



ANNOUNCEMENT

from the Copyright Office, Library of Congress, Washington, D.C. 20559

NOTICE OF AVAILABILITY OF SUPPLEMENT TO THE MOTION PICTURE AGREEMENT

AVAILABILITY OF SUPPLEMENT TO THE MOTION PICTURE AGREEMENT FOR THE USE OF INDEPENDENT FILMMAKERS MAKING TEN OR FEWER MOTION PICTURE PRINTS

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LIBRARY OF CONGRESS

Copyright Office

Availability of Supplement to the Motion Picture Agreement for the Use of Independent Filmmakers Making Ten or Fewer Motion Picture Prints

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of availability of supplement to the Motion Picture Agreement.

SUMMARY: This notice is issued to advise the public that the Library of Congress is making available a Motion Picture Supplement for the Use of Independent Filmmakers Making Ten or Fewer Motion Picture Prints. The effect of this Supplement to the Motion Picture Agreement is to make possible, under certain conditions, the deposit of a videotape copy in lieu of a best edition film print to satisfy the deposit requirements of sections 407 and 408 of the copyright law where independent filmmakers, as that term is commonly understood in the trade, have made no more than ten prints of a motion picture. This Supplement is immediately available for use.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559. Telephone: (202) 287-8380.

SUPPLEMENTARY INFORMATION: Under 17 U.S.C. 407, the owner of copyright, or of the exclusive right of publication, in a work published with notice of copyright in the United States is required to deposit two copies of the work in the Copyright Office for the use or disposition of the Library of Congress. Section 408 requires deposit of two copies of published works in connection with applications for copyright registration. By establishing deposit requirements, Congress intended to provide a useful legal record of the copyrighted work that meets both the practical needs of depositors and the needs and wants of the Library. In keeping with this policy, the statute authorizes the Copyright Office to issue regulations liberalizing the deposit requirements. With respect to motion pictures, the regulations permit the deposit of only one copy.

In addition to reducing the number of copies to be deposited, a long standing solution to the hardship posed by the deposit of motion pictures at a time when demand for prints is most urgent has been the Motion Picture Agreement. The Agreement, available since 1946 except for a short period during initial implementation of the 1976 Copyright Act, provides that a motion picture may be returned to the depositor in exchange for a promise to deposit, upon recall, a best edition copy of archival quality. Although the Agreement continues to work well with the film community at large, it fails to resolve the deposit

problems of independent filmmakers who often are operating on tight budgets. In late 1983, the Office became aware of the hardships the deposit requirements impose on independent filmmakers. Representatives of independent filmmakers pointed out that

for an independent producer with only one or two existing prints of a work, the requirement to surrender a 'best edition' print to the Copyright Office can impose a substantial hardship. Moreover, for independent distributors who are willing to distribute films of artistic merit but marginal commercial potential, the additional cost of an archive print can make the difference between distributing the work or not. Films which cannot be distributed are less likely to be made. The adverse impact of the deposit requirement, then, is real and significant to the fragile economy of independent filmmaking. (Letter of November 30, 1983 from Lawrence Sapadin, Executive Director, Association of Independent Video and Filmmakers, Inc.)

The Copyright Office has held meetings with interested parties, representatives of the Association of Independent Video and Filmmakers, Inc., and Library officials to determine the best way to both alleviate the financial hardship on small filmmakers, and meet the acquisition needs of the Library. After extensive discussion, the Library has decided that the severe financial hardship that these filmmakers experience in fulfilling normal deposit requirements merits making available a Supplement to the Motion Picture Agreement. This Supplement allows

independent filmmakers who have made no more than ten prints of a motion picture to satisfy the copyright requirements for deposit and registration with a nonreturnable archival quality 3/4 inch videotape. However, the Supplement also gives the Librarian the option of requesting a best edition film print within five years after the deposit of the videotape. Where the Librarian exercises this option, the additional deposit will not ordinarily be required until ninety days after the five year period has expired.

If the producer makes an eleventh print within five years, the Librarian may request deposit before the five year period has expired. Under the terms of the Supplement, the Depositor must immediately notify the Librarian of production of the eleventh print within the specified period. Within 30 days of such notification, the Library of Congress will decide whether to demand a best edition film print.

During the negotiations, it was understood that any special waiver of deposit requirements would not apply to films with substantial budgets for production, including films created for commercial television. Consequently, the Supplement is available only to "independent filmmakers" as that term is commonly understood in the trade. Moreover, the Library of Congress reserves the right to decline to enter into the Supplement with respect to certain films, for example, those known to have substantial budgets, or those made for commercial television where, given the medium, ten or fewer copies may be all that is necessary to supply the total distribution demand for the work. As a consequence of the specific purposes of this Supplement, therefore, a separate Supplement must be signed for each motion picture release sought to be brought under its terms.

The independent filmmakers' Supplement to the Motion Picture Agreement is set forth in an Appendix at the end of this Announcement. Copies of the Supplement are available from the Deposits and Acquisitions Division, Copyright Office, Washington, DC 20559.

Authority: Secs. 407, 408, 90 Stat. 2541, 17 U.S.C. 407, 408.

Dated: July 7, 1986.

Ralph Oman,
Register of Copyrights.

Daniel J. Boorstin,
The Librarian of Congress.

APPENDIX

Motion Picture Supplement

For the Use of Independent Filmmakers Making Ten or Fewer Motion Picture Prints

Whereas the undersigned Depositor has entered into a Motion Picture Agreement ("MPA") with the United States of America, acting through the Librarian of Congress, executed on _____;

Whereas the Depositor has produced a motion picture ("Motion Picture") entitled _____, which has been published in _____ mm, film print and desires to deposit or register the Motion Picture under Section 407 or Section 408 of the Copyright Law;

Whereas the Depositor is an independent film producer as that term is commonly understood in the trade, and has made ten (10) or fewer film prints of the Motion Picture;

Now Therefore, the parties hereto agree to the following MPA Supplement;

1. The Depositor may deposit an archival quality 3/4-inch videotape ("Videotape") of the Motion Picture. The Librarian will accept the Videotape for deposit, on the understanding that title transfers to the United States at the time of deposit pursuant to Section 704 of the Copyright Act and that the Videotape will not be returnable to the Depositor under the MPA.

2. If after the Videotape is deposited under either Section 407 or 408 and the Librarian requests deposit at any time within five (5) years of a "best edition film print" under the MPA, at its own expense the Depositor will make additional deposit of the same within ninety (90) days after expiration of five (5) years or any lesser agreed period from the deposit of the Videotape; provided that if the Librarian does not request deposit of such a "best edition film print" before expiration of the five year period, the Depositor shall have no further obligation thereafter.

3. If more than ten (10) film prints of the Motion Picture are made before the five year period has expired, the Depositor agrees to notify the Librarian by sending written notice to the Deposits and Acquisitions Division of the Copyright Office within ten (10) days after the eleventh (11th) print is made. If the Library wishes to obtain the motion picture for its collections, the Librarian will request deposit within thirty (30) days after receipt of notice from the Depositor. Within ninety (90) days of the date of the Librarian's request for deposit under this paragraph, the

Depositor agrees to deposit a "best edition film print" of the Motion Picture.

4. Throughout the five year period, the Depositor shall maintain in its custody or control either one film stock release-print of "archival quality" as defined in the MPA, or alternatively the original or a duplicate negative from which such "archival quality" film print can be produced. In the event that the Depositor sells, assigns or transfers the Motion Picture during the five year period, the Depositor will ensure that the purchaser, assignee or transferee executes an appropriate undertaking to assume the Depositor's obligations hereunder within ninety (90) days thereafter, the Depositor will also notify the Chief, Deposits and Acquisitions Division, Copyright Office, of the identity and address of the purchaser, assignee or transferee within the same ninety (90) day period.

If, in the Librarian's judgment, there is a serious risk that the Depositor will fail to continue to comply with its foregoing obligations under paragraph 4 throughout the said five year period, the Librarian may reduce the five year period to three (3) years by so notifying the Depositor at least ninety (90) days prior to the end of the third year. Deposit of the best edition film print must then be made within ninety (90) days of the date of the notice from the Librarian.

In Witness Whereof the parties hereto have duly executed this Supplement.

Depositor _____

By _____

Officer of Corporation

Date _____

Typed or Printed Name and Office Held

Approved:

The Librarian of Congress

Date _____

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