

Open content licenses in public broadcasting and archiving: some problems and eventual solutions

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Europe's public broadcasters have enormous audiovisual archives going back more than a century

- Finnish Broadcasting Company (YLE) has half a million archival radio and television programs. In addition, YLE owns half a million commercial disc records, the archives of several film companies, a huge sound effects collection, etc
- Most public broadcasters have similar archives. Altogether, European broadcasters have at least 20 million radio and tv programs in their archives

This is no cause for joy....

- Much material in broadcast archives is on decaying analog carriers and poorly catalogued. It is not always easy to find.
- In most cases, broadcasters do not own their material outright. The existing legal and contractual framework limits possible uses, and for many uses, retransmission fees must be paid.
- Because of frequent changes in copyright laws and administrative problems, some archival materials have become "orphaned": the current rights owners cannot be traced.
- Let us look at a typical radio drama from the 1960s

In a typical radio drama from the 1960s, there are rights of the authors...

- The **author** of the drama has normally licensed his work for one on-air transmission, with an option for repeat broadcast against additional payment. All other uses must be negotiated separately
- The same applied to the **translator**, if there is one
- The **composer** of original music for the drama has a similar contract. If the production uses other, existing compositions, a contract with a collecting society applies
- The director of the radio drama is also an author whose rights must be considered

In addition, there are the neighbouring rights...

- The **producer's** rights belong, of course, to the **broadcaster**, but the recording may also contain background music copied from commercial records, in which case the **rights of the record company** must be considered
- The **performers** in a radio drama normally include **actors and musicians**, whose contract is similar to the authors'. There may also be musicians on commercial records, in which case another collecting society is also involved.
- If the production uses so-called "catalogue music", different types of contracts are involved.
- IN A TELEVISION DRAMA, you can multiply the list of rights owners by ten...

The result is that often broadcasters cannot use their archival materials on their own web pages. Sometimes they cannot even use old material in on-air transmissions.

- Broadcasters are currently negotiating for these rights, and there are promising results, but they must proceed step-by-step. A permission to use material on the web does not include a right to podcast...
- New legislation on collective licensing of copyrights may make negotiations easier
- Of course, some rights are easier to obtain than others. Programs featuring only staff journalists (news, documentaries) are typical examples.
- Sound effects are owned 100 % by the producer.

Broadcasters may not want to give it away free...

- Today's public broadcasters are in a strange situation. They are simultaneously expected to perform a public service and compete successfully (but not too successfully) with commercial broadcasters
- They are expected to do more with less money. In some countries they are expected to earn extra money, besides licence payments
- As a result, public broadcasters are beginning to resemble their commercial competitors. They want to control the use their archives themselves and perhaps even earn some money from the
- In most countries, public authorities (the "owners" of public broadcasters) have not issued any directives on the use of archival material. No one is eager to pay for the digitisation of the huge broadcasting archives (the case of Swedish radio archives).

CC may not be the solution...

- Creative commons licensing may be attractive to broadcasters in certain new productions, but it is very difficult to apply retroactively, as there are so many rights owners involved
- Collective licensing supported by changes in copyright laws looks like a more practical solution
- Eventually all archival materials will become public domain...

Broadcasters should not be left alone...

- 90 % of all material in broadcasting archives is of little or no commercial value. Who wants to pay for the proper cataloguing and digitisation of all this...
- Public authorities (the "owners" of public broadcasting companies) should issue directives on the long-term preservation and access to archival materials
- The role of national sound archives needs to be clarified