

5.2. Programming and Access to Collections Commission

5.2.1. Report to the General Assembly

5.2.2. FIAF Declaration on *Fair Use* and *Access*

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COMMISSION FOR PROGRAMMING AND ACCESS TO COLLECTIONS
REPORT TO THE GENERAL ASSEMBLY 25 APRIL 2008

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

Steven Higgins, The Museum of Modern Art, New York

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

NB. Kjell Billing, Norsk Filminstitutt, Oslo – stepping down in April 2008

THE RIGHTS PROJECT

Since 2005, the Commission has been busy preparing the FIAF Declaration on Fair Use and Access, with Patrick Loughney as the editor since May 2006. There were profound workshops on the topic in the 2006 FIAF São Paulo Congress and in the Collegium Sacilensis of Le Giornate del Cinema Muto in 2006.

TOKYO 2007: SECOND CENTURY FORUM

In Tokyo, the third and so far the most thorough-going discussion on the current FIAF Rights project took place under the title "Overture to the FIAF Declaration on Fair Use and Access" in the Second Century Forum, chaired by Paolo Cherchi Usai, and with speakers Sungji Oh (Korean Film Archive, Seoul) on rights issues in Korea, Akira Tochigi (National Film Center, Tokyo) on rights issues in Japan, Gabrielle Claes (Cinémathèque Royale de Belgique, Bruxelles) on The ACE/FIAPF Agreement and the New Model Contract (2007), Patrick Loughney (George Eastman House, Rochester) on The FIAF Declaration on Fair Use and Access, Eric Le Roy (CNC-Archives françaises du Film, Bois d'Arcy, France) on the Rights Symposium in the 2008 FIAF Paris Congress.

PREPARING THE 70TH JUBILEUM FIAF PARIS 2008 CONGRESS: THE RIGHTS SYMPOSIUM

Under the leadership of Eric Le Roy (AFF / CNC), the commission collaborated in the preparation of the Rights Symposium of the FIAF Paris Congress. Extensive commission discussions were conducted in the FIAF 2007 Tokyo Congress, in Il Cinema Ritrovato in Bologna, July 2007, and in Le Giornate del Cinema Muto in Pordenone in October 2007.

Antti Alanen, Patrick Loughney, and Stefan Drössler had a meeting with Eric Le Roy in Paris and Bois d'Arcy 13–14 December, 2007 and visited La Cinémathèque française to prepare the Symposium.

THE JOURNAL OF FILM PRESERVATION

The special issue of Journal of Film Preservation 75/75 with the FIAF Declaration on Fair Use and Access appeared in December 2007, complete with an introduction by Eva Orbanz, and the Declaration in English, French and Spanish, presented by Patrick Loughney.

CONTACTING THE FILM INDUSTRY

The film industry had a prominent presence in the Paris 2008 Rights Symposium, and the Motion Picture Association of America was an official participant for the first time in a FIAF Congress. The commission looks forward to a positive and constructive step in the relations of film archives and the film industry.

CONCLUSIONS OF THE SYMPOSIUM "PANDORA'S BOX: FILM ARCHIVES AND THE QUESTIONS OF RIGHTS" IN LA CINEMATHEQUE FRANCAISE, 21-22 APRIL 2008

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. 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.

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.

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? During the preparation of this Symposium with the expert translators in English, French and Spanish, the need of a glossary of legal terms for film archives was apparent, but there was not enough time to compile one. The need of such a glossary is still evident. Many of the Symposium presentations were of such high quality that they certainly deserve publication. There are already plans of the AFF / CNC for website publication, but they would also be worth printing, remembering the continuous value of the excellent Jerusalem publication "The Rights Thing".

Furthermore, 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 Mr. Eric Schwartz and Jukka Liedes, himself. The handbook might be the basis of international archival education projects in matters of rights.

THE FAIR USE DECLARATION

The Fair Use Declaration, developed as a FIAF Bill of Rights to complement The Code of Ethics. The FIAF Fair Use Declaration was presented in Tokyo in three languages and published in the Journal of Film Preservation last year. The reaction among FIAF has been overwhelmingly positive. It will be on the agenda of the General Assembly in Paris.

THE FIAF CONGRESS IN BUENOS AIRES 2009

The Symposium topic in the FIAF Buenos Aires Congress in 2009 is "The Cinematheques in Search of Their Audiences". The following issues will be discussed, among others: Cinematheques as Audience Makers; Education Through Cinema and for Cinema; New Technologies and the Proliferation of Commercial Arthouses; The Advance of Festivals Over the Historical Roles of Cinematheques. In Paris, we already had a "First Tango with Buenos Aires" to contribute to the Symposium preparations with Ms. Marcela Cassinelli. Ideas and suggestions from everybody are welcome!

THE FIAF CONGRESS IN OSLO 2010

There might be a joint workshop with the Technical Commission on "How to Present Films in the Digital Era", utilizing Oslo's state-of-the art equipment and the presence of Torkell Saetervadet, and arrange one of Oslo's famous 70mm festivals during the Congress.

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. All our collective work will have a new significance then.

BETTER EXCHANGE

Serge Toubiana's made the initiative in Tokyo on better exchange of touring shows and exhibitions. Such a better exchange becomes more topical every year as availability of traditional 35mm prints is getting 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.