

AUDIOVISUAL COLLECTIONS: DIGITALIZATION, COPYRIGHT, SELECTION, CENSORSHIP AND ACCESS TO TRANSMITTED AND NOT TRANSMITTED TELEVISION AND RADIO PROGRAMMES.

SOME ISSUES ONLY.

Keywords like – history, society, communication, democracy, freedom of speech and freedom of expression- are important to highlight making future plans for audiovisual archives, libraries or collections contenting important movies, radio programmes, television programmes, photos and written documents published. The audiovisual collections worldwide are important sources for academic work, teaching, research and new productions of radio and television programmes.

BALTIC AUDIOVISUAL ARCHIVAL COUNCIL BYLAWS:

An important goal of the council is. II. Activities, 2.10:

“...Endorsing the principle of freedom of access to information, ideas and works of imagination and freedom of expression embodies in Article 19 of the Universal Declaration of Human Rights, for meeting the social , educational,cultural, democratic and economic needs of people, communities and organizations...”

The content of archives of any country is close connected to the official policy of the country. The word democracy is important to the content of any archive. If there is no free exchange of official information for the inhabitants of a society, the content of the archives must be evaluated with reference to the official policy. Academic studies are depending on access to information stored in archives without having been selected by a governmental body.

“...I may disagree with what you have to say, but I shall defend to the death your right to say it...” The quotation is selected from the writings of the French philosopher Francois Voltaire (1694 –1778).

The French author and philosopher, Francois Voltaire, understood the society of information and the importance of the policy of digitalization without any idea about the new technology.

Official statements made by any citizen of a country have to be based on correct archival facts stored in libraries, state archives or television and radio archives. Digitalization is a new technology perfect made for the modern information society.

COPYRIGHT ISSUES

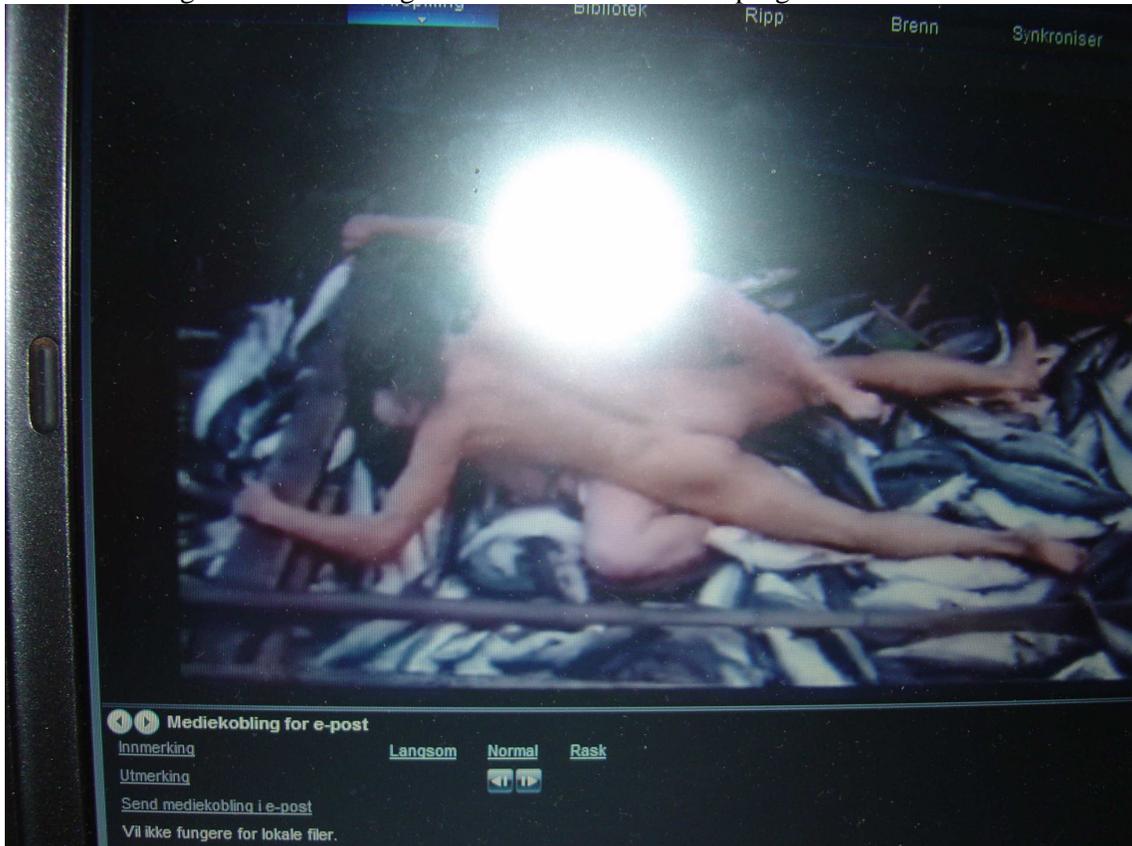
“...Documentary film is a broad category of visual expression that is based on the attempt to document the reality. Stock footage is used intended to make some aspect of reality but the shots have to be used in the correct context...”

The purpose with my contribution to the debate about copyright is to highlight some problems and issues connected to reusing of published materials, movies, sound recordings, television programmes and radio programmes.

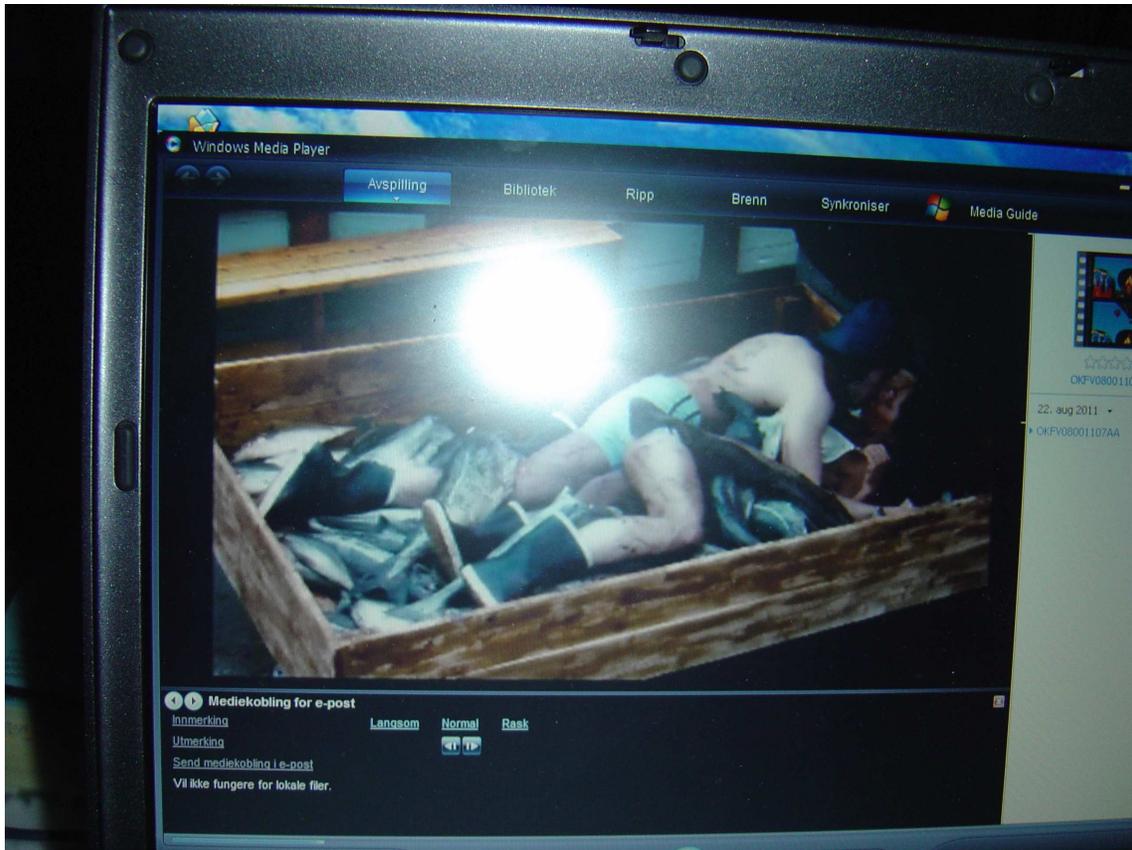
AN UNEXPECTED PROBLEM MAKING A PARODY OF A MOVIE RELEASED.

The Norwegian Broadcasting Corporation (Nrk) transmitted a programme called “ Store Studio “ , March 19,2007. The programme contented a presentation of a Norwegian film: “ Kill Buljo “. The movie is making a parody of a provocative scene made in the movie called: “ Brent av Frost ”(1997) .The original scene is a lovemaking action of a girl and a boy having sex naked in a boat on the heap of death Norwegian fishes. The parody did not go so far as the original film. The girl and the boy are not naked in the film: “ Kill Buljo”.

The film: “ Kill Buljo “ also quoted from famous movies like: “Karate Kid “ and “ Titanic “. Parodies from the movies are made in “ Kill Buljo “ and the original scenes from the films were shown together with the original shots in the television programme: “Store Studio “.



The photo of the lovemaking scene on the heap of death fishes are taken from the film: “ Brent av Frost”.



The scene is taken from the film: “ Kill Buljo”.

QUOTATION or ILLUSTRATION?

Quotation: Visual matter used to clarify or decorate a text. Material used to clarify or explain.

Illustration: An explicit reference or allusion in an artistic work or passage or element from another well-known work.

The programme: “Store Studio” presented the film: “ Kill Buljo”. The sex scene was selected for the presentation of the film together with the original love scene from the film : “ Brent av Frost”(1997). The Legal Department of Nrk decided to make use of the “ Quotation Right “ and accepted to publish parts of the original lovemaking scene to show the difference between the original shot and the parody. The use of the shots was correct with reference to idea of using the “ Quotation Right “ because the content was presented in a correct context. The Legal Director of the Legal Department of Nrk, Olav A. Nyhus, made the decision. He was qualified for making decisions in this field being educated in copyright legislation from the University of Oslo.



The Legal Director of the Legal Department of The Norwegian Broadcasting Corporation (Nrk), Olav A. Nyhus has dealt with legal affairs for Nrk for about thirteen years. The case mentioned is a rare one. Nrk has not been sued in matters dealing with reuse of archival footage in new production during the last thirteen years. Olav A. Nyhus is Vice President in EBU Legal and Public Affairs Committee and Head of Advisory Board of Norwegian Research Center for Computer and Law.

With reference to the idea of “ Quotation Right “ , the producer of the programme, The Norwegian Broadcasting Corporation (Nrk), has the right to reuse any published movie or moving images or sound recordings with reference to a correct interpretation of the “Quotation Right” . The quotation has to be used in the right context and not to be used as an “ illustration “ . It is important to understand the difference between “ quotation” and “illustration”.

DON'T ASK AND DON'T PAY

If you want to make use of the right to quote from a published movie or a film or from different radio and television programmes, you do not need to ask for the permission and you do not need to pay for the used shots.

Nrk lost the case in The Norwegian Supreme Court. What went wrong? The legal department of Nrk has more than one lawyer to evaluate the complicated case before being sued by an insulted actress from the movie: “ Brent av Frost”. The interpretation of the use of “ Quotation Right “ made by the Director Olav A. Nyhus was a correct interpretation.

TWO SECONDS TOO MUCH- TWO SECONDS OF A NAKED GIRL

The insulted actress, Gørild Maurseth, making love in the movie:” Brent av Frost”(1997) sued Nrk because she was personally insulted. She was not preoccupied with the right to quote from a published and released movie. Nrk lost the case because two seconds of the scene used had no correct context with the intention of the programme. The lady was shown naked in two seconds without any reference to the correct use of the shot. It is no more talk about the right to quote but it is a question of using shots as an illustration.

Conclusion: You have to be aware of the purpose with the shots used as a quotation. You do not ask and you do not pay as long as we talk about quoting from a published product. You have to pay and you have to ask if you want shots to be used as illustration to the text.

Nrk had to pay the actress, Gørild Maurseth, about NOK 96.875.-. The fee for the Norwegian Supreme Court paid by Nrk, was NOK 132.974.- .

The Legal Director of Nrk, Olav A, Nyhus, told me that he disliked the final decision of the Norwegian Supreme Court. Nrk was interested in the case to focus on the use of quotation. The insulted actress, Gørild Maurseth, wanted the court to pay attention to her personal feelings and rights with reference to “ Intellectual Property Rights Law “ . Two seconds used were two seconds too much. It was no more talk about the right to quote but a question of illegal use of archival footage for illustration only.

SELECTION POLICY AND CENSORSHIP

THE EDUCATION OF LIBRARIANS WORLDWIDE AND BOOK SELECTION

Librarians educated to work in public libraries are trained to make book selection weekly. The work is complicated and time -consuming because you add new books to the library collections to up-date the sources for information. The work has to be done to make it possible for the readers to get the last facts of information in different fields. The selection work is also done due to economic reasons for the library. We all know that the publishing companies have to print a certain number of the book to make a break even. In Norway the number was about 3000 copies of a book. A lot of copies of the book were spread around in the country stored in public libraries.

When I was studying for my degree in librarianship 44 years ago at The Norwegian Parliament Library situated in the city of Oslo, my mentor the late Head Librarian Olaf Chr. Torp explained his problems with the policy of book selection of the Parliament Library . Politicians from different parties used the library daily. None of the politicians would have accepted a policy of hidden censorship called book selections. Olaf Chr. Torp made an interesting statement about the issue:

“ ...Due to the fact that the selection of new books for the library is made by me in cooperation with the staff, nobody could complain about the content of the book collection with reference to my private and personal opinions in political and religious matters...”

He was right in his attitude even if we all knew he was a very religious man. There was no censorship at the Norwegian Parliament Library.

The librarian made book selection for the library with reference to the official aim of the library. No harm is done by refusing buying some books. Countries where the official policy of legal deposit of all published materials are introduced, have no problem in the finding the wanted book. At least one copy has to be deposit in the National Library.

SELECTION OF TRANSMITTED TELEVISION AND RADIO PROGRAMMES

A provocative question has to be asked: Who are the selectors of programmes within the field of library and television and radio archives? Who want the power of selection and who are doing the work making the final decision of life and death of the products published for all people within a country? The main issue is why the wiping of transmitted sound recordings from radio programmes, official meetings, court meetings, transmitted documentaries and unpublished footage and television programmes takes place in societies defined as democratic states?

When radio and television were introduced to people, the cost of new tapes was high. You had to reuse the tapes due to economic reasons. Television and radio programmes were not regarded as important sources for university studies. Sorry. The scholars had not put any official pressure on the producing bodies for keeping the tapes.



ONE TAPE AND ONE PROGRAMME-NO COPIES

Before the official announcement of the introduction of digitalization of archival collections, it was quite common to find only one copy of the transmitted programmed stored in the

archives. No back up copy. For your information: Programmes made on film were put in the archive without any evaluation because you could not reuse the film. But films were not as safe as we all believed. When the vinegar syndrome was discovered on films, the preservation of films became an important issue. If the film collection had got what we call vinegar syndrome, you had to make a new copy of the film in due time before the film was gone for ever.

To set up an office to make a qualified selection of programmes for the archive is a vast of time because the cost of the tapes is not expensive .The new tapes do not have the same seize as the old two inch tapes.



SELECTION AND CENSORSHIP: BOOK BURNING AND TAPE WIPING

“...Where they have burned books, they will end in burning human beings...”

(In German:Dort, wo man Bucher verbrennt, verbrennt man auch Menschen)

Quotation from the German journalist,essayist and romantic poet: Heinrich Heine (1797-1857).



We do not burn books anymore-do we? Take a look at the photo taken in Santiago de Chile, Chile in year 1973. Books not wanted by the government , are burned in public by soldiers from the Chilean army. It might happen again. Wiping of television programmes have been an official policy of many television companies. Do we talk about a hidden censorship? The audiovisual collections- films, photos, sound tracks, sound recordings, videotapes-transmitted to people within a nation are a part of the cultural heritage of the people. The main task for international and local bodies and associations dealing with preservation and storage of audiovisual collections, is to advocate for a philosophy to keep as much as possible of published documents, films, videotapes and sound recordings.



SOUND RECORDINGS FROM OFFICIAL MEETINGS AND RECORDINGS FROM COURT.

The year is 2011. The introduction of a policy for digitalization of official documents, maps, books and transmitted radio and television programmes is done. Access to written documents is a must for any professor who wants to study social science issues or the history of the country during a certain time. But what about the sound recordings made many years ago? The study of body languages of men in high positions during an important meeting or event has been accepted as equal as the reports from the meetings. Voices and the way you express yourself during a meeting or in court , are sources to be studied to understand the decisions made during a meeting or why the political matters ended without ant result.

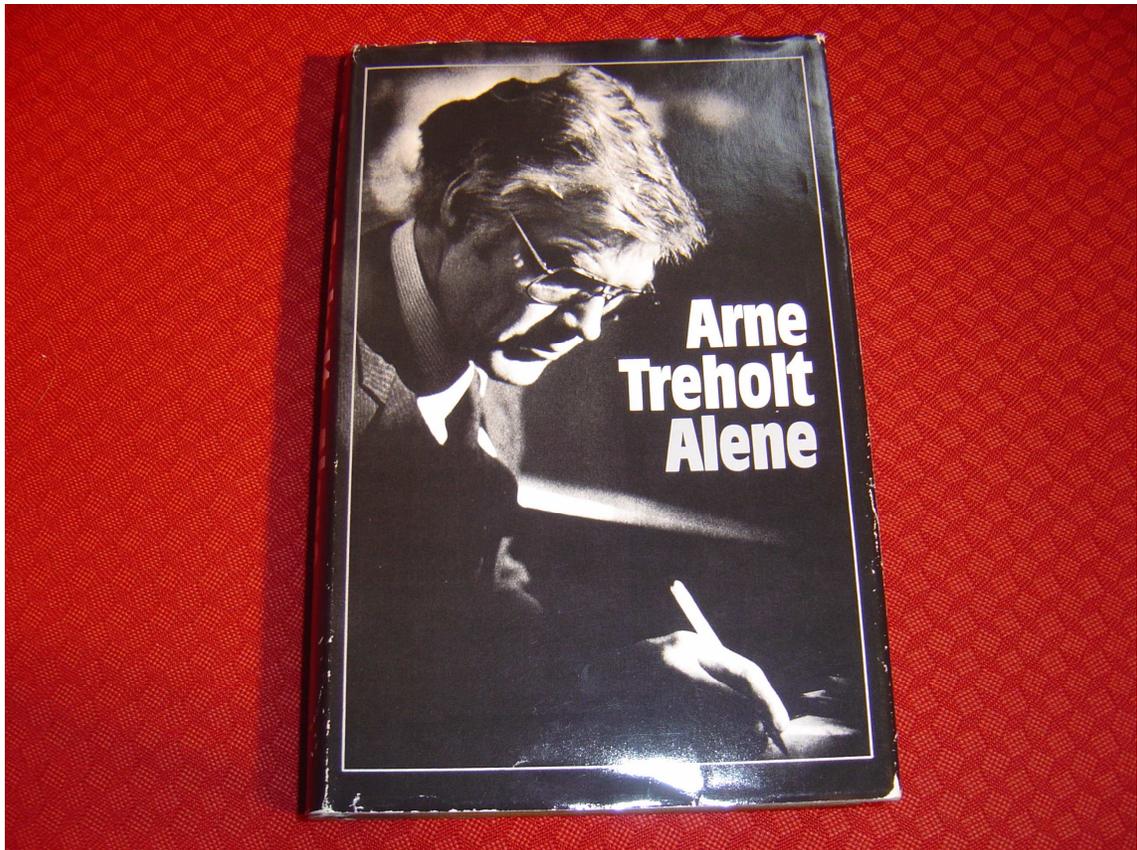


The tape recorder to the right in the photo was the first tape recorder released for sale in Norway. My family bought the recorder in the late fifties. The tape recorder to the left is a modern version of the same recorder. Both are still in use.

THE SPY CASE OF ARNE TREHOLT – THE TAPES FROM THE COURT.

The former Norwegian Labour Party politician and diplomat , Arne Treholt, (b.1942) was convicted of high treason and espionage on behalf of Soviet Union and Iraq during the Cold War. He was pardoned in 1992 . He left Norway to settle in Cyprus to work as businessman and consultant. Arne Treholt has fought to reopen the case because he has never accepted the charge of having worked as a spy for the Soviet Union.

The Norwegian Police Security Service (PST) is part of the Norwegian police service reporting directly to the Ministry of Justice. Access to the tapes has been refused by PST for years. The press wanted access to the tapes to evaluate the case of Arne Treholt.



My aim is not to discuss whether he was a spy or not. My aim is to focus on the use of documentation for reopening the case. Tape recordings from the court were done during the trial. Arne Treholt's lawyer asked for the permission to listen to the tapes from the court. The request for using the tapes was denied. The year is 2011. Sound recordings as source have not been regarded or taken for granted when information is wanted. The secret documents from the court were released June 2011 but not the tapes. For 26 years the secret documents about the trial were not permitted to be evaluated or published.

GOOD NEWS

While writing about the tapes, Oslo District Court has made a decision to change the policy of access to the tapes. The press is free to use the tapes. The Norwegian Police Security Service (PST) lost the case in Oslo District Court. The year is 2011.

ACCESS TO TELEVISION AND RADIO PROGRAMMES – TRANSMITTED AND NOT TRANSMITTED FOOTAGE – THE UNKNOWN FILMS

SOME FORGOTTEN SECONDS OF FILMS ONLY AND A TOP HAT

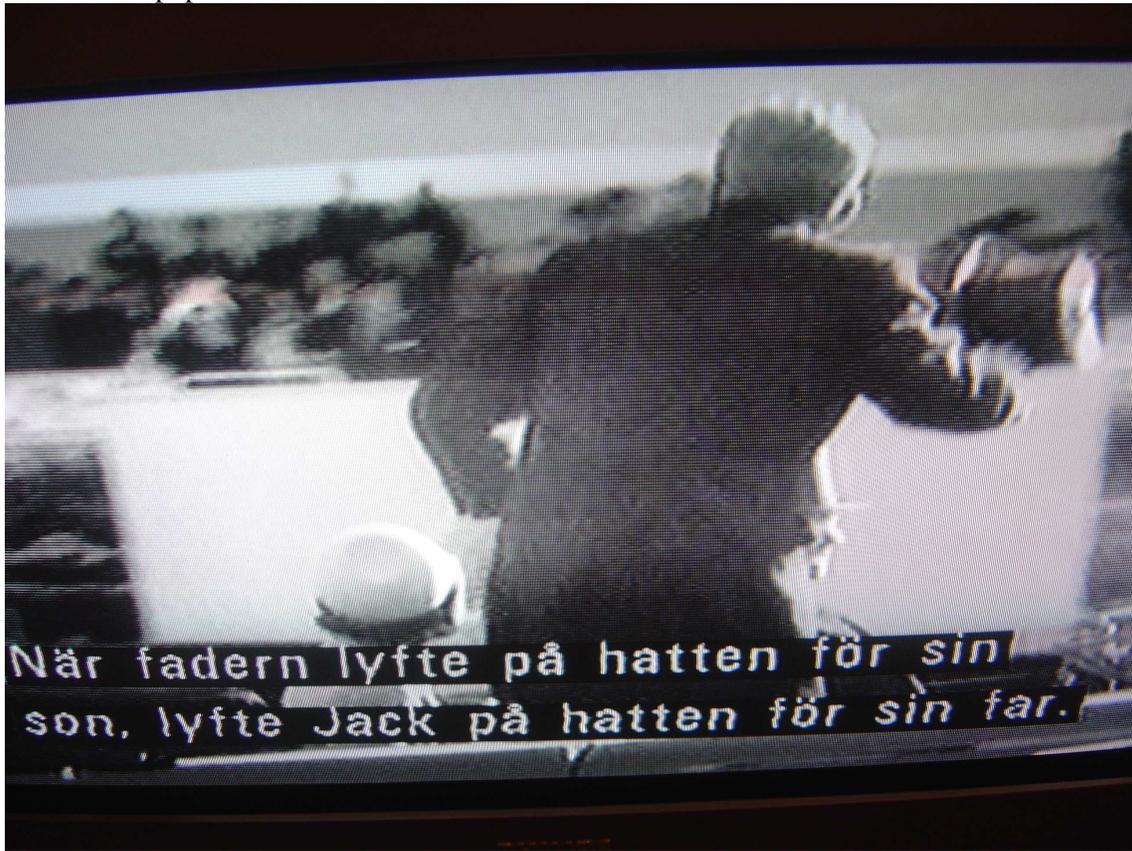


Each year different companies are introducing to the market new devices and complicated systems to make it easy to get access to a huge number of programmes transmitted. It is no problem in getting a quick access to wanted footage anymore. The problem is to up-date your knowledge in the field of new products. The challenge of any producers of film documentaries is the unknown films or forgotten footage stored in an office used by journalists or producers. Forgotten and lost, so to say. Let me talk about a famous event and some forgotten seconds: The inauguration of the President of United States of America, the late John F. Kennedy. An interesting question: Why did John F. Kennedy greeted his father, Joseph P. Kennedy, standing up in his car passing his father at the inauguration ceremony? John F. Kennedy greeted his father by taking off his top hat as an official recognition of the support and the work he had done for him. Some seconds of films showed a top hat and a man standing in an open car greeting a person viewing the ceremony. The shot was found by a coincidence. The shot was not evaluated as interesting for the production and the shot was put away.



The common rule among producers of television production is to wipe the footage not used.

Media archaeology is a subject to highlight. We need to take care of unknown footage for future academic research and for economic reasons too. Some archives have begun to sell footage not transmitted. In USA, unpublished sport footage of American football and baseball matches are popular shots.



CONCLUSION AND SOME RECOMMENDATIONS

“ ... There is myth, once digitized, a document or moving image is preserved forever...the answers to the long-term storage files will only be answered in the long term...” so far a statement made by Andrea Kalas, former President of the Association of Moving Image Archivists (AMIA).

The life time of files, videotapes, sound recordings and photos is unknown. We know that there is no eternal life for any of the mentioned formats. Preservation of the archival footage is important. The work done in fields like copyright, selections, censorship, content description of the programmes, up-dating of the content of the catalogues, digitalization of Radio and television programmes, is a vast of time if you cannot keep the products. Research work to find archival footage is time consuming. The work of making a good content description of a programme is time consuming too. My recommendation is that the content description must be done by those journalists who made the programmes. The work has to be done during the shooting of the films. The media librarians must add further information to work later on and do research in the footage.

SENIOR POLICY FOR THE AUDIOVISUAL BANKS

Television and radio companies must introduce a “ Senior policy “ for the banks and libraries.

It is important to reduce the policy of early retirement among the staff because the company needs to up-date the information about the content of the products transmitted by the assistance of the staff.

No selection of programmes transmitted for the archive. Wiping of programmes is forbidden. Selection policy and censorship with reference to whether a programme shall be transmitted or stored in the archive later on, are actions not to be recommended for a modern democratic society where Facebook , Internet, Twitter are common communication tools.

To cooperate with media universities and with historians are a must if the cultural heritage of your country shall be preserved to be reused year by year.

Thank you for your attention.

Tedd Urnes
Teddview Audiovisual Archival Management (TAAM)
teddview@gmail.no
September 20, 2011

