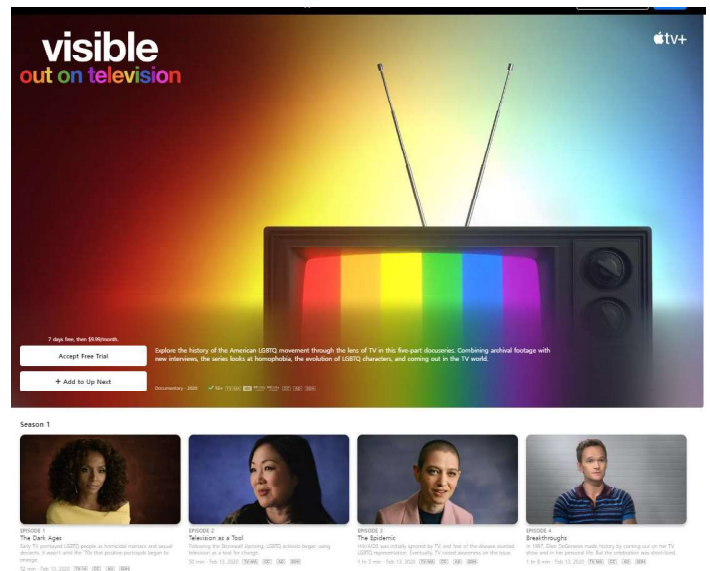
Film is available for purchase in DVD

Course is being offered remote/virtually

How should you proceed?

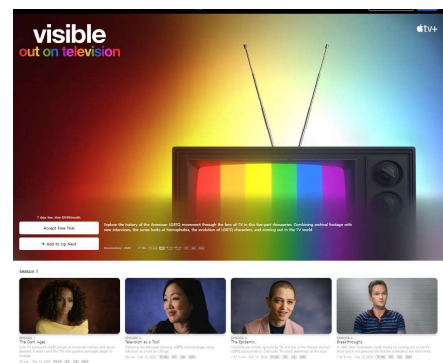
Visible: Out on Television (2020)

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



Visible: Out on Television (2020)

A docuseries released on AppleTV+
Requested episode 1
For Communication Studies course
Discussing the history of LGBTQ+
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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?

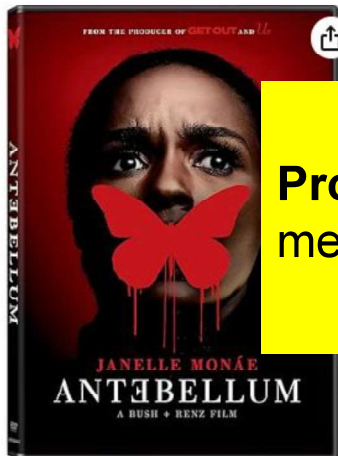
How can librarians provide access?



9 Inch Rectangle Plates Set of 6

WishDeco 4.5 stars 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...

4.5 stars 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

The Apple TV+ logo, featuring the Apple logo and the text "tv+" in white on a black background.

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://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