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Tag Archives: independent film distribution

Considerations before starting distribution

Posted on December 19, 2013 by Sheri Candler

Written by Orly Ravid and Sheri Candler

Now that the line up for feature films screening in Park City has been announced and the Berlinale is starting to reveal its selections, let's turn our attention to the potential publicity and sales opportunities that await these films.

For those with lower budget, no-notable-names-involved films heading to Park City this January, we understand the excitement and hopefulness of the distribution offers you believe your film will attract, but we also want to implore you to be aware that not every film selected for a Park City screening will receive a significant distribution offer. There are a many other opportunities, perhaps BETTER opportunities, for your film to reach a global (not just domestic) audience, but if you aren't prepared for both scenarios, the future of your film could be bleak.

For any other filmmaker whose film is NOT heading to Park City, this post will be vital.



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- Considerations before starting distribution **December 19, 2013**
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- Bringing '90s fundraising skills to a Kickstarter campaign **November 29, 2013**
- 3 lessons in crowdfunding the UK short film Patient **39 November 27, 2013**
- Crowdfunding in Canada **November 26, 2013**
- Crowdfunding: Asking the Hard Questions **November 25, 2013**
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What does this mean? Time and again we at The Film Collaborative see filmmakers willingly, enthusiastically going into debt, either raising money from investors or credit cards or second mortgages (eek!) in order to bring their stories to life. But being a responsible filmmaker means before you started production, you clearly and realistically understood the market for your film. When you expect your film to: get TV sales, international sales, a decent Netflix fee, a theatrical release, a cable VOD/digital release, do you understand the decision making process involved in the buying of films for release? Do you understand how many middlemen may stand in the money chain before you get your share of the money to pay back financing? Was any research on this conducted BEFORE the production started? With the amount of information on sites like The Film Collaborative, MovieMaker, Filmmaker Magazine, IndieWire and hundreds of blogs online, there is no longer an excuse for not knowing the answers to most of these questions well before a production starts. This research is now your responsibility once you've taken investors' money (even if the investor is yourself) and you want to pursue your distribution options. Always find out about middlemen before closing a deal, even for sales from a sales agent's or distributor's website, there may be middlemen involved that take a hefty chunk that reduces yours.

Where does your film fit in the marketplace?

Top festivals like Sundance, Berlin, Cannes, Toronto give a film the start of a pedigree, but if your film doesn't have that, significant distribution offers from outside companies will be limited. Don't compare the prospects for your film to previous films on its content or tone alone. If your film doesn't have prestige, or names, or similar publicity coverage or a verifiable fanbase, it won't have the same footprint in the market.

Your distribution strategy may be informed by the size of your email database, the size of the social media following of the film and its cast/crew, web traffic numbers and visitor locations from your website analytics, and the active word of mouth and publicity mentions happening around it. These are the elements that should help gauge your expectations about your film's impact as well as its profitability. Guess what the impact is if you don't have these things or they are small? Yeah...

Understand the difference between a Digital Aggregator and a Distributor?

Distributors take exclusive ownership of your film for an agreed upon time. Aggregators have direct relationships with digital platforms and often do not take an ownership stake. Sometimes distributors also have direct relationships with digital platforms, and so they themselves can also serve as an aggregator of sorts. However, sometimes it is necessary for a distributor to work with outside aggregators to access digital platforms.

Do understand that the digital platform takes a first dollar percentage from the gross revenue (typically 30%), then aggregators get to recoup their fees and expenses from what is passed through them, but there are some that only take a flat fee upfront and pass the rest of the revenue back. Then distributors will recoup any of their expenses and their fee percentage, then comes sales agents with their expenses and fees. And finally, the filmmaker will get his or her share. Many filmmakers and film investors do not understand this and wonder why money doesn't flow back into their pockets just a few months after initial release. You guys are in the back of the line so hopefully, if you signed a distribution agreement, you received a nice advance payment. Think how many cuts are coming out of that \$5.99 consumer rental price? How many thousands will you have to sell to see some money coming in?

Windowing.

If you do decide to release on your own, knowing how release windows work within the industry is beneficial. Though the time to sequence through each release window is getting shorter, you still need to pay attention to which sales window you open when, especially in the digital space. Anyone who has ever had a Netflix account knows that, as a consumer, you would rather watch a film using the Netflix subscription you have already paid for rather than shell out more cash to buy or rent a stream of the latest movies. But from a filmmaker/distributor's perspective, this initial Transactional VOD (TVOD) window maximizes profits because, unlike a flat licensing fee deal from Netflix, the film gets a percentage of every transactional VOD purchase. So if you release your film on Netflix or another subscription service (SVOD) right away without being paid a significant fee for exclusivity, you are essentially giving the milk away. And when that happens, you can expect to see transactional purchases (a.k.a. demand for the cow) decrease.

Furthermore, subscription sites like Netflix will likely use numbers from transactional purchases to inform, at least in part, their decision as to whether or not to make an offer on a film in the first place. In other words,

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- Should you make a horror film? **October 3, 2013**
- No advance+little marketing commitment=poor results **September 26, 2013**
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- TIFF RIFF Part One-The Numbers, Advice, and Excitement **September 3, 2013**
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- Excuses for not building and using an email list **August 8, 2013**
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- Social media basics for filmmakers-Facebook **June 12, 2013**
- Social media basics for filmmakers-the myths **June 5, 2013**
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- Crowdfunding with Pozible **February 25, 2013**
- Sundance video interview-Edward Burns **February 19, 2013**
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showing sales data, showing you have a real audience behind your film, is a key ingredient to getting on any platform where you need to ask permission to be on it. Netflix is not as interested in licensing independent film content as it once was. It is likely that if your film is not a strong performer theatrically, or via other transactional VOD sites, it may not garner a significant Netflix licensing fee or they may refuse to take it onto the platform.

Also be aware that some TV licensing will be contingent on holding back subscription releases for a period of time. If you think your film is a contender for a broadcast license, you may want to hold off on a subscription release until you've exhausted that avenue. Just don't wait too long or the awareness you have raised for your film will die out.

Direct distribution from your website

Your website and social channels are global in their reach. Unless you are paid handsomely for all worldwide distribution rights to your film, your North American distributor should not run the channels where you connect with your audience; the audience you have spent months or years on your own to build and hope to continue to build. These channels can be used to sell access to your film far more profitably for you than going through several middlemen.

Many low budget American films are not good candidates for international sales because the audience worldwide isn't going to be big enough to appeal to various international distributors. Rather than give your rights to a sales agent for years just to see what they can do, think seriously about selling to global audiences from your own website and from sites such as Vimeo, Youtube, and iTunes. In agreements we make with distributors for our members, we negotiate the ability to sell worldwide to audiences directly off of a website without geo-blocking unsold territories. If you are negotiating agreements with other distributors, the right to sell directly can be extremely beneficial to carve out. If you do happen to sell your film in certain international territories, it is wise to also make sure you do not distribute on your site in a way that will conflict with any worldwide street dates and any other distribution holdbacks or windowing that may be required per your distribution contract.

You can sell DVDs, merchandise, downloads and streaming off your own site with the added benefit of collecting contact email addresses for use throughout your filmmaking career. Above all, don't hold out for distribution opportunities that may not come when publicity and marketing is happening. So many times we are contacted by filmmakers who insist on spending a year or more on the festival circuit with no significant distribution offers in sight and they are wasting their revenue potential by holding back on their own distribution efforts. You can play festivals AND sell your films at the same time. Many regional fests no longer have a policy against films with digital distribution in place. When the publicity and awareness is happening, that's the time to release.

Festival distribution is a thing

Did you know that festivals will pay screening fees to include your film in their program? It's true! But there is a caveat. Your film must have some sort of value to festival programmers. How does a film have value? By premiering at a world class festival (Sundance, Berlin, SXSW etc or at a prestige niche festival) or having notable name cast. Those are things that other festivals prize and are willing to pay for.

You should try to carve out your own festival distribution efforts if a sales or distribution agreement is presented. That way you will see these festival screening fees and immediately start receiving revenue. Our colleagues, Jeffrey Winter and Bryan Glick, typically handle festival distribution for members of The Film Collaborative without needing to take ownership rights over the film (unlike a sales agent). TFC shares in a percentage of the screening fee and that is the only way we make money from festival distribution. No upfront costs, no ownership stake.

Deliverables

This is an expense that many new filmmakers are unfamiliar with and without the proper delivery items, sales agents and distributors will not be able/interested in distributing your film. You may also find that even digital platforms will demand some deliverables. At TFC (as well as with any sales agent/distributor), we require E&O insurance with a minimum coverage of \$1,000,000 per occurrence, \$3,000,000 in the aggregate, in force for a term of three years. The cost to purchase this insurance is approximately \$3000-\$5000. Also, a Closed Captioning file is required for all U.S. titles on iTunes. The cost can be upwards of \$900 to provide this file. Additionally, many territories (such as UK, Australia, New Zealand and others) are now requiring official ratings from that territory's film classification board, the cost of which can add up if you plan to make your

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Archives

- May 2014
- April 2014
- March 2014
- February 2014
- January 2014
- December 2013
- November 2013
- October 2013
- September 2013
- August 2013
- July 2013
- June 2013
- May 2013
- April 2013
- March 2013
- February 2013
- January 2013
- December 2012
- November 2012
- October 2012
- September 2012
- August 2012
- July 2012
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- December 2011
- November 2011
- October 2011
- September 2011
- July 2011
- May 2011
- April 2011
- March 2011
- February 2011
- January 2011
- December 2010
- November 2010
- October 2010
- September 2010
- August 2010
- July 2010
- June 2010
- May 2010
- March 2010
- January 2010
- December 2009
- November 2009

Categories

- Amazon VOD & CreateSpace
- Best Buy
- Blockbuster
- book
- Cable
- case studies
- Comcast
- Community partnership
- Creative
- crowdfunding
- Digital Distribution
- Distribution
- Distribution Platforms
- Distributor ReportCard
- DIY
- education

film available via iTunes globally. For distributors, closed captioning and foreign ratings are recoupable expenses that they pay for upfront, but if you are self distributing through an aggregator service, this expense is on you upfront.

You may also be asked to submit delivery items to a sales agent or a distributor such as a HD Video Master, a NTSC Digi- Beta Cam down conversion and a full length NTSC Digi-Beta Pan & Scan tape all accompanied by a full Quality Control report, stereo audio on tracks 1&2, the M&E mix on tracks 3&4 and these may cost \$2000-\$5000 depending on the post house you use. If your tapes fail QC and you need to go back and fix anything, the cost could escalate upwards of \$15,000. Then there are the creative deliverables such as still photography, key art digital files if they exist, electronic press kit if it exists or the video footage to be assembled into one, the trailer files if they exist. Also, all talent contracts and releases, music licenses and cue sheets, chain of title, MPAA rating if available etc.

Distribution is a complicated and expensive process. Be sure you have not completely raided your production budget or allocated a separate budget (much smarter!) in order to distribute directly to your audience and for the delivery items that will be needed if you do sign an agreement with another distribution entity. Also, seek guidance, preferably from an entity that is not going to take an ownership stake in the film for all future revenue over a long period of time.

For those headed to Park City, good luck with your prospects. TFC will be on the ground so keep up with our Tweets and Facebook posts. If the offers aren't what you envisioned for your film, be ready to mobilize your own distribution efforts.

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- Film Festivals
- Filmmakers of note
- fiscal sponsorship
- Gigantic
- Hulu
- International Sales
- iTunes
- Key Art
- Long Tail & Glut of Content
- Marketing
- Mobile / Wireless
- Netflix
- Prescreen
- Publicity
- Retailers
- SEO
- SHORT FILMS
- Social Network Marketing
- Theatrical
- Trailers
- transmedia
- Uncategorized
- Vimeo

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Should you make a horror film?

Posted on October 3, 2013 by Sheri Candler

The month of October seems a good time to look at films in the horror genre and we will be releasing a series of posts all month long that addresses the business of releasing these films.

Long the domain of ultra low budget filmmakers everywhere, horror audiences are now spoiled for choice when it comes to finding a film that terrifies. Yes, everyone with access to a digital camera and buckets of fake blood seems to be honing their craft and turning out product by the thousands. Unfortunately, most of it is high on splatter and low on story and production value. That may have made up the majority of the horror film sales 7 years ago, but distribution advances paid for such films are now exceedingly low (maybe \$5K per territory, IF there is a pick up at all) and now the genre is perfect for the torrent sites. Unless you plan to make films as an expensive hobby, the pressure to produce a stellar horror film that people will talk about (see The Conjuring, Insidious, Paranormal Activity) is very high.

