

The access to film works in the collections of Film Heritage Institutions in the context of education and research

May 2017

Gilles Fontaine

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THE ACCESS TO FILM WORKS IN THE COLLECTIONS OF FILM HERITAGE INSTITUTIONS IN THE CONTEXT OF EDUCATION AND RESEARCH

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Executive summary

The European Audiovisual Observatory, in the framework of a research project supported by the European Commission, carried out a survey targeting the members of the Association des Cinémathèques Européennes (ACE). The objective was to assess the access to the film works in their collections in the context of education and research. 32 Film Heritage Institutions (FHIs) out of the 44 ACE members, representing collections of over 1.1 million film works, completed the survey.

About the film collections

According to the data received, 15% of the film works in the FHIs' collections are available in digital format, with strong variations among FHIs: half of the sample has a digitisation rate equal to or lower than 6%. Feature films (i.e. films with a theatrical release) represent 42% of the film work collections. The digitisation rate for feature films is similar (16%) to that for film works in general, again with very strong disparities among FHIs.

A large majority (76%) of the feature films in the collections of FHIs are under copyright. However, the copyright status of a significant share of the films remains uncertain (23%). Also, according to FHIs, orphan works represent an estimated 8% of their feature film collections, while out-of-commerce feature films represent at least 39% of all feature films.

Consultation in the context of education of research

Generally speaking, the FHIs surveyed do not need to obtain a copyright clearance for an in situ consultation. But the legal situation is much more heterogeneous with regard to remote access to the films in their collections. Clearance is often needed, but not for all the FHIs surveyed. In particular, it seems to be relatively unclear what measures are to be taken in order to grant remote access to the film collections from premises other than FHIs.

As expected, nearly all FHIs offer the possibility to consult film works in their collections in situ. Less than 50% allow access to a part of their collections through a digital copy at other premises or at the researcher's home, and about 20% offer the possibility to consult a film through an on-line access to their servers.

A comparatively high share (74%) of the film collections is theoretically available for in situ consultation (pending the availability of staff and physical copies). This share of film works available decreases to less than 15% for remote access from other premises.

In 2015, the FHIs surveyed received an average of 330 requests for consultation. The majority (58%) of these requests concerned feature films. The lack of a digital copy is the main reason for not satisfying a request. Still, figures show that, on average, most of the requests were indeed satisfied.



Screenings with educational purposes

The survey suggests that right clearance for screenings organised in situ (a service provided by all respondents) is required for the majority of FHIs, and even more frequently for screenings organised at other premises (a service provided by about 80% of respondents).

If in principle 50% of the films in the collections are available for screenings, only 16% are available in a digital format. In practice this limits the possibility of programming screenings outside the premises of the FHI as fewer and fewer organisations are equipped with analogue film projectors.

The share of satisfied requests for screenings is lower than the share of satisfied requests for consultation, probably as a result of the lack of digital copies. In these cases FHIs would have to resort to analogue prints, which is problematic due to the scarce availability of analogue film projectors outside FHIs. Still, FHIs provided an average of 93 film works for screenings in 2015, reaching an estimate of over 4 300 attendants per FHIs, a figure that is significantly higher than the number than consultations.

Public websites

Even if most FHIs are not in a position to provide a full online access to their collections through connection to their servers, many have engaged in the publication of a selection of contents, mostly on websites they manage, but also on the European Film Gateway or on video-sharing platforms. A very limited number of feature films are made available through on public websites, most probably due the need of right clearance for these works. Still, the responses to the survey show that the publication of film works on public websites results in significant levels of consultations (about 170 000 per FHI on average in a year), indicating an audience that is far larger than for individual consultations or screenings.

The key challenges

FHIs face different types of obstacles in providing and improving access to their film collections:

- The availability of digital copies opens up new opportunities for access, either from other Institutions (which seems to be comparatively simple) or through online access. However, the rate of digitisation of the collections remains low.
- It appears that the more access to film works gets digital, the more constraints FHIs face. Here, FHIs are confronted with a paradox: if on the one hand digital formats and online access seem to represent the ideal combination to promote the access to their collections, on the other hand, the framework in which the FHIs operate might make it difficult to provide these types of access.
- The identification of the copyright status of a film might be complex. FHIs are not necessarily in a position to identify the fraction of their catalogue that is available for screenings (or consultation outside their premises), nor to promote the access to these films.
- FHIs also face challenges when it comes to ascertain whether a given film is an out-of-commerce work. Assessing the status of “out-of-commerce” for film works would maybe require the adoption of a set of practical criteria and tools.
- When copyright clearance is required, identifying the right holders is challenging, due in particular to the lack of a centralised source of information on rights. Right holders for foreign films seem to be especially difficult to identify, with the notable exceptions of films



produced by US studios. As a result, right clearance for US films might be easier when compared to European (non-national) films.

- Therefore, the possibility for FHIs to propose a (digital) remote access to their film collections, either entirely open to the general public, or limited to eligible users, with a specific focus on out-of-commerce works, could be the most effective way not only to meet the existing demand, but also to make the film collections available to a considerably larger audience.



Introduction

This study is part of a broader research project on Film Heritage supported by the **European Commission**. The first phase of the project aimed at investigating the commercial value of film heritage works, assessing their performances across the different distribution channels. The resulting report has been published by the Commission and can be downloaded [here](#). This second study focuses instead on the access to film works in the context of research and education.

The present publication sets out to assess the volume of film works in the collections of European Film Heritage Institutions (FHIs) that are accessible for research and educational purposes. The scope of the study is two-pronged: on the one hand it seeks to determine the approximate volume of film works accessible for consultation by individual researchers. On the other hand, it aims at identifying how many film works are available for screenings with an educational purpose (i.e. screenings organised within school or university activities). For each of these two cases, the study intends to assess both the demand for film works and the extent to which Film Heritage Institutions are able to satisfy this demand.

The report pinpoints crucial aspects of the access to film collections for research and education, touching upon topical issues such as the rights-clearance of film works for individual consultations and screenings with educational purposes. The study also pays close attention to other key topics, such as orphan and out-of-commerce works and the role of digitisation in improving access to film collections.

In order to gather the relevant data, the Observatory has prepared a questionnaire targeting European Film Heritage Institutions that are members of the **Association des Cinémathèques Européennes (ACE)**. We would like to take this opportunity to thank the ACE's secretariat, whose support has been key to this project and who has facilitated the communication with its members by coordinating the delivery of the survey. Our special thanks also go to the Film heritage Institutions who kindly accepted to take the time to complete the questionnaire and provided valuable data and insight to this report.



Structure and methodology

Research target

The survey was administered via e-forms to the Film Heritage Institutions (FHIs) that are members of the ACE, accepting responses during the month of November 2016.

Out of the 44 ACE members, 32 Film Heritage Institutions accepted to complete the survey.

Please note that not all the FHIs have replied to all the questions. Thus, the research sample varies depending on the specific section or question of the survey.

For a complete list of the FHIs surveyed, please refer to the end of this report.

Structure of the survey

The questionnaire focused on the following main areas:

- Analysis of the film collections (share of digitised works and feature films, copyright status of the works in the collections, orphan and out-of-commerce works);
- Consultation of film works in the context of research;
- Screenings for educational purposes;
- Consultation of film works via public web sites;
- Considerations and remarks on the main challenges and barriers to the access to film works in the context of research and education.

Definition of consultations

The term “consultations” refers to the non-commercial access to film works in the collections of FHIs, whether in a digital form or as a film print, by individual scholars, researchers or students.

For individual consultations, several cases were envisaged:

- Consultations taking place at the FHI’s premises (consultations “in situ”);
- Consultations at other film institutions (within special agreements);
- Consultations at other premises (e.g. a university or at the researcher’s home);
- Unrestricted consultations through free public websites.

Screenings with educational purposes

Screenings with educational purposes strictly refer to non-commercial screenings organised in an educational environment, e.g. those that take place within school or university activities. They may be organised in situ or at other premises.



Film works covered by this report

This study takes into consideration any kind of moving image works in the film collections of European Film Heritage Institutions, regardless of genre and year of production, whether they are available in a digital form or as a film print, as long as they are used for research and educational purposes. Film works in the public domain, under copyright and orphan works are included, with a specific focus on theatrically released feature films.

Please note that non-film collections are not covered by this research.

Definition of feature film

When mentioning feature films, our survey only refers to theatrically released feature-length films, leaving out newsreels, unreleased works and amateur / home movies. Since there might be slight discrepancies in the definition of “feature film” across different countries, we asked the respondents to draw their answers on the definition that they currently adopt for their statistics (e.g. theatrically released films that run for 40/60 minutes or longer). While not being 100% accurate, this choice allowed respondents to use their data without having to recalculate statistics, which would have been difficult to do in many cases.

Methodological notes

In the analysis of the responses, and particularly for the questions on the copyright status of film works, we did not take into account the FHIs that left the questions blank, assuming that this means that they have no information on the relevant question of the survey. However, we have included the answers of FHIs when they explicitly indicated “0” for the number of film works.

We have excluded those answers for which the data provided was not consistent with previous data indicated by the respondents (e.g. if films in a digital format > total number of films).

Also, there are some caveats in regard to the interpretation of the results, as some figures provided by the respondents are approximate. As an example, the audience size for screenings with educational purposes often corresponds to an estimate made by the FHIs, as many Institutions only record data for commercial screenings.

The data we have collected refer to the number of individual film works, and not to the number of film elements (different editions of film works).

For the FHIs surveyed, it was not always possible to easily combine different search criteria in their databases. For instance, it was not always possible to tell how many film works were available in a digital format, but only the number of film items available in a digital format (Deutsche Kinemathek - Museum für Film und Fernsehen).

In some particular cases, the data provided by the respondents only refer to a subset of their film collections, due to lack of data available (e.g. the Hungarian National Digital Archive and Film Institute provided figures for the Hungarian film collection only).



Copyright

In the survey we have systematically focused on the copyright status of the film works in the collections of FHIs, asking respondents about how many films are in the public domain, under copyright or with an unclear status. For our respondents, providing consistent data on this topic was a challenging task, since in many cases information on copyright is unknown or not updated. Some Institutions are in the process of clarifying the copyright status of works in their collections in collaboration with legal advisors, producers and film directors (this is the case, for instance, of the Greek Film Archive).

Also, there can be very different cases when considering to the position of FHIs in relation the copyright of the films in their collections. Some film archives, such as the Cinémathèque Française, might own the copyright for DVD sales. By contrast, other FHIs do not manage the legal deposit and presume that all their collection is under copyright, clearing the rights of the film works when required (e.g. the CulturArts-IVAC).

Orphan works

Orphan works are those films under copyright for which the right holder cannot be determined or reached. Figures for orphan works might be approximate or underestimated, due to both a general lack of available data and to the inherent difficulties in ascertain if a given film work is actually orphan. However, some FHIs are starting to systematically collect data the copyright status for their film collections (e.g. the Filmoteca de Catalunya).

It is to be noted that in our survey, the share of orphan works is only analysed for feature films.

“Out-of-commerce” films

The definition of “out-of-commerce” refers to film works which are still protected by copyright but are no longer commercially available. Since not many FHIs systematically gather data on the number of out-of-commerce works in their collections, it is legitimate to assume that the share of out-of-commerce works might be largely underestimated. In certain countries, film archives have set specific criteria to determine if a film work is likely to be out-of-commerce: the Czech NFA, for example, considers out-of-commerce national films produced by private producers before 1992.

In our survey, the share of out-of-commerce works is only considered for feature films.

Definition of digital

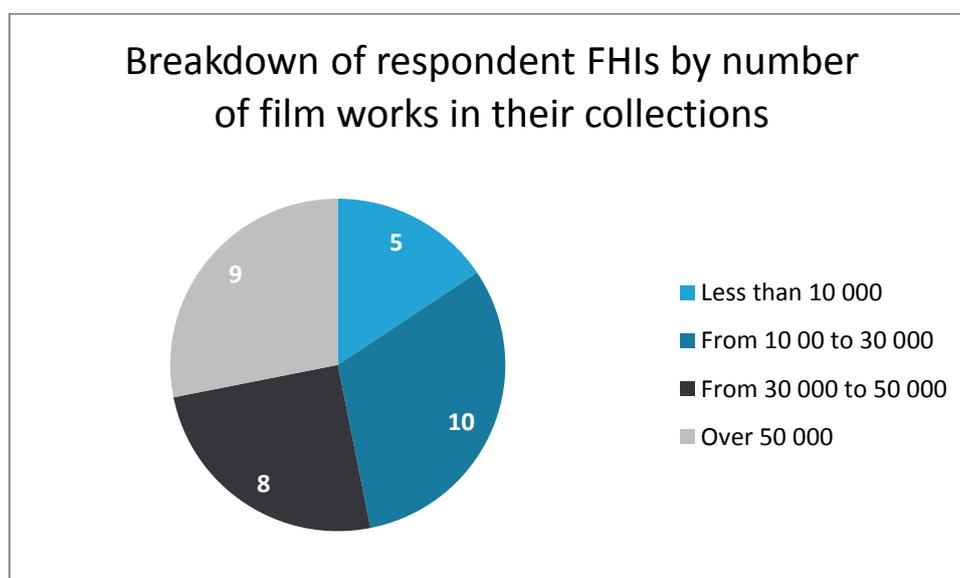
In the survey as well in this report, the term “digital” has to be understood in its broader meaning, spanning from DVD and Blue ray to high resolution formats (master files in HD, DCPs, etc.). However, due to differences in how Film Heritage Institutions collect and systematise their catalogues, there might be differences in the types of formats included in this category by the respondents (for instance, not all the FHIs surveyed included home video formats in the category “digital”).



1. Analysis of the film collections

1.1 Number of film works

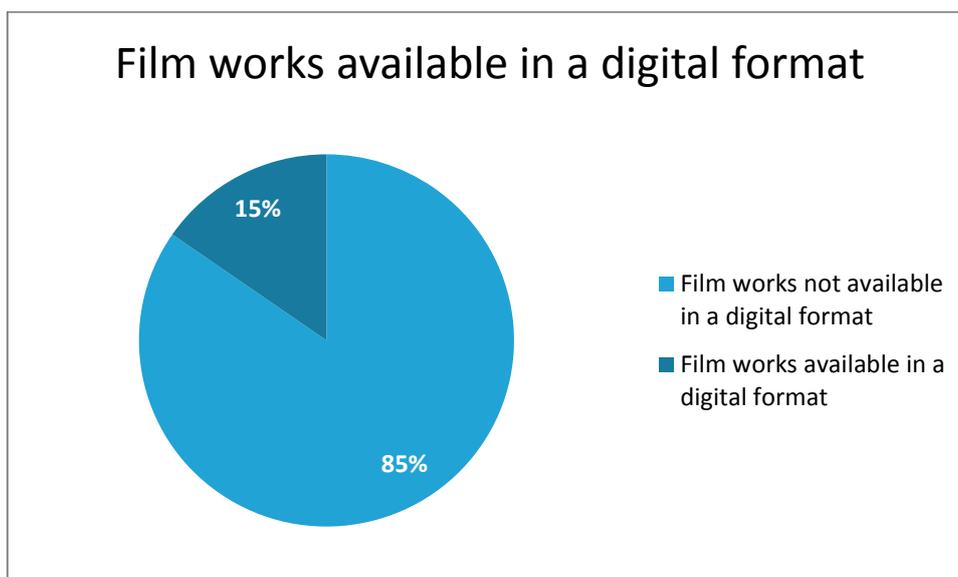
The film collections of the 32 FHIs who answered the survey include a total number of 1 154 000 film works. The average number of works per collection amounts to about 36 000 films. Yet, it has to be noted that the sample includes collections of very different sizes, ranging from 3 000 to 85 000 film works.



Number of respondents: 32 Film Heritage Institutions.

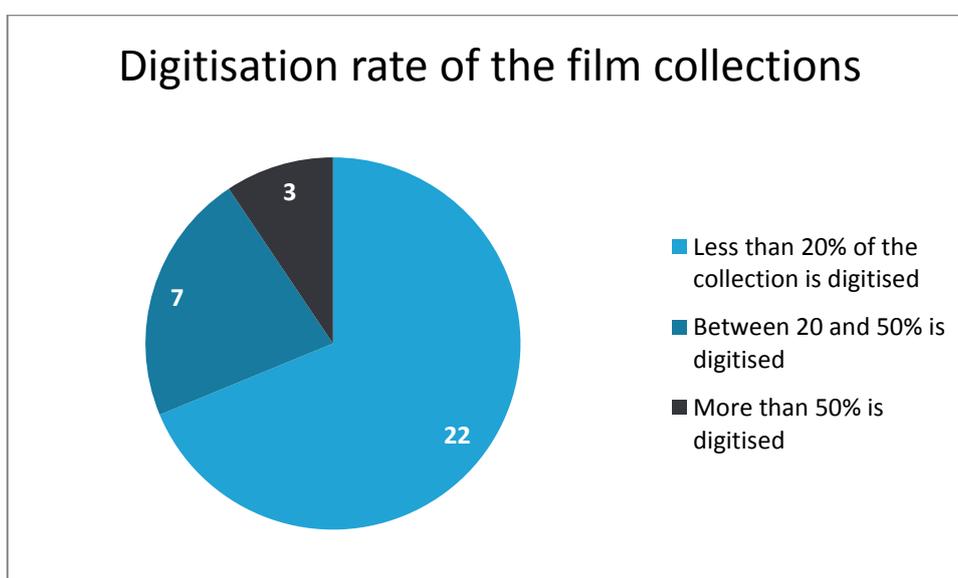
1.2 Digitised works in the collections

The data provided by the respondents show that, on average, 15% of the film works in the collections of FHIs are available in a digital format. It should be noted that this is a cumulative indicator and there can be significant variation in the shares of digitised works among the Film Heritage Institutions in our sample. For this reason, the median can be a more accurate indicator of the extent of the digitisation of the film works across the different film collections: half of the sample has a digitisation rate equal to or lower than 6%.



Number of respondents: 32 Film Heritage Institutions.

Indeed, the share of film works available in a digital format varies greatly from a Film Heritage Institution to another. Only three¹ FHIs have more than 50% of their collections available in a digital format. The large majority of the Institutions in the sample only have between 20% and 50% of the film works in their collections available in a digital format.



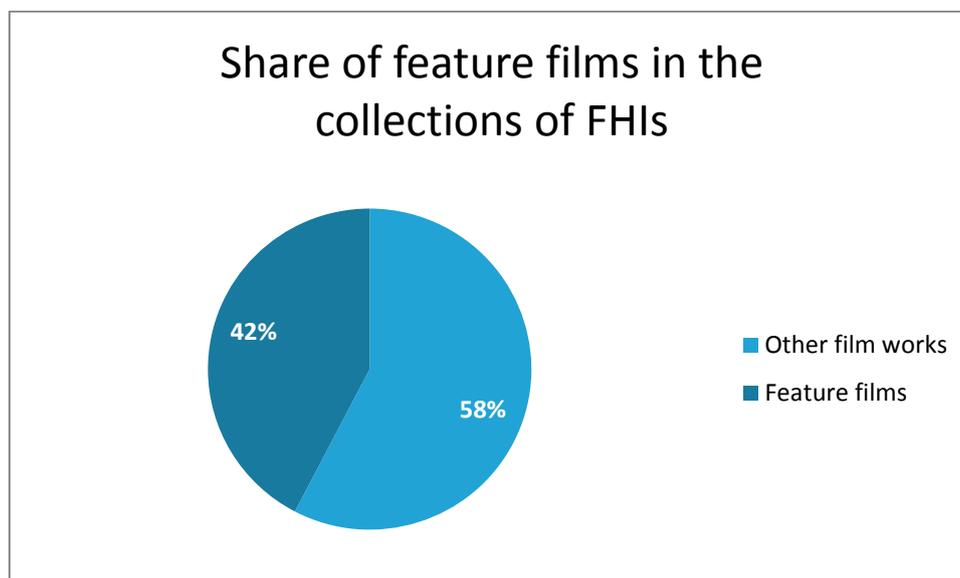
In number of Film Heritage Institutions.

¹ Montenegrin Cinematheque, CulturArts-IVAC and Norwegian Film Institute.



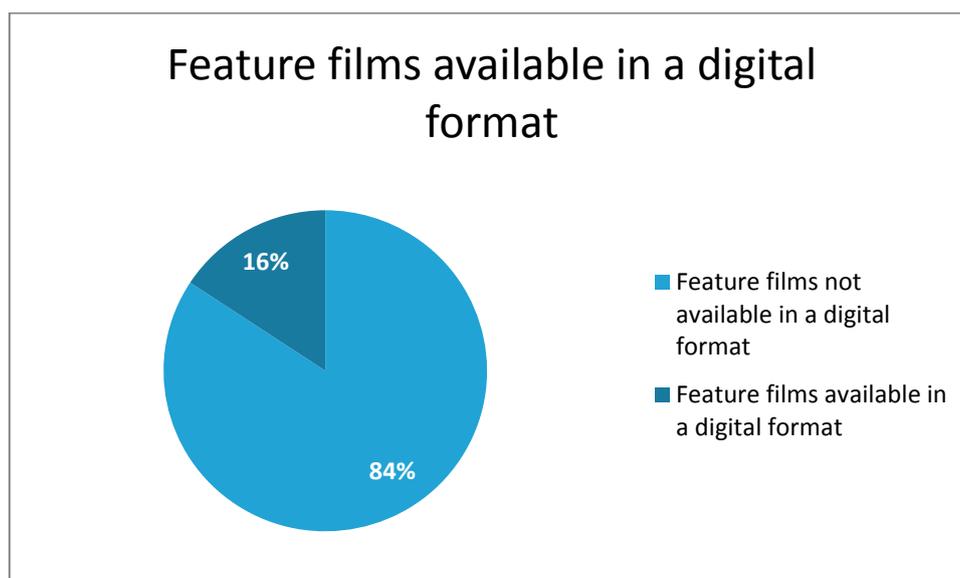
1.3 Share of feature films in the collections

On average, feature films represent 42% of the total film works in the collections of the Film Heritage Institutions surveyed.



Number of respondents: 31 Film Heritage Institutions.

The digitisation rate of the feature films collections is similar to that of film works in general: on average, only 16% of the feature films in the collections of the FHIs surveyed is available in a digital format.



Number of respondents: 30 Film Heritage Institutions.

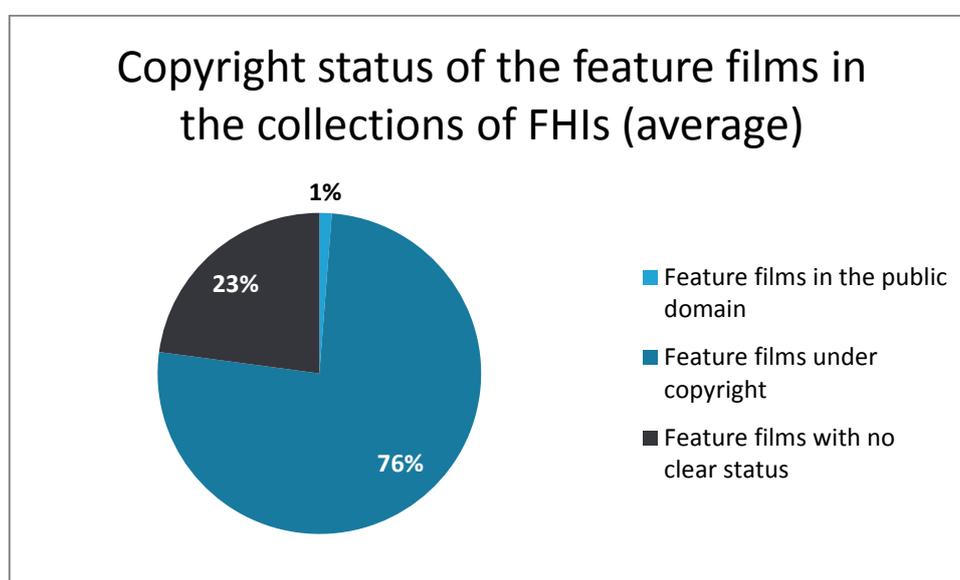
Again, there is a strong disparity among different FHIs: the median share of feature films available in a digital format only represents 3% of the total number of feature films in the collections.



1.4 Copyright status of the feature films in the collections

Public domain vs. copyright

The analysis of copyright status of the feature films in the collections of the Film Heritage Institutions in our sample indicates that works under copyright represent the biggest share (76%) of the film works. The share of feature films for which the FHIs do not have clear information on copyright is interestingly high (23%). Information on copyright does not appear to be systematically collected by all FHIs. However, they might need to investigate the copyright status of a film if they receive a specific request. In this case, they might need to clear the rights prior to give access to the film.



Number of respondents: 23 Film Heritage Institutions.

Orphan works

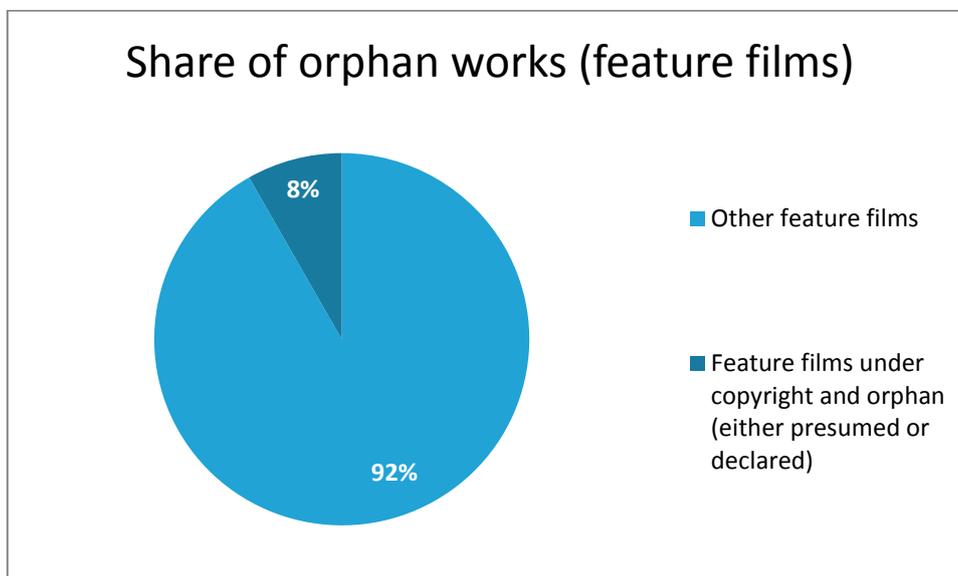
23 Film Heritage Institutions have provided a response regarding the number of orphan works (feature films) in their collections². On average, 8% of the feature films in the collections of the FHIs in our sample are declared or presumed orphan works³. However, as many respondents pointed out,

² Please note that this sample also includes responses indicating “0” as the number of orphan works. Those FHIs that did not indicate anything were left out from the analysis of the results for this question, assuming that the shares of orphan works in their collections were unknown. Also, only those FHIs that provided data on the number feature films and consistent data on the copyright status of the works were considered for this section.

³ The ACE launched a survey focusing on orphan works in 2009/2010. It found out that 21% of all film works held in the responding 24 film archives (ca. 225.000) may be considered orphans. Please note that the 8% provided in this report only refers to feature films. It seems not unlikely that the share of orphan works is higher for non-feature films than for feature films.



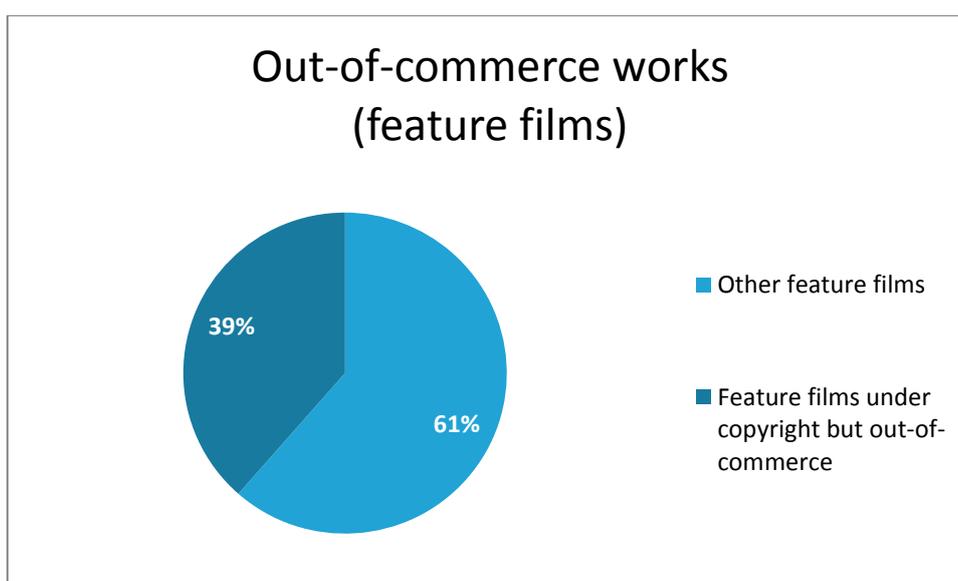
this should be considered as a rough (under)estimation, as the notion of orphan works itself is a problematic one. Furthermore, not all the FHIs collect data on orphan works.



Number of respondents: 18 Film Heritage Institutions.

“Out of-commerce” works

Out-of-commerce works amount to 39% of the feature films in the collections of the considered sample. The median share is slightly lower, representing 33% of the total feature films. However, these figures must be considered as indicative given the difficulties in determining with certainty the status out-of-commerce status for film works.



Number of respondents: 19 Film Heritage Institutions.



Even if the number of respondents varies compared to the previous indicators, the survey suggests that 76% of the feature films in the FHIs are under copyright. However, the data provided by those FHIs that have responded on orphan and out-of-commerce works show that about 60% of the feature films under copyright are either orphan or out-of-commerce films.



2. Consultations in the context of research

We identified several means of access to the film works in the collections of Film Heritage Institutions (FHIs):

- In situ consultations.
- Consultations at other Film Heritage Institutions, within specific agreements or arrangements, either by means of a digital copy or through remote access to the FHI's server. In some cases consultations can be extended to partner Institutions that might (partially) share FHIs' mission (e.g. national libraries).
- Consultations taking place at any third party non-film Institution (e.g. universities) or at the individual researcher's home, either by means of a digital copy or through remote access to the FHI's server.

2.1 Need for copyright clearance

The responses to the survey suggest that, in most cases, no clearance is needed for in situ consultation of film works: almost all of the 32 FHIs surveyed declared that, according to national legislations or practices, they do not need to obtain rights clearance for the consultation of film works, either as a print or in a digital format, at their premises.

Customary national practices appear to be much more heterogeneous when it comes to give access to the film collections remotely. Clearance is often needed, but not by all the FHIs surveyed. In particular, it seems to be relatively unclear what measures are to be taken in order to grant remote access to the film collections from premises other than FHIs.

Table 1: Need for clearance of rights according to the type of consultation (in % of FHIs)

	In situ		At other FHIs		At other premises	
	Analogue	Digital	Digital copy	Remote access	Digital copy	Remote access
Clearance needed	3%	3%	48%	42%	55%	52%
No clearance needed	94%	97%	36%	42%	19%	19%
Unclear	3%		16%	16%	26%	29%



The challenges of rights clearance

Almost all the FHIs surveyed have mentioned that it can be difficult to identify the right holders, which makes rights clearance a time-consuming and challenging task. The legal status of the film works is often unclear, and can be subject to change.

The Cinemathèque Royale de Belgique points out that the clearing of rights is easier for films produced by US or French “majors”. On the other hand, there is a lack of data available for other films, as there is no specific database or online catalogue for film rights. This might limit the range of the film works that can be used.

According to the Institut Català De Les Industries Culturals, there is a shortage of staff trained for rights clearance. Also, the right holders for a given film often change. The Österreichisches Filmmuseum also notes that a European database containing reliable information on film rights would be very helpful. Ideally, films should be classified according to four main categories: public domain, orphan works, under copyright and unknown status.

The Centro Sperimentale di Cinematografia-Cineteca Nazionale highlights that the main problem is the lack of a mandatory registration procedure of the right holders.

The CulturArts-IVAC clarifies that it does not manage the Copyright Registry office in Spain neither in the Valencian Community. Therefore they have to assume that all the films in its collections are under copyright.

The Fondazione Cineteca di Bologna stresses that information on orphan works is specifically difficult to access, despite the EU directive.

According to the Deutsche Kinemathek - Museum für Film und Fernsehen, the exploitation of the film collections implies some risk management in terms of rights and budget constraints. Users may have to be guided to other sources for the same content: another archive, a commercial entity or even YouTube.

The Tainiothiki Tis Ellados (Greek Film Archive) is undergoing the process of verifying the copyright status of the works in their film collection in collaboration with legal advisors, producers and film directors.

The Danish Film Institute highlights the lack of proportion between the costs borne for rights clearance and value expectations.

By contrast, for the Arhiva Nationala de Filme, rights clearance does not represent a specific difficulty, as rights for their film collections are cleared by the Romanian National Film Center.

2.2 Types of consultations available at FHIs

The vast majority (94%) of the FHIs in our sample provide researchers with the option of consulting the film works in their collections at their premises (in situ). Distant access, when available, is mainly provided through physical copies of digital formats (e.g. DVDs). Only about 20% of the FHIs in our sample actually allows for films in their collections to be consulted through a remote connection.



Table 2: Types of access provided by the FHIs (in % of FHIs)

	In situ	At other FHIs		At other premises	
	(in analogue or digital)	Digital copy	Remote access	Digital copy	Remote access
Service provided by the FHI	94%	41%	19%	50%	22%
Service not provided by the FHI	6%	53%	69%	41%	66%
Do not know / not clear	0%	6%	12%	9%	12%

Types of consultation available at FHIs

The Stiftelsen Svenska Filminstitutet has an agreement with the National Library of Sweden, whereby individual researchers who want to access the collections are directed to the National Library, who has access to copies or low-resolution files of most of the films in the collections. However, there are no statistics available from the National Library on how many films are actually consulted.

106 films of the Hungarian National Digital Archive and Film Institute are accessible (but not downloadable) at NAVA points, dedicated computer terminals located in libraries, educational institutions and museums.

At the CulturArts-IVAC, the whole film collection is available upon request to other national film archives even if no specific agreements have been signed.

By law, the Filmoteca de Catalunya can only make its collection available to public institutions or cultural or scientific non-profit institutions.

The Cineteca di Bologna and the Arhiva Nationale de Films only allow consultations at their premises.

The Deutsches Filminstitute can potentially make all the film works in their collection available at ACE and FIAPF member archives. However, they only receive a few requests for this kind of consultations.

The Cinémathèque Royale de Belgique points out that making film works – in the form of physical copies – available to third parties implies high transportation or shipping costs.

The Centro Sperimentale di Cinematografia-Cineteca Nazionale clarifies that a digital copy of a film can be made available to researchers for consultation outside its premises. In this case the copy will be always marked with the researcher's name.

2.3 Shares of film catalogues available for consultation

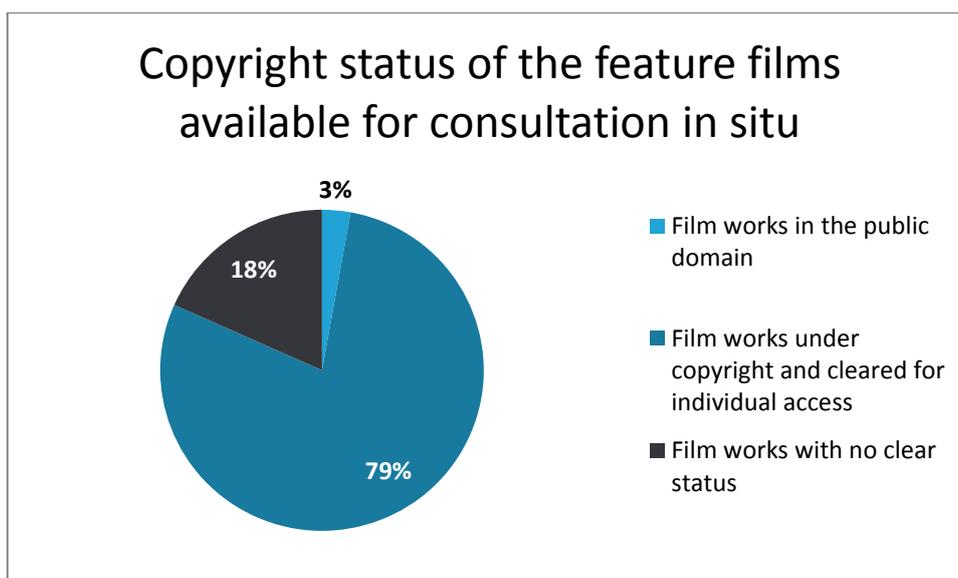
A large majority (74%) of the film works and more specifically 71% of the feature films in the collections of FHIs are theoretically available for consultation **in situ**.

	In situ	At other FHIs	At other premises
Share of film works available	74%	11%	14%
Share of feature films available	71%	34%	27%

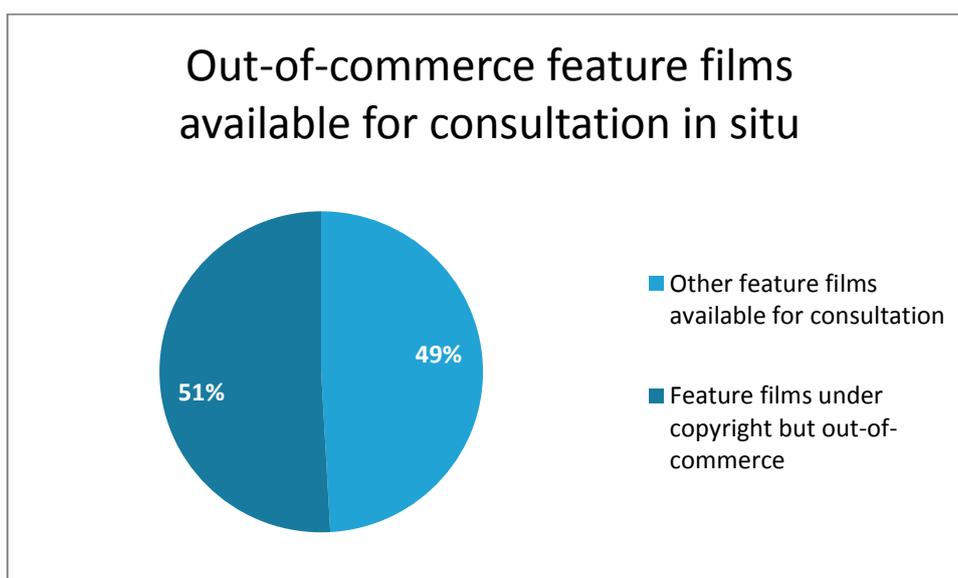


According to the responses provided by the FHIs, 27% of all films works (and 24% of feature films) are available in a digital format while 73% are available as film prints. When compared with the global digitisation rates of the film works, this seems to indicate that all digitised film works might be available, whereas only a fraction of the film prints can be consulted.

As for the entire collections, the vast majority (79%) of the feature films available in situ is represented by works under copyright (and cleared for individual access). Film works presumably out-of-commerce represent about half of these feature films⁴.



Number of respondents: 19 Film Heritage Institutions.



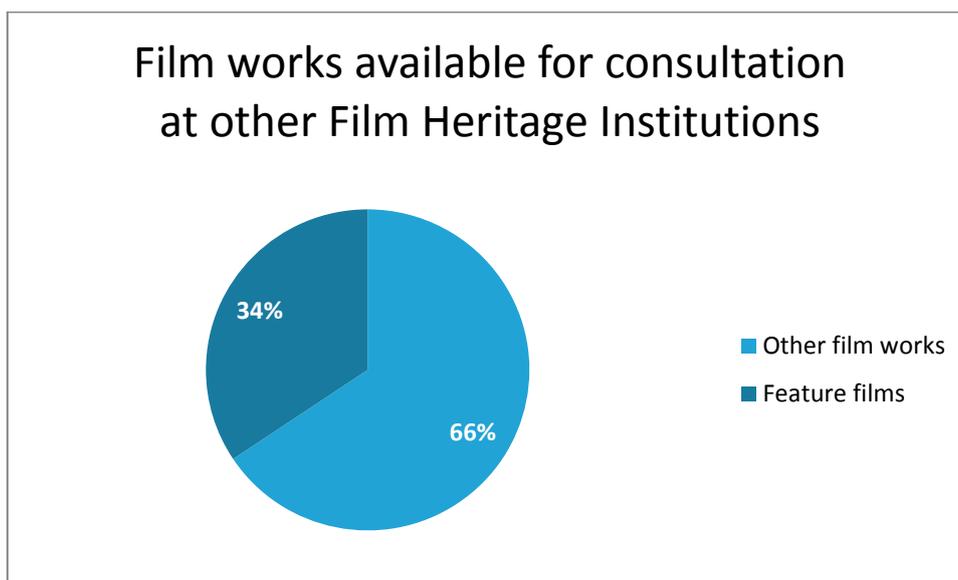
Number of respondents: 15 Film Heritage Institutions.

⁴ Based on 19 responses on the share of films under copyright, and 15 responses for the share of out-of-commerce works.



The share of the FHIs' film catalogues available for consultation at **other Film Heritage Institutions**⁵ is much lower. When FHIs do offer this service, on average, only 11% of the film works in their collections are available for consultation.

When offering this type of access, FHIs tend to favour film content other than feature films as the latter represent 34% of the film works available for consultation outside the premises of FHIs (wheresa feature films amount to 42% of all film works in the collections). On average, only 10% of all feature films in the collections are available for consultation at other film Institutions' premises.



Number of respondents: 26 Film Heritage Institutions.

When respondents allow consultations from premises other than FHIs⁶, the share of film works available is higher than for consultations at other FHIs (14% of the feature films included in the collections are available, but this might as well depend on a smaller sample for this question). In addition, feature films available for consultation at other premises only represent 9% of the total number of feature films.

Finally, of note is the fact that these results seem to be directly driven by uncertainties related to both to the copyright status of the films and the legal capacity of the FHIs to provide a distant access to collections.

2.4 Procedures

16 out of 31 Film Heritage Institutions stated that there is a specific procedure in place (e.g. an online form) in order to apply for individual consultation of film works in their collections. For the other 15 Institutions, there is no standard procedure and applications are normally filed by contacting the

⁵ Consultations at other Film Heritage Institutions and in some cases at partner Institutions such as national libraries, either through a digital copy or remote access to the FHI's server.

⁶ Consultations by individual researchers from any third party non-film institution (e.g. universities) or from the researchers' home, either in the form of a digital copy or via remote access to the FHI's server.



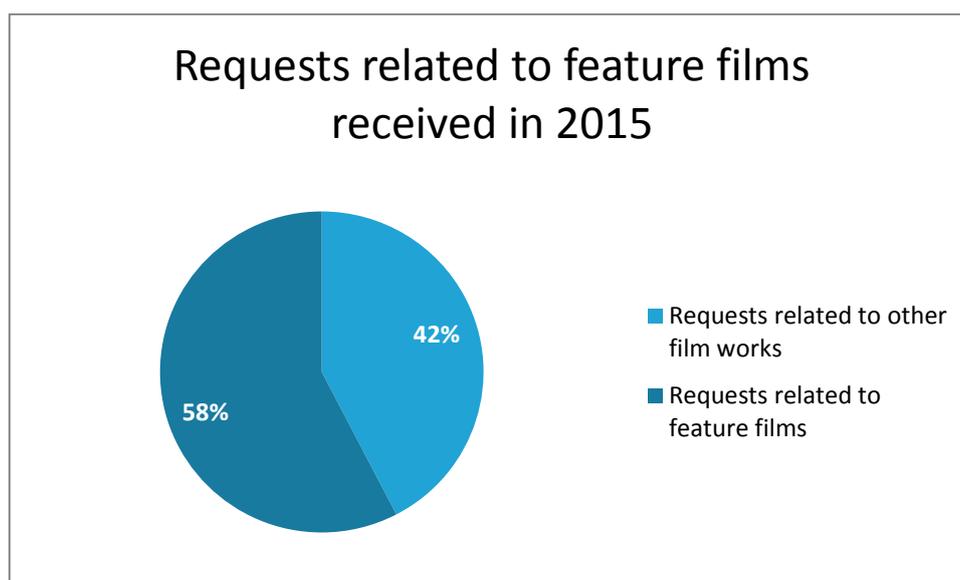
Institution directly via e-mail. In some cases, an official letter from the researcher's university is also required in order to support their application.

The criteria to be met in order to have access the film works in the collections are usually not strict. In particular, there seem to be no specific restrictions to the access to the digital collections.

For requests related to prints, applications are in most cases assessed on an individual basis, considering the applicants' interest in the field, their academic credentials and research purpose. Issues related to preservation (e.g. the condition of the physical prints) might also be taken into account. In those cases, accessibility to the film works is also subject to the availability of the FHI's staff, who might need to supervise the consultation.

2.5 Requests for consultation

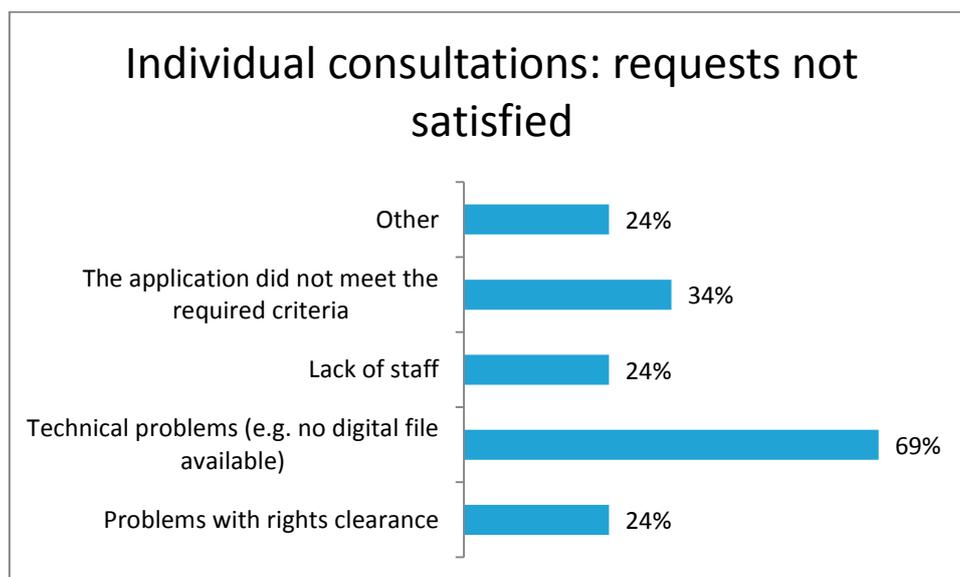
In 2015, each Film Heritage Institution surveyed received an average of 334 requests for individual consultations of film works in their collections (30 FHIs from the sample replied to this question). However, the number of requests was significantly higher for some FHIs, the median number of requests received in 2015 being 145. The majority of these requests concerned feature films (58%).



Number of respondents: 28 Film Heritage Institutions.

2.6 Requests not satisfied

According to the FHIs, technical problems represent the main reason for not satisfying a request for consultation. In particular, the comments provided by the respondents point out that the main issue is the lack of availability of a digital copy. The use of film prints for individual consultations seem to be limited to a few cases, since analogic projections require specific equipment and supervision from trained staff.



Number of respondents: 29 Film Heritage Institutions.

2.7 Consultations in 2015: some figures

In 2015, the average number of consultations that took place at the Film Heritage Institutions surveyed was 322, considering a sample of 29 respondents. A digital format was used for most of the consultations (69%) and about 61% of the consultations concerned feature films.

The number of consultations taking place at other FHIs or at other premises was, on a cumulative basis, close to the number of in situ consultations (for the FHIs that actually offer these options). Yet, this data should be considered with caution as only a limited number of FHIs have replied to the questions on the number of consultations outside their premises. Still, these results seem to suggest that providing a remote access to the film collections could significantly increase the number of consultations.

Consultations	In situ ⁷	At other FHIs ⁸	At other premises ⁹
Average per FHI (all film works)	322	142	157
Average per FHI (feature films only)	196	58	83

Most of the feature films consulted in situ (74%) were works under copyright. Furthermore, according to the respondents, 50% of these feature films were out-of-commerce works.

⁷ 29 respondents.

⁸ 8 respondents.

⁹ 3 respondents.



3. Screenings with educational purposes

The FHIs surveyed identified two main categories of screenings with educational purposes:

- Screenings organised in situ, using either film prints or digital copies.
- Screenings organised at other Institutions, using either film prints or digital copies.

3.1 Need for copyright clearance

The survey suggests a certain diversity of cases when considering the rights clearance obligations that FHIs must comply with for screenings with educational purposes. 60% of FHIs do have to clear the rights of film works under copyright for an in situ screening. The share is significantly higher (74%) for screenings organised at other Institutions.

Table 3: Rights clearance obligations for screenings with educational purposes (in% of FHIs)

	In situ		At other Institutions	
	Analogue	Digital	Analogue	Digital
Clearance needed	57%	60%	74%	74%
No clearance needed	43%	40%	23%	23%
Unclear			3%	3%

Rights clearance for screenings with an educational purpose

The Deutsches Filminstitut has signed contracts with right holders for the distribution and screening of several film works. However, 50% of the feature films in its collection have no clear copyright status (yet, many of them may be commercially available). The Institution might not have the time or the staff capacity to clear the rights for these works.

The Cinémathèque Suisse leaves it to its “clients” (i.e. the organisers of the screenings) to clear the rights.

For the Národní filmový archive, rights clearance for educational screenings is particularly complex for non-national film productions, for which they can eventually provide the screening materials, but not rights clearance.

For the Stiftelsen Svenska Filminstitutet, rights clearance for educational screenings outside their own premises is examined on an individual basis and therefore is very time consuming. No clearance is required for in situ educational screenings.

According to the Kansallinen audiovisuaalinen instituutti / National Audiovisual Institute Finland, the costs to clear the rights for foreign films through commercial channels are often prohibitive.



3.2 Types of screenings available

The totality of the Film Heritage Institutions in the sample offer analogue screenings at their premises. Also, about 80% provide film works for screenings organised outside their own premises.

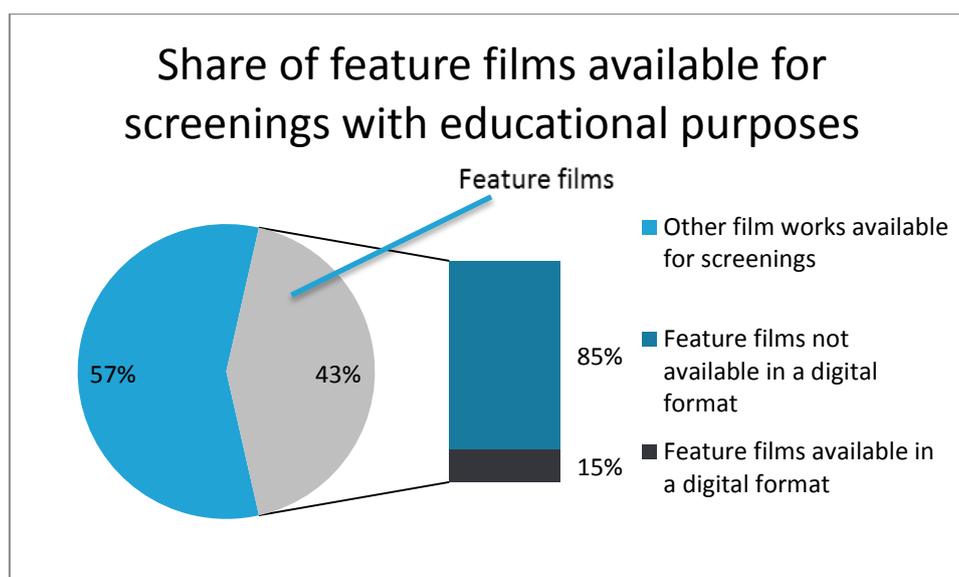
Table 4: Types of screenings offered by FHIs (in% of the FHIs)

	In situ		At other institutions	
	Analogue	Digital	Analogue	Digital
Service provided by the FHI	100%	97%	77%	81%
Service not provided by the FHI		3%	23%	19%

3.3 Share of film catalogue available for screenings with educational purposes

According to the FHIs, 50% of their collection is theoretically available for screenings (a lower share than the one of films available for consultation). But among these films works available for screenings, only 16% are available in a digital format.

On average, **feature films** represent 43% of the total number of films works available for screenings for educational purposes. Of these films, only 15% are available in a digital format. Feature films available for screenings also represent 43% of all feature films available in the FHIs collections.



Number of respondents: 26 Film Heritage Institutions.



The vast majority (85%) of feature films available for screenings are under copyright. But as previously seen for films made available for consultation by FHIs, a significant share of these films (32%) is considered to be out-of-commerce¹⁰.

3.4 Procedures

In most cases, the requests of film works for screenings with educational purposes can be filed via e-mail or through dedicated online forms.

It appears that there are no specific criteria to be met to request the screenings of a film, apart from having a generic educational scope, supported by a personal statement from the applicant (often schools or other educational Institutions).

For analogue screenings, restrictions tend to be of a technical nature, revolving around conservation and copyright issues as well as the condition and the availability of a film print for a given title. Also, when the screening takes place outside the premises of FHIs, a certificate attesting the good functioning of the projection equipment might be required to obtain a film print, as well as the presence of trained operators.

Finally, some of the Institutions surveyed do not provide prints for educational screenings, due to lack of agreements with relevant educational Institutions.

3.5 Requests

In 2015, each Film Heritage Institution surveyed received on average about 204 requests for screenings with educational purposes (considering a total of 28 respondents for this topic). The median number is 50 requests per Institution.

It should be noted that:

- These figures are estimates as some FHIs only record statistics for those requests that are satisfied.
- The data presented in this study exclusively refers to screenings organised in strictly educational environments (schools and universities). However, some of the respondents pointed out that virtually all requests for film loans could qualify as requests for screenings with educational purposes (e.g. loans to public cinemas).

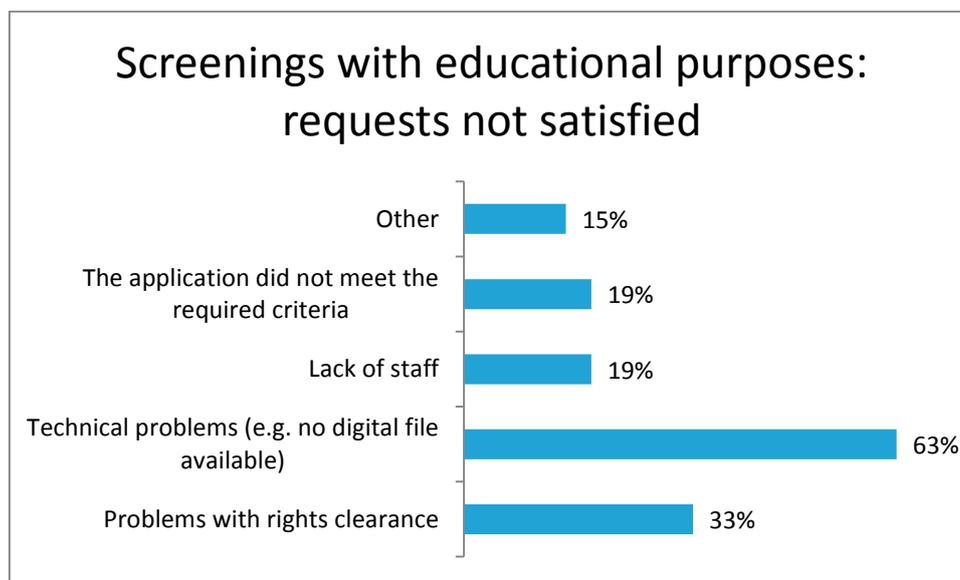
Some Institutions have put in place specific film education programmes that are not considered within the general request schemes for screenings and therefore might not be included in the data presented in this report (schools in Finland, for instance, can get a licence to show films on their premises through a collective licensing scheme).

¹⁰ 5 respondents only



3.6 Requests not satisfied

As for consultations, “technical problems” (mainly consisting in the lack of a digital copy) represent the main reason for not satisfying a request for screenings.



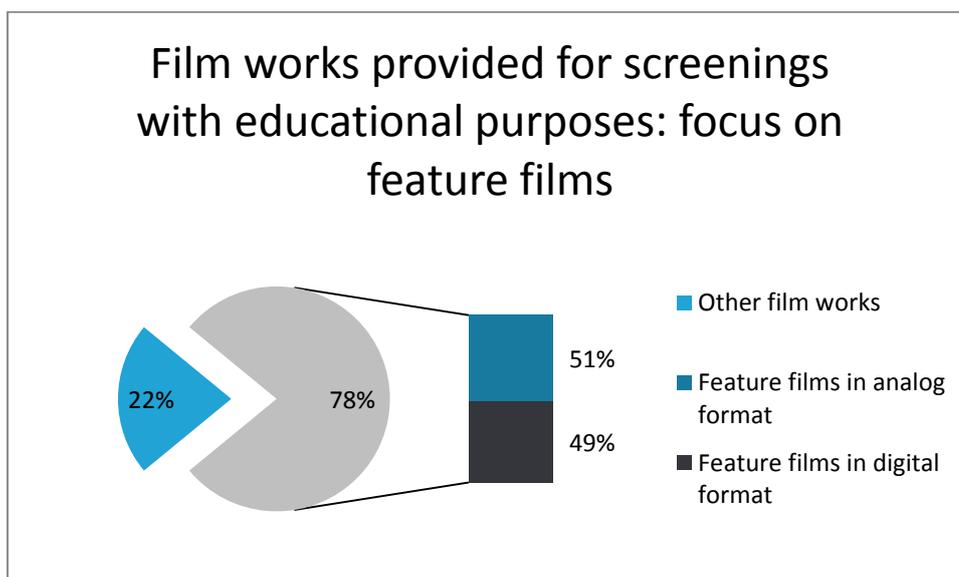
Number of respondents: 27 Film Heritage Institutions.

3.7 Screenings with educational purposes in 2015: some figures

Based on the data supplied by 29 FHIs in our sample, in 2015 each Institution provided an average of 93 film works for screenings with educational purposes. The median value is 38 film works. On average, 45% of these film works were in a digital form (based on a sample of 28 FHIs).

Feature films represent 78% of film works provided by the FHIs in the context of screenings with educational purposes. Among feature films, 49% were in a digital format. The FHIs surveyed estimate that 41% of feature films provided for screenings were out of commerce works.

It must be noted that it is very hard to determine the extent of audience participation for these events, as this type of data are often only monitored for commercial screenings. However, based on the estimates provided by 20 FHIs in our sample, in 2015 the average cumulated audience for these events was 4 389 people per Institution.



Number of respondents: 28 Film Heritage Institutions.



4. Public web sites

23 of the FHIs surveyed give access to a fraction of their film collections through a public web site. These web sites belong to several categories:

- Dedicated web sites operated by the FHI itself.
- The European Film Gateway portal
- Video-sharing platforms (e.g. YouTube, Vimeo).
- Associated web sites, in which the FHI may be a partner.

FHIs often (but not always) make a selection of their contents available on several web sites.

Table 5: Categories of public web sites proposing FHIs' film works

Category	Number of FHIs ¹¹
Dedicated web site operated by the FHI	22
European Film Gateway	5
Video-sharing platforms	7
Associated websites	2

The content made available online is a combination of public domain and copyrighted works, but includes only a few feature films: in average of 35 feature films per FHI were made available for consultation through free public websites in 2015¹².

Not all FHIs have consolidated data about the consultations that took place on web sites they manage or they provide content to. However, the survey suggests that, on average, the number of consultations of film works per Institution was about 170 000. The sample is heterogeneous, as the median for the number of consultations is 42 000.

As a result of the low number of feature films available, the consultations of feature films amounted to only 10% of total consultations. On average, 10% of the consultations via free public websites in 2015 were related to feature films¹³.

¹¹ The total exceeds the number of respondents as FHIs may make film works available on several websites.

¹² 17 respondents.

¹³ This ratio should be taken with caution, as only three FHIs answered the question.



5. Access to film works: obstacles and challenges

This section builds on the main results of the survey and on additional comments provided by the Film Heritage Institutions along the questionnaire.

Availability of digital copies

The results of this survey on how Film Heritage Institutions provide access to their collections in the context of education and research should be put in perspective with the key challenges that FHIs face regarding the preservation and the digitisation of the film works. The capacity of Film Heritage Institutions to give access to at least a fraction of their collections is indeed greatly determined by the availability of digital copies.

- The access to analogue prints is possible at most FHIs. However, this type of consultation requires trained staff as well as dedicated and costly equipment, in a context of a general lack of resources available to cope with the core mission of the FHIs, i.e. the preservation of their collections.
- Organising screenings outside the FHIs' premises, in particular for educational purposes, is a way to increase the potential audience for film works. Yet, outside the FHIs, an increasingly small number of organisations have both the equipment (e.g. twin 35 mm projectors) and experienced staff to set-up and supervise screenings of analogue prints.
- A remote access to films, taking place at partner organisations or through a website – either restricted to researchers or open to the general public – should further enlarge the audience for the FHIs' film collections. Again, the availability of the film in a digital format is here a key aspect.

Yet, as the survey results show, on average only 15% of the film works the collections of the FHIs surveyed is available in a digital format¹⁴.

Grey zones

The lack of digital copies is far from being the only hurdle that FHIs face when it comes to making their collections available for research and educational purposes. It should be kept in mind that FHIs operate in very different frameworks, as defined by national legislations and /or customary practices. In particular, there seem to be some areas of uncertainty regarding the following points:

- It is not totally clear up to what extent the exception granted to in situ consultations can be extended to the premises of other FHIs or non-film partner organisations.
- Generally speaking, outside the premises of FHIs, stronger limitations can be observed when access to film works is provided through digital copies rather than analogue prints.

¹⁴ The term "digital" here is to be understood in its broad sense as it includes a variety of different standards and supports.



- Restrictions can also be noticed when looking at online access to the film collections, both when access is provided through a remote connection to a FHI's server from another organisation, and – more in particular – through unrestricted access to a public website.

Here, FHIs are facing a paradox: if on the one hand digital formats and online access seem to represent the preferred and most efficient way to improve the access to their collections and reach out to audiences, on the other hand, the framework in which the FHIs operate might make it difficult to provide these types of access.

Issues in identifying the copyright status of films

Regardless of the type of consultation, the possibility to provide access to the collections is generally linked to the status of the film work as regards copyright. Four categories are generally considered: public domain works, works under copyright, orphan works and out-of-commerce works. Understanding the status of the film works in the collections implies both practical and methodological challenges.

Many FHIs do not necessarily have the resources to verify ex-ante the category to which a given title belongs (unless if they either manage or closely deal with the management of the legal deposit and can therefore easily assess whether a film is in the public domain or not). Therefore the copyright status of a film work is usually investigated on a case by case basis, often after a request for screening is received. In this context, FHIs are not necessarily in a position to identify the fraction of their catalogue that is available for screenings (or consultation outside their premises), nor to promote these films.

Furthermore, other categories related to the copyright or commercial status of the film collections may be unclear or difficult to assess. Several FHIs have claimed that, from a practical point of view, identifying orphan works is particularly challenging. Even more respondents stressed that ascertaining that a film work is out-of-commerce is extremely complex, due to the lack of specific tools or criteria to verify this status.

The identification of orphan and out-of-commerce works is particularly relevant when we look at the figures from our survey: FHIs estimate that 76% of the film works in their collections are under copyright, and that about 60% of the feature films under copyright are presumably orphan or out-of-commerce.

Difficulties in rights clearance

Apart from possible developments towards facilitating the exploitation of orphan or out-of-commerce works, rights clearance will still be required for a significant part of the FHIs' film collections.

However, copyright clearance remains challenging, also because of difficulties in identifying the right holders:

- Right holders are constantly changing.
- Investigating the copyright status of a film requires trained staff.
- There is a lack of centralised sources of information on rights.



In particular, according to several FHIs, right holders for foreign films are more difficult to identify, with the notable exceptions of films produced by US studios. As a result, right clearance for US films (e.g. for screenings) is generally easier than for European (non-national) films.

In this context, several FHIs have pointed out that a European database or registry of rights could help with the identification of right holders and facilitating the process of right clearance.

Moving toward online access

FHIs seem to have already embraced the possibility to provide an online access to their film collections as a way to considerably enlarge their audience. Yet, as mentioned before, they face a combination of hurdles: limited resources, lack of digital copies, legal restrictions, uncertainty regarding the copyright status of film works. The offer of films available online is therefore limited, particularly when considering feature films (according to the answers to the survey, an average of 35 feature films were made available online for each FHI, which amounts to less than 1% of the average collection).

Still, the survey shows that, when film works are made available through a public website, they generate an average of circa 170 000 consultations per year and per FHI, compared to an average of 340 consultations in situ, and an attendance of more than 4 300 per year at screening events¹⁵.

Therefore, the possibility for FHIs to propose a (digital) remote access to their film collections, either entirely open to the general public, or limited to eligible users, with a specific focus on out-of-commerce works, could be the most effective way not only to meet the existing demand, but also to make the film collections available to a considerably larger audience.

¹⁵ The responses to the survey draw on data related to 2015.



List of respondents

INSTITUTIONS	COUNTRY
Arhiv Republike Slovenije - Slovenski filmski arhiv	Slovenia
Arhiva Nationala de Filme	Romania
Centro Sperimentale di Cinematografia - Cineteca Nazionale	Italy
Cinemateca Portuguesa - Museo do Cinema	Portugal
Cinémathèque royale de Belgique	Belgium
Cinémathèque suisse	Switzerland
Cineteca del Comune di Bologna	Italy
Crnogorska Kinoteka	Montenegro
CulturArts Generalitat. Unidad de Audiovisual y Cinematografía (former IVAC)	Spain
Det Danske Filminstitut - Museum & Cinematek	Denmark
Deutsche Kinemathek - Museum für Film und Fernsehen	Germany
Deutsches Filminstitut - DIF	Germany
EYE Film Institute Netherlands	Netherlands
Filmoteca de Catalunya	Spain
Filmoteka Narodowa	Poland
Fondazione Cineteca Italiana	Italy
Hrvatska kinoteka – Hrvatski državni arhiv	Croatia
Imperial War Museums London	United Kingdom
Kansallinen audiovisuaalinen instituutti	Finland



La Cinémathèque de la Ville de Luxembourg	Luxembourg
La Cinémathèque française - Musée du cinéma	France
La Cineteca del Friuli	Italy
Lichtspiel - Kinemathek Bern	Switzerland
Magyar Nemzeti Digitális Archívum És Filmintézet	Hungary
Museo Nazionale del Cinema	Italy
Národní filmový archiv	Czech Republic
Nasjonalbiblioteket	Norway
Norsk filminstitutt	Norway
Österreichisches Filmmuseum	Austria
Slovenska kinoteka	Slovenia
Svenska Filminstitutet - Cinemateket	Sweden
Tainiothiki tis Ellados	Greece