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LIBRARY OF CONGRESS

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MOTION PICTURE, BROADCASTING
AND RECORDED SOUND DIVISION

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on behalf of the Society for Cinema Studies

Written Submission to the Library of Congress Regarding the Preservation of Television and Video Resources

I am writing as the representative of the Society for Cinema Studies, the professional society for the study of film and television in the United States. The SCS has over 1000 members, most of whom are professors and graduate students who teach and write about film and television in academic institutions. Members also include independent media scholars and film/television study professionals, many of whom are also scholars, such as archivists and research librarians.

First of all, it is wonderful that the hearings on television and video are happening now, right on the heels of the efforts to develop a policy for film preservation. Increasingly, film and television are interrelated in our field of study. A national group for the oversight of film and tv/video preservation and access is a positive step. The value of television and video materials as a resource for research and teaching is simply fundamental to the field of film and television studies. Without television and video materials, we would be prevented from carrying out our primary mission as educators and researchers. Our academic field, which is central to charting the history and culture of the United States, would cease to exist.

The Library of Congress summary of The American Television and Radio Archives Act of 1976 states that the Librarian of Congress is authorized "to preserve a permanent record of the television and radio programs which are the heritage of the people of the United States and to provide access to such programs to historians and scholars without encouraging or causing copyright infringement." I would like to bring to your attention the concerns of the SCS regarding three interdependent parts of this charge: **preservation, access and copyright.**

(1) Preservation: We understand that without preservation, access is impossible. Ideally, everything should be saved. But we also understand that we cannot preserve all the video that

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has been produced. Therefore, the scholarly community should be actively involved in prioritizing television and video materials for preservation and access. Hearings, meetings and the establishment of some formal mechanism for scholarly input into the design and implementation of the television preservation plan are necessary to the process. We urge that this dialogue should not begin and end with the current study.

As in film preservation, the first steps involve collecting, documenting and protecting the original videotape. But there is no stable support for video images, and therefore the tasks of inspection and duplication are much more urgent than in the film world. Funding and incentives should be made available to support the creation of better storage facilities, but at the same time we need to transfer important and unique video programming to the best available digital format so that its further duplication will be possible without the loss of image quality that occurs in tape-to-tape analogue transfers.

In video, the problem of equipment obsolescence is almost as big as the lack of a stable medium. Funding is needed to preserve equipment to play back obsolete tapes so that they can be transferred to contemporary formats. UCLA and the Smithsonian both have large collections of historical television equipment, but that does not mean that this equipment is in functional condition, either for playback of rare formats to researchers (it is said that large numbers of tapes that are now considered antiques simply could not survive repeated viewings; they need to be transferred in order to be viewable by scholars, teachers and the public) or for transfer purposes. A public-private partnership combining the knowledge, expertise and facilities of archives and television companies might be a good solution, as it has been in the case of film.

The Importance of Preserving Video Resources: Television has become the most pervasive form of communication in American life.

The study of television is an important and rapidly developing field of academic inquiry and teaching. I am referring to courses and research on the history and aesthetics of television and video as well as courses that depend on documents that originated on tv or video to teach history, sociology, political science and nearly all other areas of the humanities.

Video preservation also directly impacts teaching and research on the cinema. The unfortunate reality is that most teachers now have to teach film history and aesthetics using videotapes of films. This has become the case at every level, not only in elementary and high schools but also in many colleges and universities. The many factors which led to this state of affairs are well-known, but, cost factors aside, it is no longer unusual for a title to be available on tape that can no longer be found on film because the film has been pulled from distribution or because no projectable print exists and it is deemed too expensive by the distributor to strike a new print. This is not just a question that affects American films. Because we teach and study the history and aesthetics of the cinema in a global context, video masters of important foreign films, which are subject to the same harsh laws of the marketplace, should be held in US archives so that copies can be made for the non-commercial use of researchers and teachers.

Video Documents on the Verge of Extinction: One could cite many kinds of important video documents that have been rendered unviewable because of deterioration or are imminently threatened with extinction.

News and Public Affairs Television Programming: Although a lot of significant news has been captured on videotape since the 1950s, from about 1975 on, news and public events have been recorded almost exclusively on videotape. The three major networks (ABC, CBS, NBC) and CNN currently hold the vast majority of national news footage produced in the last two decades. While we recognize the right of these corporate entities to own and license or sell this footage for commercial purposes, we would like to propose that there is a larger national interest in both the preservation of this material and scholarly access to it. As educators and citizens, we need a system whereby this material can be accessed and acquired for non-commercial purposes. As the multi-channel environment develops, we could consider adding additional entities to the current big four.

Partnerships between private companies and public archives in film preservation have been very successful. We would like to propose that any television preservation plan contain three basic components that would constitute the foundation of a partnership between the sources of news and public affairs television, the American archives, and the academic and research institutions throughout the country. First, the producing and distributing entities should make a public commitment to preserving the news and public affairs programming in their archives. This commitment may involve a partnership with public archives for preservation and access. Second, the databases of the network holdings should be made available on the Internet so that scholars can have individual and accurate access to them. And third, a very low cost system of access to this news and public affairs material should be established for non-commercial teaching and research purposes.

Video Art: Video art and artist's videos from the 1970s and 1980s which documented performances of dance, music and multimedia art constitute a significant body of work that needs to be preserved and made available to scholars and teachers. Many of these works were funded by federal or state arts agencies, such as the NEA, NEH, New York State Council on the Arts, California Arts Council and PBS, a clear indication of their importance to the arts and humanities in the US. Commitment to this work needs to be sustained through preservation. A recent visit to the Long Beach Museum of Art, which has a large archive of artists' video work, brought home the seriousness of the situation. Artists were coming to view their own work, which they had placed on deposit, only to find that their tapes had deteriorated to the point where large sections or entire tapes were no longer visible. Funding had never been secured to catalogue or house the tapes in a properly cooled and dry space, much less to support a sustained conservation program which would inspect and duplicate important works before they were irretrievably lost. The 1/2-inch video reels which were a mainstay of both the art world and many community documentation projects are now mostly unplayable even if one can find the rare functional player. One goal of the National Preservation Plan should be to stimulate the collection, prioritization and transfer of these documents.

Documentaries: A very large part of fiction entertainment programming still originates on film, but documentaries are now largely shot in video. It is extremely important to protect documentary collections because the documentary always contains both factual information and a constructed perspective on that information. As a reservoir of thoughts, impressions and ideas as well as a pictorial record, the documentary is an important art form and educational tool. The crisis in video preservation takes a disproportionate toll on non-fiction works, which are both an

art form and a mainstay of the educational process at all levels.

Independent video-makers were particularly active in documenting the social movements of the 1970s (educators, feminists, community activists of all kinds). This material was recorded on reel-to-reel machines, and must be transferred to a more modern format for preservation. It is not only a question of preserving documents of American life and society in the past. Given the proliferation of formats and accelerating hardware obsolescence, we have to pay close attention to what is happening now and to provide for the selective survival of the ephemeral expressions of our historical moment. To take a local example, documentary activities have extended into some schools in south-central Los Angeles to encourage young people to record the environment they live in, in order to give them a sense of empowerment and to open up a window on the future for them. Their tapes offer a counter-perspective to the totalizing images of anonymous urban disenfranchisement so often seen in commercial films and television. These are priceless records of the history of American culture and must be safeguarded.

Educational and Industrial Videos: Videos made to deal with current issues of public and private concern show how our perception and response to these issues evolves over time. This class of materials includes such diverse items as political commercials, anti-drug tapes, AIDS awareness tapes, rape prevention documents, self-help tapes, etc. Although these documents do not always have the same importance for us as hard news and documentaries, it is important to collect and preserve a selection of these records for study.

(2) Access: We urgently need a national plan for preservation that includes access as a key component.

Preservation without access is pointless, but far too often, the *raison d'être* of preservation is lost. Archive budgets generally do not include provisions for access for scholars (space, staff, appropriate storage, appropriate viewing facilities, etc.). Cataloguing and databases are virtually never funded. It stands to reason that there is no access to materials that are held incognito. Scholars need basic information about where materials are located, the exact characteristics of variant copies, and other kinds of information in order to perform effective research. Funding may be provided for preservation, but without a concomitant provision for access, the preserved object does not exist as far as the community of scholars and teachers is concerned.

The UCLA Film and Television Archive seems to constitute an important exception in this regard, because minimal and (simultaneously but more slowly) full cataloguing of the entire collection was a priority, with the result that the Archive's holdings can now be accessed directly through the same database program we use to check the UCLA library holdings. This database may be accessed via the Internet. This should be the case for every film/tv/video repository, especially those which receive public support or enjoy tax-exempt status. Well-constructed databases are searchable by a number of different parameters, any of which may yield unexpected information, which may lead to further research. In and of itself, a database of holdings is a wonderful research tool, which provides a wealth of information, and which not only allows access to the collection holdings, but also supports constructive planning and innovative approaches to research. As a researcher and professor, I use such databases routinely. The beauty of electronic databases is that one can have easy access to information at any time of day or night. This translates into excitement instead of frustration. Today, inventory databases are

ubiquitous in archives, but only rarely are they available to scholars.

(3) Copyright and Fair Use: We urgently need a strong, unambiguous redefinition of the concept of "fair use" for research and teaching. We are scholars. We do not want to infringe copyright laws. But the current sense of "fair use" is timid, restrictive and confusing. Today, copyright laws threaten to inhibit teaching and research and to undermine the free circulation of information and ideas on which our society depends. From the existing copyright statutes to the recent proposals for copyright with respect to the National Information Infrastructure, one can chart a massive appropriation of the space of public discussion by private corporations.

The issue of "fair use" is a particular problem for "distant access" of media materials via the Internet. Distant access can enable scholars to do a great deal of foundational research without traveling to the many sites it would be necessary to go to in person. However, according to some interpretations, even sending a digitized image over the Internet to another scholar to help identify it could be considered an infringement of copyright. A highly restrictive interpretation inhibits scholarly exchange at the very moment that the Internet offers the possibility of global scholarship and sharing resources in ways that were previously unimaginable, without wear and tear on the precious primary materials.

It is also important to recognize that American media materials are held in archives and collections all over the world. The Internet makes it possible to consult a large part of the relevant research materials. Without advances in research on media, there cannot be advances in the teaching of media and teaching that relies on media documents. The SCS is interested in facilitating scholarly exchange across geographical boundaries. Federal and state funding agencies spend a lot of money sending scholars all over the world to consult collections and to collaborate on scholarly projects. While the Internet will not take replace all on-site consultations, it can really radically facilitate basic checking as well as collaborative work with scholars located in different areas.

There are other factors that impinge upon our scholarly work. The conditions of deposit agreements sometimes limit access to materials. Because depositors may not realize the negative consequences of certain clauses for research and teaching, it is important for archives to understand that this presents problems for scholars. We would like to encourage the collection of materials (which inevitably means the expenditure of resources) in a way that supports rather than inhibits access and the use of media materials in a scholarly context. Guidelines could be drafted for deposit agreements that spoke directly to access and fair use, and that encouraged depositors to think positively about the research and educational value of the materials they deposit.

Facilitating copyright clearances: When scholars (and others, such as filmmakers) need to obtain copyright clearances (for instance, for publishing a photograph), there should be a specific and clearly designated place they can go to request it. A mechanism is needed to facilitate this currently Byzantine task. One frequently hears that something cannot be reproduced because no one knows who currently holds copyright, and publication or distribution hinges on explicit permission because of the fear of possible infringement of copyright law.

We urge that a part of a national preservation plan for media should include a strong, broad and unambiguous statement that educational use constitutes fair use, and a cognate commitment to establishing a broad exemption in the copyright laws for such use, particularly in

the new media and technologies area. If archivists and administrators are faced with interpreting complicated and highly restrictive copyright laws, they will choose the safe route and deny permission. This practice, currently prevalent, has been seriously detrimental to American media scholarship.

In Conclusion: Clearly, we do not have the space here to fully elucidate or debate these issues, nor is it the place to harmonize the interests of all of the parties who have a stake in the national preservation effort. But I want to express to this Committee the permanent and vital interest of the Society for Cinema Studies and many other parts of the academic community in national preservation issues. We generally feel that we have very little influence over the media resources that mean so much to us. As I suggested above, rather than closing these issues, these hearings should be a genuine introduction to a sustained and broad-based national discussion about the preservation of that part of our heritage that is now in such an inaccessible and perilous state.