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Library VHS in Danger: Media Preservation in Academic Libraries

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Abstract

Preserving content is a foundational activity of libraries and an activity for which U.S. copyright law makes an exception. This paper studies preservation activities among academic libraries as reported through the literature and recorded in answer to a survey of Research 1 institutions in the United States. Trends, challenges, methods, and procedures are examined to create a robust picture of VHS preservation activity among academic libraries especially in reference to section 108 of U.S. copyright law.

Keywords: VHS, preservation, copyright, section 108, academic libraries

Library VHS in Danger: Media Preservation in Academic Libraries

Preserving the cultural record is an intrinsic function of libraries, and an activity that is explicitly permitted in U.S. copyright law. Section 108 of the Copyright Act of 1976 (2012) describes reproduction activities allowed to libraries for published and unpublished works, as well as for preservation, loss recovery, and library services. Yet, it is unclear how comfortable and, if comfortable, how regularly libraries are making use of this provision to maintain the entirety of their collections. Advancements in media access and delivery, where one format overtakes and replaces another at rapid rates and where carrier materials are not typically made to last, create a pressurized situation where libraries must choose to preserve materials before they are no longer able to do so due to advanced deterioration and equipment failure. Video Home System (VHS) is the perfect example of this situation.

As far back as 1997, VHS was identified as a medium that, from its inception, was impermanent, and was considered an interim and discardable format (Forgas, 1997, p. 44). However, VHS tapes and the videocassette recorders (VCRs) that played them contributed to and advanced the desire of the general public to consume and create culture. With VHS came a rise in the number of amateur movie-makers, the creation and proliferation of video rental services, and a glut of access to films not before seen when movie-watching was restricted to theaters (Gary, 2015). In an article detailing Yale's collection of horror and exploitation VHS, David Gary goes on to point out that though "digital streaming has made [VHS] mostly irrelevant to the general public," about 40% of content issued in VHS format has not yet been shifted to any other medium (2015).

Perhaps not even counted in this statistic are the video recordings of local events, oral histories, training or instruction videos, etc., that are often housed in library media collections. Like the amateur movies that once filled video stores, difficulty in locating the rights-holders and lack of access or interest in obtaining permissions to redistribute the video in new media formats could mean that libraries are singularly situated to preserve the content. An example of this situation can be found in C. N. Turner, a director, whose low-budget VHS horror movies became cult classics. Though there was interest by a distributor to reissue them on Digital Video Disc (DVD), Turner could not be found to grant the rights for the distribution (Enis, 2016). Yet libraries do not seem to be making moves to confront the issue of VHS as a dying format. As Matt Enis pointed out in his "Please Rewind" article, "we're forgetting one of the most important technologies between the history of television

and the Internet—analog videotape. We're just dismissing it because it's difficult and expensive to manage, but that doesn't make it any less important" (2016, p. 45). The Association of Research Libraries (ARL) as well, in their *Code of Best Practices in Fair Use for Academic and Research Libraries* (hereafter, *Best Practices*), called upon libraries to migrate in-danger materials before those works "disappear completely" (2012, p. 18).

The ARL's *Best Practices* and the *Copyright Guidelines* from *Video at Risk* (2012) attempt to give libraries some guidelines for preserving at risk materials like VHS. These guidelines give libraries a map to the kinds of preservation, reproduction, and format shifting activities that are allowed under copyright law. They are an indispensable tool to overcome what has been considered one of the main obstacles in confronting a VHS preservation project: that is, avoiding infringing upon the exclusive rights of creators granted by copyright law. This study seeks a more certain understanding of how common it is for academic libraries to preserve their VHS collections, and how they are making use of both the exceptions in copyright law and the available guidelines written to assist libraries in developing their preservation programs in accordance with copyright law. Through a review of the literature, this article will look at the demands on libraries to provide content in VHS format and compare current programs of VHS preservation and format shifting. Programs of both preservation and format shifting are discussed because, though they may have different underlying reasoning, both program types may utilize the same exceptions in copyright law and result in some type of digital access to content stored in VHS format. Through a survey of Research 1 (R1) libraries, it will provide a view of existing preservation and format shifting programs in academic libraries.

Literature Review

Environment

Since academic libraries are primarily driven by the needs of their faculty, staff, students, and other institutional communities, it is valuable to establish the need that such stakeholders have for video material, some of which may be in VHS format only. Several researchers report that video is heavily used in higher education by faculty as both primary and supplemental course materials (Otto, 2014; Laskowski, 2003; Morris & Currie, 2016; Leahy, 2015). Additionally, a study by Leahy (2015) found that third-party video was most often used by instructors, and that instructors were not relying most on videos either they or their students made.

Otto (2014) found that faculty may prefer Web-based video but were open to using any format from 16mm film to Blu-ray, including

VHS. A later study reported an increase in requests for streaming versions of videos that were available in physical formats and that faculty were often very specific about the versions of documentaries, plays, etc. that they wanted to use (Morris & Currie, 2016). A correlation could be drawn that a faculty member's preference for Web-based or streaming content may not actually reflect whether the content exists in that form without conversion from an older, physical, format. Another study by Rodgers (2018) further points out that, though a "professor would rarely assign an out-of-print book as a primary course text and expect a class to share one library copy, . . . out-of-print films are often the norm in film studies, and the library is expected to provide access to them" (p. 2).

Perhaps the predilection of faculty for using out-of-print film is why Rogers found that the library was expected to provide the content. Spicer and Horbal's evaluation of the use of media in classes focused on the classroom technology support available to faculty in buildings on campus. They found that most institutions in their survey group had predetermined phased retirement plans for media playback devices in campus classrooms, which were not communicated outside their department. If confronted by faculty requesting VHS or DVD playback ability, the audiovisual (AV) support units surveyed by Spicer and Horbal (2017) indicated their first piece of advice would be to digitize the item, thereafter referring the faculty member to the library or other campus video provider.

Both the phenomenon of faculty utilizing out-of-print videos in classes and the phased retirement of playback devices by classroom technology staff turn a spotlight on the library as a primary access provider of pedagogically necessary video content. Additionally, there are whole swaths of videos that may never be offered in an updated format. For example, both *Frontline* and *American Experience*, two popular PBS documentary series, obtain only limited licenses to use the content within each program. Within anywhere from three to ten years, the makers and producers of the content would no longer have the ability to sell the program unless the licenses were renewed at significant cost. Customers on PBS websites are often referred to their local library collections and interlibrary loan services (Frontline, personal communication, 2015; *Frontline*, FAQs, 2015; *American Experience*, 2015).

Available Guidelines for Libraries

Out of print materials and the unique, locally made videos in library collections are prime resources for which the library should make replacement copies. This instruction has been given to the library community within Carrie Russell's review of the video-lib listserv (2010),

in ARL's *Best Practices*, and in *Video at Risk*. Both the ARL *Best Practices* and *Video at Risk* discuss when a video can and should be evaluated for replacement, either in deference to the limitations on exclusive rights of fair use or reproduction by libraries and archives—Sections 107 and 108 of U.S. copyright law respectively. Both documents suggest that when evaluating a damaged or deteriorated video, or a piece of media that is in a difficult-to-access or obsolete format, the first step of the library should be to exhaust the market for an equivalent and reasonably priced replacement. These documents also recommend that libraries should not provide access to both copies at once, restrict off-premises access to the material, and provide full attribution for the copy (ARL, 2012; *Video at Risk*, 2012). *Video at Risk* gives further advice for what constitutes "damaged or deteriorated" in relation to VHS, including visual or audio drop out, color and sound loss, etc. It also elaborates on what aspects of video preservation should be fully documented by the library, including a search for a commercial replacement and the evaluation of deterioration (*Video at Risk*, 2012). Both documents recommend restricting public access to the copy to within the confines of the library premises, however, both make a distinction between authorized users, e.g. faculty on campus, and unauthorized users, e.g. general public, and describe allowances to authorized users for use on campus outside the confines of the library building. It is important to note that this distinction between user groups is not explicitly included in Section 108 of U.S. copyright law. Instead it appears to be a discussion and interpretation of the word "public" appearing in Section 108 (c)(2) which restricts a library's reproduction of a work: "Any such copy or phonorecord that is reproduced in digital format is not made available to the *public* [emphasis added] in that format outside the premises of the library or archives in lawful possession of such copy." (17 U.S.C. § 108, 2011).

Library Programs in Place

The most notable library program for preserving VHS was a multi-pronged, grant-funded project involving New York University's Division of Libraries, the Moving Image Archiving and Preservation program at NYU's Tisch School of the Arts, and the circulating media collections of the University of California Berkeley and Loyola University that resulted in the *Video at Risk* instructional document. In light of perceived scarcity and possible loss of content access the *Video at Risk* team "sifted through circulating titles to identify the scope of obscurity for large numbers of documentaries, independent productions, art films, and other rare educational videos" (Cinema Studies, n.d.).

Even though *Video at Risk* provides thorough instructions for

libraries, reports of library programs outside the *Video at Risk project* that actively format shift videos are rare. Other than the 2016 announcement of the preservation of Holocaust videos at Yale University described in "Please Rewind" (Enis, 2016), digitization of videos is often linked to other services. One program, described by Eng and Hernandez (2006), extended the conversion and electronic supply function of the reserves program from print material to audio and visual.

The process reported by Eng and Hernandez utilized the Technology, Education, and Copyright Harmonization Act (TEACH) Act (2011) of U.S. copyright law to provide media based on exceptions for educators, and did not mention format shifting of media for the permanent library collection or as part of preservation. The TEACH Act addresses how instructors of non-profit educational institutions may perform lawfully made audiovisual material in an online class. It contains a number of conditions that must be met before the exception can be applied. Within the conditions and limits of the TEACH Act, a VHS tape or other analog audiovisual material may be digitized for use in digitally transmitted instruction. Section 110(2) (Title 17, US Code) places limits on the transmission of these works, including:

> (C) "The transmission is made solely for, and, to the extent technologically feasible, the reception of such transmission is limited to—
>
> (i) students officially enrolled in the course for which the transmission is made; or
>
> (ii) officers or employees of governmental bodies as a part of their official duties or employment."

Eng and Hernandez's project involved the local creation of a system that provided streaming access, and included a homemade Digital Rights Management (DRM) procedure to keep videos from being shared outside of the bounds of the program (2006). Schroeder and Williamsen (2011) also reported on a streaming service developed by a library to meet the demands of faculty and students on campus when faced with unacceptable streaming options for academic institutions. Videos in VHS and DVD format were selected based on faculty use in classes and underwent a rigorous licensing search. This program also involved a homegrown system that kept track of licensing restrictions, permissions, and term dates, with the ability to block access based on an expiration date. At the close of the pilot program, most of the content added to the system was faculty- and student-created.

In addition to a system or method to keep track of permissions and licenses, De Stefano, Tarr, Buchman, Oleksik, Moscoso, and Moskowitz (2013) suggest that information on how the material was converted,

what equipment and settings were used, as well as conversion dates and operator information should be added to the metadata recorded about the format shift for any preservation plan. Keeping track of information about the licenses and conversion is often not the largest burden of format shifting analog to streaming media for use in classes. Libraries must make sure that they have the infrastructure and technical ability to create the streaming copy, host it, and provide the security necessary to restrict further dissemination (Consortium of Academic and Research Libraries in Illinois [CARLI], 2014). That library programs like these usually start with and rely heavily on a licensing and permissions search is considered, by some, to be a step in the wrong direction. By paying fees to participate in activities allowed by copyright law, libraries are legitimizing "a new revenue stream for rights holders, and fees are now accepted by some as necessary for streaming a film" (Russell, 2010, p. 356).

For libraries that direct their efforts at obtaining collections of streaming media through available publishers and providers, the question of preservation does not vanish. Often libraries pay for access to, not ownership of, content, and that content will only be available as long as the publisher/provider's status and catalog remain the same. Very seldom are ownership and preservation addressed in library contracts (Moghaddam, 2007; Beh & Smith, 2012; Cross, 2012; King, 2014).

The small amount of literature on media preservation and format shifting programs could indicate that only a small number of libraries are embarking on such projects. This is echoed by the findings of a survey of CARLI consortium members that showed only 18.2% of the libraries had converted physical discs to streaming. Again, emphasis was on obtaining rights and licenses or converting only out-of-copyright material (2014). This is in opposition to Forgas's 1997 prediction that "due to the impermanent nature of video tape, almost all institutions with video collections will undertake reformatting of some of the material held to a greater or lesser degree... (1997, p. 53)." Should a library adequately negotiate the right to preserve videos to which they have purchased access, grow their own collection of born-digital materials, or format shift physical media for digital preservation and storage, they will be embarking on a never-ending cycle of format and version shifting as technologies change (Kastellac, 2012; Schroeder & Williamsen, 2011). Preservation plans must consider the routine maintenance required for digital objects, lest libraries again be faced with cobbling together workarounds in order to preserve a format they let linger too long. Yale University was faced with just this situation during the digitization of its Holocaust interviews, when they had to "cannibalize" or 3D-print system parts to continue the project (Enis, 2016).

Beyond the need for robust storage systems and sophisticated recordkeeping, a library's primary obstacle to enacting a preservation plan that includes format shifting media remains copyright. Though granted unique exceptions in copyright law, libraries can be loath to take advantage of the special ways they can use material without infringement. In the library program that Schroeder and Williamsen (2011) described, which was designed to provide for the streaming needs of teaching faculty, the possible legal repercussions of misusing copyrighted content led the committee to focus efforts on creating a homegrown DRM that would protect the content. Concern over secure legal liability may also lead libraries to avoid such projects all together. Similarly, developments in licensed content where providers are restricting access to digital collections of public-domain materials create questions for libraries on what they and their patrons can do with such content (Klinefelter, 2001).

Reproducing published work for preservation is an activity that is described in Section 108(c) of U.S. copyright law, but the language of the statute can also create questions for librarians. In it, libraries can make a reproduction of a published work as:

> . . . replacement of a copy or phonorecord that is damaged, deteriorating, lost, or stolen, or if the existing format in which the work is stored has become obsolete, if—
>
> (1) the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price; and
>
> (2) any such copy or phonorecord that is reproduced in digital format is not made available to the public in that format outside the premises of the library or archives in lawful possession of such copy (17 U.S.C. § 108[c]).

The words of the statute are filled with possible interpretations, only one of which, obsolescence, is clearly spelled out in the Section 108(c) (Title 17, US Code): "For purposes of this subsection, a format shall be considered obsolete if the machine or device necessary to render perceptible a work stored in that format is no longer manufactured or is no longer reasonably available in the commercial marketplace" For the others, Kenneth Crews (2001) pointed out in a paper prepared for the *Digital Music Library Project* that the statute does not clarify what constitutes a fair price or what qualifies as deteriorated. These concepts have also not been addressed by any judicial decision. And, though digital copies are specifically restricted to the library premises, there is nothing to address the "subtleties of a 'virtual library'" (Crews, 2001).

There is also nothing to address how reproductions of media made in deference to Section 108(c) impact the culture of sharing

resources enjoyed by libraries internationally. As Klinefelter observed, "copyright and the related law of electronic resources is complicating and even compromising some traditional library services" (2001, p. 176). These traditional services, like interlibrary loan, are a way for libraries to meet the needs of their users when they cannot acquire every item a user may need. The digital preservation of material under Section 108 may ensure the material can be accessed sometime in the future, but the access points are restricted, specifically to the library premises, compared to national and international circulation currently enjoyed by materials in their original formats.

Finally, the setup required to begin a VHS preservation plan in earnest, to host and maintain digital copies for access by library patrons, or to seek out licenses to offer streaming videos further than it would seem copyright law allows, can become extremely costly and time consuming (Morris & Currie, 2016). This financial obstacle should be seen as something that can and must be overcome. "The building of hybrid media collections and a commitment to reformatting rather than abandoning collections will cost money, and librarians need to be prepared to argue why such practices are essential to protecting long-term access" (King, 2014, p. 302).

From the available literature, the conversation about digitally reformatting library VHS collections is one of confused purposes. Academic libraries are either acting to address faculty demands for video in classes, laying out complex processes for obtaining licenses and restricting access electronically, or they are considering the archival preservation of media unique to their institution, which physically and digitally would live within the restricted access spaces of archives or special collections. Each program described above restricts the use and users further than is required by libraries preserving VHS in deference to the Section 108 exception in copyright law which would only limit access to the library premises: One by limiting the access to format shifted media to select classrooms; the other by retaining the restricted access to archives and special collections materials that digitally could enjoy access from points throughout the library. Each program also seems to exist independently of the other.

Survey Methodology

Since reviewing the existing literature did not reveal the extent which library VHS collections were being preserved for continued access, a survey of institutions was identified as one way to find out if libraries were utilizing exceptions in U.S. copyright law and available best practice

documentation within their preservation plans. The survey population of 116 libraries was chosen from the list of university libraries which were part of an institution that, as of 2017, had a Carnegie classification of Doctoral Research 1 (Carnegie Classification of Institutions of Higher Education, 2017). To determine whether library size or budget had any bearing on preservation practices, the library statistics gathered by the National Center for Education Statistics (NCES) were also collected. The collection size of the libraries averaged 8,779,078, with a range of 27,092,529 and a median at approximately 8,400,000. The reported expenditures of the libraries averaged $15,512,175, with a range of $46,982,159 and a median at approximately $14,600,000 (NCES, 2017).

Individual libraries were identified from the list of 116 R1 institutions. Library websites were searched, first for organizational charts and departmental pages to determine the best individual to contact regarding preservation practices and VHS preservation with regard to exceptions under section 108 of U.S. copyright law. If no such information could be found, individuals were selected based on job title via the staff directory. Because it was not always apparent who was the most qualified to answer the survey questions, the contact email requested that recipients forward on the message if there were a more appropriate person.

Two major documents address how libraries can best preserve and digitize VHS materials in their collections within the bounds of copyright law: ARL's *Best Practices* and the *Copyright Guidelines* from *Video at Risk*. Survey questions were created in deference to these two documents, with the goal of capturing all aspects of video preservation at the surveyed libraries. Finally, the survey questions were reviewed by preservation, media, and related staff locally and externally prior to being delivered to the survey population.

The survey consisted of 21 questions, including an optional last question that asked that respondents willing to share more information to provide their names and email addresses. Survey logic was employed to shuttle respondents who reported not having policies or procedures past questions that asked for more detail. The survey was designed and disseminated using Qualtrix. A PDF version of the survey questions was supplied upon request to those respondents who wished to review the whole survey in advance of filling out the online form. After the initial contact, a reminder email was sent at 14 days, and again at 1 month.

Results

Thirty-one responses were gathered from the original contact group of 116, a response rate of 27%. The Qualtrix system recorded that an additional seven respondents opened the survey but failed to answer any of the questions. Survey respondent locations were mapped and their size and expenditure checked to verify that the respondents were not grouped in any one location or were too similar in expenditure or collection size to represent the survey population. The geographic distribution of respondents was similar to the overall geographic distribution of the initial survey population. Similarly, the respondents represented the full range of AV collection size, budget allocation, and budget designated for preservation reported for the entire survey population within the NCES library statistics.

In answer to the first question, "does your library participate in the preservation and format shifting (copying to DVD or other) of VHS," fourteen respondents (45%) answered "yes", another fourteen (45%) answered "rarely", and three respondents (10%) answered "no". Respondents that answered "no" were shuttled to the end of the survey and did not answer any subsequent questions. The three respondents who answered "no" represented libraries with an average collection expenditure of $14,444,463 and a range of $10,222,383 (NCES, 2017).

Respondents were then asked if their libraries had an established preservation policy or procedure for library collections. Twenty-five respondents answered this question. Nine respondents reported their library had a policy, ten respondents reported that they had an established procedure, and five respondents reported there was no policy or established procedure for preservation of library collections. The final one respondent reported that the only policy or established procedure for preservation in their library concerned special collections items. Eight of the respondents who had a policy or established procedure reported that it was established in the 2010s; additionally, three were established in the 2000s and two in the 1970s. Fourteen respondents answered the question on how often the policy or established procedure was revisited. Four reported yearly, six reported that it was revisited as needed or occasionally, with the remaining four respondents reporting that the policy or established procedure had no revision plan. To the question, "what departments or administration were involved in making the policy/procedure," six said preservation, three mentioned the involvement of a copyright librarian, and two described a committee of various people. The remainder of the fourteen respondents mentioned access services, media services, and Information Technology (IT). Ten

respondents confirmed that their preservation plan included VHS preservation practices; four did not. Those whose library's preservation plan did not include VHS were able to skip the following questions specific to VHS preservation.

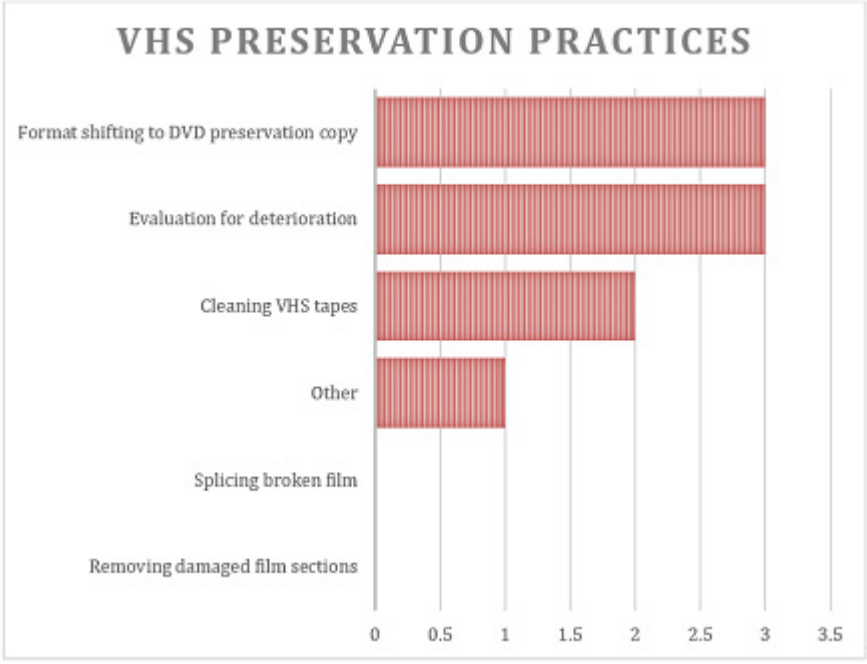

Figure 1. VHS preservation practices (n=14)

None of the respondents reported physical preservation practices beyond cleaning VHS tapes, and only two respondents confirmed that they do clean tapes if needed (Figure 1). Of the six respondents that reported they format shift their VHS to digital or streaming preservation copies, two included extra comments that reformatting materials to DVD was not considered optimal.

Fourteen respondents answered when asked which department was responsible for the evaluation, determination, and preservation of VHS. Five respondents reported that technical services, or, more specifically, preservation, handled the process. Four respondents placed reformatting activities in Digital Collections or Scholarship Services, and the remaining five respondents reported that a variety of departments may be involved or capable of format transfer, with Media Centers and IT emerging as the most frequent departments other than technical services/preservation and digital collections/scholarship services. When asked if their library conducted any type of systematic review of VHS

for preservation purposes, only two of the 15 respondents said they did. One other respondent reported that their library had recently completed a mass deselection of VHS, and so had very little collection left.

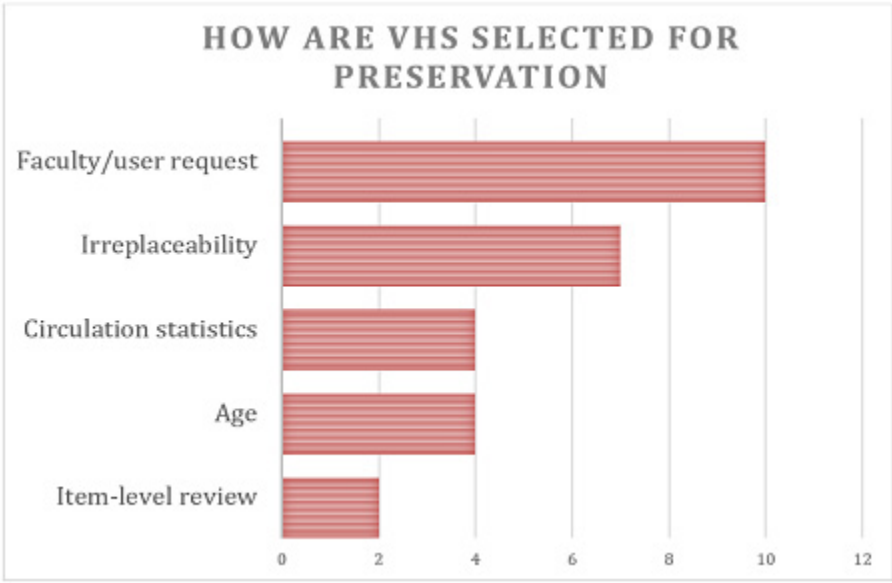

Figure 2 VHS preservation criteria (n=14)

Respondents were asked what criteria they used to evaluate their VHS for possible preservation. The most frequently chosen criteria were irreplaceability and faculty or user request (Figure 2). Even though respondents were asked to select as many options as applied, five of the ten respondents who selected "faculty/user request" as a reason for selecting VHS to preserve and format shift, did so as their only selection to this question.

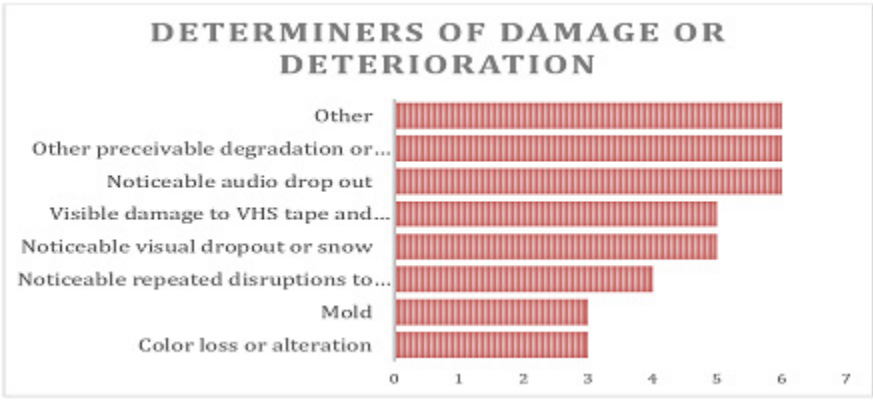

Figure 3. Determiners of damage or deterioration (n=11)

Audio drop out and other perceivable distortion were the most reported determiners of damage or deterioration when evaluating VHS for preservation, with six responses each (Figure 3). The same number of respondents selected "other" as had selected these first two categories. Their text responses indicated that selection evaluations of age and irreplaceability were the primary considerations in the decision-making process, as all VHS were considered endangered or near obsolescence.

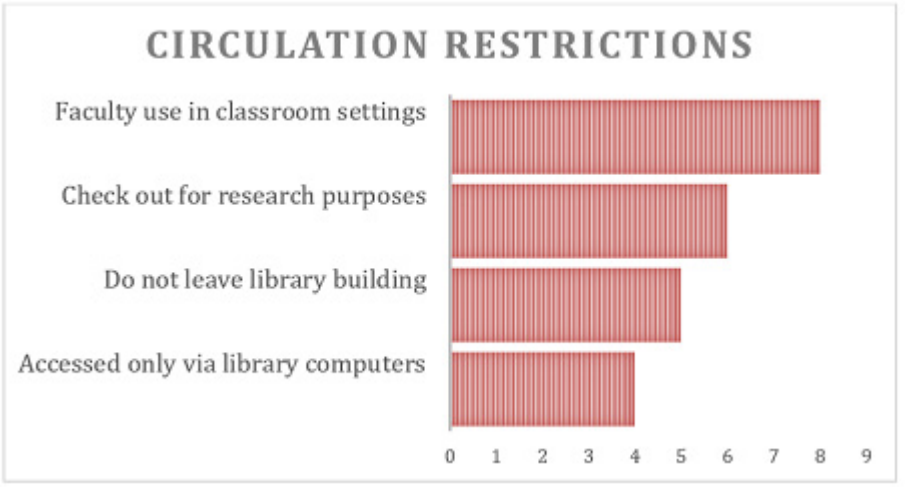

Figure 4 Circulation restrictions (n=13)

Thirteen respondents reported on how the format-shifted VHS content could be accessed by users of their libraries (Figure 4). Eight confirmed that the material could be accessed from classrooms on campus or checked out to be used in classrooms by teaching faculty. Six reported that the material could be checked out for research purposes. Of the twelve respondents who answered the question on how the original VHS was handled after format shifting, eight removed the material to a warehouse or remote storage, two stored the material in special collections, and two withdrew the material altogether.

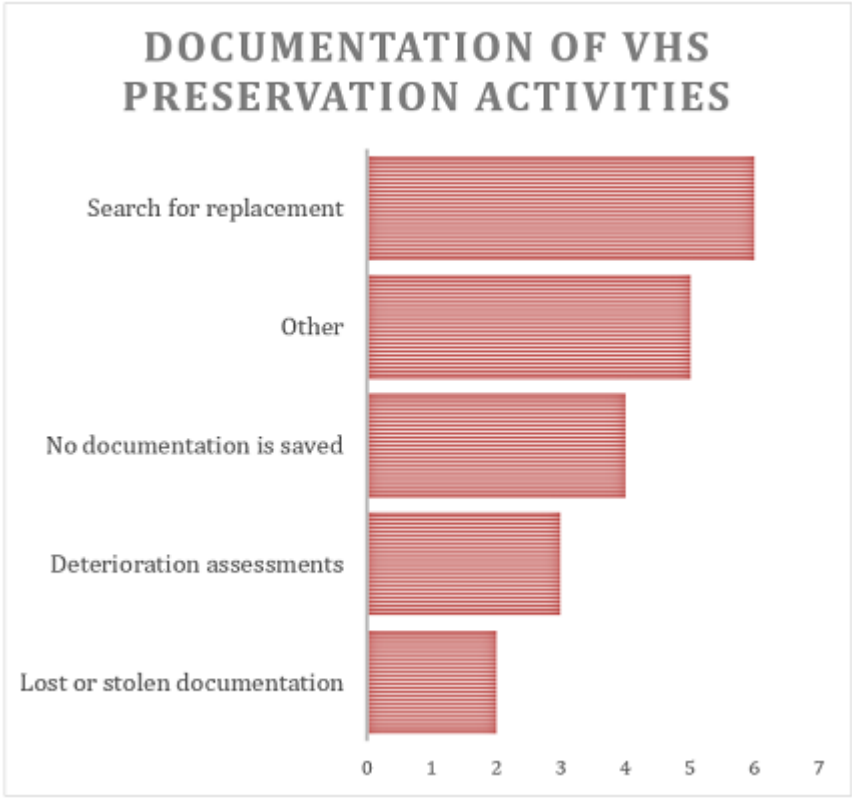

Figure 5. Documentation of VHS preservation activities (n=13)

Respondents were asked what kind of documentation they retain while considering and executing the preservation of VHS materials in their library collections (Figure 5). Six of the respondents reported that documentation related to a search for a suitable, unused, and fairly priced replacement copy was retained. "Other" was the next most popular selection, with five responses. The most common reason given for this answer was a lack of consistency across departments and types of activities. For example, documentation is kept only for streaming materials, or only for archival preservation.

Only eleven respondents out of fifteen confirmed that they noted the preservation copy in their library systems, with seven libraries restricting the visibility of these notes to staff only. Four libraries confirmed they make no note, and none of the respondents reported that the preservation note they place in their library system mentions Section 108 of U.S. copyright law. A few of the respondents reported that they were either unsure of practice or consistency of saving notes on the preservation in their library systems, or that notation activities were in development.

To allow for further expansion of the study, survey respondents were asked if they could share their written policy or procedure. Only two libraries volunteered to do so and provided contact information. In light of the small response rate, the study was not expanded to include an analysis of policy and procedure.

Discussion

Although the initial response rate among the survey population was considered good at 27%, only 12% of the individuals contacted continued through the entire survey. Most of the respondent drop off occurred at questions three, four, and eight (Figure 6). While the survey logic naturally routed respondents who answered "no" to question three to the end of the survey, questions four and eight did not. Ideally, the survey would have gathered a greater number of responses. However, the respondent libraries were equally distributed among a similar range of staffing, expenditure, collection size, and geography to the entire target survey population, which may support the efficacy of viewing the survey results as representative of the whole.

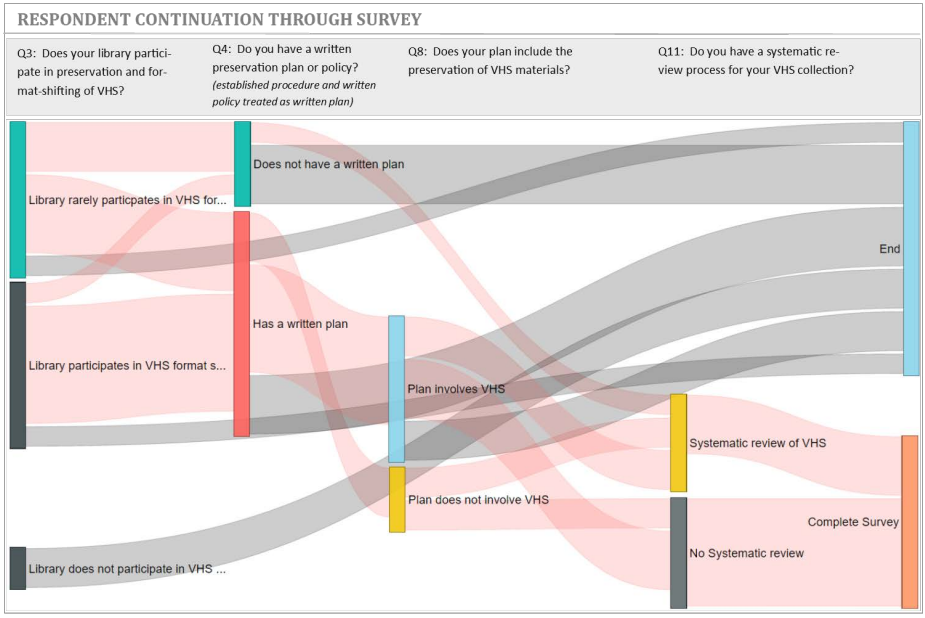

Figure 6. Respondent continuation through survey

It is possible that orienting the question about whether a respondent's library participated in VHS preservation and format shifting as the first question encouraged contacts to forgo the survey if their answer was "no". However, we cannot include this hypothesis in our analysis of the results. What we can analyze is the 45% of respondents who stated that their libraries participated in format shifting of VHS. An additional 45% answered that their libraries format shifted rarely. This would seem to indicate that 90% of the respondent libraries participate in format shifting of VHS to some degree. Taken at face value, and assuming that our sample is representative of academic libraries in general, this aligns with Forgas's prediction that most libraries would preserve their media collections, to a greater or lesser degree, due to inherent impermanence (1997). Pairing the terms "preservation" and "format shifting" also may have caused confusion, as these can be two different processes in libraries, though both utilize the same exceptions in copyright law and result in digital access to content stored in VHS format.

Five libraries selected "faculty/user request" as the only method of video identification for format shifting. Two additional libraries indicated that special projects were initiated as requested or on a case by case basis, and an additional library selected "faculty/user request" and "other"—indicating that they followed different processes for archival preservation and user request was the only reason a general collection title would be preserved. Only two libraries reported that they had a systematic review of their VHS collections for preservation practices. Combining the results of these questions would seem to indicate that though a large percentage of respondents reported that their libraries did format shift VHS for preservation purposes, most library programs rely on user identification of needed titles and do not include any systematic review of the general media collections. The review of the literature also provided more examples of format shifting programs in direct response to faculty use of material in classes than it did for programs that evaluated whole VHS collections for preservation of content and access.

Outside of the *Video at Risk* project, preserving the content available in library VHS collections has not seemed to garner the amount of importance and attention in R1 libraries as one might expect (Forsberg et al., 2016). However, approximately half of the fourteen survey respondents who provided the most complete information on their local programs reported procedures and activities in line with recommendations from the *Video at Risk Copyright Guidelines* (2012). For instance, six out of the nineteen libraries that reported having an established policy or procedure favored shifting VHS content to digital

storage over any other kind of media. Two respondents added that DVD and other optical carriers were not considered viable for preservation copies. The same half of respondent libraries that favored shifting VHS content to digital storage also retained documentation on, at least, the search for a replacement copy, as recommended in *Video at Risk* (Forsberg et al., 2016). Additionally, eight of thirteen reported allowing the format shifted videos to be accessed in classrooms at the direction of faculty. Allowing the material to be accessed outside the library building to specific patron groups is a recommendation found in both the ARL *Best Practices* (2012) and *Video at Risk* (2012). This recommendation is in opposition with a literal reading of Section 108(b)(2) of U.S. copyright law that restricts digital format preservation copies to the "premises of the library or archives," though it is, perhaps, an activity that may be considered a fair use of the material.

Conclusion

There is still much opportunity for research into whether libraries are making full use of the Section 108 exception allowed to them under U.S. copyright law to preserve and maintain access to VHS collections. Of these, an analysis of library preservation policy documentation and an analysis of library holdings to ascertain the percentages of format-shifted content may be the next steps to obtain an expanded view of preservation and format shifting activities at libraries. Further investigations of this type may help to raise general awareness among libraries and library administrators of content that is not being adequately preserved for the future, and exploration of libraries' knowledge and comfort with copyright law and exceptions may help lay the groundwork for expanded programs in this area.

VHS has long been identified as a rare and at-risk medium that carries content not commercially available in any succeeding format, yet the routine preservation of this content by libraries does not seem to be occurring at a rate that one might expect of research libraries. The literature seems to indicate that preservation and format-shifting activities, either as combined or independent programs, happen in two different ways. Libraries may be supporting faculty by format shifting requested media in order to meet the demands of a classroom; alternatively, they may be evaluating the archival preservation needs of media unique to their institution. The most prevalent format shifting programs may be those that are demanded by teaching faculty. This would be a reasonable next step for a library that had built its media collection based on faculty instruction needs, as had the institutions that Spicer and

Horbal surveyed (2017). However, questions among academic libraries over who shoulders the responsibility to provide curriculum materials versus research materials, as was noted in Morris and Currie's study (2016) that looked at library policies regarding streaming media and gathered input from a library listserv, may stymie the growth of format-shifting programs created only for teaching purposes. Additionally, VHS that is format shifted for online teaching under the TEACH Act can be restricted to a small subset of library patrons.

Preserving and format shifting media in line with the section 108 exception to copyright law, however, would give libraries the ability to maintain access to their VHS collections while both the format and the players necessary to display the format are phased out on campus. The literature and survey results both seem to indicate that, outside of the *Video at Risk* project, this preservation is not getting the expected attention and activity in R1 libraries. One explanation for this may be that, as Enis (2016) pointed out, libraries are dismissing VHS because it is difficult and expensive to manage. Leaving a representative few libraries to shoulder the burden of VHS preservation and format shifting could create issues where some media that needs saving is lost.

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