The Business of Show Business for Creatives

Film Business Essentials for Getting Your Film to Market

Edited by Anne Marie Gillen
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In August 2013, the American Film Market® (AFM), the largest motion picture market in the world, signed a long-term agreement with Focal Press to collaborate on a series of books on the business of motion picture production and distribution. The series, entitled “American Film Market Presents” will include books on industry topics such as financing, distribution, pitching, law, and marketing.

“Our goal is to provide the independent production community with resources and information that helps films get made,” stated Jonathan Wolf, AFM Managing Director. “Partnering the world’s largest film market with the leading publisher for filmmakers is a perfect match.”

“It’s truly an honor to partner with the world’s premiere motion picture market, and we place enormous value in this relationship,” stated Jeff Dean, Focal Press Publisher. “AFM and Focal Press both strive to make a significant difference in the careers of filmmakers, producers, writers, and film industry executives, and I’m certain the exceptional content we’ll create together will help us achieve this goal.”

The Business of Show Business is a free resource intended to help educate and inform independent filmmakers on the business aspects of filmmaking.
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Introduction

Shakespeare wrote, “All the world’s a stage.” I have found the vast majority of filmmakers are passionate to tell their story - this is primal. And now more than ever, that stage on which to tell your story/show your film has never been more crowded. On average there are:

- 500,000 filmmakers worldwide
- 10,000 films made per year
- 700+ Films MPAA rated & with some form of release
- 200 or so obtain a decent release permitting any return at all, much less a profit

Most filmmakers have a vision and passion to make their film, and many have been highly trained in great film schools to make that film, but what most aren’t trained for is the business of filmmaking. The shortest window of a film’s life cycle is typically the actual making of the film (pre-production, principal photography, post production). It can take years to fully develop the property, raise the financing to fund the production, and market and distribute the final product. A filmmaker in the 21st Century must fuse business and creative to successfully launch and maintain a career. I am often asked, “What exactly does a film producer do?” I can answer that in one word or a whole book. That one word is: everything. Did you ever wonder why it’s only the producers who accept the Best Picture Oscar? It’s because they did everything necessary to get the film onto the world stage. From concept to development, to financing, to production, to delivery, to marketing and distribution - they have their hand in each and every phase of it.

A filmmaker today must have the skills and knowledge of creative, legal, financing, production, marketing and distribution, and be able to put that knowledge to use. A filmmaker must be able to multi-task, handle all types of personalities, pitch, coach, stand their ground, corral, cajole, and yes, sometimes scream and demand to get ‘er done!

To be able to accomplish all these tasks successfully, a filmmaker must be what I have coined a “Balanced Producer.” A Balanced Producer gives equal weight to being a Fiduciary, Marketer and Visionary.

- A FIDUCIARY strives to return a profit to their Investor(s) and their company.
- A MARKETER creates projects with commercial appeal to a known target audience, and secures domestic and/or foreign distribution commitments in advance of principal photography.
- A VISIONARY has and lives a clear vision for each project and an entire career.

This book is an attempt to give the independent filmmaker an overview of all the areas a filmmaker must take accountability and responsibility for in order to lead their team through the 6 cycles of a film’s life:

- Development
- Packaging
- Financing
- Production
- Marketing
- Distribution
For *The Business of Show Business for Creatives*, Focal Press has accessed the best of its film library to bring you the leading-edge knowledge, techniques and tools to understand how to become a Balanced Producer.

The American Film Market (AFM), the largest motion picture market in the world, is in partnership with Focal Press for this eBook, and together they are launching the ‘American Film Market Presents’ series. AFM will collaborate with Focal Press to present books on the business of motion picture production and distribution. Their mutual goal with the series is to educate and inform independent filmmakers about the business behind the film industry.

If you like what a certain author has to say about their particular area of expertise, we encourage you to read their entire book. You can browse the website at: www.focalpress.com for additional titles. Begin to build your own personal library, to educate yourself and your team to be secure in the myriad roles you must master to be come a fully-rounded filmmaker.
Part 1: Development

Introduction

Film Development is one of the least understood and minimally prepared for phases of a film’s cycle. When most indie filmmakers hear the word “development,” they think of optioning the material and writing and rewriting the screenplay. Typically, this is all the filmmaker is prepared to fund, if that.

However, to sanely get through development, the Balanced Producer must be fully funded and prepared to get the film from option of material to fully funded (i.e. greenlit) and ready to start pre-production. That includes paying for writing, legal work for the myriad of contracts generated during this period (i.e. the all important chain-of-title issues), business plan, Private Placement Memorandum (Offering), budget and schedule, location scouting, visual pitch materials, early stage marketing, fundraising efforts and more. Development is the foundation on which your film will stand or crumble for the rest of its phases. Understanding this, filmmakers ought to ensure that each aspect of their film’s development is just as intricately planned, budgeted and sufficiently funded as its principal photography.

When I was COO of Morgan Freeman’s production company, Revelations Entertainment, I came up with the 7 Year Question to be sure we were ready to take on this phase of every project:

• If it took us 7 years to get this film made, would we be happy we took on the project?
• If we spent 7 years trying to get this film made and didn’t, would we be happy with having taken the journey?

If you can answer a resounding “Yes” to both those questions, then go for it, for the VISIONARY in you is ready to take it on.

Word of Advice: If you can afford/fund only one thing during this phase, pay for a qualified entertainment attorney. “The Pocket Lawyer for Filmmakers” will give you a comprehensive overview into the myriad of terms and conditions necessary to protect the filmmaker’s rights.
Chapter 7, Make Your Movie

The Politics of Development

By Barbara Freedman Doyle

DEVELOPMENT HELL

There are several stages to making a movie, and each can be brief or take years. There is the crafting or finding of the idea, then the writing of one or many drafts, or the optioning of the material that is the basis for that writing. These are the first stages of development. When a project is in development, it means that the idea/novel/article/script draft is being transformed from whatever it was when you started to a ready-to-shoot project. Development usually includes attaching creative elements. An attachment is an agreement that links a director and/or cast member (the elements) to the project in order to enhance its value and hasten the decision that it will be worth the money to move ahead.

If the project is funded by a major production company or studio (which means there is a development deal) months and even years can pass between the point where the company decides that the project is one that they want to be involved with to the point of production and a firm go. In the past, some writers were able to live quite well on development money. These days more than ever, there is very little money paid out for development. Producers want more and more work done on the script for less and less money, because they themselves are not seeing a payday until something is close to a green light. If the project is an independent, you can usually count on a very long search for money somewhere just after the development stage. For independent films, it is often the case that the script is where it should be, but it’s a matter of finding someone to pay to make that script.

Many more scripts are optioned, purchased, and even slated for development than ever get made. “Development Hell” is how industry people describe it when the project is in limbo, awaiting a better draft, a rewrite of the draft, a name whose involvement can take it from a yellow light to a green one. The project is sitting, waiting for something that may never happen. If you are the force behind the project (producer, writer-director, executive), it is your responsibility to create and maintain momentum. You must push or pull the project from each stage to the next. The project may falter or stall at any point, and you must bounce back quickly from each rejection or problem and get on to the next step. Without an enormous amount of personal enthusiasm behind it, a project can easily get lost as energy flags and obstacles slow things down. You must stay on top of what is happening by touching base with your contact on a regular basis so that your project is not consigned to the bottom of the pile due to lack of heat. Is there something relevant to your project that’s just happened in the news? Bring it up. Is there an audience trend or a break out picture that might help you or your project with a little reflected glory? Maybe someone involved with your team just got one of their other projects accepted into Sundance...make everyone involved with your project aware of it.

WORKING WITH YOUR WRITER

Working with a writer will call upon every ounce of tact and people skills you possess.
You must think of the work as a team effort but always acknowledge that without the writer there is no movie. A writer tries to create something special—not just words on a page, not just a blueprint for a movie, but a living, breathing, original work that will jump off the page and into the psyche of the reader. Some writers blitz through an entire draft of a screenplay in a few weeks just to get it on paper then spend the next several months changing, editing, tweaking. The finished product might end up nothing like that first draft. Some writers obsess over every word. They are ritualistic in their fussing and shredding of pages until they feel settled into the work at hand. Your job is to learn how your writer does his or her best work and to create a safe environment so he or she can focus and can give birth to something special and unique.

What is a safe environment? It means that you are there when your writer wants to talk but you're not hanging over her shoulder while she writes. You allow her to explore new ideas that might not exactly be what you'd thought of but that might work—sometimes even better than the original plan. You don't call every day demanding to know what she has accomplished, but you touch base so she knows she hasn't been forgotten. Your job is to keep your writer on track—unless the tangent is an improvement. You discuss everything calmly and supportively, and when you disagree, you must find a way to express precisely what doesn't work, not just, “I don't like the second act.” You may think this is purely common sense, but screenwriters get emotionally and intellectually beat up all the time. The last thing you want is for your writer to feel victimized or bullied. That can result in all kinds of passive-aggressive retaliation (“I just don't feel like working”; “Sure, whatever. I don't care.”) and ultimately it will be the end of the relationship.

How can you be precise? First, read every word and think before reacting. Second, pinpoint exactly what is lacking. “I don't think the mother would react like that, and everything hangs on the boy's response to the mom.” You're constructive. You discuss the problem, but you don't tell a writer what you would write to “fix” the problem. If you could do it, you'd be writing! Your comments are called notes, and they should be brief and specific, not rambling and general.

No one enjoys hearing his or her work being criticized, but a screenwriter has to get used to it. If your writer can't take criticism at all, you're going to have to decide whether the relationship is working for both of you or if it should be dissolved. Before you take that step, though, remember that there is a reason you wanted this person involved—talent. You should be prepared to put up with a lot of hand-holding and tears if the pages you're reading have promise.

I’LL GET BACK TO YOU (GETTING THE SCRIPT READ)

Unfortunately, it is not enough to be in possession of a great script. It’s one of those if a tree falls in the forest and nobody hears it things. For a script to make it anywhere close to production, it must be read by someone who has the clout to do something with it if they like it. Studios and production companies are constantly looking for the next hot property. Producers and directors have multiple staff people who read and read, hoping to find that golden script. You just have to find a way to place your great script into their hands and hope that it strikes them as a potential winner.

The catch is that most studios and production companies will not accept the submission of a script from someone who doesn't have representation (an agent, an attorney, a manager). There are several reasons for this. One is that if someone is represented by someone they know or know
of, it can be assumed that at the very least it will not be a complete waste of time and effort to have the script read. Another is that in this litigious society, everyone is always claiming credit and suing for a piece of the pie. Win or lose, lawsuits are costly and suck up a lot of personnel. Even when a script is properly represented, there is the danger that someone who pitched Fox his story about a driven tap dancer will decide that the script for *Black Swan* was stolen from him. The preliminary filter of a known representative helps to fend off a few of the frivolous or misguided lawsuits that might be brought by Bob in Ohio (because he mailed his script to the studio Production department) or Jill (because she went to a party in L.A. and told someone who worked at Disney that she’d read a really good book, then heard that the book had been optioned by the company.) It’s cleaner, easier, and less legally precarious to have a flat policy of “no unsolicited screenplays will be accepted.” In fact, the rule in many industry mailrooms is not even to open up the binder, but just stick the script into a larger envelope with a form letter describing the policy and return it to the sender.

Then how do people without representation get in the door to pitch or get a screenplay read? Once again, it’s about those people you’ve been meeting. If you know an assistant, he may be willing to read a script. That’s a personal exchange. If the assistant likes it, he can bring it to the boss. Someone might know someone who knows someone at a company and is willing to vouch for you if she likes the script and knows that you’re not a stalker in the making. Individual producers and directors accept unsolicited screenplays all the time. The writer might have to sign a release but can rest assured that no one is trying to steal an idea. Ohio Bob’s script, on the other hand, was never read. It was tossed in the trash because it came through the mail with no release form and no attached representation. The book that Jill was so excited about? That one was optioned in *galleys* (unbound manuscript form) by the literary agent who scouts books for Disney. By the time Jill read the book, the deal had long since been negotiated, consummated, and a screenwriter already hired for the adaptation.

If you are interning at a company, ask if you can get a script read before you finish your internship. If you are taking a course with someone in the industry, ask for advice on how you can get something read. Go to seminars. Meet people. As long as you’re affable and pleasant, if you have a good script, people will help you. One caveat to all this is to be careful to whom you give your idea and your script. There are many ways you can be scammed in the industry. There are a few legitimate pitching events—the better film schools hold them, but they are not open to the general public, and *Fade In* magazine holds an event a couple times of year—but there are several that are not legitimate. These events charge the participants a great deal of money, and the pitch recipients tend not to hold the type of positions that can do any good, so you’ll want to check them out thoroughly before you decide to invest. Your reason for attending one of these pitch events is to make contacts who will be willing to give you their card and will accept a script from you. This will not happen unless you ace your pitch—so again, practice.

**BEFORE YOU SEND OUT THE SCRIPT**

Before you give written material to anyone in the business, you must be sure that you are legally *attached*. This means that you are the official source of the material, whether or not you wrote it. You hold the option or you have purchased it outright. You have a written agreement, drafted by an entertainment attorney, giving you (a) the exclusive right to “shop” the project from company
to company, and (b) the right to continue on with the project if it is set up—meaning that some-
one wants to finance the project.

When a script is set up at a major company often the first thing the major players will want to do is purchase the script from the attached rights holder, replace the writer with someone with more experience, and thus relieve themselves of any obligation to involve the person who brought the script to the party. You may choose to “take the money and run”—that is, have your lawyer negotiate a credit of some kind for you, then leave. If you really want to be in the business, though, you will want to hang on and have your lawyer negotiate an active position for you on the film. You will have no power, but just by being around you’ll learn enough so that you can take the reins on the next one.

Do not accept a verbal agreement of your involvement. Even if the initial intention is an honest one, you will soon find that a person without an official job to do on a film is considered an encumbrance, is not taken seriously, and is soon left out of meetings and phone calls simply because there is no real reason to include them. You must start to define your contribution and amass some power. The industry is full of people who received some kind of producer credit on a single film, but because all they did was bring a project to someone else, they are back at first base, unable to get meetings or to make anything happen. People in the industry always know who really is involved and who is just hanging out. Don’t willingly allow yourself to be cut out of the mix, but be realistic. No studio or major production company is going to give you control over your baby. There is just too much money and too much risk involved.

The money for bringing in a project comes in the form of yet another step deal. There is some money up front; some money when a final draft is approved by the financial entity; some money upon production green light; some when talent (cast, director) is attached; some the first day of production; some upon delivery of the finished film. By spreading the money out this way, the financial entity is again avoiding possible losses. At any point, the project can stop its forward progress. When that happens, the payment obligations come to an end.

When a script is submitted to a company or to an individual, the first thing that will happen is that someone will be assigned to read it and write coverage. As mentioned previously, coverage is often written by an intern or an assistant. Ever write a book report in elementary or middle school? Coverage is like a book report. The format varies slightly from place to place but basically follows this outline:

**The title of the script** (or if it’s a book, the title of the book)

**The screenwriter**

**The format** (screenplay, book, magazine article)

**The number of pages**

**The genre** (thriller, suspense, teen comedy, family drama)

**A log line** (not unlike a pitch, a log line is a one-sentence summary of the material)

**A synopsis** (a page or two written in present tense describing the plot)

**A comments section** (Usually a few paragraphs of critique, both general and specific points about whether the script works, doesn’t work, has appeal—if so why, if not why not.)

**A final choice: Recommend or Pass.**

A script should never be handed to anyone at a studio or production company or to a source of funding until it is the best draft the writer can achieve, because a script doesn’t usually get a
second reading at the same company. There are too many scripts pouring in. When a script comes in to an executive, an agent or manager, a producer, a director, anyone with any sort of elevated position in the industry, it is covered. The decision-makers at a company rarely read a piece of material without having first read that coverage.

Anything that will shrink the immense load of reading material down to a manageable level for an executive or a producer is a huge help. The assistants and interns are not only trained to read, but their taste and take on a screenplay matters because it is often indicative of whether the material will ultimately succeed with the target audience. If they really love a script, chances are that it will be passed up the food chain, intern to a first assistant, assistant to a development executive, development executive to his or her boss.

Every Friday, everyone takes home a pile of scripts. Each week a meeting is held, and all participants are expected to report as to the merits or lack of merit they found in their weekend reads. Sometimes there is a vested interest in the meeting. An agent is looking for a project for a certain client, or someone has heard about a new project needing a rewrite and a list of potential writers is being compiled. More often than not, the screenplays are all found wanting. These readers are looking for the proverbial needle in the haystack, the unexpected jewel that will make the reading process worthwhile.

To put it in some kind of context, know that most of these scripts come in with references. These are not blind, unsolicited submissions. These are sent by agents, managers, people with experience, or people who are attached to the industry in some way. During the heyday of the Seventies and Eighties, there were hundreds of projects in active development, with producers and writers receiving substantial monies in order to work on getting a script from idea to production, but that landscape is now completely different. Due to the current economic climate and all the unknowns in terms of where the industry is heading, of the several thousand screenplays read at any given company every year, possibly fifty will ultimately be involved in some kind of financed development deal, and possibly ten will actually become movies. Most movies that are made now come from scripts that are packaged and nearly ready to shoot.

The cost of developing, casting, prepping, producing, finishing, and most of all marketing a film is so high that everyone has got to be enthusiastically on board. There are lots of reasons why a project dies. The production company is not only looking for a great story, but for a great story that will interest the level of cast that will bring in financing or make financing worthwhile. Is it a project fraught with complicated production issues so that it can be made only for a very high budget? Do the marketing and distribution people feel that this is something an audience wants to see? Is there a reason right out of the starting gate (the script stage) that passing on the project is the smarter way to go? Remember that it’s easier to say no.

WHAT HAPPENS DURING DEVELOPMENT

If a script is in development it usually means that someone has put up some money to option or purchase the script, that it is being written and notes on ways to improve it are being communicated, and that it is then being rewritten. Over and over again. The structure of a development deal is usually (a) an option agreement is signed, and (b) the script is critiqued and extensive
notes are given either by a company development or creative executive, or by a producer or di-
rector. This depends upon who has done the optioning. The intention of a notes session is to help
the script morph from a really good piece of written material to an outstanding, visual film with
impact and commercial appeal.

The job of the note giver is a strange one, because although the person giving script notes has
read many very good and many more truly awful scripts, he or she is not a writer. This person
probably has a knack for negotiating, for dealing with writers, producers, and directors, as well
as a wonderful sense of story, structure, and character, and hopefully good taste and great com-
munication skills. The belief is that this person has the experience and ability to guide a project
from idea to screen. That’s why many producers are former creative executives. There is a natural
tension between a development person and a writer, and it is often a volatile relationship. If a
producer or director has brought the project to the company and is attached to the project, the
notes will be channeled through that person, which makes the relationship a little easier.

Sometimes this process works, but sometimes the specialness of the story is diluted once all the
changes are incorporated into the script, and the story that was once deemed great enough to
start the process in the first place, seems to get weaker over time. CEs (Creative Executives) and
investors can run out of steam on a project. If you brought the script in, it is your duty to cham-
pion that script and keep it alive through all the comments and drafts. If the notes make sense, it
is the obligation of the writer and/or producer of the project to give them a try. If they don’t make
sense, the producer must smooth the way, maintaining the integrity of the project without caus-
ing the CE a loss of enthusiasm or respect. Even once a script is in active development, it can at
some point be left foundering, never to become a movie.

It is not enough for a script to be really good. The Black Lis
t is an annual list of great unproduced
scripts. The scripts on the list have been nominated by key creative executives, and the list rep-
resents their favorites. These screenplays have made the rounds, received outstandingly positive
coverage, been passed up the food chain from reader to development exec to production exec,
but for one reason or another still have not been made. Often inclusion on the Black List spur a
script into production but sometimes the screenplays just sits there, praised, respected, but not
made.

If all this comes as a shock and seems too depressing, you can take heart in the fact that this pro-
cess is a learning experience for everyone when they are starting out. Most experienced, success-
ful writers tell me that their best shield is humor. They try not to take it too seriously, because it
may be art, but it is after all, a job. The trick is to find a producer, director, or development person
who first and foremost understands and admires your work, and who is able to remain support-
ive while edging the material bit by bit towards the finish line.

**THE TOP TEN REASONS SCRIPTS ARE REJECTED**

Assuming that so many screenwriters are literate and talented, it may be surprising that even
highly experienced successful writers often can’t sell their scripts. Consider this: Many readers,
development people, and producers read five to ten scripts per week. Multiply that by 50-odd
weeks. (They do occasionally take vacations.) That’s a lot of reading. (They do occasionally take
vacations.) That’s a lot of reading. Taking an informal poll among my friends, former students, and
colleagues, here are some of the many reasons a script will end up on a shelf in a storage room:

1. Took too long to get going
2. Didn’t care about the characters
3. Writer didn’t know the world
4. The tangents or subplots were more interesting than the main action
5. Nothing new, seen it before
6. Writer didn’t know what the script was really about
7. Loss of energy in the second act
8. The Stakes are not high enough
9. Didn’t know how to end it
10. Why would anyone want to see this movie?

Let’s take these one by one.

**Took Too Long to Get Going**

Although the ideal is for each reader to complete the full script, the common wisdom is that if the script has not piqued a reader’s interest by the first thirty pages (the first act), it’s not going to get better, and chances are that script will land on the finish-when-I-have-the-time pile—and the reader will never make the time.

A script should start strong. Sometimes you may feel that in order for us to understand a character or an event we have to get his or her entire history, when in reality part of a writer’s job is to find a way of letting us get to know a character without giving us the whole birth/marriage/death cycle. This must be done through revealing action and dialogue, not on the nose (obvious) speeches. Think of the opening scene as the first possibility to intrigue the reader. It had better move us quickly into the set-up and the world of the story. Don’t creep up on the story. If it takes too long for us to get into it, the fight has been thrown before it has begun.

Starting strong doesn’t mean there has to be a gunshot or a suicide. It means that right from the first scene, we want to hop on board and take the trip. Who are these people? What is the situation? We have short attention spans. Movies must compete with TV, gaming, and the internet. Readers and executives know this all too well. It doesn’t matter if it’s a drama, fantasy, romantic comedy, or a suspense thriller, the story must hook us right away or we get distracted and find other things to do.

**Didn’t Care About the Characters**

We must be able to relate to your characters, especially your leads. We don’t have to like them, but we do have to be able to identify with them, to see traces of someone we might recognize. If we don’t have a sense of what a character wants or what a character feels, then whatever that character does seems random and without meaning. Why would we care about what happens to her? Again, it’s about getting us to want to go along with the character for the ride.

People are multidimensional. As lovable as some people are, they have their faults. As boorish or despicable as some are, there is something or somebody they care about. They are motivated by
love, hatred, greed, sex—all the stuff of real life. The characters must be motivated, and we must
know what drives them. A character can’t do something just to support a plot point. If a character
must do something senseless just to help get them from here to there, then there is more work
to be done on the screenplay. Even if the character is insane, there must be a sense of the param-
eters of his insanity. When the actions of a character feel inauthentic, we immediately become
bored because there is nothing to grab on to. When that happens a reader is just looking at
words on a page, not seeing the action unfold before them. If a reader is bored with the charac-
ter, he or she is bored with the story, and that’s when it’s time to pick up the next script in the pile.

The screenwriter must be able to find the humanity in the world of the characters. We don’t have
to admire criminals in order for a crime story to work, but if none of the criminal characters have
a bit of humanity to them, what are we watching? A standard good guy/bad guy film is far less
unique than a not-so-good hero and a not-so-bad villain. When we know why a character feels
and does things, then we care about what happens to the character. If we don’t, and the char-
acter does something only because she is good or bad, we don’t care. It’s not interesting. If we
don’t care, we’ll stop reading if it’s a script or stop watching if it’s a film. When a reader is covering
a screenplay, if there is a point where that reader feels that the story has gone from interesting to
ordinary or by the numbers, then the comment on that script is going to be Pass.

**Writer Didn’t Know the World**

You don’t have to be a gang member to write about gang life, but you must have an understand-
ing of anger and of brutality. However the writer gets the information—maybe through research,
maybe through truly experiencing whatever the subject or situation—doesn’t matter.

We must believe that the storyteller comprehends the environment, the mood, and the events
of his story. We must believe that the storyteller knows what he is talking about. When we find a
script gripping, it’s because the writer has created a world that feels truthful, whether the script is
an urban thriller, a high school comedy, a fantasy, or a western. Without this element of truthful-
ness, a script feels clumsy and unconvincing.

**The Tangents or Subplots Were More Interesting Than the Main Action**

A good story is like a train ride. The storyteller must keep the audience on the track from the min-
ute the train leaves the station to the very end of the line.

There can be all kinds of twists and turns to the story—characters and situations the audience
might want to get off the train to explore. But they must not be permitted to get off that train. A
script may introduce subplots or characters that seem to be from out of left field. These plots and
characters must enhance the main action in some way. The second the audience wants to spend
more time off the train than on, you lose them. Ever feel as if halfway through a movie, the feel
and tone of the story shifts and it’s as if you’re watching a different movie? That’s often because
the story took a turn, threw you off the track, and now you’re trying to figure out what or who the
story really is. The weight and originality of the turns must energize the audience’s ride, not derail
it.
Nothing New, Seen It Before

If people are going to take a chance on you, a newcomer, they are going to do it because you have something they want—an original idea or script or concept.

The genre—drama, comedy, thriller, horror—is irrelevant. If your project is like a hundred other projects, why will anyone want to give you a shot? They can find more reliable veterans to make and remake the same old thing. They’re listening to or meeting or reading a newcomer like you for one reason only: You may have something new.

Writer Didn’t Know What the Script Was Really About

How is that possible? Perhaps the writer thinks the big story is the murder while the reader thinks the story is the mother-son relationship. Of course the story involves both, but a choice has to be made. What moves the story forward? What is the point? Is it that someone has been killed, or is it that the mother thinks the son did it? In a drama (think for instance of The Fighter) where is the emotional weight? Is it the relationship between the brothers, or does the victory or loss of the final boxing match carry the most weight? If the most compelling path offered is not the path the writer chooses to follow, the reader will not be satisfied and will pass on the script.

Loss of Energy in the Second Act

Great start, but then it fizzles. We have a situation, we have characters, but whatever made the beginning work so well isn’t sustained. The reader loses interest. Because the beginning is strong, the reader is anticipating good material. The script has a cool set-up, but the writer has not figured out where to go from there. Maybe she has written herself into a corner because she didn’t go into enough detail with her outline and treatment. Possibly the story got lost somewhere (see reasons number 4 and 6). In the second act, we need more conflict, more barriers, and maybe there aren’t any.

You must keep the reader laughing, squirming, alert. If there is any excuse at all, the reader will pass. The writer must raise the stakes. This leads us to reason number 8.

The Stakes Are Not High Enough

Simply put, there is not enough jeopardy. There is not enough conflict. There is no building tension. It’s not enough that a criminal wants to go straight and his buddies want him to continue with his life of violence. That can make for a powerful conflict, but a single conflict won’t carry the film. There has to be an emotional conflict. The guy owes his buddies. That pushes the stakes higher. Then there is a romantic or family relationship. The main character can’t maintain one relationship without betraying the other. Higher stakes.

Whether the threat is the loss of trust or love, the physical risk of imprisonment or death, the threat must be ever-present, looming in the background but often subtly brought to the foreground. Stakes push the action. Raised stakes keep the reader turning the page to see what happens—and helps get a meeting for the writer, producer, or director who found the story.
Didn’t Know How to End It

The final scenes of a film are decisive. The third act of a screenplay should feel inevitable but not predictable. Even an intimate family drama should end in a way that feels organic, natural. No sudden unrelated revelations that make your audience feel they’ve been conned. Revelations belong in the first and second act where they set the story in motion, not as explanations for a plot that would not otherwise make sense. The days of a film ending with a psychiatrist explaining that Norman Bates killed people because he had a domineering mother are over. We don’t want after-the-fact explanations. We want to understand events as they happen.

Tying up loose ends must be done with a light hand. In a romantic comedy, you know the characters are going to get together (it’s inevitable), but the way the various obstacles are resolved must be inventive. In a thriller, if everything points to a certain culprit and in the end he did indeed “do it,” then the turn must be how he is trapped. If there’s a surprise at the end, the audience must think, “Of course! How could I have not seen that coming?” not “What??”

If everything just rolls on as expected or as we’ve seen in dozens of other films, why is anyone going to want to invest time or money in your film? If an audience is let down by the ending of a film, they feel tricked and leave feeling angry. An audience should feel as if they’ve just had an amazing dinner—sorry that it’s over, but full and satisfied. If the film is intended to be disturbing or thought-provoking, that’s fine. We’re not talking happy endings here. We’re talking about a sense of completion, rather than just the end.

Why Would Anyone Want to See This Movie?

This is about marketing. It is possible for a screenplay to be well-written, with great roles and the requisite structure, and still be a hard sell. Remember that selling is what this is about. Distribution and butts in the seats. There are certain films that a reader or development executive or a marketing executive just can’t imagine attracting an audience. It’s all well and good to think, “If we make it and it’s good it will sell,” but that’s just not true these days. Sometimes it’s the genre, sometimes the subject matter. If no one can figure out how to sell your Victorian-era brother-sister feud, they’re not going to help you make it. If a screenplay is a sci-fi western and one came out last year and bombed, it may not matter that this is the better version. They aren’t going to go that way again anytime soon. If it’s G-rated family fare but then the kid dies, an executive or investor is going to ask, will anyone want to see this? If you’re dealing with a difficult subject you must at least be sure that the film will not be too expensive to make and that there are some fantastic roles in there so that you can attract known name talent, or your project will almost certainly not get made.

Finally, sometimes a screenplay is good—just not good enough. Or the company already owns something like it. Or they’re just not sure of it. All you can do as someone starting out is take a good hard look at your material and see how it stacks up against other work out there. There can also be reasons that actually don’t have much to do with the script itself—a screenplay is developed, but then there’s a change of management at the company. The new head of production wants to start with a clean slate and dumps many of the projects that were on track just . . . because. Or it has become known that there’s another project out there that is similar to yours and it’s further along. It’s rare for an audience to want two films, one after another, that are so close in type—unless the first one is a big hit for another company, in which case you might find your
project resurrected.

What happens when a script is sold, developed, but then for some reason the right cast says no, the director loses interest, it’s too expensive, another film with the same concept is released and does poorly, and the film is not made? Sometimes it just dies. And sometimes the script goes into turnaround, meaning that it is available for someone new to buy it. Turnaround costs can vary from a percentage of the original purchase price to much, much more. Depending on how far along the project was when it was pulled, in addition to the original price of the script, the costs of development are added in because the original owners want their losses recouped. This means that any money paid to additional writers for new drafts, any money spent on getting a tentative budget made, any location scouting (if the project got that far along), all these expenditures are added on to the original price. And if a company does want to purchase it with all these additional costs attached, there may be additional issues to be negotiated between the new buyer and the old owner, such as credits, or possible profit participation. It can become quite complicated. In rare cases, a studio may have purchased a script with the intention of shelving it because it was too close to something they already owned, or it’s a novelty film that they want to pull off the market. Can you, as a writer do anything about that? Will you be in control of your script? Once you sell it, it’s no longer your script. That’s why you need that razor sharp lawyer—so you’ll understand all the possibilities and consequences of what you sign in advance.

Cornelius Uliano and Bryan Schulz

Starting as a Screenwriter—Talent and Luck

Cornelius “Neil” Uliano and Bryan Schulz are a successful young screenwriting team. Neil Uliano, 26, graduated from the film school at the Brooks Institute of Photography in 2006. Bryan Schulz, 30, is the grandson of the Peanuts creator, Charles M. Schulz, and lives in Northern California. He graduated from the film school at the Brooks Institute of Photography in 2005. I asked them to tell me about their first steps into the industry.

Neil begins: When I first started working in the industry I realized a lot of people were frustrated that they were stuck doing a job they didn’t want to do. They were no longer following their dreams. They had become comfortable. A lot of negativity comes from that. I wanted to make sure that did not happen to me. I made a promise to myself that I would not stay at a job for any longer than six months. This plan made my parents very happy. (That was sarcasm for anyone that missed it.) By doing this, it always kept me on my toes. It made me always hungry to succeed.

My first job was working at a reality TV company. I was assigned to be a director’s assistant for a documentary they were shooting on the Griffith Observatory. I loved the job and I loved everyone that I worked for. It was an amazing opportunity, and it allowed me to hire a lot of my friends who were looking for work at the time. The company offered me a more long-term position at the end of the shoot. It was so tempting to take it, but I knew if I did, I would be there for a very long time. I had to decline.
I was desperately trying to find work. I decided to call the head of the scoring stage at Paramount Pictures. My composer and I scored all of the music on that stage for my thesis films in college, and we established a connection with the staff. The scoring stage has since been destroyed. I asked if there were any openings on the lot. I said I would do anything. Mop the floors. Cook the food (I didn’t know to cook). Anything. She got back to me and said they were looking to hire someone for the mailroom. I thought, how cliché. I applied that very day. I got the job.

Working at Paramount was one of the most amazing times in my life. I was so excited to have the job. I don’t think my parents knew what to think when I called them all excited about how I was hired to deliver mail. For me, it was the best job I could have. I got my own Paramount mail shirt, a golf cart, health insurance, any Paramount DVD I wanted was only 5 bucks, and it was only a six-month commitment job.

I would wake up at 5:00 am, get in at 6:00 and deliver the trades [The Hollywood Reporter and Daily Variety]. We would get the mail in at 11:00 am, sort it, and filter out any crazy letters from teenage girls or inmates at the nearby correctional facility trying to have a romance with Tom Cruise. We would do an afternoon run and get to go home by 3:00 pm. This was a perfect job for an aspiring writer/director. I was able to get home and work on my script before going to bed and repeat the same thing the next day.

The most valuable part about the job were the days I would stay late on the lot. The only thing that made us stick out as mailroom folk were our shirts. Our ID badges, however, were the same as everyone else on the lot. So, I would bring a change of clothes and keep my badge on. I was able to go anywhere at anytime without question. I would sneak onto sets and watch them shoot, trying to learn as much as I could. The most memorable experience was walking into the soundstage while they were shooting Charlie Wilson’s War. Watching Mike Nichols shoot a scene with Tom Hanks was truly an awe-inspiring event. It did not last long, though, as I was caught and removed shortly thereafter.

At the end of the six months, it was time to move on. I did not have another job lined up. I did not have any connections to other work. And because I was working in the mailroom for so little money, I had nothing saved up to hold me over. I just took a leap of faith and left. I look back at this as one of the stupidest things I have ever done. I had nothing. I could not find work. And it got a little ugly.

After being rejected by everyone I was desperate for anything. I applied to a job at Fox to be an executive assistant. It said you needed five years of experience. I sent them my resume and I was called in for an interview. I’m pretty sure somebody made a mistake. They asked me three questions when I arrived. (1) Have I ever been an assistant before? I answered No. (2) Do you know how to roll calls? At this time, I did not even know what that meant. I answered No. (3) Are you sure you’re interested in this position? I had to lie on this one. I said, “Of Course.” I was not hired.

It was one of the lowest points in my life. I had nothing. No money. No job. I felt really discouraged. I thought I had made a big mistake. But then I got a phone call. A dear friend of mine
from film school was working as an assistant to a very high profile producer in Hollywood. He was meeting a lot of new people, especially agents. He called me one day and asked if my writing partner and I were interested in meeting an assistant/up-and-coming agent at CAA [Creative Artists Agency]. When I heard CAA my eyes opened wide. I had researched them when I was little, trying to find out who repped all my favorite filmmakers growing up. I didn’t care who he was at the agency. I agreed to meet him. My friend told me that before he set up the meeting he would have to give him a script of ours, and asked if we had anything. As it turned out, we had just finished a script we were excited about.

I was very cautious going into the meeting. I had heard a lot about agents, and most of what I heard was not very good. Meeting a potential agent is a lot like a blind date. You don’t start off talking about your script or the business. You talk about yourselves. You get to know each other. You have to have that connection. On my end, I wanted to make sure I trusted and respected the person who would be representing us and speaking on our behalf. I wanted to make sure we were going to hand our baby (script) off to someone who would treat it with the utmost respect. Who really believed in it. Who believed in us. On his end, he wanted to make sure we were serious. He wanted to make sure we had the passion for the job. That we would keep working hard. That we would keep creating. He wanted to make sure we had good character. When you talk somebody up on the phone, trying to sell them, you better make damn well be sure when they get into that room for a meeting they live up to the hype.

We hit it off right away. I loved his story, how he came into the business. It showed he had a lot of heart and character. He had experience. He was somebody I could be friends with, not just a business associate. I trusted him from the start. He was only an assistant at the time but I knew he was going to be a great agent one day. There was only one thing wrong with him; he was a Yankees fan. But, I let that go. He told me he had read our script, and it was something he thought he could sell. I kept my cool, but on the inside I was dancing with joy. He was going to give it to an actual agent at CAA, and they would get back to us. We signed a release and let our baby out into the world.

A few days later I was at Paramount. I still had no job. I would go there and hang out with my friends who worked on a television show that shot on the lot. I got a call from an agent at CAA. She talked to me on the phone for about an hour. She told me she loved the script and asked who I saw directing the movie. I said Robert Zemeckis. Her immediate response was that she had a meeting with him the following Tuesday and would pitch him the story to see if he would be interested in reading it. Things were getting more exciting by the day.

Tuesday came along, and by the end of the day we got a phone call telling us that Robert Zemeckis had taken our script home to read for the week. It was exciting news. That week came and went. And so did another. We were getting worried. Finally, we got a phone call. We were told that Robert Zemeckis had passed on the script. It was heartbreaking news, but we were happy he even read it. They continued to tell us that they decided to pitch the story on the phone to Steven and see if he’d be interested. I was like, “Steven who?” They said, “Steven Spielberg.” My heart froze. They said he heard the pitch on the phone and liked it and wanted the script sent to his plane so he could read it on his flight. By the time he landed, he wanted to buy it. At this point in the conversation I was having a mild heart attack. It was the most exciting news I had ever received. The only problem was this was the day the writers strike
started and no projects could be sold.

For the next four months we had to wait for the writers strike to end. We could not work. I still could not find a job. The only thing that got me through was hoping that after all the madness was over, Steven Spielberg would not have forgotten about us. Three days after the strike ended, DreamWorks acquired our script, *Imaginary Friends*. It was one of the best feelings in the world. We were signed by CAA. The assistant who brought us in was promoted to agent and continues to represent us today. A lot of doors started opening for us.

*This book is about the soft skills a person has to have to survive in the Industry—people skills, political skills . . . can you think of any dos and don’ts for someone just starting out? Can you think of any examples?*

**Bryan:** The most important thing is to always stay open and positive, whether it is about the people you’re meeting with or notes on your project, there will always be things you won’t agree with. The most important factor in your ability to keep getting work is how you handle these situations. Always be open in receiving new ideas, and never just dismiss anything there on the spot. On the flip side, do not be afraid to share your concerns or talk out other possible fixes in the room. As long as it stays open and positive.

There is nothing to prepare you for the highs and lows of this business. You get news someone loves your script, it’s an amazing feeling! Then you learn there is another project out there that’s just a bit similar, thus no studio will make your movie, and it’s over and there’s nothing you can do about it. That has happened to Neil and me more than once.

Here is another example. You fight for a writing assignment at a big studio. You win the job, spend a year or more developing the movie, and finally write the script. You get feedback that things are looking good and this movie might go into production soon. Then, totally out of the blue, you get a call saying the head of the studio has left, and now the incoming person wants to look at everything in development before moving forward. So, what the first person liked and what this new person likes might be totally different, as was the case for our project. In a matter of a few days we went from thinking we had a movie about to go into production, to learning it was going back in development with a new vision for it and a new writing team assigned.

**Neil:** When we sold our first script we had to join the WGA. The WGA has a meeting for newcomers hosted by a panel of working writers. I remember in this meeting that many of the writers were talking about how they don’t start writing a single word until their commencement check comes in. They did nothing for free. The meeting was fantastic, but this one comment stuck with me mainly because I didn’t believe in that. And as a newcomer in the writing world, I think it’s smart to write a little bit for free.

Whether you are a new writer or a veteran writer I think it’s important to show people that you are hungry and passionate for a project. When we go up for a job we always work with the producers and try to understand what it is they are looking for. We will then write out a beat sheet or an outline or a character analysis for what our vision of the film is. The producers will come back with notes, and we continue to work with them to perfect it so everyone is happy.
As soon as we are on the same page as the producers, that’s when we take it before the studio and try to sell it. This worked out for us specifically on two projects, one for Warner Bros. and another for Sony Animation.

There will be times where you do a lot of work on a project with a producer and it ends up falling through. Even though nothing happens with it, the producers always remember the effort and time you put into the project for free. They remember your passion. One of the most important things to have in this business is a good reputation. Writing for free in order to get a gig goes a long way.

**What would you have liked someone to have told you, any lessons that you’ve learned that you could have learned an easier way?**

*Bryan:* Our job in this industry is way more than just the words on the page. Work on your public speaking skills. I cannot tell you enough how key a skill it is to have. Whether in general meetings or studio pitches, having those skills will make you that much stronger of a writer, and with all the fierce competition out there vying for jobs, it could mean the difference from getting it or losing it.

**How do you work as part of a writing team? What is the process?**

*Neil:* It’s always funny to hear how other writing teams work. Everyone has a different process. It’s also the most commonly asked question to Bryan and me in a general meeting. We live seven hours away from one another, so we never write in the same room, and I think that’s a good thing. We would NEVER get ANYTHING done. We like to be alone and in our own element when we write. We have our own schedules, and we have our own times that we like to work.

The first part of the process is talking out the story and the plot and creating a beat sheet. This involves hours and hours of discussions via phone, email, iChat, Skype, and video conferencing. As soon as we have an outline that we’re both happy with, we begin converting it to pages. Typically, I will write ACT I and ACT III while Bryan writes ACT II. As soon as we are done we switch and edit each other’s work. Once we’re done with the editing process, we put it all together and read it as a whole.

After reading the script as a whole we get a good idea of what is working and what isn’t, and we begin another discussion on how we want to make changes. We’ll also discuss the edits that were made to our sections of the script. We have heard stories of many writings teams and how they fight and argue all the time. Fortunately, Bryan and I have never reached that stage. We certainly have lengthy discussions on how a scene should play out or how a certain line of dialogue should be written, but we’ve never broken each other’s bones or hearts.

I think it’s fantastic to work as a team. Writing is a lonely job. It’s good to have someone to spitball ideas with. It’s good to have someone to call when you’re stuck on a scene. Most importantly, it’s good to have someone to tell you the truth, that what you’ve just written is a pile of garbage. A writer’s best therapy is to talk about his story to anyone who will listen.
How do you feel about getting notes? What are useful notes and what are not?

_Bryan_: All notes are useful, period. I’ve never had a problem with receiving notes as long as they are constructive in some way. Some writers are too emotionally attached to their work and take each note as a personal attack on their being. This will prove exhausting and ultimately lead to a short and painful career, I imagine.

The best notes for me are the ones that make me see the material I’ve been working on for months, or even years, in a whole new way. It’s very easy to get so ingrained in the material and how that world is constructed that it takes an outsider to pull you out and help show you it from a whole new perspective. This is also why I like taking some time after I get notes to sit with them for a while before jumping right back in. It allows me to come back to the material fresh, with new eyes, and ideas.

We all know getting notes you agree with are the easy ones. The ones you don’t agree with are trickier, but there is a reason the note was brought up. It’s up to the writer to see behind the note and fix the real issue. It’s not always the exact thing the note addressed that’s the problem.

How do you like to work with a producer (or a director)? What is most constructive, and what doesn’t work for you?

_Bryan_: My favorite producers to work with are the ones that really understand the project and connect to it as I do as the writer. I know this sounds simple, but it’s not always the case. I love the ones that can jump right in with you and spitball new ideas about the plot, or the characters, or what have you. The most important aspect about any new project Neil and I begin is the heart of the story. We have to be emotionally invested in this thing. If the producers are able to invest emotionally with us, it shows they are seeing the movie as we do. This is key in building the foundation of the movie right from inception and will prove invaluable as you move through the process from idea to a finished script.

What should writers know and understand about the pitching process?

_Neil_: The most important thing writers should know about the pitching process is that THEY are the pitching process. THEY are the ones in charge of selling the film. When you go into the studio to pitch, the producers accompany you but all eyes are on the writer. As writers, we have to take the executives through the story in an exciting and timely manner. We have to make sure they understand what the movie is about.

Typically, we work with the producers on developing the story and formulating an outline. Once we are all on the same page, we turn that outline into a pitch document. A pitch document is essentially exactly what we are going to say in the room to the executives. You want to try and write it out so it is as conversational as possible. It gives you something to resort to in case you need it, but you never want to have to look at it when you are actually in the room.

From a personal standpoint, pitching is one of the most nerve-racking things I have ever
done. There is a lot of responsibility involved in it. A lot of things run through your mind when you are pitching. Primarily, you are always wondering if the executives are enjoying it. It's hard to read people sometimes. Also, there is the fear that you will forget what you are talking about or stumble on the story. The best thing a writer can do is know your story. If you know the story, no matter what happens, you will be able to pick up where you fumbled and make it through.

Another reason you should know the story is because executives will ask a lot of questions. Sometimes they will ask you as you're pitching, but for the most part, after the pitch, there is a session where the studio executives will ask all the questions they may have. It's important that you're able to answer all their questions. It could be a matter of selling your movie or not. If they feel you don't know the story or have unanswered questions, it puts doubts in their minds. Not being able to answer a question about your story could cost you a job.

A lot of people ask us how we pitch as a writing team. The first movie we ever pitched for was with Warner Bros. At first, we broke the story up into many sections between the two of us. I would say this part to this part, and then Bryan would come in after I said this particular word and then I would come in after he said this particular sentence. It was kind of insane. Back and forth and back and forth. When we did a practice pitch with the producers it looked like they were watching a tennis match. So we scrapped that and decided to divide it into bigger sections so it wasn't so back and forth. We got the gig but wanted to try a different approach on our next pitch.

The second pitch we did was for Sony Animation. For this one, I was going to pitch the entire thing, and Bryan was going to work the slideshow presentation we created. Because it was an animated film, we wanted to have visuals to showcase the tone of the movie and what the characters were going to look like. This process worked out very well. I was able to take them through the story and Bryan would change slides as I reached a particular part of the pitch.

*What can you tell us about generals (getting-to-know-you meetings)?*

*Neil:* It's important for a writer to take as many general meetings as possible. It's a great way to get your name out there and establish relationships. It's also a great way to find out what kinds of projects people are looking for. We always make it a point to ask what the company is looking for first. It gives us a sense of what projects of ours to mention and what to keep to ourselves.

I remember one time we took a general at Sony Animation. We had a great meeting and exchanged a lot of ideas. There wasn't anything we initially connected on, but we established a great relationship. Six or seven months later we got a call from our agent mentioning a project they were looking for writers for and remembered us. We ended up pitching for it and got the job. Generals are great meetings to take because you never know what will come out of them. You just have to make sure you be yourself, tell your story, and get to know one another on a personal level.
If you haven’t written your own screenplay, you will either have to buy one from someone who has written one or hire someone to write a script for you. You may even have to buy someone’s script and hire a writer to rewrite it.

In this chapter you will learn how to:
• Purchase a screenplay. (See “The Screenplay Option/Purchase,)
• Hire a screenwriter. (See “Hiring a Screenwriter”)
• Adapt a script from a novel or comic book. (See “Screenplay Adaptations”)
• Purchase the right to someone’s life story. (See “Life Story Rights,”)

BUYING RIGHTS

When you acquire literary property, such as the rights to a screenplay or the right to turn a book into a movie, you must pay special attention to the legal formalities of acquiring that property's copyright. All parties involved will need to know exactly who owns which of the many rights involved. For instance, even though the production company is buying the right to turn the screenplay into a movie, the writer of an original screenplay might want to keep a portion of the copyright rights, such as the right to turn the script into a stage play. (See “Screenplay Purchase Agreement: Reserved Rights,” p. 106.) And no matter how the copyright is shared or owned, one thing is certain: The production company must have a signed contract granting it the right to make a motion picture (and other rights). (See “Screenplay Purchase Agreement: Rights Granted”).

It’s simple: If a copyright to a screenplay or book is not properly sold or licensed to you, you don’t have the right to turn that script or novel into a movie. This is not something that will “slip under the radar.” When it comes time to distribute your film, the distributor will double-check that the copyright has been properly assigned to you or your production company, and if it hasn’t been, you will lose the deal. Even if you’re self-distributing, you could be sued by a writer who has not properly granted you the rights to her work.

Example: Pamela Producer wants to combine her passion for horror movies with her love of sophisticated desserts. She reads Waldo Writer’s screenplay Chocolate Kiss of Death and decides to turn it into a slasher film. After all, she reasons, black-and-white films used chocolate sauce to simulate blood. Because Pamela and Waldo are such good friends, they don’t bother with signing a contract. Pamela makes the movie and shops it to distributors. The distributors insist on seeing the contract between Pamela and Waldo. They need to make sure that Pamela owns the copyright to the screenplay.

When Pamela goes back to Waldo to have him sign over the copyright, she finds her old friend locked in a bitter divorce battle with his wife Wanda. One of the assets Waldo and Wanda are fighting over is the copyright to his works. Without that copyright, Pamela cannot sell the film. She should have had him sign over the copyright long before she started filming.
THE SCREENPLAY OPTION/PURCHASE

A filmmaker who wants to make a movie using someone else's script must buy the motion picture rights to that script in order to make the movie. If you can, you should try to buy the entire copyright to the script, not just the motion picture rights. Remember, the more rights you own, the more ways you can exploit those rights. To purchase the rights to a screenplay, the filmmaker should use a screenplay purchase agreement.

Typically, a filmmaker doesn’t want to buy a script unless he knows that he can get it made. The filmmaker needs a little time to secure funding, interest actors, and hopefully, set up a distribution deal. However, the filmmaker can’t attach all those elements (financiers, talent, distributors) to the project unless the filmmaker has the right to make the film from the screenplay. This is where the option agreement comes in handy. An option agreement is a contract that gives the filmmaker the exclusive right to buy the screenplay copyright during a defined period of time.

If the producer options the screenplay, he has not yet purchased all the rights to the screenplay. Purchasing a screenplay during the option period is called exercising the option. If the filmmaker chooses not to exercise the option and the option expires, the right to sell the screenplay reverts back to the screenwriter.

Always Negotiate a Purchase Agreement with the Option!

When you negotiate the option agreement you must, at the same time, also negotiate the purchase price and other key terms of the screenplay sale. A filmmaker who has negotiated the option agreement to a screenplay but not the purchase agreement holds a worthless option. It is worthless because although the filmmaker may exercise the option, the sale terms have not been agreed on and, therefore, the screenwriter is not obligated to sell the script to the filmmaker for a certain price. In the case of a worthless option, what the filmmaker really has is not a right to buy the script but a right to negotiate for its sale. The screenwriter may demand as much money for the script as he or she wants and the only choice the filmmaker has is either to agree to pay it or not to buy the script.

Failing to Negotiate the Script Price

Wendy Writer has written a script called *King Axolotl*, a monster flick about a giant fire-breathing aquatic salamander, which Petra Producer is very interested in making.

Suppose Petra didn’t negotiate a purchase agreement when she negotiated the option agreement for the script. It’s now six months later, and Petra has a backer interested in funding the picture. Petra tells Wendy that she wants to buy the script for $65,000. Wendy, knowing that Petra has an interested financier whom she doesn’t want to lose, decides to hold out for a higher purchase price—$100,000. After all, Wendy figures, she is not obligated to sell the script to Petra at any certain price, so she might as well hold out for a higher price. Petra has lost her leverage over bargaining for the purchase price.

*Without a purchase agreement tied to an option, the option is worthless.*
MAJOR DEAL POINTS: THE OPTION AGREEMENT

The Parties

- **Producer.** The producer wants to “test drive” the script before she buys it—that is, to be able to shop the screenplay around to see if anybody is interested in making the movie before she purchases the rights to the script outright. To that end, the producer will seek to get the longest possible time (*the option period*) in which to shop the script. The producer will also seek to pay the smallest amount of money for the option and to make that amount applicable against the purchase price.

- **Writer.** It is often in the writer’s interest to make an outright sale of the script, as the purchase price of a script is greater than its option price. However, the writer should also consider whether the producer can actually get the film made. The more of the writer’s films that get made, the more money the writer can demand for her next film. The writer, therefore, should give the producer enough time to shop the script around to financiers, production companies, distributors, and so forth. For that reason, an option may make sense to the writer as well. The writer will seek to limit the term of the producer’s option period, to give the writer some time to seek other potential buyers for the script while the screenplay is still reasonably fresh.

The writer may work for his loan-out company, which would then be a party to the agreement.

Grant of Option

This is the heart of the option—it grants to the producer the exclusive right to purchase the script by a future date according to the terms of the purchase agreement. As previously mentioned, a purchase agreement must be coupled with the option.

Option Price

This is the amount paid for the *option*, not the purchase price for the script itself.

- Option prices range from a token amount, such as $50 on the low end, to 10% of the purchase price on the high end.

- Will the option price be deducted from the final purchase price? If so, the option price is *applicable* against the purchase price; if the option price is not deductible from the purchase price, it is *nonapplicable*.

Option Period or Term

This governs the *duration* of the option:

- Most options are for at least a year, and often for 18 months.
- Often producers are given the right to renew the option prior to its expiration. If the option is renewed, the writer usually gets an *extension payment*. This payment is typically *not* applied against the purchase price.
Exercise of Option

This clause details how the producer may exercise the option and purchase the script pursuant to the purchase agreement.

- A notice sent via certified mail is a common device for exercising options.
- This clause should reference the purchase agreement, requiring that the writer sign the purchase agreement when the producer exercises the option. Make sure to give the producer the power of attorney to execute the purchase agreement on the writer’s behalf if the writer fails to exercise the purchase agreement.
- The writer should also be obligated to sign other documents such as copyright assignments and certificates of authorship that transfer the copyright and other rights in the script to the producer.

Right to Development and Pre-Production

A producer may need to develop the motion picture prior to purchasing the script. This clause gives the producer the ability to rewrite the script, commission storyboards, and produce trailers for the purpose of raising money for the film. If this clause wasn’t in the agreement, any development of the film based on an unpurchased script might infringe the writer’s copyright in the screenplay.

CAUTION! Producers should keep in mind that they cannot sell any of the material they developed based on the script unless they purchase the script (i.e. “exercise the option”).

Reversion

This clause underscores the fact that the writer’s rights will revert back to him if the option is not exercised either during the term of the option or during any renewal periods.

This clause should require the producer to grant the power of attorney to the writer for executing any documents conveying the rights back to the writer.

MAJOR DEAL POINTS: THE PURCHASE AGREEMENT

Rights Granted

This section outlines the specific rights granted to the producer. In short, the producer needs the right to make a motion picture or pictures in whatever medium, to be distributed in any manner, throughout the universe, in perpetuity.

Remember, copyright can be divided in a number of ways, so the rights must be defined in terms of their:

- **Medium** (e.g., motion picture, television).
- **Duration** (e.g., perpetual).
• **Geography** (e.g., the universe, North America).

• **Motion picture rights.** At a minimum, the producer needs the exclusive right to make a motion picture from the script. The producer needs to make sure that this right extends to all media in which that motion picture will be exploited, such as theatrical release, television, video, DVD, Blu-ray, online media, on demand, mobile devices, and “any exhibition medium, now known or hereinafter developed.”

• **Merchandising rights.** The producer is granted the right to make T-shirts, action figures, and so forth from the characters and events in the script. The writer is usually granted a portion of the money the producer receives from these sales.

• **Other rights.** Other rights are subject to negotiation but frequently granted to the producer, such as the right to make derivative works such as television shows, radio plays, and sequels, remakes, video games, plays, and “novelizations” of up to 7,500 words. Novelization does not involve the right to make a full-blown novel but rather the right to make a short literary version of the script for promotional purposes.

• **Right to make changes.** The producer must have the unfettered right to make changes to the script.

**Reserved Rights**

Reserved rights specify which rights the writer keeps. These are the rights the producer does not get. The rights the writer keeps are the subject of negotiation.

Often, the writer keeps the following:

• **Book rights** (the right to make a novel of the screenplay).

• **Radio rights.**

• **Comic book rights.**

• **Stage rights** (the right to turn the script into a play).

• If the writer is a WGA member and the producer is a signatory, the writer may also have **separate rights.**

• The producer may ask for a holdback period for the reserved rights (often 5–7 years). This means that for the holdback period, the writer cannot exploit those reserved rights that are subject to the holdback.

• Even though the rights are reserved by the writer, the producer will often ask for the right of first negotiation/right of last refusal for any sale or exploitation of the rights.

**Copyright**

This clause governs the mechanics of ownership and transfer of the script’s copyright.

• It is critical that the producer performs a copyright search with the U.S. Copyright Office to ensure that the acquired property is not owned by anybody else other than the stated owner(s) or that it is not in the public domain.

• The script’s copyright information should be listed in the agreement, including the script’s title, registration number, and year of publication.

• The producer typically gets the granted rights forever, along with an agreement by the writer to transfer of any copyright renewal rights.

• The writer must promise to execute any additional documentation necessary to transfer the copyright to the production company.
Reversion of Rights

Frequently the writer will negotiate a return of the rights granted if they are not used by the producer within a certain period of time (called a reversion). The writer usually wants the rights to revert back to him if the film has not begun principal photography within five years from the date of the screenplay purchase.

Purchase Price/Compensation

This is where the purchase price for the script is specified. Different rights (theatrical, television, etc.) are compensated at different rates. If the writer is a WGA member, the minimum amount the producer can pay the writer will be determined by that union’s rate schedule. Make sure to check with the Guild to get their current rates.

- Rights transfer. Should be conditional upon payment of the purchase price. Payment is usually due when the option is exercised or on first day of principal photography, whichever is earlier.
- Sequels. If a movie spawns a sequel, the writer typically receives 25–50% of theatrical purchase price of the script.
- Remakes. If the movie is remade, the writer typically receives 33–50% of theatrical purchase price of the script.
- Net profits. The writer commonly contracts for a portion of the Film’s Net Profits—often 5%.
- Bonus compensation. Writers sometimes get bonuses if the motion picture is produced and released.
- Agents. Sometimes the writer will try to negotiate a 10% increase in the fee to pay the writer’s agent’s commission.

Accounting

If the writer is a net-profit participant or will receive any form of deferred or contingent compensation, this paragraph will delineate how often the writer may expect to receive accounting statements. This is coupled with the right to audit the production company, usually no more frequently than once a year.

Representations and Warranties

Representations and warranties are the promises that the writer is making to the producer and are coupled with an indemnification clause in which the writer states:

- He or she is the sole owner of the screenplay and nothing in the script infringes the rights of anyone else.
- Copyright registration is up to date and accurate.
- No other motion picture, dramatic, or other version of the script has been made or authorized.
- None of the granted rights are or have ever been granted to anyone else.
- By selling the script, the writer will not be violating any third-party rights (e.g., copyrights or rights of publicity).
- Writer will not impair or encumber or otherwise do anything to interfere with the granted rights.
The writer should indemnify the producer for breaches of representations and warranties, misrepresentations, or damages resulting from the writer’s breach of contract.

Credit

This clause specifies how the writer’s credit is determined.

- If the producer is a signatory of WGA and the writer is a member of that union, the WGA will determine who gets writing credit and how they are credited. (See “WGA Credits,” p. 98.)
- The producer should include a clause disclaiming liability for inadvertently making a mistake with the writer’s credit. Typically, the remedy for credit error is a promise from the producer to correct the credits in future copies of the film.

No Obligation to Produce

Although the producer has the right to produce the film, he needs to be sure that he is not obligated to produce the film.

Publicity

The publicity clause gives the producer the right to use the writer’s name and biography in connection with advertising, marketing, and publicizing the film.

- The producer needs to be able to use the writer’s name, likeness, biography, and so forth in connection with the marketing of the film.
- Conversely, the producer will want to prohibit the writer from releasing any publicity about the motion picture without the producer’s approval. You may want to point out to the writer that this means no unauthorized blogging or Facebook posts as well!

Remedies

The writer should waive any claim to injunctive relief arising out of a breach of the contract. Depending on the advice of counsel, producers may want any dispute to be settled through binding arbitration rather than through the courts.

Law: Optioning and Selling the Screenplay

- Under U.S. copyright law, all screenplay sales, assignments, and transfers must be in writing to effectively transfer the copyright.
- Both sides in the transaction need to be especially careful that everybody understands which rights are granted and which rights are reserved.
- What is being purchased is the copyright to the screenplay. A producer must make sure that all the screenplay’s authors and contributors sign off on the deal.
- When you negotiate the exclusive right to buy (the option), you must also negotiate the sale (the purchase agreement).

Business Issues

Union rules may affect your negotiating range!
• WGA member. If the writer is a member of the WGA and the producer is a signatory, many of the deal terms, such as minimums on how much a writer can be paid, the criteria for credits, and rights that will remain with the writer after he or she has sold the screenplay, will be controlled by the WGA Minimum Basic Agreement.

• Non-WGA member. If the producer is not a WGA signatory, she will not be bound by the WGA rules and is free to contract with a nonunion writer on whatever terms they mutually agree to. Even if the deal is not governed by the WGA, it may still be helpful to turn to the WGA provisions with respect to determining credit and other issues. Just because a non-WGA signatory producer uses the WGA MBA to determine credit, that doesn’t mean that the rest of the deal is controlled by the WGA MBA.

**Finances and Costs**

Remember, the producer may need to negotiate several kinds of payments with the writer:

• An option payment. This is for the option itself—often 10% of the purchase price of the script.

• Option extension payments. This is typically more money than the option payment itself.

• The purchase price payment. This is payment for the sale of the script, due when the option is exercised. The purchase price is usually broken down into:
  • A fixed compensation payment. This is the fee which is paid regardless of how much money the movie makes.
  • Contingent compensation payments. These payments are based on a percentage of the money the movie makes. The writer is often granted 5% of the Film’s Net Profits. (Indie film deals may grant writers up to 10% because the fixed compensation paid may be lower.)
  • Other rights payments. If the producer wants to exploit other rights, such as turning the movie into a television series or making a play from the screenplay, he may have to pay additional fees to the writer. If the production is governed by the WGA, the producer will definitely have to pay additional fees for these rights.

**The Bottom Line:** The option agreement grants the producer the exclusive right to purchase the screenplay from the writer. The purchase agreement dictates the terms of the actual sale. The option and purchase agreements should be negotiated at the same time. Once they are signed by everybody, keep them together and treat them as one contract.

**Step by Step: The Screenplay Option Purchase**

1. The producer should perform or commission a copyright search of the U.S. Copyright Office to ensure that the producer has identified all the copyright owners. The producer should pay special attention to who owns the copyrights to any underlying works on which the script is based, such as a comic book or a novel.

2. If the script is based on another work, the producer will have to make sure that the writer has gotten—in writing—the right to turn that underlying work into a script for production.

3. If the copyright to the screenplay has not been registered, the producer should require that it be registered prior to the option/purchase agreement being executed.

4. The option/purchase agreement should be negotiated, written, and signed by all parties.
5. The producer should record the new additions to the chain of title. Remember, the chain of title is an unbroken record of the movie's ownership and is critical to selling a film.
   a. The producer should require the writer to execute a certificate of authorship.
   b. The option agreement may also be recorded with the Copyright Office.
   c. When the script is sold, the writer should execute a short form copyright assignment, which is to be registered with the U.S. Copyright Office.

HIRING A SCREENWRITER

Often a writer will pitch an idea to a production company in the hopes that the production company will hire her to write the screenplay. Or a filmmaker will have an idea or own the rights to literary property and need to hire a writer to turn that idea or property into a screenplay.

At the outset it is critical that the production company that hires the writer complies with all state and federal labor and employment laws.

GOALS AND DEALS

The employment agreement that controls the relationship between the writer and the production company is called a writer's services agreement.

One of the most common, and most economical, ways to structure the employment arrangement is by creating a step deal. Like an option agreement, the step deal minimizes the production company's risk because the writer is hired and compensated in stages.

For example, the writer is first commissioned to create a treatment for which she is paid money, both when she starts writing the treatment and when she delivers the treatment to the production company. Once the production company has read the treatment during a reading period, the company may elect to have the writer try her hand at the first draft of the screenplay. However, on a non-WGA production, the production company is under no obligation to require the writer to continue working on the project. The production company can keep the treatment, pay the writer only for the treatment, and then turn around and hire another writer to develop the treatment into a screenplay.

Common payment and delivery stages for a step deal are:
1. Treatment
2. Revision of treatment
3. First draft of screenplay
4. First revision of screenplay
5. Second draft of screenplay
6. Polish

As always for production service contracts, it is critical that as part of the deal the writer creates the screenplay as a work made for hire, and thus the copyright to the screenplay is owned by the production company, producer, or other hiring party.
COMMONLY DEFINED TERMS IN A WRITER’S SERVICES AGREEMENT

- **Product form.** The results of the particular stage being worked on by the writer. For example, treatments, rewrites, and drafts are all various product forms.
- **Delivery period.** The time within which the writer must deliver each product form.
- **Reading period.** The time within which the production company has to read and review the writer’s delivered product form.
- **Option period.** The time within which the production company must exercise its option on the writer’s services, thereby obligating the writer to create the next step’s product form.

**Example:** Wendy Writer has been hired by Nadir Pictures, LLC, to write the first draft of a screenplay based on the treatment she showed them during a pitch meeting. The contract calls for her to deliver the *product form*—which, in this case, is the first draft of the screenplay—within the delivery period of 12 weeks. Following that, Nadir will have a four-week reading period within which to review her screenplay, make notes, and decide whether to ask her to go on to the next step. Nadir’s reading period is coupled with a four-week option period within which it must either tell Wendy that she’s obligated to do a rewrite or let her off the hook.

**MAJOR DEAL POINTS: WRITER’S SERVICES AGREEMENT**

**The Parties**

- **Production company.** The production company is trying to hire the writer while minimizing the risk of paying for a complete screenplay before it has secured the money to make the movie. The form most favorable to the production company is the step deal.
- **Writer.** If the writer is being hired under a step deal, he will try to minimize the risk by negotiating a larger overall compensation package to offset the chance of being dismissed before the project’s completion.

The writer may work for his loan-out company, which would then be a party to the agreement.

**Engagement or Employment**

This paragraph lays out the basis for the deal, which is that the production company is hiring the writer to perform writing services as specified in the agreement. If several writers are being hired, the agreement should specify that and define them as a *writing team*.

**Writer’s Services**

This section details the specific services the production company is hiring the writer to perform.

- The steps and product forms are specified (e.g., writing a treatment and the first draft of a screenplay) along with the delivery periods within which the writer must deliver the product form. Typical delivery and reading periods:
  - First draft of a screenplay: 12–16 weeks
  - Reading/option periods: 2–4 weeks
  - First revision of the first draft: 6–8 weeks
  - Second revision 6–8 weeks
• **Option periods.** During the reading period, the production company usually has an option on the writer’s services. If this option is exercised, the writer is obligated to write and deliver the next product form. Options usually run concurrently with reading periods.
  - This section usually specifies that time is of the essence, meaning that even the slightest delay in delivery will result in a breach of contract.
  - It is a good idea to specify that delivery must be made to a particular person in the production company.
• **Postponement of services.** The production company typically has the right to postpone the writer’s services on any particular step for a period of up to two years. If such postponement occurs, the production company may ask the writer to resume writing on the condition that doing so does not conflict with any contractual obligations the writer may be under at that time.

**Compensation**

If the WGA MBA governs the contract, it will also dictate the minimum amount of compensation the writer must receive. Check the latest WGA schedule of minimums. There are several different ways a writer may be compensated:

• **Fixed compensation.** In a step deal, each product form is paid for separately. Usually the writer gets some money at the commencement of the writing of a particular product form and the remainder on delivery of that particular product form.
• **Deferred compensation.** For low-budget pictures especially, production companies may want to put more of their actual cash into the production rather than into paying the salaries of the above-line personnel. As a result, the writer may be asked to defer some or all of his salary until the picture is produced, is released, and begins to make money. The writer should attempt to negotiate a higher salary if his salary is being deferred, because a deferred salary is an inherently risky proposition; after all, if something is deferred, it is not guaranteed.
• **Contingent compensation.** Writers are often granted a portion of the net profits from the picture, typically 2–5% of the Film’s Net Profits.
• **Bonus compensation.** Writers often negotiate bonuses if the motion picture is produced because the number of scripts is far greater than the number of movies made from those scripts. The amount of the bonus will be greater if the writer is the only writer on the film, and it will be less if the writer shares screenplay credit with another writer. The bonus is usually paid on commencement of principal photography but subject to the writer’s repayment to the production company if the writer’s sole screenwriter credit status changes.
• **Additional payments.** If the motion picture is remade into another form, the writer typically gets paid for those forms as well:
  - Sequel. Fifty percent of the writer’s fixed compensation.
  - Remake. Thirty-three percent of the writer’s fixed compensation.
  - Television. Rates differ depending on the length of the television program.

**Accounting**

If the writer is a net-profit participant or will receive any form of deferred or contingent compensation, this paragraph will delineate how often the writer may expect to receive accounting statements. This is coupled with the right to audit the production company, usually no more frequently than once a year.
Right of First Negotiation

Depending on the writer’s leverage, she may request a right of first negotiation on any subsequent versions of the motion picture, such as remakes, sequels, and television shows. If this is agreed to, the production company should be given the power to revoke her right of first negotiation if the writer is no longer actively engaged in writing screenplays for a living.

Pay or Play

The production company has the right but not the obligation to use the writer’s work, provided that the production company pays for the work.

Results and Proceeds

- All the results and proceeds of the writer’s work must be assigned to the production company, including copyright, moral rights, rights and ideas in the screenplay, and any other creative and intellectual property right in and to the screenplay, its characters, and story.
- The production company should structure this as a work made for hire, with an alternate provision stating that if a court of competent jurisdiction finds that the work is not a work made for hire as that term is defined by U.S. copyright law, then the writer assigns all copyright, title, and interest in and to the screenplay to the production company.
- The writer should agree to execute any other documents necessary to convey the rights to the production company. This should be coupled with a power of attorney for the production company to execute documents on the writer’s behalf if the writer fails to do so within a certain period of time.
- A savings clause allows certain provisions to survive the termination of a contract. The production company will need to keep the copyright in all the writer’s work that was produced and/or transferred under the agreement, even if the parties decide to cancel the contract.
- The writer should also agree to provide a certificate of authorship.

Representations and Warranties

Representations and warranties are the promises the writer is making to the production company and are coupled with an indemnification clause stating that:

- The writer is the sole writer of the screenplay and that nothing in the script infringes or interferes with anyone else’s rights.
- No other motion picture, dramatic, or other version of the script has been made or authorized.
- By selling the script, the writer will not be violating any third-party rights.
- The writer will not impair, encumber, or otherwise do anything to interfere with the granted rights.
- The writer should indemnify the production company against any claims arising from his or her breach of the representations and warranties.

Credits

- If the contract is governed by the WGA, so are the credit provisions. (See “WGA Credits,” p. 98.) As mentioned earlier, it may be a good idea to have the WGA provisions govern credit, even if the production company is not a signatory of the WGA MBA.
- The producer should include a clause disclaiming liability for inadvertently making a
mistake with the writer’s credit. Typically, on non-WGA films the remedy for credit error is a promise from the producer to correct the credits in future copies of the film.

**Publicity**

The production company typically wants to restrict the writer’s ability to give interviews about the script without the permission and control of the production company.

**Net Profits**

Like all profit participant contracts, the writer's services agreement should contain a rider that defines how the Film's Net Profits will be calculated.

**Remedies**

The writer should waive any claim to injunctive relief arising out of a breach of the contract. Depending on the advice of counsel, producers may want any dispute to be settled through binding arbitration rather than through the courts. Keep in mind that if the writer is a member of the WGA, union rules will affect the parties’ ability to change the remedies available to the writer.

**Step by Step: Hiring Writers**

1. If your production company is considering working with a WGA writer, that company must become a WGA signatory.
2. If the screenplay will be an adaptation of another work, permission to use that work must be obtained.
3. The production company must comply with the labor and employment laws when hiring any writer, regardless of whether they are in the WGA.
4. Negotiate the major deal points.
5. Make sure that product form and delivery stages are well understood by all parties.
6. The production company should set up a payroll schedule with its accountant.
7. Ensure that each product form is delivered to the same production company representative and that the delivery time and date are logged.
8. Pay close attention to delivery, reading, and option time periods.
9. Exercise the option at each stage by having a written notice sent to the writer and the writer’s representatives (i.e., agents, lawyers, etc.).

**SCREENPLAY ADAPTATIONS**

A filmmaker might want to write or commission a script to be based on someone else’s material (e.g., a book, graphic novel, article, or play). To do so, the filmmaker must negotiate with the author of that literary property (often called the underlying literary property) and buy or option the rights to turn that property first into a screenplay and then into a movie.

**GOALS AND DEALS**

In some respects, the literary property acquisition agreement is similar to the screenplay purchase agreement. For instance, both contracts govern the acquisition of a property's copyright with the intention of developing it into a motion picture. However, rather than purchasing the
rights to a preexisting screenplay, with a literary acquisition agreement what is being bought and sold is the theatrical motion picture rights to a novel, comic book, or other literary property. As mentioned, these rights may be optioned first rather than purchased outright.

**MAJOR DEAL POINTS: THE LITERARY PROPERTY ACQUISITION AGREEMENT**

**The Parties**

In this agreement, the owner of the literary property is conveying the motion picture and television rights to the producer.

- **Producer.** For the producer, acquiring the literary rights to a work is just the first step in preparing the screenplay. As a result, the producer does not want to be obligated to the owner of the underlying rights more than is necessary. It may be in the producer’s best interest to negotiate an option. Additionally, the producer needs to make sure that she is dealing with all the owners of the underlying rights. Furthermore, she needs to be certain that she can acquire all the rights she needs to effectively exploit the motion picture rights.

- **Owner.** The owner of a literary property, especially a literary property of proven worth, should only sell the motion picture rights to a producer who can actually bring the film to the big screen. To help ensure that the property will be made into a film, the owner should insist on a reversion clause, which would allow the owner to recapture the motion picture rights at a certain date if the producer has not been able to make the movie. Because the producer will want other rights in addition to the motion picture rights (such as merchandising, television, Internet, etc.) to make the property attractive to producers, the owner should be cautious about conveying away too many of the rights to other parties prior to negotiating a deal with the producer. The owner should pay particular attention to his or her own legal housekeeping. A motion picture producer will not acquire rights unless the owner can prove that he is the sole owner.

**Rights Granted**

The producer needs all the rights necessary to develop, produce, exploit, distribute, exhibit, publicize, and advertise the film adapted from the literary property that the producer is acquiring.

This section lays out the specific rights granted to the producer.

- **Motion picture rights.** At a minimum, the producer needs the exclusive right to make a motion picture from the property. The producer needs to make sure that this right extends to all media in which that film will be exploited (such as theatrical release, television, video, DVD, online media, and “any exhibition medium, now known or hereinafter developed”).

- **Television rights.** The producer should also receive the television rights in all televised media (such as cable, satellite, free broadcast, pay-per-view, VOD, online distribution, etc.).

- **Merchandising rights.** The producer is granted the right to make T-shirts, action figures, and so forth from the characters and events in the script. The owner usually receives a portion of the money the producer receives from these sales.

- **Trademarks.** If the property has any trademarks associated with it, the right to use those
trademarks in association with the exploitation of the granted rights must also be licensed to the producer.

- Other rights are subject to negotiation but frequently granted to the producer, such as the right to make derivative works (such as television shows, radio plays, sequels, remakes, video games, plays, and novelizations of up to 7,500 words for the purpose of advertising, publicity, and exploitation of the motion picture).

**Copyright**

This clause governs the mechanics of ownership and transfer of the screenplay, motion picture, and certain other aspects of the literary property’s copyright.

- Unlike the screenplay option/purchase agreement, for an adaptation the entire copyright is usually not transferred. For instance, if you are acquiring the rights to turn a novel into a movie, you may only be acquiring the television and motion picture rights for one film.
- It is critical that the producer perform a copyright search with the U.S. Copyright Office to ensure that the acquired property is not owned by anybody other than the owner(s) or that it is not in the public domain.
- The literary property’s copyright information should be listed in the agreement, including the property’s title, registration number, and year of publication.
- The producer typically acquires the rights granted in perpetuity (forever).
- The owner must promise to execute any additional documentation necessary to transfer the copyright to the production company.

**Reserved Rights**

Reserved rights specify which rights the owner retains. These are the rights the producer does not get. The rights the owner keeps are the subject of negotiation.

Often, the owner keeps:

- *Book rights* (the right to make an author-written sequel).
- *Radio rights*.
- *Comic book rights*.
- *Stage rights*.
- The producer may ask for a holdback period for the reserved rights (often five to seven years). This means that for the holdback period, the owner cannot exploit those reserved rights that are subject to the holdback.
- Even though the rights are reserved by the owner, the producer will often ask for the *right of first negotiation/right of last refusal* for any sale or exploitation of the rights.

**Right to Make Changes**

The producer must have the unfettered right to adapt the literary property into a script and then into a motion picture as she sees fit. If the property is well known, however, there may be some restrictions on what changes the producer can and cannot make. For example, if the
producer were acquiring the right to make another James Bond movie, she couldn’t rewrite the Bond character so that he came from Bangladesh and not Britain.

**Payment**

This is where the purchase price is specified. Different rights (theatrical, television, etc.) are compensated at different rates.

- It is advisable to negotiate a *floor* (a minimum) and a *ceiling* (a maximum) to any monies being paid to the owner on a royalty basis.
- If the contract is not under the jurisdiction of the WGA, the purchase price is not regulated by the WGA MBA and will be what the parties themselves agree on, taking into consideration the nature of the literary work and the media in which it will be exploited.
- Rights transfer should be conditional on payment of the purchase price.
- Payment is usually due on the earlier of the exercise of the option or the first day of principal photography.

**Rights Reversion**

Often the owner will negotiate a return of the rights granted if they are not used within a certain period of time. The owner will usually want the rights to revert back to himself if the film has not begun principal photography within five years from the date of the assignment of rights.

**Right of First Negotiation/Right of Last Refusal**

If the owner wants to sell or otherwise exploit any of the reserved rights, the producer often negotiates a right of first negotiation as well as a right of last refusal.

**Representations and Warranties**

These are the promises the owner is making to the producer and are coupled with an indemnification clause. The owner must promise that:

- He or she is the sole owner of the literary property and nothing in the script infringes the rights of anybody else.
- Copyright registration is up to date and accurate.
- No other motion picture, dramatic, or other version of the script has been made or authorized.
- None of the granted rights are or have ever been granted to anyone else.
- By selling the literary property the owner will not be violating any third-party rights.
- The owner will not impair, encumber, or otherwise do anything to interfere with the granted rights.

In addition, the owner should indemnify the producer for breaches of representations and warranties, misrepresentations, or damages resulting from the owner’s breach of contract.

**Credit**

How the owner and producer determine credit obligations will be determined by the WGA MBA if the owner is a union member and the producer is a signatory.
The producer should include a clause disclaiming liability for inadvertently making a mistake with the owner’s credit. Typically, the remedy for credit error is a promise from the producer to correct the credits in future copies of the film.

No Obligation to Produce

While the producer has the right to produce the film using the literary property, he needs to be sure that he is not obligated to produce the film.

Publicity

The producer needs to be able to exploit the owner’s name, likeness, biography, and so forth in connection with the marketing of the film. Conversely, the producer will want to prohibit the owner from releasing any publicity about the motion picture without the producer’s approval.

Remedies

The owner should waive any claim to injunctive relief arising out of a breach of the contract. Depending on the advice of counsel, producers may want any dispute to be settled through binding arbitration rather than through the courts.

Law: The Right Rights

One of the biggest business issues involved in literary acquisition agreements is making sure that you have all the rights you need to fully exploit the motion picture that you intend to create. You have to be extremely cautious and understand which rights are available, which rights are reserved by the owner, and which rights have been granted by the owner to other rights holders.

Remember, a producer typically acquires the following rights with regard to a particular literary property:

The right to make motion pictures based on the property, in all media throughout the universe in perpetuity (obviously, the most critical right).

• The right to promote, publicize, advertise, distribute, and otherwise exploit any version of the literary property the producer is allowed to make.
• The right to make television programs based on the property and/or to televise the film.
• The right to create and market merchandise based on the film adaptation of the property.

THE ADVENTURES OF MAGGOT MAN

Penelope Producer wants to make a movie of her favorite comic book series, The Adventures of Maggot Man. She first contacts the comic book’s publishing company, Carrion Publishing, Inc., and learns that they own all the rights (the copyrights, trademarks, and all other intellectual property rights) to the comic book series. In this regard, Penelope has been lucky; although it is
often standard practice for the comic book publishing company to own the IP rights to its characters, this is not always the case.

Carrion Publishing, Inc., agrees to sell her the motion picture rights. If Penelope does not have the money to purchase these rights outright, she may structure the deal as an option/purchase. While she is negotiating the agreement, she discovers that although the motion picture rights are available, the television rights are not—they’ve recently been sold to a Japanese anime company. Furthermore, Carrion Publishing, Inc., is steadfast in retaining ownership of all publishing, video game, and merchandising rights. As a result, they will completely own all the revenue streams from action figures or future comic books.

This leaves Penelope with only the motion picture rights, significantly hampering her ability to fully exploit the property. Without the additional revenue streams of television, merchandising, and publishing, Penelope will be limited to monies from theatrical motion picture distribution in the sale of DVDs and video cassettes. What looked like a good deal may now have to be reconsidered.

**The Right Rights Holders**

Prior to any literary acquisition deal, the producer must research and investigate the ownership of the copyright and other intellectual property rights to the literary property in question.

If any part of the literary property was created by writers or artists other than the owner, the owner’s contracts with those artists and writers must be reviewed to ensure that the work was created as a work made for hire or that those rights were effectively assigned to the owner. If the owner can’t prove his chain of title, the producer must demand that the owner obtain a written assignment of the writer’s and artist’s copyrights in the literary work prior to the deal moving forward. Problems here could be fatal to the producer’s ability to own the copyright to the motion picture.

**Step by Step: Screenplay Adaptations**

Once the producer has decided to adapt the particular literary property, he or she should take the following steps, similar to those of a screenplay acquisition:

1. Identify the owner of the literary property. For novels, comic books, and other text-based works, the publishing company is the best place to start to get this information.
2. Cross-check the owner information with the search of the copyright office records.
3. Telephone or write the owner and discuss the possibility of acquiring the motion picture rights. Follow up your discussion with a certified letter that restates the main points of your conversation with the owner.
4. Assuming that you reach agreement on the main deal points, commission a copyright search report.
5. Negotiate and draft the literary property acquisition agreement. If your copyright search report turns up any other owners, this situation must be addressed before the contract is signed. If there are other owners, you must have their written approval to acquire the rights from them.
6. Execute the contract.
7. The owner should also execute a short form copyright assignment, which the producer should record in the copyright office.
8. The producer should also prepare and have the author or owner execute a certificate of authorship.

LIFE STORY RIGHTS

If the movie or project you’re planning to shoot is based on someone’s life story, you should obtain that person’s life story rights through a life rights consent agreement.

Although no one has the exclusive right to tell his or her own life story, there is a veritable catalog of claims that a subject can file against the filmmaker who shoots an unauthorized biography, unflattering documentary, or fictionalized account of him or her. The frustrating thing is that film subjects who sue often lose their lawsuits, largely due to the protections afforded filmmakers by the First Amendment. That being said, the subjects can, and do, sue. The purpose of a life rights consent agreement is to get the subject’s permission up front and to avoid lawsuits altogether.

Filmmakers need to be especially cautious when portraying subjects in a false light, attacking their reputations, or creating the appearance that the subjects have endorsed the movie when they haven’t. Lawsuits stemming from these claims are not always won by the filmmakers. Furthermore, filmmakers should never feature a person in a television commercial or other advertising without their express written permission.

What Are Life Story Rights?

Actually, the term life story rights is a bit of a misnomer. In reality, what you will be acquiring is a collection of rights and releases from liability. Typically, a life rights consent agreement grants to the filmmaker the following rights:

- The right to portray a particular person’s life in whole or in part
- The right to fictionalize or modify that person’s life story
- The right (and sometimes the obligation) to use pseudonyms for people and places portrayed in the life story
- The copyright to or license to use any accounts of that person’s life story (this may be limited by preexisting literary works, such as biographies, based on the life story)

In addition to the grant of rights, the life rights consent agreement should also include clauses, called releases and waivers, that say that the person granting the life rights (the grantor) will not sue the filmmaker for any of the following:

- Libel and defamation.
- Invasion of privacy.
- Infringement of the right of publicity.
- Copyright infringement.
- Trademark infringement.
- Intentional and negligent infliction of emotional distress.
- Any other claim arising from the granted rights.
In addition to the previously listed causes of action, plaintiffs who have sued motion picture companies over life story issues have asserted claims for false advertising, false endorsement, commercial disparagement, and unjust enrichment. This is why it is critical for the producer to secure the release of “any claim or cause of action whatsoever arising from the use of the granted rights or portrayal of my likeness or life story.”

Although it is true that the First Amendment may provide a solid foundation for defending against many of these claims, the point is to avoid the lawsuit altogether. Furthermore, your E&O insurance policy will probably demand a signed life rights consent agreement.

**KRUSHER KRABB: ARMED AND DANGEROUS**

Pedro the Producer wants to shoot a biography of wrestling superstar Krusher Krabb, the only one-armed professional wrestler ever to be inducted into the Schenectady Wrestling Hall of Fame. Pedro first approaches Krusher for his life story rights but is turned down. He goes ahead with the movie anyway, excited to tell Krusher’s uplifting triumph-over-adversity story. Trying to make his biography as compelling as possible, he decides to fictionalize a portion of Krusher’s story.

In real life, Krusher lost his arm in a car accident; in Pedro’s version, however, Krusher’s limb is devoured by an alligator during a wrestling match at a gator farm. Because Krusher’s 40-year marriage to his high school sweetheart is motion-picture monotony, Pedro creates a scene in which Krusher has an illicit affair with his trainer’s wife—an event that never happened in real life.

Eager to contrast Krusher at his physical peak with the withered old man whom he has become, Pedro secretly photographs Krusher at home, struggling to bathe himself.

After screening the rough cut for his film for several licensing agents, Pedro strikes a deal with a toy manufacturing company to produce Krusher action figures.

Needless to say, Krusher is livid. He can sue Pedro for invasion of privacy (both false light and intrusion upon seclusion), libel, false endorsement, and misappropriation of the right of publicity.

**What’s Allowed in One State May Not Be Allowed in Another**

What makes this area particularly tricky is that most of the rights involved are governed by state laws. And to make things even more complex, the laws differ from state to state. For instance, some states recognize a right of publicity; others don’t. To be on the safe side, you should obtain the broadest possible set of rights and releases from all people whose stories are depicted recognizably in the film.

It’s CYA time here. If you don’t, you could expose yourself to liability if you distribute your film in a state that gives the grantor rights that you have not received permission to use. For instance, depending on the state, if the subject is dead, certain rights may survive death. Therefore the estate of the deceased may have to be negotiated with.

**EVEN THE DEAD MAY HAVE RIGHTS**

Even though someone may be dead, his or her right of publicity may live on! The duration of rights of publicity varies from state to state. In New York it dies with you; in California, it lasts for
70 years after your death. When planning on telling a story about a dead person, filmmakers should seek permission from the estate of the deceased.

WHAT IS AN ESTATE?

An estate is not just a house in the country. The term also describes the property, assets, and rights left behind by a dead person. Rights of publicity, copyrights, and other intellectual property rights can be held by an estate. The person who manages the estate is the executor or an administrator.

Example: In New York, Felicity Filmmaker shoots and broadcasts a television commercial in which Elvis Presley literally rises from the grave to endorse *Rockin' Rippled Pork Rinds*: “They’re so good I just had to come back for more!” Felicity knows that in New York the right of publicity dies with you. She has even put a disclaimer on the commercial saying that the product is not endorsed by Elvis Presley™ Enterprises, in the hopes that this will defeat any trademark infringement lawsuits. Her client loves the commercial so much that it broadcasts the spot in California, which does allow the right of publicity to survive death. Elvis Presley™ Enterprises successfully sues Felicity in California.

If the consent cannot be obtained, the filmmaker must try to fictionalize that person's life story. Here the producer must use extreme caution—the life story must be so modified that the subject must not be recognizable. This, of course, may leave the producer with a very different story from the one she had started out to tell.

The bottom line: If you are filming someone's life story, have them sign a life rights consent agreement, change the events in the movie so that the story is no longer recognizable as theirs, or write the character out of the film altogether.

GOALS AND DEALS

• The filmmaker must make sure to negotiate and execute a life rights consent agreement with the appropriate party. Usually this is the person whose story the filmmaker wants to portray. However, there are some notable exceptions:
• If the subject of the story is dead, you might need to get the consent of his or her estate.
• Minors and legally incapacitated individuals will probably require the consent and signatures of their guardians.
• The filmmaker should get a life rights consent and release from every person who is portrayed in the film. In the Krusher Krabb example, this would mean getting releases from the wrestler’s wife, his manager, and other real-life people who will be a part of the movie.
• If the motion picture is based on a preexisting literary work (e.g., a biography), the filmmaker may need to negotiate for the motion picture rights with the holder of the copyright of that book. Additionally, the filmmaker must verify that the book's copyright owner has already obtained a life rights consent from the subject and that such consent can be assigned to the filmmaker.
MAJOR DEAL POINTS: LIFE RIGHTS CONSENT AND RELEASE

The Parties

• *Producer.* It is critical that the producer negotiate the life rights consent before any other steps are taken on the film. If the producer waits until after the film is shot, the grantor can effectively hold the production hostage by refusing to sign the agreement unless a much higher price is paid. The producer should try to pay a flat fee to the grantor for the rights and releases contained in the agreement and should be very careful about giving any sort of approval over the story to the grantor.

• *Grantor.* The grantor is the person granting the life story rights in the subject’s life. The grantor could be the same person as the subject of the biography; however, the grantor could also be the subject’s parent, if the subject is a minor; her estate, if she’s dead; or the business that owns the subject’s life story rights. The grantor may want to consider whether he or she plans to turn the life story into a literary work, such as a book, separate and aside from the motion picture. If so, the right to authorize a book about the subject will have to be excluded from the grant of rights to the producer, because the producer will most likely want all the rights to a grantor’s life story.

Rights Granted

This section spells out the specific rights granted to the producer (also referred to as assigned rights).

• The producer will want the broadest grant of rights possible:
  • The right to portray the subject’s life in whole, or in part
  • The right to fictionalize or modify the subject’s life story
  • The right (and sometimes the obligation) to use pseudonyms for people and places portrayed in the subject’s life story
  • The copyright and concept rights to any accounts of the subject’s life story (this of course may be limited by any preexisting literary works based on the life story)
  • Any other rights necessary to exploit the subject’s life story

• *Scope.* As a starting point for the negotiation, the producer should attempt to secure the rights throughout the universe, in perpetuity, in all media, whether now known or hereafter discovered, all methods of advertising, and merchandising.

• At a minimum, the producer needs *motion picture and television rights.* The producer needs to make sure that these rights extend to all media in which that motion picture or program will be exploited, such as theatrical release, television, video, DVD, online media, and “any exhibition medium, now known or hereinafter developed.”

Reserved Rights

Reserved rights specify which rights the owner retains. These are the rights the producer does not get. As mentioned earlier, the producer should attempt to limit the reserved rights. However, the grantor may want to reserve the right to make a literary work, such as an autobiography, based on the subject’s life story.
Releases
The producer should secure the following releases from the grantor. In other words, the subject is giving up the right to sue for any of the following:
- Libel and defamation
- Invasion of privacy
- Intentional and negligent infliction of emotional distress
- Misappropriation of right of publicity
- Copyright infringement
- Trademark infringement
- False endorsement
- Any other claim arising from the granted rights

Right to Make Changes
The producer should retain the unfettered right to change, modify, fictionalize, add, edit, rearrange, or otherwise add to or detract from the subject's life story—without the approval of the grantor. Obviously, this may be a hard sell given that most people want some control over how their own story is told. The producer should be wary about giving any control greater than a “consultation” right (which just means that the producer must consult with the grantor but does not have to incorporate the grantor's suggestions).

Representations and Warranties
The grantor must promise that he or she has the sole authority to grant the rights and releases in the agreement. The grantor must indemnify the producer, and anyone the producer has assigned the rights to, for a breach of that promise. As seen in other contracts, such representations and warranties often include promises that:
- The life story is true and accurate.
- The grantor is the sole owner of the life story, and nothing in the story infringes the rights of anyone else.
- Copyright registration in any literary property based on the life story is up to date and accurate.
- No other motion picture, dramatic, or other version of the life story has been made or authorized.
- None of the granted rights are or have ever been granted to anyone else.
- By selling the life story, the grantor will not be violating any third-party rights.
- The grantor will not impair, encumber, or otherwise do anything to interfere with the granted rights.
- The grantor should indemnify the producer for breaches of representations and warranties, misrepresentations, or damages resulting from the grantor's breach of contract.

Payment
Grantors are typically paid a flat fee for life story rights. The amount is largely based on how central the character is to the story. Fees may range from a few hundred dollars for a character who is ancillary to the story to thousands of dollars for a main or otherwise integral character. A famous personality or celebrity, especially one who has benefited from the commercial exploitation of his or her personality, will command a much higher price than someone who has not.
No Obligation to Produce

Although the producer has the right to produce the film about or featuring the subject, the producer is not obligated to produce the film.

Remedies

The grantor should waive any claim to injunctive relief arising out of a breach of the contract. Additionally, in all events the grantor should be prohibited from rescinding the contract and recapturing the granted rights.

Credit

- In addition to the person whose life story is being depicted, the movie should also credit the author of any source material (such as an autobiographical book) used to make the film that was based on the life story.
- The credit roll should contain a disclaimer, such as: “Certain characters, events, and dialogue in the motion picture in the film were created for the purpose of fictionalization.”

Business Issues

- You have better negotiating leverage if you secure the subject’s life rights prior to production. The best practice is to secure the rights prior to writing a screenplay.
- Check your E&O insurance policy: when portraying actual people, a life rights consent and release is almost always required by distributors and by E&O insurance companies.

Step by Step: Life Story Rights

1. Make sure you get a life rights consent and release from everybody whose lives will be portrayed in your movie.
2. If someone does not consent, try to write them out of the movie or change their character so substantially that they are not recognizable.
3. Include a disclaimer at the end of the motion picture.
Part 2: The Pitch

Introduction

The definition of the word “pitch” in Webster’s dictionary is:

a : to present or advertise especially in a high-pressure way
b : to attempt to persuade especially with a sales pitch
c : to present (a movie or program idea) for consideration (as by a TV producer)

Present. Advertise. Persuade. Research tells us that only 8% of all verbal communication is retained by the listener’s unconscious mind through the words themselves. 37% is conveyed through the sound of the voice. 55% is body language.

I came into the film industry from an acting and dancing background. What I initially thought was a detriment turned out to be one of my main assets when it came to pitching. I instinctively knew how to present myself, what my body was doing, how it was communicating feelings. I was able to focus on the other parties in the room and what their body language was communicating - and what they needed from me. Wow! I was way ahead of the game.

Pitching is a critical step in getting a film financed, made and distributed. You have 3 pitch audiences and you must be prepared to respond to each of their different expectations:

• Fiduciary (i.e. the money)
  o You know the business
  o You will protect my investment
  o You have passion
  o I want to support your career
  o Wow, the entertainment business is glamorous -I want in!

• Distributors/International Sales Agents:
  o You know my market
  o Your project answers my needs
  o You bring audience/niche support and interest and social network followers.

• Consumer
  o This film is entertaining
  o This film touches/moves/inspires me
  o This film calls me to action
  o I want to buzz/talk/network about this film

Before every pitch ask and answer: What are this audiences’ specific expectations? Stand in their shoes and be prepared to deliver that. The “Good In a Room” chapter will give you further insights and techniques to master the all important skill of THE PITCH. While the chapter on Idea: Rights will offer actions to take to protect your Pitch/Idea.
The Pitch Meeting Structure Used By Hollywood Pros

By Stephanie Palmer

Let’s go back in time. If you’re like me, when you first started watching movies, it was for fun. You didn’t really know how they “worked.” You may have thought that big-budget action blockbusters, classic romantic comedies, and gritty independent films had little in common.

But then, when you wanted to become a professional writer, you started learning about screenplay structure. You realized that all movies, all stories, have similar structural features.

There is a similar structure to meetings—and it’s used by top writers, directors, and producers.

**Just as screenplays are structured in three acts, meetings are structured in five stages.**

If you ignore the five stages and just try to “wing it” in the room, you’re like a writer trying to write a screenplay without understanding basic three-act structure.

When you understand the structure of the five stages, you can decide when you want to follow the expectations and when you want to break the rules.

**The Five Stages of The Meeting**

- In Stage 1, you build rapport and warm up the room.
- In Stage 2, you ask questions and listen to show respect.
- In Stage 3, you deliver the prepared component of your pitch.
- In Stage 4, you deliver the “improvised” component of your pitch.
- In Stage 5, you ask for one thing if necessary and leave on a good note.

**Stage 1: Rapport**

**The goal: to connect in a personal way**

Stage 1 is the small-talk phase that is the beginning of just about every meeting you will ever have. It’s important because decision-makers want to work with people they like and trust. If you’re prepared, the small-talk will hopefully turn into a deeper conversation about your common perspectives and interests.

**The trap: pitching too soon**

If you “get down to business” and start pitching too early, the decision-maker won’t feel connected to you as a person and won’t be listening to your pitch. You want to build rapport so that when the time comes to pitch, you have the decision-maker’s attention.

**Key tactic: prepare questions to find common ground**

Before the meeting, design a couple “rapport-building” questions to encourage the decision-maker to share their thoughts, feelings, and experiences about things they feel positively about.
• Perhaps you know someone in common, and can design a question around that, e.g.: “How did you first meet (friend in common)?”
• Perhaps you have a hobby or avocation in common. If so, you could design a question around that, e.g.: “I noticed from (print interview) that you like (hobby). What’s your favorite (aspect of hobby)?”
• If you can’t find anything out at all, you can use some of the tried and true conversation starters, e.g.: “How was your weekend?”

The point is to get to know the decision-maker as a person.

**Stage 2: Listening**

**The goal: to show respect for the decision-maker**

In Stage 2, your job is to ask good questions and listen. This shows respect for the decision-maker, and earns you more of their attention when the time comes to pitch.

**The trap: showing off how smart you are**

Superior intelligence can be your worst enemy at this stage of the meeting.

In the next stage, when the time comes to pitch, that’s when you get to share your brilliant ideas. At this stage, your job is to ask questions, listen, and show respect.

If you show off how smart you are in this stage, it may seem like you are in need of attention and approval (the opposite of confidence). As well, if the decision-maker can’t understand what you’re saying, you may make them feel awkward or threatened.

This isn’t about being fake and hiding yourself. It’s about understanding that before you pitch, you want to build rapport (Stage 1) and show respect by listening (Stage 2).

**Key tactic: prepare questions to gather information**

Get the decision-maker talking about what they want from a business perspective, e.g.:
• “Is there a particular kind of project you’d love to find?”
• “How is (current project) going?”

**Stage 3: The Pitch**

**The goal: to keep the decision-maker’s attention**

Stage 3 is where you deliver your prepared pitch. Even if the decision-maker doesn’t want to buy your project, if you can hold their attention with your pitch, they may want to work with you in some other way.

**The trap: “winging it”**

Making it up as you go along and hoping things work out is the mark of an amateur. By the time you get a meeting with a decision-maker who can make something happen, you should
have a prepared pitch that you can deliver without referring to notes.

**Key tactic: test your pitch in advance**

To succeed in this stage of the meeting, use these three steps to test your pitch before you meet with the decision-maker:

1. Choose a feedback group. This can be friends, family, other writers, but no gatekeepers or decision-makers. You should have at least six people, ideally none of whom have heard your pitch before.
2. Rehearse your pitch on audio and ideally on video prior to presenting it to anyone in your feedback group. In my experience, few people like to see themselves on camera, but this is crucial preparation.
3. Call or meet with people one at a time, pitch them, and try to get answers to the following questions:
   - Did they understand the idea?
   - What elements did they like?
   - What elements did they not like?

**Stage 4: Q&A**

**The goal: to deliver great answers to questions**

The way to do well in this stage is to anticipate likely questions and prepare answers in advance.

**The trap: getting defensive**

If the buyer is genuinely interested, you are likely to be asked a number of difficult questions (even trick questions).

It’s likely that they will hone in on the areas where your pitch is weakest. If you get defensive, you lose. If you can’t handle some difficult questions at this stage, the decision-maker isn’t going to want to send your script to stars, directors, and producers—because they’ll have questions, too.

**Key tactic: keep track of what you’re asked**

When you’re testing your pitch in advance, listen to what your feedback group asks you. Every time you’re asked a question about your story, that’s an opportunity for you to prepare a great answer to that question for the next meeting.

**Stage 5: The Close**

**The goal: to leave on a positive note**

It’s likely that the decision-maker will end the meeting, so you want to be ready for when that happens. Typically, there is a non-verbal cue that the meeting is over, and your job is to “echo” the cue.
Watch for when the decision-maker:
- Gets ready to get out of his or her chair
- Places hands flat on their lap or the table
- Closes a notebook or a folder
- When you see one or more of these non-verbal cues, echo it back by gathering your materials and preparing to leave.

Then, you can engage in a little more rapport building—like a bookend to Stage 1. The purpose of this isn’t to reignite the conversation, it’s just to end on a personal, positive note. It can be something simple, e.g.:

- “Tell (common friend) I said hi.”
- “Thanks again for the tip about Orochan. I’ll check it out!”

**The trap: continuing the conversation**

When the decision-maker ends the meeting, don’t try to pitch “one more thing.” Don’t ask any more questions. Don’t tell a story. Just make sure you’ve got everything packed up, prepare to shake hands, and exit the room smoothly.

**Key tactic: prepare a specific request**

You may not need to make a request of the decision-maker. Often, they may say something like, “I’m sending this to my boss today. Keep your phone on.”

However, just in case, it’s a good idea to have a request prepared in case you need it, e.g.:

- “How should I follow up with you?”
- “Whom do you recommend I get in touch with?”

**When You Understand Structure, You Become More Confident**

When you understand meeting structure and have prepared tactics for each of the five stages, it looks like you’re poised and confident. And as you accumulate success over time, it doesn’t just look that way—it feels that way, too.

Keep in mind, there is a wide variety in how the five stages can be handled. You may spend more time in one stage than you expect. But when you know the goal of each stage, the trap to avoid, and the key tactic to use, you’ll be able to confidently handle whatever comes your way.
Ten Tips for Pitching Your Film Successfully

By Stephanie Palmer

Are you ready to walk “into the room” and pitch to a decision-maker such as an agent, financier, producer, distributor or studio executive?

Here are the top ten pitching tips to help you in a high-stakes situation. There are 5 Do’s and 5 Don’ts:

1. **Do prepare for the five stages of the meeting.** If you do not know what the five stages are, you can reacquaint yourself in the previous section ‘The Pitch Meeting Structure Used By Hollywood Pros.’

2. **Do not talk about who has been attached, was considering, or has been interested in the project.** This is equivalent to saying, “Here is a list of people who have already passed.”

3. **Do not “get down to business.”** Instead, take the time to make small-talk and get to know the decision-maker first. Remember, business is personal.

4. **Do not “wing” your pitch.** Consider preparation techniques such as writing your pitch out by hand, pitching on video and then watching your performance, and taking a practice meeting with a friend.

5. **Do lead with genre.** Specifically, the first few words of your pitch should be something like, “This project is a (GENRE)….”

6. **Do not refer to more than three characters by name.** If other characters need to be mentioned, do so by how they relate to the main characters, e.g., Karin’s best friend, Ryan’s evil twin.

7. **Do prepare for likely questions.** Prepare answers for the most common questions in advance such as, “How did you come up with this idea?” and “What project is this most like?” You can find out more about how to answer these questions here.

8. **Do not argue the point.** If you get a note you don’t like from a decision-maker in an initial meeting, don’t argue. Instead, just say, “Thanks, let me think about that.”

9. **Do write down the names of the decision-makers you meet.** That way, you won’t suffer the fate of, “I had a great meeting, but I can’t remember his or her name….”

10. **Do adapt to patterns of feedback.** Consider all of the notes you are receiving, look for patterns, and discover ways to improve your pitch, your project, or both.

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Without a doubt, a copyright is the best way to protect a screenplay from being stolen. However, a filmmaker may have only an idea for a film or television program—a concept that has yet to be turned into a screenplay—and copyright law does not protect ideas. In fact, even though they are valuable to the filmmaker, ideas can be very hard to protect legally: The law starts with the presumption that ideas are free for anyone to use.

Generally, for a filmmaker to protect an idea when he is pitching it to a production company or movie studio, the idea must be novel (see below) and the filmmaker needs to enter into a contract with the party to whom he is pitching the idea. In essence, the filmmaker must get the production company to agree that the filmmaker will be compensated if the production company uses the filmmaker’s idea.

**NONDISCLOSURE AGREEMENTS AND SUBMISSION RELEASES**

If possible, the filmmaker should have the production company sign a nondisclosure agreement (NDA). This is a contract in which the production company will agree that:

- The idea is unique and valuable.
- The idea is the filmmaker’s proprietary information.
- The production company will keep this idea confidential.
- The production company will not exploit the idea without permission.
- If the production company does exploit the idea, the filmmaker will be compensated.

**REALITY CHECK**

A filmmaker generally does not have the leverage to make a Hollywood studio sign an NDA; however, he or she may be able to convince a smaller production company or a local advertising agency to sign one.

Even if the filmmaker cannot get the production company to sign an NDA, he may still be able to create an implied contract or an express contract with the production company in which the production company agrees not to use the filmmaker’s idea without compensating the filmmaker.

To establish a claim for breach of implied-in-fact contract for an idea, the filmmaker must show that he or she:

- Prepared the work
- Disclosed the work to the production company for sale
- Did so under circumstances from which it could be concluded that the production company voluntarily accepted the disclosure, knowing the conditions on which it was tendered and the reasonable value of the work

This contract can be created orally and backed up by a written confirmation of its terms. For instance, you can reiterate your agreement in a follow-up e-mail to the person to whom you are pitching your idea.
More typically, the production company has the leverage in the situation and will require the filmmaker to sign a *submission release* before hearing the filmmaker’s pitch. The submission release is a document that largely exonerates the production company if it exploits an idea similar to the one the filmmaker is pitching. Production companies generally demand that filmmakers sign a submission release covering any unsolicited material and pitches the filmmaker wants the production company to evaluate.

Be careful how you offer your idea for sale: One U.S. Court of Appeals recently held that an offer to *partner up* on producing a program based on a creator’s idea did not support an implied contract claim for the sale of an idea. To be protected by implied contract, the idea must be offered for sale and not as the subject of a partnership. Although I don’t agree with the court’s reasoning or its conclusion in this case, it is the law, at least in the ninth circuit, which includes California.

**The BOTTOM LINE:** Once you start telling people your idea without the benefit of a contract, you may have given up any property right you have in that idea.

**SAFEGUARDING SOCRATES**

Adam Auteur has a great movie idea: He wants to write a movie about the secret life of the great Greek philosopher Socrates. In Auteur’s story, Socrates was the same person as Confucius: an immortal being who leaves China and settles in ancient Greece. Auteur’s idea is also novel in that Socrates will be played on screen at all times by three people—like the chorus in a Greek tragedy.

Auteur wants to pitch the concept to Barbara, a Major Studio, Inc., executive, with the expectation that if Barbara likes his idea, Major Studio, Inc., will hire Auteur to write the screenplay. Auteur wants to make sure that his idea is protected so that Major Studio, Inc., can’t make the film without him.

Auteur can try to protect both the property right and confidentiality of his idea through an NDA. However, because he is not pitching to a small production company, he probably doesn’t have the leverage to get the studio to sign an NDA.

In fact, the opposite is true: Major Studio, Inc., doesn’t want to blindly agree that Auteur’s idea is Auteur’s personal property. Major Studio, Inc., hears pitches every day, many of which are similar to each other. It does not want to be stopped from developing another filmmaker’s Socrates-based story merely because it is similar to the one it heard from Auteur. To protect itself, it may refuse to listen to Auteur’s pitch until Auteur has signed a submission release, which waives the filmmaker’s right to sue Major Studio, Inc., if it develops a similar movie.

Because he is pitching to a big Hollywood studio, Auteur may have to choose between signing a submission release and not pitching at all. However, if Auteur is represented by an agent or an attorney, they might be able to negotiate a waiver of the submission release requirement, letting him try to create an oral contract during the pitch. Then, during the pitch meeting, Auteur might be able to create an implied contract between him and the production company by getting the Major Studio, Inc., executive to orally agree to compensate him for his idea should the production company decide to use it.
THE BOTTOM LINE: From a legal perspective, to protect his idea, Auteur should get the studio to agree to his contract terms before he pitches. From a business perspective, Auteur had better be careful not to sound too much like a lawyer or the meeting may suddenly be canceled!

GOALS AND DEALS

When a filmmaker pitches to a production company, each side wants a certain amount of legal protection. Here’s a snapshot of what each side wants:

- **The filmmaker** wants to ensure that he can pitch his idea without fear of it being used by the production company without his permission. Ideally, he will have the production company sign an NDA. Barring that, he wants to avoid signing the production company’s submission release. As a further step, the filmmaker might try to enter into an implied or express contract with the production company during the pitch meeting, followed up by a written restatement of that contract via e-mail or certified mail.

- **The production company**, on the other hand, wants to ensure that they can use ideas similar to the filmmaker’s idea without fear of being sued by the filmmaker. Ideally, they will have the filmmaker sign a submission release. If that is not possible, they should be wary of entering into any implied contracts with the filmmaker during the pitch meeting.

DEAL POINTS: SUBMISSION RELEASE

The production company usually requires a filmmaker to sign a submission release prior to hearing a filmmaker’s pitch. Submission releases usually contain the following provisions.

**No Liability for Exploiting Similar Ideas**

The production company will not be held responsible if it exploits a similar idea to the one which the filmmaker has pitched. Note: In film contracts, the term exploits usually means “to develop or sell a property” (e.g., a production company exploits an idea by commissioning a screenplay based on it).

**No Contractual or Fiduciary Relationship**

The filmmaker agrees that she has not entered into a contract with the production company for the sale of the idea, nor is there a fiduciary relationship between the parties that would require the production company to act only in the filmmaker’s best interests.

**Representations and Warranties of Authorship and Indemnification**

The filmmaker must promise that she is the sole creator of the idea and that she will indemnify the production company if the production company is sued by somebody else laying claim to the idea.

**Free Use of Nonprotected Property**

The production company may freely use anything the artist discloses that is not protectable as “literary property.” Because ideas are not protected by copyright, and the production company
DEAL POINTS: THE NONDISCLOSURE AGREEMENT (NDA)

NDAs are the reverse of submission releases; they allow filmmakers to protect their ideas. NDAs usually contain the following provisions.

Confidentiality

The production company must agree to keep the disclosed ideas confidential. The production company also agrees that the confidential information is the property of the filmmaker. This is a critical recitation, since ideas and concepts are legally difficult to protect as property without a contract.

Definition of Confidential Material

The confidential information is usually defined in terms of both (1) those materials, oral and written, that a filmmaker submits to the production company, and (2) those materials the production company itself creates in order to evaluate the project.

Exclusions from the Definition of Confidential Material

This section defines what is not considered confidential or proprietary to the filmmaker (and thus is unprotected by the contract). Typically excluded from the definition of confidentiality in this section is:

- Material that the filmmaker discloses to others on a nonconfidential basis
- Material that the production company can show it developed independently of the filmmaker
- Material that becomes publicly known
- Material that is in the public domain (e.g., clichéd concepts, common plots, stereotypical characters, etc.)

Agreement to Evaluate

The production company agrees that it is receiving the confidential information for the purpose of evaluating the material for possible production. If the production company passes on the project, it agrees not to use the material. If the production company wants to use the material, it must agree to enter into an agreement with the filmmaker for its purchase and/or exploitation.

Representations and Warranties of Authorship and Indemnification

The filmmaker must promise that she is the sole creator of the idea and that she will indemnify the production company if the production company is sued by somebody else laying claim to the idea.

LAW: PROTECTING IDEAS AND THE “NOVELTY” REQUIREMENT

U.S. law is very wary about protecting ideas. To receive any protection at all, even by contract, an idea must be novel, that is, new and unique.
If there is a contract between the producer and the production company, the producer's idea only needs to be novel to the production company or other party who is hearing the idea for the first time.⁴

**Example:** If the producer had pitched the same idea first to another production company, which had agreed to keep the idea confidential, the idea would still be novel as far as the second production company was concerned. The producer could contract with the second production company for the idea's disclosure.

However, without a contract between the producer and the production company, the producer has an almost impossible task ahead of him when trying to sue a production company that has used his idea without permission. The producer must prove that his idea was so unique and original that no one else in the world had ever conceived of it!

To make things even tougher, some ideas are so unoriginal not even a contract will protect them.

One New York court¹ listed the following factors as among those courts will use to judge the novelty of an idea:

- The idea's specificity or generality, i.e., is it a generic concept or one of specific application?
- How common an idea is, i.e., how many people know of this idea?
- How unique the idea is, i.e., how different is this idea from generally known ideas?
- The commercial availability of the idea, i.e., how widespread is the idea's use in the film and television industry?

However, as the court pointed out, an idea will not be considered novel if:

- It is merely a variation on a basic theme⁵ or
- It is merely a clever or useful adaptation of existing knowledge

**NOT EVERY GOOD IDEA IS A “NOVEL” IDEA**

One well-known case involved the idea for *The Cosby Show*.³ A producer pitched NBC on the idea of “combining the family situation comedy theme with an all-black cast.” NBC turned him down and then went on to develop *The Cosby Show*. When the producer sued, he lost. The court stated that the producer's idea was not novel and therefore not subject to legal protection from unauthorized use because he had “merely combined two ideas which had been circulating in the industry for a number of years—namely, the family situation comedy, which was a standard formula, and the casting of black actors in nonstereotypical roles.”

For instance, the “idea of a reality television show where people compete for a prize is a basic staple of modern television programming.”⁶

Furthermore, just as in copyright law, the production company will not be liable to the producer if it can prove that it came up with its similar movie concept through its own initiative or through wholly independent means.⁷

**BUSINESS ISSUES: FINANCES AND COSTS**

Whether or not a filmmaker can demand that a production company sign an NDA prior to the filmmaker’s disclosure depends on the filmmaker’s leverage.
Generally, neither a submission release nor an NDA requires one party to pay the other as part of that contract. However, in the case of any implied or express contract that the filmmaker may try to create during the meeting, the production company should agree to compensate the filmmaker a reasonable amount if it ends up using the filmmaker’s idea.

Other than attorney’s fees in drafting and negotiating the NDA or submission release, the only costs incurred here are the costs of sending a follow-up letter via certified mail.

NEGOTIATION TIPS AND TRICKS

Often a filmmaker’s agent or attorney can negotiate with the production company and get them to waive the requirement of a submission release.

**Step by Step: Protecting an Idea**

1. Put your idea into written form. Make it as full, complete, and expressive as you can, and register it with the U.S. Copyright Office.
2. If possible, try to have the production company sign an NDA.
3. If obtaining an NDA is not possible, have your agent or attorney negotiate a waiver of the submission release form.
4. In the pitch meeting, try to create a contractual obligation contingent on the movie studio using your idea. Don’t try to sound like a lawyer here, just be clear, casual, and enthusiastic.

It’s really a question of finesse. If you sound like you’re “playing lawyer,” they will bring in their own attorney or, more likely, stop the meeting right there. Note: I am emphatically not suggesting that you trick them into agreeing to anything; in fact, there needs to be a “meeting of the minds” of all parties in order for a contract to be formed. No, what I’m saying is that now is the time be especially friendly and clear; use all your people skills here.

**Example:** Say something like, “I’m really excited about pitching my show to you. But, before I do, I just want to make sure that you guys are going to treat it as my property until we have a more formal deal in place and you’re not going to discuss it with anybody outside your company and, of course, if you do decide to use it, I’m going to be paid a reasonable amount for it. We can work out the other details later.”

5. If the movie studio executive agrees, you may have a contract. You should wait for the executive to show that she agrees with your requirements, either verbally or with some physically gesture, such as a nod. Generally, mere silence is not assent.
6. Follow up with an e-mail and certified letter restating the terms of the oral contract. Your claim to ownership of your idea will be strengthened if the production executive to whom you pitched agrees to your terms again after she has heard your pitch.

**Example:** “Thank you for taking the time to hear my pitch concerning my proposed screenplay. As we discussed, you have agreed not to use my ideas without compensating me a reasonable amount. Thanks, too, for agreeing to keep my ideas confidential. I look forward to the possibility of working with you and your company in creating the first movie to show the secret life of Socrates.”

7. As a bonus, your ownership claim will be further reinforced if you can get the studio to state that they’ve never heard an idea like yours (notice how I rephrased the “novelty” requirement).
Example: “It was so great to hear you say that you thought my idea was unique. I think so too, but it’s nice to hear it confirmed by someone whose opinion I respect.” Generally, you should only introduce the issue if they’ve mentioned it at the meeting, after being blown away by your perfect pitch, of course.

Follow-Up

Once the filmmaker has pitched his or her idea, the next step is for the production company to either offer the filmmaker a deal or to pass on the project—that is, turn the filmmaker down.

- If the movie studio has offered to pick up the project, the kind of deal it will offer will depend on the nature of the project and the reputation of the filmmaker.
- The production company might want to commission the filmmaker to write a screenplay.
- The production company may want to purchase a finished screenplay from the filmmaker.
- The production company may want to option the finished screenplay (an option is the exclusive right to purchase the screenplay).
- If you own a production company and have pitched to a studio, you may be offered a production services agreement.
- If the movie studio has passed on the project, the filmmaker should request the return of all his materials, or alternatively, their destruction. This helps to protect the filmmaker against the uncontrolled disclosure of his materials and, he hopes, his ideas.

CAUTION

Be careful how you phrase your verbal contract; be sensitive with your approach and tone. Sometimes sounding too much like a lawyer can turn an otherwise friendly business negotiation into an adversarial relationship.

- Listen and look for the production company’s response; the production company must acknowledge and agree that you are disclosing the idea to them with the understanding that you expect them to pay you at least a “reasonable value” for your work, should they decide to use it.
- Even to be protected by a contract, your idea must be novel to the recipient. The idea “need not reflect the flash of genius, but it must show genuine novelty and invention, and not a merely clever or useful adaptation of existing knowledge.”
Part 3: Film Finance

Introduction

Financing your film can be the trickiest part of making your film. Until the day you are totally funded, it is a moving, evolving puzzle that demands your constant attention to detail. Certain sources of film financing have remained fairly constant over the years:

• International territories that include presales and estimates, or gap financing;
• Depending on what country or state you film in, there are the tax incentives and rebates;
• Equity investors.

Over the last 3 years donation-based crowdfunding has become an important source of funding with websites such as Kickstarter and IndieGoGo.

Additionally, what is new in the last couple years is the equity financing coming from the retailers, advertisers and the upcoming investor-based Crowdfunding through the new JOBS Act. An example of retailer financing is the recent development of original content by companies such as Netflix and YouTube. Another trend is equity from advertisers who want to organically integrate their product(s) into a film where they can control the specific use of their product because product placement is just not good enough anymore. And finally, The Jumpstart Our Business Startups Act (JOBS Act) is aimed at increasing American job creation and economic growth by improving access to the public capital markets (i.e., the 99% like you and me).

Equity is still King! And potential equity film investors are more savvier these days. You need to have a strong business plan and recoupment model that mitigates as much of their risk as possible. Films get financed because the producer has a good “package” that is desirable first to equity investors, then to distributors/sales agents and finally to the very important paying audience. “Package” not only refers to the obvious (the actor(s) or director) but also to a great script, a marketable genre, a fair distribution agreement, a finance plan and a viable entertainment attorney.

There are two main documents you will need to secure equity investors: a Business Plan and a Private Placement Memorandum (PPM) or offering. The Business Plan must clearly address what the project is all about (genre, budget, talent, production and management teams, etc.), the marketing, the distribution, the investment opportunity, and financial projections. The PPM is a full disclosure document that is typically more factual, pessimistic, and realistic than the Business Plan. It contains all the risks and liabilities of the project - including a list of all possible scenarios illustrating the ways the project could go wrong.

Other materials I highly recommend preparing are a movie poster or one-sheet, trailer or proof-of-concept video and/or a Look-Book. Film is a visual medium. Pitches to investors as well as potential talent, distributors and sales agents should be with visual materials whenever possible.

The following chapters will give you the beginning of the oversight and knowledge you will need to start to put all the pieces of the financing puzzle together.
Chapter 9, Filmmakers and Financing

The Financial Plan: How it Works

By Louise Levison

It’s very important that every movie I do makes money, because I want the people that had the faith in me to get their money back.

—DIRECTOR QUENTIN TARANTINO

Shuffle a pack of playing cards. Now spread them out face down and pick one card. If it is the ace of spades, you win; if it is not, you lose. Your chances of getting the right card are 1 out of 52. These odds are better than the odds of finding independent money for your film. Do not be discouraged, though. Many filmmakers face these odds each year—and win.

Film is probably the worst investment anyone could ever make. It is considered risky and capricious. If risks were measured on a scale of 1 to 10, movies would rate a 15. One might as well go to Las Vegas and throw the dice—in fact, those odds are probably better. Why would anyone invest in films, then? From a purely financial standpoint, it is a gamble for which there is a big payoff. In addition, there are many subjective reasons for investing in films, such as personal ideals, creative participation, and being part of the glitter and glamour. The specific people and firms those are likely to fund films change, but the modus operandi remains the same. Some of the different sources of financing will be relevant for your situation, others will not. Some are dynamic; some are static. As studio executives and production companies go through cycles, so do forms of financing.

By this point, you are well on your way to a finished proposal. You have explained the basic information—your company, your film(s), the industry, the market, and the distribution process. You have your goals and objectives well in hand. Now here is the kicker. Popular agent lore (spread by agents) is that if a script is not interesting after the first 10 pages, it gets thrown onto the “forget it” pile. Something similar can be said of investors and business plans. Investors typically read the Executive Summary first and the Financing section second. If they are still interested, they read all the delicious text between the two. This does not mean that all the in-between material is irrelevant, just that the primary emphasis is on the ins and outs of financing and how the numbers look.

When thinking about investors, most people picture a singularly rich person who swoops in and says, “Here’s an extra $10 million I found in my drawer. Go make a film—no strings attached.” Or they imagine a country suddenly passing a law guaranteeing you 100 percent of your film costs just for showing up. This is the stuff of which movie plots are made. Not impossible scenarios, but improbable ones. You may get lucky early on, but it is more likely that there will be false starts, dashed hopes, and months or years of frustration.
As the saying goes, “If it were easy, everyone would be doing it.” The truth is that finding financing is hard work. If you think otherwise, forget it. There are almost as many ways to finance a movie as there are people reading this book. We will look at specific methods, but note that the full financing of your movie may be a combination of several methods.

With a business plan for a new filmmaker or company, there is an additional struggle. Whether you are asking a money source to invest in one film or several, creating a feeling of confidence is not easy. Any anxiety on the part of the investor about funding one of your films is magnified when committing to finance an entire company. Besides making successful films, you have to be able to run that company. The investor will be looking with great care, therefore, at the production team.

In your Financial Plan section, you will discuss how your films will find financing, but you should do this without restating this entire chapter. Only certain financial strategies will be appropriate for your particular projects or for the type of investor you are going after. Too much irrelevant information will only confuse your reader.

This chapter examines some of the specific sources of money: single investors (rich people), presales, coproduction and below-the-line deals, negative pickups, limited partnerships, and limited liability companies. In addition, it takes a brief look at bank loans. This chapter is meant to give you general knowledge of how film financing works; the intention is to make a complex subject easy to understand and to give you material for your business plan. It is not meant to be the complete and final word on the subject. For your own knowledge, do additional research on the specific financing techniques that you plan to use.

BEFORE YOU START

Before writing the financing section of your business plan, there are several guidelines to think about and follow. These concern the following:

• Seeking reality.
• Finding the best fit.
• Being careful what you promise.
• Being careful what they promise.
• Being able to explain it.

Seeking Reality

The way that one person financed a film yesterday may not be relevant to you today. This statement may appear to contradict what was said earlier about learning from other filmmakers, but it does not. We said it was sometimes the same formula, not necessarily the same people. Do not assume that you will find money in the same place. Who you approach, where they are, and what they want to know differs from investor to investor. Learn from the other filmmakers’ experiences in their interviews in Chapter 13, “Other People’s Money.” They may prove useful to you. Keep in mind, however, that you may have totally different results to share in the next edition.
Finding the Best Fit

Filmmakers often believe that all money is equal; it isn’t. Each source sets different requirements or conditions for the delivery of funds. You will be able to live with some of these, but not with others. For example, there may be too many fingers in the pie. Three intermediaries later, you will be paying out large sums to finders. Or prospective investors may have requirements that make getting the money not worthwhile. There may be content, length of time, or rate of return demands you cannot meet.

Worse, at the 11th hour, Ms. Investor may inform you that her husband has to play the lead in the film. Don’t be discouraged. The right source for you is out there somewhere; seek until you find it.

Being Careful What You Promise

Making statements of absolute fact about financial conditions may be dangerous. An investor will hold you to whatever you promise. You might say, for example, “We will seek presales in order to recover at least some of the production financing upfront.” That is not a promise, only a statement of intent. On the other hand, saying to people, “We will obtain presale commitments” is a promise. Unless you have commitments already in hand, you may be making a promise that you cannot keep. And be careful of implied promises. If you want to tell potential investors that Sony Pictures Classics paid less than $1 million for Beasts of the Southern Wild, be sure to say: “It was reported at the Sundance Film Festival that Sony Pictures Classics paid less than $1 million for domestic rights to Beasts of the Southern Wild.”

In the discussion, point out that we don’t always know what the actual deal is in reference to the figures quoted. I have seen investors refuse to approve a distribution deal because they assumed that “normal” purchase prices were twice the negative cost of the film. The typical verbiage that I use is:

*Deals at festivals vary greatly. The prices announced in the press may depend on specific box-office results, be advances against future revenue streams, or be total buyout prices with no further remuneration to the film-makers and their investors. For most of the publicized dollar amounts, the negotiated agreement is not made public.*

Being Careful What They Promise

Always take the stance that you have to see it to believe it. People do not have to be con artists to lead you astray; many just like to hear themselves talk. Even investment bankers are seen bragging at cocktail parties about financing films they didn’t. If a money source (finder or actual) is saying, “The check is in the mail,” your mantra should be, “Do not spend any money until the cash is in the production account.” This warning applies to family and friends as well as bank executives. Check the paperwork. If you are not knowledgeable about financial terms and clauses, find someone who is. Look carefully in the fine print for how much cash this source is keeping. Do they have the resources to meet your needs or are they making a promise on behalf of some other entity that has never heard of you and probably never will?
Recently, a client told me that she wanted to work with a producer who had a certain A-list director and star attached and $50 million in the bank. My first question was: why do they need you? I was not being rude. She had never made a film and no particularly interesting connections. This fellow had $50 million and could go ahead with his director and an actress who had could bring in the audience on her name. While my client was thinking it over, I did an Internet search on Yahoo! I finally found a website for the film. The only people attached were family and friends; however, it said “no director attached” and didn’t mention cast. There also was a statement that they were looking for money for an unspecified budget. It is fair to assume that having that much money you have an assistant who could update the website. Such searches only take a few minutes of your time but can save grief later.

Being Able to Explain It

If you cannot explain a financing scheme, do not include it. To my constant amazement, I often receive business plans to critique that are based on a complicated financing structure, usually in a foreign country, that the producer does not understand; nor has he ever found someone who has successfully used it. Longtime professionals, not just inexperienced filmmakers, will base entire companies on such schemes. Frankly, not only do many of these require several investment bankers to work through their complexity but also the majority either don’t work or were fictional to begin with.

Be especially wary if an intermediary wants a substantial amount of money in advance. A finder gets paid when you have the money in the bank, not before. Request to see all the documents first. If you have to find an investor to make a deal work, you can bet your bottom dollar that your investor will ask for details about the financing, with examples of films financed. They’ll also want a meeting with a principal (person who actually controls the other funding).

WHO ARE THEY?

Investors are gamblers no matter what their reasons, and film is one of the biggest gambles you can find. Others have personal reasons for investing in film. Private investors are equity players. They take a portion of the profits in exchange for their capital. Until you take in partners, you own the whole pie. As partners come in, you start to slice the pie into little pieces, and as the old saying goes, “Them that has the gold makes the rules.” The nature of an entrepreneur is to be filled with passion to accomplish a certain end. The hardest job for you may be your own emotional involvement when attempting to see things dispassionately from the investor’s point of view.

Family and Friends

The first string of the investment team for has often been family and friends. Raising development money and the negative cost of films under $1 million is very difficult. Professional investors do not see enough of a return on such small investments. Mom and Uncle Harry are more likely to be willing to give you a chance. Kevin Smith funded the $26,575 budget for Clerks with credit card advances, the sale of his comic book collection, and a loan from his parents. It is hard to find anyone with the much room on the credit cards since the financial meltdown started in
2008. Filmmakers Alex and Stephen Kendrick raised the $100,000 budget for Facing the Giants as donations from church members, including family and friends. Since the introduction of the original crowdfunding platforms, primarily Kickstarter (launched April 2009) and Indiegogo (launched January 2008), much of this money has been donated through those websites.

I have been at a lot of panels where company executives will tell you that family and friends are the only source of money for low-budget films. This statement is false. Many films have been made with all the money coming from total strangers. When it comes to investment from those close to you, it is wise to have the same written agreements that you would have with total strangers.

**Entrepreneurs**

Entrepreneurial types who have made a killing in almost any industry may feel the lure of film. It takes a high roller at heart to start a firm and prosper with it. You can try the annual *Forbes 400* for a listing of billionaires; however, you may have to travel to Hong Kong or Taiwan to speak with them. You don't have to go that far for what you need.

Investors have all sorts of reasons for taking this risk. Some are after big bucks, some are personal fans, and some want to give back to the community. Despite their reasons, investors are seldom seeking to lose money. I have seen scores of creative people forget their dreams rather than face the reality that, whatever the content, these are business deals as well.

There have always been wealthy people attracted by Hollywood. Many of them invested with studios in the early years. One of the first investors in DreamWorks was Paul Allen, co-founder of Microsoft. Over the past 15 years, however, a growing number of communications, real estate, Internet, sports, finance, and other billionaires have made pacts with experienced producers to start independent production and distribution companies. Phillip Anschutz, chairman of Qwest Communications International, has started several production companies, now combined into Walden Media. He also bought United Artists, Regal Cinemas, and Edwards Cinemas, which currently controls over 6,000 theater screens. Jeff Skoll, a co-founder of eBay, founded Participant Media, which has invested in both studio and independent films. Mark Cuban and Todd Wagner, the founders of http://www.broadcast.com, formed 2,929 Productions and Magnolia Distribution and bought the Landmark Theaters. The partners in Google have co-financed a film; they are also early investors in various areas of high-definition entertainment. Gary Gilbert, co-owner of the NBA’s Cleveland Cavaliers, along with Usher and the Chairman and Vice Chairman of Quicken Loans has financed several movies, among them *Garden State*. Sidney Kimmel, a founder of Jones Apparel Group, formed Sidney Kimmel Entertainment, which has produced several films and has more in development. The late Adam Yauch of the Beastie Boys formed Oscilloscope Laboratories, which became a film producer and distributor in 2008. Bill Pohlad, the son of self-made billionaire Carl Pohlad (owner of the Minnesota Twins baseball team), formed River Road Entertainment.

In more recent years, Texas businessman Mark Hulme set up Five Star Pictures, which plans to finance and produce one film a year. The company’s first film is *Jobs*, a biopic of Apple co-founder Steve Jobs. Gigi Pritzker, heiress of the Chicago Pritzger fortune ($1.7B), set up Odd Lot Entertainment. Saul Hudson better known as Slash, the former lead guitarist of Guns N’ Roses followed in the footsteps of fellow rocker Rob Zombie by establishing Slasher Films (horror genre, of course).
The sons and daughters of the rich and maybe famous have brought many of their trust funds to film. Teddy Schwarzman, the son of Blackstone chairman and CEO Stephen Schwarzman, founded Black Bear Pictures. Allison Ellison, daughter of Oracle billionaire Larry Ellison, founded Annapurna Pictures, and Sarah Siegel-Magness and Gary Magness (Sarah Seigel’s parents founded Celestial Seasonings teas, and Magness’ parents founded cable company Tele-Communications Inc.) formed Smokewood Entertainment. Their first film was Precious.

All the people mentioned in the preceding paragraphs came into the business with a commitment to film but had various reasons. Some of them have a commitment to films with a message, others want to develop new technology frontiers, and others just love films. However, none of them intend to be spending their money foolishly. There are many in other countries of the world; and pre-sumably, there are more out there waiting for the right opportunity.

WHERE ARE THEY?

How do you find them? I wish I could tell you. One thing I do know is that these are people who recognize that film operates on a different risk level than the businesses that made them or their relatives rich. Before the current economic conditions, several finders working with real estate investor groups have approached me about film, thinking that they could sell the idea to their syndicates. They couldn’t. As a group, real estate investors are putting their funds into projects with less risk than film. Even then individuals from those syndicates were investing in limited liability companies (LLCs) and limited partnerships on their own. Until the real estate market turns around, film appears to many to be a better bet than that industry. It does not mean that film is any less risky than it has always been; it is a sign of how risky real estate has become.

Your own backyard is the first place to look for financing. Few filmmakers are born in Los Angeles; they migrate there. Nor are all of the investors born in Los Angeles. They are born and live in Ohio, Michigan, Iowa, Oslo, Sydney, Hong Kong, and so on. At least those are areas where many of my clients have found investors. (Don’t call me for a list; it is proprietary—nonpublic, company-owned—information.) You may find untapped markets of entrepreneurs with lots of money from very unglamorous businesses, to whom the lure of the film world may be irresistible. Your best chance is in an area where there is not a lot of competition from other filmmakers—if there still is such a place. The entire financing deal can be conducted without anyone living in Tinseltown.

Giving a party is another strategy that I have seen some producers use to find interested investors. Since I am not an attorney, check the details with yours before proceeding. I have paraphrased some of the rules set out by Morrie Warshawski in his book The Fundraising Houseparty (available at http://www.warshawski.com). Although Morrie is focusing on raising money for nonprofit events, the same principles can be used for film fundraising:

• Potential investors receive an invitation to come to a private home.
• The invitation makes it clear that this is a meeting to launch a film.
• Participants arrive and are served some sort of refreshments.
• The host or hostess explains why they personally feel it is a worthwhile project.
• Participants sit through a brief presentation—appearances by actors in the films, script reading, and so on.
• A peer (we might say shill) in the audience—someone articulate, respected, and enthusiastic—stands up and explains why she wants to be part of the project.
• Once you have established an individual’s interest, you can contact her later with your documents about investing.

WHAT YOU GET

Equity investors will want at least a 50 percent cut of the producer’s share in the film; some may even want a higher percentage. In recent years, filmmakers have offered the incentive with a return of 110 to 120 percent of the original investment before any split of net profits. No matter how many years you spent writing the scripts or how many hours you spent talking deals, it is their money. Before you start complaining, be glad your investors don’t want 80 percent. Venture capital companies and professional film investors often require that much equity to put in seed money.

Filmmakers have a habit of promising “points” and film credits to people for their work in finding investors, making introductions to potential actors, or other steps involved in getting the project made. Directors and stars who are too expensive for the film’s budget often are given points as a deferment of part of their salary. These points all come out of the filmmaker’s share, unless an agreement is reached with investors. Besides points, filmmakers like to give away credits. Be careful what you promise. If you have one investor for the entire budget, he may want the title of executive producer (and deserves it). Some may want to remain anonymous, so all the other filmmakers wanting money don’t contact them. In addition, be careful about the producer title. When your film is nominated for the Best Picture Oscar (I never said you couldn’t indulge yourself with some fantasy), only three people can be listed according to the 2007 Academy of Motion Picture rules.

Reasonable Risk

Entrepreneurs often want money from investors with no strings attached as a reward for their creative genius. They do not want to be responsible for how the money is spent or for whether investors realize a gain. No doubt, you are a genius. But do not expect to get financing without showing the investor what kind of risk she is taking.

Early in this business, I tried to get financing for an entrepreneur who had a new idea for making films that would have a nontheatrical distribution in malls. One investor thought the idea was “sexy” and that the films could be taken national but that the business plan was so-so. The investor proposed to invest $5 million and then raise additional money from other investors; however, he wanted a revised business plan. My client would have none of this. “After all,” he said, “investors are supposed to take a risk. If these people are not willing to take one, who needs them? I’m not going to waste all this time. Big guys in New York are interested.” You can probably guess what happened. The client never heard from the “big guys,” never got the first film made, and went back to his old job, never to be heard from again.

The moral here is not that people in New York are unreliable. Serious investors, whether they are in New York or Des Moines, will seldom make a final decision based on flash and dash. They want to see substance and detail. Even if someone likes your project, chances are you will hear, “Come back when you have a business plan.”
The Big Payoff

The low-budget, big-return films are the hooks that lure many high rollers into the film business. Films like *Once*, *Fireproof*, and *Napoleon Dynamite* can be irresistible. Very few other ventures, outside of Las Vegas, offer the potential of a 500 to 1,000 percent return on investment. At a lower percentage rate but nevertheless as alluring are *Black Swan*, *Slumdog Millionaire*, and *Courageous*. As a filmmaker, you must be ready to show prospective investors that the chance of making a killing may outweigh the risk of losing their money. Remember, though, that you can never promise a risk-free investment. And you do not want to tell them, “Ten million dollars is typical of advances and/or buy-outs for $1-million films.”

When all is said and done, it is the projected bottom line that builds the investor’s confidence. You need to find similar films and track their dollar returns. Whether you are looking at a single film or a company, you must project your revenues and expenses, box office grosses and rentals, and cash flows over the next three to five years. (You will learn how to do that in the next chapter and through doing the exercises provided in the Financial files on Focal’s companion website for this book.)

TYPES OF FINANCING

Crowdfunding for Donations

The original crowdfunding (sometimes called crowd sourcing) is a method of raising limited amounts of money without being governed by SEC (Securities and Exchange Commission) regulations. People donate to your film in return for a reward that a nonmentary reward, such as a DVD, T-shirts, or other memorabilia. The donors do not have any ownership in your film. It doesn't require a PPM or excessive paperwork and should not be confused with the updated traditional investment version of crowdfunding described under the Jump Start Act of 2012, described later in this chapter.

In this method of fundraising, you create a website on an established platform. The most popular to date have been Kickstarter (kickstarter.com) and Indiegogo (indegogo.com). They are best used for development money, post-production money, or to finance a micro-budget film. You have to research the sites and pick the one that is best for you.

The basic differences between the two mentioned here are that Kickstarter has you set a funding goal and time-frame (usually up to 60 days) that must be met or all monies are returned to the donors. If the funding goal is raised, Kickstarter applies a 5 per cent fee to the total amount but only if it is free. Indiegogo also has you set a funding goal, but you don't have to get to your goal. They charge 4 percent if you meet your funding goal or 9 percent on the money you raise if you do not reach your goal. Both have third party processors that charge at least a 3 percent fee. The big question is: how do all those potential donors know about you and your project? You have to work the social websites, friends, family, and any forms of communication that you can think of to let them know. There are terrific stories on the Internet from people who have raised money. They have another thing in common, though. It is a lot of work!

Veteran documentary filmmaker Jennifer Fox raised over $150,000 for her latest project *My Reincarnation*, a portrait of a High Tibetan Buddhist teacher and his Western-born son. She had
518 backers, donating an average of $290 per person. Jennifer Fox told The Hollywood Reporter that it wasn't easy. You need to have a carefully orchestrated campaign with compelling marketing hooks. Irish filmmaker Alexandra Guinness told screendaily.com that she raised initial money for her film Lotus Easters that premiered at the Tribeca Film Festival in 2011 through a crowdfunding model. “The website and the crowdfunding model got us a small investment at the beginning to keep going, and it raised the profile and let people know we were there.”

**Presales**

There are two main activities at markets like AFM and Cannes: seeking presales for as-yet-unmade films in order to finance production, and selling finished films. We are concerned here with the former. The seller (you or your U.S. distributor) has a booth or room and entices the buyers from each territory and medium (theatrical, DVD/Blu-ray, VOD, satellite, broadcast, and so on) to buy the ancillary rights (domestic or foreign) to your film in advance. (This is also called a prebuy.) In return, you receive a commitment and guarantee from the prebuyers. The guarantee includes a promise from that company to pay a specific amount upon delivery of the completed film. If deemed credible by one of several specialized entertainment banks that accept such “paper,” the contract can be banked. Then the bank will advance you a sum, minus their discount amount.

In exchange for the presale contract, the United States or foreign buyer obtains the right to keep the revenue (rentals) from that territory and might also seek equity participation. The agreement can be for a certain length of time, a revenue cap, or both. The time period can be anywhere from 5 to 15 years, with 7 being customary. The biggest issue on a presale is to try to have name talent attached. At least talent that has marketability in the territory that the presale is coming from. The presale will not be in the form of a check, but a loan guarantee to take to a bank. Since a presale will not generally cover the entire budget, you may have to have equity for the balance of the budget.

Many filmmakers are under the impression that “in perpetuity” (forever) enters into this negotiation. These terms are not unheard of, but they are more likely to surface if you are transferring the copyright, or ownership, of the film. There is nothing to keep people with money in their hands from demanding as much as they can get. The buyer tries to make the length of time as long as possible, and the seller tries to make it as short as possible. Be careful of the stance you take. Some foreign companies have told me that if the filmmaker balks at 7 years, they will change the term to 10.

The “revenue cap” is a certain amount of money in sales, up to which the buyer gets to keep all the money. When negotiating these terms, buyers try to estimate the highest amount that the movie will make and then try to make that amount the cap. After the revenue cap is reached, the seller may start receiving a percent of the revenue or may renegotiate the deal.

Being the sole source of financing gives people much more power than if they are one of a group of funders. Yet any of these negotiations still depend on the “eye of the beholder.” Any leverage depends on the desire of the buyer for the film.
Advances

In the past, cable, home video, and television syndication companies were major sources of production financing. Through advances, they funded all or part of a film’s production in exchange for an equity participation and the rights to distribute the film in their particular medium. Although advances do not occur as frequently as they did in the early 1990s, particularly in video, they are still a potential form of production financing. As noted earlier, most domestic distributors prefer not to see fractionalized rights.

Always weigh this fact against the benefits of having an ancillary company as your main investor. The advance for a finished film is another matter. It may be a total buyout, have a revenue cap, or combine any number of characteristics common to presales.

Advantages and Disadvantages

The primary advantage of presales is that they offer you the chance to make your film. This source of money continues to be a workable one for new filmmakers. In addition, if you manage to reach your production goal over several territories, it lessens the impact that someone else can have on your film. Presumably, the fewer territories in which you presell or from which you receive advances, the more money you will be able to keep on the back end after distribution.

There are two disadvantages to this source of funding. First, you sacrifice future profits in order to make the film. Selling your film in advance puts you at a negotiating disadvantage. Companies that use presale strategies often give away much of the upside cash flow and profit potential from hit movies. Second, not all paper is bankable. You have to do a lot of research before accepting this kind of contract. Things change quickly, particularly in difficult economic times.

U.S. Film Incentives

Federal Film Incentive

In 2004, Congress passed the American Jobs Creation Act. Section 181 of that act provides for an incentive for film and television productions. Attorney Hal “Corky” Kessler of Deutsch, Levy & Engel has contributed the following explanation of the incentive (and the Jump Start Act). Under Section 181 of The American Jobs Creation Act, 2004, any taxpayer, company, or individual who invests in a qualifying film or television project under the act can deduct 100 percent of the investment as a loss in the year or years the money is spent. Regardless of budget, filmmakers can take advantage of the first $15 million (or $20 million in specific depressed areas). For television, it is either $15 or $20 million per episode for the maximum of 44 episodes. The triggering effect is when the money is spent.

On February 9, 2007, under the IRS temporary rules and regulations, the IRS answered many of the outstanding questions and concerns. It stated that Section 181 deductions may be taken only by the owner of a production, including pass through entities, who received investments from investors. The investors, who had no active participation in the production or were not a part of the production company, could only take their loss under Section 181 as a passive loss and not against ordinary income. The IRS temporary rules and regulations also stated, for the first time, that all contingent compensation, (residual or otherwise), when paid became part of the production budget.
Section 181 said that each qualified film or television project can expense out to the taxpayer investors an amount up to a maximum of $15,000,000 per film or $20,000,000 per film if a significant amount is filmed or paid in a low-income state. In television, the amount allowed to be expensed out to the taxpaying investors is up to a maximum of $15,000,000 or $20,000,000 per episode for up to 44 episodes. The original act was extended twice with the last extension ending in December 2011. The incentive still applies for any films that were qualified through appropriate methods before the Act expired. Any buyer of a certified 181 film project, wherein the copyright and all intellectual property is transferred to the buyer, can now receive new 181 benefits for the amount paid for and any finishing funds.

In May 2012, Congressman David Drier introduced a bill into the House of Representatives (H.R. 5793) “to amend the Internal Revenue Code of 1986 to extend the election to treat the cost of qualified film and television productions as an expense which is not chargeable to capital account. H.R. 5793 would amend the Internal Revenue Code of 1986 to extend the election to treat the cost of qualified film and television productions as an expense which is not chargeable to capital account.” The bill would extend 181 until December 31, 2013. It was referred to the House Ways and Means Committee. With the house bill number, you can track the bill on the Internet. I will post any updates on the book’s companion website.

Section 199

In addition to the tax reduction incentives under Section 181, the income received also has some tax reduction opportunities under Code Section 199 which was also added by the Act. Under the manufacturing sections of the Act, film production businesses are considered “manufacturing businesses.” From 2010, manufacturing businesses can deduct from their qualified production activities income an amount equal to 9 percent of such income. This deduction may also apply to television productions. For example, if $100 is received after 2010, then the taxable income would be $91. A film could qualify under both sections. However, even if a film does not qualify for income tax benefits under Section 181, the film may be a “qualified film production” pursuant to Section 199 if (a) direct labor and overhead costs incurred within the United States account for 20 percent or more of the total costs of the film, and (b) 50 percent or more of the total cost of the film is spent on services performed in the United States. In addition, expenses incurred in Puerto Rico are allowed to take advantage of Section 199.

State Film Incentives

Currently, 37 states and Puerto Rico have incentives for certain qualified films. The incentives vary from rebates, tax credits for the film company, transferable tax credits (for local individuals/companies enabling them to deduct all or a portion of their investment in the film), and other refunds of expenses. What line items are covered (salaries, below-the-line production spending) and the amount of the incentives (normally expressed as a percentage of the costs covered) differ from states to state. As states have been very competitive in trying to draw films to their communities, similar legislation is being drawn up in many of the remaining states. In addition, some states have assigned all their money for the next two to three years. If you know in which state(s) you want to film, go to their website to check all the details of the incentives. Print off the files and go over them with your line producer/unit production manager (UPM) and your
attorney to see if the fit is good for you. If you aren't familiar with which states have incentives, consult the website of the Association of Film Commissioners International (http://www.afci.org).

A checklist of items to consider:

1. When will the incentive be paid? Most states do an accounting at the end of production before agreeing to a specific dollar amount; therefore, you need to raise your entire budget before you start filming.
2. If bringing crew from another part of the country is necessary, how does that cost mesh with the amount of incentive you hope to receive?
3. What has been the experience of other filmmakers dealing with the state’s incentive regulations?

**Jump Start Act of 2012**

**Crowdfunding**

On April 5, 2012, the Jump Start Act, 2012, was signed into law. It consists of two distinct sections. The first is the Crowdfunding portion. This is Crowdfunding as an equity investment. Under the new laws, any new security created like an LLC is considered a new business; and, as such, if you have a Private Placement Memorandum and Limited Liability Documents and you are trying to raise $1 million or less ($2 million is some cases), you can now for the first time in the history of the SEC publicly solicit, market, and advertise your investment documents and investment opportunities. You can have unaccredited investors and accredited investors. For unaccredited investors, the limit is 35 and no investor can give more than the greater of $10,000 or 10 percent of their annual income, whichever is less. However, the investments must go through as SEC approved portal. The SEC is setting up the rules for same and portals must be first authorized by the SEC. When those rules are available, they will be posted on the book’s companion website.

**New Business**

Under another section of the act, there is no dollar limit of the capital raise amount if you offer an investment only to accredited investors. You can publicly solicit, market, and advertise your investment documents and investment opportunities if you have Private Placement Memorandum, Limited Liability Documents and only offer the investment opportunities to accredited investors. The SEC will publish guidelines as to the level of due diligence to confirm the accuracy of any such claimed accreditation.

**Negative Pickup**

In the days when film companies had more cash, there were many negative pickups. The premise is that a studio or independent production company promises to pay the cost of the film negative (production costs) upon delivery of the completed picture. This agreement is taken to the bank, which then provides cash for production at a discount to the total value of the agreement. A discount is a reduction in the stated value of the note.
The Catch-22 here is that the bank has to believe that the studio or distributor will be able to pay off the loan upon delivery of the film (often a year from the date of the agreement). In the past, this was not as difficult to do as it is now. In the late 1980s, banks could count on the Majors, a few of the mini-Majors, and a very small number of distributors to make good on negative pickups. The entire situation has changed in the past several years. The financial problems of many of the large production companies are well known. In addition, the troubles and, in some cases, complete Section 199 collapse of many financial institutions have created an even more dismal picture. Nothing can be taken for granted. Although there are still companies that will give you negative pickups, this is not a financing strategy that I would count on. As with distribution deals, show the documents for your negative pickup to a bank to see if the deal is acceptable.

**Advantages and Disadvantages**

One advantage of negative pickups is that the film is made without giving away a share of the company to someone else. In addition, a negative pickup with a major studio or distributor removes the angst of searching for a distributor.

On the other hand, the standard negative pickup agreement contains two loopholes that favor the distributor. First, the agreement has a built-in escape clause that says, in effect, “You must deliver the film we were promised.” Any change in the script, even if it seems minor to you, can cause cancellation of the contract. Second, the contract also states that the finished film has to meet the distributor’s standards of quality. Even if the movie is, shot-for-shot, the same as the script, the distributor can always say that the film’s quality is not up to standards.

**Limited Partnerships**

Until the mid-1980s, limited partnerships were all the rage. Subscribers could deduct losses calculated at many times the amount of their original investment; taxwise, therefore, the losses sometimes were more beneficial than making profits. In 1986, the Tax Reform Act removed most of these benefits, however, and now the investors have to pray for successful films.

A limited partnership has two kinds of partners. The general partner has unlimited liability with respect to the obligations of the partnership and is active in management. The general partner chooses the investments and does not have to ask for the advice or agreement of the other partners. The limited partners, who provide all of the capital, share any profits or losses and are not actively involved in management. In addition, their liability is limited to the amount of their investment. Gains and losses flow through directly to the limited partners.

A public limited partnership must be registered with the SEC, and in the case of a public or private limited partnership, there must be a properly prepared prospectus that includes all the facts about the partnership. The overall package should include a business plan (be still, my heart!) and offering with subscription documents.

**DO NOT WRITE YOUR OWN LIMITED PARTNERSHIP.** In order not to pay attorneys, film producers are fond of cutting and pasting someone else’s partnership agreement. I think I just emphasized that this is a bad idea. When it comes to fraud, working with unofficial documents is only
one aspect. Any misrepresentation about the company’s plans also constitutes fraud. The SEC and the Internal Revenue Service are not known for their sense of humor, and ignorance is not an acceptable defense.

Advantages and Disadvantages

On the plus side, the limited partners have no right to interfere with the creative process. Private placements provide a means to raise funds from multiple investors without having to negotiate different deals with each one. The subscription documents contain all the deal information. There are disadvantages as well. Because of the complicated nature of all SEC regulations and the differences between public and private offerings, participating in one of these formats requires research and expert advice from an attorney. The law is complex, and ignoring any filing regulation (each state has its own requirements) may bring an order for you to cease and desist in your sale of the offering. Another disadvantage is that the producer or the purchase representative must have a previous relationship with the investor before approaching her with a specific offering.

Limited Liability Companies

In the past few years, a new financial structure, the LLC has become widely used. LLCs are a hybrid combination of the partnership and corporate structures. They are an attractive alternative to partnerships and corporations because the LLC provides limited personal liability to the investors, who are referred to as “members.” They have a share in the profits as outlined in the offering document.

The LLC also provides a single level of tax. In the standard limited partnership, general partners (read “filmmakers” here) have personal liability for partnership debts, whereas limited partners in an LLC have no personal liability. Theoretically, the worst thing that happens is that they lose their investment. In addition, the limited partners cannot participate in management without jeopardizing their limited liability status.

In addition, an LLC member can participate in the entity’s management without risking loss of limited liability. For federal tax purposes, the LLC generally is classified as a partnership. The same is true in most states—the operative word here being “most.” I have clients who have formed an LLC in Michigan, for example, but not in Florida, where the LLC is taxed as a corporation. As there is no uniformity in the LLC statutes across states, creating an LLC with members in more than one state may be complicated.

The same rule that I stated for limited partnerships exists here: DO NOT WRITE YOUR OWN. Can I say that too often? From what I have seen, the answer is a resounding “No!” When you hire an attorney, however, be sure that he is someone with experience with both film and the particular form of Investor Offering that you are using. You do not want to pay for an attorney’s learning experience.

When pass-through of revenue is of primary concern, strict conformance to IRS and state revenue accounting criteria should be considered before the LLC is chosen over other organizational structures. With new tax credit schemes (both state and federal) appearing on a regular basis,
you also may need to consult with a CPA familiar with IRS statements.

Austin- and Los Angeles-based attorney Michael Norman Saleman prefers the limited partnership structure to limited liability companies (see later in this chapter). As he explains:

The reasons that I prefer the limited partnership to the LLC have to do with the fact that the law does not adequately protect the LLC Member investors by limiting them to their investment as the total amount of their potential losses, as it does for the limited partner investors in a limited partnership. For example, California law creates personal liability for LLC members if the LLC “veil” of protection is pierced, in the same manner as a corporation. That cannot happen to a limited partner. Also, there is nothing in the law that separates the control of the business from the managers and the members in the LLC as it does between the general partner and the limited partners in a limited partnership. In a limited partnership, should the limited partners attempt to involve themselves in the day-to-day operations of the partnership (i.e., production of the film), they would, by law, run the risk of assuming unlimited liability. With this safeguard in place, the producer may make the picture without having to worry about investor interference or attempts to wrest the production from the producers.

The LLC has become one of the most favored business structures for independent film investment. Producers frequently set up their own production companies separately as closely held corporations in which investors do not participate. LLCs are a hybrid combination of the partnership and corporate structures. The LLC is an attractive alternative to partnerships and corporations because the LLC provides limited personal liability to the investors who are referred to as “members.” The LLC owns all distribution rights to the film, and investors have a share in the profits as outlined in the offering document. The LLC also provides a single level of tax like a partnership, however, unlike a formal partnership the filmmakers as managers of the LLC have no personal liability for business debts. The worst case for investors is the loss of their investment but there is no liability for any business debts. Limited partner investors cannot participate in management without jeopardizing their limited liability status, but if an investor becomes a manager, the member can participate in the entity’s management without loss of limited liability. For federal tax purposes, the LLC may elect at the time of its formation to be treated as either a corporation or a partnership. Most states afford the same tax treatment to an LLC as its federal status. The operative word here is “most.” As there is no uniformity in LLC statutes across states, creating an LLC with members in more than one state may be complicated.

The same rule that I stated for limited partnerships is applicable to the formation of an LLC. DO NOT CREATE YOUR OWN. The Operating Agreement for an LLC, which governs its business operations, is a complex document far more complicated than simply filing basic Articles of Organization and must be drafted with the assistance of legal counsel and often accounting advice.

**Being Fair to Your Investors**

When people invest in an LLC or a limited partnership, there is a payback schedule that is agreed to by both the filmmaker and investors. The investment agreements that are included in the financing package include the budget that you have prepared. Production Attorney and Producer William L. Whitacre of Orlando, whose clients include Haxan Films (*The Blair Witch Project*) Company, says:

In a limited liability company investors are passive; however, once the investment structure is determined and funds have been accepted, there can be no change in that structure,
since doing so would dilute the interests of the initial investors. Accordingly, it is extremely important to budget accurately in the beginning, and to establish an investment structure that will get you to the finish line (including postproduction and completion of an answer print or master) before accepting investment funds into a limited liability company, since your only alternative to raise additional capital would be to sell your own Producer’s shares.

BANK LOANS

Bank loans are not associated with business plans per se. However, this discussion focuses on what you will tell potential investors, and bank financing may be relevant to your situation.

Banks are in the business of renting money for a fee. They have no interest in the brilliance of your potential films; they do not care that you are a nice person and have a sparkling reputation. By law, commercial banks (the ones that give you checking accounts) can only lend money based on measurable risk, and the only credit they can take is the collateral, or the assets being offered to secure the loan. The contracts that have already been discussed—negative pickups, distribution agreements, and presales—are such collateral (assets offered to offset the bank’s risk). The bank does not have to worry about when you deliver the film or how the box office performs; it is the distributor who has that worry.

The cost of the loan is tied to the prime rate, which is the rate of interest that banks pay to borrow from the Federal Reserve. It is a floating number that may fluctuate significantly. Home lending rates, also based on the prime rate, are a good example. When the prime rate falls, everyone rushes to refinance their mortgages. In most commercial lending, loans to “low-risk” firms (e.g., major studios) can be 0.5 to 1 percent above the prime rate. On the other hand, a small production company, which represents a higher risk, would pay up to 3 percent above prime. Let’s say that the bank is going to charge 2 percent points above prime and that prime is 9 percent. The total would be 11 percent. On a $1-million loan, therefore, the bank removes $110,000 ($1 million multiplied by 0.11). To hedge their risk, the bank also retains another 1 or 2 percent in case the prime rate goes up. If the bank charges 1 percent, another $10,000 is added to their retained amount. Now you are down to $880,000 for the film. The bank is not through with you yet, however. It also charges you for its attorneys’ fees, which can range from $15,000 for a simple contract to six figures if several companies are involved. Of course, you will still have to pay your own legal fees.

Once again we come back to the subject of attorneys. The one who represents you must know the ins and outs of all these contracts, so you should hire an experienced entertainment attorney. Costs go up drastically if your attorney is charging you an hourly rate to learn how the entertainment industry works. General corporate attorneys may mean well, but they can be an expensive choice.

Advantages and Disadvantages

The first advantage of bank loans is that the producer is not personally liable for the loan; the bank can’t take your house. A company is established for the production of the film, which is its
only asset. In addition, many producers prefer to pay back a loan rather than give up equity. On the down side, the process to obtain a loan is expensive, and several parties and miles of paperwork are involved. Also, if the distributor defaults on the loan, the bank takes possession of the film.

**COMPLETION GUARANTORS**

Misunderstood by neophyte filmmakers is the role of the completion guarantor. This is not the person you go to for the rest of your production money; the guarantor’s role is to provide an assurance that the film will be completed and delivered to the distributor. The contract with the producer or distributor allows the guarantor to take over the film to complete it, if need be. For the bond itself, the guarantor charges a fee based on the film’s budget. The charges have been flexible over the past few years, depending on the state of the completion business. The bond is not issued until after funding is in place, however, and this fact is often difficult to explain to investors. To make matters worse, small films have trouble getting bonded anyway. The risk is too great for most guarantors to bond low-budget films. In the past few years, several of the biggest bond companies lost their financing from insurance companies when high-budget films failed. The active companies had their hands full with major productions, leaving them little time or inclination to consider your $1-million film. New companies have come into the market, making the completion bond more accessible for some smaller films. However, their staying power depends on the insurance companies that back them.

In many business plans for low-budget films, I no longer mention a bond, as I know they have no chance of getting one. Bonders seem to be constantly going in and out of the market and changing their requirements. Check the market before deciding what to say in your business plan. One suggestion is that you say you will “seek” a bond. If you say that you “intend” to get a bond, it implies a promise to the investor. Never promise what you don’t already have, whether it is a financial document, an actor, or a director.

A completion bond is always desirable to protect both you and your investors financially. Accidents and bad weather can happen, but investors have the right to decide what exposure they want to have. As always, honesty is the best policy with your investors and yourself.

**INTERNATIONAL INVESTORS**

We hear a lot about European and Japanese investments in the American film community. In the early to mid-1990s, most of the foreign money went to studios or the formation of large production companies with experienced studio executives; $100 million was a favorite start-up amount. From the late 1990s to 2002, German investment funds grew like crazy. Investors looking for prestige, profits, and extraordinary tax breaks began funding as much big-budget output as they could. Some funds existed to fund studio films; others financed independent companies, such as the UK firm Intermedia (Iris, K-19: *The Widowmaker, The Quiet American*). As some high-budget films failed and the economy started to collapse worldwide, many of these funds closed. However, new ones came along to take their place. Any detail presented here would be out of date before you bought the book.

Generally, this money doesn’t go to novice filmmakers. In tracking foreign money, you often run into finders who claim to have a special relationship with foreign money. Some do, many do not
Remember to check these people out. A finder should be paid a percentage of the money you receive from the investor, and only after the cash is in your bank account, as in any interaction with an intermediary. And, at the beginning of this journey, ask how many people there are between the finder and the money. If that person is going through two other people to obtain the money, have them agree to split one fee. For example, if your finder’s fee is 5 percent, then all three split that money; otherwise, you are paying 15 percent in finders’ fees. Naturally, this is always your choice. But don’t get backed into a corner to pay out three times what you intended simply because you didn’t get the facts straight upfront. And I can’t stress enough, do not give them any money in advance.

**International Coproductions**

International coproduction deals are the result of treaty agreements between countries. Qualifying films are permitted to benefit from various government incentives provided by the country in which production will take place. However, coproduction agreements are not a charity event. A number of requirements may be imposed on the film by government treaty, including the following:

- The producer must be a resident of the host country.
- A certain percentage of above-the-line talent must come from the host country.
- A certain percentage of the technical crew must be residents of that country.
- Distribution must be done by a company located in the host country.
- A percentage of the revenues from the film must remain in that country.

**Advantages and Disadvantages**

The first advantage of coproduction is that the total budget may be smaller because of the advantages of filming in a cheaper locale. Second, because of the readjusted budget, you will have to find a smaller amount of hard cash. The right deal will cover most, if not all, of your below-the-line costs. Many films would still be only a gleam in the producer’s eye if part of the actual cash burden had not been removed by a coproduction deal. In terms of disadvantages, you will still need to have hard cash for the above-the-line payroll—that is, the cast, director, writer, and production office staff. No film is made without these people, and they will not take IOUs, although some take deferred salaries. Another disadvantage is that finding enough skilled personnel in a host country could be a problem. If you end up having to fly key technical people from the United States to another country, you may end up with a budget burden that offsets the advantages of the coproduction deal.

**EUROPEAN FINANCING**

This separate section is courtesy of Thierry Baujard, Peacefulfish, a consultancy for financing the content industry in Berlin, Germany.

In Europe, coproduction is the most used option to finance projects within a country or with other countries. The term can be misleading as coproduction can simply be a collaboration between two companies or a collaboration that follows very strict rules that are indicated in an official contract between two or more countries.
This chapter is trying to give some background information and issues on how to develop co-production financing in Europe for independent producers. Peacefulfish, a consultancy based in Berlin, Germany, can help you better understand the process, identify the right partners to raise the money, and develop the right business and finance plans that will make the most of the coproduction opportunities in Europe.

Coproductions

One way to finance your film is to look for a coproducer. Coproduction means sharing production costs, rights, and profits with another production company either from the same country or from a foreign country. In the case of a foreign country, there are two possible reasons: either the coproducer can access additional funding in the form of public subsidies such as grants, interest-free loans, or tax incentives, or the coproducer offers very low production costs.

If the main goal is to access public funding in the foreign territory, then there needs to be a co-production agreement or a treaty between your country and the foreign one. Regarding Europe, there are two types of agreements to keep in mind: the European convention and bilateral treaties.

European Convention on Cinematographic Production

Note that the Council of Europe (COE) is not the European Union (EU)/European Commission; these are two completely different organizational entities."

The European Convention aims to support European coproduction by enabling a film production to benefit from all national supports available through the participating producers. There have to be at least three established producers from different countries. Only these countries are relevant, which have ratified the Convention. If a producer from a nonmember country is involved, her contribution must not be more than 30 percent of the total budget.

Public Subsidies

In Europe, subsidies are playing a key role in film production. There are state-funded grants on three levels: the European level (provided by the EU and the COE), national level, and regional level. Subsidies have to be applied for and are granted if a project is approved by a board or commission depending on business and creative criteria.

European Level

At the European level, there are two relevant schemes: the MEDIA 2007 program (EU, duration 2007 to 2013) and EURIMAGES (Council of Europe). The EU is a community of currently European member states that collaborate to a level where some national sovereignty is handed over to EU bodies in order to make democratic decisions on specific matters of joint interest. The COE is an organization of currently European states that aims at increasing the awareness of a European identity and providing control and monitoring for human rights and democratic processes. The COE has no legislative powers. The MEDIA 2007 program supports the audiovisual industry in Europe in the areas of training, development, distribution, promotion, and cinematographic festivals. For aspiring filmmakers, the areas of interest are mainly support for development.
To be eligible for support, the applying company has to be registered in a country that participates in the MEDIA program. Currently, the MEDIA 2007 program has 32 members. The scheme could therefore also work for non-European companies in case they enter into coproduction with an eligible company. Apart from geographical eligibility, there are also requirements regarding the existence of the applying company (registered for at least 12 months) and proof of previous experience. However, there are no specific requirements of a company’s turnover or profit. The amount of support granted can be up to 50 percent or even 60 percent of a part of the budget, depending on the kind of support and the respective threshold. For application forms as well as more information and deadlines, visit the EU’s MEDIA website at http://ec.europa.eu/.

EURIMAGES is a funding program initiated by the Council of Europe aiming to support coproduction, distribution, and exhibition of European cinematographic works. Support is divided between coproduction, distribution, and exhibition for feature films, documentaries, and animation projects of at least 70 minutes in length. To be eligible for coproduction support, the project needs at least two producers from different EURIMAGES member states and has to have a European origin. Financially that means that at least 51 percent of the funding has to derive from EURIMAGES member states and no more than 30 percent of the funding can originate from non-European sources or one non-EURIMAGES country. For filmmakers outside EURIMAGES member countries, this means that the program becomes only of interest in the case of minority a coproduction. For more information, visit http://www.coe.int/Eurimages.

**National Level and Regional Levels**

Throughout Europe, most countries and many regions within the countries provide state support for the audiovisual industry. Foreign filmmakers can benefit from these support schemes through being part of a coproduction with one or more of these countries. If the participating countries have agreements with one another, national subsidies are accessible for international coproductions as well. In the following, different schemes are outlined based on their support budget, eligibility and selection criteria, funding aspects, and recoupment strategies. As with the U.S. state incentives, these change too frequently to detail in the book. You can use the Internet for up-to-date information. However, I would suggest working with a consultant like Peacefulfish to understand the complexities in each deal.

**Banking**

Only the five big European countries have developed film banking markets: France, Germany, United Kingdom, Spain, and Italy. The main film banking services that are provided are Interim Finance, Tax-Incentive Financing, Gap Financing, Working Capital/ Corporate Finance, and Bank Guarantee. On a European level, there is a development, which sees the European Investment Bank getting involved in film financing. So far, it is active in France, but support for specialized banks in other European countries is possible.

**WHAT YOU NEED TO KNOW**

Before looking at an example with some numbers, here is a list of questions you may like to consider when looking at coproductions:
1. Where is the main production company located? If you are located in the United States, consider coproducing with Canada, since Canada has a range of agreements with European countries.

2. Is your country part of a bilateral agreement of a European country or member of the European Convention on Cinematographic Production?

3. Is your country part of the EU?

4. Has your country signed the EURIMAGES agreement?

5. Are there national subsidies in your country?

6. Are there regional subsidies in your country?

7. Are there tax incentives in your country?

8. Are there broadcasters involved in presales or coproduction in your country?

9. Are there banks specialized in film financing in your country?

10. Which countries are most promising in entering into a coproduction with (choose your candidates and go through the previous questions for each of them)?

**CASE STUDY OF A FICTIONAL FILM**

Our fictional film project involves four production companies from France, Germany, Canada, and the United States. The budget is EUR 4 million. As in every coproduction, be it national or international, involved companies have to decide on their individual share of rights, territories, profits, recoupment positions, revenue corridors, etc. In a traditional coproduction, the coproducer from a certain country normally received the rights for that particular country and neighbor countries using the same language. The coproducer can also look for distribution (theatrical and TV) in the country.

France and Germany both have a bilateral agreement with Canada and are members of the European Convention on Cinematographic Production. The bilateral agreements and the convention secure the same option: to benefit from the coproducing countries' national supports. But if the convention is applied, the share of the total budget (and thus shares of rights, profits, etc.) for the United States and Canada can only be up to 30 percent (EUR 1.2 million). Through the coproduction treaty, you will be able to access funding from the other country.

That might not be enough considering the efforts such a multi-national production causes. However, even under the bilateral agreements with European countries, the obligation is that the majority needs to be held by European producers.

France and Germany are both part of the EU as well as members of EURIMAGES and are thus eligible for European subsidies. Both have national and regional subsidies. France has a tax shelter and two tax credits. Germany has the German Federal Film Fund. Both countries have cultural tests linked with their subsidies. The German-French broadcaster “arte” could be involved in presales or coproductions. France and to a lesser degree Germany have banks involved in film financing.

This is only a very rough idea of the complexity of international coproductions. There are extensive rules and obligations for each country referring to each financing tool. Due to local spend, majority requirements and cultural relevance finance might not be as easy to get as it seems at first glance. Many funds on a national level are selective aids; however, this can also be an
advantage for producing in Europe since funding is not primarily aimed at commercial projects.

In addition, there are excellent production facilities and professional staff capacities available in Central Europe for a fraction of the price of the ones in established countries. If you are going to produce in or with Europe, it will be wise to get some professional help in dealing with the business plan, the financing strategy, and the legal aspects involved, as well as to benefit from an already established network of contacts in the European film industry.

For more information, please log on to http://www.pecefulfish.com or contact thierry@peacefulfish.com.

WHAT DO YOU TELL INVESTORS?

A section on financing assumptions is required as part of your business plan package. Give investors only relevant information, not everything in this chapter. Based on the assumption that your readers are not film sophisticates, you should explain what constitutes a presale agreement, a negative pickup, or whatever form of financing you will pursue. Be prepared to answer investors’ questions.

They may ask you about the forms of financing that you have not included. You should be conversant enough with the pros and cons of various strategies to explain your choices intelligently. As mentioned earlier, it is unproductive to include financing methods that you do not plan to use. If you plan to use a limited partnership, for example, the business plan will be part of the offering; otherwise, there is no reason to discuss this form of financing. To do so would be to create a red herring for investors, confusing them with a nonexistent choice.

Along the same lines, you should be careful about considering options that may no longer exist. What Canada or Australia is doing in 2006 may not be relevant in 2008 or later. Financing patterns, like everything else in our culture, can be in or out of vogue from year to year. It is important to keep current with the business climate through the trades and other sources while writing your plan.
This chapter reviews the primary processes of motion picture financing. It explores the many sources most-often participating in this funding process. Further, it demonstrates how balanced producers use their bank relationships to provide capital through financing collateral instruments that include production incentive programs, licenses, and presales, as well as to provide gap financing.

Beginning with the end in mind is a life practice of many successful people. Creating each picture's unique financing architecture from today's broad variety of financing sources, and using a bank as a financing participant with a strong entertainment department to aggregate capital and finance sophisticated collateral, provides producers with a solid plan to which they can subscribe contributors.

Establishing a fully functional independent production entity involves (1) understanding the formidable challenge of financing each unique project, (2) being committed to producing pictures that can fulfill their creative impact, and (3) structuring financing so that each picture fulfills the investment return objectives expected by financing partners. It also includes knowledge of and access to the many foundational production financing sources and having a relationship with a bank able to provide full entertainment services to exercise these relationships.

Although it is less expensive, motion picture development is usually more sophisticated, takes longer, and is a less predictable process than motion picture production. Consequently, motion picture development is typically financed separately from production financing. This process is reviewed in Chapters 11 and 12.

Perhaps not since the beginning of the motion picture industry has motion picture production and distribution financing been as challenging and sophisticated to secure. The restriction of bank credit facilities around the world has limited the typical capital resources for motion picture projects, from multi-national entities to high-net-worth individuals. Fortunately for producers, the performance of the entertainment industry, despite the recent overall credit crunch, remains buoyant, in stark contrast to most other industries. Though some sectors within the industry have fallen (mostly because of the pervasive Internet, the ever-easier consumer consumption of digital media, and the emergence of streaming and downloading movies and television through iPods, iPads, iPhones, Xboxes, PS3s, and numerous other devices), the overall income from a motion picture has remained steady throughout the breath-catching contriction of major world economies.

Each year, an increasing number of motion pictures are entirely financed by private investors. Some of these pictures are from solid independent producers who smartly prepare their pictures' release, as well as their production. However, private financing is (1) often the most expensive cost of money, (2) provides no creative or marketplace check and balance for the producer, and (3) is often a sign of the producer's lack of business sophistication.

Fortunately, today's producers have a broader array of production financing sources available to
them than ever before in motion picture history. In addition to private investors, these sources include the following:

• Production incentive programs (see Chapter 7).
• International territory presales-A presale is a contract whereby a distributor agrees to buy or license certain rights in a specific territory for the film for a preagreed amount of which typically 10 percent to 20 percent is payable upon signing and the remainder upon delivery.
• Ancillary presale-Like an international presale, but with an ancillary participant such as television or electronic game.
• Gap financing-Estimates from a qualified/bankable international sales agent on the value of each international territory, not presold, is discounted by the bank (typically to 50 percent of its value) and is loaned to the producer (some banks have a maximum of $2.5 million or 20 percent of the budget, whichever is less).
• Talent profit/equity-Key talent compensation converted to picture profit or equity participation.
• Vendor profit/equity-Commonly referred to as “contra deal,” in which key vendor compensation is converted to picture profit or equity participation.
• Corporate sponsorship or brand tie-ins.

The entertainment lender, the bank, remains the single most important participant when arranging structured financing for production. Regardless of the combination of financing sources, the bank is almost always used for each picture's depository, cash disbursements, and loans against the broad variety of collateral and guarantee contracts. It must be stressed that banks provide loans, not equity capital. They take "no risk," charge interest as well as fees for their services, and expect full repayment within a specific period of time. Every bank financing arrangement requires a completion bond. The two main U.S. based bond companies are Film Finances and International Film Guarantors (IFG). Neither will bond a film whose budget is less than $2 million dollars. Completion bonds are necessary for producers to access presales, gap financing, or other bank collateral sources.

Balanced producers typically receive and exercise most, if not all, of their production financing through their bank. Knowing that a picture's production financing is managed through a bank's full-service entertainment department indicates that the picture's financing has likely been derived from sources that provide the greatest creative and marketplace benefits.

**THE BANKING BUSINESS**

Banks are often referred to as institutions. They are certainly governed by more agencies than most other businesses, but banking is a business. Banking decisions are profit motivated and predicated on sound business principles.

Every time the trade papers carry a story stating that a specific bank has supplied production funding to an independent producethat bank's entertainment department receives calls from naive producers. They set up appointments and arrive. Manned with a script and a budget, ready to pitch to the bank as if it were a studio or an equity financier. But banks make decisions with different criteria than those used by studios.

Knowing someone at a bank, like knowing someone at a studio, is helpful, but it has little effect on the bank's lending decisions. The similarity between banks and other financing sources is
that to obtain their support, it is critical to understand their unique criteria for making decisions and the way in which they operate.

Every bank’s inventory is its money. Banks principally earn profits by lending this money at interest. Like most businesses, banks sometimes have shortages or excesses of inventory. Though lending decisions have limited elasticity, when a bank’s lending reserves are low, its lending decisions become more restrictive. When lending reserves are high, its lending decisions are more relaxed. It is an important question, and proper form, to ask your loan officer the status of the bank’s current lending reserves.

Banks with strong entertainment divisions will always have the capacity to lend, even if they are not primarily lending their bank’s funds. If the division is making good” loans, then the loss ratio is low, the loans serviced according to terms are high, and overall profits are high. With a strong loan portfolio, these divisions can perform as the lead (syndicating) bank with other participating banks, as well as engage other outside lending-capital scenarios.

When choosing the lead bank that will manage your production borrowing, dealing with one that has a sound, experienced entertainment banking team is very important. Bank lending in most markets is very conservative, as banks typically lend only on premium collateral. When business losses in general are high, commercial and personal savings and average daily balances reduce. naturally restricting lending and tightening lending criteria, as was the condition in most global markets in 2008 and 2009. Under these conditions, it is all the more crucial for producers to follow the funding planning and documentation set forward in this chapter.

As of January 2010, there are only five major banks with entertainment departments active in motion picture financing: Comerica, Union, National Bank of California, Bank Leumi, and JP Morgan. All of these are active in the United States.

Each bank has loan amount preferences. There are small banks seeking loans in the six- to low-seven-figure amounts, midrange banks seeking loans in the seven- to low-eight-figure amounts, and more sophisticated banks seeking loans in the mid-eight- to low-nine-figure amounts. It is important to know a bank’s loan size criteria.

**BASIS OF LENDING DECISIONS**

Banks make their lending decisions based on a combination of elements that must be represented clearly and completely in the loan package presented in this chapter. For loan approval, the loan package must demonstrate that the bank has collateral assurance for its return of principal, fees, and interest and that the loan can be reasonably debt-serviced through the production company’s regular course of doing business.

The ultimate assurance of repayment to the bank loan is the strength of the producer’s pledged collateral. Collateral alone, however, is not sufficient for loan approval. Banks do not want to lend if there is even a modest probability that they will be forced to call on collateral to recover a remaining amount due. Producers must demonstrate their ability to produce on budget and on schedule as assured by a completion bond, which is part of the loan package.

Each loan memorandum submitted to a bank should include, and its approval is substantially determined by, the following items.
Cover Letter

This letter provides a brief summary of all elements in the bank package. It describes the production company, a brief description of the motion picture being produced, the requested production loan amount, the expected interest rate, the production timing and loan term, and the plan and timing for loan processing. The collateral is summarized and may include (1) production incentive program(s) and their portion of production budget contribution; (2) writer, director, or actor payment offset for profit participation or picture (special effects) equity ownership; (3) SFX (special effects) entity or other production participant payment offset for larger payment from profits, profit participation, or picture equity ownership; (4) presales and their entities, amounts, and terms; (5) major brand participants and their amounts and terms; (6) gap or other funding requested by the bank and these amounts and terms; and (7) private equity participants and their amounts and terms.

Table of Contents

The pages of the bank memorandum should be numbered, and there should be a table of contents following the cover letter, which will assist the bank in reviewing the completeness of the package and in easily locating information in the memorandum.

Application

The bank’s loan application should be completely filled out, signed, and made a part of the memorandum. Some parts of the application may be referenced by “see page number” if the information is completely set forth in another section of the package.

Activity and Cash Row Projections

Each of these projections should be month-to-month for the first year and cover at least six months beyond the anticipated active loan period. Each of these projections should have narrative “Notes to Projections,” which describe important characteristics about the projections that are not self-evident. The cash flow projection must include the loan proceeds and debt servicing, calculated at the rate represented in the cover letter.

Distribution Windows and Liquidation Breakdown

Summary

This section reveals the picture’s planned distribution windows and a conservative version of the liquidation breakdown estimate, including the producer’s share of gross receipts. This is especially important, in backup to international sales estimates, if the bank is requested to provide gap or related financing.

Collateral

In the initial loan memorandum, this is a descriptive list of the license agreements, international sales estimates, production incentives or equity, brand tie-in relationship(s), talent or vendor offset relationships, private equity relationships, and any other parties associated with providing collateral or direct investments in the project. Even if the bank is not managing these
elements, it and the completion guarantor will need to verify that the production entity has access to the picture’s complete production budget.

**Conditional Documents**
The bank will not take any substantial risk. If the license agreements used as collateral specify any conditions not satisfied by the completion bond, these further conditions must also be satisfied. The most common additional condition in international presale or domestic ancillary license agreements is that the picture must be released in a specific territory (for instance, the United States) by any one of a specified list of distributors. If this is a condition, a copy of the distribution agreement or a binding commitment letter acceptable to the bank must also be included in the loan package.

**Collection Account Commitment**
Often the bank will require that a collection account manager be secured to protect all parties. The collection account manager monitors the revenue collection process, the allocation and payment of revenue, and the exploitation of all potential revenue streams. There are two companies whose services we recommend: Freeway Entertainment and Fintage House. Both have been the collection account manager for hundreds of film and television productions, and 99 percent of the independent world works with them: Woody Allen, Relativity, Summit, Lionsgate, to name a few. The collection account manager computes revenue streams, provides the relevant parties with regular reports, and splits revenues between each party in accordance with the party’s contractually agreed entitlement. Knowing the producer is using a collection account manager provides confidence and security to potential investors, talent, and other profit participants.

**Completion Bond Commitment**
In the initial loan memorandum, this may be in the form of a conditional commitment letter that will be replaced with the bond commitment in the final loan documentation.

**Production Financing Worksheet**
To simplify your understanding, a sample worksheet is included as part of this chapter. To further assist producers in preparing these forms, a worksheet is also included on the website. It includes a financing sources planning section to be filled initially with placeholders of intended participants and eventually with the actual sources and amounts. It also includes an assumption section to list the bank’s interest, fees, and collateral discounts. The main body of the worksheet automatically calculates and fills in, revealing the individual collateral amounts, the respective discounts, bank fees and interest for each form of collateral, each category’s subtotal, the net loan value applied to production cost, and the total gross loan and license proceeds. These are compared with the motion picture’s total production budget (including the completion bond, 10 percent contingency; and reserve for residuals if required by applicable guilds or unions), and a “Yes is revealed when the plan yields sufficient to produce the picture.

**The Picture’s Creative Information**
This section should include the picture’s title, a brief story synopsis, a list of the picture’s primary talent and their referenced credits, the picture’s production dates and locations, and the projected core-market theatrical release date.
Business History
The production company may be new, a resurrection of a prior company, a merger of companies, or something else. Regardless how short or loan the bank needs to know about the company’s genesis and progress.

Principals’ Biographies and Balance Sheets
The operators of the business are a key factor in a bank’s loan review. The bank looks at the experience of those who manage the business and the experience and balance sheets of those who substantially own the business. The bank may not ask for owners to guarantee the loan but the owners’ financial profiles demonstrate their combined experience and success in asset management. This information typically is presented to the bank through brief, but specific biographical summaries and in some instances a recent balance sheet of each individual.

Company Financial
These are the production company’s current balance sheet and, if applicable, a recent profit-and-loss statement. These should be signed by either an in-house accountant or, preferably reviewed and signed by the company’s certified public accountant.

References
This is a list of references that importantly points to the way in which the producer does business and with whom. This list typically includes the completion guarantor (the firm and the producer’s contact); the producer’s law firm and primary attorney; the producer’s current bank and officer; the producer’s accounting firm and primary accountant; substantial trade references and contacts; and clients, studios, distributors, and licensees with whom the producer has dealt, along with each of their contacts.

THE LOAN APPROVAL PROCESS
Producers usually work with a bank loan officer. This officer helps the producer to do the following:

1. Identify the strongest international sales agent and international distribution companies.
2. Complete the loan package. The package must be complete before it can be reviewed.
3. Perform a preliminary review. If the loan package underperforms in the loan officer’s evaluation, it is rejected. Common reasons for underperformance include insufficient or unstable collateral, an unstable management team, or an unpredictable repayment plan.
4. Present the package to the bank’s loan committee. The bank loan committee then reviews the package and approves or declines the loan.
5. Deliver the decision to the producer.
6. Prepare and process the loan documentation.
7. Open the funding facility to the producer.

FINANCE PLAN: PRODUCTION FINANCING WORKSHEET
Starting at the development phase of every motion picture project, the producer should prepare a production financing worksheet that is the basis for the presale plan and the bank financing package. At the development phase, most if not all of it will be estimated. As the producer continues through the financing process, the estimated numbers will be replaced with actuals and the financing plan will be adjusted.
Throughout the motion picture's development process, global distributor relationships should begin early and intensify as development proceeds (see Chapters 1, 3, and 14). These relationships should include the core-territory distributor(s), typically providing at least theatrical and home entertainment (DVD or video-on-demand) distribution; distributors in the leading international markets; as well as prospective premium cable, network television, and other key ancillary licensees. As these relationships advance, it becomes increasingly apparent which of these licensees will enter presale contracts.

Before the producer ever approaches the major international territories for their initial presentation and consideration, the producer will have prepared the first cash flow analysis for the picture (a global gross and net earnings forecast for all major windows and ancillary earnings), compared the picture to at least five pictures with similar target audiences and campaign elements, and identified the international distributors with the greatest propensity to garner the highest gross for this picture in their particular territories.

If fewer than four distributors in the major international territories respond positively and agree to correlate with the producer as the picture continues its development (see the nine distribution relationship points listed in Chapter 3), then producers should either replace their commitments with alternative distributors or not commence development at that time. Though there is no license agreement during this time, all the participating distributors will be involved in the development and preproduction of the picture and will eventually place the picture on their release schedule. The producer will exclusively correspond with and give press, promotion, and advertising materials to these distributors.

However, the picture will likely not be licensed to these distributors until development is close to completion.

At the very first distributor contact, these distributors have little motivation to tie up the picture's rights. But as the picture becomes more substantive—with a shooting script, director, cast, locations, production design, film and printed promotion materials, representation at the major markets, firm release dates, and as novelization and other rights mature—each of these distributors becomes increasingly motivated to secure the picture's presale license for its territory.

The production financing worksheet becomes an extension of the cash flow analysis and places on paper the various financing scenarios, allowing the producer to select the most advantageous course. This financing strategy becomes the basis for the finance plan.

Examine the production financing worksheet in Figure 6.1. A copy of this worksheet is on the website. It is formula based, allowing producers to see the net results of their various contemplated financing scenarios. Producers who have not used such a tool before will find it exceptionally empowering. It allows the producer to apportion a picture's budget among several participants, considering crucial elements, including probabilities of securing them, cost of money, and timing.
<table>
<thead>
<tr>
<th>Assumptions</th>
<th>Financing Participants</th>
<th>Percentage</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Borrowing Period in Months</td>
<td>18</td>
<td>Production Incentive Programs</td>
<td>19%</td>
</tr>
<tr>
<td>Presale, Brand Tie-In &amp; LC Interest Rate (LIBOR + 4)</td>
<td>6.00%</td>
<td>International Territory Presales</td>
<td>25%</td>
</tr>
<tr>
<td>Presale, Brand Tie-In &amp; LC Bank Fee</td>
<td>2.00%</td>
<td>Ancillary Presale(s)</td>
<td>10%</td>
</tr>
<tr>
<td>Presale Discount, International Territory Presale</td>
<td>30.00%</td>
<td>Talent Profit/Equity</td>
<td>10%</td>
</tr>
<tr>
<td>Presale Discount, Ancillary Presale</td>
<td>0.00%</td>
<td>Vendor Profit/Equity</td>
<td>13%</td>
</tr>
<tr>
<td>Production Incentive Discount</td>
<td>20.00%</td>
<td>Brand Tie-In</td>
<td>9%</td>
</tr>
<tr>
<td>Production Incentive Interest Rate (LIBOR + 4)</td>
<td>6.00%</td>
<td>Bank Gap Unsold Territories</td>
<td>25%</td>
</tr>
<tr>
<td>Pre-Sale Payment Advance</td>
<td>20.00%</td>
<td>Private Equity Participant(s)</td>
<td>20%</td>
</tr>
<tr>
<td>Brand Tie-in Advance</td>
<td>10.00%</td>
<td><strong>Total Participants</strong></td>
<td><strong>131%</strong></td>
</tr>
</tbody>
</table>

**FIGURE 6.1**
Production financing worksheet.
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Production Incentive Program(s)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Production Incentives Total</td>
<td>$2,280,000</td>
<td>No. Carolina 19% Tax Credit</td>
</tr>
<tr>
<td>Production Incentive Discount</td>
<td>$456,000</td>
<td>Bank Collateral Value Reduction of Production Incentives</td>
</tr>
<tr>
<td>Net Bank Collateral Amount</td>
<td>$1,824,000</td>
<td>Net Loan Collateral Amount Before Interest Reserve</td>
</tr>
<tr>
<td>Production Incentive Lending Interest Rate</td>
<td>$164,160</td>
<td>Interest Reserved For Bank Loan (LIBOR + 4)</td>
</tr>
<tr>
<td>Net Loan Value Applied To Production Cost</td>
<td>$1,659,840</td>
<td>Net Amount applicable to production budget</td>
</tr>
</tbody>
</table>

| International Territory Presales(s)        |                |                                                   |
| Gross Presale Amount                       | $3,000,000     | All International Territory Presales              |
| Presale Payment Advance                    | $600,000       | Amount Distributor Pays Producer At Signing       |
| Gross Bank Collateral Amount               | $2,400,000     | Gross Collateral Value To Bank                    |
| Presale Discount                           | $720,000       | Non-Prime Pre-Sale Distributors Bank Discount     |
| Net Bank Collateral Amount                 | $1,680,000     | Net Collateral Value To Bank                      |
| Presale Lending Interest Rate              | $151,200       | Interest Reserved For Bank Loan                   |
| Presale Bank Fee                           | $33,600        | 2% Fee to Bank                                   |
| Net Loan Value Applied To Production Cost  | $1,495,200     | Net Amount applicable to production budget         |

| Ancillary Presales(s)                      |                |                                                   |
| Gross Presale Amount                       | $1,200,000     | All Ancillary Presales                           |
| Presale Payment Advance                    | $240,000       | Amount Distributor Pays Producer At Signing      |
| Gross License Bank Collateral Amount       | $960,000       | Gross Collateral Value To Bank                    |
| Presale Discount                           | $-             | Non-Prime Pre-Sale Vendors Bank Discount          |
| Net Bank Collateral Amount                 | $960,000       | Net Collateral Value To Bank                      |
| Presale Lending Interest Rate              | $86,400        | Interest Reserved For Bank Loan                   |
| Presale Bank Fee                           | $19,200        | 2% Fee to Bank                                   |
| Net Loan Value Applied To Production Cost  | $892,800       |                                                   |

| Talent Profit/Equity                      |                |                                                   |
| Total Talent Offset Amount                | $1,200,000     | Total Talent Profit/Equity Amount                 |
| Net Value Applied To Production Cost      | $1,200,000     | Net Amount applicable to production budget        |

| Vendor Profit/Equity                      |                |                                                   |
| Total Vendor Offset Amount                | $1,500,000     | Total Vendor Profit/Equity Amount                 |
| Net Value Applied To Production Cost      | $1,500,000     | Net Amount applicable to production budget        |

Figure 6.1 Cont’d
<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Brand Tie In</strong></td>
<td></td>
</tr>
<tr>
<td>Gross Brand Tie-In Amount</td>
<td>$1,080,000</td>
</tr>
<tr>
<td>Brand Payment Advance</td>
<td>$108,000</td>
</tr>
<tr>
<td>Net Brand Tie-In Bank Collateral Amount</td>
<td>$972,000</td>
</tr>
<tr>
<td>Brand Tie-In Lending Interest Rate</td>
<td>$87,480</td>
</tr>
<tr>
<td>Brand Tie-In Bank Fee</td>
<td>$19,440</td>
</tr>
<tr>
<td>Net Loan Value Applied To Production Cost</td>
<td>$865,080</td>
</tr>
<tr>
<td><strong>Gap Financing</strong></td>
<td></td>
</tr>
<tr>
<td>Sales Agent Unsold Territory Estimates</td>
<td>$3,000,000</td>
</tr>
<tr>
<td>Gap Discount</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>Net Gap Bank Collateral</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>Bank Gap Fee</td>
<td>$75,000</td>
</tr>
<tr>
<td>Gap Lending Interest Rate</td>
<td>$135,000</td>
</tr>
<tr>
<td>Net Loan Value Applied To Production Cost</td>
<td>$1,290,000</td>
</tr>
<tr>
<td><strong>Private Equity</strong></td>
<td></td>
</tr>
<tr>
<td>Private Equity LC</td>
<td>$2,400,000</td>
</tr>
<tr>
<td>LC Lending Interest Rate</td>
<td>$216,000</td>
</tr>
<tr>
<td>Net Loan Value Applied To Production Cost</td>
<td>$2,184,000</td>
</tr>
<tr>
<td><strong>Production Resources</strong></td>
<td></td>
</tr>
<tr>
<td>Total Net Loan Value for Production</td>
<td>$8,386,920</td>
</tr>
<tr>
<td>Cash Collected from License Advances</td>
<td>$948,000</td>
</tr>
<tr>
<td>Talent and Vendor Profit/Equity Budget Offsets</td>
<td>$2,700,000</td>
</tr>
<tr>
<td>Total Gross Production Loan and License Proceeds</td>
<td>$12,034,920</td>
</tr>
<tr>
<td>Actual Production Budget</td>
<td>$12,000,000</td>
</tr>
<tr>
<td>(including contingency &amp; interest)</td>
<td>$12,000,000</td>
</tr>
<tr>
<td>Collateral Sufficiency?</td>
<td>Yes</td>
</tr>
<tr>
<td>Is There Sufficient Loan Proceeds and License Advances?</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Figure 6.1 Cont'd
At the bottom of the worksheet is the question-and-answer section, as final proof that the financing architecture configuration provides sufficient collateral and capital to fully fund the production. The cell shifts from “No” to “Yes” when there is sufficient collateral to produce the film.

When producers can represent that over half the funding is provided by multiple participants, most of them from the entertainment industry, they are much more likely to engage private equity investors. Approaching each picture’s financing by this method spreads the responsibilities and risk in a manner that makes the investment much more accessible to each participant and often retains major creative and business decisions for the producer.

Using the worksheet enables producers to analyze and configure each picture’s production funding plan, early in development, and to adjust the worksheet as the picture matures to the point of production, based on the final commitment of each participant. The final worksheet will reflect the actual elements provided and will be part of the bank loan memorandum submitted for approval. This sample worksheet is configured to deliver the picture’s production budget of $12 million from the proceeds of the collateralized loan, cash advances, equity and production cost offsets.

Let’s now walk through each section of the production financing worksheet. All areas highlighted in gray need to be filled in, which will then automatically calculate and fill in all other amounts and percentages.

ASSUMPTIONS

The producer fills in this section as accurately as possible. Initially these will be estimates, but as financing coalesces, this section will be completed with actuals:

• The borrowing period of the loan should be listed in months. This will typically be 12 to 24 months.
• Presale, brand tie-in, and letter of credit (LC) interest rate is estimated at 6 percent (4 percent over LIBOR [London Interbank Offered Rate], here assuming LIBOR is 2 percent). This is a reasonable percentage spread with which to begin for fully secured collateral.
• Presale, brand tie-in, and letter of credit (LC) bank fees are estimated at 2 percent.
• Presale discount. international territory presale. If the distributor issuing the contract is not financially strong, the bank will discount the value of the contract anywhere from 10 percent to 50 percent. Our sample is a 30 percent discount. If the distributor is financially strong, no discount will be necessary, and then this line item would be at 0 percent.
• Presale discount. ancillary presale. If the distributor issuing the contract is not financially strong, the bank will discount the value of the contract anywhere from 10 percent to 50 percent. Our sample shows a 0 percent discount.
• The bank typically discounts production incentives 20 percent for U.S. programs, 10 percent for Canadian programs, and 10% to 25% for most international programs. In our example, because we are assuming a shoot in North Carolina, we are discounting by 20 percent. Also, please note under Description: Production Incentive Programs-Amount, we are only taking a total of 19 percent of the full 25 percent, because not every line item in the budget will be considered a North Carolina spend.
• The incentive programs lending rate is calculated at 6 percent (4 percent over LIBOR, here assuming LIBOR is 2 percent).
• The presale payment advance is usually required by the bank to be a minimum of 20 percent of the total amount for licensing of all rights in a specific territory.
• The brand tie-in advance is usually required by the bank to be a minimum of 10 percent of the total amount for licensing of those rights.
• The gap lending interest rate is calculated at 6 percent (4 percent over UBOR. here assuming UBOR is 2 percent).
• The gap discount is typically 50 percent and terms currently with some banks are a maximum $2.5 million or 20 percent of the budget, whichever is less.
• The gap bank fee is calculated at 5 percent, as this is much higher risk collateral.

FINANCING PARTICIPANTS

This section sets forth the eight primary production budget financing categories. First the producer enters the picture’s production budget at the top. Then, in the financing participant section, each of the eight funding categories is engaged by entering an amount. This will automatically formulate a percentage of the budget entered at the top of the worksheet.

Production Incentive Programs
There are numerous program variations worldwide, most covering 10 percent to 30 percent of the budget. Regardless the plan, their rebate or tax credits comes after the picture is produced, allowing the final accounting to be done according to how much money verifiably was spent in the city, state, province, or country. This spending being the incentive source’s motivation. Banks and private funds such as 120 db in the U.S. and ingenious in the UK are typically engaged to advance these incentives for the production budget.

International Territory Presales
Especially with the entity consolidations of the late 1990s, most participants financially strong enough to advance a presale are major distributors whose contract will be bank acceptable as collateral. If they are not rated high enough for your bank, the bank will either discount the value of the contract from 100 percent to as low as 50 percent or it may require a letter of credit from the distributor. In our sample, we are securing only presale contracts from “A” list distributors and no discount or letter of credit is required.

Ancillary Presales
These are rights presold, similar to international territory presales, and may be any of the participants reviewed in Chapter 5.

Talent and Vendor Profit and Equity Offsets
Typically, writers, directors, and star cast members are a part of each picture’s major cost. Negotiating with one or more key talent to be chiefly paid alternatively with an increased amount based on the picture’s projected profits (some times including picture equity) can potentially increase a talent’s earnings and likely enhanced tax advantages while providing the picture with a significant amount of its budget. This allows talent to earn appreciably more income if the picture meets or exceeds its global projections.

Brand Tie-In
For many brands, motion picture represent their highest impact and most reasonably priced
marketing expenditures and strategies, especially global brands. As pictures proceed through each successive release window to increasingly larger audiences, motion pictures become the ever more effective and price-efficient marketing tool. For producers, these brands can also increase a picture’s creative integrity and cross-promote/market the picture. These negotiations typically need to conclude a year before a picture’s theatrical release, but they have and continue to provide a picture’s significant production or distribution funding.

**Gap Financing**

Gap financing is calculated based on the estimates received from a qualified/bankable international sales agent on the value of each international territory that was not presold. They are discounted by the bank up to 50 percent of the territories’ aggregate value. This discounted amount is then lent to the producer as part of the production financing (typically capped at $2.5 million or 20 percent of the budget, whichever is less). Gap financing is a risky model, and banks that do lend on these international sales estimates are constantly assessing the credit worthiness of international sales agents and distributors worldwide. Typically a bank will only accept a handful of sales agents’ estimates. Producers must approach the bank early to be sure they are working with an international sales agent acceptable to the bank.

Though the bank loan fee is high, the producer’s advantages to gap financing are primarily that fewer presales are made, allowing these licensees to earn higher after-film-completion licenses, and the producer does not have to do the pre-sale work for these territories. The bank will require two and many times three presales from the top 12 territories before doing gap financing. These sales enable the bank to more closely evaluate the estimates supplied by the international sales agent. The top 12 territories are the UK, Spain, Japan, France, Italy, Germany, Australia, Benelux, Scandinavia, South Africa, Canada, and the United States.

**Private Equity**

The private equity sources in this example use collateral (CDs, treasury bills, securities, and so on) rather than cash. This example uses $2.4 million in private equity secured by a letter of credit, which therefore requires the bank to charge both an interest rate and a fee. If, however, the equity is in the form of cash, neither of these charges will be required.

**TYPES OF LOANS**

If the production loan is in the form of a line of credit, the producer has access to the entire loan amount but is charged interest only on the loan amount actually drawn. With more than $500,000 in potential interest, even a 20 percent interest savings (which is very possible with prudent cash management) will save more than $100,000.

**WHEN TO APPROACH THE BANK**

Using bank production funding strengthens many aspects of producer operations. The bank relationship and its other related benefits should become integrated into and affect many aspects of the producer’s business.

New producers should meet with their bank of choice before completing development of their film(s). Producers should be comfortable with their bank before there is a need for production borrowing. Initial meetings introduce the bank to the producer’s business plan, establish the producer’s development and production schedule and clearly show the bank’s essential participation in the overall process.
Producers should ask the loan officer for permission to use the bank and the officer as references to others relative to the producer’s intention to use the bank as the production funding source for pictures. Most bank entertainment divisions are willing to allow producers to do this, as long as their representations are in keeping with the relationship. Using the bank as a reference to potential licensees and other sources in connection with the producer’s finance plan lends substantial positioning strength, especially for producers introducing new production entities.

In addition to production financing and later operating capital funding, bank officers can be well used as business consultants and mentors, contributing excellent business expertise to the production company and opening the way for expanded business relationships.

**PRIVATE EQUITY: THE BENEFITS OF A SOLID BUSINESS PLAN**

Securing private equity partners as part of each picture’s financing has become more essential than ever. The financing sources of recent years (Wall Street, German film funds) have been replaced by new sources such as Abu Dhabi, India, and Qatar. China, Singapore, and Russia appear to be the sources next in line to become regular film financing participants.

Equity partners expect a return of investment (ROI) of 100 percent and in many cases an additional kicker of between 10 percent and 25 percent, plus a percentage of the net profits. Typically, all talent profits are deducted only from the producer’s share of profits.

To secure private equity partners, producers need to have a sophisticated and well-thought-out business plan with financial projections (sometimes referred to as a waterfall) that is tightly structured within an offering that is compliant with the securities laws of the areas in which it is offered. The business plan should include the following elements:

*Executive Summary.* One or two paragraphs that gives a concise overview of each of the following: the motion picture, the company, the management and advisor team, the goals of the company; the finance plan, the marketing plan, the distribution plan, the investment opportunity, and risk mitigation.

*The Motion Picture.* Give more detail about the genre; include a synopsis; explain the stages of development, production, and distribution; identify your target audience; and delineate your budget and how you intend to control costs. Explain the Finance Plan (how all the financing collateral will come together).

*The Company.* Explain the legal entity that has been or will be formed to produce the project. Include narrative bios on the managers/producers.

*Marketing.* Explain who your target and secondary audiences are; describe how you intend to engage them, even during development, preproduction, and production of the film (prerelease marketing), and explain any other methods you intend to use to develop and grow awareness of the film.

*Securing Distribution.* Without distribution, your investors have no opportunity to receive a return on their investment. Describe your clear and concise model and explain how you intend to implement it to offset the financial risks involved. An overview explaining the different media and ancillary markets, as well as a breakdown of fees and costs, is also recommended to be included in this section.
Investment Opportunity. Include detail about the financing sources that you will utilize and what you are offering the equity investors (i.e., rate of return and profit participation).

Risk Mitigation. Include an explanation of all the balanced-producer models this book advocates: some form of distribution in place before beginning production, bank loan for collateral agreements, bond company, production incentives, and collection account.

The Production Team. Attach resumes for all production talent on the film. Advisory Team. Attach resumes for all advisory team members on the film, and explain how they will assist management.

Appendices. These should include, but are not limited to, a budget top sheet, picture comparables or greenlight analyses, a finance plan, financial projections, a production incentives program outline, talent attachment verification(s), letters of intent for distribution or agreements, and any other research information pertinent to the film.

To write a solid business plan, the producer must first develop a financial plan showing how the investors will receive a return on their investment based on buyers’ estimates, presales, and a smart marketing plan.

The mantra of Jeff Steele, CFO of Magnet Media Group, is that a minimum of 70 percent of your budget should be covered by the gross-take-value (gtv) of your international sales estimates. If it does not, then your film budget must be adjusted downward. Our term for this process is “reverse engineering into the budget.”

CHAPTER POSTSCRIPT

The challenging financial markets have opened new production, distribution, and funding opportunities. Regardless of how we use the major eight funding participant categories presented in this chapter, our engagement of a solid bank entertainment department is vital to pulling all the funding elements together. Understanding how banks operate prepares producers to approach them with confidence and wonderful predictability.

Banks are powerful allies. In addition to production financing and operating capital, they can provide helpful international and domestic data (useful in many areas, including liquidation breakdowns, international evaluations, international currency, and global industry trends), as well as other information. Producers should engage their bank relationships early and keep them well exercised, as banks are vital strategic operating team participants.
Part 4: Film Production

Introduction

The film is now fully developed, financed and you finally can begin production!

Production entails three distinct stages:

• Preproduction: During this period the filmmaker will open a production office; hire all crew; engage a locations scout to secure the locations where shooting will occur; secure rentals for camera and lighting packages; prepare shooting schedules; etc.

• Principal Photography: This production period will be the time that the principal photography will be shot. After this time, all of the scenes for the movie will be completed or “in the can!”

• Postproduction: During the postproduction period, the director and editor will select the best “takes” of the various scenes and edit those takes into an assembly of the entire film. Once the film has a “locked picture,” the project moves into various departments for finalization: Music, Visual Effects, Sound Design, Color Correction and the final Sound Mix.

For the majority of filmmakers I talk to, this is their favorite part of the process - being on set, seeing their vision to fruition, creatively shaping the final product. The train has left the station and it is all coming to life. It can be scary, exhilarating with non-stop activities and problem solving.

We have carefully chosen chapters that address the timeline for a film (Production Timeline Example, Chapter 2, Indie Film Producing), as well as a concise chapter on budgeting, which is your logistics tools for your film, that covers details about both low budget and high budget studio films (Budgeting, Chapter 10, Preparing for Takeoff)

We have also included a chapter on the Production Team so at a glance you can see who does what.
Chapter 2, *Indie Film Producing*

Production Timeline Example

By Suzanne Lyons

**Timeline for Séance**

Before starting a film (or any project), I do a timeline. I buy a big piece of paper or poster board and break down the entire project into a reasonable, doable timeline. Even if I don’t know exactly when I’ll be starting principal photography, I make up a date to force myself to put this step on paper. Even if it is just the highlights to get me focused, I find it helpful in many ways. It gives me something tangible that I can actually see before my eyes. It takes the project out of the world of hopes and dreams and makes it real. It makes it look very doable. In our heads, the process can feel daunting, but on paper, broken down over a period of time, it is surprising how easy it begins to appear. Most important, it forces me to become accountable and totally responsible for my project. This part sounds scary, but it’s actually a good thing because it has you “put your butt on the line,” and the more real it becomes for you, the more real it will seem to everyone around you.

I truly think that this step is part of why Kate and I were able to raise the funds and produce these films so effortlessly. We were so clear that it was going to happen that everyone around us got the same message. It was real! We weren’t kidding. We weren’t hoping or wishing or dreaming. We were making a movie and we had a timeline to prove it.

I am going to give you a detailed timeline to help you with this exercise (not that yours should be this detailed at first). The following timeline is a look back at our SAG ultra-low-budget film, *Séance*. I found that when I was teaching the “Indie Film Producing” workshop, people were really having a hard time with this exercise. I typed up this timeline for *Séance* to give people a little upfront information so they could get an overall look at the specific aspects of making a film and breaking it down into chronological segments and steps.

Don’t worry if you don’t understand all the terms and language used in this chapter. It is just a brief overview of the timeline. I will go into detailed explanations of each section in the following chapters.

**September/October 2005: Optioned Screenplay**

a. Optioned and developed screenplay. (Note: *Séance* had already been registered with the copyright office long before we did the option. If the script that you are optioning has not been sent to the copyright office, please do this first.)

b. Did a table read so that the writer/director and I could hear the script out loud and make any necessary changes at this early stage. We had some actor friends do the read for us as a favor (also smart of them, as it’s a great chance to meet the director). Given that we were going to be doing this project as a $200,000 SAG ultra low budget, we were really listening for places in the script to cut without affecting the integrity of the story. If you can have your line producer there for the table read to give feedback, that would be excellent.
c. Got the budget done. I know it seems early, but I wanted to be sure that the script could really be done for the $200,000 budget we were aiming for. This preliminary budget and shooting schedule might cost between $750 and $1,500 to do, but Kate and I felt that it was an investment. We reimbursed ourselves for the cost when we started preproduction on the film. I just want to point out here that in regarding to spending money, there are four places that you will need to spend money up front:

1. Budget/schedule (I have paid anywhere from $750 to $1,500).
2. Opening your Limited Liability Company (in California it’s $70 to open your LLC).
3. Script clearance report (the prices vary, but it’s approximately $1,500).
4. Legal advice (this will vary depending on what you need at this early stage).

Note

Producing this film today, I would add an additional expense: social media. This could include a number of items, such as a website, one-sheet poster, trailer, and the like. I recently did this for a current project, Omarr the Camel, and that cost came to $1,000. So this cost is something to keep in mind today; even if you are going the traditional route of sales agents and distributors, you will still need to do a certain amount of self-marketing. In addition, having an online presence today also helps attract investors at this early stage in the process.

November/December 2005: Business Plan and PPM

a. Did the business plan. As you will see from my chapter describing our business plan, we kept it quite brief. It may only take a few weeks, but because there is a certain amount of research involved, allow yourself the time.
b. Did the private placement memorandum (PPM), the operating agreement, and the subscription agreement. We read a number of PPMs and operating agreements that we borrowed from other producers. We pulled out the best from all of them, typed up our own versions, and then had our attorney look them over.

Note

As I mentioned earlier, if I were producing Séance in today’s market, I would begin a serious, well-planned social media campaign using every possible online networking platform to help launch the brand that is my movie. I would make a concerted effort to begin the process of building a dedicated fan base. Jon Reiss stresses the importance of “creating a dynamic website” (“My Adventure in Theatrical Self-Distribution,” Filmmaker Magazine, Fall, 2008). He urges us to do this long before we produce our movie. He cautions that “old-style film websites are out and blogging and a constant flow of information are in. Blogging and tagging is what the little bots out in cyberspace will recognize and bring you up in the rankings. A great website also helps you cultivate your niche audience.”

I interviewed JC Calciano for my chapter on alternative forms of distribution, but one of the items he suggests is worth mentioning here as well. “What I do,” JC says, “is start with grassroots and free marketing like Facebook and Twitter. The Internet is the best value for an indie film producer looking to build an audience for cheap. So I concentrate my efforts there. One thing I’ve done which has been extremely successful for me is to create a webisode. I figured I’d make something simple and sexy that would draw my target audience weekly. I started the
webisode a year before my first movie and I’ve build a fan base on the Internet to market my movies through my webisode. Each of my webisodes average between 20,000 to 50,000 views a day!” Okay, so JC started a year before his film, and if you’re reading this book, chances are you want to start getting ready to producing now, but I think what JC is saying is brilliant advice. So why not start something now – something that is different and unique and will grab an audience and expand your fan base long before your film comes out?

**January 2006: Opened an LLC**

a. **Opened an LLC.** There were three steps involved. The first was going online to the California secretary of state’s site and doing a name search, which was free. Our first choice, “Séance, LLC,” was available. The second step was to download the application to apply for our Séance, LLC, filing number. I mailed it off, and less than two weeks later it was back with an assigned number and a red stamp. Now it was time to get our federal Employer Identification Number (EIN), which was free. That took a few minutes online filling out a one-page application; an hour later, I got the EIN number. You need both numbers to open your bank account. I will explain this in more detail in Chapter 5.

b. **Completed packages.** It was time to type up some professional-looking labels with Séance, LLC, written on them to stick on the front of the professional-looking folders that we had put together with the business plan, PPM, operating agreement, and subscription agreement. We did not include a one-sheet poster of the film in the package. However, for *Candy Stripers*, we did create a poster, which was very visual and gave a great depiction of the film at one glance. So it was worth the additional cost ($40) in that case.

c. **Created a detailed timeline.** The timeline took us from early January through to the American Film Market in November; we included in the timeline how many units (shares) we needed to sell given our start date for principal photography: May 21, 2006.

d. **Created a list of possible finders and investors** we were going to be calling and a list of people to whom we wanted to mail our business plan/LLC packages.

**January/February/March: Funding the Film**

a. Began the calls and mail-outs.

b. Scheduled and prepared for a sales presentation. In the case of *Séance*, we actually didn’t need to do a sales presentation because we had over 50 percent of the investors from *Candy Stripers* come back on board, and our writer/director took on selling units as well, so there was not as much work involved as there was with our first low-budget film. With *Candy Stripers*, we scheduled and held two sales presentations. A total of 110 packages went out to potential investors on *Candy Stripers*, and only 35 went out on *Séance*. Raising the money for *Candy Stripers* took five months; for *Séance*, it took less than one month. So please keep that in mind when you are doing your timeline. You will probably need several months (or more) to reach your goal the first time you raise money.

c. Script clearance. This is the time to get your script off to a script clearance company. The script clearance paperwork will be needed for delivery when the time comes, so the sooner the better. This step may cost as much as $1,500, but it is required. We reimbursed ourselves for the cost out of our delivery costs budget when we started production.

**March: Finalized Details**

a. Met with our line producer and director to do additional work on the budget and
schedule. We also discussed location ideas and some of the keys (department heads) that we all wanted on board and scheduled an early April table read with as many keys as possible. Because we were going to be a SAG signatory production, our line producer sent in the SAG signatory paperwork. Getting your number can take a couple of weeks, so it’s important to do the paperwork early.

b. Met with the director regarding his storyboard for the film.

Note

We are just about to enter the soft prep stage; in today’s market, I would be getting my fans (from Facebook, Twitter, YouTube, and so on) involved. I would be doing fun YouTube videos sharing about the fact that we are going into soft prep and what that entails. I would really be taking advantage of every social networking avenue at this point. We’re about to get in to the really fun stuff – what a great opportunity to get fans on board! In fact, I would continue this intense social networking throughout the entire filmmaking process.

April: Soft Prep – Four Weeks

a. The beginning of soft prep: four weeks.
b. Did a table read of the screenplay (again with actor friends) for the line producer, writer/director, director of photography (DP), visual effects supervisor, and 1st assistant director (AD). Anyone else you may have on board should be there as well. There is no money being spent at this time, and you may lose some keys to other projects, as they are not locked in financially, but it is still extremely valuable to have an early table read. The feedback is invaluable.
c. Posted Séance production start date in the Industry trade publications (Hollywood Reporter and Variety, for example).
d. Started pinning down locations and getting that paperwork ready to sign.

April: Casting

a. Began the casting process.
b. Received our SAG signatory number from SAG.
c. Started my weekly email to the investors to keep them posted. This email continued throughout principal, postproduction, and delivery.
d. Contacted the Humane Society to inform them that we would be using an animal in our film.
e. Week of April 3: Typed up and sent in the Character Breakdowns to Breakdown Services.
f. Week of April 10: Breakdown services headshots started to come in by email, so I forwarded them on to the director. He forwarded his choices back to me for each role and I started booking auditions for a week out. In other words, on Monday I booked the following Monday, and on Tuesday I booked the following Tuesday, and so on.
g. Week of April 17: Casting was done with the director, a reader, Kate, and myself. Chapter 8 will explain clearly how I organized every detail.
h. Week of April 24: April 24 and the morning of April 25 were actors’ call-back days and the afternoon of the 25th was for “chemistry call-backs.” These are necessary to see what the chemistry is like between the actors. For example, you will need them for boyfriend/girlfriend, college roommates, sisters, and so on. I used Wednesday through Friday (April 26–April 28) to get the deal memos off to the agents/managers or to the actors themselves who were not SAG. Because Séance was SAG ultra low budget, we were able to use a certain percentage of non-SAG actors.
May 1: Preproduction Begins – Three Weeks

a. Now I officially started spending money. Our line producer, Mike Tarzian, moved into my office with his production coordinator and an assistant. It is the beginning of official preproduction. At this budget level and with a 14-day shoot, three weeks of preproduction is what works – and with a good deal of work accomplished in soft prep, it works perfectly.
b. Mike began confirming and hiring the rest of the keys.
c. Mike and I signed off on the location deals we began in soft prep.
d. Booked our parrot and did the paperwork with the bird’s owner.
e. Mike and the 1st AD scheduled a table read meeting for all the keys for the week before principal photography.
f. I set up a table read for the actors, director, and head of wardrobe.
g. Talked to our editor about any suggestions/requests he might have to ensure we got everything he needed.
h. Met with Chris Robbins, our stills and “Making Of” photographer, to discuss what was needed and prepared the schedule for his days on the set.
i. I also finished up some last-minute cast deal memos, met with my director about his storyboard, worked with the director and 1st AD on any changes to the schedule, worked closely with Mike as he confirmed his keys and finalized with him any permits needed for our locations, and went over the budget again with Mike to make sure we were ready to roll.
j. Kept the actor’s agents/managers updated with revised schedules.
k. Emailed our investors the film shooting schedule with suggestions as to which days they could come to visit the set.

May 21: Principal Photography – Two Weeks

a. Was on set constantly to ensure that everything was running smoothly.
b. Kate and I prepared for postproduction by interviewing and hiring our composer, color correction specialist, and sound designer.
c. We sent press releases and still shots to horror/thriller websites and magazines and started looking into possible film festivals.
d. We also started planning for the wrap party.
e. Talked further to possible sales agents/distributors.
f. Sent daily still photos off to our investors and was available to meet the those investors who came to the set.

Note

Making Séance today, I would absolutely get my actors supporting my online social media campaign. I would request that they each use their own fan base to help get the word out as well.

June 5–September 29: Postproduction

a. During the week of June 5, Mike moved back into my office and tied up all the loose ends, paid bills, did the SAG delivery book, and created wrap books for the director, DP, and producers.
b. June 5–June 9: editor’s assembly
d. We scheduled our audience testing.
e. July 5: audience testing.
f. July 10–14: final pickup shots and director’s and producer’s final edit.
g. July 15: lock picture.
h. July 17–September 29: it was in the hands of the composer, color correction, and sound designer. The director and I did spotting with each of them during that time.
i. I used the DVD with temp music to send off to interested sales agents and to film festivals with a note to both that the final version was forthcoming.
j. We were preparing our front and end roll credits and hired our “Making Of” photographer to design a great opening and closing sequence for the titles. We made sure our ten-second WindChill Films company logo was ready. We hired Power Design, who had created our Snowfall Films logo a few years earlier, and they were fast, brilliant, and professional. WindChill was going to be the overall brand name, so we wanted the best possible logo.
k. We started to assemble some delivery items, as we were very close to the American Film Market (AFM) start date.
l. We signed a deal with a sales agent. Sent them a DigiBeta to send off to the film market.

Note

Today, self-distribution is an alternative option that film producers are taking full advantage of.

October: Prepared for Market

a. Our sales agent scheduled a screening during AFM and prepared the posters, one-sheets, and trailer.

November 1–8: Attended the American Film Market

a. Went to our AFM screening and were available if our sales agent needs us or anything else from us.

November 9–December 15: Delivery

a. Kate and I really got to work on the entire seven-page, single-spaced list of delivery items we received from our sales agent. We made an extra copy of everything for ourselves and because we sold Séance to a domestic distributor during the AFM, we researched E&O insurance companies as well during this time period.

Exercise

Now that you have a sense of the timeline for Séance, get some poster board and do a brief timeline for your film. Obviously, you don’t have to be as detailed as we were here, but it is really important to get something on paper now!
Chapter 10, *Preparing for Takeoff*

**Budgeting**

By Arthur Vincie

**FIGURE 10.1** Oh, the glory of numbers.

**THE BUDGET FROM 30,000 FEET**

This is *not* a step-by-step guide to budgeting your film. The topic is too broad to squeeze into one chapter. There are many worthy books and online resources that cover the details of budgeting. What this chapter will give you is an aerial view of the budget and how it impacts the shoot. We'll also talk about how the budget structure of an indie feature like yours differs from that of a studio or “Indiewood” feature.

It’s easy to get lost in the details of the budget and forget why you’re building one in the first place. A budget is really a set of things:

1. **A list of spending priorities.** What you think is worth allocating money to in the film.
2. **A set of creative constraints.** You’ll have to come up with less expensive ways of doing certain things, or get your point across indirectly. Even big directors have to work within a budget. And all of them started out on smaller projects where they had to spend every penny wisely.
3. **A sales document.** When you’re approaching investors asking for money, showing them how you intend to spend it can only help.
4. **An assessment of risks.** While a budget can never account for all the costs you’re going to encounter, it can certainly give you some idea of what’s going to be expensive.
5. **A table of organization (TO) for the film.** It shows you who’s on the staff, and what each department head’s area of responsibility covers.

The choice of software is secondary. I use Movie Magic Budgeting. If Excel is all you have, then use that; but be warned, some pain is up ahead.

**THE STEPS TO BUDGETING**

Budgeting is like the director’s script analysis process. You’ll start with some rough ideas of...
where you want to end up, then through research and analysis you’ll come closer and closer to a concrete “truth.” In this case, you’ll start by making some key decisions (or assumptions), then punching in numbers, then revising your assumptions and possibly your schedule. You’ll go through this cycle several times. Along the way you may find you need to tweak or rewrite the script, either for creative or budgetary reasons.

Let’s first look at the budget structure.

THE STRUCTURE OF THE BUDGET

No two producers budget films in the same exact way, so what I will tell you is in part based on my opinion. But there is a generally accepted standard for budgeting features, shorts, and webisodic projects – anything that’s narrative in nature. It’s somewhat logical and well-understood by line producers and production managers.

To make the discussion more concrete, I’ve included the “final” topsheet from *Found In Time* (Table 10.1).

Sections

A budget is typically divided into six or seven sections:

- **Above the line.** The “creative” people – directors, producers, writers, actors, casting directors; also expenses that are associated with these people (travel, lodging, development, assistants, copyright fees, clearance reports, etc.).
- **Below the line.** The crew, equipment, food, transportation, fuel, locations, props, costumes, and other material needed to make the film.
- **Post.** The editor, sound designer, composer, visual effects artists, colorist, and all their gear.
- **Overhead.** Office space rental, legal fees, postage – all the expenses of running the business.
- **Promotion and distribution.** Costs associated with marketing and distributing the film. Contingency. Usually some percentage of the sum of the above. Some producers will exclude insurance and other fees from this amount, on the grounds that you don’t need to have any “padding” on your insurance costs. I generally agree, except in cases where the budget is insanely low, and then you need all the “padding” you can get. A contingency is there to protect you from all the things that can go wrong that you can’t plan for. Bad things that you can count on happening (like overtime, meal penalties, breakage) should be accounted for somewhere else in your budget, however.
- **Insurance.** Some producers like to break insurance down into the various types, and put each in its proper place in the budget. Others like to come up with a percentage-based figure (like the contingency).
### Table 10.1: The topsheet of *Found In Time*'s production-thru-distribution budget, with explanations of each category

<table>
<thead>
<tr>
<th>#</th>
<th>Description</th>
<th>Total</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>110-00</td>
<td>STORY &amp; OTHER RIGHTS</td>
<td>0</td>
<td>The writer's fee and copyright fee</td>
</tr>
<tr>
<td>111-00</td>
<td>PRODUCER'S UNIT</td>
<td>0</td>
<td>The producer's fees and expenses</td>
</tr>
<tr>
<td>112-00</td>
<td>DIRECTOR'S UNIT</td>
<td>0</td>
<td>Director's fees</td>
</tr>
<tr>
<td>113-00</td>
<td>TALENT</td>
<td>13,098</td>
<td>Cast, casting director, casting expenses</td>
</tr>
<tr>
<td>114-00</td>
<td>ATL TRAVEL/HOUSING</td>
<td>0</td>
<td>Travel/house for cast/prod./writer/dir.</td>
</tr>
<tr>
<td>999-96</td>
<td>ATL FRINGE BENEFITS</td>
<td>4,813</td>
<td>Employer fringes, HP&amp;W payments</td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL ABOVE-THE-LINE COSTS</strong></td>
<td><strong>$ 17,911</strong></td>
<td></td>
</tr>
<tr>
<td>200-00</td>
<td>PRODUCTION STAFF</td>
<td>0</td>
<td>UPM, ADs, script supervisor, walkies</td>
</tr>
<tr>
<td>201-00</td>
<td>BACKGROUND</td>
<td>150</td>
<td>Extras, including their wardrobe and food</td>
</tr>
<tr>
<td>202-00</td>
<td>PRODUCTION DESIGN</td>
<td>0</td>
<td>Production design STAFF</td>
</tr>
<tr>
<td>203-00</td>
<td>PROPERTY</td>
<td>900</td>
<td>Propmaster and props</td>
</tr>
<tr>
<td>204-00</td>
<td>SET DRESSING</td>
<td>0</td>
<td>Set dressing and dressers</td>
</tr>
<tr>
<td>205-00</td>
<td>SET CONSTRUCTION</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>206-00</td>
<td>SPECIAL EFFECTS</td>
<td>0</td>
<td>On-set special effects</td>
</tr>
<tr>
<td>207-00</td>
<td>CAMERA</td>
<td>5,030</td>
<td>DP, ACs, DIT and camera gear</td>
</tr>
<tr>
<td>208-00</td>
<td>ELECTRIC</td>
<td>1,820</td>
<td>Gaffer/electrics, generators, lights</td>
</tr>
<tr>
<td>209-00</td>
<td>GRIP</td>
<td>0</td>
<td>Key grip/grips, dolly, grip gear</td>
</tr>
<tr>
<td>210-00</td>
<td>PRODUCTION SOUND</td>
<td>5,603</td>
<td>Mixer, boom op, mics</td>
</tr>
<tr>
<td>211-00</td>
<td>SET OPERATIONS</td>
<td>6,112</td>
<td>Catering, crafty, garbage bags, etc.</td>
</tr>
<tr>
<td>212-00</td>
<td>COSTUME/WARDROBE</td>
<td>4,019</td>
<td>Costume designer, wardrobe</td>
</tr>
<tr>
<td>213-00</td>
<td>HAIR/MAKEUP</td>
<td>3,870</td>
<td>Hair and makeup artists, kit fees</td>
</tr>
<tr>
<td>214-00</td>
<td>LOCATIONS</td>
<td>7,125</td>
<td>Location manager, rental fees, stage</td>
</tr>
<tr>
<td>215-00</td>
<td>TRANSPORTATION</td>
<td>4,737</td>
<td>Fuel, tolls, vehicle rentals</td>
</tr>
<tr>
<td>216-00</td>
<td>PRODUCTION STOCK/DIGITIZING</td>
<td>600</td>
<td>Hard drives, tapestock, DVDs</td>
</tr>
<tr>
<td>217-00</td>
<td>PRODUCTION PUBLICITY</td>
<td>0</td>
<td>Still photographer, EPK “preditor,” gear</td>
</tr>
<tr>
<td>218-00</td>
<td>BTL TRAVEL/HOUSING</td>
<td>0</td>
<td>Crew housing/food for distant locations</td>
</tr>
<tr>
<td>219-00</td>
<td>PRODUCTION OVERHEAD</td>
<td>9,670</td>
<td>Office rental, legal fees, insurance</td>
</tr>
<tr>
<td>999-97</td>
<td>PRODUCTION FRINGE BENEFITS</td>
<td>0</td>
<td>Employer fringes, HP&amp;W payments</td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL BELOW-THE-LINE COSTS</strong></td>
<td><strong>$ 49,656</strong></td>
<td></td>
</tr>
<tr>
<td>501-00</td>
<td>EDITING</td>
<td>14,610</td>
<td>Editor, assistant editor, drives, computer</td>
</tr>
<tr>
<td>502-00</td>
<td>DIGITAL CONFORM/FINISH</td>
<td>7,120</td>
<td>Colorist, output to tape master</td>
</tr>
<tr>
<td>503-00</td>
<td>POST-PRODUCTION SOUND</td>
<td>10,700</td>
<td>Sound design and mix</td>
</tr>
</tbody>
</table>
Note that on *Found In Time*, I didn’t have a separate insurance section. I had purchased short-term production insurance (this was listed under 219–00, production overhead). When the film is acquired by a distributor, I will most likely have to purchase errors and omissions insurance.
Categories

Each section is further divided into categories. One category usually corresponds to a department. There are some exceptions to this, which we'll get into a little later on.

Above-the-line categories usually proceed in the order listed in Table 10.1 (writer, producer, director, actors, travel). Below-the-line categories usually start with the production staff and extras, but after that point I've seen them listed in a variety of orders. There are a few traditions. Art department-related categories (production design, set construction, props, set dressing) are usually listed sequentially. Likewise, hair/makeup and costume design, and camera, sound, electric, and grip, are listed together. At some point in my career I found an order that made sense to me, so I've stuck with it pretty much ever since (it also makes comparing budgets from different projects easier).

You’ll see that there are a few categories that have nothing in them. If a budget category is empty, there should be a good reason. It’s important to include categories and line items even if they’re empty – this shows you what you aren’t spending money on.

Line Items

Each category is further divided into line items (sometimes referred to as accounts). Table 10.2 shows the summary view of a few below-the-line departments from *Found In Time*. 

<table>
<thead>
<tr>
<th>Item #</th>
<th>Item</th>
<th>Subtotal</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>207-00</td>
<td>CAMERA</td>
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</tr>
<tr>
<td>207-01</td>
<td>Director of Photography</td>
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<tr>
<td>207-02</td>
<td>Camera Operator</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>207-03</td>
<td>1st AC</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>207-04</td>
<td>2nd AC</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>207-05</td>
<td>Red Tech</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>207-06</td>
<td>B-Camera Crew</td>
<td>0</td>
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</tr>
<tr>
<td>207-07</td>
<td>Additional Red Tech</td>
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<td></td>
</tr>
<tr>
<td>207-08</td>
<td>Steadicam Operator</td>
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<tr>
<td>207-10</td>
<td>VTR Assist</td>
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<td>Camera Package</td>
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</tr>
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<td>207-16</td>
<td>Additional Rentals</td>
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<td>207-17</td>
<td>Dolly – SEE GRIP</td>
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<tr>
<td>207-30</td>
<td>Kit Fees</td>
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<td>207-31</td>
<td>Expendables</td>
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<td>$5,050</td>
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</tr>
<tr>
<td>208-02</td>
<td>Best Boy Electric</td>
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<td></td>
</tr>
<tr>
<td>208-03</td>
<td>Generator Operator</td>
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<td>Electrics</td>
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<td>208-05</td>
<td>Rigging Crew</td>
<td>0</td>
<td></td>
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<td>208-15</td>
<td>Lighting Package</td>
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<tr>
<td>208-16</td>
<td>Day-Play Package</td>
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<td></td>
</tr>
<tr>
<td>208-17</td>
<td>Generator Rental</td>
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<td></td>
</tr>
<tr>
<td>208-30</td>
<td>Kit Fees</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Item #</td>
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<td>Subtotal</td>
<td>Total</td>
</tr>
<tr>
<td>---------</td>
<td>--------------------------</td>
<td>----------</td>
<td>---------</td>
</tr>
<tr>
<td>208-31</td>
<td>Expendables</td>
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<td>Breakage</td>
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<td></td>
<td>$1,820</td>
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<td>GRIP</td>
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<td></td>
</tr>
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<td>Key Grip</td>
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</tr>
<tr>
<td>209-02</td>
<td>Best Boy Grip</td>
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</tr>
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<td></td>
</tr>
<tr>
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<td>Grips</td>
<td>0</td>
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<td>Costumes/Wardrobe PAs</td>
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<td>Kit Fees</td>
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<td>219-06</td>
<td>Incorporation</td>
<td>900</td>
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</table>
Your head may start spinning – mine always does when I see all the items I have to budget for – but just stare at the table and some things will become apparent to you.

First, notice that each line item number uses an XXX–XX nomenclature. The first three digits indicate the department; the last two the line item. Each line item number should be unique. Further, it helps if you have “matching” line items across different departments. Note above that department heads are usually “XXX–01,” your seconds are “XXX–02,” major rentals (equipment or locations) start at “XXX–15,” special rentals are “XXX–16,” and so on. This makes it easy to compare different departments’ budgets and also identify a line item just by looking at the number (handy when you’re tallying up costs later).

Second, notice that there’s a typical order of items within a department. It should ideally go something like this:

• Department Head – sometimes called the Key.
• Second/Assistant – sometimes called the Best.
• Staff – works under the second and department head. Sometimes called the Third.
• Additional Special Crew – day players (people who are only needed for specific days).
• Main Equipment Rental/Purchase – the main lighting package, camera package, mixer, etc.
• Additional Equipment Rental – for specific days or periods during the shoot.
• Kit Fees – a way of compensating crew for using their equipment and supplies.
• Expendables – items you have to buy such as tape, sash, gels, staples, etc.; anything that is used and then disposed of.
• Breakage/Damage – an estimate of gear that won’t make it back, or damage to the owner’s property.

This reflects the order in which you’ll be dealing with each department’s components. Usually I hire the keys first (who then bring on their staff), then figure out the gear they need, then figure out the expendables and kit fees, and at the end of the shoot pay out the missing/damaged charges.

Some producers prefer to put all the crew into one category. They then list all the equipment, location rentals, etc. in separate categories. The reasoning is that your crew is a labor expense, which should be kept separate from the equipment/location/other non-labor items. I don’t recommend this. It may make some accounting sense, but it doesn’t reflect the way the shoot works in real life. In actuality, each department head is responsible for his/her own budget and crew.

I recommend that you leave some gaps between numbers in case you have to insert a line item later.

Details

Finally, each line item consists of a set of detailed expenses. Table 10.3 shows the detail level for item #212–15, Costume Purchases/Rentals, and Table 10.4 shows the detail level for item #212–01, Costume Designer.
You’ll notice that some expenses are pretty specific – the day rate for the costume designer or the number of uniforms for the miners. Others are more general. If I don’t know exactly how much money I’m going to need to spend on something, I write ALLOW under the unit type, and then throw in what I consider is a reasonable estimate.

Here is where your work on the breakdown and schedule pays off. Knowing what props, picture vehicles, locations, cast members, etc. are in your film and for roughly how long will help you figure out the details.

### Labor Expenses and Terms

When you start budgeting for your crew and cast expenses, you shouldn’t just consider the actual time spent during the shoot (or post). There are several other items that you should be aware of, even if the number you put down for them is a “0.” These include scouting, prep, wrap, travel days, rehearsals, fittings, and the various flavors of overtime.

In the case of union crew and cast members, these additional expenses are mandatory. Non-union crew and non-guild actors are a different matter. According to labor laws, employees are entitled to overtime and compensation for travel. In reality, these are negotiable. I try to be fair to the crew and cast on a non-union shoot, because it’s a good way to keep productions from becoming too crazy (endless days) and because it’s the right thing to do.

**Overtime.** SAG cast members and union crew get overtime after 8 hours. Non-union cast and

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**TABLE 10.3** Detail-level of line item #212-15, from *Found In Time*

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Unit Type</th>
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<td>350</td>
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<tr>
<td>Psych-Cops</td>
<td>4</td>
<td>Uniforms</td>
<td>1</td>
<td>100</td>
<td>400</td>
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<tr>
<td>Surgical Scrubs – Miners</td>
<td>8</td>
<td>Uniforms</td>
<td>1</td>
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<td>104</td>
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<tr>
<td>Doctor Scrubs – Jina/Anthony</td>
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<td>Coats/Pants</td>
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<tr>
<td>Jina</td>
<td>1</td>
<td>ALLOW</td>
<td>1</td>
<td>100</td>
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<tr>
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<td>1</td>
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**TABLE 10.4** Detail-level of line item #212-01, from *Found In Time*

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<td>Wrap</td>
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<td>Day</td>
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<td>150</td>
<td>150</td>
</tr>
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</table>
crew should be paid overtime of some kind – I usually start it after 12 hours. Overtime is typically calculated at 1.5 times the pro-rated hourly rate. As you’ll see below, I budget overtime for the cast as part of their base salary, since a typical film shoot day is 12 hours anyway. I usually put in an hour of extra overtime per shoot day per crewmember (union or non-union) as a buffer.

Doubletime. Union cast and crew get doubletime after 12 hours. I usually start doubletime for non-union folks at 14 hours. Doubletime is (you guessed it) paid at 2.0 times the pro-rated hourly rate.

2.5x time. Same principle as overtime and doubletime. Union: starts after 14 hours (depending on the contract). Non-union: starts after 16 hours.

Travel days. Union crew and cast get travel days paid for, though the rates are usually lower (on union crews a travel day can be a 4-hour day). I typically pay non-union/non-guild folks a half-day for travel unless it’s a really distant location they’re traveling to.

Meal penalties. You’re supposed to break for meals every 6 hours. Anytime you violate this rule, you have to pay the actors (and crew) a penalty. This penalty varies (see below) and you get a “break” if you happen to be in the middle of a take when the 6 hours is up. It’s a good idea to budget for at least one or two of these over the course of the shoot.

Prep, wrap, scout days, rehearsals. You may not be able to pay for all of these fully, but you should at least put them in the budget, even if you put a “0” next to them.

Independent vs. Studio Budgets

Sometimes I depart from some of the more “standardized” budgets I’ve seen in a number of key ways. Every producer has a slightly different way of grouping things. Here are the major discrepancies and why they matter.

Line producer. Some people categorize the line producer as a producer, whereas others put them at the top of the production staff department. I do the latter. In my experience, the line producer is mostly involved in the preproduction and production stages and gets a salary, whereas a true producer is involved from day one and often only gets a fee at the end.

Script supervisor. Some budgets have this person occupying their own department. I understand this because, technically, it’s true – the script supervisor really is a department of one. But mostly just for convenience, I put them in with the production staff department.

Props vs. greens. Greenspeople are specialized props personnel who take care of plants, flowers, and other flora (either real or fake). In some budgets, you’ll see greens listed as a separate department. I usually put them under the props department, because on low-budget shoots it’s unlikely you’re going to need a whole separate gang of greens people running around. On I Am Legend, the greens department was huge, because they had to put overgrowth everywhere. So they had their own trucks, generators, PAs, and most likely their own department listing in the budget.

Special effects. Some budgets break out the items listed below into other departments.
However, on low-budget films these items are usually tied together in some way (you generally have a pyro and armorer together) and aren’t necessarily the responsibility of the rest of the crew.

**Animal handlers.** While technically animal handlers could be considered their own department, functionally animals are usually treated as special effects.

**Armorer/pyro/guns.** Some people put the armorer, gun rentals, and pyrotechnics staff in the props department. On low-budget shoots, however, they belong together as part of the FX budget.

**Greenscreen materials.** I’ve seen greenscreen materials and visual effects supervisors listed in their own departments, or as part of the camera department. I keep them in the special effects category.

**Set operations vs. grips.** Grips are actually considered part of the set operations budget. This is because one of their primary roles is set safety. So on some budgets you’ll see the grips listed in set operations (Set Ops), along with the craft services and set medics.

In actuality, the grips behave like and are paid as their own department. Their equipment needs are also very different from that of the rest of the Set Ops folk. For these reasons I list them separately.

**Walkie-talkie rentals.** On a lot of budgets, these are lumped in with the sound department, on the principle that they’re often rented from the same place that you’re getting your sound gear. The production department is usually responsible for distributing and caring for walkies. But since they’re used on set, I feel that Set Ops is a good department to list them in.

**Dolly rental.** While technically the dolly is part of the camera department, it’s handled by the grips and rented (most of the time) from the grip/electric equipment house. So unless it belongs to the DP I usually end up listing it in the grip department.

**Grips, electrics, and grip/electric.** On most shoots, you want to separate grips from electrics. They serve different functions that call for different skill sets. However, on really low-budget shoots ($50K–$100K), you will probably only be hiring a key grip and gaffer, in which case they’ll be doing a little bit of each other’s jobs and the equipment will be coming from the same rental house anyway. In those cases, I collapse the grip and electric departments into one.

**Costume, wardrobe.** You will sometimes see these listed as separate departments. Costume designers and their staff work on the creative end – figuring out the color schemes and dress style for each character, and working with the director to establish a look. The wardrobe supervisor is more practical – they fit the actors to the wardrobe, repair and take care of them, and keep continuity. There’s some overlap between them. On low-budget shoots, however, I’m hiring one or two people to do everything wardrobe-related, so I usually collapse these into one department.

**Hair/makeup.** Some producers like to separate these into two departments, if there’s a need to hire more of one than another – for example, if the script calls for a lot of wigs or “special” hairdos, you may need more hairstylists. I usually just list everyone in one department.
Still photographers, EPK crew. Still photographers and EPK camera operators are covered by the same union local as the DP, so they’re often listed in the camera department. I prefer to keep all the publicity-related personnel in their own department, since that’s how they actually function on set.

Overhead and insurance. Some producers like to keep all the overhead together at the end of the budget. I’d rather segregate production from post overhead because the needs are different, and the money is spent in different stages. The same is true of insurance. Insurance needs are very different at each stage of the project.

Digital conform and finish. Every film seems to have a slightly different post workflow and target projection format. On some you’ll end up outputting to film, but for most films budgeted under $4M, you’ll end up making a DCP (digital cinema projection) or HDCAM-SR master, plus several sub- and projection masters. There’s no real standard here – I’ve included many different steps, but some may become obsolete (I hope we’re not still making DigiBeta masters in a couple of years).

APPROACHING THE BUDGET

There are two general approaches to budgeting: the top-down and bottom-up. In the top-down approach, you start with a target number (say, “$500,000”), and then you try to fit the budget to the target. In the bottom-up approach, you figure out the details, then add them up – and that’s your total.

The danger of the top-down approach is that it can often lead to wishful thinking – you start trimming costs unrealistically to meet the target. I strongly believe that, at least for the first draft of the budget, you should pessimistically cost out everything and then see where you are. You can always subtract in subsequent drafts.

On the other hand, having a target in mind will help you structure your thinking. If you’re trying to make your film for $100K–$200K, you’re going to aim for a certain shoot length, SAG agreement, and crew size.

KEY DECISIONS TO MAKE

There are really seven key strategic decisions that you have to make in order to do a budget. You should try to decide them before you get too deep into the process. You can change your mind about these things later, but they’ll give you a good jumping-off point from which to actually start generating your first draft. So, ideally you should:

Decide on your target. What is it you have or think you can “realistically” raise? What number makes sense from a business perspective?

Figure out the cast salary structure. Are you going to use one of the SAG low-budget agreements? Are you going to try and “sweeten the pot” with a flat offer to a name actor? This will affect your crew salaries, the length of your shoot, and other variables.
**Figure out the crew “gestalt.”** What kind of shoot do you need to support the script? What kind are you most comfortable leading as a producer and/or director? Will you be using a union crew? This will of course have a big impact on your budget.

**Decide on the length of the shoot.** Look at your breakdown and preliminary schedule. This will tell you how many shoot days you “ideally” need.

**Decide on the length of post.** This is determined by the complexity of the script, the speed of your editor and director, and of course your target. *Found In Time* was a complex script, with a lot of scenes (145) that go back and forth in time, following multiple storylines. Sound design was also very important to me. So I initially figured on at least 10 weeks of picture editing plus synchronizing and logging, and 8–10 weeks of sound post.

**Decide on a shooting for mat and camera.** While the shooting for mat has become less and less relevant over the last few years (thankfully), your choice of camera and for mat can have a big impact on your budget. Shooting with an Epic at 5K means renting more support gear, hiring more staff, and buying more hard drives, than if you’re shooting with a Canon 5D Mark III.

**Figure out your running time.** A 2-hour film is a different animal than a 90-minute film. The script will determine this to some extent, but the running time can be more compressed or more elliptical depending on taste.

These decisions impact on each other in various ways – if you need 21 days to shoot the film and you’re going to be giving a “name” actor a good chunk of change, you may not have a lot left for crew salaries. Let’s look at each of these decisions in a little more detail.

**THE TARGET NUMBER**

Most producers, whether they admit it or not, have a “target” number that they want to make the film for (hopefully, they’re including distribution costs in this number). This could be how much they’ve got saved up, how much they think they can raise in a year, what the insurance payoff will be when they kill their rich uncle, or how much they can get from presales, tax incentives, and private equity.

You usually want to stick to a specific “sweet spot” for your target. Aiming between the sweet spots can sometimes hurt your budget. For example, if you make a film for $200K, you’ll have to pay $100 plus overtime and fringes to your cast per day under the SAG ultra-low-budget agreement. However, if you raise $300K you’ll have to shell out $268 per day plus overtime and fringes. Unless that higher salary will get you bigger “names,” you’re essentially paying more for salaries without getting a better or more marketable movie out of the deal. This is then taking money away from other things – like location fees, the DP’s salary, a better sound mix, etc. – that can make your movie better.

Without going all the way up to *Avatar* territory, Table 10.5 shows the different target budget levels that you want to aim for. As you can see, going up in budget doesn’t mean you get more movie for your money. Being more cold-blooded about it: at each level you end up having to spend more on salaries, which is a good thing but doesn’t necessarily lead to more production value.
However, it does make it possible to get a name actor, which can interest other investors, distributors, and sales agents. Since getting distribution is what makes your investors whole again, this should be a serious consideration.

As you go up the budget ladder, however, the risk becomes greater that you won’t make your money back. The basic rule of thumb is that the gross revenues have to be 3–4 times the budget of the film for you to be “in the black.” This multiple accounts for the exhibitor/licensee fees, distributor and sales agent percentages, any deferments you’ve had to pay out, delivery expenses, fees due to SAG, interest payments on any loans you had to take out to make the film, and other assorted costs that whittle the money down from gross (what the audience pays) to net (what you get).

So it’s possible to make a film for $200K and make your money back. But the quality of film that you’re going to be able to make for $300K won’t be significantly high enough to make it worth the additional $300K–$400K in revenue it’ll have to bring in.

Since you’re still in exploratory mode at this point, pick a number you think you can raise and see if it’s supported by the budget. You can always change the target later.

CAST SALARY STRUCTURE

This really comes down to two decisions: to sign up with SAG or not, and what guild agreement you’ll enter into with them.

Unless you’re shooting at the $50K–$100K budget level, you should seriously consider signing up with SAG. For one thing, casting directors don’t generally want to work with non-SAG projects. It makes their job a lot harder because it limits who they can bring in to audition. Agents and managers also don’t want to go near non-SAG projects because there’s less of a percentage in it for them. You’ll also be cutting yourself off from anyone with significant experience, and of course no “name” actor will take on the project.

However, there are some reasons to go non-SAG:

1. **Less paperwork.** While SAG has gotten better over the years (they’re being dragged kicking and screaming into the electronic age), they still saddle producers with a lot of paperwork. And if you screw it up, you can be fined or they can hold onto your bond.
2. **No bond.** When you sign with SAG they’ll expect you to pay a bond, which they hold onto until after the shoot is done and you’ve turned in all your paperwork. The bond is pretty hefty and it’s due in cash (certified check or money order). So you have to fork over some post cash and not see it for a while.
3. **No oversight.** Depending on what agreement you sign with them, you will have to submit your cast list to SAG for them to check against their membership database. If they find out that one of your cast members is behind on their dues or isn’t a member, you’ll have to make a case for hiring them or risk paying a fine.
4. **No SAG reps.** I’ve had wonderful reps. I’ve also had reps who’ve screamed at me over the phone, lost my paperwork, and/or held onto the bond for months. If you’re on your last nerve making your film, you don’t need them getting on it.
<table>
<thead>
<tr>
<th>Budget</th>
<th>Description</th>
<th>Shoot Length (Days)</th>
<th>Picture Edit (Weeks)</th>
<th>Sound Edit (Weeks)</th>
<th>Crew Size</th>
<th>SAG</th>
<th>Other Unions</th>
</tr>
</thead>
<tbody>
<tr>
<td>$50K</td>
<td>Your friends are working for free or next to nothing. You're editing it yourself or with a friend. Your sound mix is very basic. You have enough money for some festivals and may have to raise additional funds if a distribution deal comes through.</td>
<td>10–12</td>
<td>6</td>
<td>2</td>
<td>0–10</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>$100K</td>
<td>You have some money for a more ambitious story. You may have enough to pay your crew and cast. Your post will be short. You'll have very little for promotion and distribution.</td>
<td>12–14</td>
<td>8</td>
<td>4</td>
<td>10–20</td>
<td>Ultra low budget (maybe)</td>
<td>N/A</td>
</tr>
<tr>
<td>$200K</td>
<td>You have enough money for a small paid crew or a larger unpaid crew. Post is a little longer.</td>
<td>12–18</td>
<td>10–12</td>
<td>8</td>
<td>10–20</td>
<td>Ultra low budget</td>
<td>N/A</td>
</tr>
<tr>
<td>$500K</td>
<td>You have enough money to think you have more money than you do. You should start looking for a &quot;name&quot; actor. You may have a couple of heavier hitters on the crew. You can afford to move up the ladder in terms of shooting format. You have a larger distribution/promotion budget.</td>
<td>18–21</td>
<td>12</td>
<td>8</td>
<td>20–30</td>
<td>Modified low budget</td>
<td>N/A</td>
</tr>
<tr>
<td>$1M</td>
<td>Ironically, you may have to scale down your story somewhat. Your cast salary takes up nearly half your film. You will need some presales money to help you out.</td>
<td>25</td>
<td>12–15</td>
<td>10</td>
<td>40–50</td>
<td>Modified low or low budget</td>
<td>Teamsters? IA!</td>
</tr>
<tr>
<td>$2M</td>
<td>Same as $1M but union crew involvement is more likely.</td>
<td>25–30?</td>
<td>12–15</td>
<td>10+</td>
<td>40–60</td>
<td>Low budget</td>
<td>IA Teamsters DGA?</td>
</tr>
<tr>
<td>$10M</td>
<td>Union crew all the way, two-three &quot;names.&quot; Maybe a five- or six-week shoot and a decent post period.</td>
<td>30+</td>
<td>16+</td>
<td>10+</td>
<td>60+</td>
<td>Basic</td>
<td>IA Teamsters DGA WGA</td>
</tr>
</tbody>
</table>
I still think the pros outweigh the cons. So it’s worth it, in most cases, to sign with SAG.

Now, for the second decision: what agreement do you sign with them? This depends on your production budget. What SAG means by the production budget is fairly vague, but a safe guess is anything related to prep, production, and post; excluding distribution, promotion, contingency, and overhead. There are five SAG agreements currently in place. By the time this book is published, the SAG/AFTRA merger may result in these being shifted or modified.

Your cast salary changes dramatically depending on what budget level you end up in. What’s not included in Table 10.6 is all the overtime, payroll fringes, health and pension payments, and agency fees you’ll be paying to your cast.

Figures 10.2 and 10.3 give you a visual idea of what you’re going to pay per day or week per actor, depending on the agreement you end up signing. Keep in mind that these figures are inclusive of fringes, agency fees, and overtime (more on this below).

Note: the “no SAG” agreement still assumes that you’re paying your actors as minimum wage employees. More on this below.

The first thing that probably stands out is how steeply the salaries climb from one agreement to another. The leap from the ULBA to the MLBA wage scale is pretty astonishing. This is another reason to stay in the sweet spot.

“Wait a minute,” I hear you say. “I went to this seminar given by XXXX and was told by YYY that I can get a SAG actor for $100/day under the ultra-low-budget agreement.” This is technically true. But whoever told you this was stretching the truth quite a bit.

The true wage calculation is more complicated. In fact, the numbers I outlined are simplifications that don’t account for distant location shooting, six-day weeks, travel time, meal penalties, etc. Here’s the basic formula:

Base Rate + Overtime + Agency Fee + Payroll Fringes + SAG HP&W Payment

**Base rate.** This is the $100/day you’ve been hearing. However, this rate is for an 8-hour day. You are rarely going to work an 8-hour day. Budget for a 12-hour day. Incidentally, lunch is off the clock.

**Overtime.** This is 1.5 or 2.0 times the pro-rated hourly rate, times the number of overtime hours up to 12. There are overtime breaks and ceiling that apply to the basic agreement, and to the weekly contracts. For our typical 12-hour day, then, the overtime calculation is:

($100/8) × 1.5 = $18.75/hour × 4 hours = $75
<table>
<thead>
<tr>
<th>Agreement</th>
<th>Budget</th>
<th>Terms</th>
<th>Base Daily Rate</th>
<th>Base Weekly Rate</th>
<th>SAG Actors Required</th>
<th>SAG BG Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Short/student</td>
<td>$50K</td>
<td>No bond. Short films only; no commercial distribution</td>
<td>0</td>
<td>0</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Ultra low budget (ULBA)</td>
<td>$200K</td>
<td>Can mix SAG and non-SAG actors</td>
<td>100</td>
<td>Daily rate × days/week</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Modified low budget (MLBA)</td>
<td>$625K</td>
<td>SAG actors only. SAG background optional</td>
<td>268</td>
<td>933</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>MLBA background initiative</td>
<td>$725K</td>
<td>Same terms as MLBA. SAG actors only. Higher ceiling for MLBA if you hire a certain number of SAG background</td>
<td>268</td>
<td>933</td>
<td>Yes</td>
<td>3 per day averaged over shoot</td>
</tr>
<tr>
<td>MLBA diversity in casting</td>
<td>$937K</td>
<td>Same terms as MLBA. SAG actors only. Higher ceiling for MLBA if you hire over 50% of cast in one or more minority categories or women</td>
<td>268</td>
<td>933</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Low budget (LBA)</td>
<td>$2.5M</td>
<td>More stringent requirements on extras</td>
<td>504</td>
<td>1,752</td>
<td>Yes</td>
<td>30/day in LA 85/day in NY Some exceptions</td>
</tr>
<tr>
<td>LBA diversity in casting</td>
<td>$3.75M</td>
<td>Same terms as LBA. Higher ceiling for LBA if you hire over 50% of cast in one or more minority categories or women</td>
<td>504</td>
<td>1,752</td>
<td>Yes</td>
<td>30/day in LA 85/day in NY Some exceptions</td>
</tr>
<tr>
<td>Basic</td>
<td>$2.5M+</td>
<td>The standard SAG contract</td>
<td>809</td>
<td>2,808</td>
<td>Yes</td>
<td>As above</td>
</tr>
</tbody>
</table>
Figure 10.2

Figure 10.3
Payroll fringes. SAG actors are supposed to be paid as employees, as opposed to subcontractors. Exceptions apply for loan-out companies, but you won’t know about which cast members are loan-outs at this stage of the game (more on loan-outs below). As the employer, you’re responsible for paying a portion of the employee’s medicare, state and federal unemployment insurance, social security, disability, and the payroll processing fee. Some of these fees, like the social security and medicare, are fixed. Others vary from state to state. I usually put in a guesstimate of 22 percent of the actors’ gross wages. So:

Base Rate + OT + Agency Fee = $192.50 × 22% = $42.35

SAG health, pension, and welfare. One of the great things about guild membership (for members) is that they have healthcare and pension plans, which employers pay into. This is a fixed fee based on the gross income (not including fringes). Sometimes you can get away with excluding the agency fee from this, but I usually “bake” it in. So:

Base Rate + OT + Agency Fee = $192.50 × 16.8% = 32.34

If you add all these figures together, you get (for an actor working for one day under the ultra-low-budget agreement):

$100 + $75 + $17.50 + $42.35 + $32.34 = $267.19

This doesn’t include the various premiums you’ll have to pay for meal penalties, overtime past 12 hours, travel time, or turnaround invasions (those are very expensive). Now you can see why it’s a good idea to eliminate “one-line” actors where possible. When budgeting cast salaries, I typically put in the full salary including overtime, etc. There are some exceptions:

- **Minors** can’t work more than a certain number of hours per day (the exact number depends on their age) and under no circumstance should they go past eight.
- **Stunt coordinators** have much higher rates, even under the low-budget agreements, but they usually don’t have agency fees. Most will also agree to work on a “flat” daily rate.
- **Stunt players/adjustments.** Stunt actors are usually paid the same as regular cast members but may get a “bump” for a specific stunt. Actors may also get a stunt adjustment.
- **Walk-on roles/bits.** If you have an actor who only appears in one scene and you have a reasonable hope of shooting it in less than 8 hours, then you can put this person down for the basic rate + fringes.
- **Non-SAG.** If an actor is a member of another guild (AFTRA or Actor’s Equity), or has had professional training, you’re still supposed to pay into the Health, Pension, and Welfare fund. If the actor is really a non-actor or just starting out, you can sometimes argue your way out of this.

Payroll Issues

You can’t really pay SAG actors as subcontractors. SAG specifically disallows it in their agreements. Also, you’re telling the actor where to go to work, when to be there, and for how long. The IRS considers those hallmarks of an employer–employee relationship. So you’re stuck paying the 22 percent (roughly).
You can save a little money by doing the cast payroll yourself and not hiring a payroll company, but the amount of paperwork and check writing this entails is not really worthwhile, especially while you’re in production. I’ve seen payroll companies charge between $15/check to 5 percent of gross wages. They usually want a deposit of at least one week’s pay (by wire, money order, or certified check). You typically want to go with a payroll company that works with film and television companies, since they have the forms and systems customized for this kind of work.

Some actors form loan-out companies. These companies, like your production entity, were created to structure the actors’ business. Instead of paying the actor directly, you pay the loan-out company – almost as you would a vendor – and the company “lends you” the services of the actor in return. This will save you the payroll fringes.

So, what do these fringes consist of, anyway? They’re a combination of state, federal, and payroll-company-related charges that all employers are responsible for (Table 10.7).

On top of the 20–22 percent that you’ll have to fork over for various payroll fringes, you have to also pay 16.8 percent of the gross wages (not including fringes) to SAG’s health, pension, and welfare fund (HP&W).

**Exceptions to the Rule**

Some producers will pay actors a “co-producer fee” on top of their minimum salary, so as to avoid the SAG HP&W fee. While this can work, SAG certainly frowns on it.

If you’ve hired someone who is not legally allowed to work in the country (this happens for all sorts of reasons, such as improper immigration paperwork filing; visa overstays; or if you’re making a really low-budget film and you cast an actor who’s undocumented) you may have to figure out some kind of “alternative” arrangement. This could mean paying cash, or paying the person’s best friend some kind of fee. If you’re working on a non-SAG project or ultra-low-budget project, this is less of a problem – just be sure to keep the person out of any official paperwork. If you’re working under the SAG MLB or LB agreements, however, you’ll be under more scrutiny.

**Other Things You Need to Consider**

**Rehearsals are paid.** I budget rehearsal days at 8 hours (no overtime).

**Fittings and makeup** tests are also supposed to be on the clock. I typically budget 2 hours of fittings per actor on a prorated basis (divide the daily rate by 8 hours). More if it’s a period or sci-fi/fantasy project. In reality, actors will donate fitting time if you can be flexible with their schedules – especially on low-budget films, it’s better for them to have the designer come to them at their convenience.

**Travel time** is on the clock, if it’s outside of a reasonable (usually 30–45 minute) travel distance from the home town/city of the actor.

**Stunt coordinators** get a basic rate even under the various low-budget agreements.
Meal penalties. This penalty is expensive – $25 per actor for the first half-hour, then $35/actor for the second half-hour, then $50 for each half-hour after that. Sometimes penalties are unavoidable. So I typically budget about one penalty per actor day. So if John has three days of shooting scheduled and Jane has two, that’s five penalties total. That’s not a huge amount of cushion but it does help prevent unpleasant surprises.

Paying a “Name” Actor

SAG has a standard “buy-out” salary, called a Schedule “F.” As of this writing, the fee was $65,000 (plus fringes). Overtime and rehearsal time is negotiable under this schedule. In exchange for this salary, you “buy out” the actor’s time – he/she can’t make another commitment during your shoot.

In reality, everything is negotiable. Perhaps the actor would work for $20,000, or $200,000. You’ll have to pay fringes and SAG HP&W on some portion of this money (depending on how the fees are paid out). Often an actor will get a “co-producer’s fee” in addition to their salary.

How do you budget this fee? One rule of thumb says that in a $1M budget, no more than $500K total should go to above-the-line categories (including cast and fringes). This means that you might be able to swing two cast members at $100K each (plus fringes), or one actor for $200K and a couple of others for $25K–$50K. You don’t have to pay all your “names” the same amount of money, but you do have to make sure each of them is treated equally – if one gets a private dressing room, so does everyone else.
On a $50K–$200K film, you might be able to get one name, for up to 25 percent of the budget. Anyone signing up for a film at this budget range is doing so primarily for non-monetary reasons – they like the story, they want to work with a particular director or actor, or they feel that the role will advance their career somehow.

You may have to pay for other perks – an assistant, a trailer, an international cellphone or broadband connection, etc. I usually have a line item called “Star Costs“ that’s part of the cast budget. It’s a bit of a garbage-bag category to cover some of these items (a trailer is really part of transportation). It’s very difficult to figure out what this number should be if you’re trying to get a name.

If you decide to get a name actor (or two), you’ll have to adjust your below-the-line salaries and gear rentals accordingly. You may have to compress the schedule so you can make up for the more expensive cast. You may also have to consolidate the schedule to favor that actor’s role.

**Casting Directors**

A casting director is an absolute must on any film that has a budget over $100K. This is often a position that gets short shrift, but casting is a huge undertaking. Trying to do it yourself is not the best use of your time. A casting director, even one who’s just starting out, will be able to reach more actors than you can, and can handle a lot of the logistical details that would otherwise completely swamp your prep time.

Salaries for casting directors range all over the map. Some favor a 2–5 percent structure for any films over $200K. Keep in mind that you also have to account for audition and rehearsal space rental, script copying, and possibly other office supply expenses. On films with budgets of $1M and above, you should always budget for a casting assistant.

**DECIDING ON THE CREW STRUCTURE**

This isn’t just about filling in the crew salary rates, but also deciding on your crew structure, how much of the crew’s responsibilities you can shoulder yourself, and whether there are special needs in the script that you’ll need to consider.

Back in Chapter 4, we spoke about the different crew structures. To review, there’s the:

- **Run-and-gun team**: A small cadre of 5–15 folks, who aren’t overly specialized.
- **30-man team**: Emulates the larger shoot structure – more people, in more specialized positions.
- **“Real shoot”**: Specific positions, larger departments.

Along with each of these structures comes a question of what the salaries should look like. There are several pay models out there, and each of them mesh more or less well with the structures I’ve outlined above.

**Free.** People will work for free, if the shoot is short enough, they love the script, they’re trying to get a film credit, they think you’ll reward their loyalty, or if they’re related to/sleeping with/friends with you. The free model works if you’re part of a collaborative team and work together all the time, and if you have the kind of flexibility that can deal with the side effects of “free” (like people having to take a paying job when it comes up).
When I first started I did a few jobs for free, to get a track record and learn. I got experience and credits I wouldn't have otherwise.

**Deferred.** This is where you pay nothing up front, but promise to make it up when money comes in down the road from the sale of the film. This is another way of saying “free.” I did a number of “deferred” jobs at the beginning of my career, and haven’t been paid for any of them. However, I did them because I wanted experience.

**Flat/egalitarian.** This model was popularized by NY-based production company InDigEnt in the early 2000s. Everyone is paid at $100 (or some other number) per day, with the rest deferred. This can be a great way to alleviate one of the problems on set – people feeling like they’re “above” others because of their pay grade. But it may turn away more experienced people who feel they should get more for their work.

**Tiered.** This is the “standard” model – the keys get more per day than the seconds, and the seconds get more than the thirds. The thirds get more than the PAs. This rewards experience but penalizes people who are starting out, sometimes too much if the discrepancy between the tiers is too high.

**Hybrid.** This is where you adopt some version of all of the above models. Your DP may get a premium rate, but everyone else will be paid at the flat rate. Your PAs may end up working for free. I usually start out with the tiered model, but then end up building a hybrid. On Helena from the Wedding, the DP and I took flat rates (different ones) because we liked the script and the producers. The other keys got a key day rate, and the seconds got $50–$100 less than the keys. We had two interns who worked for free – one in the wardrobe department, the other in production.

**My opinion.** I tend to value experience among the keys, and to favor smaller crews over larger ones. So if the budget allows, I aim for the tiered system, with some allowances for a slight premium for the DP, production designer, editor, and sound designer. If I'm asking one person to cover multiple positions, I'll also try to get them a “bump” in salary.

Table 10.8 shows what the different crew structures look like in terms of the budget. It represents a “somewhat” idealized version of the crew structure. Reality is of course a little more complicated (hence all the “depends” notes).

Your target budget is a factor here. Generally, on $200K-or-under films, you may not be able to afford much more than a run-and-gun crew. On films in the $500K–$1M range, you'll have to decide between the 30-man and the full-size crew, but you're likely going to have to pay that crew a lower average wage, and possibly settle for somewhat less experienced people.

You can increase your crew size by lowering the pay scale either across the board or in certain departments. On Rock the Paint, the gaffer and key grip brought their seconds and thirds aboard for discounted rates, mostly because they had a relationship with them. On Found In Time, the gaffer was willing to work for less than his usual rate because we rented his gear, and he liked working with us.

In order to move forward, I recommend you start with a larger crew, then trim away positions in the second and third drafts of the budget.
<table>
<thead>
<tr>
<th>Department</th>
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(Continued)
### TABLE 10.8 (Continued)

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Legend: X = definite hire. ? = possible hire.

### TABLE 10.8 Crew structures in detail

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A Further Note on Deferments

Deferments can come in one of four forms, and they impact the budget in different ways. Usually, everyone’s deferment is the same, with no one person getting their money before anyone else.

- An at-funding deferment means that you’ll pay salaries (or some part of them) as soon as you’re fully funded. This is pretty rare – essentially you’re just issuing an IOU and so you’ll still need to include salaries in the budget.
- A first-position deferment means that you’ll pay salaries from the first monies that come in from licensing the film. In this scenario, the deferred crew are basically treated the same as investors and bank lenders.
- A second-position deferment means that you’ll pay salaries out once the investors receive their original money back plus some percentage. This puts the investors ahead of the crew but only slightly.
- A third-position deferment means that you’ll pay salaries out once profits are declared, usually from the producer’s share of said profits. For a crewperson, this is the worst place to be, since there are so many people in front of you.

The difference between second and third position is a little subtle, so an example may help. You make your film for $200K and you have $50K in total deferments. You win the distribution lottery and receive $300K from all the distribution fees. In a second-position situation, the investors get their $200K plus, say, 25 percent back (= $50K). This leaves you with $50K, which would go to the crew.

In the third-position situation, the investors get their $200K plus 25 percent. The remaining $50K is now “profit.” This is typically divided between the producer and investor 50/50. This gives you $25K to pay back the deferments with – which means the crew will never get back all their money.

You can arrange for a “modified” deferment where the crew’s deferment is considered equal to the investor’s money. So the crew’s deferment is converted into points, essentially. In practice this is pretty rare – you want to hold onto your points because your cast and possibly some of your crew (editor, DP) may get a few.

TABLE 10.9 Overtime eligibility by department

<table>
<thead>
<tr>
<th>Department</th>
<th>Overtime</th>
</tr>
</thead>
<tbody>
<tr>
<td>Production</td>
<td>No, except for script supervisor</td>
</tr>
<tr>
<td>Production design</td>
<td>No, except for scenery</td>
</tr>
<tr>
<td>Props</td>
<td>Yes</td>
</tr>
<tr>
<td>Set dressing</td>
<td>Yes</td>
</tr>
<tr>
<td>Set construction</td>
<td>Yes</td>
</tr>
<tr>
<td>Camera</td>
<td>Yes, except (sometimes) the DP</td>
</tr>
<tr>
<td>Electric</td>
<td>Yes</td>
</tr>
<tr>
<td>Grip</td>
<td>Yes</td>
</tr>
<tr>
<td>Sound</td>
<td>Yes</td>
</tr>
<tr>
<td>Set-ups</td>
<td>No</td>
</tr>
<tr>
<td>Hair/makeup</td>
<td>Yes, except for costume designer</td>
</tr>
<tr>
<td>Costume design</td>
<td>No, except for parking PA/security</td>
</tr>
<tr>
<td>Locations</td>
<td>No</td>
</tr>
<tr>
<td>Transportation</td>
<td>No</td>
</tr>
<tr>
<td>Production publicity</td>
<td>No</td>
</tr>
<tr>
<td>All post positions</td>
<td>No</td>
</tr>
</tbody>
</table>
Overtime-Eligible vs. Non-Eligible Crew

Traditionally, certain departments and positions get overtime, while others don’t. This also applies to meal penalties. The breakdown is typically as shown in Table 10.9. Note that I’m discussing overtime rates for non-union crew. The DGA, IATSE, and teamsters have their own rules for overtime.

The reasons for the discrepancy in overtime eligibility are many. It can be argued that the less “glorious” craftspeople – grips, electrics, props, sound, etc. – should be compensated monetarily for their work. Production designers and costume designers have traditionally been considered “on call” staffers – they don’t have to stick to a set number of hours per day or week. Production staff have always had a bad deal in terms of overtime. These rules were inherited from the union world.

You don’t have to follow this arrangement – you can give everyone overtime, or put everyone on a flat daily rate. Production assistants who worked past 16 hours, for example, sometimes get a “double-day” (instead of overtime, they get twice their daily rate, which is typically less than you’d have to spend in overtime anyway).

My opinion. On shoots budgeted up to $200K, I usually give all the departments overtime except for production staff. I will sometimes instead pay a premium to the UPM and 1st AD. For example, if the standard key rate is $150/day, I’ll pay $200/day to the UPM and 1st AD. Since the costume designer and production designer are typically working more than one job, I’ll give them overtime too.

On shoots budgeted from $500K upward, I start to follow the overtime model above. I budget one to two PA double-days (that could also be used for extra prep or wrap days if needed).

Crew and Gear

A DP bringing his own camera or a sound mixer lugging her own recorder should get something for that gear. I usually like to keep gear and personnel on separate line items, just in case we hire someone without gear and have to rent it separately.

Crew and Payroll

Do you pay the crew as subcontractors, give them cash under the table, or run everything through a payroll company (as you will the cast salaries)? If your budget is $500K or over, your crew is larger than run-and-gun-sized, and/or if you’re hiring a union crew, you need to put them on the payroll. The IRS doesn’t consider crewpeople contractors (since you’re telling them where to go, and when). If you’re shooting a very low-budget film and/or are working with a run-and-gun crew, you can usually get away with treating the crew as contractors.

If you do decide to treat your crew as employees, you’ll have to add the 19–22 percent employer fringes mentioned above, plus applicable union fringes (see Chapter 13 for more on union fringes).

Overtime, Meals, Working Conditions

If you’re not signing an IATSE union contract (which you probably won’t be doing unless you’re shooting a film in the $2M–$4M range), you have some freedom in how you deal with crew over-
time, meal penalties, travel time, turnaround, and per diems. However, I’ve usually followed some version of the standard union contracts. This is good for everyone. It’s good for the crew because they know that they won’t have to work endless days without overtime or meal breaks. It’s good for me because I don’t have to spend time on set trying to figure these things out, or in a worst-case scenario, trying to replace someone who quits because they felt too exploited.

What follows are some guidelines for dealing with these issues on non-union shoots.

**Overtime.** When doing the budget, I usually add a “cushion” of one hour of overtime per shoot day for each eligible crew member. I don’t budget overtime for prep, scout, wrap, and travel days.

**Prep, wrap days.** It’s best if you can offer the crew at least something here. When I’m hired on as a line producer, I usually have to work at least one day of prep for every shoot day. Then I have to work for at least a week after the shoot to tidy up all the paperwork, pay all the vendors, return the gear, and get the post started.

If you’re shooting a $50K–$500K film, you probably can’t afford to pay for all of the prep you’d like to get. When you approach the crew about this, you can usually find some flat rate that everyone can agree on, in exchange for a little time flexibility at the beginning.

Table 10.10 shows a quick summary of the number of prep and wrap days that you should budget for, by department. This is only a rough guide – every budget is different.
**Travel days.** On very low-budget shoots ($200K or under), I’ll try to budget and negotiate a half-day for travel rather than a full day for each eligible crew person. On $500K-and-up films, the crew may ask for a full day’s pay for travel.

**Meal penalties.** I usually stipulate 15- or 20-minute increments for each penalty. The penalty rate is smaller than that of SAG’s standard:

- For the first hour, $7–$10 per penalty
- For the second hour, $8–$12 per penalty
- For the third hour, $9–$13 per penalty

Unlike overtime, meal penalties are somewhat less predictable. If the director, 1st AD, or DP are very green, or if we’re shooting in very horrible weather, I’ll put down a fixed number of meal penalties for the entire shoot, for each eligible crewmember.

**How the Crew Impacts the Rest of the Budget**

Your crew size affects many other aspects of the budget, including:

**The Producer’s Path**

**Transportation.** As your crew size grows, you’ll need to budget more money for gas, passenger van rentals, tolls, and subways/buses/taxis. If anyone’s working without pay, I generally try to budget subway cards or cash to cover their transportation to/from set. If your shoot calls for a number of company moves and/or different locations, you’ll need to make sure you have enough “seats” available to transport everyone who can’t walk, bike, or bus to set.

**Meals and craft services.** Once I’ve figured out my total headcount, I then budget a certain amount per head for breakfast and lunch for each shoot day, and lunch for each prep, wrap, scout, and travel day.

I’ve tried several formulae over the years to calculate the craft services snacks budget, but have yet to find something that’s perfect. So I guesstimate a daily “rate” based on the total size of the crew. If you have a run-and-gun crew, you should budget between $50 and $100 per day for snacks. A 30-man crew could consume as much as $150–$200/day. A “full-size” crew can go through $300 or more of food per day.

**Production department infrastructure.** It’s pretty common, especially on the 30-man crews, to end up with a lopsided structure where you’ve got two-to-five people in each department – but the line producer is still trying to do everything on his/her own, without an adequate office staff. If you end up with a 30-man crew, you really need at least a production manager, a part-time accountant, and an office intern. As your crew size grows, so should your production department.

**Balance.** If you have fully staffed grip, electric, and camera departments, but you only have one hair/makeup artist and a large cast, one part of your crew is always going to be waiting on another, which is bad. This is how 30-man crews eventually “creep” into full-size ones (and another reason I don’t like the 30-man structures).
Locations. The larger the crew, the larger the “footprint.” We’ll talk about the footprint in more detail in Chapter 17. Just keep in mind that in addition to finding a set to shoot on, you’ll also need to find rooms/spaces for wardrobe, hair/makeup, holding, catering, craft services, equipment/set staging, and storage. If this can’t be accommodated at your locations (if you’re shooting in the middle of the wilderness, for example), you may have to rent trailers, tents, and/or mobile homes.

Budgeting the Crew from the Script and Your Strengths

You should fit the crew to the story, schedule, and your own strengths and weaknesses, rather than the other way around. If your script is a period piece, you’ll need to beef up your production and costume design departments. Even if many of the positions in these departments are unpaid, it’s not a good idea to simply let them go unfilled.

If your script takes place largely indoors, you may need to beef up your grip and electric departments.

If you or your producing partner can take over a position, or if one of the people you’ve hired (or want to hire) can double up without it seriously affecting the performance of their primary job, you may be able to shrink the crew somewhat by combining positions.

On *LL* and *Helena from the Wedding*, I doubled as UPM and 1st AD. While this meant some longer days for me, it also got rid of an unnecessary layer of management. *Helena* took place largely in one location, with a small cast. *LL* was more ambitious, but the director and the DP were used to working in a barebones way, so it didn’t make sense to bring aboard a separate AD. I simply had to do more work during prep.

On *Found In Time*, Ben Wolf (the DP) and I decided early on that we could function on a time-table effectively without a 1st AD. Even so, I had to delegate a lot of things to the PAs.

The lead actor/writer/director of *Disoriented*, Francisco Aliwalas, couldn’t afford a makeup artist for the entire shoot, but did hire one to work with the cast for a day to create “looks” and give them each a set of foundations and blush. Many of the cast were used to working in off-off-Broadway theater, so doing their own makeup was nothing new.

Some directors I know love doing most of their own production design, and a few prefer to shoot and just hire a strong gaffer.

On *Helena from the Wedding*, we debated about having a script supervisor, but ultimately decided that we couldn’t swing it. Instead everyone picked up the slack – the production designer and costume designer took extra photographs, I took some set photos, and the producers, DP, and sound mixer really read over each day’s sides to make sure we were getting coverage.

On the other hand, we had one day on *LL* where the entire cast (which featured three women in the lead) plus over 25 extras showed up. We hired a day-player makeup artist to assist our key makeup/hair artist; if we hadn’t, we wouldn’t have made our day.

On *Rock the Paint*, we had a large cast, and needed two full-time hair/makeup artists. On *Racing Daylight*, we had a larger-than-the-budget-would-indicate production design team, because it was a period piece.
Sometimes I get the formula wrong. LL was a big challenge for the production designer, who was a one-person art department. She had to be in two places at once a lot of the time. I should have budgeted for an assistant. On Company K – a World War I film – we really needed at least a swing grip/electric to augment our small G&E departments.

What are your strengths? Are you (as producer or director or both) capable of doing certain jobs? Do you think you'll need more crew people on board for certain parts of the shoot? Are your keys more self-sufficient, or do they need strong bests?

THE LENGTH OF THE SHOOT

Now it’s time to dig out the schedule you created in the previous chapter, and tally up the number of production days, and by extension the number of prep and wrap days.

Most of the departments need at least some prep and wrap days. This includes days for scouting, equipment checkout, returns, and discussing things at length with the director. You may have to modify some of those prep and wrap days to make your budget work (for example, taking the DP’s number of paid prep days down from 20 to 18). Just don't strip all the days (even if unpaid) from the budget – you’ll need to account for the ancillary costs of feeding and transporting people during prep and wrap.

This is where the budgeting and scheduling process start working in a nonlinear way. Perhaps your first schedule calls for a twenty-day shoot. But after tallying up your crew needs you realize you can’t afford to pay your entire crew for twenty days and stick to your target budget. So you start to compress the schedule a little bit, and redistribute some smaller scenes. If you cut two days out of the budget, you may end up having to pay more in overtime. So you go back to the budget and strip out a couple of crew positions, to see if you can add at least one of your days back in.

This process can last for a while. It takes some patience and you may have to create several different schedules and budgets. This can actually be helpful for playing “what if” scenarios (what if we added one more day to the schedule?).

POST LENGTH AND WORKFLOW

Just as you determined your crew staffing according to the script and your strengths, so you need to also figure out the length of your post. Unlike production, where everyone is working at once, post is a more linear process. You can’t start your sound post or finalizing your visual effects until you’ve locked your picture. In turn, in order to finish cutting your picture, you’ll need to figure out the “ideal” length of your picture edit, and how long your synching/logging/prep period lasts.

If you’re budgeting a $500K-and-up film, you should try to bring aboard the assistant editor and editor as soon as you start shooting, so they can start logging and synching while you’re still shooting. This can help you get into post a little faster, but obviously you’ll have to pay for this time (at least for the editor).
Sound post is harder to estimate, but to some extent it depends on your expectations and your production audio. If you want a layered, rich, complex soundtrack and your production sound is a bit messy, then you can expect it to take longer and cost more.

You also need to schedule some time between each phase of post. When you're done shooting, you need to schedule time to sync, transcode, and log your footage. When you've locked your picture, you need to prepare and deliver video and audio files to the sound designer. When you're ready to do your color correction and conform, visual effects, and titles, you'll usually have to spend some time exporting or preparing your final video files.

Each of these interstitial “steps” adds up and should be included in your post supervisor’s or assistant editor’s time. If your picture editor is shouldering a lot of these tasks, you should add this to their time.

You also need to figure out your basic post workflow. To do this, you need to answer the following questions:

1. What format are you shooting on?
2. What system do you want to edit on? (Final Cut Pro, Premiere, Avid, Vegas?)
3. What is the projection format you’re aiming to end up on? (DCP, 35mm, HDCAM, DVD, Quicktime?)

The answers can change over the course of the production and post period, but for the purposes of putting a budget together, it’s best to answer as firmly as possible. Once you do, you’ll need to research the best post workflow for your film. This will influence your sound post length as well.

I usually budget no less than six-to-seven months for postproduction, broken down as follows:

- 2 weeks of transcoding/synching/logging
- 12 weeks of picture editing
- 2 weeks of sound prep
- 8 weeks of sound editing
- 1 week of mixing
- 1 week of color correction
- 1 week of prep for final output, sound checking, and final output to tape/disk

To stick to your budget, you may have to add more time to the schedule and do some of the tasks yourself. On *Found In Time*, I couldn’t afford a paid assistant editor, so I transcoded and synched the footage after the end of the shoot. It took roughly one month. On the other hand, I couldn’t do the special effects, so I hired someone to do them (and saved myself a good deal of agony).

**DECIDE ON A SHOOTING FORMAT AND CAMERA**

Your shooting format choice can influence the size of your crew, lighting package, and transportation. It can also influence how easy or difficult it is to get certain shots. The current crop of cameras and shooting formats boil down to five broad categories:

1. **Camcorders.** The Sony EX1, Panasonic P2, and older generation HDV cameras fall into this category. They’re relatively lightweight and are a little more filmmaker-friendly out of the box. On
the other hand, they do represent older technology, which can cost you more (with a tape-based camera, you’ll need to transfer the footage to files). If you shoot to HDV, XDCAM EX, or another long-GOP (group of pictures) format, you’ll need to transcode the material into something that’s more edit-friendly (ProRes or DNxHD). These cameras generally perform well in low light.

2. DSLRs. These shoot full HD to some variant of H.264. They’re small and light, take up very little space, and you can kit them out with various lenses and accessories. You don’t need a lot of room in your equipment vehicle for the camera. You do need to transcode the footage to an edit-friendly format.

3. Mid-level HD cameras. The Canon C300, BlackMagic Designs, Sony F3, and Panasonic AF100 fall into this category. They’re larger than the DSLRs but offer some advantages – like less compression, more cinema-friendly controls, the ability to capture your images at a higher bitrate/sampling rate, etc.

4. Full-size 2K+ cameras. The Red, Epic, Arri Alexa, and Sony F65 cameras. These cameras capture more data, with less compression, and feature more varied image controls, than their smaller brethren. You can also record the images to a variety of formats. This comes at the expense of size and complexity.

5. Film cameras. Super 16mm and 35mm cameras used to be very different beasts, but thanks to miniaturization, the latest crop of 16mm and 35mm cameras looks almost identical. Film of course is very expensive – you pay for negative and developing by the foot, and you have to digitize the footage to Quicktime in order to edit it.

The cameras in categories #3–5 take up progressively more space and require a larger camera crew. This of course affects your budget as well – shooting on film will require you to rent a separate truck for your gear. If you’re shooting on a Canon 5D, you can fit the camera into the back of the equipment van.

As you go up in the camera/format category, you also need to consider the downstream budget effects. The less compressed formats take up more hard-drive space. While you can comfortably fit 10–12 hours of HD H.264 footage on one 500GB drive with room to spare, you’ll need to budget up to 15GB of drive space per minute if you’re shooting to the ArriRAW format.

Unless there’s a format standardization among camera vendors (unlikely at best), you’ll have to keep up with the constant stream of new cameras and formats. However, all of the options deliver good bang for the buck, and what you shot on is mattering less and less as long as you can project it on whatever format the distributor wants. If your film's target budget is $200K or less, consider one of the cameras/formats from categories #1–3. If your film’s target budget is $1M or more, consider something from category #4. If your film is budgeted at $4M, film may make sense.

RUNNING TIME

Ideally your running time is reflected in your script – one page is supposed to equal one minute. But dialog-driven scripts tend to run longer. The length of action scenes depends a lot on the director’s execution and intentions. Likewise films such as Titus and Tree of Life are very hard to estimate based on the screenplay.
If your running time is less than 80 minutes or longer than 2 hours, you’re going to have some difficulties licensing the film down the road. If your script is on the long side, you may be saddling yourself with something that you can’t shoot within your budget. In this case you may have to assume that you’ll do a rewrite and trim a few pages out.

PUTTING IT ALL TOGETHER

Throughout most of this chapter we’ve discussed the assumptions that go into a budget. Once you’ve decided on some of these, plugging in the numbers becomes relatively easy. For example, I have a script that’s 88 pages long but has a couple of phone calls (so it’s really 92 pages’ worth of strips).

**Target budget.** I think I can raise about $200K.

**Cast salary.** I don’t think I can afford a “name,” but I want to sign up with SAG. I go for the ultra-low-budget agreement. There are three leads, three supporting actors, and two day-players.

**Crew structure.** I can probably only afford a “run-and-gun” structure. There’s nothing remarkable about the script in terms of props, costumes, etc. but I do have two female leads and they’re in a lot of scenes together, so I may need to hire two people for hair/makeup. Also, I have two scenes that take place in a haunted house, so I’ll need to beef up the art department on those days. I figure I can pay the keys $200/day, the bests $175, and the thirds $150. I can’t afford for all the PAs to be paid, so I budget for one key PA who’ll make $100/day, and the others will have to be interns.

WHAT TO DO NEXT: RESEARCH AND MATH

Now that you’ve made your initial decisions, you can build the framework. From this point, it’s about doing research. If you want to know what the going labor rates are for non-union crew, call local producers and production companies. People are fairly generous when dealing with someone who has a genuine interest in learning and has done some homework ahead of time. Use the budget assumptions above as talking points. Talk to your war council — either they can help you directly or refer you to people who can.

A lot of information can be found online. You can check out the latest SAG rates online (by the time you read this, it’ll be SAG/AFTRA). See Appendix C for more details.

Once you’ve amassed enough answers, start filling in the details for each line item, and work your way down from the top. Chances are the first draft of your budget will be higher than you expected. That’s normal. It’s always better to start with more and then peel expenses away. We’ll talk about this in more detail in the next chapter.

You’ll probably have to go through at least two drafts of the budget.

Try to answer the following questions about your film.

1. What is the target budget?
2. Will you go SAG or non-SAG?
3. What size crew do you envision leading?
4. Is there a department that might need some reinforcements? (For example, do you need to find a dedicated location manager because your script takes place in over 20 locations?)
5. How long would you like the shoot to be?
6. What is your end goal? What media do you want to deliver your film on?
7. What format would you want to shoot the film on?
8. Based on the script and your sense of timing, what is the running time?
INTRODUCTION

“Who does what?” is one of the most-often-asked questions I get from students, interns and production assistants. Even people who have been in the business for a while are sometimes unclear as to exactly who performs which functions on any given project — especially when it comes to producers. Although some duties can only be performed by individuals who occupy certain positions, and others can be accomplished by a number of different people, depending on the parameters of the project — there’s no doubt that production requires a team effort.

From where I sit, there’s a core group that constitutes the production team, and they are the:

Producers
Director
Unit Production Manager
First Assistant Director
Production Accountant
Production Supervisor
Production Coordinator
Second Assistant Director

Think of casting directors, location managers, travel coordinators, post production coordinators and the studio and network executives assigned to your show as auxiliary team members.

Unfortunately, it doesn’t always happen this way, but the ideal is a team that works well together and where members understand and support each other’s boundaries and goals. In other words, should you find yourself with a producer and director (or any other members of the team) who don’t see eye-to-eye and can’t find enough common ground to get along — you’re cooked! An adversarial relationship within this group becomes a problem for everyone. On the other hand, efforts made to collaborate on shared common objectives, enhanced by a mutual respect for one another, will inspire the cooperation and loyalty of the cast and crew, will be helpful in promoting a pleasant working environment and will favorably influence your schedule and budget. Once you have a viable script and either a studio deal or outside financing in place, this is the group of people who will take these elements and make them into a movie. The mood and temperament of the production team is going to permeate the entire project and affect everything and everyone involved. It therefore behooves you to put together the very best team you can.

There are six phases to any film. From conception through projected finished product, they are: development, pre-production, production, post production, distribution and exhibition. Although some members of the production team are involved in more than two phases, everyone on the team is involved in both pre-production and production. These phases represent the putting together and coming together of all elements necessary to shoot a film.
The job responsibilities attributed to members of the production team will vary depending on how the film is being released and on the project's budget, schedule, union status and location. The chart at the end of the chapter illustrates job functions (ranging from acquiring the rights to a project through the submission of delivery elements) and indicates which position or positions generally fulfill those responsibilities. And though I can't create a chart big enough to include every step taken to prep, make and wrap a film, this one covers key operations routinely performed on most shows.

And the following sections will explain some of these pivotal positions in more detail.

**PRODUCERS**

On a feature film, there will customarily be at least one executive producer, a producer, possibly a co-producer and/or a line producer and possibly an associate producer. On a one-hour episodic television show, you might see as many as a dozen producers listed in the credits. And when it comes to Reality — they have their own producer categories (which you'll find listed in Chapter 24).

Years ago, everyone understood what a producer did, and there weren't so many of them. In recent years, however, producer credits are often confusing and nebulous — often handed out like candy at a kid's party. Producing credits of one kind or another have been afforded to key performers, the performer's manager or business partner, to financiers or the middlemen who bring financiers into a specific project. Producer duties often overlap, and the credit has at times been afforded to individuals who have never set foot on a movie set. If you happened to see the movie *Narc*, you might have noticed the multiple producers listed in the credits — nine executive producers, five co-executive producers, four producers, one line producer, two associate producers and one consulting producer — 22 in all. I can't imagine what all of them did, but it's unlikely that all 22 were instrumental in the day-to-day running of the production.

In response to this unacceptable and confusing trend, the Producers Guild of America (PGA) has actively lobbied to standardize producing credits and to limit them to the individuals who actually perform the duties of a producer. They've instituted a *Code of Credits*, which includes guidelines governing the arbitration of credit disputes. You can go to the PGA's website at www.producersguild.org to find out more about the Code of Credits and to access their producer definitions and job descriptions.

**Executive Producer**

A rudimentary definition of an executive producer is someone who supervises one or more producers in the performance of all of his/her/their producer functions on single or multiple productions. On theatrical features, the *executive producer* may be the person who raises the funding, provides the funding, owns the rights to the screenplay and/or puts the deal together. It could be one of the principal actors whose own production company packaged and sold the project or (as has been the trend of late) the line producer. It could also be an established producer who's lending his or her name (and prestige) to a project, so a lesser-established producer can get a film made — or an established producer supervising a production at the request of a studio.
On a television show, the executive producer (also referred to as the “EP”) is often the “show-runner”— the David E. Kelleys and Dick Wolfs of the industry — primary providers of television content — the ones who create, develop, sell and produce a plethora of the shows found on the TV and cable networks. In television, an EP would be equivalent to the producer on a feature — the ultimate authority and liaison between the production and the network. It could also be a lead actor whose name and/or production entity got the project off the ground to begin with. A co-executive producer may very well be a lesser-established individual who brought his project to the showrunner/EP who in turn sold it to the network.

**Producer**

A producer is basically the one who initiates, coordinates, supervises and controls all creative, financial, technological and administrative aspects of a motion picture and/or television show throughout all phases from inception to completion. On a theatrical feature, the person with this title is also referred to as the *creative* producer, because he or she will be involved with all creative aspects of the project, and — in conjunction with the director and the studio and/or financiers — will have significant input on the script, cast and crew selections, production design, wardrobe, location selections, editing, musical score, marketing and so forth. This person will often be the one who acquires the rights to the story or screenplay and develops the material until it’s ready to shop. He or she will most likely be the one who sells the project to a studio or possibly raises the necessary funding. He or she will establish the legal structure of the production entity, sign all union agreements and contracts, function as liaison between the production and the studio and be responsible for delivering the completed film. Working closely with the director, he or she walks a tightrope — striving to protect the intentions of the writer and the vision of the director while balancing the fiscal constraints of the production’s schedule and budget. The feature producer is the ultimate *buck-stops-here* person — the one who must answer to everyone for everything, but... he or she is also the one who gets to collect the Oscar when the film wins an Academy Award. If you’d like to find out more about the job of a producer, pick up a copy of Buck Houghton’s book, *What a Producer Does — The Art of Moviemaking* (Silman-James Press, 1992), and/or Myrl A. Schreibman’s *The Indie Producer’s Handbook — Creative Producing from A to Z* (Lone Eagle, 2001).

Television producers come in many varieties. A line producer is the individual responsible for making sure a show is completed on schedule and on budget and for overseeing all physical aspects of the production. Staff writers and story editors have for a while now been given producer credits as have (in many instances) post production supervisors, who at one time were given the title of associate producer.

**Co-Producer**

On a feature, the co-producer could be another title for the line producer (the definition of which is stated below). This credit could also denote a lesser-established producer who, the first or second time out, must take a reduced credit or share responsibilities with the producer. It could be the lead actor’s business partner or manager who comes with the package or the person who sold the rights to the property to begin with — even though he or she may have never produced before.

**Line Producer**

A line producer is also referred to as the “nuts and bolts” guy or gal — the producer’s right-hand person and the budgeting-scheduling expert who supervises all administrative, financial and technical details of the production — a distinct challenge, no matter what the show’s budget or
genre. This individual is responsible for all the day-to-day matters that go into keeping the show running smoothly, while striving to make sure it remains on schedule and on budget. The line producer functions as liaison between the crew and the producer and is also answerable to the studio exec (or completion bond company rep) assigned to the show. He or she has to have keen people skills and negotiating skills and be proficient at putting the right team together, putting out fires, making decisions on a dime and walking a tightrope while balancing the director’s vision, budgetary considerations, the studio’s concerns, union and guild regulations, the cast and crew’s needs, comfort and temperament, the weather, the right locations and innumerable other details. Whether it’s changing and re-changing the schedule to accommodate an actor’s other commitments, finding ways to keep a tired crew’s morale up, figuring out how to fill a stadium full of people when you can’t afford to pay for that many extras, knowing how to make one location look like several or attempting to reduce the budget so the picture can be shot locally instead of having to take it to another country, it’s an extremely pivotal position. And although the duties of a line producer are rarely as ambiguous as are other producing categories, the exact screen credit a line producer receives can occasionally be confusing, especially with the recent trend of giving line producers executive producer credit.

At one time, there was no designation of line producer — only a production manager (or unit production manager or UPM) who performed most of the same functions. Today, a UPM can also be a line producer; although on many pictures, you’ll find a line producer and a production manager with the production manager reporting to the line producer.

**Post Production Producer**

The title of Post Production Producer has been popping up on feature screen credits lately, but it’s still a rare occurrence and is generally only given to those who make a significant contribution to a film. Previously, these individuals would have been given an Associate Producer or Post Production Supervisor screen credit.

**Associate Producer**

Associate producer is probably the most nebulous title of them all. It could denote someone who makes a significant contribution to the production effort, or it could be the producer’s nephew. It could be the person who brought the producer and the financier together or a producer’s assistant who’s recently been promoted. At one time, an associate producer credit on a television show signified that that person supervised the post production, but that’s not always the case any longer.

**PRODUCTION MANAGEMENT**

Production management is another term for physical production, and it not only encompasses the studio and production company execs who supervise the freelancers working on their shows, but also incorporates those who are “in the trenches” — the line producers, unit production managers, assistant directors, production supervisors, production coordinators (also referred to as production office coordinators or POCs) and assistant production coordinators (APOCs).

In a nutshell, the production department is a “service” department that handles the logistics for the entire company. It’s the ever-so-important spoke of the wheel that enables everything else
to keep turning and happening. It’s exhaustingly hard work — fast-paced and challenging. And though not considered creative or glamorous by most, those of us who know differently understand that there’s something pretty amazing about creative problem solving. And as in most other freelance positions, there’s always something new to learn, new people to meet and work with and new locations to travel to. Production is the behind-the-scenes office responsible for dispersing all information, making sure everyone involved has what they need to do their job and ensuring that everyone and everything arrives to the set each day — on time and prepared. They’re responsible for budgeting and scheduling, as well as for negotiating for and securing a crew, locations, equipment and all outside services. They generate and distribute scripts, script changes, schedules and a plethora of other essential paperwork (even though less and less of it is now being distributed in paper form). They make sure all contracts and releases are signed, and handle all manner of issues relating to insurance, unions and guilds, safety, product placement, aerial work, clearances and local, distant and foreign locations. Like a band of gypsies, they’re used to setting up mobile and/or temporary, full-functioning units and offices almost anywhere and in no time — experts at transporting to and accommodating entire shooting companies on just about any location in the world.

Production also tends to the comfort and needs of its cast and arranges for all cast member perks — all those extra goodies listed in their contracts (some of which happen to be the size of small phone books) such as extra-wide “popout” trailers, cell phones, TV/DVD players, microwave ovens, specially prepared food, transportable gyms, personal trainers — and the list goes on.

**Unit Production Manager**

The line producer and the unit production manager have very similar responsibilities. Generally the one to prepare the first complete schedule and budget, the UPM must function as a trouble-shooter and problem-solver, be able to think on his or her feet, and have the ability to anticipate problems before they occur. UPMs need to be good negotiators and thoroughly understand the production process, because they’re the ones who make the deals, hire the crew and approve all expenditures, time cards, call sheets and production reports. Good people skills are a tremendous asset to UPMs, as they must routinely interact with the entire cast and crew, a myriad of vendors, agents and managers, union reps, studio executives (or investors and bond company reps), film commissioners, etc. They’re quickly blamed when something goes wrong, not always appreciated when things go well and are well known for having to say “no” more often than others care to hear it. Having to work closely with each department to stay on top of what and how everyone’s doing and to make sure they all have what they need; they’re also under constant pressure to control and/or cut costs. It’s quite a balancing act, and one must be diplomatic, creative and adept at finding compromises to do it well. And although their capabilities must be multifaceted, the skill most valued by a studio or bond company is a UPM’s ability to keep a show on (or under) budget.

**First Assistant Director**

First assistant directors are the director’s right arm and the liaison between the director and the crew. They’re the ones who, once all final determinations are made during pre-production, prepare and issue a final shooting schedule and a selection of breakdowns (schedules of extras, stunts, special equipment, picture vehicles, etc.). The 1st AD (“the First”) is instrumental in setting the director’s pre-production schedule, and in conjunction with the director and UPM, oversees
the survey and selection of shooting locations. During principal photography, the First runs the set, is largely responsible for ensuring that each day’s work is completed, directs background action, supervises crowd control and is the one who yells “Quiet on the set!” On episodic television, where the directors constantly change, the 1st AD has a great deal of input and more of an opportunity to shape the outcome of a show.

**Second Assistant Director**

During pre-production, the second assistant director works closely with Casting, Extra Casting and Locations; goes on tech scouts (“technical” scouts are when specific department heads are taken to selected location sites to ascertain requirements needed to prepare for shooting at that location); helps with breakdowns and clarifies all needs in as much detail as possible. He or she makes sure everything is ready, call times are issued and all paperwork is in order and packed for the set. During principal photography, they’re responsible for the cast, stand-ins, background actors and photo doubles — making sure everyone is where they’re needed, when they need to be there. They take care of all on-set paperwork, coordinate the schooling of minor cast members, work closely with Casting, liaison with the production office, issue work calls, check cast members in and out, order background actors and supervise the second second assistant director, PAs and interns working under their supervision. A second’s rear rarely sees the top side of a chair. They’re the first ones to report to set at the beginning of the day, the last to get lunch and the last to leave once wrap is called.

Second assistant directors usually move up to become first assistant directors, and some firsts are perfectly happy to retain that position throughout their entire careers, because when working on a fairly regular basis, the salary and benefits are terrific. For those who do move up, they tend to become UPM/line producers, producers, second-unit directors, directors and production executives. Working as an AD is a great way to learn while amassing an extensive network of contacts.

**Production Supervisor**

The production supervisor isn’t a traditionally standard position, but one that’s continually becoming more common. This person is a step higher on the food chain than a production coordinator but doesn’t work as a UPM for various reasons. Either he or she isn’t a member of the Directors Guild of America, or he or she is, and the show already has a UPM, or the show’s budget won’t accommodate another DGA salary. On some shows, the line producer and UPM are one and the same, and the supervisor helps to handle the production manager duties. Other shows are busy enough and spread out enough to utilize the talents of both a UPM and a supervisor.

**Production Coordinator**

The production coordinator sets up and runs the production office; hires and supervises the APOC and other office personnel; interfaces with each department head and assists them with all their needs; helps the UPM by checking availabilities and assembling the crew; obtains bids on equipment and services; places orders for film, equipment and special services; handles all distant and foreign location travel (if there isn’t a travel coordinator on the show), accommodations, shipping, customs and immigration matters; makes sure all paperwork and information is generated and disseminated in a timely manner; communicates with the set, the studio, the vendors, film com
missions, agents, casting, etc.; handles all production-related insurance matters; oversees the “taking care of” the cast, making sure their perks are arranged for and ready on time; coordinates the screening of dailies and prepares Screen Actors Guild (SAG) contracts for day players, stunt players and anyone else whose contract is not generated by the project attorney or casting office. The coordinator definitely has to be someone who enjoys multitasking, is super organized, detail-oriented, patient, diplomatic, can anticipate the next step and be prepared, is good at problem solving and has the ability to pack up one’s life and office on a moment’s notice and move to the next location. It’s a tough and often thankless job, but it can also be rewarding.

For a more in-depth interpretation as to how a production team functions, primarily from the perspective of the production manager and first assistant director, I recommend a book entitled The Film Director’s Team by Alain Silver and Elizabeth Ward (Silman-James Press, 1992).
Part 5: Film Marketing

Introduction

Okay, you have successfully met the challenge of getting your film made. Well now you have to meet the even bigger challenge of getting your film SEEN!

Consider this: of the 12,613 films submitted to 2013 Sundance Film Festival, only 130 were selected and not more than 10 of those received significant distribution agreements for money. In April, the Tribeca Film Festival in NYC received 3,150 submissions, 89 were selected for screening and only 8 films found distribution in 2013 for money.

So what are the best ways to market your film? This challenge can overwhelm even the savviest filmmaker. It requires a lot of hard work and time, provided the filmmaker is willing to take some responsibility for developing and implementing a well-thought out marketing plan, that includes social media-- reasonably priced, niche-targeted advertising is readily available to filmmakers willing to learn how to reach their audience. In recent years a new crew position has been created: Producer of Marketing & Distribution (PMD).

It is important to begin this process as soon as you start development of the film. I recommend to my clients that they have a line item in their development and production budgets for Early Stage Marketing which should include, but not be limited to, social media, website, film festivals, blogs, etc.

For effective social media marketing, you should have a multi-platform approach that is integrated on Facebook, YouTube, Twitter, a blog, your website and email marketing. Additionally, finding marketing partners and influencers who are willing to cross-promote in their print magazines, websites, blogs and YouTube channels can also be very effective.

To maximize your marketing effectiveness, all these pieces must work together. Planning, forming alliances and exploiting every available marketing angle are key for filmmakers who strive to reach bigger audiences, and return turn a profit to their investors.

Filmmakers today must target their core audiences as early as development to build that all important fan base and following. Not just getting the "Likes" but gathering email addresses and zip codes, if possible. The first priority is to reach the targeted niche demographic effectively, and then hopefully cross over to a wider public, by creating a community around the film who is hungry to see it, as soon as it is released.

Filmmakers should connect with viewers online and at screenings, establish direct relationships with them and build core personal audiences. Ask for their support, making it clear that DVD purchases from the website will help you break even and make more movies. Every filmmaker with a website has the chance to turn visitors into subscribers, subscribers into purchasers, and purchasers into true fans who can contribute to new productions.

Research, test and refine your approach to core audiences. Understand who is most responsive to your films, and how to reach them most effectively.

The following chapters will offer you a view of marketing from both the indie and studio level project.
You need to start marketing your film as soon as you have a completed, polished script. For better or worse, you can’t simply make a great film. You’re competing with too many other people who are attempting the same thing. To stand out to investors, agents, cast, crew, sales agents, reps, and distributors, you have to convince them that it’s a great film.

At first glance, marketing seems about as important to filmmaking as the color of your toothbrush is to your teeth. It’s window dressing. In one sense, this is true – marketing is about coming up with an enticing skin, so as to make the prospective consumer buy the car, toothbrush, or film. It sometimes bears absolutely no resemblance to the interior of the thing being marketed. But on the other hand, it’s how you communicate about your film to the outside world, and so it’s vitally important.

Distributors, just like record labels, promised artists that in return for forfeiting a good chunk of their possible profits, they’d take care of the marketing. Distributors organized ad campaigns, merchandise tie-ins, contests, trailers, press releases, junkets, and special events, then deducted the cost from any future profits.

Independent filmmakers can’t count on that kind of support anymore. The larger distributors have retreated to their core businesses, which is making broad-appeal “tentpole” films. They perceive that it’s too expensive and risky for them to promote more than a handful of “smaller” films that, at best, will not earn more than their expenses back.

Smaller distributors have stepped into the breach, and the array of distribution options (video on demand, cable, streaming, Blu-Ray, micro-cinema) has grown. The problem is that these smaller distributors have smaller budgets for marketing, so more of the burden falls on the filmmaker.
But even a large distributor isn’t going to help you much if you didn’t plan out your marketing from the beginning. Did you get production stills on set? Do you have a press kit? Do you know what genre your film is? Do you have a poster? If you don’t have your materials lined up by the time you start approaching distributors, you’re going to have to spend more time and money chasing these elements down.

So, you have to be responsible for marketing your own film. What does this mean, exactly?

**THE MARKETING PROCESS**

Marketing consists of using several elements in conjunction with each other to find, inform, and motivate a group of people (or companies). Hopefully, this target group goes from being passive to doing something about your film. When you’re marketing to investors, hopefully they turn into check writers. When you’re marketing to distributors, one of them will turn around and license your film. And when you’re marketing to your ultimate audience – the folks who’ll watch your film – they’ll click on the link, order it, and watch it. The success of your marketing, then, can be measured by what percentage of your audience turn into active participants.

This is very hard work. Jon Reiss, Sheri Candler, Peter Broderick, and a few other producers in recent years have argued that it merits the creation of a relatively new crew position, the Producer of Marketing and Distribution (PMD). I don’t dispute their wisdom, but even if you hire or partner with someone to fulfill this role, you’re still in charge of giving them good material.

So, let’s look at each link in the marketing chain:

1. **Elements.** Your script and business plan are the first marketing document (as we discussed in Chapter 2), when you’re primarily marketing to investors. Production stills, press kits, a website, a social media presence, trailers, artwork, special events, press releases, and other elements will become more important later on.

2. **Coordination.** You have to make sure that all these elements are sending out the same message about your film. This could also be called “branding” or “identity establishment.” You want to make sure that your artwork matches up, your synopses are consistent, and that you’re using each element in a consistent, clear way.

3. **Audience.** The group you’re marketing to will change over time. At first, you should focus on finding investors (this includes crowdfunding, and people who are donating in-kind services – more on crowdfunding below). Later, cast and crew. Later still, distributors, film festivals, agents, and reps. From day one, though, you should be trying to build a fanbase – people who can carry the word about the film to their friends. Guy Kawasaki, the original Apple evangelist, called this “finding the cult.”

Apple is the exemplar of great marketing. Ask an Apple fanboy why he pays a premium for a tablet computer or a smartphone, and he’ll point to the logo. Apple was always great at finding the pundits, critics, and bleeding-edge users and making them into true believers.

In building your audience for a given film, you’re also – hopefully – creating the cult that will spread the word about your next film.

Over the next few sections, we’ll talk in more detail about what you’ll need to do to set up your
marketing campaign so that, by the time you go into production, you’ll have a good foundation.

**A Special Note on Crowdfunding**

Crowdfunding is a relatively new phenomenon that is already having a big impact on the independent film world, so it bears a special note here before we plow further along. Simply put, crowdfunding is a method by which you raise money from a large group of people (rather than going after individual investors). These people donate small amounts (from $10 to $1000) and, in most cases, become donors and fans rather than investors. The actual process is administered by crowdfunding sites, which take a commission on the donations. You set up a page for your film, put your marketing materials on it, and then use every means at your disposal (emails, Facebook, Twitter, etc.) to drive people to the page. The tacit understanding is that you will reward your donors with some kind of goodies (a name in the credits, a copy of the DVD, a t-shirt, etc.), and keep in touch with them as your film progresses.

There are currently three big players in the crowdfunding world – IndieGogo, Kickstarter, and RocketHub – and each have their advantages and disadvantages. By the time you read this, there will probably be a few more companies making a go at it. Crowdfunding is a great way to raise small amounts of cash but isn’t really a good “A” plan for financing your entire film. When you factor in the costs of setting up your crowdfunding page, the commissions you’ll have to pay on any donations received, and the costs of any of the swag you’ve promised, you won’t make very much money. And you’ll be competing against bigger-name directors.

It is, however, a great way to connect to fans. Think of it almost like a DVD pre-ordering model. If you do it right you can have the campaign pay for itself and raise awareness for the film.

The keys to managing your crowdfunding campaign are:

1. Keep the amount to be raised small (no more than $5000 per campaign).
2. Keep the campaign length short (30 days).
3. Understand the commissions that each service charges: Each one takes a percentage of the donations.
4. Update your pages as often as possible with all the content you developed for the other media.
5. Reach out to people as often – but as gently – as possible. You don’t want to end up in people’s spam folders, but you don’t want them to forget about your campaign, either.

If you approach this as a fan-building exercise and not as a financing strategy, crowdfunding can actually work well for you. And some people have raised their entire budgets using it.

**Setting Up Your Marketing Process**

Before you build a site, start a blog, make a poster, or tweet away like crazy, you have to answer these key questions:

What is my film about? Can I pitch it in two or three sentences? Spend some time thinking about this, go back to the script, and figure out why you wanted to write it in the first place (or option it, if it’s not your own script). Imagine you have to tell someone what the movie is about, and you only have a short trip in an elevator to do it in (this is called the “elevator pitch” technique).
You can't build a good marketing campaign until you answer this fundamental question. You can, however, refine the answer over time. After all, the film you make is not necessarily the one you wrote. So don't feel too much pressure to get it right on the first try.

What genre is it in? There are people who argue that genre is dead, and in many ways, it was always a somewhat artificial marketing shortcut. People want to see stories that (a) give them more of what they know, and/or (b) show them something new. These are not mutually exclusive needs. Genre serves as a convenient labeling tool. Is your film a zombie movie, a gay romance, a musical; or some combination of these? Drama and comedy also have genres or subgenres – a comedy can be romantic, stoner, bromantic, buddy, and/or dark. A drama can be a coming-of-age story, a dysfunctional family tale, a period piece … the list is endless. The more you can pinpoint the genres that your script belongs to, the better.

What is the ultimate audience for it? Who wants to see your film? Who has the same sensibilities as you? If you answer “all humankind” then you're being too general. If you answer “white straight single atheist males 25–27 with brown hair and glasses” you're probably being too specific. You probably have some idea, just based on your tastes and those of your friends, of who would want to watch your movie. You can get a little more specific by figuring out who watches similar movies or TV shows. This can take some digging and may not be 100 percent accurate.

Genre is a big help here. You can define your audience in large measure by genres. Who did you make the film for? “Zombie movie aficionados.” If you wrote a gay romance zombie musical, you might be able to target a number of audiences. Be aware, however, that audiences are not necessarily additive in nature – the intersection of zombie movie fans, gay romantics, and musical lovers might be fairly small.

My first film, Caleb's Door, was originally written as a horror film, then eventually turned into more of a drama with a few spooky moments. This unfortunately had the side effect of making it a more difficult film to market. The dramatic film festivals didn't like it much – they thought it was too mainstream. The horror film festivals wanted more gore. Because there are some faith “elements” in it, a few faith-oriented distributors were interested in it. But that had never been my target market, and ultimately I don't think that audience would have appreciated it anyway.

My new film, Found In Time, was always meant to be a fantasy/time-paradox movie. I figured out who among my friends would like these kinds of films, and also asked them about other films they’d seen lately with similar themes. A few titles kept popping up – Primer, Pi, Source Code, 12 Monkeys. Doing some research revealed that these films tended to appeal to young males, about 18–35; some of the actors seemed to have broader appeal (women like Brad Pitt and Jake Gyllenhaal, apparently). I looked at IMDbPro and BoxOfficeMojo, read Variety and MovieMaker articles, and asked some fellow sci-fi/fantasy fans to weigh in.

I can't emphasize this last part enough. If you want to find out who likes your film, try pitching it to someone you think is a “typical” audience member. I know a lot of sci-fi/fantasy/role-playing/comics geeks (and am one myself), so it wasn't hard to find a few people to talk to and pitch the story to. Most of them thought it was solid, and a few later became my first crowdfunders.

Once you've figured out the answers to these first three questions, write them down somewhere. Congratulations: you've just formed the backbone of your marketing strategy. You may have to
REVISE YOUR ANSWERS LATER ON, DEPENDING ON HOW THE FILM ULTIMATELY TURNS OUT, BUT AT LEAST YOU'VE GOT A PLAN OF ATTACK.

**THE PRIMARY ELEMENTS OF MARKETING**

With your first three questions answered, you can put your first marketing materials together. These will include:

1. A longer synopsis of the film
2. Bios of you and whoever’s aboard your team at this point
3. Concept art – this can be photos, video, illustrations
4. A teaser. This can consist of practically anything, as long as it tells the audience something about your film. A lot of filmmakers shoot pitches, intercut with some graphics and theme music
5. A “vision statement” about why you wrote and want to shoot the script
6. A short blurb about your ongoing production company
7. Decent headshots of yourself and your team
8. Some metawords that describe your film
9. Your email list

From these primary elements, you’ll then assemble:

1. Your business plan
2. A “pitch” slideshow or document (this is sometimes part of the business plan, sometimes separate)
3. A preliminary poster
4. A press kit
5. Preliminary storyboards (possibly?)
6. The film’s website
7. Your ongoing production company’s website
8. The Facebook page for the film
9. Your LinkedIn profile
10. Your Twitter account
11. Any “guest” accounts/blogs/sites that you’re going to take part in
12. Your crowdfunding page (if you’re going this route)
13. Your YouTube and Vimeo channels
14. Your e-newsletter

These elements will change over time. You’ll have to update your bio and vision statement as you go. As team members come aboard (and others drop out), you’ll have to keep their bios current as well.

All this activity can also inform your creative work on the film. Some of the concept art will make it into your director’s “look-book” (see Chapter 7). And just thinking about these things will sharpen your understanding of the script. So while it seems like a giant distraction, it can be a great boon. It will take you some time to put all these elements together. Writing a good bio is especially hard. Study other business plans and hit up production company websites to see their marketing efforts.

Let’s wade into each of these primary elements.
The Longer Synopsis

You’ll want to create two synopses of the script: one that’s about 150 words long, and another that’s about one page (400–450 words).

The shorter version should basically just expand on your one-to-two sentence pitch. For Found In Time, my short pitch was:

Chris is a psychic who compulsively collects seemingly random objects. Every item he finds today will be needed by someone tomorrow. His gift makes him slip randomly between the past, present, and future. But then he commits a murder in the future. Can he alter his present to prevent it?

So my longer synopsis was:

Found In Time is a fantasy set in an “altered” present-day New York City. Psychics with real powers sell their “wares” on the street, marginalized by society and closely monitored by the dreaded Psychological Police Corp (the “Psychcops”). They lead dark, lonely lives, plagued as much as aided by their gifts.

Our hero, Chris, is a psychic “collector.” He compulsively picks up the things most of us throw away or forget – pens, coins, lighters, keys, stones, and other detritus – and sells them to passersby. But every object he picks today will have meaning for someone in the future.

His gift comes with a big downside, however – he experiences his life out of order, “slipping” between the past, present, and future. Chris tries to live a “normal” existence. But when he commits murder in the future, he realizes he has to alter his present in order to prevent it. But how can he do that when he’s not even sure of what time it is?

What you want to get across is:
1. Genre
2. Basic plot
3. Main character and his/her plight

The shorter you can make it without losing the essence of the film, the better. Be prepared to write a few drafts. I’ve found that saying the 150-word and 400-word synopses out loud helped a lot.

Bio

Your bio should be no more than one page long. You may want to write a shorter version (a couple of sentences) that will serve as a “byline,” but tackle the longer one first.

What should go in your bio? Start with your job description. “XX is a writer/director/producer.” What have you made to date? Include that here. Have you won any awards or gotten any recognition (this could include being a finalist in a screenplay competition, having something you worked
on in another capacity go to Sundance, and/or participating in a lab)? Definitely include these. Done anything exciting with your life that might be relevant? If you've written a script about mountain climbing and you're a climber yourself, include this as well.

Where did you go to school? This is less important than you'd think but if it was to an Ivy League institution, definitely highlight it.

Any other relevant experience? Have you mostly worked on other people's films, or (if you're still in school) do you TA? How are your technical skills? Have you written articles on or taught any courses in filmmaking? If you already have a production company, what has it produced?

If you're at the very beginning of your career, you may not have a huge list of credits to trot out. That's not a deal-breaker, however. You can always list any other projects that you're working on or have written; just list them as being "in development." If you've worked as a PA on other people's shoots, you can include those or the studios/distributors that were involved.

When I first graduated from film school, I worked on pretty much any kind of project I could get. For the first year or so I flitted back and forth between being a camera operator on low-budget live event tapings, to working as a PA on bigger shoots, to doing video tech for off-off-Broadway theater pieces. My resume was a mess, so I simplified it. "Arthur has worked in various job capacities for ABC, NBC, The Knitting Factory" etc. … Just listing the "big name" channels and companies opened a few doors. Once I'd done a few consistent jobs as a line producer on some shorts, I started putting those credits first, and pushed the PA ones down. Eventually I took out older credits that weren't applicable anymore. You may have to develop multiple versions of your bio that emphasize different skills.

Cajole the other members of your team into giving you their bios. Some folks are better at writing these than others, so be prepared to do a little copyediting. In the best of possible worlds, some of your team will be able to coach you with your bio.

**Concept Art**

A good artist steals a little. A great artist steals a lot. In the quest to be original, we often ignore the enormous resources at our disposal – thousands of years of art and writing, nearly two centuries of stills (with different technologies), over a hundred years of film, sixty-plus years of television. Reproductions of that material are often just a few Google searches and downloads away. Do you have an idea of what your characters look like? Is there a location in the script or key prop that might make a great poster? Are there paintings or sculptures that capture some of your themes? (Spielberg often references paintings when conferring with his DP, Janusz Kaminski.) Are there other films whose aesthetics you admire?

If you can't find something, create it. I take my inexpensive digital still camera out and shoot landscapes, or set up poster shots on the fly in my office. Some directors I know have hired or begged their friends to pose for poster shots and "tableaus" from the film. Using a combination of clip art, stills found online, and original content, you can create just about anything.

Create or find some music that can convey your themes as well. Resolution is important since you'll be editing these tracks later – if you rip CDs then save them to the highest quality format
you can get. If you create the tracks from scratch, save them to WAV files. If you download MP3 files, try to find ones with a 128Kbps or better bitrate.

What you ultimately want to end up with is:

1. About ten to twelve great stills
2. A few video clips
3. A few songs
4. Some possible fonts for use in the title

Keep in mind that you'll want to get your hands on the best-quality files you can, because you'll be manipulating and recompressing the work for different media (print and web) and in various sizes. The end of this chapter includes a quick guide to the differences between web and print graphics, and some suggestions for how to get the best results when acquiring images for both.

**Vision Statement**

Once you have your concept art together, you'll want to write a brief (1–2 pages of text plus concept art) statement about how you intend to actually shoot, post, and market the script. This should convey both the artistic ideals and business goals you're aiming for. You may have to write a few versions of this for different audiences – your cast and crew will want to know about the creative aspects, your investors might want to know more about the business goals.

Study other art (in whatever media) that you're inspired by. What is it about how the artist(s) put together the work that you find so compelling? How would you shoot the same story? Genre, again, is a great help here, because you can use or break with its conventions, but everyone (at some level) understands how those conventions work. Ultimately, the reader should be inspired to be a part of the film.

**Your Company**

You had to spend some time pondering this in Chapter 3, but now you should write down a one-to-two paragraph blurb describing what your ongoing production company has done, what you aim to accomplish in the film world, and what your next projects are. If your company is new, include any work that you were a key partner on (writer, director, or producer). Include any future projects that are in your bio. You want your company to come off as a viable enterprise.

You may be exaggerating somewhat, but in truth you're just projecting forward a few years. A lot of thriving businesses started out in a garage or bedroom or basement. You want to communicate your dreams and the energy you have for achieving them.

**Headshots**

These are a must. You usually want two shots: a close-up of you looking in profile or straight at the camera, and a wider shot of you doing something film-related. The classic looking-through-the-viewfinder shot never gets old, even though directors and producers rarely do this. Watching the monitor with headphones is a good one. I've had a few over the years, depending on my weight, beard level, and experience. Again, get the highest-resolution digital files you can.
Teaser

Since you haven’t actually shot the film yet, it’s obviously going to be a bit difficult to put together a true trailer or even “teaser” as those things are typically defined. What I recommend you do is to put a “sexy” title sequence together, using some of your concept art, and add some interview footage of yourself and whoever else is on your team. What you want to express in the interviews are:

1. The pitch
2. Your background; stress any kind of recognition you’ve received for past work
3. Some excerpts from your vision statement
4. Something about the visual style you’re aiming for
5. A broad outline of your target audience

Add some of the theme music you created or found as part of your concept art. Set the titles in one of the fonts you found. And you’ll want to keep this teaser to six minutes or less, preferably a lot less.

Metawords

You want to come up with a list of ten to twenty metawords, keywords, or tags (a single tag can be multiple words, e.g. “romantic comedy”), that describe the genre, themes, lead characters, people involved, and anything else you can think of that might be related to your film. For Found In Time, I initially came up with:

Independent film, indie film, fantasy film, sci-fi, science fiction, time travel, time slip, psychics, psychic vendor, Psychcops, Psychological Police Corp, time paradox, found in time, Arthur Vincie, Ben Wolf

The title is acceptable as a tag, by the way. As with all the other elements, you’ll want to revisit this list and refresh it from time to time. If you get a “name” cast member, obviously s/he should go into this list. If your film turns out somewhat differently (genre-wise) than you’d intended, you might want to revise the genre tags.

These metawords will become part of your tweets, YouTube channel, website, crowdfunding page, and Facebook updates (when appropriate). You may want to go back and incorporate a few of them into your bio and synopsis (but only if they fit with the existing text). This will hopefully help drive traffic to your online presence.

Email List

Don’t just put every name in your address book, and all your Facebook friends, into this list. Consider very carefully who you think would be interested in your film. You may, for example, want to exclude your day job boss, if you think s/he won’t appreciate your independent filmmaking efforts (“oh, that’s why you keep showing up late every morning”).

You want to start with a seed of between 200 and 1500 contacts, preferably people you know well or at least have met a few times (even if only online). These are the folks who will hopefully
become fans, donors, crew, vendors, and/or cast members, and even ticket-buyers down the road.

Ideally, you want to create a database, spreadsheet, or address book (in Outlook or whatever email client you use) containing not just the raw email addresses, but also:

1. First and last names
2. Company names
3. Position/profession
4. Mailing addresses (for postcards/special invites)
5. Phone number
6. Website URLs (for link exchanges down the road)
7. Something about how you met/know them

Keep this information up to date.

Putting the Salad Together

If you haven’t figured this out yet, now would be a good time to organize this material on your hard drive so you can find it later. As more than a few of my mentors have said to me over the years, “if it’s not labeled it’s lost.” So label your files something meaningful. Keep in mind that if you have interns or people helping you out, they need to be able to make sense of your naming conventions.

You will accumulate a lot of files, so I recommend creating subfolders within your main film folder. My Found In Time subfolders included:

- **Advertising**
  - BusinessPlan
  - EPK (electronic press kit)
- **Graphics/ConceptArt**
  - Logos
  - Posters
- **Media** (for video and audio files)

Each of these subfolders contained a mix of Word docs, spreadsheets, and Illustrator, Photoshop, CorelDraw, and assorted other graphics files.

YOUR MARKETING PROCESS

You’ve got your elements assembled in a few folders on your hard drive. You’ve got a much better understanding of your film. Now what?

Your marketing process (I hate the term “campaign” but will use it for convenience) is a multi-ten-tacled beast that reaches out to both web and traditional media outlets to alert people to the presence of the film, and hopefully jump-starts a conversation between you and your audience. This conversation can be as simple as comments on your blog, or as complex as fan fiction, personal email exchanges, and crowd-collaboration on the film itself.
A lot has been written about the changeover from the “old” way of marketing (you push trailers, press kits, pictures, etc. in people’s faces) to the new way (you and your fans engage in a conversation). But in truth marketing has always been a two-way street, even if it wasn’t paved. Ask any serious sci-fi/fantasy/game fan. Fans have interacted with each other and the show/game creators both online and in “real life” for over three decades.

Case in point: from the beginning, Babylon 5 creator J. Michael Straczynski recognized the value of the internet as a way of getting the word out about his low-budget but awesome sci-fi space opera TV series. Lacking the deep pockets of Paramount with their (somewhat competing shows) Deep Space 9 and Voyager, Straczynski started talking about the show on various internet forums in advance of the pilot’s first airing. He also talked about the pilot and the show in various interviews with sci-fi/fantasy magazines. In 1995(!), one year after the show started, the official website went up. It was later moved to AOL (hey, it was 1996 and AOL was huge back then). The site featured artwork, pictures, and logos that could be downloaded by fans of the show for free, as long as they didn’t make any money off them. Fans were encouraged to create their own sites using the artwork.

Straczynski also moderated the fan forums and answered a lot of emails personally, which was pretty amazing. I don’t actually know how he slept, since he was the executive producer and chief screenwriter (he wrote nearly all of the show’s 100-plus episodes). The results were impressive: the show finished its run in 1998. Some TV movies, comics, and novelizations still come out periodically. The fans still buy merchandise and Blu-Rays, write fan-fiction, and every now and then lobby for a new series.

There are three important takeaways from this example:

1. Straczynski identified early on who would want the show.
2. He worked hard to personally forge a connection with fans.
3. He encouraged fans to be active participants.

This is the best-case scenario for your film – that your marketing efforts lead to a deep and ongoing connection to your audience. This effort may extend past this film and into future projects. Each part of your marketing process should be geared to accomplishing those three goals, even if the individual parts (the business plan) may be aimed for a slightly different audience. While you probably won’t be showing the ticket-buying audience your business plan, you want to create the same sense of excitement about and personal connection to the film, and to you.

Figure 5.2 illustrates the different segments of your audience, and how you’ll reach each of them. Let’s delve into each marketing “vehicle” in a little more detail.

**Poster**

Nothing will make a film seem more real in people’s minds than seeing a poster for the film, even if said poster is completely fake and only exists on a computer screen. It’s like the “after” picture in a before-and-after advertisement.

Many posters feature the faces of the lead actors, which will be difficult for you to pull off, since you haven’t started casting yet. Use what and who you have available. Do you have actors you
were thinking of casting or who are good friends who will help you out? Do you have some par-
ticularly iconic imagery in your concept art stash? Early posters are often more mysterious, giving
people a taste without revealing much about the plot (sometimes without even revealing the
title). Look at posters for comparable films. You will probably make different poster versions as
preproduction progresses.

**Storyboards/Illustrations (Possibly)**

Professional storyboards can be a great visual aid during preproduction, but can also serve as
powerful marketing material. Just like the poster, boards make the film come alive in the minds
of the audience. The Wachowski Brothers used storyboards and comics to illustrate their pitch for
*The Matrix*. Just the fact that you’ve had them done will help sell you as a filmmaker.

One caveat, however. Until you have your DP on board and your locations more or less locked, the
boards will be of very limited use to you as a director. I would advise against making storyboards
of the entire script at this stage. Instead, pick out one to three exciting scenes and hire an artist to
board them. Or hire your artist to create illustrations of your main characters that would function
like production stills.

One final warning: having badly done artwork is worse than having no artwork. If you don’t have
the illustration skills and can’t get good work done (either through favors, barter, or money), skip
over this and focus on getting good concept art.

**Business Plan and Pitch Doc/Slideshow**

I mentioned the business plan back in Chapter 3. While your plan serves a distinct business pur-
pose, it’s also part of your overall marketing scheme. Whether you hand it out only to private
investors, or put it up on IndieGogo or Kickstarter, it’s the first or second (after the script) in-depth
contact many people will have with your film.

So in addition to being rigorous and professional, a business plan should also be engaging. Use
the synopsis, bio, poster, storyboards, vision statement, and concept art to add some “zing” to the
business speak. The layout and choice of artwork is important – it’s a clue to your visual style. You
want to convey who you are, and what’s so special about this film that other people will want to
reach into their wallets to either fund it or see it when it’s done.

This can be very hard to do, since you can’t gloss over the more sobering elements of the business
plan. So some people put their efforts instead into a pitch document or slideshow (in PowerPoint
or Keynote or some other slideshow creator). The pitch document essentially summarizes the
busi- ness and creative case for making the film into 25–30 slides that can be presented in-person,
viewed online, or read via print-out. You rely more heavily on the concept art and other visual ele-
ments, and lighten the amount of text.

The two documents are aimed at investors – including crowdfunders – and not necessarily at the
general public.
Press Kit

This is something that you should start building right away, though you’re probably not going to release it until the film is at least shot. It’s aimed at professionals and semi-professionals – journalists, bloggers, sales agents, producer’s reps, distributors, and possibly late-stage investors. It typically consists of the following:

1. A reproduction of the poster
2. Stills from the shoot (you can use concept art until you’ve shot something)
3. Storyboards
4. A director’s statement
5. A war story or two about the shoot
6. Bios of all the key cast and crew, including headshots
7. A full credit list
8. Contact information
9. Links to your site, Facebook page, Twitter account, and any other online sites you have
10. Reproductions of any articles and/or interviews you’ve done regarding the film (either print or online)
The press kit should exist in two states: as a single PDF that can be downloaded from your site or printed and handed out to people; and as part of an EPK (electronic press kit).

An EPK is a collection of elements that can be burned to CD or DVD, downloaded either individually or in one ZIP file from your website, or viewed directly from your site. The EPK should contain most of the following:

1. A PDF of your standard press kit
2. Print and web versions of your poster and key artwork (DVD covers, postcards, storyboards/illustrations, etc.)
3. Print-friendly and web-friendly versions of your stills and headshots
4. A standalone synopsis of the film
5. The trailer, usually in H.264 HD (more on this format shortly)
6. Any behind-the-scenes material you’ve shot and cut together, also in H.264 HD
7. All the links and contact information listed above

You may have to ultimately prepare several different press kits for different audiences.

Since a lot of these elements don’t exist yet, you shouldn’t worry too much about putting the press kit together now. However, it’s important to start thinking about and preparing for it now. The kit, website, and social media presence are the first things the press and industry will see of your film, so they should be consistent with each other design-wise, and also communicate what the film is about. Just the fact that you have a kit signals a certain level of professionalism.

Websites

Even in the age of social media, your websites serve very important functions. Some people are still Facebook-averse, or don’t want to wade through status updates to get information about your film. A website is also a good way of sustaining a longer conversation, rather than bite-size updates.

And frankly, Facebook (and other sites) have rather shady user agreements about who owns the content posted on their sites (read the fine print). Also, given that only LinkedIn has survived longer than five years (MySpace, anyone), you will want to have a web base that is stable over the long haul.

You want to create two websites: one for your ongoing business, and one specifically for the film. The elements listed above will become part of the sites’ designs. Your audience includes fans as well as investors and industry folks.

A website is really three things working together:

1. A domain name (hopefully you registered these back in Chapter 3)
2. A hosting plan
3. The actual site that people see, developed using one or several platforms

Websites are still, I find, a lot of work to set up and maintain, but they’re a bit like parks – neglect them and people will just stop coming by. People want fresh content, so you’ll want to pick a site development platform.
Web hosting providers can register your domain name, provide you with a cheap hosting plan, and give you the tools to develop your site. These tools range from awful to decent. You can also roll your own site using whatever web skills you possess (you can, in theory, build a static site using just HTML and maybe a little JavaScript).

**Hosting Plan**

Web hosting plans have become fairly commoditized over the years. So you should aim for the cheapest package possible that's still reliable. That usually means going for a basic shared hosting plan (where one physical or virtual server is shared by a bunch of websites, each with their own accounts and directories). You usually get a few email accounts, support for PHP/MySQL, WordPress, Drupal, and sometimes another language (PERL, Python, or Ruby), and add-ons for customer tracking and e-commerce. The internet service provider that registered your domain name for you will often give you a discount if you also host your site with them.

**Website**

You really have four options here:

1. Develop the website on your own using whatever platform you're comfortable with.
2. Use one of your ISP's "one-click" website templates.
3. Use WordPress, Drupal, or some other website framework to build a site.
4. Hire someone to do one of the above-mentioned methods.

I've done all of these at various times, and each option has its pluses and minuses. If you roll your own site, you'll be able to customize it to your heart's content. So if you're a .NET guru or Flash genius, you have the chance of displaying that talent to everyone. Also, you may find it faster to develop in a platform you're already familiar with than learn WordPress or Drupal.

The "one-click" templates have gotten a lot better but, by the time you finish customizing them to something that's close to what you want, you might as well have used one of the other options. If you're not a web developer, and you want to build something relatively quickly – and have something that other people can maintain down the road – I recommend Drupal, WordPress, Joomla, or another reputable (and free) content management system (CMS).

A CMS provides a framework for managing your web content and design, so you can focus more on creating content, and less on coding and database development. It helps to have a programming background, but by following some tutorials and asking questions on the CMS provider's user forums, you can get a pretty decent-looking site up relatively quickly.

The main advantage to using one of the CMSes (especially Joomla, Drupal, or WordPress) are:

1. **Customization**: Just about any CMS worth anything features add-ons written by fans and professional developers that can customize the look of your site, or add new features (like a photo gallery or video player).
2. **Standardization**: If you ever need someone else to maintain your site, it's easier to find someone with experience with the big three CMSes above, or train them in its daily use, than to find a PHP, Flash, or .NET expert.
3. **Your time:** You have better things to do with your prep time than code. Really.

I built my chaoticsequence.com website on my own using Flash and HTML. Then I ditched Flash and rewrote the site using PHP, CSS, and HTML, with a MySQL database storing the content. I did this while I was still writing the script for Found In Time, so it was a “relaxing” exercise. For foundintimefilm.com, I decided to use WordPress for all the reasons mentioned above.

Whatever platform you choose to develop your site in, remember that good, “legible” design is more important than the best code. Your sites should accomplish five design goals:

1. Tell the user what your business is (in the case of the film, tell the user what the film's about).
2. Present the user with a way of finding information about the film in an obvious way.
3. Offer the user ways to connect with you – via phone, email, social media.
4. Offer the user ways to share your site with others.
5. Do all of this in an eye-pleasing, quick way.

Without digging into the principles of good web design, here’s a few tips to consider:

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**Content**

1. Update your content frequently.
2. Interconnect all your websites and social media pages. So your company site should have a link to your film site, and vice versa. Both should link to your IMDb page, LinkedIn profile, Twitter account, the Facebook page for the film and the company, YouTube channel, etc.
3. If you have anything to sell, make sure the user can get to your e-commerce page from every other page on your site (including your home page).
4. Try not to hard-format your content, but use stylesheets to create custom styles.
5. Use your metawords on your site; in both the text and in the header’s meta tags. All CMSes have meta tag settings that you can stuff your metawords into.

**Design**

6. Think of your website in “Web 2.0” terms. This means making sure the user can print, email, and share any page they land on, and can comment on any blog entry you write.
7. Web design has become fairly standardized over the past few years into a “grid” similar in nature to a magazine or newspaper grid. Your site should have the layout elements shown in Figure 5.3, more or less.

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*Figure 5.3 The standard “grid” of a website.*
8. With the exception of tablet and smartphone screens, you’re generally designing for a land-
  scape layout. Keep your header images and menu bar relatively slender.
9. Skip Flash-based splash pages, they’re annoying. Skip Flash altogether if you can help it.
10. Test your site on different browsers, and on phones and tablets.
11. High-contrast type/background color schemes are easier to read (black text on white or vice-
  versa) than low-contrast schemes (white or yellow on gray).
12. Sans-serif fonts (such as Arial, Verdana, and Univers) are traditionally used for titles, menu
  labels, and captions. Serif fonts (like Times New Roman) are easier to read. Don’t have too many
  fonts on the page.
13. Keep the look of each site self-consistent.

Media

14. Audio should be turned off by default.
15. Host your video on Vimeo or YouTube rather than on your shared server. These video ser-
  vices are tuned for streaming video, whereas your hosting servers are probably not.
16. Images should support the text, not overwhelm it. If the user has to scroll past an image to get
  your story, it’s too large.

Your film site should contain bios of yourself and the rest of the team, the film synopsis, artwork,
the poster, trailer, links to companies associated with the film, and some version of your vision
statement.

Blog. You’ll also want to create a blog as part of the site, and update it as often as you can stand.
This blog will serve as a diary for the filmmaking process. You can also use the blog to promote
your teammates’ work, talk about issues that are related to themes in the film – anything that you
think will give fans a greater connection to the project.

What About Just Setting Up a Blog?

Setting up a blog for a film (as opposed to a full-blown site) is a good option if you just want to
dive in and start writing content. Blogger.com will even register a domain name for your site. I
used it for *Found In Time* for a while.

However, it became clear fairly early on that I was going to outgrow the “just blog” format – while
being an important part of the site, the blog was not the whole thing. Once I hit this wall, I ended
up transferring the domain name to my internet hosting service and developed a full-blown site,
with a blogging component, in WordPress. If you can be patient and set up a full site first, you’ll be
spared the transfer process that I went through (which wasn’t horrible, but was time-consuming).

Social Media

Rather than iterate through the process for creating pages for your film in Facebook, and setting
up a presence on all the major social media sites, I’ll just touch on the highlights.

All of your pages should contain links to your company and film website (the priority is the link
to the film site). Also, while you may not feel comfortable leaving your phone number on these
pages, you should at least leave your email address.
Update your social media pages/accounts as often as possible, but not just with information about your film. In fact, you should not be too hawkish; it drives people away. Follow the “80/20” rule – talk about yourself 20 percent of the time, and other people’s work 80 percent. Be especially careful on professionally oriented sites such as LinkedIn – if people feel that you’re spamming them they’ll drop the connection very quickly.

Use your metawords in your profile and in your tweets. Make sure every email, bio, and forum response includes the URL to your film’s site.

As you hire cast and crew members, make sure to add them to your Twitter feed, and invite them to your film’s Facebook page. Be judicious in your invitations to your film’s Facebook page.

“Old-School” Web Work

Don’t neglect the value of participating in “older” web offerings. Guest blogging, being active in user forums (especially those that have something to do with your film’s theme or its genre), and subscribing to and contributing to listservs are all ways to raise awareness for your film.

I subscribe to an online resource called Shooting People, that includes an NYC-centric listserv, where people can ask and answer questions, post job/classified ads, put up links to various resources (including blogs), and announce their crowdfunding campaign. I’ve also contributed articles and guest blogs over the years to reelgrok.com (a budgeting site), mixform.com (an online portfolio site for actors and crew), and other services. Participating in online forums that are relevant to your script’s genre or theme is a great way to introduce people to your film, without pushing it in their faces.

Vimeo and YouTube

Vimeo and YouTube both offer methods of creating channels through which you can upload and stream your trailer, behind-the-scenes materials, and finished scenes from the film. They also offer various privacy options so you can control who sees the clips. This is very important for when you want to upload videos for feedback and comments, but don’t want the whole world to look at them yet. Finally, both offer a way to use those all-important meta tags in your videos, so you can improve your chances of getting hits.

Get to know both services. YouTube has the larger reach, but I personally prefer Vimeo’s streaming quality. I used Vimeo for sharing drafts of clips and trailers with select people, and both services for putting up final versions. Try to get people to subscribe to your YouTube Channel. Put any out-of-circulation material you have (older shorts or webisodic work) on the channel to increase value. A special note on SoundCloud (soundcloud.com): If you have concept/theme/trailer music (that you have the rights to), consider posting it to this service. This can also be an “extra” that you upload to your website.

Email Lists

What you ultimately want out of all these other efforts is a database of contacts, who you can then reach out to when you need to get folks to come to screenings, contribute to your campaign, buy DVDs, and/or become evangelists for your film.
To harness your email list, you’ll want to keep it fresh and keep people involved with the film. Sign up with one of several email contact services, and put together a regular e-blast that goes out to these folks. These services offer pre-built email templates (or you can roll your own), contact list management, integrate with social media, and can check your emails for possible “spam” flags (things that will get your email rejected or tossed into a spam folder). I use Contactology, which charges me a flat monthly fee no matter how many e-blasts I send out.

This is time-consuming work. Setting up the initial email template and importing the names took a while. Each blast takes a few hours to write, proofread, and test-send. I also spend at least an hour each month trying to maintain the email list – getting rid of bounced emails and adding new contacts.

Ideally, your blasts should contain short paragraph-long notices about things coming up within the next few days to a month or so. This could include events, play openings, screenings of films, DVD/theatrical/cable premieres, casting/crew notices, mentions of new blog entries, etc. Try to follow the 80/20 rule.

If your film targets a specific niche audience or social cause, your blurbs can be about non-film issues. If your film is about punk rockers, you can include mini-reviews of your favorite bands’ new albums, for example.

Always include links to your websites and social media pages. If the list provider has the option to cross-post to Twitter/Facebook, take advantage of this feature. Most services also include tracking tools (ranging from primitive to spectacular) so you can see who’s opened your emails, and who’s clicked any embedded links.

Most of the email services have tiered pricing structures, based on the number of people in your contact list. Others charge per e-blast. You can usually get a discount if you allow the service to include its logo in your e-blast and/or if you pay for a year in full. Contactology has a good mix of features and is reasonably priced.

OTHER METHODS OF MARKETING

So far I’ve covered methods that you can use on your own or with a small team. If you want to go further than these tools, you’ll have to weigh and measure whether the effort you devote, and the resources you’ll have to marshal, will be worth the end result.

Fundraising Events

If you plan ahead, you can create a fundraising event for your film. I’ve been to several of these and helped organize a few, and they are pretty open-ended in terms of format. Some have featured live music, others a reading of the script, still others a screening of the teaser or the director’s previous work. Almost all included some kind of mixer and a raffle to get swag. The suggested donations to these events have ranged from $10 to $50, and raffle tickets tend to sell for $5–$10 each.

You’ll need to factor in the following costs:
1. The venue
2. Equipment (PA or projection system)
3. Some behind-the-scenes still photographers and videographers, who can take pictures of the event
4. Whatever live talent you’re bringing
5. Drinks and food (usually appetizers)
6. Programs/flyers/copies of the script/business plan
7. Advertising the event
8. Some staff to handle the drinks, take donations, set up, and clean up

A lot of these costs can be rolled up by working with an established venue, such as a bar, music club, theater, screening room, or nonprofit arts center. Leverage whatever favors you have to get people to donate their time and merchandise for free.

If you approach the event with the aim of networking first and raising money second, you’ll probably have a better time. My experience has been that these things make money about one third the time and break even another third. There doesn’t seem to be a magic formula for success, except that they’re more effective if you already have a fan base.

**Other Live Events**

You can associate yourself and your film with other events. In the above-mentioned punk rock example, do you know of a place that regularly hosts punk rock shows? Do they need help, or a DJ, or would they be interested in screening your teaser between acts? If you have a horror, sci-fi, or fantasy film, reach out to local sci-fi/horror/comics groups and see if they’re interested in hosting a teaser screening or maybe a reading.

I’ve guest-lectured at a few film schools, usually on producing or line producing, and screened some clips from *Found In Time*. I’ve also screened my shorts at various events, and made sure to bring as big a crowd as possible. Other filmmakers I know direct plays, and so occasionally screen their teasers in advance of the play.

You want to make sure that if you’re approaching another organization that your needs line up. For example, bars often have movie screening nights, but they need people to show up and order drinks. If you can bring a crowd through your e-blasts and Facebook notifications, they’ll be more receptive to the idea of screening your film.

**Product Placement**

Product placement can be worthwhile if it’s for something that’s in your script already. You may be able to get some financing from it or at least cross-promotion. But keep in mind that pursuing it can be a full-time job in and of itself.

To approach a company directly, you’ll want to start with the corporate communications department. Every large company has one, even if they call it something else (“community relations,” “communications,” “publicity”). Make a packet containing the synopsis, your bio, and some kind of pitch explaining how the company’s product would fit within your film. They may look at the
script. Be prepared to follow up with emails and phone calls. Start this process as early as possible, and be prepared for a certain amount of red tape.

**Networking Parties and Events**

I've nearly always found these to be a waste of time. The organizers always pick a bar that's too crowded, where the music is cranked up so high you can't hear anything. After being at a few of these I started seeing the same people over and over. Your mileage may vary, however.

Seminars are much better for networking and pitching. You and the other participants are already in a receptive mood, since you're there to learn, and there's usually a “networking” angle built into these events.

**Advertising**

Paid advertising isn't worth it when you're in preproduction. You may get more hits on your website but those will not generally translate into hardcore or even casual fans. The exception is if you can advertise in a venue that specifically caters to your film's audience. You may also want to advertise for cast or crew on certain online and print venues (mandy.com and Indie Slate have crew and cast call listings).

I've advertised my production company in various online directories over the years, but it has seldom led to paying work. I've gotten a lot more work from word-of-mouth.

Link exchanges are more fruitful. Someone puts up a link to your film on their site, and you put up a link to their site on yours. You can each benefit from the other's marketing efforts. Just be careful that you're not exchanging links with a potential competitor.

**Transmedia Is Not Marketing**

Transmedia is a method of storytelling, wherein the story spans several different media, each supporting the other. So you may watch the film, then read a comic that delves into a specific part of the story, then see some webisodes that reinforce another part, and so on. When it's set up properly, each platform strengthens the audience member's experience of the story, rather than divides it. Often the film is an anchor or a very important component, but is not the whole story.

I confess I look at transmedia a little differently than a few of my peers. I see it as a logical extension of sci-fi/fantasy storytelling into the domain of other genres. When I was growing up I watched the Star Trek shows and films, read some of the novels and comic adaptations, bought the toys, and played some of the board, card, and computer games. The idea of telling a story across several media, with the main plotline occurring in the film, is nothing new to me. If anything, transmedia seems to use the internet as a “glue” to cross-reference these different story aspects together. My friends and I did the same using pen-and-paper, to try and place different events in the Star Trek universe (from comics and the various series) along one timeline.

What it clearly is not, however, is a marketing tool, except incidentally – people may pick up the thread of the story in one medium (like the website) and then want to go buy/rent the film. If you
have a story that benefits organically from being told across multiple media, then great. If not, don’t try the transmedia approach to generate more fans. You will spend a lot of time and energy that would be better spent elsewhere.

CONCLUSIONS

Evangelism

You want to reach out to prospective evangelists – people who can take your message and carry it further. This has always been Apple’s strategy. They regularly host events at their stores, and send people to user groups across the country to connect with early adopters who will then walk into work beaming about the latest iPhone. Your evangelists may be members of your crew or cast, who will talk in glowing terms about your film. They may be early crowdfunders.

If you find evangelists, reward them. Send them screeners before you send them anywhere else. Give them credits in the film or at least on the website. Promote any work that they’re doing.

Evaluation

All of the above efforts sound like a lot of work. They are. Zoe Keating, who’s a successful (and self-supporting) cello player and composer, says she spends about half her professional life making music and the other half promoting it. All the artists, writers, musicians, and filmmakers I know are constantly trying to market themselves and their work.

You will have to evaluate your efforts periodically, and drop activities that don’t make sense, and focus more on those that do. Maybe you’re better at tweeting than posting blog entries. Maybe you’re more visually oriented – so focus on photo sharing.

Maybe you’re finding all of this is taking too much time away from actually making the film. At this point, you should consider what marketing activities you can do without, and whether it makes sense to hire a Producer of Marketing and Distribution, or at least a decent assistant/intern.

As mentioned in Chapter 3, you may have to hire a designer for your site and other marketing elements. You may also have to bring on a teaser/trailer editor. In both cases I’d suggest that you see how far you can get on your own, so that the people you hire have some idea of what you’re after.

Sincerity

I’ve consciously tried to avoid the word “branding” in this chapter because I associate branding with many activities, none of them good. You’re not stamping your mark on cattle, or plastering your corporate logo on people’s butts. You’re reaching out to make a solid, hopefully lasting connection with fans.

These fans will pay you back for the effort in one way or another – they’ll become evangelists, audience members, donors, crew or cast members, vendors, and possibly even sales contacts. You don’t really know where the relationship will lead, so it’s best to start off with a clean, sincere effort.
QUESTIONS/EXERCISES

1. Look at the posters of films that are similar in some way to yours. Are there any elements – typeface, contrast, image, color scheme – that unite these posters? Are there any standout posters? Can you use any of the common elements in your own work?

2. Join an online forum that you find interesting, that is related in some way to your film, or that’s focused on a subject you have some knowledge of. Read the conversations a bit. Are there questions that are asked that you can answer? Do you have a strong opinion about something that you want to share?

3. Look at the bios of various filmmakers and other arts professionals you admire. Is there a common style to the bios?

4. Start putting all your basic elements – concept art, bios, headshots, etc. – into a word-processing document (could be in Word, OpenOffice, etc. – doesn’t matter). This can serve as a template or library for you to dip into when creating your press kit, business plan, website, etc.

WEB VS. PRINT GRAPHICS

Table 5.1 briefly summarizes the difference between web and print graphics.

In general, when putting your concept art and other graphics together, you want to start with files with the highest resolution and print size you can find. You can always downsample (from 300dpi to 72dpi) or shrink an image; it’s a lot harder to upsample. So if you’re creating or editing
your graphics in Illustrator, PhotoShop, GIMP, or another program, try to save them to 300–600dpi TIFF files, then downsample them later for the web.

For best results with still images, shoot with a DSLR camera that saves to the RAW format. You can also use CHDK (www.chdk.com) to turn your point-and-shoot Canon into a RAW-capable camera. RAW files store the relatively unprocessed data that was read by the camera’s sensor. Most image-editing programs can read RAW or include utilities that can read and convert RAW files to high-resolution TIFFs or JPGs.
Marketing and distribution work hand in hand (or at least they should), with the line often fuzzy. Technically, distribution involves the sales, physical manufacture (or access, if online), and delivery of goods for sale, such as a film print, DVD/Blu-ray disc, television master, or electronic copy. For each category of media that a piece of intellectual property is licensed, distribution addresses how it is consumed and monetized: what the price is, where and how the product is sold (or leased), when the title is available, how many units are being made, how inventory is managed, and what the costs of goods are. Marketing, in contrast, focuses on awareness and interest. Marketing is, to some measure, the business and art of driving a consumer to consumption by making him or her aware that the good is available and creating the impulse to watch, buy, or borrow it. In summary, as noted in Chapter 1, marketing focuses on awareness and driving consumption, whereas distribution focuses on maximizing and making that consumption profitable.

Back to Experience Goods

In Chapter 3, I discussed the problem of predicting the success of a film or TV show (i.e., experience goods), given the factors of imperfect information, cascades, and infinite variety. While it may not be possible to predict the outcome, marketing, by its nature, is an attempt to influence the outcome. Accordingly, marketing comes to the rescue of the experience good quandary and tries to put some experience into that good; the viewer, without having actually consumed the end product (which, per an experience good, is the only way to know whether you really like/want it), is helped to make up his or her own mind.

Marketing through trailers, posters, press, reviews, websites, social networking posts, seeded blogs, advertising, etc. is bombarding the consumer with inputs to influence the selection of a film, TV show, or video in an environment stacked with an infinite variety of creative product. And the most effective marketing may be that which makes you feel you have already (to a degree) experienced the film/show. If a trailer is a microcosm of the experience, and the trailer is well directed to a consumer demographic, then it may seduce that target consumer to see the film, explaining, in part, the unique frustration of having felt hoodwinked if the movie did not fulfill the expectations engendered by the trailer signal.

Accordingly, beyond marketing helping to build a brand for distribution windows, it is interesting also to view these activities in the economic context of differentiating information inputs; those inputs, heavily influenced by marketing, are uniquely important in selecting a product you cannot know whether you will like until you have “consumed.” It is further interesting to speculate how the online world will impact these traditional patterns and the positioning of inputs. Is there a difference in utilizing Rotten Tomatoes (www.rottentomatoes.com), which accumulates all critics’ picks into a single scorecard—does “fresh” (greater than 50 percent positive reviews) really mean it is a good picture, or are variations and cascades baked into the equation such that you have no better reference from the overall verdict versus an individual critic where you have sorted out an internal mechanism to map their biases onto your own? Do social networking sites, where you affiliate with friends and recommend “liked” pro
grams, provide a better predictor and negate cascade behavior or do they exacerbate the problem? Do recommendation engines really work to defeat the inherent uncertainty in consuming an experience good, and do references to “others who bought X also bought Y” further work to defeat the risk of unwisely committing one’s time? In the media and entertainment industry, the online world is making the whole concept of marketing a lot more entertaining.

**Strategy (Film)**

Marketing strategy is impacted by several factors, including the budget, target audience (demographics), timing, talent involved, and partners.

**Budget Tied to Type and Breadth of Release: Limited Openings, Niche Marketing, and the Web’s Viral Power**

For a film, the marketing budget is the most significant cost item outside of making the picture. While there is no exact rule, it is common for the marketing budget (inclusive of prints and advertising) to equal a significant percentage of the cost of producing the film. A film that costs $75 million may, for example, have a domestic marketing budget of $35 million or more (see Table 9.5), inclusive of the following line items:

- media/advertising
- PR
- website
- social media site (e.g., Facebook page)
- travel

As discussed in Chapter 4, the amount spent to open a film is disproportionately large because the theatrical launch of a film is the engine that drives all downstream revenues. Accordingly, the money spent up front marketing a film, creating awareness, develops an overnight brand that is then sustained and managed, in most instances, for more than a decade. In extreme cases, marketing costs can equal or exceed production costs. *The Wall Street Journal* noted of the March 2009 release of *Monsters vs Aliens*, which was trying to expand the market for 3D films: “DreamWorks Animation spent upwards of $175 million to market the film globally, more than the $165 million the studio used to make the movie.”

**Word-of-Mouth Limited Openings and Niche Marketing**

Not all films, of course, can sustain a marketing budget in the tens of millions of dollars, which forces distributors/studios to employ a variety of strategies for launch (see also Chapter 4 and the section on “Press and PR”, page 523). One strategy is not to open a film in a wide, big bang fashion. Opening a film in a nationwide and worldwide manner is the most expensive avenue, requiring national media and costs that make the launch an event. As touched on in Chapter 4, if a picture is opened in limited release, targeting critics and key cities and hoping that reviews and word of mouth will create momentum, the costs are dramatically reduced. This is a typical pattern for arthouse movies, films trying to attract critical acclaim leading to award consideration (e.g., *Zero Dark Thirty*), and movies that may appeal to an intellectual base (e.g., Woody Allen), where openings in, for example, New York, Los Angeles, and a few other select locales will draw avid moviegoers and start creating buzz. The risk factor with a staged release pattern, as discussed earlier, is that the
reviews or performance will not meet expectations and the film could struggle to gain a wide release (that perhaps could have been achieved if the movie opened day-and-date nationwide)—a risk that tends to be exacerbated by online and mobile sources virally spreading reactions.

Another strategy to open a film with limited marketing dollars is to focus on niche marketing. A perfect example of niche marketing is campaigns targeted at colleges. Distributors will try to tie up with local on-campus film groups, etc. to get the message out on a film that they believe will appeal to this demographic. These types of campaigns can include posters, Internet components, sponsored events with film clubs, etc.

Sometimes niche campaigns may be referred to as “underground campaigns” or “guerilla marketing,” which by their very nature can be difficult to orchestrate. There is a bit of inherent hypocrisy for a studio to try to stimulate a grass-roots campaign with an expressed goal of creating a hip factor. This is because what the studio is doing is seeding a bit of money to try to create a groundswell while really saving money. (Note: This generalization is a bit unfair, as given the profile of the niche film in question and resources, there probably is little money available for marketing; nevertheless, perception matters, and studios, as the masters of perception, could be accused of an end run even if, under the circumstances, they may be orchestrating the most viable strategy.)

As a component of a lower-budget campaign, viral campaigns are becoming more popular. These are Internet-driven campaigns using websites, blogs, and teasers. The goal of these campaigns is that the film or an element within it will simply “catch on.” One of the most frequently cited examples is The Blair Witch Project, a low-budget film that leveraged viral marketing to garner $140 million at the U.S. box office. Lots of people like to point to The Blair Witch Project as proof of a strategy, but seldom is it mentioned that the odds of success here are no better than in other areas; namely, there are many more wannabes than Blair Witch successes.

Is Viral Messaging on the Web Always a Good Idea?

In the zeal to point out that the Internet’s democratization of access affords a platform where anyone can have a shot, it is easy to forget that the Web is the essence of clutter. Gaining impressions and buzz amid the infinite choices online may actually be a longer shot statistically than a low-budget grass-roots campaign. The intersection of execution and luck is not magically better online. Additionally, while there are certain tricks of the trade and optimization strategies that can be employed, any viral campaign ultimately relies on sharing and peer-to-peer excitement. Moreover, in this context, “messaging” is no longer captive, and online users, unabashed in giving opinions and feedback, can be brutal. It is hard to control spin once material is unleashed into the blogosphere, and any campaign needs to be careful about opinion potentially turning negative. There is no guarantee that positive comments, downloads, and buzz will materialize, and as people continue to learn and experiment, this avenue could be a risky awareness strategy (even if compelling) when compared to a traditional media blitz.

Shift of Dollars to Online Tempered by Market Still Evolving

Despite these risks, the Web is no doubt a boon to marketers, and money spent to stimulate viral buzz is both tempting and often productive; moreover, the Web allows unique targeted marketing, and as technology and advertisers become more sophisticated, more dollars will shift
online, given the inherent efficiencies of better-matching expenditures and messaging to narrowly defined consumers. As the shift in marketing dollars suggests, this is already happening. However, until Internet spending grows exponentially from its current levels, it will still be dwarfed by traditional media spends.

Further, the world of online is still evolving (with new formats available, and video advertising strategies continually being tested), and creative breakthrough ads are challenging; generally speaking, as of today, online (including social media and mobile) marketing alone still cannot create mass awareness.

**Timing, Seasonality, and Influencing External and Internal Factors**

Timing of a campaign is critical, and again it depends on several moving parts. Sometimes, it can be an effective strategy to say very little, allowing symbolism and mystery to create interest. One of the best examples of this was the 1989 release of the first *Batman* movie, starring Michael Keaton and Jack Nicholson. Months before the release, the *Batman* logo/symbol was simply plastered around the world: consumers could see it on posters, on buses, and on phone booths in London. I asked Michael Uslan, who launched the *Batman* film franchise and has served as executive producer of all of the *Batman* films (including, most recently, *The Dark Knight Rises*), how he had seen marketing evolve in almost 25 years between the first *Batman* and the summer 2012 *The Dark Knight Rises*, and in particular how the Internet was influencing campaigns. He noted:

When our first, revolutionary *Batman* film was released in the summer of 1989 by Warner Bros., I considered it the best-marketed film in history. In New York City, you could not walk one block without running into someone wearing a *Batman* T-shirt or hat.

That iconic black-and-gold bat symbol was everywhere. Movie posters were being stolen from bus shelters and theater lobby displays. People were paying to walk into movies showing the *Batman* trailer, then leaving before whatever feature was playing came on. Pirates were selling that brief trailer at comic book conventions for $25 a pop. When the Berlin Wall came down, kids were coming through to freedom already wearing *Batman* caps. But marketing via an Internet strategy didn’t exist. Today, it’s completely different. You cannot successfully and fully market any comic book or similar genre movie in this day and age without a viral campaign on the Net starting 10 months to a year prior to release if your intention is to build a franchise and market a brand. *The Dark Knight* had, perhaps, the best viral campaign ever. Fans of comics, movies, science fiction and fantasy, manga and anime, animation, horror, etc. must be engaged early on and “courted;” for they have the capability to make or break a movie by their support or the lack thereof. Studios now bring their filmmakers and stars to the bigger comic book conventions to pay homage to the fans they know they must ultimately win over. There are currently so many dozens of key fan sites on the Internet, with millions of people trolling them all day and late night. It is a bonded community where word spreads like lightning. The Internet is not only important to market a genre film domestically and internationally today, it is essential.

I will come back to websites, social media, and online generally later, but I want first to continue my focus on timing; the matrix of elements associated with timing can profoundly impact a marketing campaign. When it may be best to launch a film is driven by both “internal” factors related to the inherent/specific elements of the property, as well as “external” events that impact consumers’ consumption patterns but are otherwise unrelated to the film at hand.
Internal Factors

The most important element of timing is that external events are as influential, and arguably much more influential, than direct elements (“internal”) driven by the film/property. By internal, I mean particular relevance of the property that dictates specific optimal release timing. Perhaps the best example of this is films with holiday themes. A Christmas-themed movie, such as Christmas with the Kranks, Four Christmases, Polar Express, or even The Chronicles of Narnia series, should be released during the year-end holiday period to optimize interest. Similarly, movies with beach themes (e.g., surfing-related) are clearly a more natural fit in the summer. Occasionally, there are movies with literal direct tie-ins to dates, such as Home for the Holidays (starring Holly Hunter), which involves family coming home over Thanksgiving; Independence Day (about science fiction and not about the Fourth of July), which had a clear marketing hook on July 4th; Halloween (and other thrillers) around Halloween, New Year’s Eve (released in the holiday season 2011), and sports movies that revolve around the sport currently “in season” (such as The Rookie or The Natural during baseball season, or Remember the Titans, Leatherheads, or Friday Night Lights during football season). When listing just a few of these tie-in categories, there becomes a larger overlap with theme and timing than one would likely identify without reflection.

Because people are looking for films with “the Christmas spirit” in December, about love on Valentine’s Day, about the beach during the summer, and about baseball during baseball season, it is obvious to find films with these themes releasing in these time frames. Simply, the themes of these types of films are top of mind; importantly for marketing, they also create an alternative reference (versus key word genre categories such as action, romance, thriller, drama, chick flick, etc.) that subliminally, or probably overtly, drives interest. (Note: It will be interesting to see if such themed movies continue to be as prevalent with the international marketplace becoming dominant; most sports and holiday themes tend to be local, making it challenging to market properties into an increasingly culturally diverse and dispersed global marketplace. Because the U.S. market is so large in itself, these films will not doubt continue to be made, but I would suspect there may be increasing scrutiny at budget levels as studios segment their portfolios.)

External Factors

By external events, I mean outside factors wholly unrelated to the film that have a material impact on people paying money to go to the theater. The four principal elements are: (1) events of national or international importance; (2) holidays; (3) competition; and (4) economic events.

Events of national importance, while obviously a broad category, generally means major events known about significantly in advance, such as political elections or major sporting events. Not only do these events draw attention away, making it harder to compete for viewing, but these events drive up the price of media. On the sports side, distributors take into account dates for the Olympics, the World Cup, and major sports playoffs and championships (whether Formula One events in Europe or the Super Bowl in the United States). For politics, the concerns may be more limited, but periodic major events such as presidential elections will dictate timing. Again, this is driven as much by having to compete with an external event perceived to be monopolizing (or at least drawing) target consumers’ attention as with the corollary impact of the cost of media. Having to buy media time during a presidential election when key outlets are able to sell spots at a premium (and when inventory may even, in some cases, be sold out) simply drives up budgets, with no fringe benefits.
The second external category, holidays, is important not because holidays can get in the way (as in the case of an election or sporting event), but because they create free time. The entertainment business is at the heart of the leisure industry, and the more people have free time, the more likely they are to consume an entertainment product. Accordingly, the biggest release dates of the year are around U.S. Memorial Day weekend (commencement of summer break), the Fourth of July, Thanksgiving, and Christmas. Movies are a social experience, and film marketing tries to drive a truck through the gates held open by the dual forces of getting together and compulsory free time. Box office is largely driven by weekends, and in terms of marketing opportunities, key holidays are nothing short of weekends on steroids.

For kids, the summer season is the most critical release period of the year; having extended periods of free time while being out of school drives up weekday box office numbers, validating the holiday/vacation relationship (see also Chapter 4).

The third external category is competition, perhaps the most overlooked and yet, at the same time, arguably the most influential factor in terms of attracting an audience. Competition can be subdivided into a couple of categories: direct competition among films for market share, and competition among studios and rivals (which can, at times, add an emotional and even irrational component). Regarding direct competition, distributors will always be looking for the “cleanest” window. Would you want your next film to be opening against the next Avatar, Avengers, or Star Wars? Certain event films can suck so much of the box office out of the market that it becomes questionable whether other films can perform simultaneously. Studios perform sophisticated analysis on the market size, and what portion of a demographic they want to attract, but whether the market can expand to handle certain capacity is always a tricky calculation.

Studios therefore jockey for release dates and try to put a stake in the ground early to ward off would-be competitors. Sony and Marvel, for example, in early 2009 announced it would release Spider-Man 4 on May 6, 2011, securing the pole position in the summer box office race, a position Marvel covets and similarly secured in 2010 with the slotting (more than a year in advance) of Iron Man 2 on May 7, 2010. Continuing this trend, in October 2010, Walt Disney Pictures (following its acquisition of Marvel and obtaining distribution rights to future Iron Man sequels) announced its release date of May 2, 2013 for Iron Man 3. With summer weeks and holiday weekends at a premium, it has become commonplace to map out release date schedules years in advance (see Chapter 4 for a further discussion of release dates).

One of the most time-consuming and important parts of the art of theatrical distribution is trying to track the matrix of competitive titles, and both schedule and protect release dates. As a result, dates are either universally known and touted (to ward off others) or guarded with strict secrecy to keep competitors guessing. As dates get close, the cat is, of course, let out of the bag and lots of last-minute jockeying takes place. The most intense poker game is played in the summer (the busiest time of year), since a new tentpole film is releasing virtually every week.

In terms of efficiency, it would be simpler and better for all involved to work through a trade association and schedule dates, eliminating the secrecy and politics, and allocate slots in a fashion that would optimize the pie. This practice, however, is deemed collusive and violates antitrust and international competition laws. I was once involved with a case in Europe alleging collusion among studios in setting release dates, a case that was ultimately dismissed but still sent a chill through the spines of the parties involved.
I would argue that while collusion is possible, and would create more efficient economics, the fact remains that the film business is cutthroat: the desire to best a rival dwarfs the forces of collusion and ensures true and vibrant competition. And remember, this can be a business driven by irrational competition—people's jobs and star can rise and fall by rankings and even perception. There is more than an ego element to where a studio falls in terms of box office rank (e.g., top distributor of the year). With so much riding on a film's performance and its opening, paranoia comes into play. No matter what a film's marketing budget is, there is always fear that the budget of a competitor's title is higher. Add to this equation the fact that when the marketing budget and decisions are being mapped out the film may not be finished (or the people doing the planning may not have even had a chance to see it), and that no matter what the questions may be about your picture you are going purely on hearsay regarding the competition. This is not like marketing one brand of soap against another. This can be a last-minute chess game involving the blind leading the blind. Driven by emotion, imperfect information, extremely high stakes, and fierce competition, passions can run high.

Moreover, given this hyper-competitive environment, a studio may try to maximize results by counter-programming (a strategy that may draft off of increased in-theater foot traffic, target a different demographic than is drawn to a new blockbuster picture, or simply address the too much product, too few weekends challenge). An extreme instance of counter-programming is to spend with the intent of crushing a competitor's film. In the context of battling brands, it can be as much of a success to undermine a key competitor's film as to launch one yourself. Of course, no one will admit to this, but it can be gleaned in the marketplace when there are obvious rivals or niches to protect.

I will label the final key external category as economic events. While this can sound a bit amorphous, marketing at its most base level is trying to encourage people to spend money. Just like periods of holiday that create free time, there are periods that stimulate “free money.” Paydays and bonus periods can become catalysts for planning product releases (and conversely, tax day, April 15, is probably a time to avoid). In certain countries, there are traditional bonus periods, and in some countries bonuses are either legally or culturally built into salary structures, such as a “13th month” of pay. This factor is much less influential in terms of planning a theatrical release, because the relative cost of a movie ticket is low. If the price of admission is not a barrier to entry on a weekend, then it is hard to argue that a release should be planned around a bonus period. This timing tends to be much more pivotal at retail (e.g., for DVD release), and is something likely tracked by the Walmarts of the world; a study of product releases to paydays (1st and 15th of the month) would probably yield a closely mapped curve. Perhaps this is overanalyzing, for the likelihood is that in most cases, this factor happens to dovetail with other elements, such as year-end bonuses overlapping holiday periods.

**Day-and-Date Release**

It used to be the pattern that a film would open in the United States and then be released subsequently in international territories. This had multiple advantages, including: (1) saving money on prints by being able to reuse prints and send them to a different territory when one territory wound down (“bicycling of prints,” which is, of course, limited to common-language territories); (2) allowing talent to travel to staggered premieres; (3) enabling the heat from the U.S. release (e.g., box office, reviews) to spread to the rest of the world; (4) allowing the marketing department to learn from the U.S. release; and (5) simply allowing time to complete international versions.
As discussed in greater detail in other chapters (see Chapters 2 and 4), however, piracy and other pressures have led to studios now favoring day-and-date releases (especially in the context of event films, even if this means increased print costs), which simply means near-simultaneous release of the picture in all territories. Moreover, with the size of the international markets now eclipsing any domestic market (whether viewed from a perspective of the U.S., or any other country), if a release is not day-and-date, it is no longer unusual to release overseas first, as was the case with *The Avengers* and *Battleship* in 2012 (see the discussion in Chapters 1 and 4).

Given the ever-increasing importance of international markets results, reducing the impact of piracy has grown in importance; moreover, the combined forces of a global economy and easy Web access force distributors to assess the risk of a picture illegally showing up in a territory before its scheduled opening—and this risk is not only very real, but its impact is exacerbated as the size of the international markets’ growth as a percentage of overall box office/revenue (see Figure 1.7 and Table 4.1 in Chapters 1 and 4). Day-and-date releases have accordingly come to be perceived as the best prevention against piracy; the pattern also yields the biggest worldwide box office number the quickest. In terms of economics, the calculation is whether the accelerated international release will bring in more money (than would otherwise be lost to piracy) than the incremental costs associated with simultaneous release (e.g., extra prints, overtime to rush international versions). (Note: This is an even more difficult equation in practice because inevitably a simultaneous release means that in some territories, given cultural patterns, seasonality outside events, etc., the timing will not be optimal.) The elimination of the chance to learn from and tinker with earlier marketing strategies is an intangible that will not lead the decision, especially since global marketing is usually driven off the U.S. campaign.

**Third-Party Help: Talent and Promotional Partners’ Role in Creating Demand**

**Talent Involved**

Nothing sells a property like a star, and the magnitude of the star and their willingness to promote the film can be a significant factor in the overall strategy. This is a double-edged sword, however, for talent can be unpredictable—both in terms of dedication to the project and timing—and very expensive (think entourages, first-class travel, and accommodations). Much needs to be put in motion in advance of the release, and the mechanics of production are such that most big stars are well into other projects by the time the prior film has completed post production and entered its marketing and release phase. Accordingly, while personal commitment, emotion, relationships, and ego are gossiped about, the fact is that time management can be the paramount concern. Even if a star is committed to promoting a film and willing to travel for publicity, they could be tied up with another project (worse if on location) and simply have limited availability.

The advantage to using talent/stars to promote a film is the enormous amount of free publicity that can be generated. The talk show circuit, ranging from morning shows (e.g., *The Today Show*) to afternoon talk shows (e.g., *Ellen, Oprah*), to late-night programs (e.g., *The Tonight Show*), generates significant exposure and tends to foster other appearances and press opportunities. The downside to using stars (beyond costs) is lack of control.

Unlike a trailer or advertisement, a star as a spokesperson may or may not put on the appropriate spin. Given, however, that the pre-eminent concern at this phase is awareness, the risk is
usually worth taking. Stars are paid enormous sums, and that premium is largely for awareness: people want to see them, know about them, go to their films. They are a presumed built-in draw, the “sure-fire” way to entice the consumer to pay money to go see the product (though statistically, this has been proven a fallacy). Famously divorced from Nicole Kidman, engaged to Katie Holmes, and often front-page news for his promotion of Scientology, Tom Cruise had achieved as many headlines for jumping on a couch during *The Oprah Winfrey Show* and behaving erratically as anything else during the promotional window for *Mission: Impossible III*—the public perception was starting to turn from golden boy to eccentric. Shortly following *Mission: Impossible III’s* failure to meet certain expectations, Paramount ended its long-term deal with Cruise’s production company, with Sumner Redstone (chairman of Paramount’s parent, Viacom) publicly mentioning Cruise’s personal behavior among the reasons for its decision (sending some shockwaves through the industry). At this point, many were questioning whether the star’s appearance would help the picture, or whether the risk of negative publicity may hurt it.

Stripping away the artistic element, and whatever life and magic they breathe into the end product, at its most base level stars are a vehicle for instantly branding a film. An unknown product, for which hundreds of people have spent months of their lives, becomes a such-and-such film. Given this inherent branding, whether fair or not, it is economically wasteful not to use that branding in turn to create branding and awareness by association for the film. If a movie has lots of talent involved, such as a famous director, then there are simply multiple hooks to exploit.

**Promotional Partners**

Promotional partners can, on occasion, influence timing and positioning. A cereal company or fast food company may be willing to create product tie-ins, and even pay for advertising. An advertisement by a cereal company, Burger King, or McDonald’s can create huge demographic-specific awareness.

It is important here to distinguish between merchandising and promotional partners. A merchandising deal (see Chapter 8) is generally a licensing arrangement where a third-party company pays a fee to the property owner for the right to create certain goods featuring elements of the property. The end product is therefore a *Batman* action figure, a *Spider-Man* costume, or a *Toy Story* backpack. In contrast, a promotional partner already has its own product, usually a very well-known branded product. What it is offering is a chance to tie-in its brand in a fun way, utilizing elements of the film brand. Accordingly, a kids’ meal at a restaurant may be themed for the week using characters from the movie, or a character from the movie may appear on a box of a well-known cereal. These are instances of cross-promoting brands as opposed to creating a unique new product SKU designed solely around the elements from the film.

If a distributor is fortunate enough to have a property that lends itself to this type of tie-in (these opportunities are limited to big films), then lead time must be built in and limits on content may be imposed. The promotional partner, no matter how much it may like a film idea or property, is still self-interested: it is simply trying to attract more consumers to its product by associating itself with another property (brand) on the assumption that the tie-in will lead to a lift in sales. It is not willing to risk its own brand on a tie-in that could undermine its brand. Accordingly, violence and other content tied to age ratings is critically important. A tie-in partner such as a toy company, for example, targeting a kids demographic is likely going to be extremely concerned about content not being too violent or sexually explicit.
Assuming the content hurdle is cleared, then the next key issue is timing. Product development timelines are years out, and it is not uncommon for promotional partners to be locked in up to a couple of years in advance of a release, and for the partners to demand locked release dates. Given this time frame, promotional partners tend to align with known film brands. This creates a mutual comfort factor—both the product brand and film brand know what they are dealing with—and is also a practical necessity. At the time the partner tie-in needs to be locked, the film may not have even been started. How can a major corporation with a household brand commit to a tie-in and spending up to millions of dollars on blind faith? Only by associating with a known brand, and feeling as if there is only an upside.

One of the best-known partnerships was a deal struck between Disney and McDonald’s. Both companies agreed to a 10-year exclusive arrangement. It was a brilliant move by Disney, for in one stroke they gained exposure at the largest fast food retailer in the country and also excluded competition. At the time for McDonald’s, Disney was considered the only “studio brand,” and as a consistent family-friendly brand, it meant a high-quality, safe association.

Whenever there is a group of sequels coming out in the same period, as now routinely happens in the summer, key brands are courted by rival studios, often leading to intense competition: there are only so many large packaged food companies, soft drink companies, fast food outlets, candy companies, etc., and everyone wants to affiliate with the market leader. Moreover, not only do they want the market leader to associate with their film, but they want that market leader to help brand the film by spending their own advertising money and creating unique in-store displays. A successful campaign spreads the message over the airwaves and at retail, creating millions of impressions and potentially exponentially increasing the media weight behind a campaign. Table 9.1 lists a

<table>
<thead>
<tr>
<th>Film</th>
<th>Promotional Partners</th>
<th>Details and Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Sleeping Beauty</em></td>
<td>Walt Disney Studios, Walt Disney Records, Walt Disney Pictures</td>
<td>Approximately $150 million in media spend, likely to include extensive tie-ins with McDonald’s.</td>
</tr>
<tr>
<td><em>Toy Story 4</em></td>
<td>Pixar Animation Studios, Disney-Pixar, Disney Consumer Products</td>
<td>Approximately $200 million in media spend, including extensive tie-ins with Hasbro and other toy companies.</td>
</tr>
<tr>
<td><em>Star Wars: The Force Awakens</em></td>
<td>Lucasfilm, Disney Consumer Products, Target</td>
<td>Approximately $250 million in media spend, including extensive tie-ins with Target and other retailers.</td>
</tr>
<tr>
<td><em>Spider-Man: Homecoming</em></td>
<td>Marvel Studios, Sony Pictures, Sony</td>
<td>Approximately $300 million in media spend, including extensive tie-ins with Sony and other studios.</td>
</tr>
</tbody>
</table>
few high-profile films, illustrating how major brands can garner tens of millions of dollars worth of promotional partners, and in extreme cases upwards of $100 million in value.4

Animated and family-oriented movies often lend themselves to a broad swath of promotional partners. In 2012, DreamWorks Animation’s Madagascar 3: Europe’s Most Wanted had more than 10 partners ranging across food, cards, games, hardware, and apparel. Table 9.2 is a partial sampling of the types of products and categories that were involved.5

Table 9.2 Madagascar 3—Select Promotional Partners

<table>
<thead>
<tr>
<th>Product Category</th>
<th>Brand</th>
<th>Tie-In Support</th>
</tr>
</thead>
<tbody>
<tr>
<td>Snacks</td>
<td>General Mills</td>
<td>Film-themed packaging featuring snacks in the shape of the penguin characters</td>
</tr>
<tr>
<td>Fast Food</td>
<td>McDonald’s</td>
<td>Custom TV commercial, in-restaurant integration, and tie-in with six circus-themed toys in global Happy Meal program</td>
</tr>
<tr>
<td>Candy</td>
<td>Airheads</td>
<td>Dedicated TV commercial and in-store displays</td>
</tr>
<tr>
<td>Party Goods and</td>
<td>Hallmark</td>
<td>Various retailers and Hallmark Gold Crown stores</td>
</tr>
<tr>
<td>Cards</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Credit Cards</td>
<td>CitiBank</td>
<td>Private card member screenings in New York and Los Angeles</td>
</tr>
<tr>
<td>Social Games</td>
<td>Zynga</td>
<td>Draw Something game tie-in with four themed words players can draw, also video trailers</td>
</tr>
<tr>
<td>Toys</td>
<td>Toys “R” Us</td>
<td>Dedicated in-store boutiques</td>
</tr>
<tr>
<td>Fruit</td>
<td>Dole</td>
<td>“Go Bananas Every Day” campaign with 100 million specially branded stickers, tied to QR code mobile game; also linked to promotion in Walmart’s produce department</td>
</tr>
<tr>
<td>Cosmetics and Beauty</td>
<td>L’Oréal</td>
<td>Four Madagascar 3-inspired kids’ shampoos and conditioners</td>
</tr>
<tr>
<td>Hardware</td>
<td>Lowe’s</td>
<td>In-store POS, themed clinics, and movie-themed racecar driven by Jimmie Johnson at Dover race weekend</td>
</tr>
</tbody>
</table>
Product Placements—Finance-Driven, Not Marketing-Driven

Product placements are similar to promotional partner tie-ins, but are generally distinguishable in that the third-party promotional partner will also advertise outside of the film/property; hence, such third-party will leverage its brand in retail together with the tie-in film. In contrast, a pure product placement will only involve integrating a consumer brand into a film, television, or online property, where there is an indirect association. Examples of a product placement are the judges on *American Idol* drinking a Coke (with the Coca-Cola bottle and logo prominent), or the financing of certain online originals having a character wear a particular fashion accessory (e.g., brand of shoes). In both of these cases, the viewer is drawn to the product, with the character (or in the case of the reality program or contest, the judge or host) using the product as the marketing hook. There is no direct tie-in between the brands. The lines here can be quite fine, as a car used in a film (e.g., a special sports car in a *James Bond* or *Bourne* film) is a kind of product placement; however, because in these types of cases there may also be off-film marketing (“see . . . in the *James Bond* film . . .”), the deal may be better characterized as a promotional partner tie-in.

Another way to distinguish between these types of arrangements is that promotional partner deals are generally designed to add marketing weight and promotion to a show or movie. In contrast, product placements do little to promote the show, but create a separate revenue stream (basically in-show advertising) that can be viewed as defraying production costs (i.e., a method of financing) or a revenue stream helping to recoup production costs. It is for this latter reason that several online original programs, unable to secure enough revenue from new advertising markets, have utilized product placement opportunities to help finance production (see Chapter 3). The challenge with product placements is that creators often bristle that they undermine the integrity of the show, and the brands that are usually prominently featured (to justify the fees paid) may date the shows in the long tail.

One way to defeat these problems is to create a product placement that has functional relevancy. This, however, is difficult to execute creatively, for the product needs to be built into the show and integrated at an early stage. A few years ago, I saw an example in the online context that may be an ideal model for utilizing product placements. The online social network Gaia Online, which allows people to build environments and socialize via avatars in a virtual world, innovated a clever way to integrate product placements that went beyond simply seeing the visual. As has fast become a trend, users can buy virtual goods to dress up their characters, and in this instance, could buy Nike shoes. What is different is that when the character wears those shoes they go faster, creating a relevancy and functionality that creates more value for the brand and does not detract from or compromise the underlying content. In this example, the Internet has taken product placement to another level. To a degree functional relevancy of products underlies the economic models in social games where the business goal is to seduce players to ante up and pay for additional elements helping them/their characters succeed and progress to a new level; it is accordingly not surprising to see companies searching for tie-ins where products offered contain brand appeal (and benefits) over generic accessories.

Theatrical Marketing Budget

The marketing budget is the largest cost outside of physical production impacting the P&L of a film. Given the increasingly competitive nature of the marketplace, and the compressed periods of theatrical release (see Chapter 4), the costs of marketing have spiraled to almost unimaginable
highs. As already referenced, the average domestic cost for an MPAA member studio to market a film in 2007 was $35.9 million, a sum that has continued to hover at roughly this level (see Figure 9.1).  

**Direct Costs**

By far, media is the largest cost category. Media costs and strategy involve mapping placement to demographic targets and achieving a certain reach and frequency. This is often expressed in terms of percentage of target reached, such as 70 percent, and how many times that grouping is hit with impressions (such as one, two, or three times). Media buys are then made on the basis of impressions. The end goal is to achieve a certain awareness level, which then hopefully translates into consumption.

Media buys are aggregated in four principal areas: television and radio, print, outdoor, and online. These categories are exactly what they sound like. TV and radio are simply commercial spots of varying lengths. Outdoor ranges from billboards to sides of buildings to buses and phone kiosks. Newspaper/print involves advertisements that can differ by size, prominence, color, etc., and like TV can be executed locally, nationally, and to finely tuned demographics (e.g., women’s magazines). Online is a catch-all encompassing everything digital: Web, mobile, social. There is no magic formula, and different marketing gurus will allocate different weights depending on their experience and, to some degree, gut feeling. Some believe that with increasing media diversity and competition that the middle is disappearing; namely, either spend modestly and targeted, or spend big enough to rise above the clutter.

**Allocation of Media Costs**

TV advertising alone can often account for more than half of the total media marketing costs. The allocation of costs is a picture-by-picture decision, but historically the largest costs have been first TV advertising, next newspaper advertising, and then the balance of the pie divided among Internet, outdoor (e.g., billboards, buses), and radio advertising. The biggest shifts in recent years have been the decline in newspaper advertising, and the increase in “digital” spending (which is now not only Web/online, but also encompasses social media and mobile advertising). These are difficult costs to track in the aggregate, but Figure 9.1 gives a snapshot as to the prominence of TV spending in 2007 and the then relatively small amounts of advertising committed online. It is also useful to look at the breakdown on a per-film basis. Table 9.3 provides select examples across key titles from a variety of studios, as referenced in the *Hollywood Reporter*.

Because media costs are front-loaded to open a film, pursuant to the compressed theatrical box office curve, if a film underperforms it is too late to adjust. Accordingly, for films that do not achieve box office numbers greater than $100 million, the percentage of marketing costs relative to box office can be a frightening number. This was the case with *Music & Lyrics*, starring Hugh Grant, where the marketing costs were more than 70 percent of the total box office (and remember, rentals are roughly half the box office, meaning that the marketing costs significantly exceeded the revenues taken in by the distributor at this stage). In the most extreme case, the numbers can exceed the box office, which directly translates into media feeding frenzies about the film bombing, and in the worst of scenarios finding a place among the all-time clunkers.
<table>
<thead>
<tr>
<th>Studio and Distributor</th>
<th>Domestic Box Office</th>
<th>Local Media Marketing Costs</th>
<th>Network TV</th>
<th>Cable TV</th>
<th>Newspaper</th>
<th>Radio</th>
<th>Magazines</th>
<th>Spot TV</th>
<th>Internet</th>
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<tbody>
<tr>
<td>California Dream</td>
<td>$12.6M</td>
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Internet Impact

The power of the Web to target messages to specific demographics is a marketer’s dream, and the budgets for online advertising continue to grow. The 4.4 percent that the MPA estimated was spend for online/digital advertising grew to more than 10 percent by 2010, essentially flipping the importance of newspaper advertising, which fell from 10 percent to 4 percent. Although television continues to dominate marketing expenditures for film releases, with Variety estimating (early 2010) that TV accounted for 60–70 percent of a studio’s promotional budget, it is likely that online/digital marketing budgets will continue to grow and cannibalize part of the TV spends for the next several years. This shift is not specific to the movies, but essentially tracks the broader marketplace. Forbes, quoting a forecast by Forrester Research, predicted that online advertising would, in fact, overtake TV by 2016 (see Figure 9.2).

While increased advertising online may seem an obvious trend in terms of promotional campaigns for films, I have heard some argue to the contrary, noting that a trailer that is released virally can be accessed from thousands of points and need not require advertising. As a studio, if your best message is the visual, and online distribution of a trailer is free, then why additionally pay for advertisements? This theory is buttressed by the nature of experience goods. As earlier discussed, advertising helps the consumer feel as if they have experienced the film; the consumer then creates signals that may lead to cascade behaviour, which may be further accelerated by viral sharing among users frequenting social networking sites. Of course, this information flow and result can also turn negative, which is a complicated way of saying that whether a trailer is compelling is now even more important in the online world. I would argue, however, that this line of reasoning is purely theoretical, and that to create viral sharing of a trailer it is necessary to invest in promoting it. More sums will be allocated to online outlets, and especially social network sites, where clever advertising can be a catalyst for sharing. The promise of direct marketing, inherent efficiencies of reaching an exact demographic, the ability to report precise 1:1 metrics, and the inevitable maturation of the space mean that allocations will continue growing. Moreover, they are likely to grow both in sub-markets, such as social media and mobile, as well across the entire wireless and online/digital spectrum.

Despite my belief in the growth of online (which is clearly happening), a macro shift in allocation from TV to online has not yet happened—largely because TV advertising has proven remarkably robust. In fact, over the last five years, total ad spending on television has increased,
with Nielsen reporting that total ad spending in 2011 increased 4.5 percent to a total of $72 billion, and that since 2007 cable advertising spending has increased a whopping 42 percent, with cable and network spending now virtually equal. Figure 9.3 provides evidence of the upward trend in overall spending on television, as well as how virtually all segments (e.g., cable, network, syndication) have either held relatively steady or shown a material increase.

What these trends evidence is that certain traditional promotional areas, such as newspapers, will continue to wane, and that online, television, and outdoor advertising (e.g., billboards) will continue to be a staple for advertising releases. There is already a push to leverage social media in a more proactive way (see discussion below), and it is inevitable that the allocation of marketing budgets will continue to shift as metrics continue to prove the efficiencies that well-orchestrated and well-tuned online advertising can deliver.

**Correlation of Marketing Spend to Success**

While William Goldman is correct that “nobody knows anything,” and most statistical correlations of top box office stars to movie performance evidence that stars, in fact, do not guarantee a project’s success, at least one popular benchmark seems true: bigger-budget movies tend to yield

![Figure 9.3 Television Advertising Expenditure](source: Nielsen, State of the Media (Spring 2012), Advertising & Audiences, Part 3: By Media Type. Reproduced by permission of Nielsen.)
the best return on investment. Despite the seemingly bigger risks (if we assume higher marketing costs go somewhat hand in hand with higher budgets), the most costly films are, on average, the most profitable, with an SNL Kagan study finding that of all films with wide releases (i.e., more than 1,000 locations) between 2003 and 2007, “the two priciest segments surveyed showed the best profitability . . . 80 films costing more than $100 million to produce showed average profitability of $282.3 million.”

**Trailers**

The goal of the trailer is obviously to entice interest in viewership, and hopefully to create awareness through both direct viewing and word of mouth. The problem with the creative is that the trailers often have to be cut before the film is completed, and this is almost always the case with teaser trailers (which further means there are instances where scenes in the trailer may not make it into the final cut of the movie). This problem is exacerbated by effects-laden films, where shots may be filmed in front of blue or green screens and effects shots then created and integrated into the frame. The job of cutting/creating a trailer is simply to do the best with what you have available.

For the distribution budget, the cost is in creating the negative and then printing the physical trailers for distribution. Although the trailer itself is short, the number of copies can be in the several thousands, as the goal is to achieve the broadest possible market coverage. Trailer costs can therefore be significant when adding up the several line-item categories:

- creative and mastering
- focus group testing
- physical prints
- cans for shipment
- freight and transport.

There are accordingly economic decisions regarding trailering, as the distributor needs to judge how many versions of a trailer to make (if the film warrants targeting to different demographics, such as a love angle geared toward women and action sequences skewing toward men) and how many copies to print (although, as discussed in Chapter 4, the growth of D-cinema is eliminating the costs of physical prints, which will in tandem ultimately eliminate the costs of distributing trailers and change this calculus). Complicating these decisions is the fact that there is no guarantee as to how many of those copies will actually be shown—it is up to the discretion of the local theater what trailers will be played. In some cases, a certain number of limited trailers will be attached to the front of the film print, thereby somewhat guaranteeing placement. These attached trailers are precious real estate, and the decisions of what is trailered with what, and what is attached, will even go up to the head of the studio.

The placement of trailers, and direct linking where possible, is critical because everyone wants to have their trailer attached to the film(s) with the best demographic overlay to the target market for the future film. One can imagine the politics of this choice, with different investments in different films, lobbying by directors and producers, key relationships with clout . . . Everyone wants to be on the front of the next blockbuster, and competition will be fierce to piggyback on event films.

The studios will receive reports of trailer coverage after the weekend, which is the ultimate gauge of whether the right range of copies was produced and shipped. Of course, all of the previous discussion addresses physical trailering, but as earlier noted, trailers will also be posted online.
and can potentially achieve greater reach and frequency via the Web and viral sharing. Trailers, in summary, receive so much attention because, by their nature (including their ability to solve the experience-good problem), these visual teasers continue to be among the most efficient of marketing tools both online and offline. Interestingly, they are an example of a practice as old as films that has found a way not only to survive, but even grow in importance in the Internet age.

**Teaser and Launch Trailers**

Tentpole-level films typically have a teaser trailer six months or so in advance of release, and then a launch trailer a couple of months in advance of the release date.

Because of the limited material available for teasers, they tend, by their nature, to be short at around a minute in length. Taking into account lead times, for a summer movie teasers will often release in the fourth quarter of the prior year, taking advantage of the holiday box office season and the large audiences that will be attending theaters. Similarly, teasers for holiday films will often accompany summer releases. This is a relatively efficient way for a distributor to start spreading the word about an upcoming blockbuster.

A launch trailer, by comparison, is a very different animal. The launch trailer, released much closer to the theatrical release, will usually be much longer (e.g., two-minute range as opposed to one minute), and rather than “teasing” will give the audience a better sense of the story/what to expect in the movie. Many people often complain that “the best scene was in the trailer or commercial,” but it is hard for a marketing executive not to cull from their best assets to entice people into the theater.

**Posters**

Posters, or in film parlance “one-sheets,” have been around as long as movies, and to some are even considered a distinct form of art. The poster is simply a single static image used for the same purposes as the trailer. Knowing that the poster may have more visibility than any other piece of artwork in promoting the film, it needs to convey a succinct and compelling message. This will be the piece most likely picked up by the press for initial coverage, and the enduring image at the box office. Additionally, one-sheets (unless replaced by digital video box art) become the artwork for thumbnails, indexing the image in search engines, websites and virtually all online/digital outlets.

The economics of the poster is similar to trailers, just less expensive (usually). Posters are less costly to manufacture and distribute (with the cost of thumbnails as regards online marketing virtually zero), but interestingly the creative can be much higher. Because movie posters are often deemed works of art, and the commissioning of artwork, simply put, can be as expensive or inexpensive as the budget can bear, this is an area of both real and niche celebrities. The subjective nature of posters also lends itself to focus group testing, as messages can range from direct to mysterious. Additionally, as sometimes happens with high-profile films, posters may mimic trailers, such as when a unique teaser poster accompanies the teaser trailer, and a release poster dovetails with the launch trailer messaging. It is all about what will draw in the audience, and the answer may not be the most clever or creative. This is an area that can be lots of fun, and truly lets creative marketers have a significant impact on the film.

One final item to mention about posters is that they can be sold, thereby creating an ancillary revenue stream not available with trailers. In general, however, these sales are incremental to
other merchandise, and it would be rare to factor this revenue into the equation. In fact, the marketing department will have the task of delivering posters within a budget range, and will likely never know anything about the revenues, if any, earned from later sales.

**In-Theater**

A related element to posters is in-theater advertising. At the simplest level, in-lobby posters provide direct marketing to those making their decision of what to see once at the theater. This element has grown in importance with the expansion of multiplexes, and is critical in enticing would-be customers making an impulse decision once already at the theater. In-theater advertising may also involve more elaborate marketing, such as standees, additional signage, branded concession items (e.g., cups), and even billboard-type advertising outside.

**Commercials (Creating) and Creative Execution**

Creating advertisements for a property is similar to the process of cutting trailers, in that for bigger films there may be multiple versions generated. Commercials can be tailored to targeted demographics (e.g., playing up action scenes to a hardcore male audience) and then the media bought accordingly. Hence, there can be a very significant range, from very targeted ads to workhorse broad demographic spots.

In addition to the multiple versions, each version may be edited for different lengths. Commercials can range from a tag of a few seconds, up to a minute, with most spots cut to 15 or 30 seconds. Again, what will work best is a gut creative call based on overall budget (although, budgets permitting, distributors will test the spots on focus groups to optimize the outcome).

Finally, there is an economic call regarding the extent to which the process is managed in-house versus outsourced. Given the volume of product and challenges it is common for studios to work both with advertising agencies as well as trailer specialists. Only in Hollywood, though, could a trailer specialist become a main character, such as Cameron Diaz's role in the 2006 Christmas release *The Holiday*.

**Creative Execution**

Although it may sound like a truism, the quality of the creative is a critical factor in the success of a commercial, as well as all the other marketing elements discussed. The same problems that lead to challenges with creative goods underlie the creation of marketing materials, though smaller in scale and tempered by the fact that the creative is derivative of another property (i.e., the film). Commercials win awards too, and whether commercials or other marketing materials achieve their goal of creating awareness and stimulating consumer interest may be subject to the intangible of creative execution.

**Press and PR**

Press and PR can form a major part of the overall marketing campaign, and few realize both how complicated and time-consuming orchestrating all the elements of PR can be. Areas that PR has to manage include: (1) press kits; (2) press junkets (both long and short lead); (3) reviews; (4) talent interviews and management; (5) tie-ins/placements on other media such as TV shows; and (6) screenings (in coordination with distribution).
Press kits historically included fact sheets, press releases, slides, and some glossy photos. Today, if still used, they can still include these elements, and are supplemented with online elements; however, online press kits (i.e., electronic press kits; EPKs) have been the norm for a few years, and I would suspect that by another edition of this book physical press kits will be seen as a quaint anecdote from the past. Regardless of form, press kits are vital in terms of key messaging, and making available images to be used in print, television, and online coverage. A good press kit is engaging and informative, and also has direct messaging—the film, if not already a brand, will hopefully become one, and staying true to a brand requires concise and bounded messaging. Everyone wants to write the review and article, and the press kit gives the journalist hold of the driving wheel and a guided map. How and where they then drive and chronicle the journey is out of PR's control, but a good press kit guides the less adventurous driver along the scripted route.

Handouts are limited in a business of glitz and images, and studios therefore choreograph press junkets. These interactive sessions will allow invited journalists to talk with key talent, learn about unique production elements, and taste a bit of the film. The cost of junkets can be high, involving renting and decorating venues, catering parties, creating custom reels, flying in and putting up talent/celebrities, and creating takeaways/goodies. Against this budget, the marketing department needs to place a value on the level of awareness and hype that the journalists and bloggers will ultimately create. What is the value of a good piece on Entertainment Tonight or a story in The Huffington Post versus the cost of a 30-second commercial? Press is, at some level, just another angle and tactic to create interest that will spike awareness and attract consumers.

Beyond the tried-and-true press kits and junkets/press conferences, good PR will take the film into another media space and create tie-ins. Convincing Saturday Night Live to have the star of the film host is a good example of this strategy. (Do you think it is a coincidence that Zach Galifianakis happens to host just before his next Hangover movie is opening?) Similarly, a star of an upcoming film may make a special guest appearance on a scripted TV show, creating buzz and interest; not so surprisingly, vertical integration between network groups and studios allow this. Everyone loves seeing a character out of context in a cameo appearance, and on occasion, such as when a Desperate Housewife shows up in a locker room for a sports promo, the media attention can reach a frenzy. Can there be better publicity than being written into an episode of The Simpsons, even if the character or person may be the subject of a witty slander?

Finally, PR is the group that manages talent interviews. Every outlet wants time with the director, producer, or star, and PR orchestrates the maze of interviews. It is PR that has to manage who has an exclusive, whether there is a press embargo (granting information in advance for stories under the pledge that a story will not run before a specified date), and when and where talent will be available. Although talent will have agents and managers, it is the studio machine that will set in motion the blitz of appearances on talk shows. Basically, PR often functions as the gatekeeper to talent, and manages access to talent in a way that at once is hopefully respectful to people's time (and, for talent, time is money) and maximizes positive exposure for a film/property.

For all of the above, take this task and then expand it to a global scale. One day, TF1 in France wants to interview on location, the next ProSieben from Germany, and the following NHK from Japan. To handle the world, there will often be regional press junkets, which may mean at least
one in Europe and one in Asia in addition to those in the United States. Requests will be coming in from thousands of newspapers and television stations. And worse, if they are not coming in, it is the job of PR to drum up interest and make them come in, whether that means seeding stories, pitching angles to publications and journalists, or creating special tie-ins. All of this activity needs to happen on a massive scale in a compressed time frame. The incremental budget costs are labor and travel.

In the end, with the global reach of the Internet, and so many new applications in the digital age such as EPKs, it is fair to ask the question whether overall the Internet is a friend or foe to PR. It is a valid concern, given the danger of leaks that can lead to ubiquitous access and news versus the ability to disseminate a message almost instantly to everyone simultaneously around the globe. I asked Lynn Hale, George Lucas's head of PR at Lucasfilm since the 1980s, what she felt about the Internet on balance:

It cuts both ways, although overall I would say that the Internet is a friend. On the one hand, the Internet makes it impossible to keep secrets. I doubt that George could have ever pulled off the surprise of Darth Vader’s revelation if *The Empire Strikes Back* were released today, or if the Internet had been around in 1980. But on the other hand, the Internet has given us an instant worldwide platform to immediately disseminate news. Lucasfilm learned early on the power of the Web, and we embraced it. As early as 1998, we were reaching out directly to our fans, providing information that wasn’t necessarily of interest for conventional news outlets. Back when we were releasing *Episode I*, www.starwars.com listed theater locations that would be showing the teaser trailer. Fans flooded into theaters in such huge numbers that it became news. Local stations reported on it, and even the late-night shows—like Letterman and Leno— included comments in their opening monologues. It was unprecedented at the time, but now movie studios rely heavily on the Internet to create excitement around a film’s opening. It’s another piece of the puzzle, and another tool at our disposal.

**Screenings**

To make sure that influential people can be impressed by the film and help spread the word, PR will work closely with distribution regarding screenings. Screenings have a wide range (charity, partners, press, critics, word of mouth, theater chains), and PR has the direct responsibility for ensuring that press screenings are effective. These screenings tend not to involve additional expense beyond the screening costs, but it is important to make the best possible impression on the critics/audience who will be reviewing (and potentially writing about) the film. Accordingly, efforts may be made to ensure high-quality venues, with good sound, picture, and ambiance. PR can only do so much to influence reviews, but at its core one of the jobs of PR is to try to positively influence the outcome and put the film in the best possible light.

**Media Promotions**

Another category driving awareness is media promotions. This can involve a variety of stunts or giveaways, with radio station contests (and film-based prizes) a common vehicle. The key with these types of promotions is to secure additional media weight, and thereby impressions, by creating a contest, quiz, or similar interactive event engaging consumers with the property.
Exhibitor Meetings

The distribution and exhibition communities have two major U.S. conventions per year, Show East (Florida, moving between Orlando and Miami) in the fall and Show West (Las Vegas) toward the end of March. (Note: There is also CineExpo in Europe, formerly in Amsterdam, and more recently held in Barcelona.) Distributors use this opportunity for a dog and pony show for theater owners, getting them excited about their upcoming releases. If a producer or studio has already released its trailer, it may use this opportunity to create a separate short piece to show the theater owners.

These markets provide a significant marketing opportunity for the distributor, and depending on the film either the director, producer, or key stars will attend to introduce the movie. This can be “showbiz” at its best: packed audiences waiting for a first look at a film, with press clicking photos of the stars present just to create chatter and excitement.

In the spring of 2005, the atmosphere was electric at Fox’s presentation between the photographers’ feeding frenzy clicking pictures of Brad Pitt and Angelina Jolie walking out together to promote *Mr. & Mrs. Smith*, and the entrance of *Stormtroopers* together with George Lucas to highlight the release of what was then believed to be the final *Star Wars* movie. (Note: Influenced by the severe economic downturn starting in 2008, these annual events have been toned down by many studios.)

Film Markets and Festivals

There are a variety of major international festivals, which serve as outlets to debut films, gain publicity, and screen films for potential distribution pickup/acquisition.

There are literally markets all the time, but those shown in Table 9.4 are examples that have risen to “major” status (timing is approximate, as dates tend to shift over time).

The impact of independent festivals is significant, as they provide an outlet beyond the studio gatekeepers, and have proven their ability to launch directors, stars, and hits. It is now roughly 25 years since Steven Soderbergh debuted *Sex, Lies and Videotape at Sundance* (winning

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the dramatic Audience Award), prior to the film going on to win the Palm d’Or in Cannes and catapulting both the director and actress Andie MacDowell into stardom. More recently, Slumdog Millionaire’s Best Picture award in Toronto was a precursor to its capturing the Golden Globe for Best Picture and winning the Oscar for Best Picture (2009). Part of the problem with success is that what were once independent festivals intended to provide opportunity and expression for independent filmmakers have become so influential and competitive—with studios trolling to pick up properties for distribution—that the festivals have been swamped with submissions and inadvertently become another kind of gatekeeper.

**Websites**

In addition to impacting advertising (online expenditures and targeted campaigns), PR, and trailer exposure, the digital and online worlds are profoundly influencing marketing efforts via project-specific websites. Now, not only do producers need to think about reserving titles, but as soon as a project matures it is wise to reserve the related domain name (a common word or title may be translated into a phrase such as www.XYZmovie.com).

Websites need to be built, and the timing of launch, sophistication of site, and budget will all influence the end product. For an event-type movie, there may even be pressure to build the site well in advance as a place for fans to visit during production. This can seed interest and create early buzz. If a director is willing, the website can even be a place for production journals or a regular director blog from the set, as was the case with Peter Jackson during the making of The Lord of the Rings films, and more recently with the production of The Hobbit, where regular blog updates could be found (www.thehobbitblog.com).

As with a trailer, however, building a website in advance of a release can be challenging, for there may be little or no new material to post initially. When Indiana Jones and the Kingdom of the Crystal Skull was announced, there was enthusiasm for updating the older Indiana Jones site; however, until new production commenced there were few new key assets that could be posted. Nevertheless, the site became (as are all film sites) a place to post new news, the oldest and simplest function of film/TV sites.

As noted earlier, it is now commonplace to be able to go to a film or TV show’s website and see the trailer or other preview of the product. Moreover, the trailer is now “networked” such that it can be found not only on the film’s dedicated website, but linked to review sites and theater listings. A few years ago, if you missed a trailer in the theater, you may never see it, but today you can catch it in a variety of locations, replay it, and even link it/e-mail to a friend via a social networking site creating a viral network buzz. For every studio executive complaining about the availability of its programming on video sites without authorization, there seems a counterbalancing marketing guru eager to take advantage of the platform to widen distribution of trailers, etc. The potential to distribute trailers to target demographics and allow sharing of trailers (or even elements thereof) on social networking sites adds another toolset to the marketing executive (see further discussion below, including “Online Marketing: Expanding the Toolset”, page 548).

**Beyond News and Trailers: Interactivity**

A powerful feature of websites is their ability, beyond posting news and showing trailers, to market a property by more deeply engaging users/fans. Today, with video functionality common online,
websites can host a variety of elements, including behind-the-scenes shots, interviews with key cast and crew, Web documentaries (e.g., of a making-of nature), webcam feeds, and live chat video chats. For *Star Wars: Episode III*, Lucasfilm created a series of Web documentaries, such as behind the scenes of creating lightsaber battles and the genesis of creating the villain General Grievous; these included footage of George Lucas approving iterative design elements, interviews with artists at Industrial Light & Magic, and shots of behind-the-scenes green-screen shoots.

In addition to video elements, websites may contain mini-games, links to e-commerce sites, links to promotions and promotional partner sites, and downloadable elements for instant gratification. Everyone loves getting things for free, and often sites will allow certain downloads of screensavers, buttons, etc. The cross promotion between online engagement and watching can be very significant for a franchise. Tom van Waveren, former head of Egmont Animation (Denmark), creator and producer of Cartoon Network hit *Skunk Foo*, and producer of hit animated reality show *Total Drama Island*, told me the following regarding the interaction of kids engaging online and watching *Total Drama Island*:

What makes *Total Drama Island* unique is both its teen skew as an “animated reality show” and its online extension on *Total Drama Island: Totally Interactive*. On *Total Drama Island: Totally Interactive*, which was accessible on the Cartoon Network website, each episode’s challenge to the contestants is mirrored by a casual game and viewers can create their own avatar to play such games. Two things were remarkable about *Total Drama Island: Totally Interactive*. First of all, we were overwhelmed by the response we got to the site, and had two server crashes in the first week trying to match our capacity to demand of peaks of over 100,000 simultaneous users from the first month. By the time of the season finale, over 3 million unique avatars had been created and being regularly used. And second, we could see a pattern evolving between the viewing figures on air and the activity peaks online. Comparing our data, we could see that 10 percent of the viewers were simultaneously watching a new episode and online playing the games with their avatar. This demonstrated that the world of *Total Drama Island* was, at least to 10 percent of our audience, a multitasking, multiplatform entertainment experience instead of a TV show or an online game. One experience on several platforms simultaneously.

Trying to learn from this experience, we are looking at how we can create equally fluent transitions from one platform to the next with our other properties. This means that all the codes of the on air world need to be respected online and that the nature of the content offered online is closely connected to the on-air experience (Note: The finale of *Total Drama Island* broke Cartoon Network records, including, at the time, setting a new record and becoming the top telecast among tweens 9–14 for the network.)

The search to create synergies by crossing over media, whether by interacting with content via the Web or a mobile phone, is now even driving the nature of the programming. When millions of viewers text message a vote on *American Idol*, they are deeply engaged in the content, and producers are ever seeking clever ways to add interactive components (e.g., text message, vote online) to linear programming.

Finally, one great benefit to website marketing is its duration: where most marketing comes and goes (e.g., TV spots), a website is persistent, reaching back in time before a show/film launches to help seed interest, reaching maturity during product launch and offering depth of content, from
trailers to interactive features, and remaining available through downstream exploitation allowing complementary marketing to long-tail revenue streams. Depending upon the size of the franchise, there may be periodic updates with key launches, such as with a video release (describing elements of bonus materials, and maybe even some extra features that can only be unlocked with the purchase of a DVD), or re-promotion of titles (e.g., box sets, TV specials).

**Social Networking—Sites and Microblogs**

While only a few years ago creating a dedicated web site may have been perceived as enough for marketing, today it is deemed imperative to build a social networking page/site, usually at least on Facebook. While a number of assets may be common to the website, the social networking site enables easy viral sharing. For Peter Jackson’s first film in *The Hobbit* trilogy (*The Hobbit: An Unexpected Journey*, released December 2012), the film’s Facebook page three months prior to launch already had 700,000 “likes” and included sections devoted to photos, trivia, video, and news; additionally, linked on the Facebook page is a “Middle Earth” section that cumulates fans across the franchise, and at the same time boasted over 12 million fans. Also, beyond a dedicated movie page, individuals tied to a project (such as a famous actor or director) are apt to have their own personal social media page, which may have hundreds of thousands (or, in extreme cases, millions) of joined people. Social media has quickly become such an important facet of connecting with fans and potential consumers that when Peter Jackson decided to expand his most recent series from two to three films, he made the announcement not through traditional PR, but via a Facebook post (July 30, 2012):

> So, without further ado and on behalf of New Line Cinema, Warner Bros. Pictures, Metro-Goldwyn-Mayer, Wingnut Films, and the entire cast and crew of *The Hobbit* films, I’d like to announce that two films will become three.12

Facebook is obviously only one example, as a celebrity can further leverage their personal following to promote and tout a project. Twitter is an example where an actor or actress can reach millions of fans. In fact, what was started as personal is now because of its value being turned into business: making certain statements in support of a launch or project, including when they are timed, are now becoming elements negotiated for in contracts. While some may deride whether anything remains sacred, given the nature of PR and media it is hardly surprising for those with a vested interest to want to harness the power of someone that can tangibly influence others—again to the experience-goods quandary, a valuable piece of information that can influence a choice is gold, and what could be better than hearing directly from a favorite star?

When Ashton Kutcher joined the cast of CBS hit *Two and a Half Men*, *Mashable* ran a story entitled “Will Ashton Kutcher’s Twitter Following Help Two and a Half Men?” and noted:

> With 6.7 million Twitter followers and a sizeable following on Facebook, Kutcher is one of the most socially connected celebrities in the entertainment business. The big question now that he has joined the show is, what impact will his social media presence have on the show’s ratings?13

A Twitter feed, regardless of whether any more real than a prerecorded message from a candidate left on your home answering machine, is the next evolution of 1:1 marketing, targeting an already opted-in base with information crafted just for you (well, and along with maybe a million others).
Despite any cynicism, the fact is that this direct link is unquestionably powerful, and as it becomes more measurable, then the value goes up. Celebrity has always been a sort of currency, but now that currency is gaining a new type of quantifiable value—in Chapter 3, I discussed the challenge of comparing advertising values online versus television, and now further complicating the mix is: What is buying a Twitter message from Celebrity X worth and how should it be compensated?

These factors are being increasingly noticed by agencies, and in fact specialized agencies working to exploit the intersection of social media and celebrity are emerging in Hollywood. The New York Times, in an article headlined “A-Listers, Meet Your Online Megaphone,” describing start-up agency theaudience, noted of the power this new data set vests in agents: “If you cast Ms. Theron in a movie, she comes with an ability to fill seats through her social network, and we can prove it with data. Oh, and she needs to be paid more because of that. The same leverage holds true for sealing endorsement deals, which is where celebrities, and their agency backers, increasingly make their real money.”

The same article went on to suggest: “If you were wondering how Rihanna was cast in Battleship, it was lost on no one at Universal that she came with 26 million Twitter followers.”

As a consequence, the major agencies are increasingly forming divisions or backing specialists that can help manage their clients’ personas in the digital world—trying to strike a credible balance of making it feel that the celebrity is actually doing the posting while recognizing the time involved often needs some form of proxy. This new form of virtual publicist, managing not an avatar, but the actual client in the blogosphere, extends the role and to some degree the leverage of agencies. William Morris Endeavor and Creative Artists Agency, for example, appear to have embraced this new set of tools, with CAA backing WhoSay, which manages celebrities ranging from Tom Hanks to Shakira, in terms of their messaging and presence in this new arena.

As a corollary, producers are now baking into contracts promotional commitments, ranging from best efforts commitments to specific social media commitments to mandate marketing communications to fans and followers.

Being able to cross market to a broader fan base and communicate directly with users who may have liked or touched another part of an ongoing franchise is a powerful tool—mixing fictional timezones and metaphors, one might even say that being able to identify Middle Earth fans on an individual basis is the Holy Grail of internet marketing. The promise of social media is not only to create a richer, more personal, more interactive viral Web of buzz, but also to raise the bar so that there is less drop-off between events (e.g., film releases, TV seasons) while simultaneously expanding the core base by linking to “like-minded” users (such as general fantasy fiction devotees).

I asked Ben Johnson, founder of social media marketing firm Gruvi, that has helped pioneer Facebook marketing for studios such as Sony (e.g., campaign for The Amazing Spider-Man) and also recently worked with Warner Bros. on The Hobbit, how social media can achieve more retention in fan bases and why this is so valuable to studios:

This year’s release of The Hunger Games marketing campaign on social media is an excellent example of what can be achieved.

But what happens to those 5 million fans after the campaign has run its course? Like Lionsgate,
all major studios across Europe are increasingly investing into social media technologies to help build and maintain communities round their movie products. The dominant platforms are YouTube and Facebook, but Twitter, Pinterest and Google+ are also on the studios’ radar.

From our conversations with studios and our own campaign experience we have discovered that marketing on social media like Facebook is complex and outside the normal skill sets and experiences of most of the marketing teams we have worked with. The main challenges are:

- **Fragmented marketing**—many new communities (on Facebook pages) have to be created each year in line with the films that are being released.
- **Scattered communities**—there is no bridge between communities to retain users between campaigns and market/introduce new films to them.
- **Communities erode**—communities tend to die off after the product has been released and marketing efforts are directed elsewhere.
- **Unclear ROI**—no overview possible between the dollars spent on advertising and community management and the resulting returns in sales.
- **Silo’d data**—regional markets (in larger studios) and internal departments (e.g., home entertainment and theatrical) do not work together or share data so campaigns often flounder between release windows.

Social apps are growing in use among major brands—one only needs to look at the recent successes of the Independent, Spotify, the *Guardian* to see the power of the Open Graph and Facebook’s hyper-distribution capabilities (ticker, timeline, newsfeed, etc.).

However, we feel the real power lies in the fact that once a user has permissioned an application, the application owner has access to their social graph, which contains the connections to their friends, as well as comprehensive overview of their likes and interests. The app owner also has access to Facebook’s powerful Open Graph distribution mechanisms that allow the application to publish statements about what the user is doing within the application to his friends (e.g., Johnny Knoxville is going see *The Hunger Games* on Friday 11 at Notting Hill Gate Cinema—who’s going with him?)

In the future, we’ll see studios starting to take a much more comprehensive view of their social customer relationship management (CRM) strategies. These platforms will allow entertainment brands (film studios, publishing houses) to build and manage their communities through the power of the open graph, so they retain their fans between campaigns, understand their users tastes and connections and deliver targeted recommendations for new content.

The benefits for the studio using a social CRM strategy would be the ability to:

- **Retain**—fans between campaigns on Facebook and other applications that have been deployed to help market the film.
- **Record**—fans’ tastes, their online activities and connections to their friends.
- **Present**—new content to the user based on these preferences and potentially links through to some form of point of sale (e.g., cinemas or streaming services).
- **Communicate**—the right content to each fan via their browsing experience on Facebook or via email.
- **Connect**—fans’ actions through to their friends via Facebook.
- **Track**—fan behavior relative to campaign KPIs.
Finally, in the context of leveraging microblogging tools and sites, such as Twitter posts, many marketing departments are using the new vehicles in more conventional ways. Rather than simply focusing on Twitter as a way to amplify a celebrity’s message, Twitter can be used as a discovery and engagement tool. In an article describing how Lionsgate built up demand for The Hunger Games—a film series where marketing was challenged trying to reach teens about a movie (based on a popular book) whose core cinema scenes involved kids killing kids—the New York Times, after noting that just following the traditional campaign path of printing posters, running trailers in theaters and blitzing primetime TV with advertising “would get a movie marketer fired,” focused on the new use of the Web and social media: “The dark art of movie promotion increasingly lives on the Web where studios are playing a wiliier game, using social media and a blizzard of other inexpensive yet effective online techniques to pull off what may be the marketer’s ultimate trick: persuading fans to persuade each other.”

The New York Times article went on to summarize how Lionsgate initially released a trailer including a Twitter prompt via which fans could discover www.thecapitol.pn (website for the film, where The Capitol is where the fictional events occur) and make personal digital ID cards as if they actually lived in the fictional society of Panem; a subsequent Twitter prompt allowed those making IDs to campaign to be elected mayor of various Panem districts, and three months before the film’s release a new poster was cut into 100 puzzle pieces and then split up into digital pieces distributed across 100 websites, with instructions for fans to serially post them on Twitter. Whether sophisticated or not, “Fans had to search Twitter to put together the poster, either by printing out the pieces and cutting them out or using a program like Photoshop.

The Hunger Games trended worldwide on Twitter within minutes.” Add to this a Facebook game, blog postings, and traditional media, and the film, which had by Hollywood standards a small marketing budget of approximately $45 million (perhaps less than half of what is often spent to debut a property tagged with franchise potential for multiple sequels) went on to break records—its opening weekend of $155 million (domestic box office) was the then third-best debut of all time, the best for any film opening outside of the summer, and the best ever for a non-sequel movie. (Note: All at that time, as just a few months later, kicking off the summer 2012 season, The Avengers became the first ever film to top $200 million on its opening weekend.)

Market Research

All studios track films, and try to benchmark interest and awareness both in terms of overall levels as well as within specific demographics. There are two primary measuring sticks: awareness (segmented into general awareness and unaided awareness) and interest (comparing definite interest and definitely not interested). General awareness will track the percentage of the sampled population that is aware of an upcoming release, and the person polled will be given a number of upcoming films, including the one the studio is tracking (accordingly, it is a “leading question”). Unaided awareness, which is a barometer of the heat of the film, tracks whether the person will cite the film that is coming up (“What films are you aware of opening soon, or in X week?”) without the film’s name being mentioned in the question. “Definitely interested”/“definitely not interested,” beyond the obvious, is a yardstick as to the effectiveness of the creative messaging. Given that this messaging is designed to influence the input signals (i.e., it is the input), then for “definitely not interested” numbers to rise means that something has gone awry in the crafting of the signal.

The analysis is further broken down into demographics, such as the following:
• All kids 7–14:
  Boys 7–14
  Girls 7–14

• All under 25:
  Women under 25
  Men under 25

• All 25–35:
  Women 25–35
  Men 25–35

• All 35+:
  Men 35+
  Women 35+

This segmentation will obviously allow targeting of demographics, and identify where a film is tracking particularly well or poorly. The tracking (which can be expensive) will further correlate to time out from release (e.g., four weeks out), and may additionally segment tracking into levels of interest such as definite or maybe. The further out the tracking, the more the information is driven by long-lead press, expectations from fans that watch for “the next film by X or starring Y,” and the impact of the theatrical trailers and online sources. The studio can then adjust the advertising spend to match where weaknesses occur. If the film is a romantic comedy and is tracking below expected levels among women, advertising may be adjusted to ensure that this key demographic is addressed in an attempt to raise awareness levels to a targeted range (similarly, buying incremental spots on football may be added if the target is males and numbers are low). If overall awareness is low, then it may make sense to buy a spot on a highly rated TV show to jolt the numbers (which is why ads on premium primetime programs, such as American Idol, can be so expensive, as a huge number of eyeballs can be reached instantly; this effect is still difficult to achieve online).

Beyond spending to counter tracking numbers that are below targets (or worse, exhibit negative trends), another tactic that can be implemented is to change commercials (i.e., shift the creative messaging). If something is just not working, a new spot can be cut to attract viewers. This can be done to communicate more effectively within the original demographic targeted, to highlight an actor that may be coming off a recent hit, or in cases where there is real fear to switch tactics entirely. These strategies to try to adjust the dial to hoped-for levels are feasible so long as tracking is far enough out to allow time to adjust; however, there are still limits, as marketing budgets are usually relatively fixed in absolute terms, and certain commitments will likely have been made weeks, if not months, in advance. This is, remember, a highly competitive market, and another film is likely chasing the same audience and vying not just for end consumers, but also for space and tie-ins to attract those same consumers.

Finally, research will also track the film in question against other films—both past and present. Most importantly, given the competitive environment, is data regarding other films in the marketplace. Further, studios will model potential outcomes by benchmarking results against historical pictures where a comparison is useful. This may take the form of comparing against a genre, a prior film if the movie is a sequel, or a film driven by the same star (e.g., How did the prior Tom Cruise action picture track? How did the prior film directed by Ron Howard open?). The key Hollywood trades (i.e., Variety, the Hollywood Reporter) will now even regularly print charts comparing Actor X’s prior box office openings to targets for an upcoming release.
Variety, the Hollywood Reporter) will now even regularly print charts comparing Actor X's prior box office openings to targets for an upcoming release.

**Indirect/Third-Party Costs**

All of the previous categories discussed in conjunction with the theatrical marketing budget, whether hard direct costs or overhead, are costs borne by the distributor. If a property lends itself to becoming a major or even event-level release, then there is the possibility of supplementing this budget with funds of third parties. There is nothing like, and in cases nothing harder than, finding other people's money. The two major categories are from promotional partners and from merchandising licensees.

**Promotional Partners**

As noted previously, promotional partners who tie into a property need to invest directly for the cross promotion to be realized. The film's budget will not be used to advertise goods in a Happy Meal at McDonald's, or the character on a cereal or candy wrapper. The partners need to invest both in creative and in hard media dollars to make these programs work.

A snack food, beverage, or cereal company will need to create a specific new advertisement incorporating film elements/characters into its own brand. The trick here is to find an appropriate intersection of the brands, where the creative is positive to both brands, leverages one off the other, and creates something fresh and interesting that will attract consumers. In some ways, this is akin to a cameo appearance of an actor in another piece, except in this instance the cameo is into a branded product and the cameo has a theme tying the concepts together.

The economics are therefore the cost of the creative (the spot and related artwork); the cost to roll out the program to affiliates, product distributors, and franchisees; and the media costs for placing related commercial spots. The promotional partner will need to weigh these expenses against the anticipated uplift in sales, and arrive at a budget with a positive net present value weighing the campaign costs against the uplift in contribution margin. As part of this budget, the promotional partner will often offer and/or guarantee a certain amount of media weight/spend on the campaign. Accordingly, the studio knows it will spend $X million with its own ads, and can count on an additional $Y spend from its partners. These numbers can be difficult to quantify precisely, however, because they are frequently pledged in bulk value and may be difficult to track. Nevertheless, the commitments and impact are very real, and can account for a significant amount of the media weight for a campaign.

The distributor benefits from exposure on multiple fronts. First, there is incremental media advertising, thus helping drive awareness and impressions. Second, there are the in-store retail impressions from product on shelves, and, in the best of cases, dedicated displays and standees. Third, there is the impression from consuming the product, whether this is time spent reading details/information on packaging, using packed-in premiums (“find X inside marked boxes of . . .”), and spending time with the property/characters in the physical or online world by consuming/interacting with the tied-in product. If advertising is measured in impressions, and further if effectiveness is measured with time spent (impressions multiplied by time spent with the impression), then a good product tie-in can be worth gold. For the product partner, the same applies—if the tie-in helps improve sales, and if the attractiveness stimulates the consumer to spend more time consuming the product, then it is surely a net win for them as well.
**Merchandising and Game Tie-Ins**

The second major category is advertising from merchandising partners. It is rare to see hats and T-shirts being advertised, but certain categories can bring valuable media weight. The most important, arguably, is from toys pushed by one of the major toy companies (e.g., Mattel, Hasbro). Kids are fickle customers, but they are malleable targets and voracious consumers. Toy companies are significant spenders, and a new action figure, doll, or toy based on a major franchise will be a major driver of revenues. Accordingly, a leading toy company may create advertising for its product, and then place significant media behind it to stimulate awareness and sales. The formula is exactly the same as from the promotional partner. Every media dollar spent by the merchandising partner is an incremental dollar to the studio’s media budget.

Additionally, as discussed in Chapter 8, it is common to launch video games related to the films, and the marketing of the game can also help broaden franchise awareness for the movie (and vice versa, the movie for the game). For this media weight to be effective, however, the game needs to be launched prior to or simultaneously with the film, which is often a difficult challenge, given game development and production lead times.

**Net Sum and Rise in Historical Marketing Costs**

The true marketing budget for a tentpole-type film may be as follows:

1. Distributor Media Budget
   + Promotional Partner Media Budget
   + Merchandising Media Budget
   = Total Direct Media Budget

2. + Imputed Media Value from PR
   = Total Media Weight
   + Distributor Direct Costs

3. + Distributor Incremental Overhead
   = Total Marketing Budget/Costs

This is, of course, the ideal scenario. Most films do not benefit from merchandising or promotional partners and are focused on the direct media budgets and PR opportunities.

Over time, the total costs of marketing a movie have risen with the rise in negative costs. Table 9.5 evidences the near-continuous rise of costs over a decade leading to the total costs of making and marketing a major movie being more than $100 million for the U.S. alone.

The trend is not that different when looking at member subsidiaries/affiliates’ specialty divisions (e.g., Fox Searchlight, Miramax, New Line, Sony Pictures Classics). The shorter theatrical window and increased competition is forcing higher costs for these “smaller” pictures to compete. These spiking costs perhaps were one of the reasons a number of the studios shuttered specialty divisions (e.g., Paramount Vantage in 2008).
Finally, it is these extreme costs, coupled with inherent risk in the nobody knows/experience goods proposition, that have titans like Steven Spielberg and George Lucas sounding alarms about the future, and lamenting that more niche films may be relegated to TV (noting that even with their clout, they respectively barely got *Lincoln* and *Red Tails* into theatres); this could further lead to variable pricing (as sports teams have implemented, charging more for “premium match-ups”), such as potentially charging $25 for *Iron Man* versus $7 for *Lincoln.*

<table>
<thead>
<tr>
<th>Table 9.5 Average Annual Major Studios Negative Costs and Domestic P&amp;A Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Release Year</strong></td>
</tr>
<tr>
<td>2002</td>
</tr>
<tr>
<td>2003</td>
</tr>
<tr>
<td>2004</td>
</tr>
<tr>
<td>2005</td>
</tr>
<tr>
<td>2006</td>
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<tr>
<td>2007</td>
</tr>
<tr>
<td>2008</td>
</tr>
<tr>
<td>2009</td>
</tr>
<tr>
<td>2010</td>
</tr>
<tr>
<td>2011</td>
</tr>
</tbody>
</table>

As of November 12, 2012.

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**Video Marketing**

Even though it is an ancillary market, in many ways video marketing more closely parallels theatrical marketing than television. Virtually every major category of costs comes into play in a video campaign for a major/tentpole film: trailers, posters/box art, commercials, press/PR (and, in rare instances, even promotional partners). Video marketing can be more complex because of the need for direct-to-consumer marketing (like theatrical) and the need to coordinate in-store, retail-specific campaigns (unlike theatrical) requiring significant trade marketing. While theaters may have posters, and an occasional standee, “in-theater” promotion tends not to be on the scale of campaigns run by major retailers such as Best Buy and Walmart.
Macro-Level Spending/Media Plan and Allocation

The same type of media allocation graphs and charts as previously depicted in the theatrical context can be drawn for video. Paralleling theatrical campaigns, television spending is traditionally the dominant direct cost category. Near the peak of the DVD sales curve, this TV percentage dwarfed all other categories, with the Hollywood Reporter noting: “There is one thing on which most studios agree: Allocating marketing dollars to the small screen makes sense. Nearly 80 percent of video marketing expenditures last year were for television commercials, with broadcast and cable in the lead . . .”21 Table 9.6 lists allocations for the years 2003–2005 near the peak of the DVD sales curve.

<table>
<thead>
<tr>
<th>Year</th>
<th>Network TV</th>
<th>Cable TV</th>
<th>Spot TV</th>
<th>Syndication TV</th>
<th>Newspaper</th>
<th>Magazine</th>
<th>Outdoor</th>
<th>Internet</th>
<th>Radio</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>43.4</td>
<td>25.1</td>
<td>6.5</td>
<td>4.7</td>
<td>1.4</td>
<td>16.2</td>
<td>0.6</td>
<td>0.0</td>
<td>2.2</td>
</tr>
<tr>
<td>2005</td>
<td>38.3</td>
<td>32.1</td>
<td>5.7</td>
<td>2.8</td>
<td>1.1</td>
<td>14.0</td>
<td>0.3</td>
<td>2.1</td>
<td>2.3</td>
</tr>
</tbody>
</table>

In terms of percentage spend, as a rule of thumb marketing budgets will often be targeted in the range of approximately 10 percent of anticipated sales, and in cases can approach double that number. Of course, there ends up being an inverse relationship to sales, as big hits with higher-unit volumes drive down the ultimate percentage, paralleling the trend with theatrical. For example, Disney spent $34 million-plus in marketing Finding Nemo, including $20 million-plus just for TV spots. While this represented the biggest video marketing campaign for a title that year, the Hollywood Reporter noted it was still but “a small fraction (6.4 percent) of the $536.7 million that Adams Media Research estimates the studio grossed from Nemo video sales.” Similarly, Fox ended up spending only 6 percent of the $200 million video revenues ($12.9 million) on X2.22

As expected, and as the market has become more cluttered and competitive, expenditures rose and the allocation of media became more diversified. Big titles still need to hit threshold reach and frequency targets, but a variety of titles can be pitched into specialty markets, or in a more targeted manner, increasing the ROI for shifting some weight to the Internet and specialty cable. In 2005, again toward the DVD curve’s peak, Fox reputedly spent 5 percent of its video marketing on the Internet, evidencing the new trend. Its SVP of marketing communications, Steve Feldstein, highlighted to the Hollywood Reporter that strategy had moved well beyond simply buying TV spots: “There are a lot of elements that go into making a release into an event—from publicity and promotional activities to generating in-store excitement—and with the Internet, it’s all becoming much more direct consumer marketing.”23

This trend continues, with media spending increasingly diversified, and “digital” spending now diversified itself among classic Web targeting,
mobile advertising, and social media. Many continue to point to mobile as the next great frontier, but advertising remains challenging given the limited screen size; the challenge faced by Facebook and others to efficiently monetize mobile is no more than the flip side of the challenge faced by studios to more efficiently utilize apps and smartphones to spread their message.

**Commercials and Box Artwork; Retail Execution—Point-of-Purchase, Posters, Trailers**

Again, like theatrical, significant effort and money is focused on branding the property and creating sales tools. Commercials are critical in a DVD/Blu-ray campaign, and will need to be created just for this market—“buy it today...”. Although not as common as with a theatrical release (and again limited to bigger titles), a variety of spots may be cut, with different lengths and targeted to different demographics. Trailers and posters do not play as prevalent a role, and tend to be used more for trade and in-store marketing.

The most significant addition to the marketing arsenal is the box artwork, which almost always is a new design/image. Designing the artwork is tricky, because in one shot the image must be true to the property, remind people of why they liked the film (e.g., featuring a character), have a collectible appeal (the goal is to get people to buy it), and also appear fresh (time has passed, and people always want something new). Whereas movies come and go in theaters, this artwork/box will sit on shelves for months or even years as the continuing face of the brand to consumers long after the heat of the release. (Note: This same concept applies to TV box sets as well.) Additionally, today the “box artwork” also becomes the virtual box artwork used for EST and scrolling through VOD options (including rental VOD such as Netflix). The challenge becomes that much greater in communicating a message that is apt to live on in digital thumbnails for the infinite reach of the long tail.

**Retail Execution—Point-of-Purchase, Posters, Trailers**

Until the Internet’s long tail takes over, shelf space is still supreme, and gaining retail support is the lifeblood of any DVD/Blu-ray campaign. This involves specific placement of titles, special merchandising opportunities (e.g., unique displays and standees in the form of specially produced corrugate), in-store events and signage (e.g., posters), and commitment to keeping the title in prominent positions. It also means outside-of-store advertising support, including in circulars and, if the property justifies it, in TV spots. Circulars are more important than most people recognize. Not only do they have very significant reach, but they are obviously directly tied to generating in-store traffic, the ultimate point-of-purchase (POP).

Beyond driving people into the store, campaigns are focused on capturing the attention (impulse buys) of consumers in-store, regardless of what brought them there to shop. In-store programs involve coordinating multiple placement opportunities such as front-of-store POP displays and signage, special in-aisle corrugate, near checkout racks, end-cap placements (e.g., in new release section), and in-line facings. Moreover, as the sales cycle continues, there may be advance planning for subsequent waves, such as special positioning at holiday times and movement to studio-sponsored call-out areas (e.g., the Y Collection, bestsellers).
To help distinguish in-store programs, certain retailer exclusives may be offered. This often takes the form of premiums, such as stickers/bUTTONS/posters, but may also involve unique product SKUs (e.g., special artwork on box, packed-in merchandise). All of these special features may incentivize a particular retailer to support a campaign. This support may be in the form of allocated placement in the retailer’s catalog and circulars (which today can be easily searched online), in hard dollar expenditures on TV advertising, or extra in-store efforts and/or commitments. Money already exists to execute some of these activities from the co-op advertising and MDF allowances traditionally included within an overall marketing budget; the trick is to effectively spend these sums and earn an appropriate ROI.

**Press, PR, and Third-Party Promotions**

There is a halo effect from the theatrical release, which obviously benefits video, but as the stakes have grown DVD/Blu-ray marketers have learned a second bite at the PR apple pays dividends. All the studios will hold retail-focused summits, building up their future releases, outlining marketing data, plans, and tie-ins, and even bringing in talent from big pictures to excite the buyers. Further helping generate buzz for the release, studios will sometimes even sponsor “launch parties,” inviting key cast members and obtaining press coverage.

As DVD releases have become events, with trade awards for best DVDs (and, like any awards, with multiple subcategories to spread the glory), there are major press opportunities beyond staged parties. To create interest, ideally there needs to be a bit of a new story, which leads many studios to focus on bonus features and navigation. As discussed in Chapter 5, fancy menus, director’s commentary, deleted scenes, documentaries, bundled games or demos, and even sneak peeks are examples of value-added material (VAM) typically produced for DVDs/Blu-ray discs.

In terms of economics, it is fair to question the production costs for these elements, as it is a difficult call whether and how much of this material is essential to stimulating sales. Certainly, there is value for collectors and fans, which may be sufficient in cases to justify large expenses; moreover, as discussed elsewhere, it is these “extras” that, in an online/VOD world, may be the differentiating value creating a justification to own physical content as opposed to renting or downloading digital versions that usually exclude VAM. Taking collecting out of the equation, I would argue that among the significant factors for the value-added elements is garnering media and press. These hooks help secure attention and interviews, gaining millions of “free” impressions that are additive to the hard media costs in terms of gaining awareness through targeted reach and frequency goals. Finally, as discussed previously, a critical part of any DVD/Blu-ray campaign is retail buy-in, and if you want the major chains to support a title, including featuring it in their own advertising, then you had better be supporting the title yourself.

**Third-Party Promotional Partners**

The largest category of third-party media placement is retail spending to execute in-store and to advertise (e.g., circulars). In somewhat rare instances, a promotional partner may tie into a video release, similar to the theatrical context where McDonald’s may theme in-store giveaways, or a cereal company will co-brand a popular item. Every studio video marketing head dreams of these opportunities, but also laments that they can count on their fingers the number of times they have
been able to execute this type of partnership, which inherently also would come with a third-party marketing commitment for direct consumer advertising. The fact remains that despite the rise of the video market and millions of dollars spent on DVD releases, promotional partners tend to associate this as an “ancillary” and rarely bring the support that is associated with a theatrical release. Nevertheless, select hits, and especially franchise titles, are sometimes able to secure this type of support, such as tie-ins with Papa John’s Pizza for the video releases of *Ice Age* (2002) and *Indiana Jones and the Kingdom of the Crystal Skull* (2008).24

**Net Sum**

The same type of analysis could be outlined here as with the theatrical market:

\[
\text{Distributor Media Budget} + \text{Aggregate Retailer Media Budget} = \text{Total Direct Media Budget} + \text{Imputed Media Value of PR} + \text{Imputed Media Value from Retailer Circulars} = \text{Total Media Weight}
\]

**Television**

In contrast to feature films and DVDs, there are several categories previously discussed that generally do not apply in the TV context: trailers, one-sheets, promotional partners, and merchandise on launch. In most cases, commercials and PR/press play a similar, if not more important, role given the more limited promotional vehicles available.

**Direct Costs**

Many of the direct cost categories from theatrical marketing apply to television: television media, radio, print (newspaper and magazine), outdoor, and online. More and more networks are turning to off-channel media to cross-promote programming. It is not unusual to see advertising on buses for TV shows, and even on billboards for a major launch such as a new season of *Series X* on Fox. Nevertheless, as with movies, the bulk of advertising and media dollars is focused on TV promotion.

**Commercials and Opportunity Costs**

As a bit of a truism, the most effective advertising for a TV show is on TV, and in particular on the network where the show is airing. The issue for a channel is balancing its commercial inventory—on the one hand, it wants to sell 100 percent of its inventory to garner the largest potential revenue, while on the other hand, it needs to hold back a certain number of spots to cross-promote and advertise its own programming. Accordingly, it becomes an opportunity cost analysis as to how much time to reserve.

As discussed in Chapter 6, the situation is seemingly easier for a cable network, for it has 24/7 inventory to allocate as opposed to a network that is limited to commercial spots within the
hours it programs in primetime. A cable station with only a few original series can therefore look to cross-promote shows across its entire schedule, and has enough inventory to carpet bomb a series. In contrast, a network has more limited inventory and has over 20 hours of original primetime programming to promote (e.g., CBS could not afford to devote the amount of cross-promotional time to CSI as USA can devote to promoting *Burn Notice*).

**Press and PR**

Press and PR is very similar to the theatrical realm: press kits are created, talent is made available for interviews and live talk show appearances, and trade pitches are made at festivals and industry trade shows. Reviews and word of mouth are equally important here as in the theatrical market; while weekend box office may be the barometer of films, first and second episode ratings are no less forgiving. Simply, a show that is not pulling its weight will be pulled, and press/PR is a critical tool in helping build awareness and an audience.

There are even screenings. As discussed in Chapter 6, the “LA Screenings” in May have become an annual pilgrimage for foreign broadcasters to screen pilots and episodes of shows various studios/producers are debuting in the fall. Each studio will take a “day,” for example, and an acquisitions executive from Spain will spend one day at Fox, the next at Warners, the next at Universal, and so on. During these periods, the studios/networks will wine and dine guests, bring in producers/directors to talk about their new shows, and throw parties and usually screen one of their about-to-be-released summer films. (Note: To be fair, these events are more sales- than marketing-focused.)

**Use of Programming Schedules/Lead-Ins**

Finally, the inherent nature of a network schedule affords cross-promotional opportunities by leveraging one show against another. Networks are all about lead-ins and lead-outs, tracking what percentage of a show’s audience will stick around for the following program. A network takes a hit series and uses its audience to lead into and build awareness for a new show. This staple launch platform guarantees a certain built-in awareness and audience, and it is simply up to the next show to hold or build onto the base. Once a show is established and has taken advantage of piggybacking, it may then be moved to a different time slot on another day, where the process starts anew: Has the show held its prior audience? Is it strong enough to be a platform to help launch another show around it? Is the audience for the following show falling off or building on its base?

Because of this synergistic pull, it is typical to see the same types of shows follow each other. A sitcom following a sitcom will likely hold the prior audience more strongly than a drama following a sitcom (because the audience demographic/expectation will shift). This, in turn, leads to lineups where NBC may be themed around sitcoms/comedies on Thursday evenings, whereas one drama on CBS will lead into another drama. When people criticize television for being formulaic, it is because formulas work (see the discussion in Chapter 1) and like shows will hold similar audiences. It is as if in TV everything is a double feature—staying for the first film just is not good enough. When I once spoke to the CFO of one of the major networks, he likened the process of ratings to receiving a report card every day: in the morning you know how you scored relative to the competition the night before. Leveraging one show against another to create a strong lead-in can, by itself, make the difference. This is an area where online availability does not mimic the benefits of TV—in a VOD world, while
like titles may be packaged together under macro-categories, such as comedy or drama, the absence of scheduling eliminates the benefits of lead-ins; moreover, aggregators tend to bundle titles by genre, not by distributor or network, which further hampers a network’s ability to leverage one show against another (and, in fact, a show may be listed in a way where it benefits a competitor).

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**Online Marketing: Expanding the Toolset**

As discussed previously in the theatrical context, online marketing today involves a spiderweb of options. First, producers and distributors can market via the TV show’s dedicated Web and social media sites. Sites range from relatively simple—where one can watch trailers, learn about the cast and crew, and be updated with PR-related news—to deep and sophisticated. A particularly rich site may include mini-games, e-commerce opportunities, specially produced content exclusives (e.g., talent interviews, behind-the-scenes footage, documentaries), downloadable goodies, chat rooms, blogs, interactive components (quizzes, mash-ups), and avatars, etc.

A second component enabled by the Web is online advertising, where banner and video ads are bought, and the media precisely targeted to narrow demographics. This can be elevated to a partnership level, where key portals may cross-promote properties both generally and within entertainment and appropriate keyword-related links.

![USA Character Rewards](image)

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**Figure 9.4 The USA Network Rewards Program**

Courtesy of USA Network.
TV networks, though, with the ability to promote series episodes week to week, and the need to maintain loyal viewers from season to season, are taking online marketing to new levels. One of the leaders is USA Network, which “gamifies” engagement. The network has created a rewards program, akin to loyalty points, which gives users credits for watching and engaging—such as sharing via a social network site—and then allows them to redeem those rewards for both virtual and real-world items (e.g., DVDs, T-shirts). For example, with its hit show *Psych*, it has created Club Psych. By logging on, members can earn rewards points through completing weekly tasks such as playing games, answering trivia, or watching videos; social media is integrated by granting points for taking digital actions, such as “likes,” or sharing content via Facebook or Twitter. USA has even taken the game aspect to the next level, by feeding actions of registered members into a leaderboard. Figure 9.4, courtesy of USA Network, summarizes how the process works across brands.

I asked Jesse Redniss, SVP Digital at USA Network, whether in the context of leveraging gaming elements if he saw direct monetization opportunities or viewed “gamification” as purely a marketing tactic, to which he replied:

The way that we are using gamification now is focused primarily on a user experience strategy rather than simply a marketing strategy. Monetization of the experience comes in many forms; for example, the experiences drive up impressions around the site. Monetization around a subscription model is a different ball of wax. However, digital storytelling is not just an engagement strategy, it is also a new medium for storytelling. We are utilizing all the different platforms now to tell a story. Engaging users onto these different platforms enables the content to flow in two directions.

**Social Networking**

An emerging component of online marketing is to tap into social networking, seeding blogs, and trying to stimulate a viral effect. Toward this end, more and more people are allowing content to migrate, such that you can embed video trailers, images, and other elements into your own space (e.g., a Facebook page) to share with friends. Not only can a network theme tie into a release, but to a lesser degree so can you—the goal of a viral campaign is for individuals to evangelize on their own. Few people are aware of just how large the streaming of videos has become linked to social networking sites. I asked Peter Levinsohn, former president of Fox Interactive Media (parent to Myspace) and current president of new media and digital distribution for Fox Filmed Entertainment, about what motivates people to view videos in a social networking environment as opposed to on a pure on-demand video-based portal or site. He noted (back in 2009 when Myspace was still jockeying with Facebook for leadership in the social media space):

Social networking sites like Myspace are fundamentally about self-expression, and what someone posts is, to a degree, a reflection of who they are. These sites create an environment for people to discuss a range of topics—a kind of virtual water cooler where friends gather to discuss whether they liked something about a particular TV show like House, or if they had seen a funny viral video that had been emailed around recently. Online video content has become a centerpiece of those conversations—in fact, video has become such an important part of that dialogue that Myspace TV is now the number-two site on the Web for consuming video content.

What’s more, these interactions benefit consumers, producers, and advertisers, and the best part is that the virtual community can scale and expand beyond what would typically occur in the physical world; for example, an office suite, because the Internet has no geographical boundaries. It becomes a global, real-time conversation and online video is, in many cases, the catalyst that brings all these people together.
Case Study: Marketing a Mega-Film

Marketing a film involves all the elements described earlier in this chapter (e.g., websites, trailers, posters, commercials, social networking pages), but in the case of an event picture, the palette may be expanded and marketing/PR can easily involve countless initiatives carefully choreographed over more than a year. It is therefore interesting to view the different elements in relation to a timeline, which in general terms I will break down as follows in Figure 9.5.

Figure 9.5 Mega-Film Marketing Timeline

The scope of the elements (discussed later) along this timeline presupposes a tentpole-level picture, such as a *Spider-Man*, *Transformers*, *Iron Man*, *James Bond*, or *Star Wars* sequel, or a brand with such assumed expectations (e.g., a new Pixar movie) that this level of activity can be justified.

As with all marketing, the goal of the pre-release and release windows is to start building awareness. Even with sequels, because every movie is unique, the distributor needs to craft a new strategy related to these periods: *Spider-Man* research may predict the base from action themes is solid but other demographics dependent on the love interest may be underperforming and need to be buttressed; *Harry Potter* focus group testing may have revealed concerns about the key characters aging; and *Star Trek* marketers likely struggle how to pitch the latest movies in the franchise to more than the core sci-fi crowd with prequels featuring young, less known actors.

Moreover, there are frequently inherent elements in a project that marketing needs to address, such as preparing its (hopefully) loyal audience for when a character or tone changes and the built-in expectations may therefore not be in sync with the new film in the franchise. This often happens with sequels that strive to enrich a protagonist by adding complexity and emotional character depth (where the character had otherwise risen to household fame as a typical hero). To achieve this shift, the previously family-friendly film takes on a darker tone, as our hero wrestles with a flaw or other torment. Think about the difference between *Batman Begins* and *The Dark Knight* versus certain pictures in the middle of the franchise (e.g., Arnold Schwarzenegger portraying Mr. Freeze), the challenges *Harry Potter* faces as he matures to adulthood, or the darker *James Bond* played by Daniel Craig versus the more tongue-in-cheek persona branded by Roger Moore. With *Star Wars: Episode III – Revenge of the Sith*, Lucasfilm had to manage a film where the bad guys win (Anakin Skywalker turns to the dark side and becomes Darth Vader), and most of the good guys die or are at best exiled in bitter defeat (one might even say “hopeless,” were these not prequels and we did not already know about *Star Wars: Episode IV – A New Hope*).
A good campaign will recognize, beyond the goal of pure awareness, the challenge of its particular release, what demographics need to be wooed, and what anchor themes will serve as the messaging around which a myriad of independent brand events will be balanced.

**Pre-Release Window: Period Leading Up to Time**

Approximately 30 Days Pre-Release

The following are some of the events that tend to fall into this window:

- teaser trailer
- teaser poster
- long-lead press (e.g., magazine articles, retrospectives)
- video rereleases
- launch trailers
- launch posters
- press junkets
- special events
- launch of blogs, social media pages, websites (or updates)
- seeded brand placements.

There is no “magic formula,” and it is the job of marketing and PR departments to draw up innovative ideas and tie-ins. Trailers, posters, Web/social media sites and press events are somewhat standard fare and, while elements of artwork and messaging are not taken for granted, the system is already geared up to ensure these items effectively communicate a core branding statement. What this long-lead period affords for a mega-picture, however, is an opportunity for out-of-the-box initiatives —promotions that, while likely requiring extra resources, can still be extremely cost-effective in terms of seeding brand- and/or film-specific awareness.

One of my favorite tie-ins related to *Star Wars* was a unique baseball promotion. Yankees–Red Sox baseball games are among the most fabled sports rivalries of all time, and the teams were heading into another season-ending collision (as it so happens, following a gut-wrenching game 7 playoff loss by the Red Sox the year before, which was to be avenged the next year with a World Series win). Some sportswriters had started calling the Yankees the “Evil Empire,” and marketing tapped into this *Star Wars* analogy. During the last regular season series between the teams at the end of September, with the outcome likely to decide the playoff picture, Fox Sports aired an opening montage about the two teams. The montage was interspersed with film clips and, as an example, the long-haired and bearded Red Sox center fielder Johnny Damon appeared followed by the hairy Chewbacca. The Fox Sports headquarters announcers, after introducing the clip, even held up a copy of a newly available DVD, which had an ancillary benefit of helping seed the market for the upcoming new film. A highly rated sports game was thereby leveraged as a tie-in to the film franchise, creating unique marketing exposure (in part because the network liked the idea and had fun with it, and also because of the common Fox ownership).

Sometimes, film franchises with a specific fan base, such as *Star Trek*, may lend themselves to conventions or promotional opportunities at industry conventions such as Comic-Con. Given the phenomenon of “trekkies,” it makes sense to rally *Star Trek* fans in advance of the J.J. Abrams-directed prequels. This same strategy may not work on other sequels (e.g., *Bourne* films).
Finally, when a film is one in a series, it may make sense to reinvigorate the brand in the video market by releasing special editions or collector sets. MGM has done this effectively with *James Bond* sets, augmenting anticipation for a new film with new DVDs of the prior features. Similarly, Paramount released prior *Star Trek* films and series on Blu-ray for the first time in advance of its new prequel feature (2009). All of these activities help generate awareness for an upcoming release, and if clever enough will prepare the audience for new themes in the continuing franchise, while not yet tapping the core of the marketing budget reserved for advertising and other promotion closer to a film’s launch. (Note: Depending on strategy, such DVDs may be delayed until the release window to tie in with other retail product launches.)

**Release Window: Approximately 30 Days**  
Pre-Release Through First Two Weeks Post-Release

The following are elements often found in this window:

- launch of related merchandise
- commercials air/advertising in all media launches
- promotional partners’ products hit shelves (with related advertising)
- media promotions (contests, giveaways, which can now also be executed via apps, and linked via social media sites)
- related video games release
- novelizations hit bookstores
- PR media blitz—talk shows, radio, review shows, stimulate blogs
- screenings
- prior films often play on TV
- websites and social media pages ramp up, add features (e.g., sneaks, making-of elements).

The most obvious and critical component in this window is advertising, which will saturate the market across all types of media. Beyond direct spending to achieve consumer impressions, this is also a time when marketing/PR will try to leverage other media or events (e.g., talent appearances) to the greatest extent possible. Guest appearances on late- night and morning talk shows are an obvious staple of the trade; special appearances, such as hosting *Saturday Night Live*, can further hype a release. Online efforts will attempt to push positive tidbits, enable sharing via social networking sites, support blogs, help spread favorable reviews from key influencers, and provide Web exclusives.

Also, this release window is when it is most likely that other parties will want to tie in with the movie franchise and devote their resources to cross marketing, leveraging the media awareness for the film to focus on its consumer product. Returning to *Star Wars: Episode III – Revenge of the Sith* for another example, Cingular (phone company) ran one of my favorite third-party advertisements around the movie’s release. In the commercial, Chewbacca was doing his signature howl in an isolation booth for a recording producer. The producer asks him to do it this way, then that way (“that was great, now can I have a little . . .”) and Chewbacca repeats the only howl sound that we ever hear from him.

Finally, returning to *Star Trek* again, Burger King tied into the release of the first prequel film (2009) and on the merchandising front new toys and games were set to launch in April, the month before the film’s release. Given the significance of the franchise, not only was
merchandise hitting shelves, but the studio worked to leverage direct retail support: augmenting an array of action figures, comic books, and other products, Walmart was selling a new line of Star Trek Barbie dolls.25

While on-shelf dates for merchandising can vary significantly, promoting toys and other product linked to a movie during this period has a twofold benefit similar to that found with promotional partners. On one level, there is an uplift in product sales given the surrounding media; further, though, in terms of kindling interest to see the film, kids who play with characters and learn about their background, or immerse themselves in related games, help spread awareness and virtually guarantee a measure of related ticket sales.

**Post-Release Window: Approximately 30 Days**

**Post-Release Through DVD and More**
By this period, activity has waned and the number of initiatives launched is a fraction of those found in the pre-release and release windows. Nevertheless, there are still a number of elements likely to be launched, such as:

- sustain advertising
- special promotions
- DVD release(s)
- award campaigns (e.g., Oscars).

Once sustain advertising—taking advantage of reviews (“best of . . .“) and awards—has run its course, the focus of the post-release window is not converting awareness into box office, but rather converting box office into DVD/Blu-ray sales, and now as importantly, VOD transactions. As noted in the video marketing section, DVDs do not have the same promotional tie-in potential as theatrical releases, but in instances with a big enough film (e.g., Papa John’s Pizza and Ice Age), it is possible to diversify a campaign beyond traditional DVD retail marketing. Also, because of the size of the DVD market, this affords another opportunity to trot out stars for press junkets, tapping PR one last time (unless Oscar calls) before the activity winds down and marketing hibernates until long-tail re-promotion opportunities arise. It is important to note that the Web uniquely helps keep the long tail alive, as its relatively low cost basis enables dedicated websites and social media pages to post periodic updates and cater to core fans who want to continue touching base with the franchise—key elements are archived and easily accessible, allowing a baseline of information and engagement to be maintained almost indefinitely. When new promotional opportunities later mature, it is often to help launch awareness for the next title in the franchise, starting the described cycle over again; for properties without sequel potential, the sites nevertheless provide stimulus for retrospectives, reunions, anniversaries, and similar events used to stimulate sales and catalog churn.

**Online Impact**

- Virtually all movies and major TV shows have websites that cross-promote the program/film and provide value-added information and content (e.g., talent interviews, documentaries, mini-games).
- In addition to websites, releases now invariably have dedicated social media pages, often tying in engaging apps, advertising, and seeding content for virtual buzz; additionally micro-blogging sites such as Twitter are increasingly being used to disseminate information, and leverage celebrities followers.
• Online venues allow consumers to see trailers, which previously were only available in theaters and on TV as commercials/advertisements.
• An increase in online piracy has been an impetus for the global day-and-date releases of content.
• Online sites provide social networking abilities to chat, blog about, or identify with the characters and broader brand-sharing interest, videos, reviews, recommendations, or critiques with friends and virally to wider circles.
• Increasing amounts are being allocated to online campaigns, targeting specific demographics.
• Review sites aggregating critics’ opinions, which serve to accelerate and homogenize the “verdict,” typify a range of new information that could impact consumption choices.
• Content producers are striving to find ways to add interactive components to linear programming (text messages, online voting) and stimulate crossover online/offline engagement.
• Online sites are creating new opportunities for product placements, which, in addition to serving as sources of financing, may allow new types of functional integration (to the extent an avatar/character is changed by associating with the product).
• PR is being turned on its head, with electronic press kits having replaced physical kits and slides, and major announcements now often being released to fans on social media sites (either in place of or in addition to over the newswire).
Chapter 6, *Thinking Outside the Box Office*

Rethinking Marketing

By Jon Reiss

While people will read this book at different stages after they have finished their film, I feel that it is important for filmmakers to shift their mindsets to consider the distribution and marketing of the film as early as possible, before they finish their films or even before they raise the money for their films.

Film studios have been doing this for some time — and the indie world has criticized them for this, often with good reason. The studios regularly consult their marketing department before committing to a film. But when the studios think this way, they are thinking of what they can market and sell to a mass audience. Independent filmmakers should take the methodology from the studios, but not necessarily the studios’ conclusions.

After you identify the audiences for your project, the next step is to get those audiences to want to see your film. This is the realm of marketing and it is as important as distribution.

You will most likely not have a single or multifaceted marketing strategy for your film at its inception, but it is an important goal to work toward. I strongly recommend that you start planning this strategy as soon as possible, even at the inception/script stage, for the following reasons:

1. If you integrate the marketing and web life of your film into the film itself, the marketing of your film will be much more organic as a result.
2. It allows your audience to be involved in the creation of your film, in aspects such as funding, subject matter, and promotion.
3. With actors and crew accessible, you can create the marketing materials you need while you are making your film.
4. You have the largest support staff during production to create these materials.
5. It is never too early to start a dialogue with your audience.

Omer Nisar worked as a digital marketer at Island Def Jam, Wired-Set Digital, Penton Media and Sony BMG Music and was the Social Media Strategist at B-Side Entertainment. Omer says that it takes time to get the online community around you, so you need to start as early as possible.

Cynthia Swartz, previously executive vice president of publicity for Miramax, is currently partner at 42West and co-head of their Entertainment Marketing Division, overseeing film release campaigns and publicity initiatives for filmmakers. She points out that if you have built a tremendous fan base before you finish your film, it will help you garner deals from distribution entities that still provide advances: DVD companies, some digital rights concerns, VOD, etc.

Caitlin Boyle, who is the founder of Film Sprout and the architect of grassroots and community screenings campaigns for numerous documentaries, including the award-winning *King Corn, Pray the Devil Back to Hell*, and *The End of the Line*, says, “Proactively reach out to the audiences for whom the film is most resonant. Consider five main groups to whom it is most appealing.” You won’t know these people right away — but you will develop this knowledge over time.
MARKETING TO YOUR AUDIENCE

In marketing you are trying to engage with your audience and get them to support you financially in some way, so that you can continue your career as an artist and filmmaker.

I feel it is important to introduce some basic marketing advice now so that you can consider this as you develop the strategy for distributing and marketing your film. My good friend from film school, John Di Minico, is a branding strategist and creative director in digital, interactive and integrated media who consults on projects for television networks (FX, ABC/Disney/ESPN, Fox, E!, CBS, AMC) and works with independent filmmakers as well. He suggests that you consider the following as soon as possible:

- Who are you in the media landscape? Look around. Be objective.
- What makes your brand (you and the content) unique? Is there a point of view or experience you can own? As an example many incredible filmmakers have the qualities of a brand: Quentin Tarantino, Woody Allen, David Lynch, Alfred Hitchcock, Jane Campion, Michael Moore, Martin Scorsese. With each of these filmmakers, you know it is their film when you watch it. In general, you know the experience that you are going to get when you see one of their films.
- How will you build equity and a community around your content and brand?
- Determine the full spectrum of your audience - from core to casual. How and where do you reach them? What drives them to view, refer/tag, and return to your content/site?
- What organizations and social networks exist in the world to ally yourself with? Can you integrate or partner on some level and extend your reach?

Meyer Shwarzstein started selling TV rights when he was hired in 1980 by MGM. Since 1995 at Brainstorm Media he has sold TV and VOD rights for Blockbuster, Lions Gate, Samuel Goldwyn Company, Magnolia, Image, BMG, HD Net and is an independent consultant who works with filmmakers to construct marketing and distribution strategies. He offers the following advice:

- We have the biggest entertainment dessert buffet ever created — but dessert buffets are overwhelming — so what do people do? They take a few things they know well and perhaps they will take a bite of something that looks interesting, and then they are done. Somehow you have to be the one thing that they haven’t tried that looks especially inviting, and then taste so good that the customer will eat all of you (and then tell their friends about you and go out and buy more of you).
- People are much more discriminating than they have ever been. The valuation used to be whether you will spend your money on a product. Now the valuation is whether you will spend your time. You have to produce a really excellent experience and product to make it worth people’s time.
- People don’t buy what they want anymore, they only buy what they need, or what their friends tell them that they need.
- Filmmakers should look at the psychology of buying. For example, something will be missing in you if you don’t buy that product or film. How do you create that sense in a consumer? (As a former punk rock/anarchist/neo-Marxist economist, I can’t believe I am writing this — even if it is someone else's opinion!)
- Think of the kind of need or want you as a filmmaker can fulfill. People need to cross a threshold
in their purchasing decisions. You need to help put them across that threshold. Examples of such desires would be:

- I’m supporting a cause.
- I’m making a statement.
- I want to support the passion of the filmmaker.
- I’d watch that movie 10 times.
- I want all my friends to watch that movie.
- My friends will think I’m hip, smart, whatever if I watch that movie.
- Everyone else is watching that movie, so I’d better just see it so I have something to talk about. In the next few chapters we will begin to examine the marketing of your film and the ways in which you can connect with your audience during prep, production, and post.
Part 6: Film Distribution

Introduction

Distribution is simply the method by which distributors or the aggregatos get your film into the marketplace via theatres, VOD, DVD or television.

Theatrical distribution arguably is the single most beneficial release window, as it can establish a film’s brand extending to all other ancillary markets. However, the time, money and effort to create that brand can be overwhelming. Jeffrey C. Ulin, in his book *The Business of Media Distribution* states: “During production, the director and producer are kings and in almost total control over hundreds of people and millions of dollars. Once the film is delivered, the distributor is in near total control.”

Fortunately, the digital revolution is having a massive impact on both the delivery and options for distribution, as well as, the marketing and brand creation of the project. This is empowering filmmakers to explore alternative distribution options.

Filmmakers typically have 3 options for distribution:

- Traditional – i.e. using proven distributors (Sony, Paramount, Focus Features, etc.)
- DIY - “Do It Yourself” model
- Hybrid - combination of both traditional and hybrid

The following are the primary DIY theatrical options:

- Four Wall: Qualify for Academy Award; meet certain SAG requirements; Special Events
- DIY
- Service Deal / Rent-a-System

*The Filmmakers and Financing* and *The Business of Media Distribution* chapters will clearly explain and go into great detail regarding these traditional and new methods of film distribution. You will also gain insight into the history of distribution and how we got to where we are today, and where we are going in the future (D-cinema and 3-D); how deals are structured between the distributor and the exhibitor (the theatre chain owner), release strategies and timing, and international booking.

Fun Hollywood Lore: the genesis of net profits goes back to a deal between Jimmy Stewart and Universal Pictures on the film *Winchester ’73* in the early 1950’s.

In the *Indie Film Producing* chapter, you will find numerous interviews with indie filmmakers about the hybrid strategies they successfully employed utilizing the amazing DIY opportunities to self-distribute worldwide.
Chapter 6, *Filmmakers and Financing*

**Distribution, Theatrical and the Changing Landscape**

By Louise Levison

*Marketing your film is much more stressful than making it.*

—ANURAG KASHYAP, DIRECTOR, BMW: BOMBAY’S MOST WANTED

We all know that the film home video/ancillary business is going through a major paradigm shift. The question still exists—where is it going and how soon? Theoretically, everything will be streamed and downloaded some day; but that specific day is unknown. Before the audience can buy a movie ticket, rent a disc, or order a digital download, the movie has to get off the filmmaker’s desk and into the movie theaters. This method of circulation is called distribution. Simply put, it is the business of selling the film to various media.

This chapter looks at distribution strategies in general, glances briefly at studio distribution, and examines independent distribution in more depth. Nevertheless, it is not intended to replace the many books on film distribution that you can read for more detailed knowledge. While we will look at types of deals, I am not a distributor or a lawyer. When making any deal, you need one of each.

**WHAT IS DISTRIBUTION?**

When writing your business plan, you will need to explain the distribution system in general. As with other elements of the plan, you should proceed on the assumption that your reader does not know how the system works. Wrong assumptions on either side could block the progress of your films.

The “rights” of a film stem from the ownership of the copyright, which endows the legal use of the film to the copyright holder. Having secured a formal copyright, the producer contractualy licenses, or rents, the film to a distributor for a specific length of time. The producer can relinquish all control of the film by shifting the entire copyright to the distributor in perpetuity, or she can license a specific right such as domestic, foreign, home video (DVD/Blu-ray, streaming), television/cable, satellite, tablet, cell phone, and wrist watch (or any other device brought to market since the book was published) to the distributor for a specific length of time. In return, the distributor collects the rental monies or ancillary fees and remits the producer’s share.

The following is from a sample domestic distribution contract. Although it is boilerplate (the starting point for negotiations), the following section is not likely to change. Pay attention to the phrase in parenthesis.

*The “Rights” consist of the sole and exclusive right, license, and privilege under copyright (including all extended and renewal terms thereof) to distribute, exhibit, market, reissue, advertise, publicize, and otherwise exploit the Picture and the literary material upon which they are based, the picture, sound, music and all other physical elements thereof, and trailers in any and all media and by any and all means (whether now known or hereafter developed, discovered, invented, or created) throughout the Territory.*
WHAT IS A DISTRIBUTOR?

Long before Carl Laemmle produced his first maverick film, middlemen existed (as did agents, attorneys, and litigation). These intermediaries bought low and sold high even then. Among the most maligned of all entrepreneurs, middlemen are still harshly criticized for doing their job. History does not tell us when the term distributor began to be used. All industries have intermediaries. In other industries, they buy inventory at discount prices, add a price markup, and resell at a higher price. In this sense, these intermediaries are considered just another one of the channels for getting the product to the market. Unlike film distributors, they are not involved in making artistic decisions about the product, changing the name for better marketing, or obtaining premanufacturing financing.

Motion picture distributors also are middlemen, and they are a curious lot. They are viewed either as people of tremendous skill, nourishing the growth of business, or as flimflam artists reaping obscene profits. Like politicians, distributors are sometimes seen as a necessary evil. On the other hand, they perform an important function without which the average filmmaker would not thrive.

Distributors have tremendous power, and in independent film, their impact is magnified. Studios normally have committees and different levels of people making a decision. In an independent distribution company, one person, with no one to answer to, may determine the entire course of your film. The distributor has the ability to influence script changes, casting decisions, final edits, and marketing strategies; in addition, distributors often are intimately involved in the financing of the film.

They have this power by virtue of the distribution agreement. The specifics of the distribution deal and the timing of all money disbursements depend on the agreement that is finally negotiated. As a new filmmaker, you have little or no leverage for changing this agreement. Even an experienced filmmaker seldom can exact any substantive changes in the standard contract. One can debate fees. In the end, however, even though each deal is different, the basic contents stay the same. The distributor must be a salesperson, an entrepreneur, a skillful negotiator, and a raconteur and must have a sixth sense about matching the buyer with the product.

Armed with the rights, distributors go about the business of relicensing the film to the various media. The U.S. theatrical box office is the backbone in the chain of revenues for a film. All ancillary results theoretically are driven by the domestic theatrical release. Some products are designed to skip that step and go directly to home video or foreign markets, but the value of a film in any other media and territories is generally greater with a good theatrical release. Even a small theatrical release can increase the value to buyers of an otherwise unknown film.

STUDIO DISTRIBUTION

How It Works

The major studios (and the larger production companies) each have their own distribution divisions. They not only release their own films, but also occasionally acquire other films. All the marketing and other distribution decisions are made in-house. The distribution division sends out promotional and advertising materials, arranges screenings of films, and makes deals with
domestic and foreign distributors. Because of their size and the box office capability of their films, the studios naturally have a lot of clout in getting their films onto theater screens.

When it comes to foreign markets, studios have offices around the world, either singly or with other studios, to distribute their films in other countries. Often, a studio will partner with a local distributor and the release will bear the names of both companies. The studio always retains the copyright, which it licenses to the foreign distributor for a specific length of time.

Based on the share formulas we saw in Table 4.1 that the studio’s distribution arm receives its share of the box office grosses from the exhibitor and passes them through the in-house accounting system. The studio charges distribution fees back against the film as if its distribution division were a separate company. These fees can range from 45 to 65 percent of the total film rentals. In addition, the studio takes the entire fixed cost of the distribution division (overhead) and applies a portion of it to each film. Overhead fees pay for running the division and cover expenses that are not covered by other fees. Before the accountants are done, the studio will also take a portion of the overhead from the production side of the studio and add it to the total cost of the film.

The formula in Table 4.1 in Chapter 4 shows a “net profit” model for a studio film. Each studio has a standard method in its contracts for determining revenues, expenses, and profits. These formulas are nearly impossible to change, even by influential filmmakers. Typically, the producer is paid a percentage of the net profits in addition to receiving a salary. With studio films, it is fair to say that the chances of the net profit being greater than zero are rarer than with independent films. The studios have more films to cross-collateralize (using the profits from one film to offset the losses from another) and more places to bury unreasonable costs, although many contracts now prohibit films from being cross-collateralized.

The Advantages

There are many advantages to studio distribution. The studio has the ability to put 4,000-plus prints of a film in circulation on the opening weekend. Its own channels of publicity and advertising are manifold. The studio has the financial resources to inundate television and the press with ads, and it has significant clout in getting placements for producers, directors, and actors on early-morning and late-night national interview television shows. For example, the Walt Disney Company owns its eponymous cable network (consisting of ESPN, ABC Family Channel, Disney Channel, Toon Disney, and SOAPNet), the ABC network (talk shows, such as The View and Jimmy Kimmel), as well as the ABC television stations. In addition, the studio is able to negotiate a deal with its own affiliate at a value on paper that is less than free market value.

As noted earlier, the studios have been able to monopolize the chain movie theaters in the past. Some have moved back into theater ownership. Be that as it may, with the success of independent films, exhibitors insist that they do not bow to studio pressure. They can only afford to have films in their houses that fill theater seats. If the audience does not come to see a particular film, the exhibitor must look for another that will be more popular. Consequently, more screens become available to independent films. As small films have received acclaim, they have continually one into wider distribution (for example, expanding from 500 to 1,200 theaters) and gotten bookings in major chains that would not have played them previously.
INDEPENDENT DISTRIBUTION

The Players, They are a-Changin’

In 1994, neither this author nor Bob Dylan, or probably even Harvey Weinstein for that matter, could have foreseen what would be going on now. Many would-be seers at that time thought the independents would disappear, even though the first edition of this book said that it wasn’t true. The intervening years have shown a total change in which studios tried to emulate the success of independents with lower-budgeted films.

The Majors acquired independent companies and made them into specialty divisions as the quickest way into the lower-budget market. Most of the specialty divisions of the studios—Focus Features, Paramount Vantage (the former Paramount Classics is a division), and Warner Independent Pictures—eventually were closed and/or became labels. Warner Bros. absorbed Picturehouse and New Line with Picturehouse disappearing and New Line becoming merely a studio brand. Fox Searchlight is no longer independent producer. Sony Classics remains the lone specialty division with autonomous control over its product. Still an independent film picked up for distribution by a studio remains a film that was independently made. Meanwhile, new independent companies continued to appear.

Independent Companies

Similar to our definition for independent films, the independent distributor is one that releases a film independent of one of the major studios. As we know, studios and their divisions pick up indie films. Some larger companies, such as DreamWorks and DreamWorks Animation, have had distribution deals with studios. There are a myriad of other companies, both U.S. based and foreign based with a U.S. office, that distribute films.

Even independent companies that are highly capitalized and making successful films come and go. In the 1990s, Artisan Entertainment is a good example. At the same time that they were buying October Films in 1997, a consortium headed by investment firms Bain Capital and Richland, Gordon and Company bought Live Entertainment, which had one of the largest independent film libraries (2,000 titles) in the world, for $93 million. The new company became Artisan Entertainment. Then Boston-based Audax Group along with other investment companies bought a controlling share. Artisan slowly grew until 1999, when the success of The Blair Witch Project single-handedly moved the company into the front ranks of independent distribution.

At that time, Bain was interested in purchasing Trimark Pictures (originally the motion picture arm of one-time video major Vidmark), but the sale did not happen. Meanwhile, an investor purchased Cinepix Film Properties and changed the name to Lionsgate Films. In 2000, Lionsgate bought Trimark Pictures for approximately $50 million. At least two of Artisan’s investors wanted to cash out, and in a bidding war, Lionsgate bought the company. Lionsgate bought Summit Entertainment in 2001. With the merging of the distribution divisions, one potential acquirer of independent films was taken off the market.

Why do you care about all these financial machinations? First of all, you should know the history and personnel of the company with which you want to do business. How have they acted in the past? Are they likely to be dealmakers who are more interested in selling the company for a profit than being distributors for your film, or are they hands-on film lovers who are likely to be around for the long haul? Remember that the length of time that a company takes to negotiate a merger or buyout can hurt any film in its library. My favorite film from Sundance 2000,
Songcatcher, was acquired by Trimark. By the time the Lionsgate/Trimark merger was complete, the film was in the library of the new company, which may not have had the same regard for its potential success as the original buyers. In addition, the film's resulting release in June 2001 may have been too late for the buzz press from its Sundance screenings to be meaningful.

THINKFilm, which had become a notable producer and distributor of documentaries and other films, became a victim, along with the U.K.'s Capitol Films, of their parent company's financial troubles, Pergasus Entertainment Group. Also gone are Fox/Walden Media, which was shuttered and absorbed into Twentieth Century Fox, longtime indie New Yorker Films, and Rogue, which was repurposed by Relativity Media. In 2010, FilmDistrict was formed. It is still in business, but Bob Berney—arguably the smartest indie marketer of the last three decades—is no longer involved.

Among some of the companies new to theatrical distribution are the new producers, such as Megan Ellison's Annapurna Pictures and Joe Drake's Good Universe, African-American Film Festival Releasing Movement, FilmDistrict, Red Granite Pictures, Red Flag Releasing, Open Road films (formed by AMC Entertainment and Regal Entertainment), and Talking Drum Entertainment. Other indie distributors are Anchor Bay, Peach Arch Entertainment, Oscilloscope Pictures, Music Box Films, Gold Circle Films, IDP/Samuel Goldwyn, Magnolia Pictures (and its offshoot for genre films, Magnet Releasing), Palm Pictures, Zeitgeist Films, Roadside Attractions, Rocky Mountain Pictures, and First Run. This list is not meant to include everyone. I always say that I should put the date (July 2012) on the list, as there will be companies being formed, purchased, or just giving up the ghost by the time you read this book. It is particularly important during the current economic challenges. The overall picture for the past 20 years has continued to be true. As one company merges, becomes a studio brand, or just disappears altogether, others quickly come in to fill the distribution void. Did someone say independent distributors were dead? They did, but they were wrong.

Do your own research to see who is doing what. Since the landscape is constantly changing in this dynamic industry, the independent filmmaker must function in a fluid environment. The small independent of today could be the Weinstein Company of tomorrow. It is also important to keep in mind that some companies specialize. For example, Eros Entertainment and Yash Raj Films specialize in distributing films from India in the United States. Strand Releasing and Regent Releasing specialize in the distribution of gay- and lesbian-themed films. Interestingly, in 2008, Regent also made a point of expanding into foreign-language films. According to Regent co-founder Stephen Jarchow, “Gay and lesbian people represent one third of the audience that goes to foreign movies. They are three times more likely to go and see a foreign-language film.” He also pointed out that a small independent distributor considers a film that generates $2 million to $3 million at the box office to be a success.

Always look at how your potential distributor tends to distribute a film. The larger producer-distributors, such as Lionsgate or the Weinstein Company, have the ability to put a film on 1,000-plus screens. Of course, that doesn't mean they will. On the other hand, some of the smaller companies prefer to put a film on only one to three theatrical screens as a prelude to a home video. It is always important to have an attorney carefully read your contract. Some filmmakers have found that, after being picked up at a festival, their contract didn't require a theatrical release.
Too Many Films?

The theatrical marketplace is crowded. In 2011, studio members of the Motion Picture Association of America (MPAA) and their subsidiaries released 141 films and nonmembers released another 469. That 610 total “includes all titles that opened in 2011 that earned any domestic box office in the year,” according to Rentrak Corporation’s Box Office Essentials. Checking my database of independent film revenues for 2011 and taking out films released by studios (47), I came up with the same 469 number. However, those other 47 films are counted in my annual independent film box office total. As you recall, the definition does not include what company distributes a film but the sources of financing and control of production.

The idea that too many filmmakers are making too many bad films and have a 90 to 99 percent chance of failure has been around since I entered the business in 1988 and surely before. Every year Sundance and other large festivals have more than 3,000 films entered. Clearly, there are many more films made than will ever see the light of day in a theater or make back their production costs. We don’t even know the profit/loss results for all the films distributed. For one thing, we don’t even have an estimated budget for many of the smaller films released. In addition, we can track all the potential revenue sources. Will this information stop you from making a film? Probably not.

How It Works

Watching an independent distributor bring a film to its audience is seeing a true master of multitasking at work. More than just a functionary for getting your picture out, the independent distributor can perform one or more additional roles, including participating in creative decisions and contributing to the film’s financial resources. For most independent filmmakers, the independent distributor is the only game in town and deserves an extensive look.

Domestic Versus Foreign

The domestic territory generally comprises just the United States, but it might also be considered to include Canada and, many times, Puerto Rico and other Caribbean islands. Many of the independent distributors consider the United States and Canada to be one North American package and prefer not to have them separated beforehand. For one thing, the distributor may have output deals with Canada. If the opportunity for Canadian financing arises, therefore, producers must be careful. If the Canadian investors are going to take some or all of the Canadian territory for themselves, the producer might have a problem finding a distributor for the U.S. market.

Domestic rights refer not only to theatrical distribution but also to all other media, such as DVD, cable, and the Internet. A producer who secures an advance from one of these media for production financing makes the deal a little less attractive to the distributor, because the rights have been fractionalized, or split up. Any source of future revenue taken out of the potential money pie before a distributor is found makes an eventual distribution deal tougher for the producer to close. Most distributors make a substantial investment in print and advertising (P&A) costs. Although they may recoup these amounts from the theatrical marketplace, it is not likely to cover their distribution fees. Therefore, they prefer that other revenue sources be available to them.
Being a domestic distributor may mean that a company does not sell foreign rights itself. However, no rule says that a domestic distributor cannot venture into foreign waters. While distributors at the festivals used to pick up films for North American distribution only, they often now include all English-speaking territories. Or they pick up worldwide rights and sell off the other territories to subdistributors.

There are also U.S.-based distributors that specialize in foreign only. These companies deal with networks of subdistributors all around the world. It is sometimes confusing for producers to distinguish between a distributor and a foreign sales agent. If a distribution company is granted the rights to the film for the foreign markets, that company, whether it is 1 person or 20, is the distributor. The company may be referred to as a foreign sales agent also. There is no fundamental difference, just one of semantics. Independent Film and Television Alliance publishes an annual directory of their members. In addition, there are sources on the Web.

Internet rights are a question. How big this business will become is still unknown. What you have to know is that you do not want to license your film to anyone on the Internet before you have a contract with traditional domestic and international distributors. Whether or not they will do anything with those rights, the distributors want them available. Of course, that doesn’t mean you have to include those rights. Generally, the producer retains ownership of the copyright and only grants someone a percentage of the receipts for obtaining distribution contracts for a particular territory and/or medium. A typical term for granted rights is seven years, although some distributors will want 10 years.

To Video On Demand or Not

With the growth of new releasing platforms, the paradigm for releasing is changing. For example, a day-and-date release on Video on Demand (VOD) at the same time as a theatrical release or even before it is starting to gain traction. There has been a lot of discussion about Margin Call’s $4 million VOD revenue total, as reported by distributor Magnolia Pictures. While other anecdotal reports on VOD have been made, there isn’t enough data to make predictions for investors. There are too many factors we don’t know and unanswered questions about the new media distribution systems. For example, how much does this type of pretheatrical release affect the box office revenue? For the same number of audience views, are we exchanging the price of the ticket for the lesser revenue from a download? Magnolia Pictures co-owner Mark Cuban told thewrap.com in December 2011, “In reality, for most independent movies, VOD will be far and away the largest source of revenue in the future…more than theatrical and far more than streaming.” The opposite opinion came from Tom Bernard, Co-President of Sony Pictures Classics, who told thewrap.com at the same time, “It’s a more complicated situation than what Mark Cuban is trying to sell. If your movie can play through all the windows that start with the theatrical release, nine times out of 10 it will be much more successful than the VOD/theater box office.”

The important concept in all of this is the word “future.” Cuban’s future isn’t here yet. I don’t feel it will be here for the next four to five years. Whether or not I am right, currently, we have to hope that films receive at least a small theatrical release before going to the aftermarket. Of course, a big theatrical release is always better!
A Deal Is a Deal

What is a typical deal? There is no such animal; no two deals are ever exactly the same. Distributors will take as much as they can get, and it is the producer’s job to give away as little as possible. Do not under any circumstances enter into one of these agreements without the advice of an entertainment attorney experienced in film. Some distributors will try to get you to sign an agreement before their fees are specified or without any agreement for theatrical distribution. Their business is to be persuasive, and they are good at it. The attorney knows what needs to be in the agreement before you sign it. She can be equally persuasive.

The attorney’s film experience is important. When I was first advising filmmakers, I would tell them to get an entertainment attorney. Sometimes they would find someone who worked in another area of entertainment but not film. Distribution deals in this business are different from other areas of the entertainment industry, however, and you want your attorney to be familiar with it. The other mistake that filmmakers often make is using their father’s corporate attorney to negotiate their film contract. The filmmaker has to pay for the attorney’s learning curve (lawyers charge by the hour) and ends up with a bad deal, or, worst case, no deal at all.

The distributor’s fees vary from territory to territory or medium. This amount can be as low as 15 percent (for a “hired gun”) or as high as 50 percent of the revenues from the film. Although most contracts treat domestic and foreign revenues separately, general wisdom says that the overall average for an indie distributor’s fees is 35 percent or under. Take time to add up the total fees. If they come to more than 35 percent, you probably don’t want to sign. How much the distributor wants to take depends on the company’s participation in the entire film package. The distributor may do the following:

• Get a finished picture.
• Provide P&A money.
• Be rented.
• Raise equity or presale financing.
• Provide a minimum guarantee.
• Pay an advance.

There are no hard-and-fast rules. A lot depends on how much risk the distribution company is taking, whether or not it puts in production money, and how badly it wants the film. The amount of risk is primarily related to the amount of money the distribution company pays out of its pocket. The more upfront expenses it has to assume, the greater the percentage of incoming revenues it will seek. These percentages apply only to the revenues generated by the distributor’s own deals; if that company is only making foreign sales for you, then it takes a percentage of foreign revenues only.

Do not assume knowledge about another film’s agreement and promise the same deal to your investor. Often clients want me to give examples of purchase prices in their business plans. In that case, it is important to note for the investors that the prices announced in the press may be advances against future revenue streams or total buyout prices with no further remuneration to the filmmakers and their investors. For example, an article may say that a film was picked up for $8 million. However, there may be a small or no advance, with the rest contingent on a percentage of the U.S. box office. If the box office is low, then the producers and investors will never see the full $8 million. Always remember the words of John Pierson, a longtime filmmaker and producer’s rep, who said, “Get it up front. That’s your bond.”
The good news is that, with the caveat noted above, there are good stories to tell as a hook for the investors. Sometimes a producer, director, or producer’s representative will give useful financial details in an interview. At the 2004, the $400,000 *Napoleon Dynamite* was offered $3 to $4 million in advance with a guarantee of a 1,200-screen release. At the 2005 fest, Paramount paid a total of $9 million for *Hustle & Flow*, which was budgeted at $3.5 million. Then the big prize went to *Little Miss Sunshine* which sold for $10.5 million in 2006. However, the brakes were put on buying sprees in 2009 and 2010 after several big purchases with upfront fees of $8 to $10 million in 2007 and 2008 failed to deliver profits. The business, along with the rest of the world, was going through the beginning of a recession.

Surprisingly, distributors did a total 180 and went on a buying frenzy in 2011. The number of films picked up by the last day of the festival was 51, including 20 picked up after the films were announced but prior to the start of the festival. In comparison, the total in 2010 was 29 and 30 in 2009. The economy appeared to be picking up, distributor’s inventories were low and/or they just plain liked the films. The Weinstein Company paid $6 to $7 million for *Our Idiot Brother*, and Fox Searchlight offered $4 million for *Homework*.

Buyers evidently continued to believe in the strength of the Indie market at the 2012 Sundance. This year’s total of 39 sales was the second highest in the last six years. The biggest change for 2012 was caution in terms of price. All buyers kept the purse strings a bitter tighter rememberng that the 2011 Sundance films that failed to light up the box office. The highest price reported was $6 million for *The Sessions* (Fox Searchlight), but the majority were between $1 and $3 million. Perhaps of more significance was an increase in the number of films announced as day-and-date for theatrical and VOD.

**Print and Ad Money**

The first step in distributing a film used to be printing copies made from the master negative. If you are buying this book in 2015, you could be saying “What is a print?” The answer is that at one time all films were shipped to theaters on reels of film stock. A high-profile studio film opening on as many as 3,000 to 4,000 screens in multiple markets (a “wide” release) could have an initial marketing expense of $3.5 million to $6 million, accompanied by a very high advertising program. The smaller independent distributors would start with anywhere from 1 to 50 prints and move the prints from city to city.

The business has been going through a changeover between screens that play the 35-mm prints and those that accept digital, which makes a major difference in cost. The studios helped subside the conversion to digital of a majority of the theater screens and projectors. Fully outfitting a single screen with the necessary equipment costs a minimum of $70,000 with more for 3D. Middlemen called “integrators” helped with the cost and established a Virtual “Print” Fee (VPF) for each film played on a digital screen. For a studio, the $800 to $900 per engagement VPF is actually a saving compared to the number of prints they used to make. And, yes, they still refer to the digital copies as “prints.” (Refer to an article by Ira Deutchman of Emerging Pictures in *indiewire.com*, March 8, 2012, for more details.)

By contrast, independent films typically have a “platform” release. In this case, the film is given a buildup by opening initially in a few regional or limited local theaters to build positive movie patron awareness throughout the country. The time between a limited opening and its release in the balance of the country may be several weeks. This kept the cost of striking 35-mm prints to a
minimum. Using this strategy, smaller films can be successful at the box office with as few as two or three prints that are moved from theater to theater. In the new digital system, each time the film hits a new screen, the fee mounts. With a successful film on an escalading number of screens, the distribution cost could run $1 and $2 million.

All screens have not been converted. The U. S. studios haven't had enthusiasm for smaller venues. The question is how many screens are left? In recent interviews, distributors have said that they can't get a good count. I have seen estimates that by the end of 2012 year over 80 percent of theaters in the United States will be digital. Recently, U.S. distributors have told me that there were at least 1,000 screens that have not been converted. In addition, various speakers at a European training program in Venice (Italy) in September 2012 said that 60 percent of Europe's screens were digital and that 80 percent of the screens in the “major” markets in European would be digital by the end of 2012. Concerns were voiced that distributors would stop handling 35-mm prints in 2013. Whatever the numbers, you know that many independent films still will be going to the nondigital screens.

Distributors plan their release schedules not only with certain target audiences in mind, but also with awareness of which theaters—specialty or multiplex—will draw that audience. If a film is going to a multiplex, there probably isn't a question about digital versus 35 mm. Each reader should follow the latest technical news on one of the many free Internet sites. With a two-year lag in being able to obtain distribution costs, in mid-2012, there is no way to know how the digital change has affected the print and ad costs. When the 2011 revenue and cost data become available, we may be able to get a feel for it.

**Distributor’s Fees**

Many distributors encourage producers to provide the P&A money, because this limits their risk even more. Producers who do provide the P&A can negotiate a lower distribution fee, often ranging from 10 to 22.5 percent, with the most common fees being 15 to 17.5 percent. These deals—often informally called “rent-a-distributor” or “hired gun”—usually have an escalator clause to give the distributor an incentive. For example, the fee might be 15 percent until net revenues to the producer equal the cost of the film or some multiple of the cost of the film, at which time the distribution fees escalate to 17.5 percent. On the other hand, some distributors just negotiate a flat fee for working this way.

There are varied opinions as to whether it is practical for a producer to pay P&A costs. By putting up the money, the producer lessens the amount that the distributor will receive from the total revenues. On the other hand, many believe that the greater the distributor’s share of the incoming revenues, the harder the company will work to maximize them. The producer may also be cast in the role of monitoring the value of the distribution process; without experience, how will you be able to judge? How to handle the P&A question is one issue you have to decide for yourself. In the end, however, having to ask an investor for several million dollars in addition to the production costs may help you decide to forgo this choice.

**Distributor As Financier**

Chapter 9, “Financing,” discusses financing in detail, but let's look here at the situation that arises when the distribution company is the provider of funds. If the distribution company produces a
minimum guarantee, it is taking on greater risk, and therefore the fees are higher. Sometimes the deal may give the distributor an equity participation in the film on the back end. The distribution fee is taken off the top, expense reimbursements are second, and then the revenues are split on some percentage basis. The distributor is now on the hook for providing a minimum amount of money no matter what the film does. If the company has provided a bankable guarantee for the producer, the distributor has to make good on the bank loan.

**DISTRIBUTOR STRATEGIES**

The marketing of the film to the general public is the distributor’s job. He makes decisions regarding the representation of the film in terms of genre, the placement of advertisements in various media, the sales approach for exhibitors and foreign buyers, and the “hype” (word-of-mouth, promotional events, alliances with special-interest groups, and so on), all of which are critical to a film’s success. Because marketing is part of the distribution company’s area of expertise, it usually is unwilling to give the filmmaker a say in the sales strategy, the poster design, or how the film is portrayed.

This comes as a shock to many filmmakers, who assume that they are going to have significant input or even a vote on how the posters look and where the film is opened. Many producers and directors expect a studio to ignore them, but they are under the impression that small distributors run their businesses as cooperative ventures.

Look at this from the distributor’s point of view. Too many people involved in the decision-making process could be a nightmare. Formulating a marketing plan by committee could result in the proverbial camel. Artistic people tend to feel that they know the best way to present their project. After all, it is their baby, and they know it more intimately than anyone else. And how hard could advertising really be?

Franklin Delano Roosevelt once said, “If I were starting life all over again, I would go into the advertising business; it has risen with ever-growing rapidity to the dignity of an art.” We are all specialists, and marketing is the forte of the distributor. The filmmaker’s task is to check out the distributor by researching other films the company has sold and the methods they used in the process. It is hoped that the distributor and the filmmaker will meet each other’s standards and that a marriage will be made. Doing your own research to find the best distributor for you should head off a divorce later down the line.

**What the Distributor Looks For**

In acquiring a project, the distributor looks at many of the same elements discussed in Chapter 3, “The Films”:

- Uniqueness of storyline.
- Genre.
- Ability of the cast members to attract audiences or buyers on their names alone.
- Past successes of the producers or director.
- Name tie-in from another medium, such as a best-selling novel.
• Special audience segment for the type, or genre, of film.
• Attached money.

Being able to sell a film involves a mix of elements, although the story is always the first concern. The people to whom the distributors sell must see something in the film that will appeal to their audiences. This varies from country to country and depends on the perspective of the buyer. No two buyers necessarily think the same. It is difficult to define why one distributor will buy a particular film, yet the distributor in the next room at the American Film Market (AFM) will not. It often boils down to a gut feeling—a notion that the distributor knows how to sell and profit from the movie. Every company operates in its own particular niche, but on any given day, some distributors are likely to find your film appealing.

As a producer, you cannot count on miracles or on someone's gut feelings, however. Your best bet is to make your product and your approach as strong as possible. The more components that you bring to the table with the film, the more ammunition your distributor has. Negotiating is their business, but they need something to bargain with.

To complicate your life even more, the definition of a saleable commodity can change from year to year or from market to market. While distributors are in the thick of the battle getting the latest information, the rest of us might be a year behind. This situation makes meeting and talking to distributors crucial. One year, when I was new to this business, I arrived at the AFM with a client to promote his already finished film. The director had convinced a well-known actress to do a 15-minute wraparound (inserting a well-known person into the film purely to make it more saleable). She had been popular at previous markets. Unfortunately, the most recent European market had seen a glut of films with this person, and when we arrived at AFM to make our pitch, there were yawns all around. The distributors knew she was old news, because it is their business. We had not thought to check beforehand to see if the star’s popularity had changed.

Approaching a distribution company with a finished film has advantages. The distributor knows what you can do and how it will look on the screen. The company’s risk level is lowered and its financial output is less. A finished film also puts you in a stronger negotiating position. Many distributors say that they prefer even partially completed films to scripts because they can see the film’s quality.

Festivals are another way to secure distribution. If you can get your film accepted at one of the primary festivals (Sundance, Tribeca, Toronto, and Cannes), you have a chance of attracting distribution. Individually, those festivals tend to attract more distributors than other festivals. Being at a competitive festival is good. You will find the psychology of the herd at work. If an audience likes a film or if one distributor becomes interested, all of a sudden a distributor feeding frenzy can start and prices will go up.

Methods for Releasing Films

Few people invent new release strategies; they just refine the old tried-and-true ones over time. Some are in fashion, and some are out of fashion. When I first started in the business, the late Peter Myers, then Senior Vice President of Twentieth Century Fox Entertainment, told me that there were essentially two ways to distribute a film—fast and slow. That says it in a nutshell. All of the
distribution books that you read (and you should learn as much as you can) will give names to procedures that are variations of fast and slow. I've added another speed, moderate, for our discussion.

**Fast**

The fastest way to release a film is to release it wide. Studios use this strategy for releasing many of their films by opening on thousands of screens simultaneously around the country. The wide release allows for a big opening weekend, which could have one of two outcomes.

First, suppose a lot of people go to see the film, like it, and tell their friends. Assume the film opens on 4,000-plus screens. The average mall theater seats around 500 people, and the film shows six times a day. You have 5 to 12 million people leaving the theater on a Saturday and telling their friends to see the film. The film develops excellent “legs,” which means that it runs for a long time with good box office. The studios often use the results of the opening weekend as a measure of how much effort to put into promoting the film in the ensuing weeks.

For a tentpole film, there is often a worldwide opening to limit the possibility of piracy. In 2012, for example, *The Amazing Spider-Man* opened on 4,318 screens in North America earning $144.6 million. The same weekend it opened in 15 countries earning an additional $201.6 million for a total of $346.2 million. Keeping everything in perspective, the budget for the film was $230 million.

The second possible result of a big weekend is that the same people tweet to their friends while still watching the movie, “Terrible film. Stay home.” (In the old days prior to March 2006, you didn’t get that news until coffee on Monday.) The film doesn’t have legs or doesn’t get extensive promotion. However, it does have that crowd of people who came opening weekend to see the star. The studio can use that in whatever advertising they do to lure more moviegoers into the theaters, before they hear any bad word-of-mouth. The film *Bruno* is the poster child for such an event.

**Moderate**

There is no standard definition for this type. It used to be that a moderate opening for an indie film would be around 1,000 screens. Looking at films with budgets between $20 million and $60 million released in the first half of 2012, the average opening appears to be 2,500 screens. Films with budgets less than $10 million generally follow more of the old platform release pattern. The film starts in a 10 to 20 selected theaters and moves on in some sort of pattern. A particular film may work best in one market because of the makeup of the population or because the film was shot there. On the other hand, the distributor may use a pattern of 10 to 12 theaters across the country to get a feel for his next moves if the film is doing well.

Films with difficult themes or at least an unknown audience usually open in New York City or Los Angeles. The cosmopolitan nature and the size of the population in those cities are an advantage. With good reviews, a film will continue to move through the country in one of several fashions. It might move to contiguous states, open in successive theaters based on a certain schedule, or cascade into the markets that are most likely to produce revenue. Whatever method is used, the film will continue to open in more and more theaters. Eventually, the number of theaters will decrease, but the film will remain in distribution as long as it attracts audience.
These methods have several advantages. They give unique films special handling, and they allow a popular genre, small-budget film to move at the limit of its advertising budget. For example, if your film has a Native American theme, you can open in a moderately large city that also has a significant Native American population, such as Seattle or Albuquerque. In this instance, the film plays to a special-interest audience in a town where the initial box office dollars probably will give you a good start.

The goal of moderate-speed distribution is to realize sizeable opening audience (relative to the budget and theme of the film) and good reviews and then use the money and reviews to continue distribution. Clearly, no one expects a $3 million film to sell $17 or $20 million in tickets during the first weekend. The distributor may start with a few screens and fund additional releases more out of the revenues from the first few theaters. Advertising works the same way. Ads in a major city newspaper can run anywhere from $1,000 to $10,000. As a moderately budgeted film earns money, it finances the advertising in the cities to follow. For example, *Juno*, made for $7.5 million, opened on seven screens on December 5, 2007. In mid-December, it received nomination for both the Critics’ Choice Award and for three Golden Globes. By December 25, the film was on more than 1,000 screens. When it arrived at the Academy Awards, the film had grossed over $130 million in the United States alone. By the end of its run, the film grossed over $200 million worldwide. Had the initial audience not liked *Juno*, it would have been pulled early and rereleased after the nominations.

**Slow**

The difference between slow- and moderate-speed distribution is not necessarily the type of sequencing but the budget of the distributor. A very small distribution company may be able to afford only one print. Therefore, the film will start in one theater and the distributor will “bicycle” it from theater to theater. Low-budget and “no-budget” films are promoted with this kind of marketing budget—exceedingly small. If a film attracts a larger audience than expected, they may sell the distribution rights to another independent with greater funds. I’ve seen a small company pick up a film at the Sundance festival and “flip” it to a larger company for a profit before the week is over.

“Four-walling” is another tactic that sometimes works with lower-budget films. In this case, the distributor rents a theater for a flat weekly fee and takes all the receipts. The gamble is that the total box office dollars will be significantly greater than the guaranteed minimum to the exhibitor. To double-check the receipts, you may have to stand at the box office and count the “house” as people buy tickets. Four-walling is used infrequently now, although occasionally a producer will self-distribute and revive this strategy.

Over the past six years, numerous alternative distributors have come into the market. Rather than mention the individual companies, many of whom may not be in business by the time you are reading the book, I’m just going to speak briefly about their methods. Companies will scour the various festivals looking for films that are not picked up. Some are trying direct-to-DVD at the same time that they do a small theatrical distribution. Whether you or the company pays for the distribution costs varies. They take the same rightsRetention as traditional distributors, and there is no standard back end for the filmmaker. A for-hire company may give the filmmaker total control over where the film plays, how many screens it hits, marketing, and press screenings. In this case, there is a significant upfront cost to the filmmaker; however, you are still getting professional advice and guidance on what to do.
Self-Distribution

When no distributor wants your product, there is self-distribution. I generally advise clients against self-distribution. Many don't have enough (or often any) previous business expertise to understand the dynamics. Sometimes filmmakers have no choice. No distributor wants the film. The filmmaker wants to gain better ancillary deals by exhibiting the film in a few theaters. Occasionally, the distributor runs out of money and can't afford to live up to an agreement for theatrical distribution. Investors will be very upset if the film is never seen anywhere. However, even a small theatrical distribution usually will mollify them.

There are several ways to approach self-distribution. Many filmmakers will put extra money into their budgets for marketing. If any of these funds haven't been spent, they can be used to get the film out. If the film is appropriate for a specialty theater, you may be able to screen the film for very little cost during one of the theater’s down times. Localized publicity, such as flyers or the theater’s newsletter, may get enough people into the theater to interest another distributor in picking it up. Or the original distributor may suddenly find that money is available that hadn't been accessible before.

Be aware. The exhibitors have been in business a long time and are experienced negotiators. You are not. Trying to work with them yourself puts you at a disadvantage. They are going to offer you a deal that benefits them, not you. Distributors may be difficult, but they know what the best deal is and how to negotiate it. If you want to do this yourself, learn the rules first.

Do not confuse self-distribution with self-marketing as described in Chapter 5, “The Markets.” When no one picked up What the Bleep Do We Know?, the film’s investor paid for initial releasing. Once it was clear that there was a substantial audience for the film, the Samuel Goldwyn Company picked it up. The free screenings that were done for spiritual groups helped build word-of-mouth for the film. Putting it in theaters yourself costs money; there are many free ways to promote the film.

In 2012, Kevin Smith formed the Kevin Smith and SMoDcast Pictures Presents label to self-distribute his film Red State. The reported U.S. box office for the $4 million film was $1.1 million, although more will be known when the total revenues are reported by Baseline. Before you say that you want to do what he did, keep in mind that Smith, in addition to being a well-known, successful filmmaker for 17 years, had 1.8 million Twitter followers and 700,000 Facebook friends.

If you are determined from the beginning to distribute a film yourself and are raising money from investors, you must tell them. Either they or someone else will have to put up the print and ad money. If you make the film first without the distribution funds, you may not find other investors for the additional money. The other problem is forecasting the revenues, as all of your comps for profitable films are going to be ones that have been distributed by professionals.

FILMMAKER STRATEGIES

David Versus Goliath

Many filmmakers let fate determine which way they will go in terms of distribution: studio or independent. This decision has no right or wrong answers, only options. The studio brings with it...
deep pockets, backup advice from experienced producers, strong marketing, and the ability to retain screens. Independent distributors bring an intimate knowledge of the low-budget market, the ability to disseminate films carefully over time, and a willingness to take a chance. Weigh your options carefully before making a decision.

There is wisdom to the thought, “Just get the film made.” Over the years, though, I have come to believe that raising money and making the film may actually be the easy part. Getting a good distribution deal for the film and financial deal for yourself and your investors is where the real work begins.

One filmmaker’s meat is another’s poison. Before going into any negotiations, be clear on your goals. The distribution decision is the major reason that you went through the exercise of listing your wants and desires in Chapter 2, “The Company.” You may seek advice and counsel from others, but in the end, you must make your own decisions. Table 6.1 helps you identify the pros and cons of studio and independent distribution.

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<thead>
<tr>
<th>ELEMENT</th>
<th>STUDIO</th>
<th>INDEPENDENT</th>
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<tbody>
<tr>
<td>Crew Size</td>
<td>Often</td>
<td>Seldom</td>
</tr>
<tr>
<td>Backup</td>
<td>A lot</td>
<td>A little</td>
</tr>
<tr>
<td>Upfront Money</td>
<td>Generous</td>
<td>Practical</td>
</tr>
<tr>
<td>Type of Films</td>
<td>Blockbuster</td>
<td>Small to moderate</td>
</tr>
<tr>
<td>Overrun Financing</td>
<td>Yes</td>
<td>Forbidden</td>
</tr>
<tr>
<td>Distributor Cutoff</td>
<td>Quick</td>
<td>Moderate</td>
</tr>
<tr>
<td>Bureaucracy</td>
<td>Heavy</td>
<td>Filmmakers</td>
</tr>
<tr>
<td>Net Profits</td>
<td>Seldom</td>
<td>Often</td>
</tr>
<tr>
<td>Producer’s Capital</td>
<td>None</td>
<td>Some</td>
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The studio’s backup system is a safety net for the new filmmaker. There are experienced producers on the lot, and executives are often dispatched to location to solve problems. This might be an advantage or a disadvantage. The independent filmmaker, on the other hand, usually completes the film before finding a distributor and thus has far more freedom during the filmmaking process. Distributors generally do not have extra people to hang around the set and tell you how to direct or produce.

The nature of independent distribution supports smaller-budget films. In the studios, it is hard to make a film with a smaller budget. They’ve got union salaries, overhead, and extra costs galore. Independent distributors have to run a tighter ship. Certainly, when looking for financing, their goal is a small budget. The size of the budgets for studio films usually leads to less imaginative and less chancy films being made. The independent system, meanwhile, embraces new
and eclectic films. Studios maintain large bureaucracies, which make reaching a decision very difficult and time consuming. The less cumbersome independent process enables quicker decisions because there are fewer chefs in the kitchen.

The studio’s financial resources generally favor generous salaries for producers, directors, and cast. With independent films, above-the-line money is often cut to lower the budget to make it doable. Most studios assume a certain level of budget overrun with pictures and have the resources to support it. Conversely, private equity investors expect the budget you give them to be the final number. Underestimating can be dangerous because investors may not make up the shortfall. (More on this subject in Chapter 9.)

Studio distribution, as we have seen, is generally “get ’em out fast and wide.” Historically, the studios have had neither the time nor the inclination to pamper a film through its release. It goes out everywhere with a lot of publicity. In addition, the studios have a short attention span. Films that fail to find their audiences quickly enough are pulled to make room for other titles that might have broader appeal. Independent distributors, on the other hand, often have the knowledge and patience to give special care to eclectic films. Many are geared to let a film find its audience slowly and methodically. Of course, there are some independent distributors whose forte is the mass-appeal genres. Most independents, though, have an expertise for releasing films with smaller budgets and lesser-known names.

Historically, the studios’ desire to share in the small-film market used to last for only a brief time. Studios have gone through cycles of acquiring smaller films, then forgetting about them. By buying indie companies, the studios manage to keep a hand in the niche market. Many of these specialty divisions have become labels, however. For independent companies, the niche markets are their business.

Earlier, we noted that your chances of a net profit on a studio film are low. There is a greater chance of having a real net profit at the end of the day with an independent film, although it is not guaranteed. The best policy in the movie business usually is to get what you can in the beginning—just in case.

**The Control Factor**

Filmmakers are well aware of the fact that studios retain the right to change anything they please—title, director’s cut, and so on—and sometimes they assume that independent distributors will not want control over these things. Wrong! All distributors want to control the title and the cut. The only way to have total control over your film is to finance and distribute it yourself.

With the studios, the filmmaker’s lack of control over projects is the stuff of which legends are made. Once your project goes into the system, it may be the last time you recognize it. If you are the writer, the finished picture may bear little resemblance to your original. Normally, there is far more control in independent filmmaking, but absolute control is a myth. An independent distributor will not allow you to have your way with everything. Novice filmmakers often are surprised at their lack of control. If only to protect themselves, distributors feel that they need these rights. Their biggest concern is to have a salable product, and, especially with neophyte producers and directors, they have no idea what they may be getting. A film that is too long,
that drags in various places, or that includes scenes that were not approved in the original script will be a problem. Most independent distributors would rather deal with a finished film. That way, they know what they are getting before making an agreement, and they can request certain changes before obtaining the film. The latter is why turning over a finished film is no guarantee for the filmmaker of retaining the elusive “final cut.”

**Be Aware**

When going into a distribution negotiation meeting, know what items are important to you. Talk to your attorney and get a feel for your deal-breakers—that is, the points on which you will not negotiate. No matter what someone says to you verbally, written agreements are what count. For example, if having a hand in the marketing is important to you, try to have it included in the contract. Be advised that many distributors will not concede this item. They may listen to what you have to say, but they want the final decision.

Learn from the experiences of others. One novice filmmaker sent his distributor 40 minutes of finished film and 45 minutes of dailies. Although the distributor had said that they wouldn’t change a frame, they used the dailies to change the film to meet their standards. In addition, they took a frame from a scene that was not in the finished film to use for the poster. This allowed the distributor to promote the film as belonging to a different genre than it actually did. Will the average distributor do this? Probably not, but it is your responsibility to check out the people you will be dealing with to see how they have handled other filmmakers’ projects.

In the final analysis, you must enter into the distribution agreement with care. Make sure your rights are spelled out. If you see the term standard agreement, ask for a definition. Finally—and I cannot say this often—get the advice of an attorney who specializes in independent film distribution before signing anything.

**Deliverables**

While there isn’t room in this book to go into all the aspects of distribution, I want to mention the delivery items. When you see the initial distribution contract and a small advance, remain calm. You have additional expenses. The filmmaker is responsible for delivering certain items to the distributor—another reason for having that detail-oriented attorney. Your lawyer will know whether or not those items are normally the expense of the filmmaker. They will include such things as type of print, M&E (music and effects) tracks, music cue sheets, continuity script, MPAA rating certificate, E&O (errors and omissions) insurance policy copyright certificate, still photographs, and copies of all contracts and agreements. This is not a complete list but gives you an example. Refer to Robert Seigel’s “Distribution Deal Points” download on the book’s companion website.

**WHAT DO YOU TELL INVESTORS?**

The salient facts are here, but you must decide how much explanation to include in your plan. Always keep your description short and to the point. The Distribution section of your business plan should run two or three pages at most.
On the other hand, do say something useful. Unless they are professional movie investors, your investors know even less than you do about distribution; as with other subjects, you have to dispel any wrong impressions they might have. Many investors think that their production financing gives them control of the distributor, too. In addition, some have been known to assume that the distributor will repay them all the production costs upfront before the film is released. These notions may prevent you from finding a distributor; in that case, no one will ever see your film.

Before you propose to take charge of all the marketing and promotional strategies yourself or decide to self-distribute your films, ask yourself a question: Who is going to make decisions? The idea may sound great—it will give you control—but there may well be pitfalls. Remember: If you do not know how to drive a car, you’re either not going to get far or crash.

Getting a distribution deal is never a given. I make a point of saying that the specifics of the distribution deal and the timing of all money disbursements depend on the agreement that is finally negotiated. In addition, the timing of the revenue and the percentage amount of the distributor’s fees differ depending on the revenue source. You must always remind investors that you are making estimates based on general industry formulas.

If you leave investors with the impression that distribution automatically comes with making the film, you may end up with a bigger problem than you ever imagined. I have seen many business plans that have a single statement—“We will get a distributor”—as the entire Distribution section. As you should realize by now, this approach is not the best. Never leave your investors in the dark, but don’t attempt to talk about something you haven’t looked into yourself. Do your research before writing your plan and explain the essentials.

By the way, attorneys will warn you that a phrase like “We expect to negotiate with a distributor” can create some difficulties for you down the road. Instead of “expect to” (or, worst of all, “will”), say that you “aim” or “intend” to get distribution. Then you will be in good shape to give investors confidence while shielding yourself from later legal problems.
Unlike the market for traditional packaged goods where the goal is often to sustain and grow a household brand over time, the film and television business operates by media blitz to try to create new brands overnight. A movie can become a brand unto itself, and what business other than the film business strives to create a new brand over a weekend? The time, money, and effort expended to create public awareness of a film in its opening weekend is staggering, and has become the front edge of criticism by artists who bemoan the subjugation of art to the beast of box office grosses.

Because a major studio film frequently needs to recoup better than $100 million between production and marketing costs—with the average cost of a studio film approximately $70 million and the average marketing costs approximately $35 million1—openings are critically important. (Note: These amounts were published by the MPA a few years ago, and while not recently updated, they still serve as one of the few “hard data points” published in the industry; as discussed in Chapters 1 and 9, SNL Kagan estimates that the costs were similar to these prior benchmarks, with the average studio film having a negative cost of $72.3 million in 2010 and $66.6 million in 2011, and domestic print and marketing costs of approximately $40 million; see Table 9.5 in Chapter 9.) One of the most interesting developments of the maturation of the distribution market is that the more important the revenue streams outside of box office have become, the more important the value placed on the box office. In other businesses, the thesis would be that as traditional outlets were overtaken by new channels of distribution, one might see the original outlets dwindle in importance and, in cases, be phased out entirely. Not so in the film world.

With the growth of other markets, and the potential for combined revenues from TV, video, merchandising, and new media sources to surpass revenues from movie theaters, the bellwether of box office has grown in importance. The reason is twofold, and relatively simple. First, the success of the box office continues to be an accurate barometer for the success in subsequent release markets. Second, the media frenzy surrounding theatrical release drives awareness that is amortized over the life cycle of the product and drives consumption months and even years later.

In terms of the influence of the Web and digital technologies on the theatrical market, while there are clearly major changes in exhibition and production systems (e.g., HD cameras and digital cinema), perhaps the most significant impact the digital revolution is having on theatrical exhibition is the way movies are marketed. Budgets for online marketing are growing, virtually every movie has its own website and Facebook page, and marketing executives are trying to generate “buzz” by pushing out trailers and other information to YouTube and an array of social media sites. Additionally, review sites such as Rotten Tomatoes aggregate critics’ opinions and reduce nationwide diverse reactions into a single, homogenized scorecard: What percentage of reviews are positive or negative? The ability to broadly market via leading websites and social media sites while narrowly targeting demographics via niche sites and seeding blogs and microblogging outlets is revolutionizing movie marketing—ask anyone under 25 today whether they check out a film first on the Web or on social media (where they may focus on “likes” or more specific recommendations from friends) as opposed to looking at a newspaper, and they are likely to sneer that you even posed the question. Although I could delve into these influences here,
I simply want to highlight the impact, and instead address most of these factors in Chapter 9.

**Theatrical Release as a Loss-Leader**

**Basic Definitions and the Uneasy Tension between Distribution and Production**

Theatrical release simply means the exhibition of a film in movie theaters where revenue is derived from members of the public buying tickets.

The “gate,” or the revenues derived from ticket sales, is what is referred to as “box office.” The amount of money that the distributor keeps from the box office receipts is called “film rentals.”

Box office can sometimes lead to misleading numbers when preparing macro-statistics on industry growth and trends because box office captures only a cumulative number. There are a myriad of ticket prices and discounts reflecting regional and local differences and accommodations for seniors and kids. Basically, the box office is an excellent measuring stick and the ultimate source of revenue, but it does not provide marketing data on who the consumers were or even how many of them attended (a concept that seems anachronistic in the age of social media, micro-blogging, and Web metrics). Box office over a period may have gone up, but that could mean that attendance was down while average ticket prices were up. Because of this ambiguity, some countries choose to measure trends by “admittance”; namely, how many people attended (i.e., tickets bought). This is customary in France, where the value of certain down-stream rights is pegged to attendance rather than revenue figures.

Theatrical release is the first trigger among film windows, and because a film can be rereleased, the most common trigger is the “initial theatrical release.” How long a film stays in movie theaters is a factor of the film’s performance, and studios negotiate picture-specific deals with each theater into which a film is booked. Depending upon clout and stature, the distributor (e.g., the studio’s theatrical distribution arm) may be able to negotiate for guarantee or hold weeks, securing a set minimum period of time the film will be in release; guaranteed minimum weeks are obviously risky propositions for both sides, because if a film flops, the theater will want to drop it quickly and show something new, and the distributor will be reluctant to spend marketing dollars for fear of throwing good money after bad.

In extreme cases, the driving force may be neither of the negotiating parties, but the film’s director or producer who secured a release commitment from the distributing studio. Lack of trust inevitably fuels the relationship, because producers and directors who have put years of work into a project want as many guarantees as possible that their film will have the best possible chance to succeed. Cries of “they didn’t know how to handle the film” and other excuses are rife in Hollywood, in part because a project shifts 180 degrees in responsibility from delivery to release. During production, the director and producer are kings, and in almost total control over hundreds of people and millions of dollars. Once the film is delivered, the distributor is in near total control. An often-uneasy partnership is borne, and in failure it is easy to point a finger at the other party.

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The Theatrical Release Challenge—Locomotive for Awareness

While Profits Remain Downstream

The other wrinkle is that, weekly box office numbers aside, there may be a marketing justification to keep a film in theaters. Because film rentals will rarely recoup a film’s investment, the theatrical release can be seen as a loss-leader to create awareness of the property for downstream video, TV, and other rights. In fact, looking at the ultimates for the film (i.e., lifetime projections of all revenue sources), most distributors are reconciled to losing money through this stage of exploitation. Accordingly, the distributor is not running a straightforward break-even analysis in trying to decide whether to keep a film in theaters versus pulling it (balancing opportunity cost versus continuing marketing costs); this calculation is coupled with a more complex marketing analysis, taking into account consumer impressions, market awareness, and impact on providing the bang to fuel subsequent exploitation. Namely, there cannot be much of a long tail without a launch.

Ultimately, those in charge of distribution are almost always in an awkward position—they have virtually no input in the creative product, and yet are responsible for opening the film (in tandem with the marketing department) and literally charting its destiny. A distributor must make a good picture great, and somehow find a way on “a dog” to pull enough box office out quickly to recoup some investment before the public sours; moreover, it needs to achieve this within a context of not really knowing what the reaction will be (given the “nobody knows” quandary of experience goods).

Hedging Bets and Profiling Release Patterns

The film Titanic provides another good example in this context, as it posed a dilemma for the distributor and studio having to make high-stakes calls without the benefit of knowing how the audience would react. The reviews before opening were dicey, and the picture was well known in the Hollywood community to be suffering from budget problems. In fact, rumor had it that Fox was so nervous about the budget that it was desperate to sell off rights and reduce its potential downside, which it ultimately did with Paramount (see Chapter 3).
Selling off the upside and mitigating its potential downside turned out to be Paramount’s gain, as the reviews were wrong and the picture became the all-time box office champ (until director James Cameron one-upped himself with *Avatar*). More than a box office champ, the film also defied the odds and played throughout the summer, staying on the charts for almost a whole year, ending up at $1.8 billion in worldwide box office ($600 million United States, $1.2 billion international). When a film continues playing like this, beyond a typical pattern where most films would see a decline, it is referred to in industry lingo as “it’s got legs.”

In trying to select the right strategy, a distributor needs to profile its film and match the pattern of release to the nature of the film. This is really the ambit of marketing (which, again, is discussed in detail in Chapter 9). Briefly, however, for a picture where word of mouth is important, the film may only be opened in select venues for buzz to build. Assuming success, the picture then expands locations as its reputation grows, as was the case for Sony’s release of Katherine Bigelow’s *Zero Dark Thirty*, launching in New York and Los Angeles before Christmas 2012 and then expanding in mid January. (Note: The initial limited release still satisfied eligibility for 2012 Academy Award contention, which can sometimes be a strategy to debut films in the holiday period and then expand in the New Year, given announcements of Oscar nominations occur early in January.) A staged release was also the strategy for Clint Eastwood’s Best Picture Oscar-winning film *Million Dollar Baby* (2005). Warner Bros. believed they had a strong picture, even one that might be Oscar caliber, but the women’s boxing theme and euthanasia twist needed nurturing to attract broad audiences. This strategy of building buzz before widening the release is also sometimes used when a film may be perceived as an art or period piece (e.g., some of the earlier Miramax pictures, such as Merchant Ivory Productions), as well as when a picture is perceived to appeal to more of an intellectual crowd. Woody Allen films would fall into this latter category, and tend to open in big cities, including his hometown and frequent film backdrop Manhattan, before broadening after hopefully generating buzz and critical acclaim.

The more typical strategy is to open a picture wide, taking as much box office upfront as possible when consumers are enticed into attending through the large upfront marketing campaign creating awareness.

**History and Market Evolution**

**Consent Decrees, Block Booking, and Blind Bidding**

The current exhibition environment has come full circle from 50 or more years ago when most of the major studios owned theaters and vertically integrated the production–distribution–exhibition chain by preferentially selling to their own theaters. This included Paramount, MGM, 20th Century Fox, Warner Bros., and RKO. As a result of complaints by independents, the Department of Justice sued these five studios, alleging anticompetitive behavior, and won a landmark case. In 1948, the Supreme Court in *U.S. v. Paramount et al.* forced these defendant studios to sign a consent decree and divest themselves of theater ownership, while retaining distribution and production. In addition to forcing divestiture, the consent decree reached beyond the theater-owner defendants and brought the remaining major studios (Columbia, Universal, United Artists) within its ambit regarding certain booking practices. At that time, studios routinely engaged in what is referred to as “block booking,” where the license of one picture was tied to the license of other films;
in the extreme case, a producer/studio would pre-sell its entire slate of films for a year to a certain theater or theater chain. One tenet of antitrust law (at least at the time of the case) is that you cannot “tie” products, where a party uses the economic leverage of one product to force a buyer to also buy a second unrelated product that it does not want.

The justice department naturally saw block booking as anticompetitive, and outlawed the practice as part of the consent decree. Going forward, distributors were forced to sell films picture by picture, and theater by theater, with all theaters having a right to bid and compete to exhibit a film.

Another practice that was prohibited by the consent decree was “blind bidding.” Blind bidding is just as it sounds: a distributor would make a theater owner bid on a film and agree to terms without the benefit of seeing the movie first. This was a particularly onerous practice given the inherent challenges of handicapping creative goods. The decree proscribed this practice, and the new law mandated that all films needed to be screened before being sold or put out to bid.

**Multiplexes and Bankruptcies of Major Chains**

A number of factors led to a spate of bankruptcies of several major chains following boom years in the 1990s. Probably the biggest contributor was the simple fact that screens grew at a pace that far outstripped the rise in movie attendance. According to the National Association of Theater Owners (NATO), in the period from 1988 through 2000, the number of screens in the United States rose to approximately 37,000 from 23,000, representing a 61 percent increase, while theater admissions only rose by about 36 percent. The trend then leveled out, with screens flattening out and coming down only slightly from a 1999 peak to 36,000 + as of the mid 2000s.3

This growth was spurred by the phenomenon of multiplexes, which could leverage common infrastructure (concessions, ticket sales, ushers) across multiple screens, and vary theater size, allowing them to match capacity to demand. This was a compelling economic proposition, but the eight- to 10-screen expansion seemed tempered compared to the next iteration of megaplexes. AMC, which originated the multiplex from a modest two-theater experiment, started the megaplex trend in 1994, building a 24-theater complex in Dallas. The megaplexes included now-common features such as coffee bars, stadium seating, and video arcades, and soon everyone followed.4 The total number of theaters ultimately contracted, as exhibitors abandoned leases and consolidated screens into larger multi-screen venues; according to NATO, the number of locations actually contracted from 7,151 to 5,629 in the decade following the advent of multiplexes (e.g., roughly from 1995).5

The contraction, though, was not enough to counter the larger issue of a massive increase in screens, high operating costs from new megaplexes, and smaller percentage increases in ticket sales and price of tickets.

The net result was too many empty seats and too much overhead, a formula that led to the bankruptcy over time of most of the major chains, such as Loews Cineplex Entertainment, Carmike Cinemas, United Artists, General Cinema, and Regal Cinemas.6 In a sense, the economics of stadium theater venues are... like stadiums. Most of the time capacity is empty—some estimate
that theaters operate in the range of 10–15 percent capacity (meaning most seats are empty most of the time)—and the key is maximizing consumption during peak full-capacity events (i.e., hits). This pattern means greater pressure than ever on turning over screens, as operators want something fresh to drive the audience, unable to afford to wait for a middling performer.

By 2013, the trend of declining screens had been halted, led largely by the growth of digital cinema (see below). For a roughly five-year period, the total screens in the U.S. has hovered around 39,000 and according to the MPAA 81 percent of all the U.S. screens in 2012 were in venues with eight or more screens—the new order is clearly the mega-multiplex, and probably more surprisingly is digital, with digital screens now representing 83 percent of all U.S. screens.

The Digital Divide and Digital Cinema

The Growth of Digital Cinema

George Lucas and Lucasfilm helped pioneer D-cinema by shooting Star Wars: Episode II – Attack of the Clones digitally and releasing the film on 60-plus digital screens in North America in 2002. Much like Lucas had pushed sound presentation with his THX technology and business, D-cinema offered the potential of consistent picture quality. Given the lack of uniform standards, infrastructure, and others to come on board quickly, by the time Star Wars: Episode III – Revenge of the Sith came out three years later (May 2005), the amount of digital screens available had not appreciably increased.

With the studios banding together and setting standards in 2005 under the Digital Cinema Initiative (DCI) consortium, and the theater owners through NATO then building on the agreement and agreeing to specifications, the landscape was set for quick adoption and there was renewed hype. Despite this momentum, though, as of Christmas 2008 there were reportedly only approximately 1,000 screens out of the 35,000-plus screen universe in the United States equipped for digital projection.

Trying to make sense of the glacial adoption, I asked Tom Quinn, senior director of worldwide distribution for Lucasfilm—who managed multiple digital releases with different studio partners, and has had a catbird’s seat to watch the evolution of D-cinema—why he thought adoption had not yet, at that time, materialized. He advised:

The promise of D-cinema is undeniable from a long-term cost savings point of view for both studios and production companies. The challenges have been: Who will pay for it and whose technology will be used? As a comparison to what we witnessed in the home video industry, first with VHS versus Betamax, and more recently Blu-ray versus HD-DVD, the issues are much more complex. Exhibitors don’t really believe D-cinema will drive more ticket sales, and unless there is an impact on a game-changing scale as moving, for example, from cassette to DVD or black-and-white to color film motivating the consumer, they don’t feel they should be the ones bearing the costs of converting cinemas. Added to this is a system that has been virtually the same for 100 years and continues to work well—the “don’t fix what isn’t broken” mentality is hard for the studios to overcome. This is especially true given the high upfront costs of conversion and the fact shifting technology could be outdated soon after multi-component systems, including servers, projectors, etc., are installed.
Against this backdrop, and just when it appeared that it could take years for momentum to build (even though most in the industry were continuing to herald the benefits), the tide turned—and what nobody could have anticipated was, once the trend started to take hold, how fast the overall landscape would shift: by mid 2012, more than 27,000 screens in the U.S. had been converted to digital, and the *Hollywood Reporter* ran the shocking front-page headline, entitled “Fox Eyes End to 35 mm Film Distribution in U.S.” The article began: “Fox has become the first major Hollywood studio to officially notify theater owners that it will distribute all of its films domestically in a digital format within the next year or two, bringing an end to 35 mm prints.”8 Supporting this shift was the fact that by the end of 2012, there was a near-complete turning upside down of the digital screen penetration chart: from only 14.2 percent of all U.S. screens in 2008 to 83 percent of U.S. screens by 2013. Further, the MPAA, in its 2012 Theatrical Market report, noted that as of Q1 2013, more than two-thirds of the total 130,000 global cinema screens had been converted to digital (a combination of either 3D or digital non-3D).9 (Note: In U.S. screens by type, MPAA notes that in 2008, 5,515 were digital (both 3D and non-3D) out of 38,834 total screens, while in 2012, there were only 6,789 analog screens out of a U.S. screen universe of 39,918.).

When I asked Julian Levin, who headed the DCI and serves as executive vice president, digital exhibition & non-theatrical sales and distribution at 20th Century Fox, whether this was over-exaggerated or whether we truly would see prints go the way of 8-track tapes, he noted:

Elimination of 35 mm prints is already underway, and Fox has already stopped supplying 35 mm prints to several markets in Asia.

Furthermore, the U.S. will probably stop using 35 mm prints in 2013, and many other international territories are sure to follow in the next few years. Once digital projection gained traction, with the added benefit of 3D, the point of no return came very quickly, faster than most would have perhaps imagined just a few years ago. The phase out will obviously be market-dependent, but when you reach more than 80 percent conversion of screens within certain markets, the move to all-digital starts to become self-fulfilling and, certainly, prints will become a thing of the past in many territories in the next 2–5 years.

How did this happen? First, it is instructive to look at the absolute numbers. Figure 4.1 is a parallel chart of historical penetration and forecast growth as predicted by 20th Century Fox while the tide was turning. Figure 4.2 is a parallel chart of historical penetration and forecast growth as predicted by 20th Century Fox for the international market.

Adoption of this scale required incentives to invest in the infrastructure, and the DCI was able to forge extremely productive partnerships between the content providers (i.e., studios) and exhibitors. The partnerships implemented what became known as “virtual print fees” to fund and amortize the cost of converting traditional cinemas to digital screens. The cost of conversion was reportedly very high—in the range of $80,000–100,000 per screen—and required some form of partnership/incentive scheme. A type of catalyst was needed, not simply because of the absolute costs and other obstacles that had hindered adoption, but also because conversions were being urged during a period of market turbulence (namely, how would cinemas
fare overall in the face of digital disturbance and new forms of access to content) and not long after the time that the majority of major exhibition chains had emerged from bankruptcy. Addressing the macro industry costs, Time magazine, in its annual (2006) “What’s Next” issue, interviewed George Lucas for an article titled “Can This Man Save the Movies? (Again?)”¹⁰ and succinctly attributed the delay to theater owners: “When they hear the word digital, they reach for digital. Already feeling the hit for the 13 percent slump in moviegoing over the past three years, they aren’t eager to spend the more than $3 billion or so that it would cost to convert approximately 36,000 film projectors to digital.”

The virtual print program was designed to solve the inertia by looking at the differential between the cost of a physical print (such as $1,000) and the lower cost of a digital print and contribute the savings (or at least a part of the theoretical savings) into a pool. The specifics of how

![Figure 4.1](https://example.com/figure41.jpg)

**Figure 4.1** Historical Penetration and Forecast Growth as Predicted by 20th Century Fox for the U.S. Market

Courtesy of 20th Century Fox
that savings was funded was then the subject of negotiation, but the key element is that rather than simply pocketing the savings, the interested parties agreed to impute costs as if physical prints were still being used and utilize that related pool of money to incentivize and fund conversions.

Again, I turned to Julian Levin, who advised the following regarding the implementation of these virtual print fee programs:

In connection with financing the cost of digital projection systems around the world, Fox has made enormous efforts to create a business model that was extremely fair to exhibitors and with distributors contributing significantly to the cost. The business models varied and have evolved. Fox has created the following options for exhibitors:

- Fox has closed a good number of deals with third-party integrators in the U.S. as well as internationally (some regionally around the world). These integrators would then arrange a structured financing scheme and contributions to the system cost and financing charges would be paid by distributors upon booking each movie on each screen (a “virtual print fee,” or VPF). These deals tended to be complex and required full transparency to recoupment (over 8–10 years), at which point the entire system cost be paid off.
- Fox also made available “direct-to-exhibitor” deals, which were simplified, allowing an exhibitor to deal direct with Fox should the exhibitor elect not to go with a large third-party integrator. These deals tend to be structured where the exhibitor arranges the financing and Fox pays VPFs for a certain period of time, at which point the VPFs stop. These arrangements are subject to individual exhibitor issues, import duties, customs, taxes, and a variety of moving parts so the cost varies from one exhibitor to another and from one country to another.
- In certain cases such as France, Italy, Germany, and Norway, the government got involved and provided a structure that exhibitors and distributors could participate in. Fox made accommodations for each of these nuances and guidelines.
- Once the systems are paid off toward 2020, distributors should benefit from some 35 mm print cost savings, and exhibitors will have the benefit of automation, alternative content, live broadcast, and a host of other electronic efficiencies.

In summary, exhibitors have had ample opportunity to select what plan they prefer, and for those exhibitors who are still not prepared to move (quickly), they could well become a casualty of the global conversion to digital projectors.

The combination of virtual print fee incentives and related schemes (and one would suspect benchmarks requiring certain levels of conversion), spurred the market on from incremental growth to upwards of 1,000 screens/month, and the resulting overall shift in the market landscape as depicted in the charts above. At the same time, the introduction of 3D films, which require D-cinema, provided a further accelerator—a process that was helped significantly by Avatar, which put 3D on the map (see a further discussion regarding 3D below).
Benefits of D-Cinema
D-cinema refers to the process of exhibiting a movie in a theater by digital projection rather than via a film print. The incentives are multifold.

First, most believe that once economies of scale are reached (a driving factor behind the virtual print fee programs) that D-cinema will dramatically reduce the cost of distribution, with the cost of a D-cinema delivery a fraction of the cost of striking and shipping prints. Second, a digital copy does not degrade like a film print, in theory offering a perfect copy with pristine picture and sound each time; in layman’s terms, “no scratches.” Third, because of the costs, prints are often “bicycled” such that the first-run prints from larger cities and multiplexes will move to smaller towns after a few weeks. These locations are known as “second run” and their customers are forced to wait for new releases; eliminating print costs would expand distribution and bring films to these locations sooner. Finally, installation of D-cinema allows a digital infrastructure that can convert cinemas into multipurpose venues capable of special event programming, including 3D-film and live-event simulcasting (e.g., sports events, concerts, live theater/opera simulcasts).

Systems, Standards, and the Challenge of Keeping Pace with Technology Advances
D-cinema requires four elements that did not exist historically: a digital projector, a server holding the movie on a file, a digital master, and a delivery mechanism to transfer a copy of the film onto the server (Figure 4.3). Over time, the costs will come down, and the economies of scale in converting the market has already materially reduced the average cost of converting screens; nevertheless, as discussed above regarding virtual print fees, significant upfront investment is required from
all sides. The exhibitors need to install projectors and servers (which collectively make up a digital projection system), while the distributors need to create D-cinema masters and standardize delivery mechanisms to clone the master and upload a copy to the in-cinema server.

Standards are, not surprisingly, challenging to cement. This is, in part, due to politics—different groups, such as NATO (exhibitors trade organization) and the DCI, originally promulgated their own standards—and differing opinions on key experience elements such as resolution quality. The de facto resolution standard was JPEG 2000 (“2K”), although many have subsequently pushed for 4K projectors. An interesting question arises as to whether at some point improved resolution is actually a negative: some believe that the 4K resolution is too high, creating an almost artificial, hyperreal, and defect-visible level.

![Figure 4.3 The Elements of D-Cinema](image)

Even if the 2K versus 4K debate is resolved (and architecture was put in place accommodating both), issues of frame rate and what is needed for 3D create new wrinkles (e.g., if 60 frames per second is desired and installed base of D-cinema is 48 frames per second, then down-conversion is required).

Technology ever marches on, and today there is discussion of laser projection technology, with the benefit of projecting brighter images. It is unlikely we will see the scale of investment again in the near future to upgrade cinemas, but all parties will continue to struggle with the line of improving the experience versus the costs associated.

Theaters on the Ropes—3D and Needing a New Hook
Against the backdrop of increasing piracy, potentially declining box office (as vicissitudes change the outlook every year or two, though 2012, helped by four different films cresting $1 billion at the box office—Skyfall, The Avengers, The Dark Knight Rises, and The Hobbit: An Unexpected Journey—saw an increase for the first time in two years, both in terms of absolute attendance and domestic box office revenue),12 and increased competition from other media sources (including streaming and down-loading to portable downloadable devices), there is a frequent chorus of calls to save the movies. At times, talking about the business almost as if it were a dinosaur, articles and experts often cite reasons for moviegoing (aside from quality arguments) ranging from “movies are produced for the big screen experience” to “movies are a social experience.” The point is executives were becoming defensive and people, particularly theater owners, were concerned. What will bring people into the theaters in record numbers when consumers have a 50-inch LCD TV screen with high-definition content and theatrical-like surround sound? Even studio heads acknowledge the high costs to a family to go to the movies versus renting (babysitter + four tickets + parking + food = $100 versus DVD or VOD rental at less than $5). Although the deep 2008/2009 recession seemed to reverse the trend, as going to the movies proved an escape from economic gloom (as had happened historically), all of the foregoing challenges remain, and no doubt the theaters will need to continue to provide an enhanced and differentiating
D-cinema, and in particular 3D, was heralded as offering just this value-added experience. Beyond all the historical good reasons to go to the movies, and the quality upgrade of digital cinema, 3D was marketed as something new—one could claim it was back-to-the-future, 3D glasses and all. The argument was the glasses were better this time. Moreover, 3D was perceived as enough of a differentiator to raise ticket prices, to as high as $25, which would both offset the higher production costs of 3D plus help theaters defray the costs of digital conversion. In practice, the premium charged for 3D tickets is about $2–4 more than for traditional 2D, with this differential seemingly now somewhat universally applied. Regal, for example, added $3.50–4.00 for its venues that exhibited Monsters vs Aliens (2009),13 and AMC in Los Angeles charged $4 more on both adult and children's tickets in 2012.14

A group of prominent directors, including Peter Jackson, George Lucas, Robert Zemeckis, James Cameron, and Robert Rodriguez all spoke out in favor of 3D and the theatrical experience. Some even started developing 3D projects or converting prior films into 3D, waiting to avail themselves of the new technological possibilities. Here was something that could not be matched in the living room. By 2007, James Cameron announced all his future films would be 3D (his first non-documentary movie directed since Titanic being Avatar), and Robert Zemeckis seemed to be following suit. Disney, which announced that all its future animated and Pixar films would be released in both 2D and 3D, even tried to co-opt the medium in its marketing by branding new releases as being in “Disney Digital 3D.” For the first time, significant numbers of 3D films were being produced (e.g., Warner’s Journey to the Center of the Earth, Fox’s Avatar, Lionsgate’s My Bloody Valentine, DreamWorks Animation’s Monsters vs Aliens), but the danger remained that production was well ahead of digital screen conversion, leaving distributors in a quandary and forcing the dual exhibition of the pictures intended exclusively for 3D in standard version simply to obtain enough screens for a wide release.15 DreamWorks Animation, betting big on 3D and having converted its pipeline to 3D productions, was able to expand 3D screen counts to 2,000 for its March 2009 release of Monsters vs Aliens, making it the broadest new 3D release while still falling well short of stated goals for a majority of screens exhibiting the film in 3D.16

As indicated by the statistics above, all of this changed within a couple of years. The digital transition had taken shape, and then the industry was jolted awake, first by the juggernaut of Avatar (becoming the all-time box office king, and garnering upwards of 70 percent of its box office from 3D releases), followed by the huge success of Disney’s rerelease of The Lion King in 3D ($172 million worldwide, and $94 million domestically).17 The conversion costs for 2012 high-profile launches of classics, including Star Wars: Episode I – The Phantom Menace and Titanic, were easily justified, and luminary filmmakers were un-abashed with praise and predictions. In an advertisement run by the International 3D Society (www.international3dsociety.com), George Lucas lent his support to the organization’s “Make it 3D” campaign: “Digital 3D technology is revolutionizing filmmaking the way sound did in the 1920s. It will someday become the big-screen standard for presentation, with 3D replacing 2D the way color replaced black-and-white. It’s just a better way of looking at movies.”

In some sense, the 3D success and the conversion of screens to D-cinemas were symbiotic. On the one hand, a couple of high-profile pictures, the most prominent being Avatar, demanded the conversion, because 3D requires compliance with D-cinema specifications. On the other
hand, among the benefits of baseline D-cinema conversion was then the relatively simple upgrade to offer 3D—and therefore exhibit moneymakers such as Avatar. To offer 3D in addition to D-cinema requires a lens that pulls across the projector and creates the polarization and depth; this, combined with the polarized glasses, which divides the 48 frames per second into two, creates the 3D effect. Accordingly, a theater needs both the equipment and the glasses—an incremental cost that is currently funded and passed on via the higher ticket prices charged for 3D admissions. Overall, the growth in 3D screens has been astounding, and largely parallels the phenomenal growth of digital screens generally: according to the MPAA, there were only 2,536 3D screens globally in 2008, with the number climbing to 45,545 by the end of 2012.\textsuperscript{18}

It is too early to predict the outcome of the 3D trend—certainly, effects laden event films such as The Hobbit: An Unexpected Journey benefit from the premium pricing and lend themselves particularly well to the format, but the race to make everything 3D seems to have cooled. In 2012, the number of 3D releases dropped (from 34 to 28), but clearly there is a trend to produce in significant quantity, and for certain types of films it will be an expectation of fans.\textsuperscript{19}

**Distributor–Exhibitor Splits/Deals**

The following discussion analyzes how money that comes into a theater from customers is split between the exhibitor (theater) and distributor (studio). Figure 4.4 illustrates the theatrical distribution chain, but if one looks past the moving parts, the key element in terms of theatrical revenues and returns is the simple link between the cinema and booking studio.

### Components of Film Rental

The amount of money that the studio/distributor keeps from the box office is all-important, because this is ultimately the “at-the-source revenue.” The industry rule of thumb is that the studio keeps roughly 50 percent of the cumulative box office. But how do you get there? Almost all exhibition deals are based around the following concepts:
• House nut: The theater’s overhead costs, including rent, maintenance, utilities, labor costs, equipment, insurance, etc.
• Film rental: The distributor’s share of the gross box office receipts
• Runs: Lingo for how many theaters a film is booked in (but can also denote the first run of a picture)
• Guaranteed weeks: How many weeks a theater commits to a film
• Zones: The level of exclusivity in the market is defined by competitive versus noncompetitive zones.

90/10 Minimum Guarantee Deals

The 90/10 deal used to be the standard, but is now used in a minority of instances. Nevertheless, they are still found, and are instructive in terms of how the concept of house nuts are applied and impact film rental calculations. When a distributor has screened a film for the major exhibitors and is ready to offer them the picture, the booking negotiation will usually address the following elements:

• Playing time is the number of committed weeks (sometimes in two-week increments)
• Percentage split of box office, after deduction of specified house nut
• Minimum percentage/floor for distributor from box office, by week

Accordingly, a deal could look like the following:

• Playing time: eight weeks (at high end)
• 90/10 over $5,000 house expenses, with the following minimums:

– Week 1: 60 percent
– Week 2: 55 percent
– Week 3: 50 percent
– Weeks 4–5: 45 percent
– Weeks 6–8: 35 percent

Let us assume that the film brings in $40,000 in box office in week one, compared to another film with the same deal bringing in $10,000. How are the splits calculated?

Film One:

$40,000
– $5,000
––––––––––
$35,000
––––––––––
$31,500 @ 90 percent
$3,500 @ 10 percent

Minimum floor calculation: 60 percent of $40,000 = $24,000
Since $31,500 > $24,000, the distributor keeps $31,500
Exhibitor keeps $8,500 ($3,500 + $5,000)
Film Two:

$10,000
−$5,000

$5,000

$4,500 @ 90 percent
$500 @ 10 percent

Minimum floor calculation: 60 percent of $10,000 = $6,000
Since $6,000 > $4,500, the distributor keeps $6,000
Exhibitor keeps $4,000 ($10,000 − $6,000), and loses money

Years ago, revenue guarantees would sometimes be applied against the splits, such that, in addition to minimum floors, there would be minimum guarantees. Not only is this practice gone, but true holdovers are a bit of an anachronism; a holdover clause used to trigger an automatic extension for another week (often on a rolling basis) in the event the box office for the picture exceeded a stipulated threshold in the prior week. Today, however, holdovers are dictated by pure economics, and as discussed later, a non-performing title will likely be “kicked out” regardless of contractual provisions to the contrary.

**Aggregates: Alternative to 90/10 Deals with House Nut**

An aggregate deal is one in which the distributor and exhibitor negotiate a fixed split of the gross box office receipts and do not apply/deduct a house nut. The economic incentives behind this deal largely include doing away with calculating the house nut (by ensuring the exhibitor will not earn less than its nut) and simplifying the accounting; the logic is that, after all the line-item calculations, the distributor knows it is likely to keep 50 percent, why not just agree to 50 percent? There is, of course, a risk that money could be left on the table, but the bet is that within a narrow band, revenues will even out over time. If the spread were 10 percent, this would not work, but if the parties, through experience, know the spread may only vary by a couple of percent on a certain type of picture, then the risk may be considered nominal. Perhaps the best way to illustrate this is with an example.

If an exhibitor plays a major film that is likely to sell out regularly over the first week or two, it does not mind paying out on the 90/10 split—its nut is covered, and the seats are filled with patrons buying candy and popcorn. At any point that the minimum floor is triggered, however, the distributor is eating into the exhibitor’s house nut. Accordingly, the exhibitor has to ask itself: Would I prefer to book the film where I may not keep my full nut, or should I book a different film where I keep my full nut? This may sound like a simultaneous equation, in that there should be no difference if both movies initially perform well. However, there is a difference with major pictures that may take multiple screens, and where the nut applied may vary per screen. By applying a fixed split, the exhibitor is theoretically assured that its revenues will not fall below its nut.

Splits may then be negotiated in a number of ways. If the exhibitor has the leverage, then the rental percentage will be lower. Additionally, one can imagine cases making the calculation extremely complicated, such as in creating a scale of aggregates in which the flat splits change over weeks, stepping down similarly to the previous minimum-floor 90/10 deal. In this
hypothesized instance, negotiations could trade off upfront versus downstream percentages. If the distributor achieves a slightly better deal up front, then it will likely give something up on the back-end, somewhat evening out the equation. At this point, though, one has to question whether there is any efficiency or incentive to move to an aggregate.

Having come full circle, if all that happens is the net dollars are somewhat evened out, why bother? Again, the simple answer that no one will admit to, but probably strikes close to the heart, is ease of administration: a flat deal is easier to calculate and administer. Another reason could be that to book multiple screens in a multiplex (and stick the exhibitor, with the potential opportunity cost of booking incremental screens that may yield better economics with another film), the distributor may want to offer an incentive. That incentive is the aggregate, which, on the surface, is calculated in a way that would otherwise somewhat match the expected return of a firm-term deal, yet by its formula ensures, in theory, that the exhibitor does not risk a split below its house nut. The distributor forfeits incremental revenue equal to the delta between the aggregate split and any higher amount it may have earned on a different deal, but theoretically makes up the difference by expanding its release with the additional screens. (Note: The notion of additional screens expanding the pie is a theoretical statement, for it assumes that the box office is actually generated, which may not happen; and it fails to take into account the incremental print costs of playing that additional screen.)

**Firm Terms versus Settlement**

Despite contractual sliding scales (90/10 deals with minimums), the reality of the theatrical box office is that distributors and exhibitors have a symbiotic relationship and will often move off the letter of the contract. The contract with a sliding scale is sometimes referred to as “firm terms,” because there is a clear formula used for calculating film rentals from the box office gross. In contrast, “settlement” is just like it sounds: at the end of a picture's run, the parties will sit down to evaluate performance and agree on a percentage. If this smells like a scene from a movie with people haggling in a back office, that is not too far from what can happen. The theatrical distribution business harkens back to the days of arm wrestling and handshakes, and in many cases it devolves to relationships and hard-nose negotiations.

Because distributors have a slate of films, the negotiations need to stay within the bounds of precedents and customary practices. Again, the parties need each other, and it is to neither side's long-term advantage to fleece the other. Whether horse trading numbers of screens, or holding over a print longer than the pure economics of that particular film may justify based on that isolated film's performance, there are lots of moving parts and chits to accumulate. When a studio promises a producer it can open a film to a certain breadth, or keep the film playing long enough to reach a certain total, it may need to do some juggling to achieve that goal. By splitting up the pie via settlement, there is obviously more flexibility; unfortunately, there is also more mystery. Ultimately, settlement can only influence results at the margins, because if the results strayed too far from firm terms, then one title would benefit at the expense of another and the system would break.

**Four-Wall Structure**

To “four wall” a movie means to literally rent the venue. In this scenario, the studio distributor will
agree to a weekly rental amount and then keep 100 percent of the box office. This is the one scenario where film rentals are equal to box office. (Note: Given the extraordinary costs, in theory, any accounting should either allow the deduction of some form of house nut from the gross revenues or else allow a true flow through of the costs.)

A four-wall deal is unusual, but still occurs. It can come up in a case where the distributor wants a unique venue and this is the only way to ensure its film will be played and will not be dropped early. Another situation when a four-wall deal may make sense is when parties cannot agree to floors and splits; if a distributor was unwilling to accept the terms countered by an exhibitor, and the splits were too low, it might roll the dice to take on the house nut and keep the full gross. In theory, this situation is most likely to arise with a unique venue, possibly with a single screen, that has a high operating cost.

**Release Strategy and Timing**

There are no hard-and-fast rules regarding releases, but the following are a few of the critical factors taken into account.

**Factors in When to Release**

**Day-and-Date**
Films used to release in the United States and then open internationally weeks and even months later. Much of the delay was due to practical limitations: it would take time to complete the foreign versions (dubs and subtitles), and publicity tours were much easier to orchestrate in a staggered fashion.

With the globalization of the world, instant access from the Internet, and growing threats from piracy, more and more event films are being released simultaneously around the world—in film parlance, a “day-and-date” release. A day-and-date release allows for focused publicity, and affords international territories to capture the momentum rather than release a film when core fans are aware they are seeing the picture downstream. Moreover, for very large titles, it allows the release to become eventized. The largest contributing factor, though, is the ability to defeat piracy, an issue that many obsess over, given the potential for instant and global copies on the Internet.

**International B.O. versus U.S.**
As discussed in Chapter 1, in terms of windows generally, an increasingly important factor is the growing international box office relative to the whole pie. The numbers for international keep growing, as demonstrated in Table 4.1 from the MPAA’s statistics (based on U.S.$ billions) showing a 32 percent increase in international box office from 2008 to 2012.

When international box office invariably starts to account for the majority of worldwide box office, and in extreme cases represents 70 percent or even 80 percent of the total, then the issues of day-and-date, piracy, and the ability to adjust marketing campaigns take a backseat to the absolute numbers; it is not that these other factors are no longer important, but rather that strategy decisions become disproportionately influenced by the relative returns.
In 2012, without knowing what the results would be—remembering the mantra of “nobody knows anything”—Universal and Hasbro took the then-unusual step of releasing hoped-for summer blockbuster Battleship overseas before the U.S.—a strategy that was initially lauded, as the film (estimated cost $209 million) took in about $227 million internationally (63 territories) before the U.S. debut. Variety summarized: “Universal hoped to get a head start on the busy overseas summer schedule by launching Battleship internationally more than a month before the U.S. The tactic appeared to work—at first. During its world tour, Battleship surpassed overseas tallies of John Carter ($210 million) and Wrath of the Titans ($217 million) and now stands as the year’s fifth-highest grossing international release.”

Unfortunately for Universal and Hasbro, Battleship launched in the U.S. to only $25.3 million the weekend prior to the Memorial Day holiday weekend, and with total domestic forecasts being downgraded to less than $60 million, Universal’s president of domestic distribution (Nikki Rocco) was quoted in the Los Angeles Times as stating: “This is not a total disaster,” in an article that started: “The box office debut of Battleship looked like a very different board game: Trouble.”

John Carter, which was held up as a disaster for Disney, and led to vicious publicity, a $200 million write down, and the departure of its distribution head Rich Ross, had a comparably lopsided international total: of its $282.2 million worldwide box office, $209.7 million, or 74.3 percent, came from international markets. Although both of these examples can be held up, on the one hand, as failures when measuring the domestic totals of films costing more than $200 million, on the other hand both films earned more than $200 million internationally. Only in Hollywood could a $200 million run be deemed a failure, and this is in large part due to the heavy PR and historical focus of domestic performance; in contrast, if the films had generated more than $200 million in the U.S. and had underwhelmed internationally, it would not have made headlines, nor likely triggered collateral consequences.

This dichotomy of bashing a film if it underperforms in the U.S. without giving due credit to international success, and therefore overall performance, is inherently irrational, and will inevitably lead to a change in how releases are perceived. Over time, day-and-date releases, or even the pattern of foreign first and then domestic, will become the norm, and performance will be looked at on a global scale. Distributors will then look at which markets over- or underperformed—which happens today on all films anyway—and adjust models and future marketing expenditures and forecasts accordingly. One would posit that with all these rational steps, PR will follow suit, and less emphasis will be placed on domestic performance as an overall benchmark of success. (Note: In fact, 2012’s Life of Pi (Fox), while often cited as an exception, is a good example of inter...
national dominance in an instance where the film was hailed as a success both in the U.S. and worldwide, striking such a chord with global audiences that its international box office was roughly 80 percent of the worldwide total.) Focusing first on overseas results, though, given the Hollywood celebrity culture and nature of the beast, will take the longest to evolve. Expect huge successes in China to be hyped and followed, and U.S. performance to be overanalyzed and held up as a barometer for years to come.

**Competition**

All studios scrutinize the competitive landscape, as the cleaner window and the less competition, the better. Competition can be segmented into a number of categories.

First, there is competition from other product being released by the same studio/distributor. This is obviously the easiest category to address, and while studios will downplay this issue (under the rationalization that if they were not competing against their own film they would still be competing against something), there is obviously no reason to tax bandwidth and potentially compete against oneself. The second category is direct competition within a targeted demographic or genre. For example, if a major Disney animated movie is releasing, it probably makes better sense to pick a different time frame and not try to divide the animation audience; of course, given the cutthroat competition, there have been conscious attempts to directly release against a similar film in attempt to crush the competition and sustain an upper hand in the market. Additionally, competitive titles may afford an opportunity to counter-program, and a niche or differently targeted film may be able to provide an alternative to certain demographics, and in instances of box office dominated by tentpoles, may even be able to draft off the overall box office uplift. Finally, there is a fear factor—a big enough film that may monopolize the box office. This is especially true in cases of sequels, and often distributors will steer clear of event films, such as the next *The Hobbit* movie; if enough people move away, then opportunities arise to counter-program to targeted demographics.

**Outside Factors (Events of National Attention)**

Outside factors play a very important role; films are not simply competing against other films, but also for consumer dollars against other media. It is generally believed that certain events of national importance can siphon off attention and impact box office. Such events may include national political elections and major international sporting events, including the Olympics and the World Cup. These are all planned events that can be factored when planning release dates; however, in an increasingly connected and seemingly unpredictable world, news events, including wars and terrorist attacks, can also create reasons for last-minute juggling.

While the potential influence on diverting attention from the film is real, another key concern is the increased difficulty of marketing a property against these juggernauts of public attention. For example, media will be harder and more expensive to place at the peak of an election cycle. Accordingly, there can be a double hit: releasing a film in the window of an event of national importance will likely make it more expensive to reach desired awareness levels, and even if awareness targets are hit there is a risk that consumers will opt to spend their time and money on the national event that only occurs once every few years.

**Acceleration of Revenues**

Today, all focus seems to be on opening weekends, with distributors then modeling an ultimate box office based on an extrapolation from the initial week(s) and assumed declines. Historically, films could play for months, and it was not unusual for a blockbuster hit to play
through, and even beyond, a season such as the summer. As the number of films made and released grew, competition grew with it. There are a number of interrelated factors that evolved, all feeding on each other, which accelerated this process and led to the compressed revenue cycle of a film taking in a higher and higher percentage of its overall revenue in the first 2–3 weeks of release.

First, people started to focus on opening weekends and records, putting pressure on openings. Marketing dollars were therefore allocated to open a film as large as possible—even if a film’s box office had a sharper week-to-week decline at the beginning than it may have had with a debut on fewer screens. The initial larger box office could make up for this drop and theoretically push the cumulative total higher than an otherwise narrower release would have yielded.

Second, with more and more films, the spacing between major movies shrank. Competitive windows have narrowed, and studios now look to all 52 weeks of the year to find the best competitive free window in which to release; moreover, the jockeying is all critical. Go out against the wrong film and you could be done in the first week, as it is extraordinarily rare that a film that is opened wide and does not perform to expectations then gains in a subsequent week. The system is designed not to let this happen, as a new movie is always on its heels, and if a film does not perform, someone else will take its screens. The exhibition business is ruthless and all about filling seats, not second chances.

Accordingly, distributors are looking to maximize shorter and shorter runs: What am I likely to open up against? What am I coming after? What is coming after me? Each of these factors can dramatically influence the film’s performance, and while there might have been months or at least a month between major titles, with the volume and budgets in current Hollywood this is now measured in weeks. A film that has two or three relatively clear weeks is now blessed, and as late as the mid 1990s this was hard to fathom.

The net result of the acceleration of revenue not only puts inordinate pressures on distributors and content owners, but has a disproportionate negative impact on theater owners. As described previously regarding rentals and weekly minimums, the longer a film plays, the more the split shifts to favor the theater owner; accordingly, theater owners are losing more of their upsides because they lock into revenue schemes where the upside is in downstream weeks that, at worst, no longer exist and, at best, have lower box office revenues to split. In discussing the plight of theaters, Forbes noted: “But the fact that films ‘play off’ and leave theaters faster is poison to the owners. It means that even if overall box office is constant or increasing, owners can be earning much less revenue. One Titanic, which didn’t open particularly well, but played for weeks, is worth more to theater owners than five successful films, each of which earns one-fifth as much.”

Exacerbating these pressures are key holiday weekends and the built-in expectations of sequels (which often gravitate to these dates as a safe haven, given the usually high budgets). Opening in holiday periods when people have more free time to go to the movies has become a cultural tradition. In the U.S., Memorial Day weekend, Fourth of July, November (to play into Thanksgiving), and Christmas have become prime real estate. If a studio has a picture they view as a sure thing, they will leak out that date early and try to stake out that turf. Although the track record vindicates this strategy, because competition tends to cluster around these dates, it may not be the best strategy; to wit, Batman—The Dark Knight opened in mid July 2008 and went on to become
the then second highest grossing theatrical title of all time. Finally, what often is not talked about, but can be the most influential factor, is superstition. If a film (or director) has had good luck with a date, the studio may want to stick with that timing. I have seen many cases where a date seemed odd relative to the foregoing logical factors, only to realize it was the “director’s date” or was when the original film launched (in the case of plotting a release date for a sequel).

The Online and Digital Speed Factor

Pressure from Review Sites
It was already harder to open a movie with “word of mouth” in a world when slow buzz from the watercooler conversation could be replaced by instant access to national reviews by a site such as Rotten Tomatoes. Only a couple of years ago, the concern was that before a movie opened, potential viewers were privy to whether a majority of critics liked it or not. Today, though, if someone wants an opinion from a more trusted source, they are apt to check out opinions not just via aggregate review sites and on their favorite blogs, but also through a web of social media outlets (e.g., from Twitter to Facebook). This new instantaneous and filtered-for-your-tastes feedback is just another factor compressing timelines: the immediacy and breadth of information makes it hard to hide a bomb, while providing an extra impetus to crash the gates if people are raving.

Online Release
One alternative is to release a film online, either simultaneously with theatrical release or as a substitute unique outlet. In November 2007, director Ed Burns decided to release his $4 million movie Purple Violets on iTunes. Commenting that there was “not enough money to market the film, not a wide-enough release to even make a dent in the moviegoing public’s consciousness,” he pioneered releasing the film via iTunes, reportedly the first time a feature film was debuted on Apple’s download service.

The model of launching a film online rather than theatrically has, to date, proven risky. The theory is that the online world provides instant access everywhere, and enough of a stampede to watch online would justify cannibalizing theatrical revenues. However, with 35,000 screens in the U.S. and most of the American population within a short drive of a theater, is a bit easier access really a compelling enticement? There are obvious consumer experience differences between seeing a movie online versus in-theater, plus serious economic hurdles, including: (1) theaters’ willingness to boycott films that go online and do not grant an exclusive theatrical window; (2) the risk of further impact on the DVD market (on Purple Violet, “video distributors had offered lower-than-expected advance payments for the film’s DVD right out of fear that its availability on iTunes would cannibalize home-video sales”); and (3) the fact that online marketing has not yet been proven successful as the sole vehicle to market a film (though, given the ability to demographically target with more efficient buys, someone is apt to take this risk and perhaps demonstrate a tipping point).

Records Are Not What They Used to Be—Dissecting Opening Weekends

An interesting fact about holidays and openings is that the record book is now more of a microscopic statistical analysis, with lots of people holding bits of records, the accounting segmented to spread the glory. There are now records for biggest one day (which I am proud to have been part of when Star Wars: Episode III – Revenge of the Sith opened to just over $50 million, only to see the record fall to The Dark Knight in 2008), but even that record has now been
Much more complicated is the notion of the weekend box office. As noted earlier, weekends are customarily calculated as the Friday–Sunday box office. However, holidays skew the mix and can be four or six days. What is the period when Fourth of July falls on a Wednesday? This naturally leads to debates over the “highest weekend;” highest four- day weekend, highest holiday weekend, and highest four-day holiday weekend. Beyond holiday, there is the issue of studios opening “event films” earlier. This helps build buzz for the film leading into the week-end, as well as having the corollary impact of expanding the weekend box office: what a film has grossed by Sunday night. And we are not yet done!

A further wrinkle occurs with sneaks and screenings. Sometimes a film will have a very limited release earlier in the week to build some awareness. This was the pattern with Russell Crowe’s Cinderella Man, released on Friday June 3, 2005. The film actually hit some theaters in major markets for a special sneak the prior Sunday. While it is clear that this gross should not be counted in the following weekend, the line becomes blurred when a film opens midweek. Opening on a Thursday is now relatively common, and the Thursday numbers may or may not be included in the weekend. The studio will position the higher number as the weekend (taking it as a “four-day”), but the trades are likely to split that out and report the three-day and four-day numbers (since there are different records, and presumably it makes things more interesting).

The final issue has to do with midnight or late-night screenings that occur with huge event films. If you want to get picky, where does the 12:01 a.m. or 11:59 p.m. showing fit, and should these be separate or aggregated into the day or weekend? The only clear answer is that it all goes into the weekly gross and ultimate gross. I have not actually counted the permutations, but you should get the picture. To outsiders, it may seem a bit petty, like the multiple boxing crowns. Within the industry, however, it is like chum to a shark. It is an interesting exercise to go to Box Office Mojo and look at a top film and its “chart” section. For The Hobbit: An Unexpected Journey (2012), for example, I counted more than 50 types of rankings, and weekends are now tracked by calendar period (e.g., fall, December, holiday), opening periods by two-, three-, four-, five-, six-, seven-, eight-, nine-, and 10-day grosses, and consecutive (and nonconsecutive for good measure) weeks at number one—spin and bragging rights for all.

This would not be so important if it were not for the press and financial market expectations. The press will jump on box office and hit the ground running on Monday morning. Studio stock prices can rise and fall on these stories, as was the case when DreamWorks Animation released Madagascar on Memorial Day weekend, 2005. The film’s performance was closely scrutinized, as it was the first release following the company’s IPO, and analysts were watching carefully to gauge whether Shrek was a phenomenon, or whether the studio could repeat with blockbuster after blockbuster like Pixar. (Note: To be fair, there was further pressure in that just several days before, DreamWorks announced adjustments to its video numbers for Shrek 2.)

Against this backdrop, when Madagascar opened to $61 million, which is by anyone’s standards a huge number, it was still not up to hyped expectations: “Shares of DreamWorks Animation hit a new low Tuesday, dropping more than 9 percent as some on Wall Street deemed as uninspiring the domestic haul of $61 million that Madagascar garnered in its first four days at the box office and Lehman Bros. downgraded the stock.”

In an equally extreme, and more recent,
example, *Men in Black 3’s* $70 million four-day Memorial Day weekend 2012 domestic opening led to the Hollywood Reporter opening its front-page banner article, entitled “MIB3 Opens Biggest, but Doubts Remain,” as follows: “Despite a $203.2 million worldwide opening, the jury’s still out on whether Will Smith threequel *Men in Black 3* can recoup its $230 million production budget and hefty marketing spend. The Sony tentpole grossed a modest $70 million . . . compared with the $75 million to $80 million that the studio was anticipating.”

**Studio Estimates**

What is a bit mysterious is how that “weekend box office” is calculated. It seems difficult, if not impossible, to have final weekend numbers on Sunday (for the press to write about the weekend) without the benefit of Sunday’s full figures. The studios, accordingly, have to estimate box office; however, the studios have been doing this so long and know their clients (theaters) so well that they can extrapolate a market number with a fairly reliable measure of precision. Although the potential for gamesmanship exists, there are built-in incentives to keep reporting as accurate as possible; the studios want to avoid having to report that they overestimated and take down a number.

What does all this have in common? The big opening, which puts pressure on the splits and dog-fights for screens and locations, also brings us back to the aggregate concept.

Table 4.2 is a hybrid example: assuming $100,000 in box office in week one, a decline of 50 percent to $50,000 in week two, a further decline to $30,000 and $25,000 in weeks three and four, a decline to $10,000 and $7,500 in the next two weeks, and two more weeks at $5,000 and $3,000.

<table>
<thead>
<tr>
<th>Table 4.2 Box Office Revenue</th>
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<tr>
<td>Box Office</td>
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<tr>
<td>Two weeks @ 60</td>
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<tr>
<td>(.60 × $100,000) – (.60 × $30,000) = $90,000</td>
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<tr>
<td>Two weeks @ 50</td>
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<td>(.50 × $30,000) – (.50 × $25,000) = $25,000</td>
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<tr>
<td>Two weeks @ 40</td>
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<tr>
<td>(.40 × $25,000) – (.40 × $20,000) = $7,000</td>
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<tr>
<td>Balance @ 30</td>
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<tr>
<td>(.30 × $5,000) + (.30 × $3,000) = $2,400</td>
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<tr>
<td>Total Rentals = $126,900</td>
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Theatrical Booking

Locations, Types of Runs, Length of Runs, Frenzy of Booking
While other facets of the distribution business, in particular pay TV and video, have changed dramatically over time, the theatrical booking business maintains much of its decades-old practices. This is a business of having to turn over thousands of screens and theaters every week, steeped in relationships at both head office and local booking office levels. There is almost the feeling of a never-ending poker game: cards are shuffled and dealt every week, some cards are traded in, and when final bets are placed everyone is waiting to see who has the high hand on the weekend.

Zones and Types of Theaters
Theater bookings in the United States follow relatively standard patterns. The entire country’s theater count is broken down into regions, cities, and districts, all falling under the management of the domestic theatrical distribution arm of a studio. This is typically managed in a regional structure, where a head office will manage multiple geographic regions such as the South, West, etc. Each region will, in turn, have a regional manager with an army of booking agents underneath him or her.

By having this level of management, the theatrical distribution arm will literally have a direct relationship with every single theater in the country, which totals around 4,000 locations with more than 35,000 screens.

In large urban areas where there are multiple cinemas within relatively close physical proximity, the theaters may be districted into zones or regions. These are not formal/legal classifications, but rather informal designations tacitly acknowledged by the individual theaters (or chains). If you are booking a film in a Regal cinema on Main Street, it may be accepted that you do not then book your film in the theater across the street at AMC’s multiplex, thus granting the theater a measure of exclusivity over its competitor. With the advent of multiplexes, and in particular the growth of large multiplexes, the level of jockeying has shrunk over time.

While focus is on multiplexes and optimizing top theaters (true top-performing theaters are often referred to in industry parlance as “guns” or “gun theaters”), there are a couple of other categories that come into play. For example, drive-ins always want top pictures, especially in summer months, and threshold decisions need to be made whether drive-ins will be single or double bills (as they tend to book double features), and whether the film will play day-and-date with multiplexes or move over to drive-ins at a later date. For so-called “second-run” theaters, often located in smaller towns, prints will be bicycled over to the local cinema after it has had its multiplex/wide launch. Accordingly, along with economic splits, zones, and lengths of runs (see next section), theatrical booking departments also have to deal with the placement patterns of first run versus second run versus specialty (e.g., drive-in) venues. (Note: Drive-ins and second-run theaters are becoming somewhat of a rarity, and accordingly the foregoing description is more of an historical anecdote, though still obviously illustrative of the broader issues in jockeying for screens.)

Booking: A Last-Minute Frenzy
When it gets down to a week or so before a film opens, it is a literal free-for-all. In a matter of days, a film can go from zero bookings to more than 3,000 theaters and 7,000 screens. During this booking time, it is all-out war, with distributors giving theaters terms, including the splits,
the number of weeks, etc. In busy times, such as between Thanksgiving and Christmas and in the summer (especially Memorial Day through to the Fourth of July), every weekend is precious, and competition for locations and screens is extreme.

Even though distributors cannot book a theater until the exhibitors have seen the movie (as a result of the prohibition on blind bidding), it is fully impractical to wait until two weeks before a movie release to structure a game plan for booking thousands of venues. Long before the screenings take place, the distribution team will look at the population of theaters and competitive landscape of films and plot a strategy for locations and screens. Because this is done on a weekly basis, the parties are aware of each other’s general tactics and preferences, and relationships have evolved. Accordingly, if Disney is about to release a Pixar film, or Fox has a large action/star-driven vehicle, they will have a strong educated guess as to which theaters they are likely to target and be able to book in downtown Chicago. Much attention is obviously focused on securing prime venues. Not all theaters are equal, and every distributor wants to lock up its top “gun” site.

It is almost like Las Vegas, because there can be a feeding frenzy, and yet it is all about placing bets—nobody knows how any particular film will actually perform. That is where exhibitor conventions (e.g., ShowWest) are so important. They sell to the theaters and make them believe before selling to the consumers. The theater proposition is much simpler than the consumer: no matter what anyone tells you, the theater owners are often single-mindedly focused on traffic. “How many people will a film drive to the venue to buy popcorn?” is the bottom line. Forget about art, reviews, or actors. It is a business.

As an example, put yourself in the place of a theater owner with a screen in downtown Chicago. If you are offered a film starring Tom Cruise or Leonardo DiCaprio at an X percent aggregate, such as 55 percent with second week at 50 percent, would you take that film versus a new CG animated film from a leading producer with two 50 percents? And what if you also had another film with a 90/10, with a sliding scale of guarantees/minimums? What would you choose and what are the variables you would take into account?

Adding to the craziness of bookings are “exception” markets and theaters, where rent costs of a prime venue are so high that theaters may be treated on a different economic basis. There is endless jockeying and side exception deals to manage, where the incentive is actually to strike fair deals for both sides. While it is a cutthroat business, it is also a 52-week per-year business where it does not behoove a distributor to force a deal that would cause a theater to lose money. There are many more misses than hits, and the distributor is likely to need a favor from an exhibition chain to open a movie that has poor reviews or otherwise looks in trouble.

Length of Runs
Another factor in booking is the length of the run. Arguably, this is the single most important factor other than the splits, and it influences the splits, given that they are tiered over the run. The following are the typical engagements:

• six- to eight-week deals (less common)
• four-week deals
• two-week deals
Much of whether a deal falls into one category or not defaults to custom and practice. Certain towns (or locations) may be profiled as “eight-week towns,” and this is the standard deal for a picture of a specific profile. These weeks denote a “minimum run period,” and end up serving only as guidelines, both on success and failure. If a picture is still performing well and yielding returns greater than competitive/alternative product, logically it should continue to hold screens and keep playing. In the out weeks, there will be a floor for splits for which the picture will not drop below regardless of how long it plays. As noted earlier, a film such as *Titanic*, which played for weeks and months on end, while a boon to the distributor, is an even greater prize for the exhibitor—seats continue to be filled, and all at splits (if a 90/10 deal) favoring the theater. On the flip side, if a film is not performing, it may be kicked out early, with the distributor “granting relief” (see the section “Being Dropped”, page 184).

**Prints and Screen Counts**

When booking theaters, distributors book both locations and then actual screens at those locations. To state the obvious, there are many more screens than locations, and for a major movie the ratio can be a multiple (e.g., 2:1). The number of locations/theaters is therefore the less interesting fact in terms of economics: the actual screens dictate both applicable house nuts/allowances, as well as the number of physical prints needed.

Prints can be very expensive, with an estimated average of approximately $1,500 per print for a major motion picture released widely through the studio system. (Note: Among the factors discussed above under D-cinema adoption is the opportunity to dramatically reduce these costs.) Of course, there are many variables that may go into a negotiation with a lab, including the type of film stock used and the length of the film (prints are still literally priced by the yard and deals are quoted in dollars or cents per foot). This does not sound too bad, until you run the numbers and extrapolate out worldwide costs for mega-movies that have a broad release, such as a *Shrek* or *Spider-Man* sequel. It is a trade secret how many screens were booked for *Shrek 2* and *Spider-Man 2*, but let us assume there were upwards of 3,500 locations and take an average of two screens per location. That could yield more than 7,000 screens. For the sake of simplicity, assume some backup prints would be made for key locations, and the total print run was 7,500. The 7,500 prints multiplied by $1,500 per print is $11.25 million. And this is just for the United States, and does not include all the pre-print mastering and quality assurance services that would be on top of this variable figure—when Fox talks about converting fully to D-cinema and eliminating physical prints, the studio is eyeing millions in savings (eventually, post contributing virtual print fees) while marketing the improvements in quality.

As earlier noted, historically, films played longer and did not open as wide, which meant that prints could be reused; a film might open in a major city, and after it had played a while it would then move to a smaller town or location. The benefit to the distributor is there is no incremental cost. However, when a film opens very wide and a distributor tries to garner as much box office up front as possible, then the opportunities for reusing prints are reduced. Moreover, prints could be reformatted to be used internationally in same-language territories, allowing the “bicycling” of assets worldwide and amortizing these sunk costs over more runs. With the move to event films and day-and-date releases, these opportunities are also eliminated.

One net result of a major, wide, day-and-date release is to dramatically drive up the print costs—yet another factor that makes D-cinema, which can radically reduce these costs, attractive.
Per-Screen Averages

Partly as a consequence of multiplexes and booking multiple prints at a single venue, the concept of per-screen averages is often misunderstood and, at best, inconsistently applied or quoted. Trade journals and general industry lingo will often refer to per-screen averages, but the use of “screen” is a misnomer. Per-screen averages quoted in the trades and viewed for distribution decisions are actually often per-location averages.

It is not rocket science to compare competitive per-screen averages, as common reporting systems will report gross box office dollars and pretty accurately estimate the number of locations played. The math is simply total box office divided by number of locations. As a rule of thumb, an average of $10,000 or higher is extremely good, and a picture starts to lose momentum as the number dwindles into the low thousands and even less.

Although analysis is not taken down to the per-seat level, it is possible to back into the numbers and understand why this average is such a good barometer. Let us assume the following:

Assumptions:

- Average ticket price: $7.00
- Average theater size: 300 seats (probably high, but makes math easier)
- Five showings per day
- One print per theater
- Standard three-day weekend calculation

Potential Gross: $7 × 300 = $2,100 × 5 = $10,500 per day

Per Weekend
The screen average can then be segmented by these periods. Because the lion’s share of the weekly gross of a picture comes in on the weekend, this is the customary measurement for screen averages. The weekend is considered “three day,” meaning Friday–Sunday.

3 × $10,500 = $31,500 potential weekend gross

A film that has a $10,000 weekend per-screen average would indicate that fully one-third of all potential seats for all shows for the whole weekend were sold. At five showings per day, that takes into account 15 showings, which means that, on average, all of the primetime showings would need to be nearly sold out (assuming roughly five to six are at peak hours) to achieve this number, or that they could be 75 percent sold out with a smattering of audience at non-primetime dates.

When you start to see per-screen averages well above $10,000, both intuitively and empirically, it means that people are coming to the movie at multiple times (day and evening). This is generally only achieved with a wide demographic.

Of course, these numbers can be deceptive. The variables discussed previously can dramatically skew the results (as can demographics, where a kids movie will have lower average ticket prices). For example, the number of prints on average per theater (i.e., screens) will have the most profound impact, with the number of show times per day having the next most. Of course,
the more showings and the more prints typically indicate a major film, and should boost the per-screen average. If a film opens very wide (large number of prints) and the per-screen average is not high, you will be able immediately to conclude the release is in trouble. The problem is that there may not be much time to adjust, especially if marketing expenditure has been front-loaded. Finally, the above assumes a flat ticket price, but children’s prices and matinees also influence the maximum potential gross (as can the new trend of premium pricing for 3D).

Interlocking
Interlocking is the practice of running two screens off a single projector/print. This practice is discouraged, and in most cases prohibited, by distributors. There are concerns about accounting, as splits and nuts are based on per-screen deals, and interlocking usually takes place for overflow demand rather than regular show times. There are also quality concerns, given the very nature of interlocking. Ultimately, fear of being mistreated overrides the economic efficiency of saving a print. In a true crunch, however, it is fair to assume that a blind eye may be turned. The chance to have another full house and additional gross is likely to hold sway at the margin.

Decay Curves and Drop-Offs—Managing the Release
Once the film opens, it becomes part art and part science in terms of managing locations and screens. What everyone focuses on are the week- to-week decays, in particular the decays from weekend to weekend. Regardless of how one defines the days of the opening weekend, for a decay curve you need a like-to-like comparison, and a Friday–Sunday benchmark is used. It is unfair to refer to these charts as simply “decays,” because, depending on the release strategy, a film can actually increase from week to week. A picture that has a strategy of starting small and building an audience through reviews and word of mouth will expand locations. It may start at 100 theaters in major markets, and then wait to release wider nationally. The dream scenario is to open wide and have virtually no falloff, or even an uptick. This rarely happens, but occurred with Shrek in 2001, where its second weekend was nearly identical to its opening weekend (three-day to three-day, as one weekend was Memorial Day). This zero decay immediately indicated to DreamWorks that it had a major hit on its hands. The original Shrek grossed over $267 million, becoming the top animated film of all time at the point (yet another way to slice a record). Most films, however, follow traditional decays, meaning there is a relatively predictable pattern of drop-offs. The industry rule of thumb is that if you open well (namely, large!), a drop-off of approximately 50 percent in week two is anticipated. If the film drops significantly more, such as 60–70 percent, then one initially assumes that the marketing worked to drive people into the opening, but that the film may not have been well received—either word of mouth, or reviews, or competition took the wind out of its sails, and once this happens it is virtually impossible to recover. (Note: Given competition and accelerated box office takes, a larger drop-off may not mean the film is in trouble, but simply, in the case of a blockbuster or tentpole, that the first week was so large it will represent a disproportionate share of the total. See discussion below regarding acceleration of box office.) If the decay is in the acceptable range or even less than expected (this is what every executive is hoping for), then the goal immediately becomes to keep the decay from week two to week three within the same range, thereby keeping the momentum.
Depending on the percentage and the competition on the horizon, this is also when key marketing decisions are made. Do you run a hype or review advertisement ("Two thumbs up," "Best picture of the year, according to . . .," "Number 1 at the box office")? There will usually be some marketing planned post release (called “sustain marketing”), but as films are becoming more and more front-loaded, much sustain marketing spending, especially in weeks past the first two or three weeks, may be allocated literally on the spot during the week.

**Trend of Accelerated Decays for Blockbusters**

The bigger the film and the bigger the opening, the steeper the decay will likely be up front. On *Star Wars: Episode III – Revenge of the Sith*, for example, the Thursday–Sunday “opening weekend” was over $150 million, with the following long weekend (Memorial Day) taking in $70 million at the box office. The pure three-day to three-day, however, was $108 million to $55 million (59 percent), representing an acceptable 50 percent drop.29

This is a typical pattern for a blockbuster, but one then hopes for the decay curve to flatten out. Because the numbers are so large, and there are so many prints and show times playing, there will inevitably be a large fall. As weeks progress, however, and multiplexes are only playing one or two prints for normal show times, and locations consolidate, the decay curve will hopefully flatten and the weekly drops will not be as precipitous.

As noted earlier, in terms of prints and multiplexes, this is where it is important to distinguish between locations and prints, and in terms of prints to distinguish between sizes of auditoriums within a multiplex (see “Move-Overs” below). When a film opens particularly wide and one sees a print count in the range over 7,000, there are almost always multiple prints in one location. Continuing with *Star Wars: Episode III – Revenge of the Sith*, on the weekend of June 2, 2005, for example, you could go to the movie listings and pull up a 16- or 20-plex, and notice that, in counting up the actual number of films playing there, it was only nine or 10, and similarly, in a theater half the size, namely an 8-plex, there were only six films playing. This is because event or would-be event films that were opened wide and had large demand played on multiple screens. One can assume that at the 8-plex playing only six films that both *Star Wars: Episode III – Revenge of the Sith* and *Madagascar* had multiple screens (two each); similarly, in the 16-plex playing only six films, one of the films may have had as many as four or five screens at one point, and potentially more on opening weekend.

**Move-Overs**

There is yet another variable to consider in understanding the print placements—the size of theater. In a 20-plex, for example, theater sizes can range from several hundred seats to a couple of hundred seats or less. While not all theaters are equal, similarly “not all prints are equal” in terms of potential gross within the complex. Thus, when a print of a film opens in the largest screen, after it has run for a week or two, demand will likely wane and the auditorium will play to fewer people per showtime; in the extreme, which happens quite frequently, a print will move from playing to capacity to sparse crowds fairly quickly. Keeping the print in the theater may make sense to the distributor who wants the largest potential gross (“I don’t care if it’s empty during the matinees and mid-week Joe, ’cause I want that gross on the primetimes...”) in some scenarios. However, this will not make economic sense if the print/distributor is bearing the house nut; in fact, the print can lose money if the nut is significant.
The larger the auditorium, the larger the nut, so when demand wanes, the print “moves over” from a larger to a smaller screen. This has two benefits. First, as just noted, the smaller screen has a smaller house nut. Second, moviegoing is a social experience, and most people prefer to have a full house rather than an empty house—it is inevitably the crowd reaction and the shared experience of hearing screams, cries, quick intakes of air from being shocked, and even the occasional funny heckle that is part of the magic of the theater and makes seeing a movie in the theater fun. (Note: This also partially explains the preview and midnight screening crush of attendance, as it is just as likely that people want to see the film in an atmosphere charged with the same excitement they feel than that they have to see the film early. It is more the electricity and shared experience of the moment that likely drives most people than the bragging rights that they saw it a few hours or days ahead of someone else.) That social, collective experience simply cannot be replicated at home, no matter how nice a flat-screen TV and home theater environment someone has created—in the age of social media, where e-interactions masquerade as being social, but in fact can be experienced in isolation, Hollywood always touts the real collective social experience of theatre-going (also, please no texting or posting once the lights go down!).

Move-overs thus have multiple benefits to both parties, for economically having full auditoriums is beneficial to both the distributor and exhibitor. Similarly, if a multiplex is playing a film on multiple screens, and the percentage of seats filled per screen per show time starts to drop off, then a print will be dropped and the film shown on two screens rather than three, increasing the average capacity filled per showtime. Of course, the distributor wants to ensure that there are still sufficient play times for people to see the film, and it is the balancing of nearing capacity versus not turning away people (who may not return—carpe diem is the MO) that becomes the art of booking.

Finally, it is worth pointing out that all of these issues are tied to success. In the more typical pattern, a film will play one screen per theater location, and hold on for dear life to stay as long as possible before becoming dropped.

**Being Dropped**

Inevitably, every film leaves the theater, and it is hopefully after several weeks rather than several days. The fight to hold screens can be vicious, and several factors influence a film’s staying power. These key factors include:

- The weekly gross of the theater. What was the film’s box office the prior week and weekend?
- The weekly gross of the film relative to the competitive titles playing in the same complex. Are there other films in the theater (assuming it is a multiplex)?
- The quantity of new films opening in the week, and the perceived strength/demand of the new product. Is there an expected blockbuster opening that will command multiple screens in a multiplex?
- The number of screens in the complex.
- The number of weeks the film has been in the theater. Is it the first or second week, or is it now into multiple weeks being played?
- The terms. What is the rental percentage being asked by the distributor, and is there an applicable house nut?
• The contractual terms. Is there a minimum booking period?
• The quantity of competitive films in the marketplace that are “grossing.” Are there several pictures holding over with strong to respectable grosses, in addition to new films opening up?
• What other pictures the studio has in release. All theaters want to keep each of the studios happy, and while there are no allocated slots, it may be difficult for Studio A to keep multiple screens (when some are marginal performing pictures) at the expense of a rival studio securing a screen.
• Studio pressures/expectations driven by direct economics— achieving performance thresholds, which could be tied to economics, such as achieving a box office number that may trigger improved economics in a downstream revenue (e.g., pay TV output deals tiered to box office thresholds) and by indirect economics tied to relationships (e.g., fulfilling promises to the producer/director/actor—“Are you fighting for my picture?”).
• What investment the studio has in the film. Not all pictures are equal in terms of the studio’s financial stake, and while every studio will tell you that it is fighting for every cent on every film, it is natural to question whether there is a bit more fight in a film where the studio has a bigger stake.

These are the type of factors influencing the decisions. They comprise a unique mix by blending straightforward economics, cutthroat competition, allocations (within and without groups), politics, ego, and differing agendas. A studio is very conscious both of relationships and performance, but when counting relationships, they are truly in the middle of two parties they need to please: the exhibitor and the producer. Although distributors have a tremendous amount of clout (without them, you simply do not get into the screens/theaters), they are between a rock and a hard place. During a release, they need to please the filmmaker who only cares about his or her movie and maximizing its results (at the expense of anyone else’s film currently in release) and the theater chains who could care less about a particular film and only truly care about whether customers are filling the seats.

Tension arises because the factors weighed by the two sides (theater versus distributor) are dissimilar. The distributor is weighing a nearly impossible matrix of agendas, ranging from pleasing a star, to recouping an investment, to juggling multiple pictures within a slate, to maintaining pole position relationship treatment with a particular exhibition chain of theaters. The exhibitor, however, has relative tunnel vision focused on attendance: they can remain emotionally neutral and have virtually no reason to care about the particular film, only focusing on whether people come and the theater is full (taking their split and raking in concession money).

Despite the potential for a dizzying complex matrix, the end result of what stays in a theater is rarely a complex balancing act. Instead, it is absolutely Darwinian, and the strongest pictures survive. After every weekend, the distributor looks at a report of how its pictures performed and how they performed versus the competition. Box office information is freely available, and there is little argument as to relative standings. In an 8-plex theater, the local booker and theater are acutely aware of their ranking. If there are eight screens, and Studio A has one picture that came in last (eighth among eight), then that picture is going to get dropped in favor of a new picture coming into the market (or adding another good performer in the market that may not have been booked originally). The one exception to this rule is that by contract, as well as industry practice, virtually every major studio picture gets the benefit of the doubt for two weeks. If a studio is opening a movie with a major star or for a major director/producer, it will secure at least a two-week run, and will be hard pressed to pull it before this minimum period.
The survival-of-the-fittest mentality can be tempered by a few factors, such as the ability to move over. Because of the “not all screens are equal” factor, a film that is underperforming may still hold in a smaller auditorium because its gross remains strong enough to stay in the complex relative to competition. Moreover, all of the factors previously stated then can, and do, come into play at the margin. Most of the decisions are clear-cut. If the gross in a complex is $1,200 for a week and all other films are $3,000 and above, there is not much room for the distributor to argue; moreover, the smaller the complex, the easier the decision. A single screen or complex with six or fewer screens can ill afford to carry its overhead without performing product—they need to attract bodies and cannot amortize across product. If a movie is not working, they need to move on, and move on fast. However, with larger complexes, there is likely to be a range of performances, and it is therefore easier to accommodate relationships. If you have a 16-plex and Disney or Universal needs a screen, is the exhibitor going to shut them out on a marginal picture when they have an every-week of every-year relationship? If the picture is truly a disaster, then maybe, but if the distributor is pleading, then how much of a sacrifice is the 120-seat screen when there are 15 other screens booked with (hopefully) better-performing titles?

At the margins, studios may start splitting show times to stretch a picture’s run. As the picture declines, it may play to specific demographics where splitting prints may make sense for a particular week: “I’ll play X in the matinees and Y in the evenings.” This is a band-aid solution and rarely holds over into multiple weeks, but can make sense in the short term when there are tough calls. Essentially, this is a “something is better than nothing” mentality, and having capitulated halfway, you know your run is on a short rope. However, in the Darwinian world, once you are out, you are out, and there are probably few to no incremental costs to staying in the extra week—the print is already there, and every incremental dollar of box office helps amortize that cost and climb toward profits.

**Decay Curves and Predicting Box Office**

There is a relatively predictable pattern to performance, and, as discussed previously, the name of the game is flattening out the decay curve so that the week-to-week drop-offs are as small as possible. All films have a decay because the nature of the business is to eventize a release, and marketing has to be somewhat, if not fully, front-loaded to create the awareness for people to attend. Word of mouth (which, by the way, feels like an anachronistic phrase in the era of texting and social media, but which I am assuming will continue to be used by the industry to capture the broader context of spreading opinions by communicating verbally or electronically) can build a film that is opened small and then expands, but one can argue that this is merely a bell-curve release pattern strategy, and the decay starts being measured from the peak.

Accordingly, a decay curve is built from both expectations and by comparing drop-offs to comparable titles. By comparable, it may be that a film is compared to another title of similar genre with the same star: How does a Woody Allen movie or an Adam Sandler comedy decay? If the film is part of a series or franchise, then the task can be easier: How will *Harry Potter 3* compare to *Harry Potter 2*? Thus, a studio may build a model taking the best comparables it can find and look at the week-to-week decays of that film; namely, by what percentage it dropped week to week in weeks X to Y. The film being measured will have to have its own base, but once it has a starting point (opening-week or two-week data), then it is possible to plot its performance against like titles. Week to week, you will measure whether you are above or below the imputed curve.
A challenge for marketing will be to keep the baseline up and keep stimulating the baseline with spikes of activity. The theory is that because a decay is inevitable, the higher the base, the higher the net result. If you started from $10 million versus $8 million and were likely to decay the following week by 40 percent in either scenario, then the following week would be $6 million versus $4.8 million (an incremental $1.2 million). Accordingly, if the prior week had been targeted at $8 million and there was marketing activity/expenditure green-lit to boost box office achieving $10 million, the net impact is hopefully much greater than the $2 million; instead, it is the $2 million and the gap in week two (incremental $1.2 million), plus the incremental benefit in subsequent weeks.

This all assumes, however, that the decays are consistent (which is not the case) and that you can straight-line the falloff tied to the higher base; in fact, no one really knows whether a program will truly raise the base in a trailing manner. Additionally, no one really knows whether the impact will be temporary and there will be a larger drop-off the subsequent week where the decay is catching up to the prior equilibrium and tracking more closely to the film’s “true demand” rather than the temporary demand that was stimulated.

Measuring the payoff or break-even is therefore tricky, and the easiest benchmark is to look at the isolated period. Will the incremental costs spent this week be recouped from the lift this week in box office and resulting rental dollars? If the answer is yes, then this is a pretty good bet, for there is a payoff with the potential upside of having lifted the base and gaining the incremental value in subsequent weeks (i.e., gaining the $1.2 million the next week).

Finally, it is worth noting that while the key decay curve to track is box office, it is also possible to track decays of both theater locations and prints. The final tools will therefore include a box office decay chart and a print and theater decay chart (Table 4.3).

### Table 4.3: Decay Chart Example

<table>
<thead>
<tr>
<th>Week</th>
<th>Weekly Gross</th>
<th>Cumulative Week Gross</th>
<th>Number of Theaters</th>
<th>Number of Prints</th>
</tr>
</thead>
<tbody>
<tr>
<td>Week 1</td>
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<td>Week 2</td>
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<td>Week 5</td>
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</tbody>
</table>
Residual Impact of Theater Ownership

A final wrinkle in the mix is theater ownership. It is natural to assume that a theater owned by Warner Bros., for example, is likely to give preference to a Warner title. Despite the breakup of vertical integration and the consent decree (see page 149, “Consent Decrees, Block Booking, and Blind Bidding”), as antitrust rules became relaxed in the 1980s under the Reagan administration, a number of studios began to acquire ownership interests in theaters again, in particular Warner Bros. and Paramount (Viacom). At the margin, this can influence a picture’s placement, as issues of personal theater preference are likely to lose out to the pure economics of whether a rival studio-owned venue will afford you the best chance of a long run (especially if you know a competitive film from that rival studio is set to open in X weeks).

International Booking

The international market has grown to a point where it is common for a major studio release to have more locations booked internationally than domestically (though the numbers are relatively close); additionally, the international bookings may be more profitable on a per-print average. I have not seen a direct study on this, but it is empirically true: if the print count is relatively even, and international box office is a greater percentage of the worldwide box office than domestic box office, then each international print (on average) must yield a greater return/box office gross.

The reason for this is largely due to the clustering of population in urban centers and cities versus the diffuse, relatively rural and suburban population in the United States. It also suggests that there is international growth potential, although the shift in media and uptake of VOD and Internet is likely to encroach too quickly to let this theoretical experiment play out to its otherwise logical conclusion.

The international theatrical market has lagged behind the United States in a few areas, but that is now quickly changing. The U.S. market, accommodating the vast suburban sprawl that has come to typify the dispersion of population, had a boom in the 1990s building multiplexes. While this trend was mirrored internationally, the phenomenon of 16- and 20-plexes did not grow at the same breathtaking pace. In retrospect, this was good, for, as earlier discussed, virtually all the major U.S. chains filed for or flirted with bankruptcy. Cinemas internationally reflect the local culture, and while there is an element of standardization and copying, there are many cinemas in Europe, for example, that maintain the character of great art houses (though even these, in many instances, have been refurbished and split into multiple screens).

One interesting trend is that digital cinema took off more quickly overseas than in the United States. To a degree, this is a result of lag, for certain territories that recently or are just now upgrading are skipping intermediate steps and installing D-cinema. This is especially true in Asia, and in particular China. One has to be careful, however, in defining D-cinema as, in the rush to enter the market, a number of locations (at least initially) were utilizing projectors below the 2K projector standard endorsed by most studios as a minimum resolution.
How a Property Travels

It is important to bear in mind that each film is unique, and the genre, star, and director can have profound influences on how the particular picture will fare in a particular territory. An American comedy may not travel well in one place, an action star may have disproportionate popularity in a certain country, and a franchise may, for reasons obvious or inexplicable, be relatively strong or weak versus its domestic market or even a neighboring territory. In some cases, the reason may be linked to a local star, and in others it may be that a scene takes place locally, some of the filming may have taken place locally, or the subject matter may strike a particular chord culturally. In many cases, however, it can simply be a mystery why a film works better in one country than another; this is the job of the marketing division, and the litany of excuses is longer than the list of why a film succeeds.

The animation industry is a particular curiosity. It became the trend with Pixar and then DreamWorks Animation and Blue Sky (Ice Age) (and now a few others, including Sony) to cast high-profile stars as voice talent. However, when Tom Hanks does not play the part in the German dub, nor Eddie Murphy in Spanish, then those actors truly do not ever appear in the film. The marketing hook and performance that was so pivotal to the domestic campaign (and arguably success) are simply nonexistent. Somehow, this does not impact performance to the extent that one would guess it should. Perhaps the clout of Hollywood and the brand expectations from these studios are able to overcome this hurdle, and people come and enjoy the film anyway, in a classic sense of “not knowing what they missed.” This may simply be a testament to the film’s overall strength, or to the fact that when watching, viewers focus on the character and do not necessarily associate the character with a particular individual/voice. In certain territories, the voice-over actors tend to repeat, such that the person who dubs for Daniel Craig or Pierce Brosnan in Germany tends to do so for all their films; in essence, a permanent stand-in. This is the voice locally associated with the actor, and accepted. (Note: Because many want to see the original version, certain cinemas in major cities will play “OV” English language prints.)

Europe

The largest European markets include the UK, France, Germany, Italy, Spain, and Russia. The number of prints used for the markets is in the same order of magnitude for the UK, France, and Germany, but this does not necessarily correlate to box office performance. The number of prints may often be the highest in Germany due to its dispersed metropolitan centers. Unlike the UK, where a couple of cities such as London can dominate, Germany is more akin to the United States, with many “states” and major cities (e.g., Berlin, Munich, Frankfurt, Hamburg, Cologne), and requires a higher print count. For most U.S. films, however, the U.K. box office will be larger than the German box office. France, despite the concentration of population in Paris with its rich film tradition, also tends to have high print counts, frequently exceeding the UK. Print counts may be, from highest to lowest: Germany, France, and the UK, while the box office could be exactly the opposite, from highest to lowest: the UK, France, and Germany.

This potentially inverse relationship between bookings/prints and box office revenues simply highlights some of the challenges in managing and maximizing contribution from international territories.
Asia/Pacific and the Rise of China

The largest market for major Hollywood films for years was usually Japan, followed next by Australia and then South Korea. However, the explosive growth of China has catapulted it into the second biggest market in the world. In an article describing a Chinese group’s purchase in May 2012 of the U.S.’s second-largest theater chain, AMC Entertainment, the Los Angeles Times noted: “Last year, China saw a 30 percent increase in box office sales to $2.1 billion. This year it passed Japan as the biggest foreign market for Hollywood films.”

Fueling and tracking the growth in revenues from China is its phenomenal screen growth. Screens have doubled in the last five years or so to approximately 11,000, giving it the second largest screen count in the world next to the U.S. These factors, plus the obvious growth of the middle class and consumer culture led the Economist to predict: “China’s box office revenues may overtake America’s by 2020.”

Already, China’s box office is 25 percent of that of North America, hitting $2.7 billion in 2012 (versus North America’s $10.8 billion), surging 37 percent from 2011.

An example of the market’s might was the April 2012 release of Titanic 3D, where the 3D rerelease of the original blockbuster broke the record for all-time opening, with an initial take of $67 million. To put that opening into perspective, the film had earned $44.5 million in the U.S. over its first two weeks, and the entire international opening in 69 territories garnered $98.9 million.

I asked Mary McClaren, chief operating officer of theatrical for 20th Century Fox, to put the growth of China’s market in perspective, and she advised:

The growth of China’s box office is a phenomenal success story. In 2006, China was ranked number 12 in international box office; in 2011, they have moved up to become the number-two market internationally. When Fox released Star Wars: Episode III – Revenge of the Sith in 2005, China represented less than 2 percent of the international box office, delivering just over $9 million; today, the market routinely contributes more than 10 percent of a film’s international box office. China was our second-highest-grossing international market on Rise of the Planet of the Apes, with $31 million in box office, and the number-one international market for both Avatar and Titanic 3D, delivering staggering box office results of $203 million and $148 million, respectively. The good news for the industry is that the trend looks to carry on as digital screen growth continues to expand, with digital screens doubling and 3D screens nearly tripling in the past 16 months.

The growth of the Chinese box office and new stature as a top market is more remarkable when considering how few foreign films are released into the market each year. The Chinese have historically enforced a strict quota system, limiting the market to 20 foreign films per year. After a meeting with U.S. Vice President Joe Biden and the waiting-in-the-wings future premiere of China, Xi Jinping, in the U.S. in February 2012, the countries announced a raising of the limit to 34 per year, with the caveat that the additional 14 movies must be exhibited in 3D (or other large-screen format). Seeing the next gold rush, many in Hollywood are looking to circumvent the system, seeking coproduction deals that would skirt the quotas if the films are classified as local. It remains to be seen how effective studios and others will be in implementing coproductions, for beyond the routine complications (see coproduction discussion in Chapter 3), the level of control either directly or informally ceded in the China context may be greater than most are willing to accept; typical coproduction deals revolve around financing and balancing creative and economic decisions among partners, but in China coproduced properties are further subject to censor review and control.
Together with a relaxation of quotas, the Chinese government also adjusted the rules in terms of box office splits. The above discussion, in terms of film rentals and different structures, never applied to China, as the government, along with limiting foreign films, also managed a controlled system that dictated foreign distributors participated in a share of ticket sales ranging from 13.5–17.5 percent. For the new 14 3D or IMAX films permitted, the government now raised that percentage to 25 percent. Chris Dodd, the chairman of the MPAA, remarked on the landmark changes: “The industry has been living with the numbers in terms of percentages and quotas for 20 years . . . it begged for a conclusion.”

Unlike the situation in Europe, the number of prints in Asia generally tracks revenues, with the higher print count representing the larger market and corresponding higher box office.

**Latin America**

By far the largest markets in the region are Mexico and Brazil, with Mexico dominating both in terms of box office and prints.

**Boom International Markets Driving Increase in International B.O.**

It is because of the phenomenal growth of major markets such as Russia, India, and now especially China—none of which were in the top 10 markets, nor even close to them, a mere handful of years ago—that the overall international box office, as discussed above, continues to grow as a percentage of global box office. The MPAA, in its 2011 Theatrical Market Statistics report, noted: “International box office in U.S. dollars is up 35 percent over five years ago, driven by growth in various markets, including China and Russia.” As a follow-on, its 2012 Theatrical Market Statistics report published total B.O. estimates for the top 10 international markets (Table 4.4).

**Concessions**

The unwritten rule of the industry is that “the theater keeps the popcorn.” For decades, producers, distributors, and everyone else in the food chain of profits has tried, without success, to add concessions into the revenue base derived from theatrical exhibition. The “popcorn,” however, is considered sacrosanct and is reserved entirely for the exhibitor. As discussed previously and in Chapter 10, the revenue base upon which participations and profits are calculated includes only the distributor’s cut from ticket sales (i.e., film rentals, as previously discussed). The theater owner’s cut from the box office and the concessions are a vital part of the macroeconomic picture, but these revenues are excluded even from the baseline of calculations.

**Online Impact**

- The online and digital world is profoundly influencing the release strategy and timing of theatrical distribution: piracy concerns, exacerbated by file-sharing services and the potential for ubiquitous initial instant access to a film, are driving studios to release films “day-and-date” worldwide.
Sites that aggregate nationwide critics’ reviews, such as Rotten Tomatoes, are providing summary scorecards, theoretically hampering the ability to open a movie slowly and build “word of mouth”; the nature of cumulative and instant scorecards, coupled with mass and new immediate feedback from social media and microblogging sites, further accelerating marketing timelines and putting additional pressures on box office openings.

- The online world affords a new, and still relatively untested, premiere release window, tantalizing some who could create sufficient demand to bypass the historical system and test online pay-per-view models.
- Digital cinema can deliver pristine quality and, in the long run, lower cost distribution—its promise is finally being fulfilled, with adoption rates soaring globally over the last few years, to the point that studios are beginning to phase out the use of physical prints. Although this movement developed independently of the online world, growing competition from other media remains relevant in efforts to improve and differentiate the theatrical experience (which has also stimulated the growth of 3D), while also lowering its cost basis.
- See also Chapter 9 for impact on marketing in the theatrical market.
Chapter 13, *Indie Film Producing*

**Distribution Film Alternatives**

By Suzanne Lyons

Today, we have access to so many ways to find our audience and get our movies out to them. The Internet has had an impact on the world, touching every facet of our lives, and the film industry is no exception. It has provided filmmakers with a venue to create buzz, enroll an audience, and offer a platform from which to sell and market our films.

Distribution consultant Peter Broderick suggests that film producers should be more proactive in their distribution strategy. In Rebert’s article “Rethinking Film Distribution” (www.iofilm.co.uk), he asked Peter about the opportunities now available. Broderick said,

*The filmmakers that are doing the best are the ones that have chosen some kind of hybrid strategy. Service deals, for example, can be a very effective way to go. In a service deal, the filmmaker fronts the bill for prints and advertising costs and hires a company to provide distribution services, from promoting the film to collecting revenues from exhibitors. The filmmaker is in effect renting the distribution system for theatrical release, but pays less for the distribution fee. The producer is risking his or her own money, but retains control over the film and continues to have final say in the promotion and cost. New technology continues to offer unprecedented distribution opportunities and digital downloads are becoming more common.*

In a *New York Times* article, “No Film Distributor? Then D.I.Y.,” John Anderson cautions film producers who are considering self-distribution to learn how the marketplace works. In the case of Bottle Shock, Anderson says that

*by going their own way, the director and producer retained the DVD and other rights to their film. They also were able to control how their movie was rolled out and marketed. That didn’t mean that they didn’t hire professionals to help make it all happen. To navigate the treacherous world of film distribution, Randall Miller and Jody Savin hired a consultant, a company to handle the physical distribution, and a publicist.*

The site www.youmakemedia.com featured an article by Chris Van Patten, “Indies Paving a Self-Distribution Trail.” He talks about the film *Four-Eyed Monsters* by Arin Crumley and Susan Buice and how they found success using the self-distribution path:

*Through a massively successful video podcast and their connection to fans via social tools, they were able to garner enough support to set up a self-distribution platform. Fans could go to the movie website and request a screening. If enough people requested a screening in a certain area, the pair would call local theatres and set up a time and date.*

I’ve become a big fan of Ellen Pittleman’s blog (www.baselineintel.com). I spoke with Ellen, who really is a wealth of information for the indie film producer. Her article “What Are the Latest Online Self-Distribution Options for Filmmakers?” is invaluable. Although she warns that online self-distribution is not making film producers tons of money, it is early in the game and the future may hold
a lot of surprises. She explains that

certain sites download movies onto one’s hard drive or onto a physical device, while other sites stream films, keeping the intellectual property on the licensor’s server so that it never rests with the consumer. The digital download of films, download to own or electronic sell through, as it’s often called, is frequently defined as a home entertainment right and the kind of model that companies like Amazon and Apple initially used. Streaming of films is typically a VOD right so it’s important that a producer understand which rights they’re granting to a licensor if they’re splitting a grant of right across platforms.

Some indie producers who don’t have access to theatrical exhibition or TV channels; Pittleman thinks that these producers should take advantage of the digital model:

User-generated services like YouTube provide a platform, and with more than 600 million active users, Facebook could also become a serious competitor to film/TV-centric digital distribution companies such as Netflix and Hulu.

In the same article, Pittleman suggests several sites that offer platforms and toolkits for self-distribution, each with their own approach to monetization:

SnagFilm and Open Film, for example, sell ad space and share the revenue with the licensee. MoPix is the newest addition to the self-distribution world and it’s an app-based platform for content. Filmmakers or distributors can upload all content they would put on a deluxe DVD. One sets his/her own prices and makes the film available for viewing through the app and/or can use the app merely as a marketing tool for the film. Egg Up is an online media distribution application that facilitates both film rentals and sales by enabling a filmmaker to distribute films on multiple platforms and websites with creation of what they’re calling the “egg.” The “egg” is a secured film file that contains your film, images, trailers, and extras. A filmmaker is able to distribute the film on his or her own website and other online retailers without any set-up fees.

Pittleman cautions us that even though as film producers we now have these amazing opportunities to self-distribute our films worldwide, if we want to be successful at doing so, we must be brilliant at marketing our films and driving traffic to our sites.

I was so excited about all the new opportunities available to us. As a film producer, I chose a variety of producers, directors, and even a distribution expert and spoke with them about the power of self-distribution, self-marketing, the advantages of film festivals, and the impact that the Internet is having on our industry. I’ve asked for their suggestions and advice regarding this new terrain that we are now about to explore.

Marc Rosenbush

Film Producer and Founder of the Company Internet Marketing for Filmmakers

What prompted you as a film producer to get involved in Internet marketing?

I came to Los Angeles as naive as anybody else. I’m going to move to LA, I’m going to make my first movie, I’m going to go to Sundance, Harvey Weinstein’s going to buy it, and I’m going to get
a three-picture deal and be rich. We all want to believe that the fairy princess is going to come down and wave the wand and it’s going to happen. That is a myth. Luckily, while I was making my first movie, I paid my bills as an Internet marketing strategist outside the film industry. And I soon realized that there were marketing techniques available that no one in the industry was using.

The digital revolution democratized making films, so anyone with a camera and Final Cut Pro can make a movie. Getting noticed has gotten harder and harder and harder. There are thousands and thousands of movies being made, so I thought Internet marketing would be a way to give me an edge, and forming Internet Marketing for Filmmakers is allowing me to share that knowledge with other producers.

**Do you feel that sales agents and distributors are aware of the impact that the Internet is having?**

No, I don’t think so. Even the distributors that are doing the digital distribution for you for the most part don’t know the Internet marketing world, so they don’t know how to market it except in the old way. A few of them are ahead of the curve, and they understand that this digital stuff is the key to the universe but they have no idea how to do it.

**What about producers today? Do you feel that we are really awake to the possibilities regarding the Internet?**

The concept of Internet marketing is still a little bit alien to filmmakers, but the concept of social media they get now, and they get that they have to do it. At the same time, filmmakers really have no idea what they’re doing. They think that, “Okay, I have a Facebook page and I have a website, so why am I not getting rich?” They don’t understand that there is a methodology. There are principles at work of leveraging an audience, of building a relationship with an audience. In fact, my new mantra is “Audience first, movie second.”

Here’s the number one thing – it is about identifying an audience, a specific audience. I talk a lot about this in my workshops since I believe that there’s a big difference between demographics and psychographics. Demographics, for example, are “males, 18–24.” That is such a broad category that unless you have a $20 million to $30 million studio marketing budget, you’re not going to get their attention because there’s too many things going on. On the other hand, a psychographic is more like a niche. I like the term “psychographic” because what it refers to is the way they think and what their interests are.

**This is new to me. Can you give me an example?**

Yes, I’ll do better than that, I’ll give you an example from the movie I’m working on now. It’s a vampire movie based on a graphic novel published by DC Comics. Vampire movies are popular, that’s great. Lots of people like vampire movies, that’s a good niche, but it’s still a really big niche. There are the people who like *Twilight*, which is one kind of vampire movie, sort of the teenage girl’s vampire movie, and there’s the people that like *True Blood*, which is a different type of vampire project. What I’ve got is a sort of a David Lynch–y surreal vampire project with Eastern philosophy under the surface. So it’s sort of an interesting cerebral kind of movie. At the same time, on the surface, it’s got all the sex and violence to be marketable.

So I start thinking, okay, forget about the word “vampire” for a moment. What is the psychographic, what is a niche culture that would be interested in this movie? I started thinking about it and the
word that came to mind is “goth.” I went, okay, goths by and large are interested in vampire stuff but they also tend to have an intellectual vibe going on. You know they’re readers but they may also have a dark spiritual vibe going on. Goth culture grew up and became intimately associated with Neil Gaiman and *The Sandman*. Okay, so that’s interesting, but would the psychographic of “Sandman” fans be right for my movie? Those fans that are likely to have a goth component?

**That all sounds great, but how do you get to those fans – that group of people?**

Start with social media. Run a search on Facebook. Facebook has an advertising tool; even if you’re not running an ad, you can just run a search on their advertising tool and just put in a key phrase. And what you want is for these people to like your page. Profiles of individual’s pages are for products and entities. And the reason – and this is very important in terms of marketing for the long term because you’re only allowed to have 5,000 friends max and you’re limited in terms of the way that you can market to your friends – pages were developed as a marketing tool whereas profiles were developed as an interactive communication tool. Big difference.

So, for example, I could run a Facebook ad campaign targeted at Neil Gaiman fans. In fact, I did this a week ago. I set up the parameters and I spent $25 a day and for $25 a day, it was costing me less than a dollar per acquisition of links. And I wasn’t selling them anything. The ad just said, hey, if you like Neil Gaiman, you’ll like this movie. And they went and they checked it out. So I got 150 new followers in a few days. And that was just a test. So remember it’s important to have the money in your budget to put into Facebook advertising just to build a fan base.

**So this is important to literally put in your budget?**

I would say for any new film, if you don’t have a line item for the Internet, then you don’t have a budget.

Do you mean separate from possible P&A money or potential four-wall money in the budget? In fact, before you answer, let me tell our readers what I am referring to here. P&A money means prints and advertising and four-walling a film means that you rent the theatre and show the movie yourself. Usually the theatre keeps the concessions.

No, I am not referring to either of those things. This is a marketing item that exists before the film does. This is not P&A. This is in the production budget. You can create the frenzy before you have the funding. Let me ask you a question: you’re a producer, but let’s say you’re a studio or let’s say you’re an investor, if somebody comes to you with this little film, and says, “Okay, I want to make this for $800,000,” they’re going to look at you and say, “Well, what have you done before and why should I listen to you?” But then you say, “Oh, and by the way, I have 70,000 people who already are interested,” you’ve just done their work for them.

The Internet is a numbers game. You need volume. For example, I am interested in creating an audience on YouTube that has the potential to grow to 40,000–50,000 a year and beyond. Now you can go to investors, or even if you’re past the investor stage, and in production, at the end of the day, you can go to a distributor and say, “Oh, look, I’ve got 40,000–50,000 people.” You just did their job for them. If you’ve got 40,000–50,000 people or if you’ve got 200,000 people, you don’t even need a distributor!
My goal for my vampire movie is a million people in my social sphere or targeted fans of the movie and I don't just want them on Facebook. I want their email address and I want their zip code so I know where they live so I know whether to do a theatrical first, and if so, where to do it. And if so, how much to spend in each of those locations, and if I'm lucky possibly to not spend anything in those locations because I have their email addresses. We'll also have an iPhone, iPad, and Android app, so we'll get their information that way as well. I'll be able to text them, email them, so if I've got 30,000 people in Atlanta and I've got their email addresses, they've already made a commitment to the film by giving me their email address and zip code, that means they've already invested in a sense. Then all I need to do is four-wall, send them an email, and what's the worst that can happen? As long as I get enough of them to pay for the four-wall, I haven't lost any money.

Okay, if you've got 30,000 people in Atlanta, let's say, 300,000 in Chicago and 30,000 in LA, why four-wall? Why make the little bit that comes out of theatre? Why wouldn't you just sell those downloads for $15 and make $15 times 90,000 without having to leave your office?
That's one of those questions that the answer depends on the movie. You have to get your ego out of the way and decide, is this a theatrical movie? And you have to get your ego out of the way and decide, does this movie have international potential? Because if it has real international potential and you can get it into theatres and make money, you will do well overseas.

I was just curious, where can you make the money?
If you get 500 out of 30,000 to show up, you just paid for the theatre.

Yes, but where is the big money?
Well, it all depends on the size of the network that you build, and at a certain point it's going to depend upon whether the movie is good enough and theatrical enough. Your goal is to get those 500 people in the door, but then your goal is to have a good enough experience for them that they go out and talk about it to everybody.

And then Disney or Warner Bros come calling because the word of mouth is spreading? Is that part of the plan?
That is a possibility, but this may not be for everybody. That's something that could conceivably work for my movie if I get a million people on the list. But not necessarily for every movie.

Let's say, that if I were just going out to raise the funds for Séance with Adrian Paul attached, what would you suggest?
Today with the Internet, I would get the hardcore Highlander fans involved – I don't know how big those numbers are – my impression is it's pretty big. I'm guessing that's hundreds of thousands of people if not millions.

So would you suggest self-distributing by making it available to the Highlander fans through downloads on the Internet?
I realize that six years ago we didn't have the tools on the Internet to do it with any safety, but I'm not even talking about delivering the movie that way at the moment. I'm just talking about spreading the word. One of the big issues in this whole arena that I don't think anybody realizes is that distribution and marketing are two different things. Distribution is delivery, marketing is awareness building. CreateSpace, for example, will say, “let us distribute your film.” You're not going to get an audience from them. All they're going to give you is a mechanism for taking the money and they
will mail a DVD or do a digital download. Nobody's going to find you through CreateSpace. Because CreateSpace is part of Amazon, if somebody does a search on your topic under Amazon, even on the Amazon search page, it’s going to come in order of how popular the searches are. Why? Because the stuff that’s showing up on the first page is the stuff that’s making Amazon money right now. On the other hand, if I built a social network, get 20,000 people, or even 5,000 people who are really seriously interested in what I’m doing, and I can send them a message on Facebook, or even better send them an email and text them and I can communicate with them, assuming I’ve built a relationship and they like and trust me, then if I want to put the movie on Amazon and CreateSpace, CreateSpace will do the delivery for me but I do the marketing.

Going back to what I said before, identify the audience that’s specific to the niche of your film and the psychographic, understand their buying habits, locate them on Facebook, on YouTube, find out where they hang out. Because really 80 percent of what the Internet is used for, is for like-minded people to hang out together and talk to each other. So all you need to do is fall down in front of the right group of people. All you need to do is find the person or organization that already has a relationship with those people.

**Marc, this has been fantastic. Thank you. Any final words of wisdom?**

The problem is it’s such a massive topic that I can barely scratch the surface, but what I want to get at is that the root of social media is building a relationship with the right people and who is right for your film. Actually, the phrase that I use that I think is in my video online is building a relationship with people who are already predisposed to being interested in your film. Building a relationship that feels personal. Building a human relationship doesn’t have to be difficult; it could come through in a variety of ways, from baring your soul to humor.

Actually, the number one thing you can do more than anything else is engage your audience. Don’t talk at them but invite them to talk to you. It’s the first rule in sales. I’ve tested this and it works. Everybody wants to be heard. Everybody wants to feel significant and they want to feel listened to.

Okay, here is my final word: if there’s a single value to the Internet for marketing, you can get to more people, more quickly for less money than any other form of marketing in human history. By the way, you’ll also see on my video, YouTube, Facebook, and Twitter statistics that will blow your mind. You know, I was a theatre director in Chicago before I moved here and I remember standing in front of a 40-seat rat-infested theatre passing out flyers on a Saturday night hoping I’d get audience members. There’s a moment on the Internet where you realize, oh, okay, the amount of energy it takes, the amount of time and energy and money it takes to get and print the flyer to 500 people for the same time and energy and money and actually less, I can get to 500,000 people. It’s a massive paradigm shift.

I think if you’re not using the Internet today then you have no chance. If it’s not at least part of your strategy, if not the main part – in my philosophy – especially for a $1 million or lower movie, the Internet should be the primary means of getting your word out.

Check out Marc’s website at www.Internetmarketingforfilmmakers.com. On his first $125,000-budget film, Marc made $40,000 in DVD sales in the first two days by marketing and creating a buzz on the Internet. He knows what he’s talking about because he has literally done it himself.
Stacey Parks

Author of The Insider’s Guide to Independent Film Distribution

*What have you noticed from your years of experience in the traditional film distribution arena to the transition to the current trends toward self-distribution?*

I’ve noticed that self-distribution has gone from being an “alternative” form of distribution to really very common. In fact, it’s gone from being Plan B to Plan A, and I feel everyone should have self-distribution as part of their overall distribution strategy.

For anyone who is about to launch into producing their low-budget film, what is your advice regarding the direction they should take with distribution? And at what point should they begin thinking about the distribution of their film?

A producer always needs to be thinking about distribution from the beginning – in fact, the script stage of a project – because this will inform all sorts of decisions from casting, to genre, to target audience. Again, I think everyone should always shoot for the stars, but be realistic and keep self-distribution in mind as part of your overall distribution strategy.

*While we were raising money to produce our films, we included in the total amount we were raising the money for our delivery costs. And once we delivered to the sales agent, the rest was in their hands. Now with the possibility of self-distribution, should we be raising additional monies? And do you have any ideas as to how much we should raise for this possible self-distribution?*

Yes, you definitely want to budget for self-distribution from the beginning. As a general rule of thumb, take 25 to 50 percent of your budget and allocate it toward self-distribution. Of course, this will depend on what type of self-distribution you are planning to do – for example, doing a self-theatrical release is much more costly than just doing a self-distributed DVD. So let’s say your production budget is $100,000, then I would actually raise an additional $25,000–$50,000 to cover self-distribution, depending on whether part of your self-distribution strategy includes theatrical screenings (which is expensive to execute).

*I’m not sure what self-distribution really is. Is it mostly about selling your film as a downloadable product on the Internet? And is that safe as yet? Or is the risk of pirating too great for producers to even be considering this form of self-distribution?*

Self-distribution entails distribution on most of the big platforms, specifically theatrical, DVD, and Internet. Honestly, pirating is a risk for all films, even at the studio level. So if a producer is self-distributing their work, then realize it’s not just they that need to be concerned – everyone is concerned!

*Should we just be focusing on using the Internet as a way to promote and market our film well in advance of producing it? Or does that work only when we have a film with a particular niche market audience?*

Everyone should work on building an audience for their work even before making their film. However, I will admit this can be a challenge at such an early stage, so the idea is that you lay the foundation of audience building during preproduction (website, social media pages) and get...
started with it, but realize that it’s a marathon, not a sprint, and it can take months if not years to effectively build an audience for your film.

I hear that domestic distributors are being more flexible with their deals these days. Split right’s deals are something that are now becoming common practice. Can you tell us more about that and what we should be asking for in those deals?

Yes, good news for filmmakers is that traditional distributors are starting to agree to split rights deals with filmmakers. For example, if you are making a deal with a traditional DVD distributor, you should be prepared to ask to retain the rights to self-distribute your DVD off your own website and have them carve these rights out for you on the contract. Then you will be able to sell the DVD directly to your audience (remember all the audience building you’ve been doing?). This is where that will come in handy!

You can learn more about Stacey by going to her website at www.filmspecific.com.

Becky Smith
Writer/Director/Producer “16 to Life”

I know you are the queen of film festivals, with over 50 festivals to your credit on your film 16 to Life. Was this something that you had planned from the get-go? And what was your experience starting out on the festival circuit?

We thought we would try the festival route. The festival “how-to” books and the media hype a select few festivals – the obvious big ones, Sundance, Toronto, Berlin, and maybe Cannes. However, I think that conventional wisdom pays off for a tiny percentage of independent features. Even if your indie feature is one of the very small number of independent films that get into Sundance, the chance of getting a big sale –or any sale – is remote. It’s not going to be an effective strategy for the majority of films.

We submitted 16 to Life to those festivals – I guess it’s worth a shot! But when we didn’t get in, I had to reevaluate. My film is a small coming-of-age romantic comedy, which, I think, is not the most likely material for Sundance or Berlin. We needed to come up with a new strategy. I had no relationships with programmers, no track record as an indie feature director. My cast was young television actors and an adult actress who is an esteemed film actress. But I didn’t have a “star.” So I developed a new strategy based on the question, who does this film appeal to? Let’s go back and look at the festival circuit again, and let’s not use the conventional wisdom of Sundance and Toronto (highly unlikely for 99 percent of indie films). I felt that we needed to focus more on “Who is the appropriate audience for this film?”

There were some obvious selling points. First, the film was shot regionally, on the Mississippi River in a rural, beautiful community. Second, it was about teenagers. Third, a young girl is the protagonist. I started applying to regional festivals. I approached festivals that focused on women and/or supported small, regional films. I also looked at international festivals (there are a number of “youth festivals”). International youth festivals are more edgy and more open to exploration of teenagers in terms of darker themes and sexuality than American festivals. If you see an American film festival that is touted as a youth festival, you are going to get films for children. In Europe and Asia, when they say youth festival, they’re talking about anything that explores issues of young people, i.e., much edgier films. I used Without a Box – because it’s simple and efficient.
Did you have money in the budget? Because this isn’t something you thought of before you made your movie. It sounds like you knew you were going to approach the big ones, but not the whole gamut of festivals you ended up submitting to.

I always thought I’d try for ten festivals. But I initially thought they’d be festivals like Sundance and Slamdance. I had a bit of money and I was aware that we had to have a killer website. We developed the website from the get-go.

Was that useful?

Oh yes, the website became profoundly important with festivals. I know that many festivals have gone to my website to check out the film. I add great quotes when we get them; I add awards we’ve won; I list the festivals we are attending.

Did you have a trailer up there, too?

I had a trailer, a music video, blurbs on all of the actors in the film. I have stills from production, a cast list. We have music – a wonderful soundtrack – you can see the music that’s in the film. One strategic thing I held onto was that when we got into our first festival – whatever festival we first got into – we needed to make a huge splash with that festival. It had to be a festival carefully selected. The first festival we got into was a festival in Los Angeles called the Method Fest. You have to be what I describe as “pleasantly aggressive.” You need to be brave in terms of calling programmers, though not obnoxious. If you don’t get on the phone, I think your chances are diminished. I think it’s important to talk to the programmers at the festival to let them know who you are. Not to be pushy, but to be proud of what you’ve done and articulate why it might be a good fit for the festival. We ended up getting a great screening time for our premiere at the Method Fest.

So even before you got accepted, you called to create a relationship?

Yes, I think it’s a good idea to call the person – you probably won’t talk to the head of the festival, they’re too busy – but talk to the programmers: would this be a good fit for you? Would you look out for this film when it comes in? I think it’s helpful, especially if you have something unique about the film to present to the programmer. Your film could get lost in the shuffle. There are an enormous numbers of films submitted to every festival. So with our first festival – the next smart thing we did – was we hired a social media/PR person. We said no matter what, we are going to fill this theatre. She immediately went to Facebook and Twitter and found ways to engage a broad cross-section of people. We made sure that we put great effort into getting people into that theatre. That night, not only were we the only sellout in the history of that festival, but we turned away 75 people at the door. Absolutely packed – people sitting in the aisles. They called the fire department to say we had to move some people out of there. That led to several nominations for awards in that festival and we won the audience award and Best Supporting Actress.

Had you discussed that fact with the programmer, that you had somebody who was a social media expert who was going to be getting the word out about the uniqueness of the film?

That’s a good question. When they accepted our film into the festival, we introduced them to our social media/PR person. It’s pretty divided – you’re either social media or you’re PR these days – but three years ago she did both. I’ve heard that you have to be very patient in terms of the festival circuit; it’s a slow process. It started very slow for us, then built and built – and we are still being invited to festivals, two years later!

What I found out was that success leads to success. From the moment that we got into the
festival, won the audience award and Best Supporting Actress award, and filled the theatre – once we had those accolades plus many nominations for other awards – we were able to capitalize on them with other festivals. Here’s my truth: there are many festivals around the country, including small festivals, medium-size festivals, big prestigious festivals. And all of these festivals are run by passionate people who love film. There are many older actors, wonderful actors, who are celebrated at small regional festivals. There are great directors and cinematographers who are celebrated at regional festivals. These festivals have appreciative audiences and they’re wonderful places to submit, to go to, and to meet audiences and other filmmakers. We had a wonderful time at the Kansas International Film Festival and won both the audience and best of festival awards. We won the Mississippi International Film Festival, the Asheville International film festival in North Carolina – we went to as many festivals as possible and did Q&As.

Did they pay for any of this or was this out of your budget?
You always negotiate when you are invited to a festival; sometimes they pay, sometimes they don’t. Sometimes they’ll give you a hotel room, sometimes they’ll pay your airfare. When I got to these festivals, I found that I was on panels with wonderful people. I was sitting in on workshops with amazing award-winning cinematographers.

The audiences were enthusiastic and vibrant and they filled the theatres. They were knowledgeable about film and – the good news is we kept winning festivals, which was astounding to me. I think now we’ve won a total of nine festivals and/or audience awards. We’ve won two Best Actress awards, two Best Supporting Actress award, and one Best Cinematographer award. It was a one-year journey, but even now as I sit and talk to you, we’re in three new festivals: Russia, Armenia, and Spain. They just keep coming. They call me; we are no longer applying because we have distribution. And we would not have gotten distribution without these festival wins – and the great write-ups in newspapers about the film.

So how many total festivals do you think?
I may have lost count but I think we’ve been in some 40 festivals. I am convinced that the sale of the film to Warner Bros. Digital, for television, direct download, video on demand, Amazon, and Netflix would never have happened without the festivals wins – proof that we had a broad responsive audience.

Did you go after Warner Bros. or did you have a sales agent who went after them?
My sales agent submitted the film to distributors. It was a long and rather discouraging road – especially because we started the process before we got into a single festival. In hindsight, I think that’s a choice you have to make, but I think an independent film needs some kind of credibility. A coming-of-age story is not always easy to sell. When I had to change gears and rethink the festival strategy because we didn’t get into the top five, our decision to focus on getting attention for the film and building an audience for it paid off. I don’t think Warner Bros. would have picked up the film otherwise. Now they’ve come back to us with interest in selling foreign rights, but we’d already made a deal for foreign rights before we got the US rights.

With your deal with Warner Bros Digital, were you able to keep any rights for your film?
One thing that’s happening now with independent features is that rights are often broken up. People tend not to sell all rights to one distributor. I think filmmakers are leery, and rightfully so, that they will have a hard time seeing a return. One thing I think indie film producers should consider is retaining the rights to sell DVDs themselves – unless they get a great offer.
If you had to go back in time and do it again, would you have not gotten the sales agent and just done the festival route and then been able to go directly to a domestic distributor like Warner Bros.?

I would love to say that I would not have used a sales agent, I would’ve loved not to have that middleman. But you have to ask yourself, do I know how or want to learn how to get to distributors? As first-time indie producers, we don’t have credibility, so I don’t know how we can bypass a relationship with a sales agent.

Is there anything you would do differently if you could go back to the beginning?

I would do a micro-budget feature. I believe you must make a very low-budget feature right now to have a realistic chance of getting your money back. Also, I would have thought more about trying to engage people at festivals in a personal way. I learned that as I went along.

I want to reiterate that there is so much hype around the top five festivals and the top ten festivals. But the odds are very much against the indie filmmaker getting into those festivals – or making a sale at those festivals. If you aren’t one of the lucky few, be creative and think outside the box. Realize that there are many festivals that have film devotees and reviewers. They will treat you well, provide you a forum for Q&As, and you may get reviewed, win awards; plus, you will meet other filmmakers. For example, we were invited to Tunisia this year. Five famous French actresses were on the festival jury; one of them is Charlie Chaplin’s granddaughter.

At the festival, the big announcement was the Best Actress award. My actress and I came running in from the beach wearing jeans and T-shirts and were shocked to hear the announcement. We were up against several films that ended up being the Oscar submissions from various European countries. Again, by American festival wisdom, who would have thought that by going to a festival in Tunisia we would end up meeting well-known producers, directors, and actresses and that we would win one of the top awards? Rethink what festivals are about, why you go to them, and what you do there. Getting sucked into this idea that it’s just Sundance or nothing is harmful to independent film. Find your film lover, find the people who appreciate what you’re doing, and remember that every single win or recognition or nomination goes back to your website. It becomes your press release.

What about your investors, did you keep them informed?

We send them an investors’ newsletter twice a year. And many of them attended various festivals. We had a small theatrical release. We did it in conjunction with private theatre owners and with AMC theatres. We opened in nearly 20 theatres. In almost every case, we beat out whatever Hollywood films were in the theatres in terms of audience attendance.

Did you do this to try to make money?

No, it wasn’t about making money, since I knew through my research that films can’t make money on theatrical anymore. I wanted to break even and get more buzz for the film. And we were selective. We kept going to where our audience was. We did well in about ten cities in Iowa, Wisconsin, Kansas, Nebraska, and Arizona. We wanted reviews. Every review, whether it’s online or a small-town newspaper or a larger newspaper, can be added to your website and your poster. We have about 30 nice quotes at this point.
Was this before the Warner Bros. deal?
Yes, absolutely. Going the festival circuit, doing a small release, putting out press releases, and getting people to review the film – all those things helped us make our sell. Now our poster for the film has a Variety review. It’s thinking smartly, not giving up, and having patience.

Any final thoughts you have for film producers?
Yes, your poster. You have to have a poster that encapsulates your story, that’s engaging and makes your film sound intriguing. That gets to the core of your film in a smart way. You need to think about how to get people to see the film at festivals, how to engage programmers. It’s a lot of follow-through. You can’t just direct the film and think that’s all, that you can walk away and someone else will be as passionate as you are about it – and nurture it to distribution. Nobody will care about it as much as you do. There’s just too much noise in this day and age. Too many people with cameras who can go to Final Cut Pro and make a really low-budget film. You have to draw attention through having a quality product and knowing how to market it.

In addition to being a writer, director, and producer, Becky is also a professor in the master’s program in Directing in the UCLA school of Theatre, Film, and Television. For more information on Becky’s film, go to www.16tolifethemovie.org.

Jim Pasternak
Director, Certifiably Jonathan

Richard Marshall
Producer, Certifiably Jonathan

When you were raising the money to do your film, was your goal at the time to self-distribute?
RM: No, it actually came about as we were going through the process of making the film. We attended seminars and conferences, and we went to one called “How to Distribute Your Film Without Getting Screwed.”

JP: And the irony of that was that one of the speakers on the distributors’ panel said, “Well, you know the reality is that we will screw you, but you will love it because we will get your film out there, you just won’t see any money from it.” Richard and I looked at one another and we knew that that was not what we were going to do. We were determined to repay our investors, and this is part of what drives us. But the most exciting person there was a gentleman named Peter Broderick, who in essence said that the studio system is a dinosaur, and as filmmakers with access to the new technology and with the Internet, there was no reason that we shouldn’t be distributing and marketing our own films. That gave us the inspiration to take it out to theatres ourselves.

How many theatres did you do?
RM: So far, we’ve done 48 theatres in a whole gamut of cities and all at independent theatres across the country. Probably our biggest strategy that we ended up at was to do some Internet marketing. Because our demographic is basically 45–50 and over, a couple years ago that demographic was harder to reach on the Internet. Right now, they’re not. We set up a Facebook page and it’s been very successful.
JP: We did the key cities: New York, Chicago, and LA. Everyone was telling us that you have to do those cities in order to be considered legitimate.

**So I take it that the point was not so much about getting the money back from the theatres, but more to be seen, to entice and excite a domestic distributor?**

RM: Yes, and what happened was that the combination of our Facebook page – which in 14 weeks has almost 89,000 fans – and the fact that we had and were continuing to set up theatrical screenings brought Gravitas to us, and Gravitas is a digital aggregator. They are an aggregator of on-demand and digital rights.

JP: And they were an aggregator for Warner Bros. We ended up getting a deal through Gravitas with Warner Bros. for a VOD (video on demand) release. And now our film is going to be in 100 million homes in North America.

**So do you get to keep the other remaining rights?**

RM: Yes, Warner Bros. has exclusive VOD; however, it does not include Internet VOD, which is separate from cable VOD. So because we have signed on with Gravitas, they will make the deals for us with Netflix, Netflix streaming, Amazon streaming, and possibly Google streaming. They will make the Internet deals.

JP: After we’ve done our theatrical releases, we then start selling the DVDs on our website, because we have maintained those rights. And we’re hoping that by then we’ll have 100,000 fans on Facebook and those 100,000 fans will be a sort of tipping point for us to multiply our customers and sell our DVDs.

RM: We’re not only selling DVDs of the film, but we’re actually working on two additional DVDs at the same time of the additional footage we have. We’re also setting up a store right now to sell T-shirts, hats, and posters and other related items of the film along with our premium DVD. And then we are planning a third DVD, collections of scenes with Jonathan and some other comedians.

You mentioned your Facebook page earlier. The numbers are amazing. Did it cost money to get involved in social media and what have you learned about that whole arena?

JP: Yes, it so important to have enough money to market your film on the Internet – having enough money to promote it in such a way that you can sell the film yourself. And what that does to investors is that it says to them that this film is going to get made and it’s going to be seen, because if a traditional distributor doesn’t want it, these filmmakers have thought ahead about how to get this film out into the world. The biggest problem is that people make films and they don’t get seen. So what we’re saying to our investors is, if we make this movie, it’s going to get seen. And that’s important. But it costs money to get a good website. It costs money to keep the Facebook page going. It costs money to enter into film festivals.

RM: I have to interject here. Making a film is easy compared to getting a film distributed.
That’s a good line. I love that. Now, let’s talk for a bit about theatrical. Do you feel it was worth the time, effort, and money?

JP: Yes, because what it did is it made us legitimate to other ancillary venues like VOD, and I think it helped drive our Facebook campaign. It’s all very intertwined in a way that you can get the word out and create a profile for your movie that makes you legitimate.

RM: That just brings up another point. We spent a substantial amount of money on a publicist in one of those cities. The most important thing that we did with the theatrical was in Chicago. We were able to get one of our cast members to do publicity, and she did a half dozen television and print interviews and we had the best turnout in Chicago.

That’s fantastic. Did you do the four-walling in these cities or did you hire a company to help you?

RM: We only four-walled once. We only four-walled in New York. We made a deal with Emerging Cinemas; they’ve been taking it out all over the country and what happens is we’re getting requests through our Facebook page and our website from independent theatres to do screenings as well. The thing about Emerging Cinemas is that they are all digital projection, so we just have to make one digital master and send it to them. They send it out and take care of it.

Did you do the deal with Emerging Cinemas?

JP: No, we hired a broker, Richard Abramowitz and Kirt Eftekhar, at Area 23a. They set up the deal with Emerging Cinemas, and Emerging Cinemas is a company that goes in and they have their own digital equipment that they install in independent theatres all over the country. Theatres like the Laemmle and Landmark. It’s a fairly new concept.

RM: So what Area 23a did is they contacted theatres, sent screeners, got commitments, made sure that they got all the posters, got all the deliverables. They collect the box office receipts for us.

Do they take a percentage?

RM: No, we pay them a flat fee to do the whole thing for a certain number of months. For a flat fee they’ll just get your film into as many theatres as they can and help you strategize how to get into theatres. The other thing I want to point out here is that you can’t just send your film out and expect theatres to book you. They want to know that there is a certain amount of marketing and muscle behind your film because the last thing they want is a film in their theatres that nobody knows about and they’re not making any money from.

JP: So, having the Facebook page really helped. And of course, opening in New York gave us certain legitimacy with other theatres in the country.

So you guys did that on purpose – you did the four-walling yourself in New York to help Area 23a have that credibility to take you to more theatres across the country.

RM: Exactly, we opened in New York to get the reviews, and we bought some advertising in New York.
York, we did press in New York. And when other theatre owners see that you’ve opened in New York, and you’ve opened in Chicago and they knew we were opening in LA, then they go, “Okay, that’s a legitimate film, we’ll book that film.”

JP: And I think it helped us get Area 23a. Once they knew we were going to open in New York, they were a lot more willing to take a chance and open in Chicago a week later. And knowing that we had a celebrity in Chicago – Nora Dunn is a fairly big celebrity there – they had the confidence to book us in one of the best art theatres there. And the great thing about Chicago is that we had a week-long run there and then we got a call from the Winnetka Theatre outside of Chicago, and they ended up booking the film because we did so well in Chicago. So it really is about building a momentum and then other independent theatre owners start to see what you’re doing and then they actually start to request your film.

What about film festivals? Were you and are you actively doing the festival circuit?
RM: I have to say that the festival is sort of the perfect, ideal place to show a movie. I would advise filmmakers to use the festivals as a theatrical in a sense. I know there are companies popping up that actually get you booked in the festivals and to use the festivals to start to build momentum for a film. Because you’ve got a captive audience, they are there to watch films, and they’re not as critical as the LA, New York audiences are, so it’s kind of a perfect environment to view your film. So I think it’s really important to do the festival thing.

How many festivals have you been in to date?
RM: We’ve done 18 festivals.

JP: When you’re making a film or when you’re trying to go out and raise money for a film, from this point on, I would never think of raising money for the film without raising the marketing money at the same time. And this includes festivals. If you want your film seen, it’s important that you have a sense of the marketplace and you have a sense of what your core demographic is; you have an idea of who your audience is and you have that in mind from the beginning. You’re thinking about what kind of campaign that you can have on the Internet and create interest and controversy and enroll an audience to see your film. Yes, before you make the film.

RM: I totally agree. You really have to understand this aspect. It’s never been so clear to either one of us until we made a film and had to market it.

JP: And there really is no template. We were lucky. We were lucky that we had a comic icon like Jonathan Winters. Because we had Jonathan Winters, and all of the activities that were involved in making the film, we were able to get Jim Carrey to participate in the project. We were able to get Robin Williams, Sarah Silverman, Jimmy Kimmel, and Tim Conway. We have a cast! So for a relatively low-budget film, we have a big-budget cast! And that has made it much easier for us to get the attention of people in the distribution mechanism and our investors as well. We were able to finance the film because we had what everybody felt was a marketable film.

RM: If you’re going to self-distribute, you still have to have names in your film. It still comes down to names. And the names change constantly.
Any final words of wisdom?
JP: I think it’s very important for filmmakers to always work with people who know more about what they do than you do. It’s better to be collaborative and build a team of people than it is to try to do it all yourself. Because when you try to do it all yourself, not only is it exhausting and not fun, but you have limitations and you need to have good arguments and playful conversations and people who are better at finance than you are or people who are better salesmen than you are or have a better sense of color than you have.

Or marketing experts or Internet experts …
JP: Exactly. So what you try to do is you try to develop a project that has a strong enough collective vision to attract the people you want to work with. And I think you have to be constantly thinking about marketing materials while you’re making the film. And I think directors have to think like producers.

RM: Even beyond thinking like a producer, as a producer you have to be thinking like a distributor, and that’s the reality of making independent films. There’s no way around it any more. If you’re going to be an independent filmmaker, you literally have to be a distributor at the same time. You have to understand that world so thoroughly that if you’re lucky enough to get a distributor, it doesn’t end there. You still have to be involved in the distribution because if you leave it up to a distributor, there’s a good chance they won’t get it right, because frankly, the reality of a sales agent/distributor is that they have 12 films they have to get out that year or 20 films that year and they only have so much time for each film. They can only put so much effort into each film and so many people to put on that film. They’re not going to push your film as hard as you are. So you have to be willing and able and smart enough to be involved in that as much as if you were in producing your film.

For more information about Jim and Richard’s comedy mockumentary Certifiably Jonathan, go to www.certifiablyjonathan.com.

Jerome Courshon
Award-Winning Producer, Distribution Expert, and Founder of Three-Day Distribution School

Jerome, I know you talked about democratization in reference to distribution on your video series “The Secrets To Distribution.” Could you speak a little about that?
Yes, I think democratization has finally come to distribution. It’s come to filmmaking and now it’s come to distribution. Everybody now has the potential to actually make money these days by self-distributing. And there are some people who are doing it. The challenge is that it’s hard work and most film producers don’t want to spend their time doing that. Many just want to make movies and let someone else handle the distribution so they can move on to the next film.

For those who are considering self-distribution, what is your advice?
I think it’s important that filmmakers really focus on what they want and what their goal is. What
is your goal and what are you trying to achieve? If you know you’re dead set on some theatrical deal, then you need to learn how to position your film and play the game to go after that. If you just want a home video deal, or VOD, etc., then you tailor your approach to the marketplace from that standpoint. Also, it’s important to build a pedigree for your film (unless you’ve already got that with a name cast). This is essential. You build a pedigree to set yourself apart and show the world, not only distributors but potential customers as well, that your film is really good and that they should spend their money.

How did you do that with your first film, God, Sex & Apple Pie?
I did it by using festivals, and then a small theatrical release. I made a movie, a comedy-drama with no names, and I started submitting to film festivals. I knew I needed to get press and quotes from the media. I did a bunch of festivals, built up a pedigree, and by the time I was done, I’d won six top awards. I had a lot of press and now with this pedigree, I made the decision to open it theatrically in as many cities as I could afford.

Did you four-wall your film and can you say a little about that concept?
When you four-wall, there are really two distinctions that I tell producers you need to make, especially when you’re dealing with theatres. Four-walling is when you buy the theatre out for a week. You’re paying the owner or the chain an amount of money up front, and you get the theatre and all the box office. However, I didn’t want to four-wall as I didn’t want to pay out money up front. I wanted to make deals with the theatres. And these deals are percentage deals, where you and the theatre (or chain) are splitting the ticket sales on some percentage basis. Of course, the theatre is sharing the risk with this type of deal, so they have to believe that you’ll put butts in seats. So this is what I did. I made deals with the theatres, paid no money up front, and we split the box office. Frankly, if you can make a good percentage deal, this is generally the better way to go; the money you might have budgeted to buy out the theatre can now be spent on marketing.

So I decided to open in Chicago first because that’s where I grew up. I planned to use the “local boy” angle to gain press, and it’s one of the top three cities in the country, so it’s a good market. Please keep in mind – and this was a mistake I made in Chicago – it’s important to choose the right theatre. Number one, be aware of what the theatre is known for showing, whether that be mainstream fare, arthouse fare, or second-run/revival fare. This will have a direct bearing on how your film is perceived in the community and affect attendance. Which type of theatre is right for your film? Number two, choose theatres that have foot traffic. If you pick a theatre everyone has to drive to, you’re probably doomed. Obviously, there will be people who will drive to you, especially if your marketing is good. But you also need the spontaneous, impulse-purchases of people walking by. And if you or someone from your team is standing outside the theatre pitching the foot traffic coming to the theatre, you will convert a lot of this traffic to your film. This was how I sold many tickets in my New York City run. Lastly, it’s also important that the theatre chosen be in the right area of town for your type of film. For example, if you have a Latino-flavored film, you must take into account the demographics of the area where you plan to open your film, making sure that it makes good business sense.

Did you have the money for this in your initial budget?
No, I learned my lesson the hard way. I recommend that you raise everything you need, including festival money, marketing money, P&A money, everything you need! I tell people, budget and raise money for P&A so that you have options if you don’t get the deal you want.
Since I didn’t do this, I had to raise money separately to open theatrically in Chicago and New York. My marketing was approached in two ways. I hired a PR firm for their traditional approach to PR, and then I personally handled all the grassroots marketing. I knew from my festival work that I needed to do a lot of grassroots marketing, but also knew many PR firms don’t understand how to do this. I worked my ass off. I go to stores in the neighborhood, getting posters in store windows, postcards on store counters, I talk to people everywhere, I get on the radio and do radio shows, I work the Internet. I do everything I can. This is just a necessity if one is going to open theatrically and you don’t have the money the studios have.

This is great info and I’d like to ask you about mixing traditional distribution with self-distribution. What are your thoughts?

For many independent filmmakers, I feel using the best of both worlds is the way to go. Unless one of the studios’ specialty arms or one of the major independent distributors like Lionsgate or Summit or the Weinstein Co. is cutting you a nice check for your film, the best way to maximize revenues is market by market (i.e., home video, VOD, cable, foreign, online platforms, etc.). However, exploiting your movie market by market all by yourself is a huge amount of work. The filmmakers who think, “I’ll just put my movie online and make a fortune” – most don’t realize how much work it takes to actually make significant sales. It’s not just putting it online and then going to the beach.

So if one can partner with some of the traditional distributors for some of the markets, this can make the road to recoupment and profit easier. (Just be sure your butt is covered thoroughly in any contracts signed; too many filmmakers make fatal mistakes by signing bad contracts.) I have a lot I can say about this, but here’s an example of what I mean.

Let’s say you want to make a deal with a home video distributor, and for the sake of this example, it’s not one of the studios’ home entertainment divisions. It’s a smaller home video distributor. You should negotiate the right to sell your movie from your own website, and you allow the distributor the rest of the marketplace (which in North America would be the United States and Canada). This way, you are utilizing their ability to mass-market your film and leveraging that to drive online traffic to your website to buy directly from you at retail price. So you utilize the market penetration and awareness that a home video distributor can do for you – and hopefully they’ll make good sales – but if they don’t, you still have the power to make your own sales. And each of your own sales is a much bigger piece of the pie, since they’re not shared with the distributor.

Now, there are a lot of filmmakers nowadays doing home video on their own without a distributor. Some have had very good success at it. Just know, it’s a hell of a lot of work, so don’t expect it to be easy.

Also, be aware that many home video distributors are now wanting Internet rights as well. Frankly, I prefer to keep those separate and exploit them myself (or make a deal with a different company). Not only do you want to avoid “cross-collateralization” (where distributor losses in one market are covered by profits in another), but most online platforms are taking anywhere from 30–50 percent of a sale. After a distributor takes their cut of a digital sale, what’s left? By the way, when you make a deal with a foreign sales company to handle your film in the overseas territories, I recommend holding back the Internet rights. Why would you want people going to some website in Germany,
for example, to download your film? You want them to come to your site, or your Facebook page, or wherever you have your film for sale online that you control. However, if you do make such a deal where you are granting Internet rights in a foreign deal, be sure that your film can be viewable/downloadable only within the territory the deal is for. This has to be in the contract.

*Any additional suggestions as to how we can take advantage of the Internet?*

The Internet right now is not making most filmmakers a tremendous amount of money. But it is making some money and growing every year, so we need to take the potential very seriously. One thing I would recommend is building your fan base and collecting email addresses. You’ve got to be able to draw eyeballs and traffic to wherever your film is. Second, I feel that a lot of producers charge too much for their films. Pricing is really important. And look for ways to give added value. For example, the movie Twilight released a special edition on DVD with some additional perks, one of which was a charm bracelet. My friend’s wife spent $50 for the charm bracelet. She already had the DVD but she bought the special edition just because of that item. Even offering the poster signed by the stars of your film gives added value. My third piece of advice here is to pay close attention to your key art (your movie poster artwork). The key art is extremely important. Too many independent filmmakers don’t understand that if your key art is kick-ass, people will buy your movie just based on that. Your potential customer, Joe Consumer, who knows nothing about you or your movie, is generally not going to spend time researching it or you. You must grab their attention in an instant. Bad key art doesn’t do this. Excellent key art does. And once you’ve got their attention, you’re halfway – or more than halfway – to the sale.

Try to get some great quotes from critics as well. Let’s say *Fangoria* loves your horror film. *Fangoria* is well known. You get a good quote or review from them, you will likely want to put that on your artwork. It becomes a “stamp of approval” or endorsement – and this is pedigree. It tells people who like or trust *Fangoria* that your movie is good and worth their money. Remember, you’re asking people to give you $10 (or whatever your price point is) and two hours, so you have to sell them immediately with your key art, your pedigree, and anything else you can come up with.

*Any final piece of advice for today’s film producer?*

Currently, to make distribution successful, I feel producers need to use everything. (Unless you’re getting a big check from a major distributor, as previously mentioned.) DIY, Internet, and traditional distribution – use them all. Map out a distribution strategy – ideally before you actually make your film. But if you’re at the finish line of postproduction and you didn’t do this, then sit down and map out a strategy. Even before doing film festivals if you’re planning to do those. Educate yourself about distribution, and don’t buy into a lot of the misinformation circulating out there, such as “Distribution is impossible” or “DVD is dead” or “If I get into Sundance, my job is done.” Not understanding distribution and the viable options available is the real reason most films never see the light of day.

For more info about producer and distribution expert Jerome Courshon and his three-day DVD program, “The Secrets to Distribution: Get Your Movie Distributed Now!” visit www.Distribution.LA.
JC Calicano
Writer/Director/Producer

JC, I know that you put a lot of thought and work into both self-marketing and packaging your film right from the very beginning. Why did you decide that this was the way to go? Why did you decide to take charge of this area?

The reason that I self-market my films is because I believe that no one is going to care more about my film then I do and that if I want it to be done the way I want it done, then I need to do it myself. It’s not to say that having help isn’t great, but the simple truth is this: there are a lot of films being made and the competition is fierce, so if you want to find your audience, you need to be proactive in finding them and telling them about your movie. Marketing is expensive, and often distributors are just interested in selling the movie to the markets and not publicizing and marketing it appropriately. That’s why if you want it done to your satisfaction, you do it yourself.

When you work with a distributor, they charge fees not only for their distribution services (and expenses) but also for marketing, promotion, and packaging. So say you want to distribute an independent film, they’ll take approximately a 20 percent fee for their services, with an extra $50,000 in expenses for marketing, promotion, and materials. There is often no way to audit the $50,000 or get a breakdown of what those expenses were. That means you have no proof or idea if that money was actually spent on your movie or what it was really for. I like to know what I get for my money. I’m not in the business of making other people money unless I’m making some for myself, and for that reason, I want to make sure that their expenses are real and went towards my movie. I’m a capable person who can handle taking care of what needs to be done and I don’t need a third party hiring someone else doing marketing and promotional materials. The more people involved means the more people who want to get paid and have input in my movie (which is something I don’t want). I want to control my product and how it looks and is represented, so I hire the designer to design the packaging, poster, DVD cover, and so on. By doing it myself, I now not only control it, but I also know what I’m paying for.

And since it’s your baby in a sense, you know what is best and you get to create your brand from the get-go. Is that how you see it?

Well, I have a lot of experience in marketing and distribution. I’ve worked at both in the past and learned what needs to be done. Since I’ve got the experience already, what I do is start with grass roots and free marketing like Facebook and Twitter. The Internet is the best value for an independent filmmaker looking to build an audience for cheap, so I concentrate my efforts there. One thing that I’ve done which has been extremely successful for me is to create a webisode. I figured I’d make something simple and sexy that would draw in my target audience weekly. I’ve build a fanbase on the Internet to market my movies through my webisodes. I started the webisode a year before my first movie, and within two years, each of my webisodes average between 20,000 to 50,000 views a day. On every one of the webisodes, I have the name of my company at the beginning of them, so I’m branding my company, and at the end of the webisode, I show two of my movie posters and where they could find them. That means at least 20,000 times a day minimum, people are seeing my branding, seeing my product, and seeing my movie posters. On top of that, I run a revenue share on each episode (advertising banners served by Google), so each month I get a check for hundreds of dollars for showing my webisodes and advertising my movies and company.
**Where does the money come from in this case?**

YouTube has several ways of generating revenue from videos. You can charge per webisode, where you can set a price per view. My webisodes are free to watch, so in that case what I do is on the very popular ones, they give me an option to run a 15-second commercial of their choosing in front of my webisode. So I can click on the option to let YouTube run a 15-second spot before my webisode and they pay me more money for that view. Or on the less-popular webisodes, I don’t run a commercial; all I have to do is allow them to serve ads (Google) to put a banner with a click-through the lower quarter of the screen. By allowing those ads, I make money, and they pay to place the ads on my videos as well as if someone clicks on the ad; when that happens, I get a larger revenue share. I shoot ten webisodes in one day, and it cost me nothing. I'm a one-man crew, so I cut them myself on my home computer with Final Cut Pro and post them once a week. The cost of feeding my non-union actors is a $50 lunch once every two months. There are no expenses on top of that. Because of these webisodes, I have millions of people who have seen my posters and advertisements for both my movies, the brand of the company as well as becoming fans of my webisodes. Also, those webisodes all have subscribers who I can email about my projects and keep them informed of what I am doing (and selling). Often bloggers pick up my webisodes and promote them on their websites because they think they are funny or sexy. A blogger could have tens or hundreds of thousands of fans to that blog, and when they post my webisode, those fans see my marketing.

**And this serves your film?**

Yes. The viral component of the Internet is amazing. Once it’s out there, if it’s clever and/or funny, people will pick it up and promote it for you. It’s a remarkable tool for promotion and marketing.

By just using Facebook, Twitter, blogs, and my webisodes, I have built a huge fan base for both myself, my brand, and my products. My YouTube channel now has thousands and thousands of people who know me and my movies. When a new film comes out, I go over to my YouTube subscribers as well as my fans on Facebook and Twitter and tell them that I just released a movie on DVD or VOD and tell them how they can click on the link (which I have an affiliate program built into) to watch or buy it. They click on my link and not only buy my movie, but also because I have an affiliate link built in to the link to the seller (Amazon or iTunes), I get a percentage of that sale from the seller.

**Does Amazon charge quite a bit of money?**

Amazon works in a lot of different ways. You can sell a video on demand and/or streaming as well as a rental or DVD purchase. Amazon takes percentages of those transactions. You could also sell DVDs from another manufacturer or use a service they provide called CreateSpace, where you can actually generate a DVD product and sell it – you upload your movie through their site and it not only helps you create a physical DVD to sell but also provides the shopping cart to do the transaction.

**Does the fact that we have the Internet access these days make it all a lot easier for the independent producer?**

Yes, before the Internet and all the information out there, the distributors really were in control of marketing, production, promotion, and sales, but now, with the Internet, the market is open to everyone and the information is out there for all who seek it.

Online companies like iTunes, Amazon, and CreateSpace have made selling more accessible to film
makers. There are many services like that available now like DVD Baby – you can go to DVD Baby, create a store and manufacturing system to sell your DVDs, and customers can click on your shop and buy a DVD straight from you. It's all done online now.

Your numbers are amazing. How long did it take you on that site to get to those numbers?

It took me basically two years to reach 4 million unique views on my webisodes. Those webisodes really fueled the marketing and the numbers grow exponentially. I also use other social networking websites like Facebook and Twitter. My new movie eCUPID has nine actors who are constantly promoting themselves and the film; each actor brings his social network to the film's marketing and adds to the numbers. The more popular the actor, the higher the numbers. For example one of my actors is a star from last year’s MTV's Real World. He’s a popular character as well as an advocate for the community; he's got a large fan base from the Real World as well as the important causes he speaks of; his fan base is tremendous; and he helps promote himself and the movie. I also hired Morgan Fairchild, and she's got her own fan base, which is tremendous. If you consider nine actors, with their own personal fan base promoting the film, you can see how quickly things can grow exponentially.

That is excellent, and it sounds like it's a win/win for everybody.

Yes, and all this marking and promotion is not only free, but it’s also making me money. This is a big difference from the old days when a distributor would charge to market and advertise your film. In my model, I’m making money while promoting my product. I’m not saying that there aren’t times to spend money. I think paid online advertising is great and very effective as well, as long as you do it in a targeted way. YouTube and Facebook have great affordable, targeted marketing engines and by being smart about how you place your ad, your keywords, and your metadata, you can target your demographic in a very focused and strategic way. I believe if I’m going to be spending money on marketing, it’s going to be a wise investment and yield a return. When I place ads online, those ads are going to sell rentals of my film and make me more money than I’ve spent on the ads.

If $50,000 is going to be spent, I can assure you that that $50,000 is going to be spent very, very wisely. And it’s going to be servicing the audience who I know are going to watch my film. And that’s going to be what I consider the most cost effective advertising, and from what I have available to me, it’s web-based.

There is a distinction between domestic and foreign sales of movies. However, when you are doing something on the Internet, isn't that worldwide? Is that going to prevent you from having a sales agent come on board to do your foreign sales for you? Especially since the Internet is worldwide? Why would Brazil give you money if you are already tapped into people from their territory, for example?

You know that’s a very good question, and I think that answer is that although my last film, Is It Just Me?, came out in the United States first, the foreign markets want their own version that is subtitled or dubbed as well. For example, Is It Just Me? came out domestically in November of last year. Then we had a foreign seller come on board. The foreign seller then went out and sold overseas territories. They converted the film into foreign DVD formats (SECAM and PAL) as well as adding subtitles and packaging in their local language. There is also overseas television that will want the film with subtitles or dubbed in the local language. Local DVD and the TV/theatrical sales are still somewhat viable in the rest of the world. I would imagine, yes, if there was a fan.
that wanted to see (or order) the English version, nonsubtitled, from Amazon, they might be able to find that online, but if not, they can get the film in their language locally as well.

**Have you used your great fan base as leverage?**

It’s like a band looking for a record company. If a band has lots of fans, the company is far more likely to sign them to a record deal than the band with no fans. I think it helps that I come off of previous successes and have a large fan base of buyers. If you are going to be working with someone (sales agents, investors, distributors, anyone) and they know that you are going to work to promote and sell that film so that it’s profitable, then you’ll be able to excite an interested partner better. When I talk to investors and show them my fan base and the number of people who subscribe to me as well as the profitable numbers my films make, it puts me in a much better position to negotiate for the money I want to make or her money.

**Any other tips for us regarding marketing?**

Another thing I do as far as marketing is to promote my product in the niche markets that it represents. By that I mean my films are GLBT [gay, lesbian, bisexual, transgender] movies. I will Google GLBT movie blogs and I contact them. If my film were about vintage motorcycles, I’d search for groups/blogs about vintage motorcycles. Whatever it is, I look for a group that is interested in that subject matter and then I will write to those bloggers and offer the people that control those blogs content for their blog. I tell them that both my actors and myself will be available for interviews and that I will provide them with exclusive footage and stills. I ask them, “Would you like to do a story on me and/or my movie?” Bloggers need content; I need promotion and marketing of my film; we basically need each other – the same goes for radio (and Internet radio).

**I love it. Have they been taking you up on it?**

Absolutely. Here is an example – my actors are good-looking guys. Yesterday, I contacted a website called Hunk DuJour. They have 1.5 million viewers a day! I offered them an interview and photos of my actors in exchange to promote my movie. They said, “This is great; we’d love to help you out!” I told them to send me ten questions, so they sent them and had my actors answer them. I also sent five stills. So within 24 hours on their blog, they wrote a special section for us where their audience could “meet the eCupid stars.” They talked about my screening, my website, my webisodes – all 1.5 million viewers saw it! I have nine stars, so every other week I’m going to roll out another star. I’m going to do one each week, so you do the math and that’s huge numbers that are going to aggregate to my website, my movie, and my webisode – all the time seeing my brand. That is just one example of how this works … and I do this kind of stuff every day. Last week, I contacted mostbeautifulman.com, and my lead was featured on the blog the entire day. I speak to online magazines like OhLaLamag and Bellomag.com, and they did a special campaign with my trailer and pictures of my guys. I contact all these publications and offer them content – and most of them take me up on it.

**This self-marketing takes up a lot of time on your part. Is that a problem? Or do you feel that the new game is this and we all need to get with the program?**

That’s a fantastic question. That question has bred a new animal, and that is what they call a media producer. Basically, this kind of situation has created a problem that someone like myself has been forced to deal with. I struggle with the dilemma of not having enough time to do all the social interacting and online marketing every day. I cannot move forward onto my next movie
because I’m so busy with the marketing of my movies, so yes, I do have that problem.

There is a certain amount of things that I have to do myself; for example, if I’m going to create a webisode, I have to be the source of that webisode. But by working with a media producer, I could have somebody take the burden of the constant blogging and constant outreach of tweeting, Facebook, blogging, and so on off me. Reducing that workload is a huge benefit and help to me and a person who can do that is what I would consider a worthy investment.

This is really interesting. So a media producer is someone who has mastered those qualities? Not someone who wears both hats?

It’s the person who comes in just to handle the media, press, marketing, and social networking associated with the movie. They are there to help the producer market the film, because the problem that the producer already has – wearing a number of hats – is that they often don’t have the time to service the social media aspect of promotion and marketing of the movie. The media producer does that for you.

These days, investors are looking to invest in films that have an additional safety net – anything innovative or different that will draw attention and therefore dollars. It sounds like you were really on top of this from the beginning. Is there anything else that you did in the planning stages that you knew would get investors excited?

My movie, which is called eCupid, which stands for Electronic Cupid, is a movie about an app that comes to life and helps this couple in jeopardy fall in love. So what I did is I went out and I actually designed an eCupid app that is part of the movie. So you can actually go to iTunes, download the eCupid app, and in the movie, Morgan Fairchild is the voice of the app. So Morgan Fairchild’s voice talks to you and in the integration of the game (or love tester), you can play with the game on the app or can go on “About the Movie” and it takes you to the website, Facebook, Twitter, screening times, and trailer. I’ve created this app that is not only a fun device, but it is also a tool that integrates the marketing and promotion of the film – all of these things talk to each other.

Wow, your innovation is great because it shows investors a better possible return for investment!

Yes, I’m very pleased and excited to be able to say that. My first movie, Is It Just Me?, within six months of being released my investors were paid back 100 percent and I’ve already started to enjoy the profits from it.

Specifically where did your initial return come from?

For Is It Just Me? I made my initial money back within three months from festival fees, DVD sales, and download/rent/VOD alone.

And that was only through the Internet? Is that right?

Mostly online sales, Netflix, Amazon, DVD, and download. That does not include TV or foreign sales.

So, the only time you want to include a sales agent as you mentioned earlier is when it comes to foreign sales.

Not necessarily in all cases, but for the most part I think that domestic can be more “DIY” – overseas is harder in my opinion to “do it yourself.” The problem with the foreign territories is the
servicing of all the foreign territories. The challenge also comes with collecting money from the foreign territories. I don’t have the relationships with the foreign buyers. For me to deal with the legality of contacts and leveraging the payments is not something I want to take on. There’s a big difference between them paying a distributor with whom they have a relationship and want more product from in the future and paying out to a filmmaker directly.

I think, for overseas sales, it’s worth having the convenience of somebody who has the expertise in that market and has the relationships with the buyers who they know are trustworthy and will pay for a film. If they are charging a reasonable percentage for their knowledge, legal advice, and to handle the deliverables to all the countries, it becomes worth it for me to have the convenience of their services. But I would caution anybody: if you make a domestic deal with a US distributor, be careful that they don’t go out and subcontract it out to a foreign sales agent for an additional percentage of your movie – there will be a lot of fingers in the cookie jar when you do that. So what I would say is that every filmmaker should find a foreign sales agent yourself. Find a foreign sales agent who deals just as a foreign sales agent and deal with him directly and then give them a fair percentage for their time and work to sell to the overseas buyers.

Any final words of wisdom?
Yes; before I make a movie, I find out what the movie is going to sell for. For example, when I made my first movie Is It Just Me? I called a sales agent who had sold a film similar to the one I was about make and asked him point blank, what are your fees? Then I asked him, “If I produce a film similar to that film for X dollars and gave you your fees, could I make my money back in two years?” He said yes, so then what I did is produced Is It Just Me? for half of the amount of X. I felt that with that information, I was comfortable walking up to an investor and showing him a movie, explaining to him that I’m going to make a better-looking, higher-quality movie for half of the amount of money that the distributor told me he could easily make on it (the other half would then be my profit).
Part 7: Film Commissions and Location Incentives

Introduction

Production incentives are a key component of the finance plan of almost every film made today. Governments have long used incentives to promote economic growth, build infrastructure and create jobs. Filmmaking is especially amenable to incentives because it is highly mobile, capital and labor intensive, and can be very effective in promoting tourism.

In the United States types of incentives are:

- Cash rebate or grant
- Refundable tax credit
- Transferable tax credit
- Non-refundable, non-transferable tax credit

Each State or City defines the types of projects, expenditures and minimum spend for any given project to be eligible. A filmmaker must also be aware of each jurisdiction's annual funding cap and what steps must be taken to ensure compliance.

There are several entertainment banks and many funds that will cash flow or advance up to 80% value of the incentive so the filmmaker can use these funds as part of their production financing.

Film Commissions are non-profit organizations that attract filmmakers to shoot on location in their respective localities and offer support so that productions can accomplish their work smoothly. The Association of Film Commissioners International or AFCI is based in Los Angeles. The AFCI is a non-profit educational association whose members serve as city, county, state, regional, provincial, or national film commissioners in their respective governmental jurisdictions. With more than 300+ AFCI-Member Film Commissions on six continents, you can almost always find an AFCI Member Film Commission to support your production.

Film Commissions believe that by attracting productions to their area, they can provide direct economic benefit through rental of hotel rooms, locations, vehicles and indirect economic benefit via the increased exposure of appearing in films and television.

Most Film Commissions offer the following services:

- Marketing of Locations
- Marketing of Local Crew, Equipment & Expertise
- Creation of Incentives Packages
- Scouting Support Services
- Assisting Inbound Productions / Troubleshooting Production Problems
- Building a Film-Ready Workforce & Community
In response to the growth of on-location filming, the services provided by film commissions have expanded dramatically. For producers of film, episodic television and commercials, film offices today provide a range of free services. These services include scouting locations, trouble-shooting with local officials, and helping cut through paperwork and bureaucratic red tape. Some also provide incentives, such as tax rebates and hotel discounts for location scouts. Others offer a variety of essential free services, like research for screenwriters or liaison work with local government agencies.

The filmmaker should consider the Film Commission as a valuable partner and resource.
Chapter 9, *Shoot on Location*  
*Film Commissions and Location Incentives*  
By Kathy McCurdy

*There’s never enough time, light, or money.*

**An old film cliché**

Movie making is no easy task. On the outside it appears glitzy, glamorous, and intriguing. In reality, it feels like a circle of hell with painfully long days spent agonizing over the grueling logistics of on-location shooting! It may be formulaic and predictable in some ways, but it’s hard, hard work. Knowing from the very beginning that “there’s never enough time, light, or money,” every filmmaker wants to make the best movie possible and get the most bang for their buck. Even the most experienced big-budget movie crew can use all the help they can get. The AFCI is here to help. The Association of Film Commissioners International is a well-known worldwide association whose members will be there to assist, inform, and walk you through the maze of government bureaucracy and permit requirements, while promoting all the local resources available to you, wherever you shoot. The AFCI “offers global resources for global production.” There are more than 300 AFCI Member Film Commissions worldwide, covering almost every continent. With those numbers, they can rightfully claim that wherever you go with your next production, you can usually find a Film Commission to help you. I’m all for that! And you should take full advantage of the assistance and services offered by your local Film Commission wherever you are.

**The AFCI Mission**

The Association of Film Commissioners International (AFCI) is the official professional organization for film commissioners who assist film, television and video production throughout the world. It is a non-profit educational association whose members serve as city, county, state, regional, provincial or national film commissioners for their respective governmental jurisdictions. [www.afci.org](http://www.afci.org)

AFCI Film Commission member offices function under the authority, endorsement, or sanction of their local government. That means they are government-funded, which prevents any kind of conflict of interest from outside companies or from within their operations as nonprofit organizations. All members must meet AFCI qualifications and training requirements as specified by the AFCI. This guarantees a level of industry knowledge and professional performance. When you call the Film Commission, they will know what you need and how to make it happen. The primary role of every Film Commission is to attract film projects to their area. It’s about promoting the region as a filming destination and benefiting from the economic development that accompanies any TV show, movie, or music video crew when they come to town. It’s about attracting business to the area—business that employs local people, puts people in hotel rooms, and uses local goods and services while working as a temporary mobile business over a few days or a few months. Film Commissions know their area and their geography and prize themselves on how well informed they are about their particular region. Some Film Commissions provide a one-stop-shop approach and actually function as the permit office, too. But not all Film Commissions are permit offices. If not, they will still be able to put you in touch with the correct governmental entity or permit office in any local jurisdiction to start the permit process. They can provide a wealth of information and they are only a phone call or email away.
From San Diego to Sudan, Brazil, and South Korea, 340 Film Commission offices offer a level of consistency in what they deliver because of the membership by-laws that guide and govern the structure and services within each office. These things will always be the same among Film Commissions—wherever you call. An AFCI Film Commission must provide these basic core services at no cost to the producer—these are free services.

**AFCI Film Commission Free Services**

AFCI members provide location scouting assistance to producers. Most often this means that Film Commissions host a location library that you can access and look through to help you target specific locations in your script. Most location libraries are digital and live on the website, but some offices still have physical libraries with photographs mounted in file folders or binders. This is a rich resource, especially for a producer new to the area trying to get acclimated and learn her way around town. Some Film Commissions will actually have a staff person who will drive you around and scout your locations with you to save time and hopefully convince you to shoot there. There’s nothing better than spending the day in a car with a captive audience (a producer) spinning the tale of all the great things the Film Commission can do for your project!

Second on the list of no fee services is that all Film Commissions must offer liaison services with industry facilities and services in the area. The Film Commission will be your concierge to the local industry, introducing you to its sound stages, crews, equipment rental companies, vendors, and service providers who depend on the Film Commission to attract business. They understand that the more local people and services an incoming producer can find locally, the more money he or she saves to put back on the screen. Most Film Commissions provide a directory with complete listings of experienced experts in every department and every phase of production. These resource directories will list a wealth of local companies covering everything from hotels to dry cleaners to dry ice. Some Film Commissions will post crew calls or casting calls on their websites to help develop local interest. This liaison service can be expanded in any number of unique ways, depending on what your project needs and what the Film Commission has to offer.

Third, Film Commissions must offer “augmented research.” The staff must be prepared to go above and beyond the simple “yes” or “no” in response to a film inquiry. Increased, extensive research into possible locations or unheard of geographical elements is what the Film Commission has to deliver. When working at the San Diego Film Commission, I regularly got calls that required me to do some serious outreach in the county to find spelunking caves, old quonset huts, or “futuristic” structures in the middle of nowhere. If I didn’t have those locations in the Reel Scout™ location library or if I’d never heard of local spelunkers exploring San Diego County, then I had to make the calls, track down the locations, and go out to photograph them for the producer. If someone called with a new film request for something we’d never been asked for before, the Film Commission would do the research to find out what exactly was needed to make that film request happen.

**You Want to Do What!?**

San Diego hosted two seasons of *The Invisible Man* for the SyFy (formerly Sci-Fi) Channel, which just by the name alone lets you know there were going to be location and production challenges unique to this show. But we weren’t quite ready for production’s call to ask if they could have an actor/stunt man jump off the Coronado Bay Bridge. This stunt seemed impossible at first for obvious reasons like safety, impact on normal bridge traffic, and the fact that the bridge is the major artery onto a military base! But because of the Film Commission’s commitment to creative
problem solving through greater, expansive research, the director of the Television Division went full speed ahead to figure out how to make it happen. Luckily, there was enough lead time to bring the more than 15 different authorities, including governments, government agencies, environmental organizations, and watchdog groups to the table. The shoot went forward only after multiple meetings and tremendous community outreach to prepare the public for the disruption and the actual sight of an actor going off the bridge (with halter and bungee cord to break his fall just before he hit the water). The permit required a sign-off from the City of San Diego, San Diego Police Department, City of Coronado, State of California, California Highway Patrol, CalTrans, San Diego Unified Port District, Harbor Police, U.S. Coast Guard, U.S. Navy, FAA, EPA, U.S. Fish and Game, National Wildlife Federation, Water Quality Control, and others that I don’t even recall. This is the type of film request for which one phone call becomes a hundred phone calls. That’s what I call “augmented research.”

The fourth free service a Film Commission offers is to act as liaison to and among the community, production companies, and government. This extends the work of the Film Commission into the very important role of public relations, government relations, and community outreach. No filmmaker wants to try to do it on their own without a partner and spokesperson representing them and their business interests to the local community and government. This business collaboration is essential. The Film Commission gets the positive message out to town councils, business improvement districts, and area governments. Filming on any scale creates disruption and intrusion, and it is often very difficult for local residents and retailers to see any value in what appears to be a hostile take-over by a film crew. The Film Commission brings the positive spin and the appropriate sound bytes to the local scene to help educate people to see the economic benefits of this short-term invasion. Once the Film Commission partners with the production company to create good press and good media relations, the public becomes better informed. Seeing the big picture reality that this is good for business can help people warm up and tolerate what the crews need to do in their neighborhoods. Film Commissions are important partners in connecting with local government and cutting through the red tape. Helping government understand that film requests need to be exempt from most laws and ordinances is a big role of the Film Commission. This outreach and engagement by the Film Commission helps maintain a film-friendly attitude throughout the community and creates long-term good relations with the different government agencies.

**Movie-Induced Tourism is the Bonus**

As stated on the AFCI website, “The primary responsibility is to attract films and video production to their area in order to accrue locally-realized benefits from hiring local crews and talent, renting local equipment, using hotel rooms, rental cars, catering services, or any number of goods and services supplied on location” (http://www.afci.org/about/history.htm). But it also goes on to say that although Film Commissions attract movie-making business, they also attract visitors. Tourism generated on the heels of popular movies and TV shows is a real contributor to the expansion of an area’s desirability as a tourist destination. “Film scenes at a particular location are in themselves ‘soft-sell’ vehicles that also promote that location as a desirable site for future tourism and industry.” Movie-induced tourism has been credited as an economic boon in some of the most unexpected areas due to successful movies shot there ranging from *The Sound of Music* to *Field of Dreams* and *Clerks*. Specialized Destination Marketing Organizations (DMOs) have sprung up to cater to this new form of cultural tourism and
bring travelers to visit their favorite movie locations. The megahit movie *Top Gun* was shot in 1985, but its San Diego–based film locations are still popular sites for tourists today. And the Kansas City Bar-B-Q still celebrates its fame as the site of the “sleazy bar scene” filmed in *Top Gun*, complete with that credit blazoned across the side of the building. Film Commissions are quick to see the expanded marketing opportunity when high-profile films or fan club–based TV shows shoot in their area.

**What if You’re on a Small, Low-Budget Project?**

With all that being said, how will Film Commissions respond to student filmmakers or budget-challenged TV pilots and micro-budget indie filmmakers? You won’t necessarily be bringing tons of money into the local economy. Needless to say, each Film Commission has its own policy toward student, noncommercial, or micro-budget film projects that will affect all of you reading this book and making a movie for the first time. Every Film Commission will have its own criteria to qualify a film project, but there is bound to be some level of assistance with location scouting, research, and recommendations for local resources whatever the size of your project. Although Film Commissions don't charge for anything they do, the government or permit office they refer you to might charge something for permits, administrative fees, or staff time required to process the permit. Generally speaking, this is the difference between Film Commissions and permit offices.

**Kentucky Film Office there for Every Project**

Film Commissions are not allowed to charge for their services, and as M. Todd Cassidy from the Kentucky Film Commission commented, “The Kentucky film office works hard to make the filming experience in Kentucky very pleasant for the production companies. This is true for large budget studio and small budget independent films. Not only do we not charge a lot of money for our services, they are absolutely free of charge. We work with students as we would with any other production. There are no special requirements.” Reprinted with permission of M. Todd Cassidy, Kentucky Film Commission.

So expect free Film Commission services while the permit office creates its own fee schedule and sometimes, in some places, offers free permits and often free public locations. Do your research and find the right location to fit the budget, logistical demands, and scope of your project. Film Commissions take on a different configuration in every city, state, province, or country. Some Film Commissions are housed in a mayor's office or within the governmental EDC (Economic Development Corporation). Others are found in Chambers of Commerce, with a focus on supporting and building local business. Some cities think the best fit is CVBs (Convention and Visitors' Bureaus) because of the tourism tie to films and TV shows. For some offices, being the Film Commission is only one of many multitasking jobs that need to be handled each and every day. And some Film Commission positions are government-appointed positions, which brings an extra layer of politics into the mix. So you might bump up against a wide range of involvement from person to person and office to office. In any business, there will always be some leaders who rise to the top and others who are content with the status quo. The same may be true among Film Commissions, but the good news is that there are 340 dedicated Film Commissioners willing and waiting to take your call. Ray Arthur, who worked with the Ridgecrest Film Commission for 15 years and is currently with Fresno Film Commission, says, “I look at every, every project with one initial question: How do I make this work?” That’s the kind of attitude and response Film Commissions are famous for delivering.
It’s important to return to the one significant distinction among Film Commissions. Though all Film Commissions’ primary purpose is to promote their region as a filming destination and market to attract incoming productions, not all Film Commissions are permit offices. All Film Commissions will be a liaison to the region’s governments and all Film Commissions will refer you to and liaison with the appropriate permit offices. The one additional function for a few Film Commissions is to actually issue the permits, too. The San Diego Film Commission is one such office. Many state Film Commissions issue permits for state properties. So be sure to do your research and ask all the right questions. The permit process when housed in any Film Commission exists outside of the AFCI by-laws and is not a required function in order to be a member of AFCI. Those four core services already discussed are the required activities of any AFCI Film Commission. Be sure you know what your Film Commission can do for you when you make that first call.

**Film Commission Standard Services**
The film commission must provide full film liaison and location services and location scouting upon request to the qualified imported and indigenous production community. The film commission must provide service and support from the initial contact to the close of production, including on-call problem solving. In providing its services, the film commission should work with and be supportive of the local production community, particularly in the areas of information and referral services.

AFCI (http://www.afci.org).

Along with the valuable film commission services that come with shooting on location, many AFCI members offer financial and tax incentives. These summaries are available on the website specifically as incentives worldwide and in Africa, Asia, Europe, Latin America, North America, and Oceania.

**Locations Around the World**
Now that you know all the services a Film Commission can provide, you might be thinking of all the exotic places in the world where you would like to shoot. The AFCI website provides a location inquiry service via which you can send your location request to any or all of the membership. The links to all the 340 members will take you to websites and photo tours that will inspire you to write your next script—if you have travel in your budget! The best way to introduce the most popular locales for filming is to share the *P3 Update Magazine* article, “The World’s Top 10 Locations in 2009.”

**The World’s Top 10 Locations**
The world is the filmmaker’s oyster and where to crack the shell is one of the most important decisions in production. Tax incentives, infrastructure, crew base and popularity are all contributing factors in the location decision-making process. Dama Claire, production executive at the Incentives Office, lends her expertise to *P3* for the countdown, in no particular order, of the top 10 locations in the world.

**Louisiana**
Known as the filming hot spot and for its flavorful Cajun food, Louisiana has spiced things up with an increased transferable tax credit of 30 percent with an additional 5 percent for local hires. And
if that’s not fulfilling enough, more incentives can be found in Jefferson Parish and in the Shreveport/Bossier area. Jennifer Day, Director of the New Orleans Office of Film and Video, is excited to report that New Orleans is experiencing their busiest fall schedule (2009) to date. “It means that we will hit our record number of major projects to shoot in one year,” she celebrates. “In 2008, we hosted 21 major projects—projects with budgets of $300,000 or more—and for 2009, we’ve seen 21 again in the midst of a recession.”

**New Mexico**
New Mexico offers a 25 percent rebate on all expenditures plus an interest-free film investment loan of up to $15 million. Combined with the state’s skilled crew base and favorable shooting weather, it’s obvious why this southwestern contender is still holding on strong to the top 10. New Mexico has hosted some massive blockbusters, such as the *Transformers: Revenge of the Fallen*, but productions of all sizes are encouraged to shoot in New Mexico.

**Michigan**
Michigan’s enormous refundable tax credit of up to 42 percent is keeping the state in the spotlight. The Detroit area offers cultural attractions, urban, downtown and upscale locations, as well as sports arenas and riverfront properties. “New studios are planned for Pontiac and the Detroit area to make year-round filming more convenient,” says Claire. Claire adds that Michigan’s tax program requires production companies to file state tax returns after a third-party CPA audit. “Barb Evers, a partner in the audit firm Schellenberg & Ever, reports that all her clients’ Michigan films filed in 2008 were paid on time,” she says. “[That’s] good news for this new Midwestern Hollywood hub.”

**Georgia**
Peaches aren’t the only thing Georgia is known for, now that they offer a transferable tax credit of up to 30 percent along with the great crew and developing states. “Atlanta can double for many cities, and its good weather and digital media credit are also attracting new business,” says Claire. The Incentives Office is opening their latest brand there. “Georgia is in the film business for the long run, and we can help monetize the Georgia tax credits easily. Business for 2009 is expected to exceed $500 million.”

**New York**
In addition to an enormous crew base, New York offers a 30 percent, below-the-line refundable tax credit. The incentive requires that 75 percent of filming take place on New York’s qualified stages, which isn’t difficult with the many state-of-the-art facilities. Claire does note that the New York City program, which provided an additional 5 percent, is on hiatus due to a lack of funding.

**Canada**
Canada has been very successful at winning over production business for a long time, which is why crew depth and infrastructure are so plentiful. The Federal Film or Video Production Services Tax Credit of 16 percent is increased when combined with the generous provincial credits that add up to over 60 percent in some cases. Alberta’s film development program contributes up to 29 percent of all eligible expenses, which calculates to a 53 percent labor-based tax credit. British Columbia has a base tax credit of 25 percent of accredited qualified labor expenditures, a regional tax credit of six percent and a Digital Animation or Visual Effects credit of 15 percent. Saskatchewan offers up to 55 percent for eligible labor and Manitoba offers up to 65 percent in tax credits on local qualified labor.
**Australia**
Australia offers a 15 percent rebate for qualifying spend and a 20 percent rebate for television production. Additionally, films with Australian content have a tax offset of 40 percent. Local incentives are also available in various regions and Tasmania. The country offers a good crew base and major stages in Sydney, Melbourne, and Gold Coast, plus a favorable return rate.

**New Zealand**
The Kiwis are offering a 15 percent rebate of qualified spend for projects of at least NZ$15 million that descend on either of the two beautiful islands. Qualifying Post Digital and Visual-effects (PDV) incentives are included and they offer local Screen Production grants of 40 percent for certain products. “New Zealand also participates with co-productions with key countries like the UK,” says Claire. “With its growing crew base and outstanding effects house, plus good exchange rate, New Zealand has been attracting more production.”

**United Kingdom**
There’s been a lot of talk about the UK’s rebate program, which allows productions to earn a pay-able cash rebate of up to 25 percent of qualified UK film spend and a 20 percent rebate on films over L40 million. The UK also has an array of co-production treaties, which allow European countries to qualify for greater incentives. With its new 20 to 25 percent tax rebate program, the UK is once again competitive with other locations enjoying some major films. The UK has a depth of trained artisans and top stages which boast backlots and plenty of room.

**France**
France is quickly climbing up the popularity ladder with its 20 percent rebate. France currently features over 80 studios and postproduction facilities, some which feature full-CGI animations. The region also offers 30,000 crewmembers that speak English, Japanese, and Chinese, and can accommodate several feature films simultaneously. According to Olivier-Rene Veillon, director of Commission du Film d’Ille-de-France, the country welcomes 200 features per year and currently there is great interest generated from the Indian and Chinese markets. Much of the heavy filming traffic occurs in “the golden triangle,” an area that encompasses the Champs-Élysées, the Eiffel Tower, and the Arc de Triomphe.

**Locations on the Rise**
California this year (2009) announced the California Film and Television Tax Credit Program, which offers a 20 percent tax credit to feature film production between $1 and $75 million and a 25 percent credit to independent films with budgets ranging from $1 to $10 million.

Utah just announced the passing of the Senate Bill 14, which increased the state’s incentives to 20 percent in the form of a tax credit or cash rebate. To accommodate larger production, the bill eliminated the $500,000 cap on the incentives.

Kentucky is also jockeying for a lead in the race for industry attractions. A new 20 percent refundable income tax credit was announced while the state still offers a refund on its 6 percent sales tax on all production expenditures.

While the United States Virgin Islands await the completion of proposed financial incentives, the film office staff continues to bring in productions based on an array of alternative incentives.
While incentives, crew depth and infrastructure play a major role in this list of top worldwide locations, the logistics are only part of the big picture of filmmaking.

Jennifer Marino Reprinted by permission from *P3 Update Magazine*, December 2009.
Reprinted with permission [with some editorial changes] by *P3 Update*, Jim Thompson, Editor in Chief.

**Film Incentives Abound Around the World**
As demonstrated in that list of the top ten locations in the world, it’s all about the money. Once incentives became the new standard for where a movie shot, I never took a phone call at the Film Commission office without the producer on the other end of the line asking, “What can you do for me? What’s your incentive package?” The entertainment business is a global industry, and the worldwide competition for market share is ramping up every year with more sophisticated marketing and increasingly serious incentive programs. Many people point to Canada’s business model as the starting point. Beginning in the late 1990s, the Canadian government saw the value of importing an industry with attractive tax incentives. And it certainly didn’t hurt that at that time, the return on the dollar guaranteed that another chunk of change on every dollar spent was at the producer’s disposal. Hollywood’s business became “run-away” production as movies and TV shows went to Canada and then anywhere in the world where they could get the most value for their money. Eventually the light went on and everyone stopped blaming Canada for creating “run-away” production and followed their successful business model. Other countries and individual states across the United States began to offer incentive packages built on tax credits, cash rebates, and interest-free loans or matching funds!

How students and first-time filmmakers benefit from big money incentives is going to be your challenge: you must filter through all the terms, conditions, and criteria. There are businesses dedicated to providing a producer with everything he or she needs to know about every incentive offered. When you’re looking for your location destination, don’t forget to consider some of the “intangibles” or the “soft incentives,” as they are called, found in a city or state. These can be the attributes of a region or the added-on value a Film Commission or government office can offer your project in subsidies or courtesy services. These intangibles don’t necessarily have a dollar figure but can be very inviting and extremely beneficial. Consistently good weather, free public properties, free permits, the right to shoot nonunion, and many other elements all come into play when you are trying to decide where to shoot your project.

**FLICS: Film Liaisons in California Statewide**
Because California, and specifically LA and Hollywood, have historically been and continue to be the hub of the entertainment industry for so many of us in the business, it’s important to try to keep the work here. The state of California has been hard hit by the success of out-of-state incentive programs for over a decade now. And just as every state is working to attract the business, California is working to keep it at home. FLICS (Film Liaisons in California Statewide) is the professional membership association representing 44 Film Commissions in the state of California. This group is a “network of regional film offices and commissions that work cooperatively with the California Film Commission to retain, attract and facilitate feature film, television commercial and print media production in California.” FLICS acts to support the work of the California Film
Commission and broaden the regional appeal of their representative areas throughout the state. This combined effort makes a difference to every producer who wants to stay close to home and hopefully sleep in his or her own bed. In 2009, Governor Schwarzenegger signed a new bill creating the California Film & Television Incentive Program as a new way of doing business for California entertainment projects. The incentive program has been a huge success and promises to keep the local industry healthy in the future.

**In California, Film/TV Incentives Generate $2 Billion**
The first year of the California Film & Television Tax Credit Program has created and retained tens of thousands of jobs and generated $2 billion in direct spending to California communities, said Governor Arnold Schwarzenegger. In its first year, the California Film Commission, which administers the program, allocated $200 million in tax credits to 77 projects. This year, another 30 projects are set to receive an additional $100 million in tax credit allocations. Together, they are estimated to bring $2 billion in direct spending to California communities. The figure includes $736 million in wages paid to below-the-line crew members, according to data compiled by the Film Commission. Studio Daily Blog, Debra Kaufman (August 9, 2010).

If you are in filming in California, be sure to visit the California Film Commission website, http://www.film.ca.gov, for full details about how to apply for the incentives. And don’t forget the extended services FLICS can offer. FLICS is a helpful organization of 44 regional film offices throughout the state of California that are connected, communicating and interfacing from Alameda to Yosemite. Check out the services offered by FLICS at http://www.filmcalifornia.com.

The point of this book is to bring the student, first-time filmmaker, and emerging filmmaker all the tools they need to make their movies out in the real world. For those of us who have worked in the industry, it’s easy to forget that what we take for granted, like the processes we know to be standard operating procedures or even the movie language and terminology we use, are not familiar to everyone. And they certainly aren’t taught in any complete and comprehensive way. So if I appear to be writing about things that seem obvious to some of you, it’s in the effort to level the playing field. The general public doesn’t know what a Film Commission does. I spent 16 years at the San Diego Film Commission providing information and insight into my work over and over again on a daily basis. The communities we shot in, the business associations representing retailers, and even local and regional government needed to be educated to the work of the Film Commission as an economic engine. And the general public doesn’t know about the highly competitive nature of the industry, which means that every state and many countries are vying for this business with lucrative and tempting offers to shoot there.

This chapter revealed the global scope and popularity of the entertainment industry. Everyone wants a piece of the Hollywood pie! And within the contest for the next TV show or next movie, professional organizations like AFCI with their Film Commission membership offices and FLICS in California are there to assist you. Use these sources to make your job easier as they provide data, local information, photos, and liaison connections to all the places you could ever consider shooting your movie. They want your business and they want you to be successful. They want you to become a return customer who comes back to shoot again and again.
When Deciding Where to Shoot, Remember to:
1. Contact the AFCI for access to any worldwide Film Commission.
2. Contact that Film Commission for free core services: location assistance, liaison services with industry facilities and services in the area, augmented research, and liaison to the community, production companies, and government.
3. Research the permit process for your area of interest.
4. Identify your student status or low-budget filmmaker status in the permit process.
5. Know what incentives are offered; identify the “intangibles“ that can benefit your project.
6. In California, contact the California Film Commission and the FLICS office for the deepest information on what the state and regional offices can offer, including the new state incentive.
Currently production incentives are a key component of the finance plan of almost every film made. This chapter concisely and clearly reviews the entire U.S. and most of the major international production incentive programs available as of May 2010. Go to book website for updates.

Although tax incentives, subsidies, and other forms of governmental support have become an increasingly important feature of both domestic and foreign film production, uncertainty related to a state’s fiscal health, liquidity, or legislative prerogative can make it difficult to fully convert your incentive into cold, hard cash with which to produce the film. We recommend securing an insurance policy to protect this key investment. Aon/Albert G. Ruben offers an exclusive insurance solution that facilitates film finance by insuring against the following causes of loss:

- Bankruptcy and insolvency
- Legislative amendment (rules change during the game)
- Repudiation (refusal to acknowledge or pay)
- Protracted default (late pay, issuance of IOUs, warrants, and other illiquid instruments that won’t timely repay your lender or investor)
- Additional accrued interest charges resulting from a declared and covered cause of loss

In addition to the risks associated with governmental prerogative and financial stability, coverage addresses the risks of:

- Loss or destruction of sets and locations, which prevents or precludes filming in the territory offering the incentive
- Cast or crew accident, sickness, or disability, which prevents or precludes filming in the territory offering the incentive

For more detailed information about this production incentive coverage, contact Aon in the U.S. at (818) 742-1400.

ABOUT ENTERTAINMENT PARTNERS*
*This section is courtesy of and written by Entertainment Partners.*

An employee-owned company, Entertainment Partners (EP) has been the leader in payroll and production services for the entertainment industry for more than 30 years. EP offers a full range of payroll solutions and services for film, television, commercials, music, residuals, and more. EP’s Residuals department processes more residuals payments than any other company. The Vista accounting applications are the industry’s most widely used production accounting solutions. EP’s Virtual Production Office (VPO) is an Internet-based application for users anywhere to access a variety of production documents. EP’s Petty Cash Card streamlines the petty cash process through debit card purchasing and online tracking/handling. Movie Magic Budgeting and Scheduling are the industry standard productivity software products, now with new feature sets and architecture.

Casting/payroll for background actors is handled through EP’s legendary Central Casting division. Finally, comprehensive expert advice and a host of valuable services are all part of the full suite of offerings in the area of Production/Tax Incentives.
PRODUCTION INCENTIVES

What Are Production Incentives? Where Are They Available?

Production incentives are offered as cash rebates, tax credits, or up-front/back-end production funding. In addition, numerous jurisdictions offer sales, use, excise, and gross receipts tax relief in the forms of deductions, credits, exemptions, and waivers. In the U.S. the federal government and most U.S. states offer production incentives for motion picture and television productions. A number of jurisdictions also offer incentives for commercial ad production, digital programming, postproduction, video game production, animation, and other production types. More than a dozen international jurisdictions offer production incentives open to producers from around the world.

Why Are They Granted?

Governments have long used incentives to foster economic growth, build infrastructure, and create jobs. Incentives are used to attract industries that are viewed as important to the local community. Production of filmed entertainment is especially amenable to incentives because it is highly mobile, environmentally “clean,” capital and labor intensive, and effective in promoting tourism.

TYPES OF INCENTIVES

What Is a Production Rebate?

A cash rebate or grant is a sum of money paid to a qualifying production company based on the amount of qualifying expenditures or jobs created in the jurisdiction on a qualifying project. These funds do not require a tax return to be filed. They are often administered by the departments of Trade and Industry, Commerce, or Economic Development.

What Are the Different Types of Tax Credits?

Tax credits can be refundable or nonrefundable, and transferable or nontransferable. Refundable tax credits. A refundable tax credit functions in the same way as a production rebate, but it is administered by the local taxing authority and claimed by filing a tax return. The production company must file a tax return regardless of whether it has any income or owes any tax in the jurisdiction. If the production company does owe tax, a refund will be granted for the excess of the credit over the amount of tax owed. In some cases, banks or other lenders can monetize refundable tax credits so that the production company can get the money earlier. Generally speaking, a cost is associated with an advance of the funds.

Transferable tax credits. A nonrefundable tax credit may be transferable or nontransferable. A transferable tax credit is one that may be sold or assigned to a local taxpayer. This transfer can be handled directly by the production company or indirectly through the use of brokers. Brokers will generally charge a commission. In addition, the production company will need to discount the credit from its face value to entice local taxpayers to purchase them. Jurisdictions vary in how
they regulate these transfers. Some jurisdictions permit a single credit to be divided among multiple transferees. Others permit multiple transfers, allowing transferees to sell all or a part of the credit they purchased to another taxpayer. Note that tax credits may be recaptured by states after audit. Some states have recapture provisions with recourse to the buyer of a credit.

Nonrefundable, nontransferable tax credits. A nonrefundable, nontransferable tax credit can be used to offset a current tax liability of the production company. The excess can generally be carried forward and used to reduce taxes in subsequent years. Each jurisdiction sets forth the period of time within which the tax credit can be carried forward.

**What Is Up-Front or Back-End Funding?**
These funds are made available to qualifying productions from local taxpayers in exchange for advantageous tax treatment from the local jurisdiction.

**International Production Incentives**
This guide summarizes only those international incentives designed to attract U.S. and other foreign productions. We do not address incentives around the world designed for local content production, although they may be accessible to U.S. and other foreign producers. Some of those incentives may require that copyright be held locally, or that local distribution rights be held locally. This guide summarizes only those international incentives that have no such requirement.

**ELIGIBILITY CRITERIA**

**What Is an Eligible Production Company?**
Each jurisdiction defines which type of business entity is eligible to apply for and claim its production incentives. Many jurisdictions require that the company be exclusively engaged in the business of film production. Some jurisdictions specify the legal structure and/or residence required for eligible production companies.

**What Is an Eligible Project?**
Each jurisdiction defines the types of projects eligible for the incentive benefits. In some jurisdictions, television projects are excluded. In other jurisdictions, the scope of eligible projects is very broad, including film, TV, video, digital programming, interactive games, commercial advertisements, animation, and so on. Some pilots and treatments qualify. There are frequently exclusions for “adult programming,” news, weather, sports events, infomercials, reality shows, and the like. In addition, many jurisdictions require that the project be intended for commercial exhibition and/or that a distribution deal be in place.

**What Is a Qualifying Project?**
Most jurisdictions have a minimum spend test; some have a minimum number of local shooting days/stage days, resident employee requirement, or some other test so that the project will satisfy the jurisdiction’s goals in building its local industry, revenue base, employment, and so on.

**What Is a Qualifying Expenditure?**
Each jurisdiction defines the goods and services that constitute qualifying expenditures for purposes of calculating the incentive benefit. In most jurisdictions, local goods and services directly
used in the production are included in the benefit-calculation base. Some jurisdictions allow expenditures incurred in other jurisdictions, but used for local production, to qualify. In some cases, both preproduction and postproduction will be included. In most cases, marketing and distribution expenses will be excluded. Entertainment Partners’ handling fees and workers’ compensation insurance fees are qualified expenditures in many jurisdictions.

**BENEFIT LIMITS**

Many jurisdictions have an annual cap on the amount to be awarded under the incentive program. Others have a cap on the amount that can be awarded to a specific project. For TV, there may be episode caps and series caps. Many jurisdictions also have qualifying expenditure caps on salaries. For some jurisdictions, salaries paid to highly compensated individuals, usually $1,000,000 or more, are excluded from the benefit calculation.

**KEY ISSUES TO CONSIDER**

**Funding**

For jurisdictions with annual funding caps, it is important to know the fund balance and amount appropriated to date. Find out what is necessary to be certain that the amount needed by your project will be committed to it. Determine which jurisdictions with funding caps allocate funds to productions either on a first-come, first-served basis or on a discretionary basis. Some jurisdictions carry over unused incentive funds to the following year, and some jurisdictions do not carry over any unused funds.

**Employment Issues**

Are the cast and crew subject to tax in the jurisdiction where the filming occurs? If so, what steps must be taken to ensure compliance? If any members of the cast or crew have established personal service or loan-out corporations through which their services are provided, is the corporation required to register to do business in the local jurisdiction? Are payments to the corporation subject to tax and/or withholding in the local jurisdiction to qualify for the incentive benefits? Is the corporation subject to tax at the entity level in addition to the tax imposed on the talent?

**Residency Requirements**

Is there a test for qualified residents? When is the test applied (e.g., date of payment, date of services, date of claim, and so on)? How is it proven? Can a local company be used to qualify goods and services that are unavailable or do not originate within the jurisdiction as eligible spend? If so, what requirements must be met?

**Confidential Financial Information**

If confidential financial information is required as part of the application and/or certification process(es), how can it be protected from public disclosure?

**End Credits**

Does the jurisdiction require an acknowledgement of support as a condition to receipt of the benefit? If so, what are the requirements?
Local Advice
Local film offices are set up to enhance local production. Contact with the local film office will enable you to find locations, coordinate crews, and access local goods and services. Find out which local auditing and legal services will be needed.

Sunset Dates
Many production incentive statutes are limited in duration. The statute will have a termination date or “sunset date” after which the benefits are no longer available. Will your project be qualified before the incentive expires?

Qualifying Production Expenditures Matrix
This matrix provides a general listing of qualifying production expenditures—specifically purchases and rentals of tangible production equipment and supplies for U.S. jurisdictions. These expenditures are broken down into in-state vendors (as defined by local law) and out-of-state vendors. The matrix also lists U.S. jurisdictions that qualify fringes (e.g., pension, health, welfare, vacation, and holiday) and taxes (e.g., FICA, FUTA, SUI, and Medicare). However, the matrix does not address all production-related costs, such as services, financing costs, and insurance premiums. Jurisdictions may qualify certain fringes (e.g., taxable per diems versus nontaxable per diems) and certain taxes, but the matrix does not provide a detailed listing of all qualified fringes and taxes, if applicable.

Some jurisdictions require qualified expenditures to be subject to taxes (e.g., sales, gross receipts, income, and excise taxes) for these expenditures to qualify. The matrix does not address each jurisdiction’s taxation requirements.

Most jurisdictions do not qualify marketing, advertising, and development expenditures. Note that some jurisdictions provide a detailed list of qualifying expenditures, as noted on the matrix. In addition, certain jurisdictions may qualify out-of-state vendors on a case-by-case basis, even if the matrix indicates “No.” Please consult with the local Film Commission to confirm qualifying vendors. The matrix should be used as a starting point for your production incentives research on qualifying production expenditures. Please contact your legal or tax advisors to confirm how a particular incentive will apply to your project.

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<tr>
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<th>Taxes paid for qualified payroll</th>
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Qualifying Compensation Expenditures Matrix

This matrix provides a general listing of qualifying compensation for U.S. jurisdictions. Compensation categories include above-the-line payroll (e.g., cast, directors, and producers) and below-the-line payroll (e.g., crew). Each of these categories contains information for both resident (as defined by local law) and nonresident payrolls. The matrix does not address compensation and project caps. (Please refer to the "Compensation and Project Caps" section for each jurisdiction.) The matrix does not differentiate between compensation paid directly to an employee and payments through a personal service corporation or a loan-out company. Many jurisdictions require compensation to be subject to federal or state income taxes and/or withholding taxes for these expenditures to qualify. The matrix does not address each jurisdiction's taxation requirements.

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<tr>
<th>State</th>
<th>Equipment/supplies**</th>
<th>In-state vendors</th>
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* See qualified expenditures listing for more details (contact local Film Office).
* Local taxes qualify.
* Fringes for payroll employees are rebatable under the 10% wage rebate only.
* Only vacation and holiday qualify.
* Excludes employer contributions.
* Confirm with local Film Office.
* Only taxable fringes, sourced or apportioned to the state, qualify.
* State or local taxes do not qualify.
Most jurisdictions do not qualify compensation for marketing, advertising, and development expenditures. Some jurisdictions have a listing of qualifying expenditures available that will provide more detail than what is listed on the matrix.

The matrix should be used as a starting point for your production incentives research to determine qualifying compensation expenditures. Please contact your legal or tax advisors to confirm how a particular incentive will apply to your project.

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<td>N/A</td>
</tr>
<tr>
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<td>No</td>
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<tr>
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<tr>
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<tr>
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<td>Washington</td>
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</tr>
<tr>
<td>West Virginia</td>
<td>Yes</td>
<td>Yes¹,²,⁴</td>
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Nontraditional Programming
This matrix provides a general overview of the types of nontraditional programming eligible for the production incentives summarized for the U.S. jurisdictions. Nontraditional programming categories covered in the matrix include talk shows, reality shows, game shows, documentaries, news, webisodes, animation, commercials, industrials, music videos, interactive media/video games, and sporting events.

Some jurisdictions require wide or national distribution/syndication to qualify some or all programming categories. The matrix does not address specific distribution/syndication requirements for any nontraditional programming. The matrix does not address minimum spend or criteria required for any nontraditional programming category. (Please refer to the "Project Criteria" section for each jurisdiction. Note however that the "Project Criteria" section may not include information for each nontraditional programming category, so please review the applicable law for specific requirements).

Most incentive statutes address film, television, and video projects but do not specifically address each of these 12 types of programming. Many statutes address some but not all of these categories of programming, while other statutes are very general. Finally, some states have specific incentive statutes for specific types of nontraditional programming (e.g., commercials or animation).

In order to assist our clients in evaluating the best location for their particular project, we have compiled information from the underlying statutes, regulations, rules, and guidelines, including the published “policies” or guidance on the respective film office websites. The information obtained from these sources is noted. To further assist our clients, we have corresponded with each of the film offices to supplement the information found in the statutes, and so on.

The matrix should be used as a starting point for your production incentives research to determine eligibility of specific projects. Note that the project criteria may vary for different types of programming. Please contact your legal or tax advisors to confirm how a particular incentive will apply to your project.
U.S. DOMESTIC

U.S. Federal*
* The House passed an extenders bill in 2009, including IRC section 181. Due to time constraints, the Senate is expected to pass this year, on a retroactive basis.

**Type of Incentive:** Immediate deduction

**Benefit (if eligibility requirements are met):** 100 percent of the production cost (for the first $15,000,000 of qualified expense)

**Compensation and Project Caps/Funding per Year:** Deduction applies to the first $15,000,000 of production costs ($20,000,000 if incurred in designated low-income areas)

**Project Criteria:** 75 percent of total “compensation” (does not include participations and residuals) must be for services performed in the United States

**Sunset/Review:** December 31, 2009

Expired at the end of 2009. A retroactive extension will be proposed in the new extenders legislation, expected to be addressed after the August 2010 recess.

INTERNATIONAL

Australia Federal

**Type of Incentive:** Location and Visual (PDV) offsets and Producer offset (for “qualifying Australian film”)

**Benefit (if eligibility requirements are met):** 15 percent of qualifying local spend (QAPE), including post/digital/VFX work for Location and Visual offsets; 40 percent for qualifying feature films and 20 percent for qualifying television productions/documentaries for Producer offset

**Compensation and Project Caps/Funding per Year:** No caps

**Project Criteria:** For Location offset, if QAPE = A$15,000,000 but < A$50,000,000, it must be >70 percent of total spend; if QAPE > A$50,000,000, no percentage test; TV series must average; A$1,000,000 per hour; for PDV offset, minimum qualifying PDV spend = A$5,000,000; for Producer offset minimum spend = $1,000,000 for feature films, TV series and telemovies (lower spend test for documentaries and short form animation) and production must pass “Australianness test” (subjective), official co-productions automatically qualify

**Eligible Entities:** Australian resident company or nonresident with a PE and Australian Business Number (ABN)

**Sunset/Review:** None

New South Wales (NSW)

**Type of Incentive:** Cash rebate

**Benefit (if eligibility requirements are met):** The level of assistance offered is determined on a case-by-case basis, based on the local economic impact

**Compensation and Project Caps/Funding per Year:** No caps

**Project Criteria:** “Footloose” feature films, telemovies, animation, mini-series, TV series, and unaccompanied post production projects are eligible, with a minimum spend of A$5,000,000 in NSW for production, or A$3,000,000 in NSW for postproduction costs

**Eligible Entities:** Australian resident company or nonresident with a PE and Australian Business Number

**Sunset/Review:** None
Queensland
Type of Incentive: Cash rebate
Benefit (if eligibility requirements are met): 12.5 percent of qualifying local labor; A$25,000 per department head and state payroll tax rebate (4.75 percent)
Compensation and Project Caps/Funding per Year: Compensation cap of A$2,500 per week per employee; project caps for drama of A$200,000–A$850,000 based on qualifying local spend, and for nondrama of A$100,000–A$300,000; maximum A$50,000 for two heads of department; subject to sufficient funding being available
Project Criteria: Minimum qualifying local spend of A$5,000,000 for labor credit; A$3,500,000 for one department head, A$5,000,000 for two department heads; must be employed > 10 weeks and hire > four local crew; minimum qualifying local spend of A$3,500,000 for payroll tax rebate; bundling allowed
Eligible Entities: The production company or production services company must have an Australian Business Number (ABN) and be registered for the Goods and Services Tax (GST)
Sunset/Review: None; the State Payroll Tax Rebate is subject to review under the regulations of the Office of State Revenue

South Australia
Type of Incentive: Payroll tax exemption
Benefit (if eligibility requirements are met): Up-front exemption of payroll taxes
Compensation and Project Caps/Funding per Year: None
Project Criteria: Film produced wholly or substantially within the state; production employs South Australian residents; and production of the film will result in economic benefits to the state
Eligible Entities: Australian resident company or nonresident with a PE and ABN
Sunset/Review: None

Victoria
Type of Incentive: Grant
Benefit (if eligibility requirements are met): The Production Investment Attraction Fund (PIAF) Committee evaluates applications for both grants to increase local production, employment, and infrastructure; the Regional Location Assistance Fund (RLAF) is paid in two stages, with 75 percent after commencement of principal photography
Compensation and Project Caps/Funding per Year: A$100,000 project cap for RLAF grants
Project Criteria: "Footloose" projects eligible for alternative locations; > 70 percent of the total production budget will be local spend or > A$3,500,000 local spend; if postproduction project, > three Victoria postproduction services must be utilized; production budget must be secured; the RLAF grant requires > five days in regional Victoria locations during principal photography
Eligible Entities: Australian resident company or nonresident with a PE and Australian Business Number
Sunset/Review: None

The following information on production incentives in Canada and its provinces has been provided by Canada Film Capital. Since Canada’s introduction of Production Services Tax Credits in 1997, Canada Film Capital has been the leading provider of tax credit administration and financing services to the United States and other foreign producers. Find out more at www.canadafilmcapital.com.
Canada Federal
Type of Incentive: Refundable tax credit
Benefit (if eligibility requirements are met): 16 percent of qualifying Canadian labor expenditures, net of assistance (which includes provincial credits)
Compensation and Project Caps/Funding per Year: No caps
Project Criteria: Costs must be > C$1,000,000 on worldwide basis within 24 months after start of principal photography for feature film or video; > C$100,000 per episode for series or pilot < 30 minutes; and > C$200,000 per episode for series or pilot &geq; 30 minutes
Eligible Entities: An “eligible production corporation” must have a permanent establishment in Canada whose primary activity is the production of films or videos or the provision of film or video production services and must own the copyright throughout production in Canada or must contract directly with the copyright owner; private broadcasting/cable subsidiaries are eligible
Sunset/Review: None

Alberta
Type of Incentive: Cash grant
Benefit (if eligibility requirements are met): 20 percent to 29 percent of qualifying Alberta (AB) spend (goods and services); there are three “streams” of AB ownership, which determine the amount of the benefit available: Stream I: Majority AB-Owned Productions = 27 percent to 29 percent; Stream II: Equal or Minority AB Ownership = 25 percent to 27 percent; Stream III: No AB Ownership (foreign ownership is permissible) = 20 percent to 22 percent; bonuses: each stream can earn an additional 1 percent to 2 percent of production expenses by employing additional Albertans in key creative positions
Compensation and Project Caps/Funding per Year: Cap per project = C$5,000,000; no annual funding cap
Project Criteria: The production must be supported by a broadcast license of FMV (fair market value) or a distribution agreement and be shown within two years of completion; must be an eligible genre; minimum local spend of > C$25,000; production must provide evidence of 65 percent confirmed financing for projects > C$1 million, and 45 percent confirmed financing for projects < C$1,000,000; the projected grant may be included as part of the confirmed financing; must also provide either (1) audited financial statements for productions > C$500,000, (2) an engagement review for productions between C$200,000 and C$500,000, or (3) an uncertified final cost report with a statutory declaration for productions < C$200,000; application must be submitted prior to the start of principal photography
Eligible Entities: The production company must be incorporated in Alberta or registered to do business in Alberta and be in good standing with Corporate Registry; distributors/broadcasters are ineligible
Sunset/Review: None

British Columbia
Type of Incentive: Refundable tax credit
Benefit (if eligibility requirements are met): 33 percent of qualifying British Columbia (BC) labor expenditures; Digital Animation or Visual Effects (DAVE) Credit bonus: 17.5 percent additional credit on qualifying DAVE labor (principal photography commenced after February 28, 2010); Regional Tax Credit bonus: 6 percent of qualifying BC “regional” labor when > 50 percent of BC principal photography is done outside Vancouver area (pro rate number of regional days by total BC days), minimum 5 regional days required; Distant Location Credit: additional 6 percent of
qualifying BC “distant” labor (calculated by pro rating number of days shot in “distant location” by total BC days; must first qualify for Regional Tax Credit); 17.5 percent of qualifying BC labor for the Interactive Digital Media tax credit for video game development for projects that begin after August 31, 2010. In addition, the BC incentive is stackable with Canada’s Federal Tax Incentive which is 16 percent of qualifying Canadian labor expenditures, net of assistance (which includes any provincial credits attributed to qualifying labor spend)

**Compensation and Project Caps/Funding per Year:** No caps

**Project Criteria:** Production budget must be > C$1,000,000 worldwide for feature film or video; > C$100,000 per episode for series or pilot < 30 minutes (exception: productions that consist of all or substantially all digital animation or visual effects); > C$200,000 per episode for series or pilot > 30 minutes

**Eligible Entities:** The production company must be a Canadian taxable company with a permanent establishment in BC whose primary business is film or video production or provision of production services; broadcasting/cable subsidiaries are eligible

**Sunset/Review:** None

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**Manitoba**

**Type of Incentive:** Refundable tax credit

**Benefit (if eligibility requirements are met):** 30 percent of qualifying Manitoba (MB) labor and MB purchases/rentals OR 45 percent of qualifying MB labor expenditures (which can also include labor paid to non-MB residents who work in technical, below-the-line positions, to a maximum of 30 percent of total actual MB labor expenditures if two MB residents trained per nonresident; nonresidents do not have to deliver the training); Regional Tax Credit bonus: 5 percent of qualifying MB labor expenditures if >50 percent of MB production days shot at least 35 km from the center of Winnipeg; Frequent Filming bonus: 10 percent of qualifying MB labor expenditures on third film shot within two-year period (producers can access bonus by co-venturing with a company that has frequent filming status); MB Producer Incentive: 5 percent of qualifying MB labor expenditures for productions where an MB resident receives credit as a producer. In addition, the MB incentive is stackable with Canada’s Federal Tax Incentive which is 16 percent of qualifying Canadian labor expenditures, net of assistance (which includes any provincial credits attributed to qualifying labor spend)

**Compensation and Project Caps/Funding per Year:** No caps

**Project Criteria:** > 25 percent of salaries and wages paid by production company must be paid to eligible MB employees for work performed in MB

**Eligible Entities:** The production company must be a corporation taxable in Canada, with a permanent establishment in MB, primarily carrying on the business of film, TV, or video production; broadcasters are eligible

**Sunset/Review:** None

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**New Brunswick**

**Type of Incentive:** Refundable tax credit

**Benefit (if eligibility requirements are met):** 40 percent of qualifying New Brunswick (NB) labor expenditures; labor caps at 50 percent of total production costs

**Compensation and Project Caps/Funding per Year:** Project labor caps at 50 percent of total production costs; no annual funding caps

**Project Criteria:** > 25 percent of salaries and wages paid by production company must be paid to eligible NB employees for work performed in NB
Eligible Entities: The production company must be a corporation taxable in Canada, with a permanent establishment in NB, primarily carrying on the business of film, TV, or video production; broadcasters are ineligible  
Sunset/Review: None

Newfoundland and Labrador
Type of Incentive: Refundable tax credit  
Benefit (if eligibility requirements are met): 40 percent of qualifying Newfoundland-Labrador (NL) labor expenditures  
Compensation and Project Caps/Funding per Year: Tax credit caps at the lesser of 25 percent of the total production costs or C$3,000,000 per 12-month period  
Project Criteria: > 25 percent of salaries and wages paid by production company must be paid to eligible NL employees for work performed in NL  
Eligible Entities: The production company must be a corporation taxable in Canada, with a permanent establishment in NL, primarily carrying on the business of film, TV, or video production; broadcasters are ineligible  
Sunset/Review: None

Nova Scotia
Type of Incentive: Refundable tax credit  
Benefit (if eligibility requirements are met): The lesser of 50 percent of qualifying Nova Scotia (NS) labor expenditures or 25 percent of total production costs; Regional Credit bonus: 10 percent of qualifying NS labor expenditures for productions shooting outside metro Halifax; tax credit caps at 30 percent of total production costs; Frequent Filming bonus: 5 percent of qualifying NS labor expenditures on third film shot within two-year period (not capped)  
Compensation and Project Caps/Funding per Year: No caps  
Project Criteria: > 25 percent of labor costs paid to NS residents (including personal service corporations); also qualifying are wages and salaries paid to Nova Scotians for work performed outside province; projects with budgets > C$500,000 require an audited cost report; budgets > C$100,000 require a review engagement report; budgets < C$100,000 require a producer's affidavit certifying the final cost report  
Eligible Entities: The production company must be a corporation taxable in Canada, with a permanent establishment in NS, primarily carrying on the business of film, TV, or video production; broadcasters are ineligible  
Sunset/Review: Subject to review in 2016

Ontario
Type of Incentive: Refundable tax credit  
Benefit (if eligibility requirements are met): 25 percent of qualifying Ontario (ON) labor expenditures and production expenditures; bonuses: ON Computer Animation and Special Effects (OCASE) = 20 percent of qualifying ON labor related to digital animation and special effects work  
Compensation and Project Caps/Funding per Year: No caps  
Project Criteria: Production budget must be > C$1,000,000 worldwide for feature film or video; > C$100,000 per episode for series or pilot < 30 minutes; > C$200,000 per episode for series or pilot > 30 minutes  
Eligible Entities: The production company must be a corporation taxable in Canada, with a permanent establishment in ON, primarily carrying on the business of film, TV, or video production; broadcasters are eligible
Sunset/Review: None

Prince Edward Island
The program is currently under review; no incentives available at this time. Responsibility for the incentive is also under review and the responsible department and staff members have yet to be identified.

Quebec
Type of Incentive: Refundable tax credit
Benefit (if eligibility requirements are met): 25 percent of qualifying Quebec (QC) expenditures (not limited to QC labor); bonuses: QC Computer Animation and Special Effects Tax Credit = 5 percent additional credit on qualifying animation and special effects QC expenditures (not limited to QC labor); 20 percent qualifying animation and special effects credit for low-budget productions
Compensation and Project Caps/Funding per Year: No caps
Project Criteria: Production budget must be > C$1,000,000 worldwide for feature film or video; > C$100,000 per episode for series or pilot < 30 minutes; > C$200,000 per episode for series or pilot > 30 minutes
Eligible Entities: The production company must be a corporation taxable in Canada, with a permanent establishment in QC, primarily carrying on the business of film, TV, or video production; broadcasters are eligible
Sunset/Review: None

Saskatchewan
Type of Incentive: Refundable tax credit
Benefit (if eligibility requirements are met): 45 percent of qualifying Saskatchewan (SK) labor expenditures (which can also include labor paid to non-SK residents who train a SK resident in all job categories, above- and below- the-line, to a maximum of 25 percent of eligible labor expenditures); labor caps at 50 percent of total production costs; Regional Tax Credit bonus: 5 percent of total SK spend if > 50 percent of principal photography shot in SK and at least 40 km outside Regina or Saskatoon; Key Position bonus: 5 percent of total SK spend for productions that attain > 6 out of 10 points for hiring SK residents in key positions
Compensation and Project Caps/Funding per Year: Project labor caps at 50 percent of total production costs; no annual funding cap
Project Criteria: >25 percent of salaries and wages must be paid to SK residents
Eligible Entities: The production company must be a corporation taxable in Canada, with a permanent establishment in SK, primarily carrying on the business of film, TV, or video production; broadcasters are ineligible
Sunset/Review: None

Yukon
Type of Incentive: Spend, travel, and training rebates
Benefit (if eligibility requirements are met): Yukon Spend Rebate: TV programs, MOW's (movies of the week), documentaries, and feature films (not commercials) are eligible for a rebate of up to 25 percent of below-the-line Yukon (YT) spend, provided criteria are met; Training Rebate: Productions (not commercials) are eligible for a rebate of up to 25 percent of the wages paid to individuals providing on-set training (techniques and equipment) to eligible YT labor; Travel Rebate: (for productions
not accessing the 25 percent spend rebate, i.e., commercials) 50 percent of travel costs, to a maximum of the lesser of C$10,000, or 10 percent of total YT expenditures.

**Compensation and Project Caps/Funding per Year:** No project limits to Spend Rebate

**Project Criteria:** The labor rebate is available to productions filming in YT with 50 percent of the person days in YT crewed by eligible YT residents; all elements of the fund must be applied for and approved in advance by the YT Film & Sound Commission.

**Eligible Entities:** The applicant must be a corporation taxable in Canada and registered with YT Corporate.

**Sunset/Review:** None

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**Cayman Islands**

**Type of Incentive:** Cash rebate

**Benefit (if eligibility requirements are met):** *

* Subject to a 5 percent contribution to the CI Film Industry Development Fund.

30 percent of qualifying local production expenditure and 20 percent to 30 percent of qualifying local labor expenditures depending upon residency status of the employees (the actual percentage is within the discretion of the Cayman Islands Film Commission).

**Compensation and Project Caps/Funding per Year:** US$100,000 compensation cap per employee, aggregate wage cap per project of US$2,000,000; annual funding cap to be determined by May 2010

**Project Criteria:** Minimum local spend > US$50,000 for productions of ≤ 29 minutes, > US$150,000 for productions > 30 minutes during the 12 months beginning eight weeks before principal photography through postproduction.

**Eligible Entities:** Film production company incorporated in the Cayman Islands, with copyright ownership during production or direct contract with said owner.

**Sunset/Review:** None; to be reviewed at the end of the year.

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**Fiji**

**Type of Incentive:** Film tax rebate

**Benefit (if eligibility requirements are met):** 35 percent of qualifying local spend

**Compensation and Project Caps/Funding per Year:** FJD$8,750,000 per project

**Project Criteria:** Minimum local spend = FJD$250,000; if the local spend is < FJD$25,000,000, the local spend must be > 35 percent of the total spend; if the local spend is ≥ FJD$25,000,000, there is no percentage test.

**Eligible Entities:** Any film company.

**Sunset/Review:** None

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**France**

**Type of Incentive:** Refundable tax rebate to the line producer

**Benefit (if eligibility requirements are met):** 20 percent of qualifying local spend (up to 80 percent of the total production or postproduction costs).

**Compensation and Project Caps/Funding per Year:** € 4,000,000 per project; total public subsidies granted for one project > 50 percent of total budget.

**Project Criteria:** Minimum local spend = €1,000,000 for eligible fictional and animation projects, including films, TV dramas, and TV series; minimum shoot (live action) = five days (N/A for animation); culture test.

**Eligible Entities:** French company line producing the project.

**Sunset/Review:** December 31, 2012
Germany
**Type of Incentive:** Cash (financial aid) grant
**Benefit (if eligibility requirements are met):** 20 percent of qualifying local spend (up to 80 percent of the total production costs)
**Compensation and Project Caps/Funding per Year:** €4,000,000 per film (€10,000,000 if local spend ≥ 35 percent of budget or if > two thirds of cultural characteristics awarded; €60,000,000 per year)
**Project Criteria:** Minimum budgets for feature films = €1,000,000, animated films = €3,000,000, documentaries = €200,000 > 25 percent of budget must be local spend or 20 percent if budgeted > €20,000,000; if €15,000,000 local spend, no percentage test; cultural test
**Eligible Entities:** German production company or establishment
**Sunset/Review:** December 31, 2012

Hungary
**Type of Incentive:** Sponsor tax credit
**Benefit (if eligibility requirements are met):** 20 percent of qualifying local spend (Hungarian spend and foreign spend, for a maximum effective benefit rate of 25 percent)
**Compensation and Project Caps/Funding per Year:** Qualifying foreign spend is capped at 25 percent of qualifying Hungarian spend; no other caps
**Project Criteria:** Culture test requires that 16 out of 32 points be achieved, with at least 2 points in the cultural criteria (versus the industrial criteria); no spend test
**Eligible Entities:** Hungarian production company
**Sunset/Review:** December 31, 2013

Iceland
**Type of Incentive:** Cash rebate
**Benefit (if eligibility requirements are met):** 20 percent of qualifying local spend, including all EEA spend (European Union plus Norway, Liechtenstein, and Iceland) if >80 percent of the television or movie production costs are incurred locally
**Compensation and Project Caps/Funding per Year:** No caps
**Project Criteria:** No spend test
**Eligible Entities:** Registered production company

Ireland
**Type of Incentive:** Up-front production funding
**Benefit (if eligibility requirements are met):** 28 percent of qualifying local spend
**Compensation and Project Caps/Funding per Year:** Capped at 80 percent of global spend up to €50,000,000 of qualifying expenditure per project
**Project Criteria:** The amount spent in Ireland on the production must at least equal the amount of investment eligible for tax relief
**Eligible Entities:** Registered Irish production company
**Sunset/Review:** December 31, 2012
**Loan Program for Productions Available:** Yes

Israel
**Type of Incentive:** Cost reduction
**Benefit (if eligibility requirements are met):** 20 percent (17 percent, plus VAT (value added tax) of 15.5 percent) of eligible “production payments in Israel”
Compensation and Project Caps/Funding per Year: No project or funding caps
Project Criteria: Minimum local spend of NIS (currency of Israel) 8,000,000 (approximately US$2,000,000)
Eligible Entities: A company resident in Israel that is engaged in the production of films Sunset/Review: End of the 2013 tax year

Italy*
* Awaiting EU approval with respect to measures dedicated to distributors, exhibitors, and outside investors only. The measures devoted to domestic and foreign film producers have been approved.
Type of Incentive: Up-front reduction in overall costs
Benefit (if eligibility requirements are met): Up to 25 percent tax credit to an Italian executive producer
Compensation and Project Caps/Funding per Year: Euros 5,000,000 per project per year; capped at 60 percent of the overall budget; including up to 30 percent of European Union (EU) spend through an Italian company
Project Criteria: Applies to local spend; must pass a “culture test”
Eligible Entities: Italian executive producing company
Sunset/Review: December 31, 2010

Friuli Venezia Giulia
Type of Incentive: Cash grant
Compensation and Project Caps/Funding per Year: €5,000 for projects filming in the region over one week (six days of filming); €20,000 for projects filming over three weeks; €60,000 for projects filming over five weeks; €140,000 for projects filming over seven weeks
Project Criteria: 150 percent of the regional grant must be spent in the region, with the exception of crews and investment expenses; filming in the region must equal at least 70 percent of the entire external filming of the cut and at least 50 percent of the total filming of the cut, except for productions filming in the region for less than five weeks and for serials of more than two episodes; for the latter, filming in the region must equal at least 10 percent of the entire external filming of the cut
Eligible Entities: Legally and fiscally established European Union (EU) and non-EU film and television companies

Malta
Type of Incentive: Cash grant
Benefit (if eligibility requirements are met): 15 percent to 22 percent of “eligible expenditure”; the rebate percentage is determined by the points obtained in the cultural test
Compensation and Project Caps/Funding per Year: Eligible expenditures are capped at 80 percent of the overall budget; there are caps on a number of specific categories of eligible expenditures as a percentage of the total eligible expenditures, with a €50,000 cap on above-the-line “direct employment” and department heads below-the-line; for films with a budget > €25,000,000, additional labor costs are excluded; annual funding for 2010 = €2,000,000, subject to increases as approved by the minister
Project Criteria: Culture test requires that 40 points out of 100 be achieved, with at least 15 points in “cultural content,” and 10 points each in “creative contribution” and “use of Malta’s cultural
resources”; the rebate is 15 percent if 40 points are obtained and goes up to 22 percent for 72 points and if “Malta features as Malta”

**Eligible Entities:** Qualifying company  
**Sunset/Review:** December 31, 2012

### New Zealand

**Type of Incentive:** Large Budget Screen Production (LBSP) Grant, cash grant; Post, Digital, Visual Effects Production (PDV) Grant, cash grant; Screen Production Incentive Fund (SPIF), cash grant  
**Benefit (if eligibility requirements are met):** 15 percent of qualifying local spend (QNZPE) for LBSP and PDV Grants; 40 percent of qualifying local spend (QNZPE) on eligible feature films, and 20 percent on eligible television, documentary and short form animation for SPIF Grant  
**Compensation and Project Caps/Funding per Year:** There is no ceiling on compensation for LBSP and PDV; maximum amount eligible for QNZPE for any individual project is NZ$15,000,000 for SPIF Grant; no caps on projects or funding per year for LBSP and PDV  
**Project Criteria:** Minimum QNZPE = NZ$15,000,000 for LBSP; or NZ$3,000,000 in postproduction digital and visual effects work; bundling of productions costing a minimum of NZ$3,000,000 to meet the NZ$30,000,000 QNZPE over 24 months; bundling of episodes (completed within 12 months) averaging NZ$500,000 per hour is permitted to meet the minimum spend; for SPIF Grant, minimum QNZPE = NZ$4,000,000 for eligible feature films, NZ$1,000,000 for eligible series of programs, NZ$1,000,000 for eligible single episode program, NZ$250,000 for eligible documentary, NZ$250,000 for eligible short-form animation, and all eligible projects must contain significant New Zealand content; official co-productions of feature films or television programming produced under one of New Zealand’s co-production agreements will automatically qualify as having significant NZ content and may be eligible to apply for an SPIF Grant  
**Eligible Entities:** A New Zealand resident company or a foreign corporation operating with a fixed establishment in New Zealand for the purposes of lodging an income tax return (both when it lodges the grant application and when the grant is paid)  
**Sunset/Review:** Review scheduled for 2011 for LBSP and PDV Grants; review scheduled for 2012 for SPIF Grant

### Singapore

**Type of Incentive:** Cash rebate  
**Benefit (if eligibility requirements are met):** Up to 50 percent of qualifying expenses incurred for filming in Singapore  
**Compensation and Project Caps/Funding per Year:** No caps, but funding is discretionary and will be disbursed in stages, subject to conditions that will be based on a contractual agreement  
**Project Criteria:** Singapore must be showcased in a positive light in the script, and the production must provide an estimated budget of local spend, track record of the director, producer, and actors, and the financing, marketing, and distribution plan on the initial application to be considered  
**Eligible Entities:** Singapore production company  
**Sunset/Review:** None

### South Africa

**Type of Incentive:** Cash rebate  
**Benefit (if eligibility requirements are met):** 15 percent of qualifying local spend (QSAPE - qualifying South African production expenditure)
Compensation and Project Caps/Funding per Year: R10,000,000 per project; R246,899,000 for 2010/11, R268,873,000 for 2011/12, and R290,305,000 for 2012/13
Project Criteria: Minimum QSAPE = R$12,000,000; for productions with QSAPE of R12,000,000 to R99,999,999, > 50 percent of principal photography for a minimum of four weeks must be local; for productions with QSAPE > R100,000,000, principal photography and shooting requirements may be waived
Eligible Entities: South African production company
Sunset/Review: December 31, 2013

South Korea–Busan
Type of Incentive: Cash rebate
Benefit (if eligibility requirements are met): 30 percent of the qualifying local spend
Compensation and Project Caps/Funding per Year: KW100,000,000 (approx. US$85,000) per production
Project Criteria: Feature film and TV drama shot in Busan with a distribution agreement or presales agreement signed
Eligible Entities: The applicant must be the producer; there are no restrictions on nationality
Sunset/Review: None

South Korea–Seoul
Type of Incentive: Cash rebate (50 percent up-front)
Benefit (if eligibility requirements are met): 10 percent to 25 percent of qualifying local spend (percentage points above 10 percent are awarded based on a point system for local hires and publicity)
Compensation and Project Caps/Funding per Year: KRW100,000,000 (approx. US$85,000) cap per project; unless more than KRW1,500,000,000 (approx. US$1,300,000) in local spend, or more than 50 percent of the film shot/shown is shot locally, or distribution agreements have been signed in at least five countries
Project Criteria: Minimum local shooting requirement of six days; available for feature documentaries and series, theatrical or television, with a minimum running time of 60 minutes; signed distribution contract or presales agreement, or documented director’s invitation to specific recognized film festivals within the past five years
Eligible Entities: A producer of any nationality
Sunset/Review: None

Taiwan, Republic of China (ROC)–Taipei City
Type of Incentive: Cash grant
Benefit (if eligibility requirements are met): 30 percent of total personnel expenses for ROC nationals; 30 percent of the total expenses for ROC nationals working as crew members for motion pictures filmed partially or entirely in Taiwan; if filmed and preproduced or postproduced partially or entirely in Taiwan, there is an additional grant of 25 percent of local production expenditures; there are also incentives for qualifying animation projects and an additional grant of 15 percent for transport and accommodation expenses and insurance costs for ROC nationals employed as cast and crew members
**Compensation and Project Caps/Funding per Year:** No caps; annual funding of US$1,000,000

**Project Criteria:** Minimum local spend > NT3 million, unless produced by globally recognized foreign motion picture production enterprise or directors that will enhance the ROC’s international image

**Eligible Entities:** Foreign motion picture production enterprises with permission from the Government Information Office (GIO)

**Sunset/Review:** None

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**Trinidad and Tobago**

**Type of Incentive:** Cash rebate

**Benefit (if eligibility requirements are met):** 12.5 percent to 30 percent of qualifying local spend

**Compensation and Project Caps/Funding per Year:** Capped at US$300,000; to be reviewed in 2009-2010

**Project Criteria:** Minimum local spend = US$100,000; subjective criteria include total local spend, local crew, training, use of interns, portrayal of the country

**Eligible Entities:** Qualified local production company

**Sunset/Review:** Fiscal year review

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**United Kingdom**

**Type of Incentive:** Payable tax credit

**Benefit (if eligibility requirements are met):** If the “core expenditure” is \( \leq £20,000,000 \), an enhanced deduction of 100 percent may be claimed for a payable tax credit of 25 percent of UK qualifying spend; if the “core expenditure” is \( > £20,000,000 \), an enhanced deduction of 80 percent (or the “UK spend” if less than 80 percent of “qualifying expenditure”) can be claimed for a payable tax credit of 20 percent

**Compensation and Project Caps/Funding per Year:** No caps

**Project Criteria:** Certified “British” film or official co-production; \( \geq £20,000,000 \); 25 percent of the “core expenditure” must be “UK expenditure”; intended for theatrical release

**Eligible Entities:** Qualified UK production company

**Sunset/Review:** None

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**CHAPTER POSTSCRIPT**

Dozens of global domains actively compete to have productions created on their turf, to reap the related spending, branding/tourism, and tax benefits. The low cost of money benefits typically far outweigh the necessary planning, location scouting, negotiating, legal, and accounting that are associated with these programs.
Part 8: Film Festivals and Film Markets

Introduction

Film Festivals and film markets are typically the first audience screening and critics' review of a filmmaker's project. Film festivals afford filmmakers the opportunity to have their film seen by an audience with buyers in attendance to see the audiences' response - something that cannot be created in a private screening or watching the DVD or online screener. Also, the filmmaker can begin to garner reviews, acquire festival laurels and grow the fan base. The dilemma for the filmmakers becomes how to take advantage of this buzz and promotion to sell and/or monetize their film.

There are over 3000 film festivals each year around the world, ranging from the high profile to genre-specific (such as the horror festivals).

The top film festivals include, but are not limited to:

- AFI Fest (USA)
- Berlin International Film Festival (Germany)
- Cannes Festival International Du Film (France)
- Los Angeles Film Festival (USA)
- New York Film Festival (USA)
- Sundance Film Festival (USA)
- Telluride Film Festival (USA)
- Toronto Film Festival (Canada)
- Tribeca Film Festival (USA)
- Venice Film Festival (Italy)

Film Markets are where films are financed and sold to distributors worldwide. As Jonathan Wolf, AFM Managing Director stated, "Producers and directors are artists who cannot afford their canvases. No one has a greater passion for money than an artist who cannot afford his canvas."

The top film markets are:

- American Film Market (AFM)
- Berlinale - European Film Market (EFM)
- Cannes (simultaneous with the Cannes Festival)
- Hong Kong International Films & TV Market (FILMART)

The AFM is the largest market in the world. With 8,000 industry leaders from more than 70 countries, 700 screenings and the industry's largest Conference Series, AFM is the pivotal destination for independent filmmakers, directors, distributors, financiers, industry executives, producers, talent, writers, the international media and all those who provide services to the worldwide motion picture industry.

The AFM is produced by the Independent Film & Television Alliance, the global trade association of the independent motion picture and television industry. Visit www.IFTA-online.org for more information.
The markets are a great place for filmmakers to pitch their projects, meet other filmmakers, find potential financing partners and distributors, and gain invaluable up-to-the-date current marketplace information. The AFM article “How To Work the AFM” is applicable to all the film markets. It is a great resource to prepare yourself to get the most out of any market attendance.

- The following from “Think Outside the Box Office” and “Make Your Movie” will give you pertinent information to educate yourself to the world of film markets and festivals.
Chapter 14, *Think Outside the Box Office*

Film Festivals and Your Distribution Strategy

By Jon Reiss

The festival world has exploded and morphed. These days, it is not only a way to screen films to hungry filmgoers or a marketplace for getting a distributor. Festivals are your next opportunity to develop your fan base and usually your first opportunity to engage your fans in a live event/theatrical context.

This chapter is not meant to replace books that have been written about film festivals or film festival strategies, such as Chris Gore’s *Ultimate Film Festival Survival Guide* or Christopher Holland’s *Film Festival Secrets*, which I suggest you take a look at for traditional festival advice. (I will give my top 11 traditional festival suggestions at the end of the chapter.) The intention of this chapter is to talk about film festivals from a distribution and marketing perspective.

THE HIDDEN POTENTIAL OF FILM FESTIVALS

While a number of people have disparaged the explosion of film festivals around the world in the last 10 years, I think this surge is extremely healthy for independent film and filmmakers.

Festivals love film and gather film lovers. Festivals have spent years gathering audience data from their attendees. This is an invaluable resource for filmmakers. Some festivals are starting to create yearround screening relationships with their audiences. These qualities allow filmmakers an opportunity to collaborate with the one organization that cares the most about filmmakers in any particular town — the film festival. For all the film festival programmers and directors out there: Please continue this expansion of the concept of film festivals. It will benefit the film community in innumerable ways.

THE OLD MODEL

As outlined briefly in the introduction, the old relationship between festivals and distribution for independent films was for producers to use festivals as a way to sell their films. A few U.S. festivals became de facto independent film markets for the specialized distribution business: Sundance/Slamdance, Tribeca, Los Angeles Film Festival, South by Southwest, and a few others. (This is in addition to the already traditional international film festival/markets Toronto, Berlin, and Cannes.) If accepted into a major film festival, most filmmakers had been advised to:

• Get a sales rep (often best before acceptance into festivals, so that the rep could help get your film into said prominent festival).
• Keep your film a secret so that distributors would be forced to see it in a theatrical environment with an unbiased audience of film lovers, without interruptions.
• Pack festival screenings to indicate audience potential.
• Spend money on publicists ($8,000 to $15,000 at Sundance and Tribeca alone), parties, promotion, and travel costs for stars to promote the film. All this was to build up hype to aid a potential bidding war. Many films would spend well over $30,000 on their festival premiere.

Since the deals that filmmakers used to occasionally get because of this strategy don’t exist as they once did, doesn’t it make sense to reevaluate this strategy? Of course it does.

RETHINKING THE ROLE OF FESTIVALS

Following this traditional sales path in lock step, without creating a strategy for your film before your festival premiere, can possibly hurt your best route to distribution. Perhaps your film should start its distribution at that world premiere festival. Holding it back for a potential sale might delay it from getting a release at the most propitious time.

One prominent independent director indicated that he wished he had had his theatrical release right after his Sundance debut, because it was nearly impossible to re-create the buzz the film received at Sundance. However, he was still thinking that a distributor would pick up his film.

Festivals are one of the best event generators that independent filmmakers have access to. They are often unprecedented at creating a level of hype and promotion that is difficult for independents to create on their own. Filmmakers need to be aware of this, and utilize this strategically in their distribution plans.

DETERMINING WHETHER OR NOT TO USE YOUR FESTIVAL PREMIERE AS A SALES PLATFORM

How do you take advantage of the buzz and promotion of festivals to help monetize your film? First off, you need to determine if you are going to try to be one of the few lucky films in this market that might be able to make a sensible sale to a distributor at a premiere festival.

If you are trying for an acquisition, a good sales rep should be able to help you determine whether there is a market for it in advance of the festival. If no respectable sales rep feels that a sale of this kind is possible for your film, you should consider this a form of collective advice. However, don’t despair, you are in the same boat as at least 95% of the other films being made that year.

Even if a premiere sales oriented festival accepts you, it might make sense for your film to prescreen for distributors in advance of your premiere festival. Discuss this with your sales rep.

Here are a couple of potential alternative scenarios for most filmmakers:

FESTIVALS AS THE PREMIERE EVENT(S) FOR YOUR THEATRICAL RELEASE

Larger independent distributors have known for some time that festivals are a cost-effective way to premiere a film on the verge of a release. In essence, they use the festival(s) as a premiere screening and party.
Utilizing the festival in this manner creates an event for the film to organize publicity around. The relative prestige of the festival gives the film some heat. The stars are out on the red carpet and bring the press to the party (literally and figuratively). The reportage of the event gives another level of press coverage for the film — not just reviews, but coverage on entertainment news shows such as *Extra*, *Access Hollywood*, etc.

The festival premiere provides a lot of exposure with much less expense for a distributor or you. This is why an increasingly large proportion of festival slots are taken up with premieres a week before a film’s conventional theatrical release with a conventional distributor.

There is no reason that filmmakers without a conventional distributor cannot use festivals in the same way, but they need to plan accordingly. If your film is prominent enough, or the festival is small enough, or a combination of those two factors, you might be able to get the festival to create an event for you. If not, then this premiere creation needs to be done by you. Although festivals will usually try to support your event, they will generally only take an active part if it is one of their official events.

Having the party at a festival makes it easier to attract sponsors or to use the festival’s sponsors. Because of the festival, you might get your whole party for free, like we did with our premiere party at Tribeca (we used the festival’s liquor and a bar gave us three hours of free door because we were a Tribeca film). The festival is also, of course, providing the theater, as well as using their PR resources. Ultimately this can help promote the theatrical release in a town. Or if it is a national festival, it can help the national release.

Some cautions if you are going to transition to a conventional theatrical release in the same city of your festival premiere: you have to coordinate it with the local theater, since many theaters are loathe to share their audiences with a festival. Some theaters, though, will realize the promotional value of the festival and be happy for the rollover audience.

You can negotiate with the festival to reduce the number of times the festival plays your film. You can also restrict the size of the venue. This will give you the promotional benefit of the festival, but will cut down on the number of ticket buyers taken away from your theatrical release.

An alternative is to make the festival be your sole theatrical event in that town (but still function to launch the rest of your nationwide release).

With *Bomb It*, we went all out promoting our New York premiere at Tribeca (to create buzz to sell the film). It was then hard to re-create that buzz and hype for our actual theatrical opening. Had I known then what I know now, it would have been smart for us to have had the Tribeca Film Festival be our NY theatrical run and let all of the press come out at that time. This way we would only have had to “open” NY once, and we would have done it with the most support from all sides.

Note: Doing festival “premieres” in cities doesn’t have to be restricted to your world premiere. You can use festivals in this way at any time in the life of your film’s release.
FESTIVAL PREMIERES TO PROMOTE AN ANCILLARY MARKET RELEASE

For many films that have not been able to obtain a theatrical release, a new phrase has popped up: the festival release is the theatrical release. This may still be the case for filmmakers who don’t have the resources to pull off any other types of live event/theatrical screenings in conjunction with their festival release.

For these filmmakers, just as they would use a theatrical release to promote their ancillaries (DVD and VOD, for instance), they should prepare in advance to use their festival release in this manner.

Thought of in another way: They want to have the buzz of a theatrical release but do not have the time or money to conduct one. Hence, the festival run will be their theatrical release and they will monetize it as such.

FESTIVAL PREMIERES AS A CORNERSTONE TO A LIVE EVENTS/THEATRICAL RELEASE WITH ANCILLARIES

My recommendation would be to use the festival release as a basis for booking other types of live events in order to create a combined live event/theatrical release during your festival run. I believe this is ultimately the future for many independent filmmakers.

FESTIVAL DIRECT

IFC is a pioneer in these strategies with their Festival Direct program. With Festival Direct, IFC uses a festival premiere and the festival run of the film to promote the film’s video on demand (VOD) release. The VOD is released at the same time as the festival premiere. This day-and-date release allows the VOD to take advantage of the film festival hype and press. (See Chapter 30 for an explanation of VOD.)

IFC released Joe Swanberg’s film Alexander the Last with Festival Direct at the 2009 South by Southwest film festival. Joe decided to go with IFC in releasing the film in this manner for the following reasons:

• IFC had spent a lot of money on the theatrical release of Swanberg’s film *Hannah Takes The Stairs* and they are still recouping. He felt they could get similar exposure with Festival Direct without the outlay of money that then must be cross-collateralized against other revenues.

• Swanberg wanted to capitalize on the attention that the festival premiere provides. In his previous releases, Swanberg felt that the six- to nine-month lag time between a festival premiere and a theatrical release killed the promotional momentum of his small films.

• Swanberg and IFC coordinated the festival premiere with a number of other theatrical releases in New York, Chicago, and Cleveland, creating a live event/theatrical release.

• Having a film on VOD day-and-date with the festival premiere allows people from across the country to see the film (as long as they have access to the VOD system releasing the film). This allows people who either missed the local screenings or were not in the cities of the local screenings to see the film in some manner.
• It allowed Swanberg to do one concerted press push for the film, saving him from having to do separate press for the festival, theatrical, and VOD releases.

Because of this last point, Swanberg would have preferred to have done all markets day-and-date with the festival release: VOD, iTunes, DVD, and theatrical. Unfortunately, due to contract obligations, IFC is currently only set up to do VOD day-and-date with their Festival Direct program.

**DIY LIVE EVENT/THEATRICAL DAY AND DATE WITH A FESTIVAL LAUNCH**

If you do not want to be part of IFC’s Festival Direct program (or weren’t asked), you can set it up for yourself. You also have the advantage of not being fettered by pre-existing contractual requirements that a distributor might have.

Once you commit to this approach, you need to get as many of your revenue streams established to run concurrently with (or within a creative windowing strategy following) your festival premiere as possible.

Not only does your film need to be finished, but you need deals and materials prepped for any or all of the following releases: live event/ theatrical, DVD, VOD, digital, etc.

**COUNTERPOINT/CAVEAT**

The above approaches require filmmakers to have a distribution and marketing plan in place before their festival premiere. The preparation necessary might be overwhelming for first-time filmmakers, or ones just struggling to get their film to the festival.

Other times, just being in a premiere festival might not be enough ammunition to book the film into theaters, especially if it is a first time filmmaker. Filmmakers with a track record should have an easier time booking theaters without advance press (although it depends on the track record).

In these cases Swartz indicates that filmmakers might be able to participate in a premiere festival to determine if a sale can be made and to gather reviews for use later in a release. If a sale isn’t made, you can then regroup and at least know where the reviews for the film will be positive. You can then use the buzz of the festival to help book your film. McInnis notes that in this scenario, you can still use the festival to build buzz and connections with online press that you can utilize later.

You might get into a second prominent festival and can then launch from that, as was the case with *Weather Girl* (premiered at Slamdance, launched theatrical at Los Angeles Film Festival five months later.)

In my opinion, this can be a more difficult route. Any time you need to do additional media pushes, it’s more difficult. If you are the beneficiary of a lot of hype, the sooner you can roll out your theatrical, the better.

One alternative is to focus on just a few cities for conventional theatrical following your festival premiere (perhaps just NY and LA) and then flush out the rest of the release with grassroots/community screenings that can be mobilized much more quickly than conventional theatrical. This grassroots approach is especially wise if you have worked with some organizations throughout your production and post. They can help you organize these screenings.
It is still the wild west in utilizing these new distribution strategies. It is important for your team to determine what makes sense for your film.

I would recommend doing a full evaluation of your film and its distribution prospects and creating your strategy for your film’s release well in advance of your festival premiere, so that you can best take advantage of what festivals have to offer you. Having a PMD on board who is preparing for different scenarios will go a long way to helping you tackle this new world.

OTHER WAYS TO MONETIZE FILM FESTIVALS

1. Festival Screening Fees

Just because your film is in a festival doesn’t mean that you have to give it to them for free. No top festival will pay for a film (although I can imagine this changing over time). However, many smaller festivals are accustomed to paying for films, anywhere from $200 to $1,000 (the latter is mostly foreign festivals). In fact, foreign festival fees can be rather lucrative, especially for a popular film. Smaller U.S. festivals will often pay $200 to $300 if they want your film. We’ve made about $1,500 from domestic film festivals on *Bomb It*.

2. Convert Festival Screenings to Theatrical Screenings

As indicated above, a number of farsighted festivals are using their relationship with their audience to exhibit films year-round. Several, such as the incredible True/False Festival in Missouri and the Denver International Film Festival, actually have theaters that they program. If you are planning and/or booking a theatrical release for your film, you might consider trying to convert a festival screening to a theatrical booking (especially if the festival does not run during the time of your live event/theatrical release). That way, you can also get a share of the box office. You also add another city as part of your release, making your release appear more substantial.

3. Incorporate Festival Screenings Into Your Live Event/Theatrical Release

In the spirit of the new live event/theatrical model, if a festival can’t be converted into a theatrical booking, incorporate that festival into the fabric of your overall release. If you are looking for promotion instead of box office, this approach makes more sense since you are likely to get more exposure being in a festival than being out on your own, especially for a smaller film. Not only does having another screening/city as part of your national release give it more gravitas but it also broadens the national appeal of your film.

JON’S CONVENTIONAL TIPS FOR FILM FESTIVALS

Since we are talking about film festivals, I might as well provide my advice on having a successful festival run:

1. Make sure your film is finished before submitting. You normally have one shot. Put your best foot forward. As I mentioned before, use preview screenings, listen to comments, and then filter.
2. Apply strategically to fests that make sense for your film both in terms of genre and quality.
3. Research the festivals you’re applying to, especially if they charge submission fees. Talk to other filmmakers. Read online reviews of the fests. See how many years they have been around and what they have programmed before.
Always send backup media, either two DVDs or a DVD and a VHS or DV tape. Most fests will reject anything that won’t play without a backup. They simply don’t have time. 10. Go to prominent festivals to meet people, even if you don’t have a film in the festival. Use these relationships for when you have your next film done. 11. Consider saving yourself time by automating the film festival submission process through withoutabox.com

4. If you feel a festival is critically important to you, don’t be afraid to call ahead and talk to the coordinator. You don’t need to talk to the programmer. Just don’t be a pain.
5. Apply simultaneously to top, mid-level, and smaller festivals. Don’t just hold out for top fests and let your film get stale.
6. From Thomas Harris, a film festival programmer and consultant: Submit your film one-third of the way into a festival’s submissions window/cycle (between the opening and closing dates). This gives the programmers time to digest the films they have on their shelf but still gets you in before the crush of submissions during the final submission deadline, which you should avoid at all costs.
7. Follow instructions. If the festival wants information in a certain way, give it to them. Fill out all forms as requested.
8. Keep your cover letter short, direct, and infused with your personality.
9. Always send backup media, either two DVDs or a DVD and a VHS or DV tape. Most fests will reject anything that won’t play without a backup. They simply don’t have time.
10. Go to prominent festivals to meet people, even if you don’t have a film in the festival. Use these relationships for when you have your next film done.
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FESTIVALS AS DISTRIBUTORS

A few savvy fests, such as Cinequest, are using their brands as a way to create a distribution label. Sundance also has an iTunes deal for its shorts. It won’t be long before festivals start their own online streaming channels. However, a few people I mentioned this to argued that festivals won’t want to compete with the distributors they need to get their premiere films from.

Perhaps echoing this view, a former prominent festival director confided in me that a number of theatrical chains had approached him, stating that they wanted to program independent films and that they had lots of available slots, but didn’t know outside of the usual suspects how to connect with independent filmmakers. They also didn’t want to be inundated with requests from thousands of filmmakers. They wanted a gatekeeper who already reviewed content and would provide a conduit for them. The theater chains felt that this major festival was a perfect candidate. I was aghast when this former festival director said, “But I don’t think we should be in the distribution business, do you?” I replied that festivals should do anything they can to help their filmmakers and their festivals. Acting as a gatekeeper for unreleased films (much like digital aggregators) seemed like a win-win situation for both. Unfortunately, he was unconvinced.

I feel that because the distribution landscape is changing so rapidly and many people are looking for solutions to help independent films, companies will stop looking at these issues of distribution in a black-and-white, win-or-lose way and instead will start looking at what works and what doesn’t work.

Many festivals are respected, known, qualified gatekeepers of certain kinds of content. Their programming staffs are very similar to a distributor’s acquisition staff. I think it makes total sense for festivals to be in the distribution business.
It is still the wild west in utilizing these new distribution strategies. It is important for your team to determine what makes sense for your film.

I would recommend doing a full evaluation of your film and its distribution prospects and creating your strategy for your film’s release well in advance of your festival premiere, so that you can best take advantage of what festivals have to offer you. Having a PMD on board who is preparing for different scenarios will go a long way to helping you tackle this new world.

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2. Apply strategically to fests that make sense for your film both in terms of genre and quality.
3. Research the festivals you’re applying to, especially if they charge submission fees. Talk to other filmmakers. Read online reviews of the fests. See how many years they have been around and what they have programmed before.
There are plenty of films that festivals champion that won’t receive conventional distribution. Festivals have proven branded curatorial power that can be monetized both for festivals and filmmakers. One problem that might arise is a potential conflict between some festival’s non-profit status and the for-profit business of distribution. However, considering how difficult the independent film distribution business is, perhaps all distributors who handle independent film should be allowed to take on non-profit status. I’m only half kidding.
How to Work the AFM®

The American Film Market® is a great place to pitch your project or film - if you have a plan. Use these steps to increase your chances of success.

PROLOGUE

If you have a project or script, the most effective use of your time and money is to purchase an AFM Industry Pass which allows access to all offices and most screenings beginning Sunday, (Day 5), or an Industry Pass Plus which begins on Saturday (Day 4) and includes four days of conferences. Buy your badge before October 18. After that date, the fees go up.

STEP 1: Homework: Create a List of Target Companies

Over 400 production / distribution companies have offices at the AFM but not all are right for your film. Focus your time and effort on the companies best suited for your project. Starting about one month before the AFM, go to The Film Catalogue. Most AFM companies list their projects, profile and staff contact information. Do further research on the web. Find the companies that are the best candidates for your film.

Once you have created a target list, count the companies on it. If there are less than 10, you're being too picky. (“No distributor is right for MY film!”) If there are 100 or more, your homework grade is “incomplete.” Keep working. The target list for most projects is 30 – 50 companies.

STEP 2: More Homework: Create a List of Target Executives

For each of your target companies, create a list of key executives. Most important are the people in charge of acquisitions, development and production. Look for their names in the trades and on company websites. If you can’t find the right names, call the company’s main office and ask. Finding out who’s who is critical. You will never get anywhere by walking into an office unprepared and saying: “Hi, who is your head of acquisitions? I’d like to meet with him… or her.”

STEP 3: Start Scheduling Meetings

Most companies start setting their meeting schedule three weeks before the market. The best way to contact them is to send a short, personalized email during this time. After a few days, follow-up by phone.

STEP 4: Prioritize Your Target List

Separate your list into two groups: companies with an office in the city where you live and those from everywhere else. Focus first on the companies that aren’t based where you live. If you are unable to meet with a company from your home city during the AFM, you can always follow-up with them after the Market. Use other factors (i.e. the budgets and genres of the company’s AFM lineup) to create A and B lists with 20 to 30 companies on each list. This will help prioritize your time near the end of Market.
STEP 5: Work on Your Pitch

A good pitch can get a bad film made and a bad pitch can leave a terrific project languishing on the shelf. Pitching is part art (it’s a creative process), part science (pitches need to be organized and follow a tight script) and part salesmanship. There are many resources on pitching, so our only advice is:

- If you are madly, deeply in love with your project, if it’s your only child and the AFM is its first day of school, get someone else to do the pitch. Pitching it yourself will definitely convince people that YOU love the project but it probably won’t do much more.
- In the pitch meeting, remember that YOU are being evaluated along with your project. When a company commits to your project, they are also committing to work with you.
- Your mission during each pitch meeting isn’t to sell your project. You won’t get a deal in one brief meeting. Your mission is simply: Get the second meeting!
- Consider attending the Pitch Conference Saturday morning.
- Read AFM’s Pitching Essentials

STEP 6: Make More Appointments

During the first days of the AFM (Wednesday, Thursday and Friday) call each target company’s AFM office that didn’t respond to your email or first call. Request a 15 minute meeting with the key executive you identified in Step 2. AFM office phone numbers are listed in the AFM Show Directory (available at the Information desk in the Loews lobby). Ask for a meeting on Saturday (Plus Pass), Sunday, Monday or Tuesday as most companies will be too busy during the first few days and your Industry Pass begins on Sunday. For companies that won’t set a meeting (prepare yourself – there will be many), see Step 9 below.

STEP 7: Prepare Materials

Here are some thoughts on what to leave behind after every meeting:

- Your business card. Bring a large supply.
- Your biography and those of all producers attached to the project.
- A synopsis.
- A summary of the film’s unique creative and financial attributes. This could include a list of all people attached or committed to the project, a budget abstract (that’s less than half a page), any rights that aren’t available, investors that are committed, production incentives that you know the film can utilize, etc.
- If the script is done, bring one or two copies with you but don’t leave it behind without first consulting with your attorney.

These are just our suggestions – every film and situation is different. Be prepared, but don’t bring copies of letters or documents that “prove” anything. It’s too soon for that.

STEP 8: Work The Show Before You Go

Done with your homework? Made your appointments? Confident with your pitch? Materials ready? Great! There’s still plenty you can do at the AFM before you get your badge on Sunday:
• Attend the AFM Conference Series. Consider an Industry Pass Plus, as it includes access to Saturday, too!
• If this is your first AFM, attend the AFM Orientation.
• Purchase your AFM Industry Pass in advance so you will be ready to go on Sunday morning.
• Read the trades to stay on top of trends and deals.

STEP 9: It’s Showtime!

Here, in order, are your priorities for:
• Arrive at every scheduled meeting on time. Be prepared to be “bumped” or delayed. Don’t take it personally – selling comes before buying.
• Visit the companies that wouldn’t schedule a meeting with you on the phone. Remember: always ask for an appointment with a specific person.
• Visit companies on your B list and those you couldn’t easily profile in Step 1. Get a feel for the product they handle and the culture of the company to see if they are the right fit for your film. Consider being a “stealth participant” by picking up brochures and business cards without introducing yourself. Don’t ask for a meeting while you are there. (If you’ve just walked in and asked a bunch of questions, stuffed your bag with their collateral and grabbed every business card, it isn’t likely you’ll get a meeting. Instead, wait half an hour and call the company to schedule a meeting . . . with a specific person.

ADDITIONAL STEPS: Producers with a Finished Film

The steps above are for producers, filmmakers and writers with projects and scripts. If you have a completed film and are looking for global distribution, congratulations! Everything above generally applies but you will need to move-up the timetable:
• One month before the AFM, prepare 4 – 6 minutes of selected scenes. Do not create a consumer type trailer. Acquisition executives will want to see complete scenes to get a feel for the film. Put the selected scenes on a website so companies you contact can see them before committing to a meeting.
• When you contact your target companies, include the link to your selected scenes.
• Create DVD screeners so that qualified prospects can quickly view your film in advance of the AFM. If you can arrange for a screening instead, that would be much better.
• Set your initial meetings with each company in the first four days of the Market. Let them know you are arriving on Wednesday and will close a deal before the market is over.
• Purchase an Executive Pass (You’ve invested a lot of time and money - don’t get cheap now!)
• Make sure your attorney will be available to you throughout the AFM.

EPILOGUE

We can’t give you personal advice on how to pitch your project or film but we’d like to know how this information worked for you. After the Market, please send your thoughts to AFM@ifta-online.org, Attention: Work the AFM Feedback.

Good Luck!
Chapter 26, *Make Your Movie*

**Festivals**

By Barbara Freedman Doyle

Once upon a time, there were only a handful of film festivals. There was the ultraglamorous Cannes Film Festival, there were Venice, Berlin, and Karlovy Vary (in the Czech Republic). There were smaller, more niche festivals, and journalists, critics, filmmakers, and fans knew all about them. But to Hollywood and the general population, film festivals were not such a big deal. Then, in the late 1970s, came the Toronto International Film Festival, and very soon after that, Sundance.

Sundance began its life as the very small U.S. Film Festival and became the Sundance we’ve all heard of in the early 1980s, soon after it was taken over by Robert Redford. As Sundance became a success, lots of other festivals cropped up, and many small, specialty festivals became bigger. It became evident that there were many filmmakers who were willing to submit their work for exhibition, and many film fans who were happy to spend their holidays seeing movies. Festivals were good business. They attracted both locals and tourists and gave new economic life to resort and vacation areas in the off-season.

**WHICH FESTIVALS REALLY MATTER?**

There are hundreds of festivals all over the world, and the make-up of the attendees at each festival is different. There are several really charming festivals that cater to film lovers who are looking for a long weekend of movie viewing and guest celebrities, and these are always a lot of fun. People are there because they love watching films and want to see not only the latest efforts of their favorite filmmakers but also to discover the work of the next wave—the up-and-coming film students, the emerging darlings of the independent world.

There are also niche festivals. The people who choose the films for these festivals select them on the basis of how effectively the creative work speaks to a specific constituency. There are family film festivals and gay film festivals. There are festivals that show only shorts (films under 40 minutes in length), documentary festivals, sci-fi and horror festivals. Most relevant to you as a young or first-time filmmaker, there are the industry festivals.

These festivals attract people in the business: studio executives, marketing and distribution pros, agents, filmmakers, the national and international press. By Hollywood standards these are Cannes, Toronto, Sundance, Telluride (in Colorado), South by Southwest (in Austin, Texas), the AFI Fest (in Los Angeles) of the American Film Institute, Tribeca (in New York), the New York Film Festival, and Comic-Con in San Diego. This is not to say that the other festivals are not terrific, and that a string of acceptances into them will not help you, but there is a substantial name value attached to getting in to one of the major festivals. Whatever the perception of your movie is before, “Official Selection of the Sundance Film Festival” has a seductive ring. People in the business will be a little more willing to pay attention.

**WHY DO FESTIVALS MATTER, AND HOW DO THEY WORK?**

The point of a festival is to get your work shown, and in the case of the industry festivals, to get your
movie shown to people who might write about the film, sell or buy the film, and help you to advance your career. There is a lot of cachet to having a film at one of these festivals, as they serve as showcases for what is commonly assumed to be the best, most original new films and filmmakers. The eyes of the industry are on the selected films and filmmakers. Many films are purchased for distribution at or as a result of screening at these festivals. If your film is screened in competition, a distinguished jury of critics and filmmakers will view, discuss, and judge your work. It is an honor to be the recipient of an award at any festival, but to be awarded “Best” at one of the industry festivals will lead to major buzz about you and your movie. Some festivals are part of actual film markets (Cannes, Toronto). Some festivals take place at the same time as a major market (AFI Fest and the American Film Market, or AFM). And some are stand alone. and the market aspect of the festival is just the hustling of various buyers and sellers trying to move and acquire the various projects. The markets are trade events, almost film bazaars. Even if a film is not accepted into a festival competition, it can screen at the market and take advantage of the huge gathering of potential buyers. Sales agents and distributors buy space at the markets in order to collar those representing international territories. They have marketing material, a room to screen the film, and they are often successful in licensing or selling foreign rights on the basis of the cast or the film’s genre.

Each festival has a different submission process and different criteria, and many charge a different fee to submit. You must read the application/submission form carefully. You can find listings of film festivals online. There are hundreds of them, so again, you should do your homework. A small submission fee is legit, but paying the festival to screen your film is a scam. You must look beyond the festival website. What press has the festival received in the past? Have you heard of any film that opened or closed the festival? Have you heard of anyone on the panels, if there are some? Being an “Official Selection” of a questionable festival will not work to your advantage.

It’s important to recognize that not all films are the right type for all festivals. No festival screens only one kind of film, but people in the festival world tell me that festivals have distinct personalities. Sundance seems to go for American films with an indie feel, and that the films are often off-beat but with heart. Toronto is a blend of commercial and independent and seems to cover a broad spectrum. Cannes is truly an international festival and tries to program films from as many countries as possible. Back in the United States, Telluride trends towards drama that deals with serious subjects—political issues, environmental issues. A friend of mine said of the programmers at Telluride, “They don’t like to laugh.” South by Southwest leans towards quirky, individualistic films. By all means give these festivals a try, but don’t discount the several nicely run, legitimate, smaller festivals. Although they are not packed with people in the industry, they have good credentials, and some of the shorts festivals are Academy qualifiers. Collecting awards or even being accepted to a multitude of festivals works for you, because it helps draw interest and press to you and your project.

Helpful hint: There is an online festival submission service called Without A Box that has become an important participant on the festival circuit. Without A Box enables filmmakers to submit their film to several festivals at once, streamlining the process considerably and ultimately saving the filmmaker money—which is obviously useful for first-time filmmakers.

There are a several ways for an independent film to become an official selection (invited to screen) at a festival. There is the ordinary submission process. You get on the website, read the directions and the rules, pay a submission fee, and send in your film. Your film is usually previewed by a group of volunteers, and recommended or not recommended.
The volunteers watch hundreds of films. Although they are supposed to watch the films in their entirety, several volunteers told me confidentially that after the first half hour, if they’re not engaged they go on to the next. If recommended by the volunteers, the film makes its way up the evaluative chain to the screeners, and then hopefully it continues its upward climb until it gets to the final authority—the programmers. The programmers give the final nod or thumbs down. They also piece together the slate of films that are selected to screen, deciding at what time the films will screen and in which theatre. The placement of a film can be important. It sends a signal about the programmers’ expectations for the film.

If it’s a large venue and scheduled for primetime, Friday or Saturday evening, clearly the programmer is a fan. The level of competition at the most major festival—Sundance—is as fierce as you might guess. According to the Sundance Film Festival website (www.sundance.org/festival), in 2010, 9000 films were submitted and 200 were chosen. The odds are a bit daunting, but every year people submit and are accepted through this process.

Does it help to know somebody in order to be invited to screen at one of the industry festivals? If the right person knows the right person, possibly a little more attention will be paid. Sometimes a powerful executive will make a call because they feel strongly about a project. Or a producer’s rep with a project might whisper in the ear of a programmer friend. But by and large, the process of selection is objective.

If your film is accepted, you will usually receive notification six weeks to a few months in advance of the actual event. Upon this notification (after guzzling that bottle of champagne) your producer and director should immediately begin to plan their festival strategy. This strategy depends upon how much money you have or can cobble together. You might

1. Hire a producer’s rep if you don’t already have one.
2. Hire a marketing or PR consultant.
3. Inform your lead actors of the acceptance. Inquire about their availability during the days or week of the festival, in case your promotional strategy involves bringing them along with you (publicity photos and post-screening Q&A sessions.)
4. Reach out to everyone and anyone you might know with any power in the business, to let them know that you got in, in case they know distributors or agents who might be interested in seeing the film, and try to set up as many meetings as possible for the hours and days after the screening.
5. Try to parlay your newly minted buzz into meetings with people who might not have been willing to meet with you before to talk about projects you’d like to do in the future.

Whatever the perception of your movie was before, once you’ve gotten into a major festival, it becomes more valuable. “Official Selection of Sundance” or “Telluride” or “South by Southwest” has a nice ring to it. People in the business may be more willing to pay attention.

Industry festivals combine premieres, screenings, panels, and parties. Premieres are usually star-studded events and often open or close the festival. These are new films distributed by studios and established production companies, and they are not part of any competition. So your film is not competing with Scorsese’s latest, even though they are both showing at the festival. These projects are being exhibited to generate accolades from the press and positive word of mouth from the festival-goers.
Most of the festival activity is centered around the screenings. The screenings are usually divided into themed sections, such as “American Stories,” “New Voices,” etc. The audience has a printed program with the show times of each film and a thumbnail description, the names of the lead cast, and usually a tiny publicity photo from the film. In the back of the program there is usually a single-paragraph bio of the director of each film. The casual audience members use the program to decide which screenings to attend.

The professionals who come to do business have done most of their research before they fly in and pretty much have a list: there are the films they haven’t seen but have heard about through pre-festival contacts and promotion; there are the films they’ve seen but they want to see again to finalize their decision as to whether to get involved; and finally there are the wild cards—films they know nothing about but there is something intriguing about the director, the cast, or the synopses. They are also curious about the results of the juried screenings. Which film wins Best, which wins the Audience Award? Every once in a while there is a surprise groundswell of affection for a jewel of a film that no one expected. There is the excitement of the discovery of new, unexpected talent. Sometimes there is the thrill of a bidding war. And there is the media coverage of all of it.

This glimmer of possibility is why young filmmakers are determined to play the odds and submit their projects, and it’s why the people whose job it is to find the next great film make the pilgrimage to these festivals year after year. You just never know.

HOW TO WORK A FESTIVAL

Your film has been accepted into a prestigious festival. How do you make the most of the opportunity? How do you get it seen? Or you’ve made a short film, maybe a student film, and you’ve been selected to screen at one of the important festivals. What do you do? How do you use it to get you and your film additional opportunities?

As discussed, you should start doing your advance work weeks before the festival to approach people about seeing your film. If you’re a director and you’ve made a feature, you may try to be in contact with potential agents or managers. Sometimes they’ll promise to attend the screening at the festival; sometimes they’ll ignore your call. Once they see the film, they may want to hop on board and help you get the right kind of audience in, and the right kind of attention. If they have any clout and they love your film, they’ll want to be sure that the journalists who count are there to review it. It’s possible, too, that they’ll want to wait to see what kind of reviews your film receives before they decide if they want to sign you on. If there’s a very positive reaction, they may want to sign you before anyone else does. If you get a nice but not outstanding reception, they may want to leave the theatre without saying hello. All you can do is try to get the buzz going.

**Caution:** Don’t screen your film for groups before the festival, especially if it’s for a festival like Sundance. You want to use the momentum of the festival to generate some excitement, and too many advance screenings can age the film in people’s minds.

Be sure that your promotional materials are as professional and compelling as possible, and that they are readily available. Your promotional material should include: cast bios, credits, and headshots (color and black and white); bios of the director and producer (no more than a paragraph);
and a plot logline: “Two brothers are rivals for the same woman—their mother.” (Only kidding—please don’t make that movie.) You should also have a short plot synopsis and a few still photographs from the film. And you should be sure that you’ve included the name and number of the person representing your film, or your name and number (a cell where you can be reached at the Festival, not a home number where your voicemail will pick up and you’ll get the message a week later.)

You must have a way to get your film into the hands of people who can do something for you. I personally believe that means never giving anyone at a festival a copy of your film. People are handed all sorts of cards and DVDs at festivals. Once they are packing to leave, many of the DVDs end up in the hotel wastebasket and they can’t remember why they took your card, so they throw that in a pile and never look at it again. Work smarter. When you meet someone who likes your movie or is interested in you, ask for her card and ask if you can call to set up a brief appointment once you are back in L.A. If she says yes, then a few days after the screening or the third workday after the festival (the first couple of days back, everyone is too busy playing catch up with the calls and work they’ve missed), call or send her an email. Remind her who you are and which film was yours, and ask if she has a few minutes to meet to give you some advice. If you can’t get to her directly, ask her assistant if he or she (the assistant) has time to meet.

Learn to pick people’s brains. Don’t be defensive, although it’s hard not to be. Listen to what people say about your work, both the good and the bad. If several people have the same problem, you may want to consider making some changes. Realize that you may not find a buyer or distributor at a festival, but that doesn’t mean the festival was a wasted effort. If your film does well, you become someone to watch, and people in the industry are always on the lookout for new talent. They may not take out their checkbook or sign you on, but now they’re aware of you, and that can only be to your benefit.

If you’ve got a short (usually these are student films) in a festival and someone likes it and asks you what you want to do next, don’t just say, “I want to do a feature.” Have a few pitches ready. Short films don’t have much of a nonfestival life, so the person is asking you because he thinks you might have an interesting feature planned. Be prepared. If he loves your short, maybe your third idea will be a feature-length adaptation of the short plus two other ideas. Be aware that many excellent short films excel in part because that particular format works for that story. If you want to have a career as a filmmaker, it should never appear that you have only one story to tell.

**Derek Horne**

*A Festival Veteran*

Derek Horne has worked both sides of the festival fence. He’s worked at many festivals, including Sundance where he worked and volunteered for six years. He’s programmed for festivals coast to coast, from Newport, R.I. to Newport Beach, Calif., and in between at Anaheim, Avalon, Sarasota, and Shorts International in New York. He can also identify with what filmmakers are going through when they submit their films. He’s worked at Chapman University for eight years as the film coordinator, where part of his responsibility is submitting student films to festivals and promoting them.

International in New York. He can also identify with what filmmakers are going through when they submit their films. He’s worked at Chapman University for eight years as the film coordinator, where part of his responsibility is submitting student films to festivals and promoting them.
Let’s say you’re a starving filmmaker. You’ve made your first feature and you get into an important festival. If you don’t have much money, how can you make the festival work best for you? What should you do while you’re at the festival, and how should you follow up after the film is screened?

You want to strategize on how to get a big audience for your film. The goal is to get a distribution deal or garner positive press or word of mouth. In the weeks leading up to the festival, you should decide how you want to package the film and market it, and what you want on the poster and the postcard to catch people’s attention. You want to try to get as many industry people there at your screening. Tickets are limited, and as a guest of the festival you’re given some complimentary tickets, but probably not as many as you will need. So it’s best to purchase your own ticket packages, to have extra tickets to give to your friends and other industry people that you want to invite. This would also be a good time to talk to a sales agent, who can help you negotiate potential distribution deals. You don’t necessarily want to take the first distribution offer that comes along, unless it’s a really good one. A lot of filmmakers will jump at the chance of having the prestige associated with being bought by a [known] distributor. But you should look at that company’s track history and question if it will work hard for your film.

What about contacting people you know will be going to the festival to let them know about your film so that they will actually go to see your film? Or how about screening it for them before the Festival?

You definitely contact them to let them know you’re screening. If they don’t come to your screening, you can host a screening for them afterwards, but make sure it’s soon after, before the hype wears off. As soon as the programming list is released, filmmaker’s voicemails will start getting filled up with distributors who probably want to see an advance copy of the film, which the filmmaker should not send [it can dilute the impact of a premiere]. Many films use a festival as their launching pad and for publicity. Even if your film doesn’t attract huge crowds at the festival, you can still use the festival acceptance as a way to rev up your overall marketing efforts and convince other festivals to program your film.

Say we’ve got a filmmaking team that has gotten into Sundance. They’ve done whatever pre-marketing they can, they hire a publicist, and they have a sales agent, but they don’t have distribution. It’s now the week before their screening.

They usually should arrive in Utah the day before their screening. The week before the screening, they should already be solidifying many of their appointments, since they have hopefully received a flood of emails from people who want to meet with them. They should be setting up as many meetings as possible. When they get to Sundance, they should start hanging up their posters and flyers. They should take a trip to the press office and drop off their press packets. (Most filmmakers are moving away from paper press packets. Now everyone has got a thumb drive.)

It’s smart to have a website built up, a very nice eye-catching website that draws people to them, not only as an artist who makes great films but as someone who knows how to do an amazing publicity campaign, because the new method of publicity and building the audience is online. You definitely need three or four different versions of your synopsis. A one-sentence logline, a two- or three-sentence short synopsis, and a medium synopsis that is probably four paragraphs long. You could also include a long page-and-a-half synopsis, which tells in detail what happens in the film and which is for those journalists who didn’t have time to see your film.
You should also have photos. Not just the cast headshots; those are usually included on the page with the bios. I am talking about the still images that come from within the film, not behind the scenes. It should be a photo that looks like it is a scene from a film, like a screen grab. A lot of those photos will not only go into the festival’s souvenir catalog to promote your film, but hopefully they will make it into a news story that will feature a picture that will make people want to see your film. Choose photos that are intriguing, that catch people’s attention, and that tell something about the story. You also want to include a page of cast and crew credits which list in perfect detail without typos, everyone’s name, their character name, or their position on the film.

Now you’re at the festival. You go to your screenings, attend your Q&A sessions, and try to say things that are smart and that will help you get a distribution deal. Don’t mention the budget. Maybe give people interesting stories that a journalist in the room might think, “Ah, I want to know more and write an article about that.” Give them an angle. And I don’t think it is stupid to advise filmmakers to try and come off as a nice, likeable person.

Then you’ve got to drag yourself to the cocktail receptions even if you are really exhausted. Work the room as fast as you can and give out business cards. I am most comfortable working the room at a film festival because you have a topic in common, so it’s easier to strike up a conversation with people and ask if they’ve seen any good films. That is the best conversation starter. It is intimidating to go to a party by yourself. So if you’re a director, make sure you have your producer with you. At the very least take a friend, anyone, just to avoid standing around awkwardly with nothing to say or do.

Hopefully you will have your schedule filled up by official events that the festival has invited you to, special exclusive events just for the filmmakers, like the Sundance Film Festival brunch with Robert Redford. You may not have a lot of time in your schedule to go to any insignificant events, so try to pick the ones where you know other industry people will be.

If we’re talking about Sundance, there is an Industry Office, so you could hang around there and try to meet distributors. At festivals like Cannes or the international short film market at Clermont-Ferrand in France, which is the largest short film festival in the world, they have either guide books that include people’s photos, or they have something like a bulletin board on the wall or online where they post everyone’s photos. Once you know what somebody looks like, you can try to spot them at the festival events.

What if there is a distributor that you really feel would be a good match for your movie and you know they’re going to be at the festival where you’re screening?

You would do the same thing a distribution company does with its slate of films. Send out emails before the festival saying, “Hey, we are playing at Sundance, and we’d love to invite you to our screening, and we are available any time for a meeting. Here’s our cell phone number and here’s our office.”

Something I should mention that is an increasingly frustrating element of all this, is how bad press can stifle the process of getting a distribution deal. I’m not talking about the films that are really bad and that deserve the bad press. I am talking about the films that are extremely entertaining and the audience loves, but that the film critic pans for whatever personal reason or agenda. I really wish distributors and other festival programmers would continue to approach films objectively,
even after reading a review, and perhaps get second opinions from the audience. But I think that some distributors get lazy and put all of their stock in the critics’ opinion. I wish the distributors would remember that many critics are not interested in reviewing films for their entertainment value but are only interested in validating them as an art form that matches their own idiosyncratic criteria and taste.

**What are the important places to get good reviews?**

*Indiewire, Variety, Hollywood Reporter*, the New York Times, LA Times, Film Threat, Internet blogs. It’s important to try to get a high score on Metacritic and Rotten Tomatoes, which are compendiums of a lot of different reviews.

For those of you who already have a film, if you’re ready to start the festival route, Derek has his “Top 10 Get Discovered” Festivals list. These U.S.-based festivals offer filmmakers the opportunity to meet industry movers and shakers, score distribution or development deals, or get discovered by other festival programmers:

These U.S.-based festivals offer filmmakers the opportunity to meet industry movers and shakers, score distribution or development deals, or get discovered by other festival programmers:

1. Sundance Film Festival (Utah) www.sundance.org
2. Tribeca Film Festival (New York) www.tribecafilm.com
3. South by Southwest (Texas) www.sxsw.com
4. Los Angeles Film Festival (California) www.lafilmfest.com
5. AFI Fest (California) www.afi.com
6. Austin Film Festival (Texas) www.austinfilmfestival.com
7. Florida Film Festival (Florida) www.floridafilmfestival.com
8. Hamptons International Film Festival (New York) www.hamptonsfilmfest.org
9. Santa Barbara International Film Festival (California) www.sbfilmfestival.org
10. Seattle International Film Festival (Washington) www.siff.net

And for Short Films only:
- Palm Springs International ShortFest (California) www.psfilmfest.org
- L.A. Comedy Shorts Film Festival (California) www.lacomedyshorts.com Filmmakers should also know about Derek’s additional list, “Festival Gems with Great Hospitality.”

These U.S.-based festivals provide both feature and short film directors with lodging and sometimes free airfare and are just plain fun:
1. Ashland Independent Film Festival (Oregon) www.ashlandfilm.org
2. Bend Film Festival (Oregon) www.bendfilm.org
3. Cucalorus Film Festival (North Carolina) www.cucalorus.org
4. Nantucket Film Festival (Massachusetts) www.nantucketfilmfestival.org
5. Port Townsend Film Festival (Washington) www.ptfilmfest.com
6. Sedona International Film Festival (Arizona) www.sedonafilmfestival.com
7. Starz Denver Film Festival (Colorado) www.denverfilm.org
8. Stony Brook Film Festival (New York) www.stonybrookfilmfestival.com
9. Waterfront Film Festival (Michigan) www.waterfrontfilm.org
Final question: For recent grads who have only made short films, how would you suggest they work their shorts so that they meet people who might help them to get financing to make a feature?

There are those shorts that are basically a short demo of what the feature film will be, and then there are shorts that the filmmaker doesn't plan to make into a feature but it's a great example of what they can do. There's nothing wrong with using the success of your short film as a conversation starter and saying, “Hey, I won the Palme d’Or in Cannes.” After winning an award like that, I think anybody would be curious to see what your next work will be. And that's always the burning question—what your next work will be.
Join our mailing list to begin your journey to becoming a Balanced Producer.

The Mission of Gillen Group is to empower our clients with the tools, knowledge and passion to achieve their entertainment goals. We consult with creative entrepreneurs that strive to fulfill the following Balanced Producer attributes:

- **Visionary**: Define and live a vision for career and each project
- **Fiduciary**: Return a profit to Investor(s) and Company
- **Marketer**: Create content with commercial & creative appeal to a known target audience

**Anne Marie Gillen**, CEO of Gillen Group LLC is a consultant and executive coach to independent producers and equity investors advising on script evaluation, business plans, financing, worldwide distribution and single film and/or film company cash flow projections – motto is “Fusing Business & Creativity.”

Gillen is a lecturer and panelist and gives workshop seminars for such organizations as: Bloomberg BNA, Puerto Rico Film Commission, California Lawyers for the Arts, NALIP (National Association of Latino Independent Producers), Pratt University, UCLA Film School, USC Film School and Chapman University.

Prior to launching her own company, Anne Marie was the Chief Operating Officer of Morgan Freeman’s company, Revelations Entertainment. She led the company in the strategic financing and distribution of Revelations’ projects. During her tenure, Revelations Entertainment produced *Along Came a Spider* for Paramount; developed and produced *Port Chicago Mutiny* for NBC Network; and developed, independently financed and produced *Under Suspicion* starring Morgan Freeman and Gene Hackman for Sony Premiere DVDs/Lions Gate.

Prior to her tenure at Revelations Entertainment, Anne Marie was co-founder and CEO of Electric Shadow Productions, and its Chair. Electric Shadow financed, and Anne Marie was the Executive Producer of its first feature, *Fried Green Tomatoes* which was released by Universal and starred Kathy Bates and Jessica Tandy. This picture was nominated for two Academy Awards and three Golden Globes.

Gillen began her career at Hemdale where she was Vice President of Acquisitions and Ancillary Sales. During her tenure, Hemdale was one of the leading independent film companies producing such films as: *Platoon* winner of Best Picture and Best Director, *Hoosiers*, *The Last Emperor* winner of nine Academy Awards including Best Picture, Director and Screenplay.