

# THE BUSINESS OF FILM

An outline of the business aspects of  
Canadian feature and short film making  
from pre-production through marketing.

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You're sitting by the phone, nerves jumping, waiting for The Call. The Distribution Centre is negotiating with the CBC for a TV showing of your eleven-minute impressionistic film on Toronto immigrants. Sweat, toil, and creative ability are about to be rewarded. The phone rings, and you answer, only to be told that they want the film, but they can't show it. Remember that sequence that shows workmen building the latest bank tower while the Hart House Orchestra plays O Canada in the background? While O Canada can be used by anyone, because it is in the 'public domain', Hart House Orchestra has never granted you a license to synch or perform its version on your soundtrack. So even though the total sequence lasts only twenty-eight seconds, you can't sign the CBC's Program Rights Agreement or Music Cue Sheet. The film cannot be shown publicly without risking a lawsuit.

A minor detail? Far from it. Creating a film is a collaboration between writer, director, cameraman, talent and technicians, but showing it is even more of a group effort. Film-making is a curious combination of art and business; no film is complete until both sides are fully exploited and successfully handled. The business side is a meeting of elements of widely differing requirements and attitudes, but with the same goal: to show your film to an audience. And the same rules apply whether profit is included as an objective or not.

Films cannot be made without this excursion into contracts, rights, agreements, and financial negotiations, but most film-makers consider these areas only after the film is complete, if at all. Business activity travels the same path at the same rate as creative activity. Otherwise, a brilliant work of art may sit, lifeless, on a shelf.

This booklet is based on a conference on the Business of Film, held January 17 and 18, 1975 in Toronto. The need for communication about the business side was recognized by Frederik Manter and Marie Waisberg of the Canadian Filmmakers' Distribution Centre, and they felt a conference, using the expertise of people involved on a daily basis with the business of film, would be a first step in informing the film-making community. Co-sponsored by the Distribution Centre, the Photographic Arts Department of Ryerson Polytechnical Institute, and the Department of Film, Faculty of Fine Arts, York University, the two-day gathering hosted more than five hundred people, both professional film-makers and students. Interestingly enough, the former group numbered about 60% of the total, emphasising the desire among film-makers to acquire knowledge of the business side.

Of course there are many more film-makers in the country than the number who attended the conference. The idea arose that a booklet, using the information transmitted at the conference as a base, and adding to it significantly, would be eagerly received by the rest of Canadian filmdom. The conference featured three panels of specialists in the areas of Money, Law, and Marketing. This booklet is divided into two parts, The Money and Marketing; Law enters the picture at all points, and is discussed as the need arises. A film is followed from the inception of the idea to dividing the profits and, as you will hopefully realise, there is much more involved than writing, filming, editing and printing.

A hypothetical feature film, including various ancillary projects growing out of the feature, was created in order to illustrate how the original project can be exploited fully and is described below. From time to time during the course of the booklet, I will use this model to illustrate points or procedures that are being discussed. The Canadian Film Industry is unique in more than its struggle to survive and prosper: various legal and accounting facts, as well as direct government influence, shape our actions and thinking. This booklet is about the Canadian experience; foreign influences enter periodically, however, because film is such an international art and business.

### Two Important Points:

1. The information in this booklet applies to any film. Short or long, documentary or drama or animated, theatrical or non-theatrical; every film involves many of the same legal, financial, and other business decisions.
2. This booklet is emphatically not a substitute for professional counselling. A filmmaker should have a working relationship with, or at least access to, the qualified legal, financial and distribution personnel necessary to insure the completion of his project with a minimum of obstructions. Consult them.

### The Hypothetical Fact Situation:

The chosen film project encompasses all potential marketing areas of film: a dramatic feature for international theatrical distribution in 35mm, followed by 16mm non-theatrical distribution; a trimmed feature for reduction to 16mm and TV showing as a Movie of the Week-type event; a 16mm half hour documentary on the making of the film, for TV and non-theatrical distribution; a short based on pertinent research and information uncovered about the subject, but containing different material than the feature; and a travelogue utilising the Canadian and international locations required for shooting the feature. Personnel and equipment can do double duty by making the shorts while shooting the feature, and the producer can therefore exploit the original idea to the fullest, providing income insurance should the largest financial risk, the feature, prove to be less successful than anticipated. In this case, a biography of Norman Bethune is to form the dramatic feature, with a travelogue on China and a historical short on Bethune and his life and times using old stills and reminiscences.

### In Appreciation

The Canadian Filmmakers' Distribution Centre, on behalf of Canadian film-makers, extends special thanks to the panelists and moderators who donated their time and experience to raise the general level of awareness of film-making procedures in Canada.

**The Money:** Moderator: critic Robert Fothergill; Panelists: producers G. Chalmers Adams, David Perlmutter; film-makers Pen Densham, Allan King, Julius Kohanyi; CBC contracting manager George Desmond; CTV producer Larry Hertzog; and lawyer Miles O'Reilly.

**The Law:** Moderator: Ontario Arts Council Executive Director Louis Applebaum; Panelists: producer G. Chalmers Adams; lawyers Joseph Beaubien, Garth Drabinsky, John Mills, Q.C.; and accountant Ralph Wood.

**The Market:** Moderator: lawyer Lorie Waisberg; Panelists: producer G. Chalmers Adams; NFB film officer John Boundy; Famous Players (Canada) president George Destounis; CTV producer Larry Hertzog; educational distributor Marvin Melnyk; Universal Films (Canada) vice-president Bill Soady; and CBC purchasing manager Merv Stone.

Because of the unqualified success of this conference, more are planned. Different aspects of the industry will be examined, with the same goal: to bring together film people and expose them to important components of their art. Announcements and information regarding future conferences will be communicated in Cinema Canada magazine.

# The Money

"It's almost as if the game is being re-invented every day." — Allan King

## The Idea

As the producer, before you receive any money from investors or make any distribution arrangement, you will have to prove that you legally have the rights to any material that forms part of your film. The various parties will require 'warranties' from you or your production company 'indemnifying' them if any action occurs regarding their ownership.

In other words, you pay the damages. So when you have determined that you want to take out an option on a book or original screenplay, insure that the copyright possessor does in fact have the copyright on the work. Then you may buy the rights with confidence.

Copyright itself rests with the original author. He does not have to register it or even have it published. By creating it, it is his. But it's not that simple when you come to use it. If you think you are using information or events in 'the public domain', determine whether any books have been published on it. For reasons explained later, it may be in your interest to acquire rights to published material. However, it isn't necessary to do so.

The original copyright owner must warrant that his copyright doesn't invade privacy, libel, or infringe on another copyright. Even though Canadian copyright law doesn't really recognise invasion of privacy, except in one area not related to film, film is an international medium, and other countries do recognise it, as well as libel or slander. Defamation of public reputation through visual, oral, or written means (libel) or verbally (slander), as well as invasion of privacy (harming feelings or emotions, destroying solitude, exploiting without permission, misrepresenting, public disclosure of private facts) can hold up release or even shelve a film, as well as cost large amounts in reparations. Get permission in writing for all material.

You cannot copyright an idea itself, or even a character of your own or someone else's invention. You can copyright a method of expression, and you can contract to sell an idea. (In the U.S. this is common practice; there are few precedents in Canada.)

The time has come for you to obtain the rights to published material or an original script. Since there is no guarantee of production, instead of buying the rights outright, purchase an option on material. You pay a smaller sum, usually five or ten per cent of the final price, for the right to explore production for a given time. Details of the subsequent purchase should be included in the option agreement, and might include a screenplay contract and method of payment for the copyright owner. Remember that he still owns the material at all times; he is licencing you to exploit the rights, or transferring them to you.

In the option agreement, make sure that you procure all the necessary rights for exploiting the material. You must be able to adapt, modify and translate the material; use the title of the original work; make the film, advertise and publicise it; distribute and exhibit it; exploit it in other media such as television, radio, video discs and cassettes; show it on hotel TV, pay TV, aircrafts and ships, cable TV; make a novel of an original script; make sequels and spinoffs such as TV series; remake and re-issue it; use the characters in other forms; and merchandise the characters and events if you can.

The period of time copyright is in force is during the life of the author plus fifty years for published material, or fifty years from publication if an author dies and his work is published after his death. To help you along, you can obtain an 'Errors and Omissions' insurance policy to protect you against possible claims of copyright invasion. For this policy you will need 'releases' or written permission to use a given piece of material or character. And copyright applies to any material used, be it a piece of music or radio broadcast on the film soundtrack or a TV commercial shown in the film or a

living person.

Why, then, acquire published works on dead people or public events? You may like the author's approach, or, if the work has received great public acclaim, you will receive great benefits in publicity and audience interest before production even commences.

Finally, make sure you realise that limits may be put on the way you use these rights. For example, the CFDC prohibits transferring of rights from you to a new body without the CFDC's permission.

### **Sources for the Money**

If you are the director or writer, and you feel that you have a saleable property, first join forces with a producer. There are producers' associations, or simply look in the Yellow Pages. Assuming you have a producer or you are the producer, before you begin the treasure hunt, there are several considerations to be thoroughly examined. Film investment is a very new type of financial risk involvement for Canadians, and a highly marketable, attractively presented package is essential. More than a script is necessary. Try for talent commitments. Make your presentation professional as well as entertaining. Show something you've done, but don't try to step up too much higher than your previous work; think of the long term. Money will have to be expended to prepare your package and presentation properly.

Since you are entering a high-risk venture, consider setting up a limited company as your production vehicle; the time to do it is when you have someone to carry on if you depart the project. It's basically for self-protection, because most disasters in the financial arena befall the company, not you.

Deciding, as any producer does, that you need 'up front' or advance money to begin pre-production, you must convince someone to provide financial support until you begin to shoot the film.

Your next consideration is to determine what you are prepared to sacrifice in order to see your film on the screen. No project was ever completed without compromise, and it's wise to be prepared. A distributor may require final edit; certainly a TV buyer will. The latter may also want freedom to insert commercials where he pleases, or to censor any part that he feels is unacceptable to his audience. Of course, if you can raise the funds without any such deals, you can always sell the completed picture outright.

Most film-makers, however, must seek out funds. Prepare not only a budget, but also a cash flow, showing when you will need given portions of the total amount. Many investors, including the CFDC, advance funds in part at certain points in your project. Remember that a film must return about five times its production cost at the box office to break even in costs. It's not impossible to devise a rough estimate of your potential income; keep it conservative, just as you've padded your budget, to prepare for all contingencies. Know your market and what it can return. For a sale to an educational market, you won't see income for almost two years, because salesmen are selling for the following calendar year. Since the total revenue is much lower than that for a TV sale, it's wise to approach the distributors first: they know what is already in the market. You won't be duplicating and a stronger material choice is possible. If you plan to sell a short as TV filler, remember that CTV doesn't use them, and the project must have something to say and be an entity in itself, not a collection of out-takes from your feature.

Consider the tax investment provision that is being exploited by Canadian producers, then reject it. It's a very negative viewpoint, and no investor sees any advantage in losing money. A person can write off 100% of his investment in a film against other investment income in the year that the film is complete. Keep it on the level of a business investment, and your project will receive respect and experienced input.

Any major production investor will require a 'completion guarantee'. It's like an insurance company that takes a piece of the action. And it's essential. In one form, if you do as your production schedule and budget tells you to do, the guaranteeing company will step in and give you the money to finish if something happens beyond your control. On the other hand, if you don't do as you're supposed to (and they have the expertise to know how long a given number of lines takes to film), they can step in and take over the production. For this they get a fee, a portion of the profits, and sometimes first recoupment: that is, first to receive income doled out from the box office after expenses. Another form is to have your investors, in the original agreement, advance funds to cover overruns at a given time. Or get a lab to do it: they process your film in return for a portion. The CBC, CFDC, or any major American distributor requires some form of completion guarantee.

What happens if you can raise only 95% of what you need? Do you alter the script, at a possible box office loss because of destroying important effects? How do you cut your budget, or should you persevere until you've got the total needed? Of course, the latter is best to do, but there are other ways. Defer fees to producers or talent. Try to interest a lab in investing in the film in exchange for lab services.

You have to hire the talent: actors, director, writer, technicians. Remember the unions IATSE and NABET and ACTRA or Actors' Equity. You will have to negotiate fees, plus per diems, transportation to locations, credits, and a method of resolving any disputes. If you're using animals, don't worry: they're considered as props and are rented, but people who are in backgrounds or crowd scenes must be considered. If they are undistinguishable in the film, they don't affect legal considerations, but if you focus on or draw attention to anyone, get a 'release' which entitles you to use them in the film as you see fit; otherwise some unruly passerby can claim damages for insult in the way he's been shown. An insurance policy called an 'Errors and Omissions Policy' is needed to protect you from such oversights, and you'll need the necessary releases to get it.

One aspect of the film is usually not contemplated until post-production: the music used. It should really be considered now, because you'll need a license from the copyright owner to use his work (the writer and performer if you're lifting a previous recording, or just writer if the music is composed specifically for your film). You'll need rights both to synchronise the music on your film and to perform it. For more information, the Composers, Authors and Publishers' Association of Canada has a free book, 'You and The Music Business' by John Mills, Q.C., obtainable by writing to CAPAC. That body, and Broadcast Music Incorporated, collects royalties for their members.

### **Where to Get the Money**

While it's true that money is not exactly pouring forth endlessly into film projects at this time, there are producers with access to funds, and there are more sources for obtaining film financing than most people believe exist. And new ones open up every day, as more people want glamour, financial risk, or even philanthropy. First, let's consider the private sector and then government institutions.

### **Private Sources**

Start with your family and friends. Whether for full or partial financing of a short film, or providing some daily bread while you prepare your script and presentation, they can offer financial and moral support at a crucial time. Then move to potential users, especially distributors. The CFDC expects distributors to invest in major projects. This creates an incentive for distributors to sell the finished product. Distributor investment could mean that they will buy your picture when it's finished, but more often they'll

provide all or part of the production money. In return, they'll ask for, and get, final edit, first recoupment, a distribution fee of 35% or 40% of box office revenues after the exhibitor takes his share, and sometimes television rights. It's a high price but remember, it will be easier to attract further investors if you have a distributor.

Investment in the film by exhibitors in Canada is possible if you talk to Famous Players; Odeon, to date, has not shown any interest. Famous invests only when the CFDC is also an investor, and upon their recommendation, so go to them last.

A television network can show the film and reap great profits in doing so. In exchange for financial participation, they'll want TV rights, of course, and if, in the case of our Bethune film model, they can get it, they'll run the documentary on the making of the film, before the theatrical release and before the TV showing. CTV looks for universality (so foreign TV sales are possible), potential series spinoffs, and potential sponsors for the program. They'll buy shorts, but not filler. Global has invested in features to a small extent, but usually buys the TV rights from the distributor. The CBC has a mandate that says it must produce for TV. They're always hungry for new ideas and new talent but usually they'll buy only when the film is completed and only when the film fits into their programming needs. Sometimes they do invest. Watch the CBC, pick out the programs that are possible outlets for your project, and then try to interest the individual producers of the programs. Price and payment terms are negotiated individually. Generally, on a sale of a finished film, the CBC pays 30 days after acceptance of the print. To sell to the CBC, you will need a CRTC number which officially proclaims your film as Canadian content (no problem if the production personnel and services are native).

Businesses related to film are possible investors. Labs will perform services in exchange for financial participation. Deferments of payments to talent or labs can reduce initial cash needs. Budgets can also be lowered by arranging for goods and services in exchange for credit in the film. But be careful not to give too much exposure, so that it becomes a commercial, because it will drastically limit your TV sales. You might be able to raise additional money by selling novelisation, music or merchandising rights.

Increasingly, as film is recognised more as a business, new groups are investing. Try banks, institutions, investment groups, or bodies that have a direct relation to the content of your film; e.g., a church to invest in a biblical story or missionary tale. Personal loans, secured by personal assets or films already owned, should be avoided for self-protection. Provincial government agencies may participate; many are seeing film as a product that provides export potential and employment at home. And for shorts, too, see the members of the Canadian Film and Television Association; they may want to make your film. They will rent or sell prints of a completed film for you also, in return for a fee ranging around 20% to 60%.

### **The Canada Council**

This august body offers several aids to film-makers, basically in the short film category. There are grants available from the Film and Video program or the Explorations program. The latter offers a wide range of funds mainly for research in the areas of new methods of participation and communication in learning and the arts, cultural activities, preserving cultural heritage, and in multidisciplinary work that includes both arts and sciences.

The Film and Video program is more definite. Direct grants for films as well as grants for research, training and script-writing are available. You must be Canadian or a landed immigrant to qualify, and you must have made one film or several tapes outside school, or have a good reputation in the visual arts to obtain a grant for a project.



Grants are available for production or post-production up to \$45,000 over two years. Maximum budget cannot exceed \$45,000. Travel grants to attend conferences, accompany films to festivals, ship prints or equipment are also available. Writing grants require a film already written and made, or a script complete or in progress. Apprenticeship grants require references from a past producer and director as well as your present one, union acceptance, and a crew list.

Besides the production grant, three types of grants are offered. One is a senior arts grant, available to those of many years' experience. Up to \$15,000 is available. Arts grants (for artists of less experience) provide up to \$6,000 plus \$800 production money and a travel allowance. A third grant, the short term grant, offers \$450 per month plus \$600 production costs plus a travel allowance.

#### **The Ontario Arts Council**

The Film and Literature Section of the Council offers Ontario residents film grants. You must be Canadian or a landed immigrant, too, and students are not eligible. Regular spring and fall grants offer up to \$3,000 for pre-production or production, as well as up to \$1,500 for completion. A new Senior grant, tentatively set for spring and fall adjudication will offer up to \$10,000. A pilot effort this winter was very successful. Another new grant is available for screenwriting and provides up to \$8,500, again twice yearly.

#### **The Canadian Film Development Corporation**

##### **The Feature Investment Program**

Set up to promote the industry, the CFDC is usually the place everyone runs to first. Try not to see them before you arrange distribution and some investment; they prefer to complete funding or help you to find the rest of the money after they've invested. Their powers have been broadened somewhat since the Corporation began, but basically they offer up to fifty per cent of the budget or a maximum of \$200,000. Some pre-production funds are available to a qualified producer if a budget, shooting schedule, synopsis, and personal investment by producer is in evidence. In addition, they can invest half the cost of subtitling in English or French, and half the cost of promoting a dubbed English version if two weeks guaranteed play is assured in Toronto, Montreal and Vancouver. Any documentary must have distributor investment; for drama, distribution in Canada must be obtained, although distributor investment is only preferred, not absolutely required.

Along with their money comes a list of conditions. An application must be submitted, together with a budget, shooting schedule, script with sound track information, and some personnel for approval. Canadian content is not strict but is emphasised; sometimes a foreign director or writer is allowed; two stars may be foreign; foreign technicians may be used if Canadians are not available at the time of shooting. Lab work must be done by native firms. The director must have experience in film or theatre, and the producer must have experience in managerial tasks.

All financing must be Canadian, and all shooting must be done in Canada. Money is distributed on cash flow basis, and the CFDC has cheque-signing privileges as well as the right to examine books. Representatives can visit sets, view rushes, and see any portion of an uncompleted film. Copyright ownership must be proven, and rights cannot be transferred without CFDC approval. A default clause is included whereby they can withdraw at any time. Recoupment is pro rata along with other investors, but if over-budget funds are supplied, the CFDC has first recoupment on these.

### **The Low-Budget Program**

To provide directors and writers with experience on features, this program was set up three years ago. The total budget may soon be increased to \$150,000, but at this time it stands at \$125,000. The CFDC contributes 60% of this, with the balance from private investors and allows deferments up to \$20,000. No documentaries or educational films are eligible, and a director can participate only once. A distribution contract is not required. All personnel and services must be Canadian. Deferments and investors recoup first, and the CFDC gets 25% of the income after that. A script, budget, shooting schedule, and a short film showing talent in directing actors or assistant directorial work, or stage experience must be submitted.

It should be noted that most of the rejections in this program occur because of inadequate scripts or overly ambitious ideas given the low amount of money in the total budget.

The CFDC can also invest after any project, low budget or high, is already underway. There is no money for shorts.

### **Foreign Co-Productions**

There is another method, not to facilitate obtaining money, but to help get it back: the foreign co-production. Finding a producer in any country that has an agreement with Canada means you can take advantage of any conditions the other country grants to its film-makers. For example, Britain has a quota, and your film would be eligible. Other countries include Italy and France.

The CFDC allows co-productions special privileges such as more liberal terms as to staffing and shooting locations. But such projects must have Secretary of State approval before the CFDC can invest.

# The Market

“The third party determines what is paid: the paying customer.” – George Destounis

## Distribution

Making the film is tough enough; getting the customers to see it, whether in a major theatre or a community centre or a school classroom or an arts festival, is just as difficult and a thorough knowledge of distribution and exhibition is vital if you are to receive your due after all the creative effort. There are many, many, mouths to feed in the film-making chain.

There is no predetermined arrangement in any distribution deal; negotiations will vary. But remember, any distributor who invests in your film will probably demand exclusive rights to distribute it.

## Non-Theatrical Distribution

This type of distributor can handle anything from short films for the educational market to 16mm features; in fact, many major theatrical distributors do just that: Universal has an educational division, Columbia publishes study guides, and so on. But for many films, a small outfit that concentrates on specific areas is best. Your film must be relevant to the needs of the market. Distributors will tell you what other films are on the market, so you don't duplicate. They know curriculums here and in the U.S. They know the differences in attitude and needs for each province. By previewing prints to libraries and school boards (about 30,000 different groups in North America), they can market your effort more successfully than you as an individual. Industry is a new source of revenue they are opening up. They insert promos in trade journals. Generally, most English films are restricted to English-language markets. The distributor's fee is individually negotiated and ranges from 40% to 80% of gross revenue. Your film will have a life span of five to twenty years, depending on how topical it is. Dramatic shorts are certainly welcome.

In other words, approach them first. They can tell you if you're going to work for yourself or an audience.

Another production and distribution company is the type that makes and handles 'industrial' or 'sponsored' films. They'll listen to an idea, and with their experience in simple, basic survival in the most hostile of film terrains, they'll tell you if you have a marketable commodity.

## Television Distribution

Usually television rights are taken by a major distributor if he invests and he has a TV arm to sell the film. Remember several rules: if the film did not succeed theatrically it probably won't on TV; and shorts earn only \$2,500 to \$3,500 for a full half hour, thereby hardly covering the budget required for most short films. The TV market can be lucrative in North America over a period of time. After network showings comes syndication, whether to TV stations or cable outlets. That's often in addition to other non-theatrical revenue. At the same time, publicity, trailer and stills will be required and will add to costs. Usually payment is on receipt of print for a short or on broadcast for a feature. Pre-emptions because of the latest war or assassination can cause havoc with scheduling and hence your income. It's not a market to expect large rewards, but it can supply extra earnings.

## Theatrical Distribution and Exhibition

### Shorts

It barely exists. Most major distributors either won't touch them or supply their own. They're too costly for the small revenue they produce. Payment is a flat payment per

week, and you go with the picture: if it bombs, you bomb, although you can be recycled. Colour gets a higher rate than black and white. At the same time, with price increases, exhibitors are looking for slightly fuller programs, and Famous will consider shorts of six to nineteen minutes in duration. If you can't get a distributor, show your film to them and if they want it, they'll send you back to get a distributor with a guaranteed exhibition contract forthcoming.

But it's costly too, because the print must be in 35mm gauge.

### Features

The distributor has already invested and he's received final edit, a person on the set during shooting, rewards for other company sidelines such as TV sales and music publishing or book printing; but he has a further job to do: sell your feature to the exhibitor and the public. For doing it he'll receive, via first recoupment from the box office, a distribution fee of 35% or 40%. And all his costs, for prints, advertising, classification or censor board appraisals, publicity tours, subtitling or dubbing, or re-editing will be charged to the producers: that is, they are deducted first out of the distributor-producer share of the box office gross, after he takes his distribution fee.

In addition to the above, he'll make your exhibition deal. There are four kinds of ways to divide box office income. Sometimes exhibitors will use any of these methods to bid on a property, but not in Canada.

A four wall deal means that the distributor rents the theatre outright, pays the exhibitor a fee and receives all box office revenue. This is a great gamble because launching costs for a number of prints and advertising are very high, and if you bomb you pay; no co-operative sharing of losses. Or, if the hype for the film is strong enough, he can have the exhibitor make a cash guarantee in advance. But if the picture bombs, and he wants in those theatres again, he'll refund the money. Such was the case with 'The Great Gatsby' last year. Another method is a straight cash sale for specific exhibition rights, whereby the exhibitor retains all box office earnings for a given time period. The exhibitor usually considers this method too risky.

The most common arrangement is the sliding scale percentage. The amount is usually based on comparative precedent: in previous arrangements, if the first three weeks divided distributor 70% – exhibitor 30%, they'll go with it again. As the run continues, the percentage alters in favour of the distributor. This arrangement is not arrived at via written contract; distributors and exhibitors make a verbal deal before the film opens, and then, based on the performance of the film at the box office, alter the terms continually. Very often, they're adjusting the terms long after the film has ceased playing.

There's more to the deal than dollars. First the chain must be chosen, or even both major chains used, depending on what theatres each has in a given city. A picture is placed according to theatre and that theatre's audience. At the same time, it's true that such placement can only insure good opening returns and not ultimate success, because word of mouth is still the maker or breaker of a film. But knowing the film and knowing a theatre's audience influences where it goes; certain theatres play skin flicks or cater to young audiences or are art houses. And in each city, there are 'equivalent' theatres: if the distributor asks for a particular house, the exhibitor can offer either the requested theatre or another which has a similar level of audience and income potential.

Some theatres are first run, some second or third. Placing a picture in a particular theatre in Toronto will automatically place it in specific theatres in Montreal and Vancouver and the other 'keys'. (Those cities that produce most of the Canadian box office revenue. There are about ten in Canada.) A foreign ad campaign is altered in Canada only

if it is way off-base. For example, in the U.S. black action pictures are promoted as such; here they are simply action pictures and will play action houses, not black audience theatres.

Very often, even though tie-booking (taking a group of pictures if you want a particular one) doesn't really exist in Canada, a form of it does. Most major distributors deal with each chain and supply films on a percentage basis. Universal deals 75% with Odeon, 25% with Famous. United Artists deals more with Odeon. Warners and Paramount deal almost exclusively with Famous in first-run situations.

#### **How the Money is Divided:**

In Canada most productions are financed by private funds and the CFDC. Rarely does a distributor participate as an investor. For our model we will assume that the producer has raised his own funds and has made a deal for a distributor to handle his picture. The distributor makes a 50/50 deal with the exhibitor.

Let's trace a week's income. A pretty good theatre will gross \$15,000 in a given week, not counting confection counter sales which go directly to the exhibitor. The 'house nut' or basic cost of upkeep and overhead for the theatre is deducted first: in this case \$3,000. Of the remaining \$12,000, the exhibitor gets \$6,000. The distributor takes his distribution fee of 35% or \$2,100. That leaves \$3,900, which would go to the producer. But the print, launching, censor board and other costs come out of this amount and must be paid first, so your original negative costs are covered only after running costs are paid.

Another possible distributor-producer deal can stipulate that the distributor will absorb all launching and running costs. In that case his fee will be from 50% to 70%, instead of 35%, because he is amortising, or spreading out, these costs over a long term.

Because your distributor has made a sliding scale deal with the exhibitor, other factors apply. If your film is very successful upon opening, you will receive a higher percentage, which means more money to you as producer. The object is to work hard to obtain a strong opening, and thus raise your income substantially.

Maintaining running costs and receiving only bits of income to pay your investors over a long period of time is obviously detrimental to any further projects you have planned. Unfortunately, with today's unstable feature market, even this option is rare; usually a film, if it doesn't succeed at first, is withdrawn completely and sold to TV or an attempt is made to generate income by hustling for foreign sales, where the return is very small.

That's show biz.

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