

COMMISSION FOR PROGRAMMING AND ACCESS TO COLLECTIONS REPORT TO THE FIAF GENERAL ASSEMBLY, 20 MAY 2009

MEMBERS OF THE COMMISSION

Head of the Commission:

Antti Alanen, Kansallinen audiovisuaalinen arkisto, Helsinki

Members:

Elaine Burrows, Consultant, London

Stefan Droessler, Filmmuseum im Münchner Stadtmuseum, München

Luca Giuliani, Museo Nazionale del Cinema, Torino

Meg Labrum, National Film and Sound Archive, Canberra

Patrick Loughney, George Eastman House, Rochester

Koen Van Daele, Consultant, Ljubljana – Secretary of the Commission

Jon Wengström, Cinemateket – Svenska Filminstitutet, Stockholm – Deputy Head of the Commission

PROGRESS ON THE MATTERS OF RIGHTS AND CONTINUING THE OPENINGS OF THE 2008 PARIS SYMPOSIUM

Twelve years after Jerusalem FIAF organized a two-day symposium dedicated to the question of rights. International legal experts and policy advisors, historians and archivists, film makers and producers had the floor. The film industry had a high profile, including for the first time The Motion Picture Association of America in the person of Mr. Fritz Attaway. The great news of the meeting with the MPAA was that we are closer to mutual agreement than many of us have expected.

1: MEMBERSHIP. We hope film industry presence can be more permanent in FIAF in the spirit of opening windows, even raising the question for our consideration whether we should have a new category of FIAF membership for the film industry? We need more permanent circumstances to meet representatives of the film industry in a constructive and fruitful atmosphere for mutual benefit. We all recognize the need to fully understand the others' perspective, to reach consensus. We feel the film industry is welcome to participate more in the exchange of information. A high-level studio contact list for FIAF would be useful. A good example of FIAF and industry archives' interaction has been set by the AMIA (the Association of Moving Image Archivists in America).

The Executive Committee has discussed the PACC suggestion and appointed Patrick Loughney to draft a proposal to recommend specific action confirming the importance of ongoing sustained relationships with the film companies, engaging them in our meetings on a regular basis.

In the PACC workshop in Buenos Aires the common opinion was stronger than that: that it would be a matter of urgency to create a special membership category for the film company archives in FIAF.

2: WIPO. Furthermore, there is a need to create new high level platforms for the meeting of rightsholders and archives. As an immediate result of our meeting, already during the Symposium the proposal of a WIPO (World Intellectual Property Organization) information meeting on audiovisual archives and education was registered in Geneva, to be realized this or next year.

3: NETWORK. The situations of film archives are very different from region to region. Each

archive and region needs to pursue developments with film companies, rightsholders and their associations and recommend best practices. Many of us already have good legal counsel. It would be a good idea to develop a FIAF network of house lawyers, and we already have a group of good ones in Brussels, Washington, London, Paris... In the future there might even be a legal commission of FIAF?

4: PUBLICATIONS. Following the Symposium with the expert translators in English, French and Spanish, a draft glossary of legal terms for film archives was compiled by Eric Le Roy. This important document should be made available in FIAF.

The excellent Paris Symposium presentations have now been published on the AFF / CNC website in French and in English. This is one of the most important FIAF collections of texts on the matters of rights, together with the Jerusalem publication "The Rights Thing".

Mr. Jukka Liedes made the initiative for our consideration of a FIAF legal handbook for film and audiovisual archives, to cover the different legal systems, commendable practices and model agreements, recognizing in a respectful way our widely different circumstances. This handbook might be edited together with FIAF by our special expert WIPO friends such as Messrs. Schwartz and Liedes. The handbook might be the basis of international archival education projects in matters of rights. The next task would be to appoint the editor for this book.

5: TERMINOLOGY. In the FIAF Paris Congress The FIAF Declaration on Fair Use and Access was passed unanimously. However, the U.S. American term "fair use" is not understood very well among lawyers outside the United States, and we propose to revise the terminology: to replace "fair use and access" with "fair access".

6: MPAA. Importantly, it did seem that the MPAA representatives had no principal problems with FIAF's views on fair use. In the U.S.A., Patrick Loughney has met with Daniel Glickman, Chairman and CEO of the Motion Picture Association of America, and a next meeting is due before August.

CINEMA EXPERT GROUP – SUBGROUP FILM ARCHIVES (AUDIOVISUAL AND MEDIA POLICY UNIT, EUROPEAN COMMISSION), BRUSSELS, 9 JUNE 2008. Jon Wengström and Luca Giuliani visited Bruxelles to report after two years from the European recommendation on film heritage and the competitiveness of related industrial activities. We have been in close touch with the Subgroup and Mari Sol Perez Guevara since.

MEETING WITH WARNER BROS., JUNE 2008

In June 2008 Patrick Loughney had a meeting with Warner Bros. following up with the FIAF declaration on fair use. The WB representatives were sympathetic and would like to have more direct discussions with PACC members from Europe.

NORDIC MEETING, SEPTEMBER 2008

In the Nordic film archive meeting in Copenhagen, 4-5 September, 2008 (Alanen and Wengström were present) the theme was "Bringing Cultural Heritage to the Audiences". Mr. Jesper Andersen presented an excellent survey on the state of programming based on 16 special interviews in 13 cinemathèques (worthy of JFP publication and incorporation into the Buenos Aires symposium). In Mr. Kjell Runar Jenssen's report from the digital cinemathèque project (seven cities involved) it turned out that the expenses of digital cinema are still three times higher than in analogue presentation, but the quality is clearly inferior. The meeting was good preparation for Buenos Aires.

EUROPEAN COMMISSION GREEN PAPER ON COPYRIGHT IN THE KNOWLEDGE ECONOMY

The PACC met in Le Giornate del Cinema Muto in Pordenone, 4-12 October, 2008, to prepare comments on the Green Paper on Copyright in the Knowledge Economy prepared by the Audiovisual and Media Policy Unit of the European Commission. Our contactperson has been Mari Sol Pérez-Guevara. On Monday, 6 October a dinner meeting with Claudia Dillmann (ACE) is scheduled to coordinate our comments. Luca Giuliani was in touch Mari Sol Pérez-Guevara before the deadline of the comments to the Green Paper. PACC was active in keeping on the FIAF agenda the statement on the Green Paper, which was decided to be presented with the same wording as the ACE statement.

LEX BEATLES: EUROPEAN COMMISSION: PLANS FOR THE EXTENSION OF THE NEIGHBOURING RIGHTS IN THE EU FROM THE PRESENT 50 YEARS TO (FIRST 95 YEARS, 90 YEARS) 70 YEARS

PACC was active in keeping on the FIAF agenda the urgent European Commission plan for the extension of the neighbouring rights in the EU from the present to 70 years. The extension can result in unreasonable restrictions in the freedom of information, unless proper balances are created. The harmful consequences to libraries and archives are well documented, while there are no studies of the alleged benefits. It will be possible to extend the term later on, if this proves necessary, but it will be very difficult to shorten it, if it has proven excessive. PACC prepared the FIAF Statement to the European Commission, which states:

"Current European legislation on film producers' rights has a copyright term of 50 years, and it would be an unfortunate situation if a film's sound-track has a different copyright term than the film itself, and we fear there is a danger of a later extension also of producers' rights to harmonize the different legislations."

"Over the years, FIAF archives have put huge financial resources - in many cases public money - in to the preservation of films whose rights belong to other entities, often resulting in difficulties to present the preserved films and making them available for the general public. We strongly oppose any extension of copyright protection that would increase the obstacles involved in FIAF archives' public presentations and educational activities."

PREPARING THE FIAF CONGRESS IN BUENOS AIRES 2009

The PACC dedicated most of its energy between the Congresses of Paris and Buenos Aires to the preparation of the symposium "The Cinematheques in Search of Their New Audiences", under the leadership of Marcela Cassinelli. The PACC worked in Paris in April and in Bologna in July 2008 with Marcela Cassinelli and Christian Dimitriu, and further in Pordenone in October 2008 and in Berlin in February 2008 contributing to the planning of the Symposium. Luca Giuliani had the responsibility to plan the Second Century Forum of Buenos Aires on "Film Heritage as Cultural Patrimony", with contributions from the PACC.

THE FIAF CONGRESS IN OSLO 2010

The Technical Commission is planning a joint technical symposium "How to Present Films in the Digital Era", utilizing Oslo's state-of-the art equipment and the presence of Torkell Saetervadet, and to arrange one of Oslo's famous 70mm festivals during the Congress. The PACC has a high motivation to contribute.

THE ELECTRONIC SUBTITLING NETWORK

The FIAF electronic subtitling network keeps expanding. It is important to remember to 1) treat the translators well, 2) keep the translations and clear archival rights, 3) keep the original dialogue lists, 4) to prepare for D-Cinema, where subtitles can be selected from the digital projector's server menu. With the development D-Cinema all our collective work will have a new significance.

BETTER EXCHANGE

Serge Toubiana's made the initiative in Tokyo in 2007 on better exchange of touring shows and exhibitions. Such exchange becomes more topical every year as availability of 35mm prints gets more scarce. It would be an excellent idea to develop for the General Assembly a general round of presentations of touring initiatives available to affiliates.

COMMISSION LINE-UP

In November 2008, Steven Higgins (The Museum of Modern Art, New York) announced that he is leaving MoMA and the Commission after years of distinguished contributions in FIAF affairs.