

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?

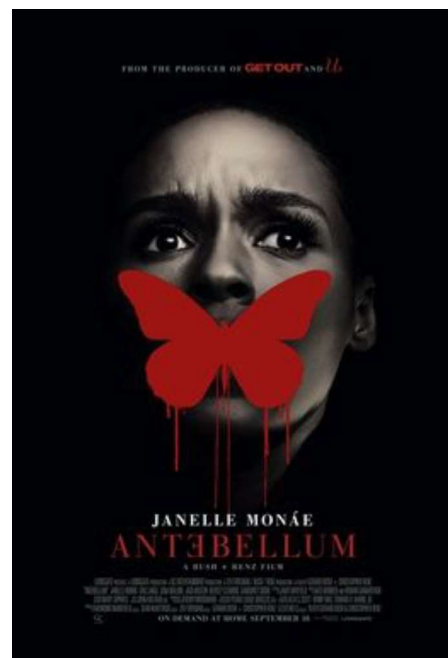
or

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



★ = 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

Altopia*
 Axia Films*
 A-Z Films*
 Baby Einstein*
 BBC Films*
 Capri Films*
 Cinémas Guzzo - Les Films*
 EuropaCorp

Equinoxe Films*
 Escape Artists*
 Filmopinion*
 France Télé*
 FunFilm*
 Gaumont*
 Imagine*
 Kinosmith*

K-Films*
 Lakeshore*
 Mandalay*
 Mandate*
 Max Films*
 Media Rights Capital*
 Monterey Media*
 Morgan Creek*

Niagara Films*
 Original Films*
 Orion Pictures*
 Pathé*
 Polygram*
 Phare-Est*
 Rainforest Films*
 Reliance*

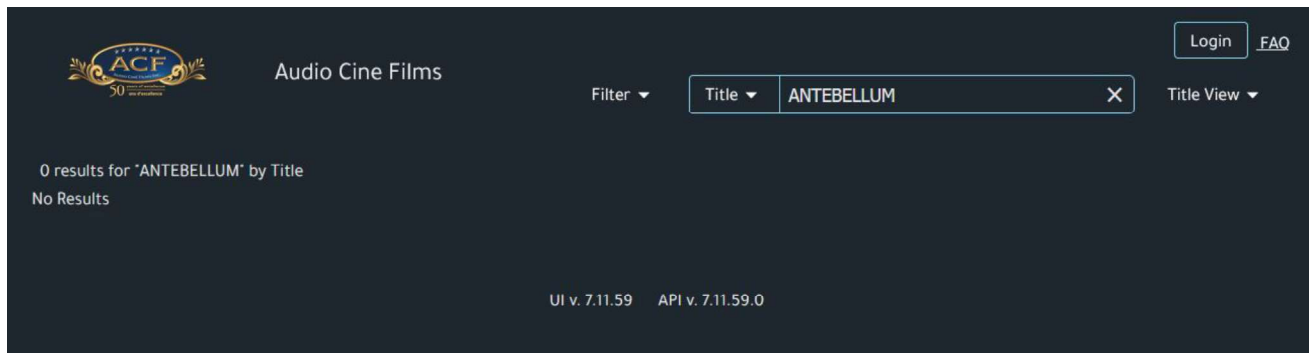
Rose Films*
 Roth*
 Samuel Goldwyn*
 Saturn Films*
 TF1 International*
 The Hot Ticket*
 Vollogue Films*

ACF
 FILMS

1 800 289-8887 ★ www.acf-film.com ★ 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 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 information 'UI v. 7.11.59 API v. 7.11.59.0' is 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



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

Canada's Film Press

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



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.

<https://www.filmstudies.ca/wpdev/wp-content/uploads/2022/08/FSAC-MAC-Full-Report-final.pdf>

<https://www.filmstudies.ca/wpdev/wp-content/uploads/2022/11/Rapport-Final-DAAM-nov-2022.pdf>

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>

https://upload.wikimedia.org/wikipedia/en/2/2e/Antebellum_poster.jpeg

https://www.acf-film.com/documents/ACF_EN-Studios.pdf

<https://www.newspapers.com/article/the-montreal-star/114765911/>

<https://wfpp.columbia.edu/pioneer/ray-lewis/>