

# 14. Open access

## A challenging opportunity for audiovisual archives

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**In the broadest sense, archives are an embodiment of cultural artefacts that endure as signifiers of who we are and why. They are both a place of representation of these signifiers and their institutional form, providing tangible evidence of memory as well as defining memory institutionally within prevailing political systems and cultural norms. The principle of offering equal and open access to archival resources remains a cornerstone in various guidelines and codes of ethics for archival practices. However, providing open access is also a thorny problem and one that is challenged by factors such as intellectual property rights. This paper considers the notion of open access in the domain of audiovisual archives and the challenging potential that it offers, looking specifically at the experience of India's National Cultural Audiovisual Archives. Perhaps the moment of open access is well and truly upon audiovisual archives in the twenty-first century, for they face the necessity of reinventing themselves or risking possible irrelevancy and increased marginalization, even as they must continue to balance delicate questions pertaining to ethics of access.**

*An old tradition and a new technology have converged to make possible an unprecedented public good. The old tradition is the willingness of scientists and scholars to publish the fruits of their research in scholarly journals without payment, for the sake of inquiry and knowledge. The new technology is the internet. The public good they make possible is the world-wide electronic distribution of the peer-reviewed journal literature and completely free and unrestricted access to it by all scientists, scholars, teachers, students, and other curious minds.*

Budapest Open Access Initiative (2002)

### Background

The archive can be considered a gathering of artefacts of culture that are meticulously collected, methodically stored and preserved over a long-term period. This act of archiving could either be motivated by the need to preserve something that might otherwise face the threat of oblivion or, at other times, to simultaneously document concurrent happenings that are to be preserved. According to Jacques Derrida, "the dwelling, this place where they (the archives) dwell permanently, marks the institutional passage from the private to the public" (1996, p. 3).

This deep interrelation between private concealment and public visibility constitutes the structure of archives, for private concealment regulates public exposure and vice versa. The continuous transition from the private to the public realm places them in an ambiguous position where it becomes difficult to recognize the exclusive characteristics of private or public fields. The archive is profoundly affected by this transition and loses its definitive nature in the process. In line with the method of deconstruction, Derrida questions strict dichotomies such as public/private and secret/non-secret vis-à-vis the nature of the archive. Within this potent condition, an archivist can exercise her own purposeful intervention, even though the power in this intervention stems from a kind of ambivalence about the nature of the archive.

At the same time, the archive is permeable to investigation and research. Each researcher alters it by charging it with her interpretation. It thereby accumulates layers of interpretations and meanings and expands notionally by continuous research and readings. This perspective enables a view of the archive in evolution, both theoretically and structurally, since it reveals much more than the archive's

structure and contents. One could thus argue that the archive is represented in such a way that it conceals as much as it reveals. The onus for multiple interpretations of the material stored in archives lies as much on the archivist as on the user gaining access to the material.

## Open access

The notion of ‘open access’ is derived from the domain of scholarship; in that context it refers to scholarly literature that is online, free for potential users to access and bereft of licensing restrictions that regulate its use. Open access is made possible by the intersection of a practical concern with a technological opportunity. While the open access movement is given a certain authority from an academic tradition that has existed for a significant period of time, the concept itself received formal definition only a little over 15 years ago during the first meeting of the Open Society Institute. The Budapest Open Access Initiative (2002) characterized open access literature by

its free availability to the public internet, permitting users to read, download, copy, distribute, print, search, or link to full texts of these articles, crawl them for indexing, pass them as data for software, or use them for any other lawful purpose, without financial, legal, or technical barriers other than those inseparable from gaining access to the internet itself. The only constraint on reproduction and distribution, and the only role for copyright in this domain, should be to give authors control over the integrity of their work and the right to be properly acknowledged and cited.

Elaborations and minor variations appeared in subsequent public statements such as the Bethesda Statement on Open Access Publishing (2003) and the Berlin Declaration on Open Access to Knowledge in the Sciences and Humanities (2003). However, the Budapest initiative’s definition of open access still applies and “remains one of the best encapsulations of the exceptional intersection of interests giving rise to the open access movement” (Tomlin, 2011, p. 4).

## Open access in audiovisual archives

In the field of academic scholarship, open access archiving first developed in physics while open access journals took off fastest in biomedicine. At the other end of the spectrum, open access has moved the slowest in the humanities. Suber (2005) has carried out a detailed analysis comparing the differing rates of progress of the open access movement in the science, technology and medicine fields as compared to the humanities. There are numerous problems and challenges that are considered to be unique within the humanities and can prove to be roadblocks to furthering open access in the arts.

Within the domain of the arts, audiovisual repositories equally struggle with a range of issues that are unique to them with regard to providing access to their collections, something which further complicates their participation in the open access movement.

What right do archives have over their collections? What is an appropriate relationship between archives, the collectors who deposit their recordings in it and the performers and communities those collectors have recorded? Changing ethics, changing intellectual property laws and changing opportunities for dissemination have all contributed to uncertainty about how to use the recordings that already exist and how to collect new ones (Seeger and Chaudhuri, 2004, p. 71).

Intellectual property refers to creations of the mind, such as inventions, literary and artistic works, designs and symbols, names and images used in commerce.<sup>1</sup> It is divided into two broad categories:

1. Industrial property, which includes patents for inventions, trademarks, industrial designs and geographical indications.
2. Copyright, which covers literary works, films, music, artistic works and architectural design. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and broadcasters in their radio and television programmes.

It is clear then that the rights which apply to archival audiovisual recordings are covered within the ambit of copyright, which itself has two aspects: one is enshrined by law specifically in terms of the stakeholders and the length of term; the other is of a philosophical nature and entails moral rights. Moral rights include (1) the rights of attribution implying that the right person(s) is attributed as a creator of the work or recording and (2) the right of integrity, which refers to the right not to have one’s creative work subjected to derogatory treatment. Fair use is permitted for copyrighted material, which includes the right to make copies of copyrighted works for individual and educational use under somewhat vague conditions. Not only are the conditions of fair use ambiguous in their scope, but it is not clear whether a range of access options open to audiovisual archives gets covered within this exemption. In addition to certain national differences, most copyright legislation still contains a clear distinction between the fair use of published material, which is usually stored in libraries, and the unpublished holdings of archives. Finally, there are constant

<sup>1</sup> For a detailed exposition, see [www.wipo.int/edocs/pubdocs/en/intproperty/450/wipo\\_pub\\_450.pdf](http://www.wipo.int/edocs/pubdocs/en/intproperty/450/wipo_pub_450.pdf).

attempts by copyright holders to further restrict use even as the very nature of a public good necessitates widening the ambit of access, a position within which audiovisual archives need to balance these countervailing forces.

In this complex situation, it is understandable that even archivists who adhere to the principle of open access in theory frequently cannot apply it consistently in practice for legal, ethical and pragmatic reasons. At the same time, in spite of inequitable restrictions on archival collections, the demand for a more democratic and transparent society has, in general, led to greater openness. Thus, it would be fair to say that the open access movement has resolved some ethical problems while creating new dilemmas (Danielson, 1989, p. 53).

It is therefore instructive to look at the working of most audiovisual archives in terms of their mandatory responsibilities. Regardless of the accepted indivisibility of their two primary missions, preservation and access, archives have tended to privilege preservation. It would not be an exaggeration to mention that loaded phrases such as ‘copyright infringement’ and ‘losing control of collections’ are mentioned fairly frequently in archival circles, perpetuating feelings of anxiety and caution. Proponents of the open access movement thus opine that institutionally, “archival access is overwhelmingly crippled by an overzealous application of the precautionary principle” (Prelinger, 2007, p. 115).

Perhaps the time has arrived for audiovisual archives to be as proactive about access as they have been about preservation. The key “is to be bold and try things” (Kahle, 2007, p. 30). There is a need to look at things with a fresh perspective and be unafraid to look at the periphery – open access models such as YouTube, Internet Archive and others – for ideas that have the potential to revolutionize access (Prelinger, 2007, p. 117).

## National Cultural Audiovisual Archives in India

A large volume of India’s cultural wealth, created over the last century, in audiovisual form, is stored in governmental and non-governmental institutions or is in the possession of individual collectors. Even though the custodians of these holdings have done their best in terms of preservation, notwithstanding serious limitations, the lack of a national-level initiative was palpably felt in the domain of audiovisual archiving.

Understanding the significance of the situation, the Ministry of Culture, Government of India, proposed setting up a project to systematically archive cultural audiovisual

recordings. Subsequently, the National Cultural Audiovisual Archives (NCAA) was established on 3 April 2014 at Indira Gandhi National Centre for the Arts (IGNCA). During the ongoing pilot phase, the primary objective of the project is to identify and preserve significant audiovisual recordings in institutions across the country through digitization and to make the digitized content accessible online.<sup>2</sup> Evidently then, preservation is looked at through the prism of providing access in an attempt to balance the two mandatory responsibilities of the archive, and digitization is understood to be the medium through which this is made possible.

Even within the strict timelines of its pilot phase (April 2014–March 2018), the NCAA set a target of selecting and digitizing approximately 30 000 hours of unpublished audiovisual recordings culled from 18 partnering institutions. These repositories, both governmental and non-governmental, are spread across the country and collectively hold around 100 000 hours of unpublished audiovisual recordings. Thus, the task of selection involved a diligent exercise of prioritization of certain recordings over others, a task that was left to the partnering institutions themselves, given that they are the custodians of the recordings. Even so, it required considerable legal advice within the rubric of an intellectual property rights advisory to arrive at the final selection of audiovisual recordings that could be considered ready to enter the regime of open access through the NCAA project.

The functioning of the NCAA project involves several stakeholders – the Project Management Unit (PMU) at IGNCA, the partnering institutions spread across the country, a large-scale digitization enterprise, a software development company and an agency responsible for hosting the content online through a trusted digital repository application on the servers of the Government of India, in line with the National Digital Preservation Programme.<sup>3</sup> The project architecture is based on the Open Archival Information System (OAIS) reference model, which involves the interaction of four entities: producers of information, consumers of information, digital object management and the archive itself.<sup>4</sup> At the time of the project’s initiation, detailed standards and workflow documents were formulated by the project’s Technical Sub-Committee to implement the process of digitization and metadata creation within the ambit of the NCAA project. The digitization standards formulated for and followed by the project are in parity with those followed by the International Association of Sound and Audiovisual Archives (IASA) and the metadata schema followed by the project is based on the extended Dublin Core schema.<sup>5</sup>

<sup>2</sup> See <http://ncaa.gov.in/repository>.

<sup>3</sup> See [www.ndpp.in](http://www.ndpp.in).

<sup>4</sup> See [www.iso.org/standard/57284.html](http://www.iso.org/standard/57284.html).

<sup>5</sup> See [www.iasa-web.org/tc04/audio-preservation](http://www.iasa-web.org/tc04/audio-preservation) and <http://dublincore.org/documents/dcmi-terms/>.

As of mid-2017, the NCAA had achieved more than half of its target with the digitization and systematic metadata creation of over 15 000 hours of unpublished audiovisual recordings. Following systematic metadata verification and enrichment, these audiovisual recordings would be made accessible for free streaming on the web portal of the project, along with their accompanying administrative, descriptive and technical cataloguing metadata. This is in line with the memoranda of agreements that have been signed between IGNC and the partnering institutions of the NCAA project. These speak of (1) providing free accessibility to copyright-free and those audiovisual recordings over which the partnering institutions hold rights of ownership, and (2) preparing suggested guidelines for obtaining intellectual property rights and other relevant copyright clearances for all other audiovisual recordings.

It is only around 10 percent of institutions' audiovisual recordings that have been adjudged to be copyright-free given the expiration of the rights' term and their entry into the public domain. For the remaining 90 percent of recordings, it has been a process of systematic consultation with the partnering institutions which have allowed them to be considered ready for open access. Not only has this meant a process of 'letting go' as far as the repositories are concerned, it has also entailed a proactive approach on the part of the NCAA project to adhere to its bold stance in terms of dissemination.

It is the first time that most end users have access to these unpublished recordings through the web portal of NCAA. Not only were they hitherto unpublished; many come from repositories that were barely in a position to provide access on-site. Broadly then, NCAA's work can be said to be in line with the general principles of open access outlined in the Budapest, Bethesda and Berlin statements. Envisaged as a means to inject egalitarianism into the access of authenticated archival audiovisual recordings and driven by concerns entailed with public funding, the NCAA project seems to have taken the first few steps into the challenging terrain of open access.

## Conclusion

The twenty-first-century archive stares at the necessity of reinventing itself without pandering to the fashions of the moment. The archive must accept the existence of diverse archival models and practices that may either be broadly in line with or put legacy practices into sharp relief. It must critically and tactically embrace emerging technologies that can be Janus-faced and will continue to hold disruptive potentials. Without an aggressive approach that privileges access, the archives risk irrelevancy and increased marginalization (Prelinger, 2007, p. 118).

How many digitized audiovisual recordings the NCAA project is able to provide within the mode of open access beyond the ongoing pilot phase of its implementation remains to be seen. However, what matters at this juncture is that it has taken the leap by virtue of the fact that it seemed within reach. Brewster Kahle lays out this conviction in the vein of a manifesto:

I argue for universal access to all knowledge. I argue that it is within our grasp financially. It's within our grasp technologically. It's within our grasp politically. It's a great project to work on. In many ways, we've been working on it for centuries.... I think our generation could bring universal access to all knowledge, and that's something we'd be proud of for centuries (Kahle, 2007, p. 31).

The moment of open access is well and truly upon audiovisual archives in the twenty-first century, given that they face the necessity of reinventing themselves in order to remain relevant. As a member of the community, I feel that audiovisual archivists need to seriously engage with open access while balancing delicate questions pertaining to the ethics of access in a nuanced manner.

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