

The New Economics

MARKETING & DISTRIBUTING THEATRICAL FEATURES/ TV PROGRAMMING

Entertainment/Law Summit
Seattle August 16, 2007

Operating in a Rapidly Changing World

CONTEXT

Access to the Domestic Market

- 4,000 to 5,000 new English language features produced every year w/o distribution (who can see it all?)
- Competing with existing production slates
- 203 (34%) out of 599 total U.S. 2006 theatrical releases from MPAA companies
- Bigger distributors favor “their” projects
- “Star power” (in front of & behind camera) in Securing the Domestic Marketplace
- \$63.6 million average MPAA budgets (2006); Specialty Labels at Majors average production cost \$30.3 million
- Impact of international buyers
- Over-releasing in 2005-6; fewer films in 2007-8; Disney leaves the non-Disney film production world. Looming Labor Dispute.
- Two events of marketing: 1. to distributors and 2. to the audience. Unrelated often opposite events
- The impact of mythology in the business

Economic Realities I

2005-2006

- Revenue Splits – It's about home video!!! But few films can go direct.
- 6 Majors – Home Video, 45%; Theatrical, 19%; Pay TV, 10%; Free TV, 26% (outside of 6 Majors: Home Video, 60%; Theatrical, 19%; TV (all), 21%)
- Global – 6 Major studios' revenues: 2004 > \$42.9B; 2005 > \$41.6B = -8.2%; 2006 > 42.6B = +8%
- 2004 > 2005 home video decline = -4% (VHS gone); 2005 > 2006 = -3%
- Total Film 2006 Major's Revenue Pie: \$24.3 billion U.S.; foreign > \$18.3 billion
- Major studios spend on average between \$50 and \$70 million just to make a film (downward pressure on budgets); Half for specialty labels
- Studios receive half of domestic box office (average); no concession income
- Major studios spend on average between \$20 and \$40 million in marketing to "open" domestically theatrically (upward pressure); and total marketing budgets can hit \$50 to \$80+ million; 2006 average = \$34.5M; \$17.2 million for major's specialty labels
- Opening marketing costs: \$9M for 600 screens, \$12 to 18M for 1000 to 1200 screens, \$20M+ for wider; expensive to platform (esp. LA and NYC)
- Growth of "specialty" labels at studios (the niche factor > art vs. genre)
- Domestic Box Office Admissions Down 2000-5; Up 3.3% in 2006

Economic Realities II

- The marketing wall: the 80% waste factor (no magic – *Blair Witch* taught us nothing; "Internet" is just a word; Blog wars and "word of mouth"; newspapers only for those over 40 yrs. old!)
- Living in an over-screened world (U.S. has about 37K screens or 1 screen for every 8 to 9,000 people! At least double the rest of the world)
- Only 350 digital cinemas (growing) in U.S.; prints cost \$1,500 each
- Video & International have separate marketing budgets
- One DVD - \$1/unit to pick, pack & ship; \$1 to \$5 to market (40% of wholesale = average total home video costs)
- Contracting Video Windows – Day and Date and Short HD event window (Fox: \$25 ppv "events"), HD-DVD Wars (Blue vs Red vs No Ray; Vudu?)
- New technology: S-Curve Risk & New Marketing Issues

DOMESTIC TRENDS - Theatrical

	2005	2006
Average Weekend Opening Box Office	\$17.6m	\$16.9m
Average Opening, No. of Screens	2,591	2,543
Per-Screen Opening Weekend Average	\$6,782	\$6,663
Average second-week % drop	-43%	-45%
Wide Releases (1000+ Screens)	145	160
Super-wide Releases (3000+ Screens)	55	52
Opening Weekends of \$40m+	13	13
Opening Weekends of \$60m+	5	5
Ticket Sales (2002 = 1.64b, 2004 = 1.54b)	1.40b	1.44b
Aggregate Box Office Gross (2004 = \$9.54b)	\$7.9b	\$8.1b

Social Reality

- “Even more worrisome than what could be just a cyclical dip is how people are regarding motion pictures and the moviegoing experience. A recent Zogby survey found that **45% of American moviegoers had decreased their attendance over the last five years**, with the highest percentage of that decrease in the coveted 18- to 24-year-old bracket; at the same time, **21% of respondents said they never went to the movies**. The two most-cited reasons for seeing fewer movies were rising ticket prices and the quality of the films (a perpetual culprit).”

Los Angeles Time February 25, 2007

The New Wall: Marketing

- Myth – Can't get screens
- Reality – Screens available anytime
- The Barrier – Identifying and reaching the target demographic (MARKETING!!!!)
- Old World Continues – traditional media
- Myth – Podcasting (the "Disney" deal), Mobile Platforms & Google-like distribution (30% fee?) will save us
- Reality – Watching a film on a small screen and the huge marketing issues.
- Can windows survive? Piracy?

Independents' Walls

- Marketing to the distributors (film festivals, high profile elements, "connections," "buzz," reliable suppliers); Very Expensive, Risky
- Packaging as a pre-marketing tool
- Where does the audience fit in?
- Production financing (rare exception) is written off by most distributors; they recoup their costs and fees first!
- Over-saturation of product (2007 Sundance: 3,287 feature submissions (44% foreign), 122 acceptances, 15+ new domestic deals)

Distribution Structures

- **Distribution of Studio's Own Films**
- **Pre-sales (foreign, domestic, sales representatives as intermediaries); Split rights**
- **Impact of pre-selling certain rights**
- **When is theatrical appropriate? Can the costs of theatrical destroy value?**
- **Direct to TV or Video**
- **Measurement of gross, fees, cross-collateralization**
- **Delivery, Insurance & Compliance Costs (often unplanned)**
- **Solvency**

Television

- **Proliferation of Channels**
- **Accountability in Ad Penetration (Nielsen Ratings War)**
- **Internet = Ultimate Disintermediation**
- **New Ways to Reach Consumers (Monetization Issues)**
- **Niche Programming/ Female Demographics**
- **Content – the long tail**
- **Networks vs. Program Suppliers**

Basics for Lawyers

- Securities Laws (No Exemption for Film – State & Federal Compliance)
- Equity vs. Debt vs. Soft Money Incentives
- Foreign Presales (Net of Commissions, Marketing/Delivery Costs & Withholding Taxes); Sales Agency, Domestic?
- Bank Documents, Interparty Agreement – Getting the Money!
- Completion Bond
- Budgeting for “Delivery”
- Union & Guild Agreements/Deposit Requirements, Assumption Agreements
- Clearances & Chain of Title (E&O Ins.), Copyright
- Production Agreements, Labor Laws, Risk of Using “Interns,” payroll taxes, employees vs independent contractors, insurance
- Marketing Budget (festivals, publicity, etc. if needed)
- Taxes (Income Forecast or Sec. 181?)