The Insider's Guide to Independent Film Distribution

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History of Distribution and State of the Market

A Recent History of Distribution

Distribution is the process by which a film reaches the marketplace and is made available to its target audience. Practically speaking, distribution means selling your film to theatrical distributors, broadcast networks, DVD companies, and new-media outlets.

Today it is more difficult than ever to get distribution for your film. Why? Because there are more films on the market than ever before. Historically, it took a lot more effort to make an independent film, and distribution was easier to secure. In the eighties and early nineties, for example, there were a lot fewer independent films in the market, and distributors actually paid advances to secure distribution rights to a film. Because digital technologies hadn’t taken hold yet, filmmakers were still shooting their independent films on film, as opposed to digital video. As a result, independent films of the eighties and early nineties tended to be higher quality, and distributors snapped them up at high prices.

Then, in the mid-nineties, the digital revolution began and filmmaking was democratized. Suddenly there were more films on the market than distributors could handle. Filmmakers were thrilled to exercise their artistic license by making films on the new inexpensive format that miniDV delivered. In the process, they flooded the market with independent films. Distributors couldn’t keep up.
Acquisition prices started to go down, because as the supply of independent films increased, distributor demand decreased.

By the late nineties, distribution deals became harder and harder to come by. Previously, the pre-sale market had guaranteed distribution in the territory of the presale. Now that market dried up, filmmakers could no longer rely on foreign sales to finance their budgets. Once upon a time, two or three foreign sales could finance an entire independent-film budget, and the rest was profit. By the late nineties and early 2000, that was no longer the case at all. At this point in distribution history, the market turned upside down.

By the years 2001 and 2002, independent films were a commodity. They were sold by the pound to foreign buyers, for a thousand bucks here and there. Now filmmakers had to rely on getting a U.S. distribution deal to recoup their budget. Fortunately, by this point, the U.S. DVD market was hotter than ever. Independent films, especially genre films such as horror or action, were snapped up by U.S. DVD companies to fulfill their output deals with Blockbuster, Hollywood Video, and all the other video stores that were flourishing. Even if the advances these U.S. distributors paid weren’t that big, filmmakers were guaranteed royalty checks, which over time helped recoup their budgets and pay back investors.

One downside to this point in distribution history was that although DVD deals were plentiful, it was almost impossible to get a theatrical distribution deal for an independent film. Theater owners just weren’t interested in booking the type of independent films that were on the market. Unless the film happened to have a big cast and could guarantee tickets would be sold, or unless the film had just won an audience award at Sundance, advertising prices had gone up so much that the economics simply didn’t work anymore. Also, there were so many independent films on the market and not nearly enough screens to put them on. That is one reason why the DVD format became so popular as mass-market distribution.

This brings us to today, where not much has changed in terms of distributor demand and prices paid for independent films, except for one critical development. Fortunately, new-media distribution
channels have opened up to absorb some of the supply of films in the market. The Internet, video on demand, and pay-per-view are all distribution channels unique to the past few years that have allowed for greater distribution of independent films. Although these channels do not currently account for big dollars, they are slowly becoming a viable income source for filmmakers. Hopefully, in the next ten years, film budgets will be able to be financed by new-media distribution deals, and will have DVD and theatrical distribution be the profit, turning the market right side up once again.

**The Current State of the Market: A Reality Check**

A recent survey of domestic and international buyers regarding the state of the market attempted to determine why there has been such a marked price decrease in license fees in the past ten years, as well as a severe drop-off in distribution advances. Here are the survey’s findings:

Ten years ago, before every aspiring filmmaker was making a film on a miniDV camera, there were fewer films on the market, and therefore the films that did exist commanded higher licensing fees. Back then, it was even possible to presell certain territories, which meant that a filmmaker would receive money in advance for a project in exchange for the buyer’s obtaining exclusive rights to that project in their territory. Therefore, you could essentially raise the money for your movie before shooting it. Unfortunately, those days are gone.

The state of the market is not what it used to be. The truth is that

1. Currently, only the smallest percentage of independent films get U.S. theatrical distribution unless they’ve won awards at one of the major film festivals or the cast is packed with A-list stars.
2. Once you do start selling your film, it is harder than ever to get companies to agree on paying you the entire license fee up front. Be prepared for payment plans to be spread over long periods of
time. Also know from the outset that there will most likely be long lag times before actual payment reaches you. The reason for this is because DVD companies, for example, receive payments from retailers in increments based on sales of your film. Basically, they don’t pay you until they get paid. It’s a cash-flow issue.

3. Unfortunately, the days of hefty minimum guarantees (a.k.a. advances) by DVD companies are gone for independent films. Many of the U.S. DVD distributors are currently offering royalty-only deals. This means that you can expect a royalty check about nine months to a year after you sign your distribution deal. This wait is because normally the DVD companies must first recoup their advance and their marketing and manufacturing costs before they pay you royalties. Now, a big part of the reason for the disappearance of advances in the DVD world, I’m told, is due to the fact that you can walk into Wal-Mart and buy big-studio blockbusters for $7.99. So that leaves the $1.99 bin for independent films. Because DVD companies get lower wholesale prices for independent films, they can no longer afford to pay big advances.

Why the Disappearance of Distribution Advances?

In some cases, distributors are willing to take the risk and give a distribution advance to help get the ball rolling or help fill in a financing gap. More often than not, however, distribution advances have caused a number of distributors to go out of business. Some of them started investing insane amounts as production advances or minimum guarantees and were never able to recoup their money. As a result, the rules of the game have been completely rewritten. The new rules are:

1. The production has to have A-list stars attached to the project.
2. The producer has to be innovative and willing to bring other funding to the table.
3. Distributors have to believe the producer can deliver the finished product as promised.
Distributor investments quite often lead to creative collaboration on a project because distributors have been so burned in just giving producers money and waiting for a completed film. On some films, distributors will invest money, then presell whatever territories they can to recoup their advance right away, and in some cases raise additional capital for the film.

The bottom line is that most distributors are reluctant to take the risk in giving an advance. From their point of view, in most cases it just isn’t fiscally sound because most projects don’t end up making enough sales to cover the advance. And even if they do recoup the advance, it takes several years of sales to get the cash flowing.

So Now What Do You Do?

Despite these discouraging statistics about the market, there are certain types of projects that distributors always seek. Even if you are working with a small budget, there are still both domestic and international distribution possibilities out there.

Although you may not be able to control the dynamics of supply and demand, there are factors you can control—factors that will increase the likelihood of your film’s getting distribution. The next chapter will discuss specific steps you can follow.

Interview with U.S. theatrical distributor

Michael Baker, Director of Acquisitions and Development
ThinkFilm (Shortbus, The Aristocrats, Murderball, Born into Brothels)

Do you acquire films only at the big film festivals? Or do you also acquire outside of the festivals?

A lot of producers and sales agents have the misconception that your film needs to play in a major festival to have any chance of being bought. It’s certainly nice to play Toronto or Sundance or other major festivals, but it’s not necessary, and it’s not always beneficial. Each festival plays hundreds of films. As a result, it’s harder for your film to get any attention or stand...
out. There are more films at a festival than any buyer can possibly see. And often a buyer has two or three films playing at the same time, so they are running back and forth between screenings, not seeing each film properly. Or they might really enjoy the first film, so never leave to check out your film. Another situation could occur where you have a decent film that gets overshadowed by other films that happen to be good or simply attract a lot of attention. In each case, the festival hasn’t benefited your film.

There is a great opportunity to get your film seen where it will actually receive more attention from the viewer/buyer than at a festival: sending a screener. Many filmmakers are against this. They are proud of their film and believe it needs to be seen on a big screen in a theater to be appreciated properly and assessed at its true value. In reality, acquisitions people are professionals. We screen films via screeners at home or in the office all the time, and we know how to assess things under these circumstances. If we can choose the time when we will watch your film, we’ll be more disposed to liking it. As film fans, most of us have great home-entertainment systems—which makes for a better viewing environment than most festival theaters, where other people are running in and out, cell phones are ringing, people are checking email on their Blackberries, and you keep checking your watch because you need to meet someone or get to another screening or get back to the office.

Setting up a private screening in New York or L.A. only inconveniences the buyers more. The last thing we want to do is leave the office in the middle of the day, or give up a free night to go see a movie. Remember, this is work for us. We’re looking for an excuse to go home and work on our own scripts.

ThinkFilm has a pretty aggressive acquisition strategy. Does a film still have to have big “names” in order to get a U.S. theatrical release?

Every film needs something to sell it on. A star is a commodity and a sales tool. So anytime you have a “name” in your film, it’s going to help. It gives the public a recognizable face, something to reference the film, which is especially important for an independent film, where the marketing budgets tend to be minuscule compared to studio films. A star provides the same safety net for indie pics as it does for studio pictures.

That said, a star is not necessary for a theatrical release. We’ve bought and released films that have major stars in them, and ones that have only first-time actors. In each case, the film itself was special. Casting a star won’t change that.
One problem I encounter regularly is the filmmaker who overestimates the draw of the actor they have cast. There are very few actors who are actually meaningful to the value or release of the film. If someone was the star of a TV series in the eighties, they probably don’t mean much. If someone was a direct-to-video star more than five years ago, they probably don’t mean much. If someone is going to play a small role in an upcoming theatrical release that has two or three other cast members who are much better known, they probably don’t mean much. If someone was on a reality-TV show, they probably don’t mean much. It’s important to be realistic about the value an actor actually brings to a film.

How many unsolicited screening cassettes do you get a week, and what do you see as the biggest reason to pass on a film?

When it comes down to it, the most common reason we pass on a film is quality, pure and simple. You can have a great concept, or a big budget, or a cool soundtrack, but if the film isn’t good, you’ve got nothing.

Independent film is often review and word-of-mouth driven. We rely on positive reviews and word-of-mouth to fuel knowledge and awareness of our films. We don’t have superhero films that are review-proof because they rely on massive marketing campaigns, cool action sequences, and a known franchise or commodity. So if the film doesn’t cut it, people won’t be encouraged to see it, or they may not even hear about it.

Can a producer expect to recoup his investors’ money if he gets a U.S. theatrical deal?

Investing in a film is both risky and lucrative for anyone willing to put money up. Many films don’t get picked up or simply don’t do well, leaving the investors without any return. When they do pay off, they can pay off very well.

A U.S. theatrical deal for a film is great, because it means there will be tremendous exposure for the film and the opportunity for many people to see it, generating revenues for the film. The other side of this is, a theatrical release is also quite expensive. Prints need to be made, ads booked, publicists hired. Your shipping alone can cost a pretty penny. In most cases, these expenses need to be recouped by the distributor before the producer and his or her investors see any money.

There are certainly examples of independent films that have made money back for their investors while they are in their theatrical release, but it’s a safe bet that these films are in the minority.

However, all hope should not be lost. A theatrical release will bring a great deal of attention to the film and likely result in increased revenues
Suggested Exercises for Part One

1. Write a paragraph explaining your opinion on the state of the distribution market today and what you would like to see change, if anything.

from ancillaries, which have much lower expenses. You may be looking at a higher TV sale and better video sales. You may get an airline sale out of it where none was possible before. As a result, there’s a good opportunity for the investment to pay off and for your investors to see some money back.

This doesn’t mean you should always demand a theatrical release for your film. If it’s not appropriate, you will end up spending money to release the film and not get any added value for the ancillaries. Sometimes direct-to-video or a TV premiere is the right financial decision.

As in any business, obviously the amount spent will affect how much money is paid back. If you invest $10 million in a film that gets the same release as a film you invested $2 million in, you’ll probably see much more of your money back on the $2 million film.

Do you have any advice for filmmakers who want to make a film that’s actually distributable?

Making a film is incredibly exciting. Most filmmakers are very enthusiastic and it is quite inspiring. But enthusiasm is no replacement for skill, research, and preparedness. My advice is not to rush. An idea and a camera are enough to make a film, but not to make a good film. Take your time to develop your script, cast well, get a good camera and test it, rehearse, schedule, do several edits, try and get some more money, secure some name actors, call up any contacts you have for advice and assistance, etc.