Converting VHS to DVD

I occasionally receive requests to convert a department's VHS videotape collection to DVD. Although we do have the technology to convert those tapes, it is not legal for us to do so in most cases. Here is why:

When you purchased those VHS video recordings, you became the owner of the physical items: the plastic cases and the tape inside them. You did not become the owner of the tapes' content: its intellectual property. That is why you are allowed to view them but not to transfer them to another format. You bought VHS, so you have VHS. The right to copy those programs, such as onto DVD's, is a separate right of the copyright owner. That right was not transferred to you when you bought the tape. If you now want DVD, you are supposed to either get permission from the copyright owner or purchase a DVD.

That brings up the next problem: many of those VHS programs are not available on DVD. In some cases, the copyright owner has decided that there will not be enough new sales of the program to make issuing a DVD to be profitable. In other cases, the copyright owner cannot be located.

Are there any options? Yes, and I am willing to help pursue all of them for you.
-Sometimes the original program actually is available on DVD. In that case you should purchase the DVD.
-If the program is not already available on DVD, but the copyright owner can be located, we ask permission to transfer the program to DVD. Sometimes this actually works. Sometimes it is even free!

If the copyright owner cannot be located, the program is called an "orphaned work." Congress is making slow progress on formulating legislation to deal with orphaned works, but nothing is definite at this time.
-There are some situations in which copying a program seems to qualify under the Fair Use Guidelines of the copyright law. Because there are so many variables, I will not try to describe all of those situations in this memo.
-Fair Use also favors copying small sections of a work, so another option is to transfer a small, pertinent section of a tape to DVD and discard the original.

-[Soapbox Alert] In some cases I am asked to transfer a tape which nobody seems to use anymore, but somebody thinks should be kept for 'just in case.' I know it is hard to discard a videotape which you paid money for, but I wonder if nobody knows who uses a tape, or if it hasn't been used for a few years, how likely it is to be used again. It might be time to say goodbye to it. If, however, you still want to keep it, I'll commit to providing a working VHS player whenever you need one for at least five more years.

The legal and ethical path through some of these copyright issues is tricky to follow. However, that complexity does not excuse us from our responsibility to follow it. It is important that we maintain an atmosphere of copyright compliance at Calvin College. That is why I am not willing to ignore the areas of copyright which are inconvenient to us. You are welcome to contact me with questions and I will do my best to help you.

Randy Nieuwsma
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