

CINEWORLD/CITY SCREEN MERGER INQUIRY

Summary of hearing with the Film Distributors' Association held on 24 May 2013

Background

1. We were told that the Film Distributors' Association (FDA) was a trade association for the promotion of the sector and delivering services on behalf of its members. Whilst it was not directly involved in film distribution, its 25 member companies accounted for around 97 per cent of cinema-going in the UK.
2. There were six major Hollywood film studios ('the studios') which together made up about two-thirds of the UK cinema-going marketplace and each of which operated as a distributor which distributed the films they produced. 'Independents' comprised all other distributors that were not directly affiliated with one of the studios but might nevertheless still be a large multi-national company distributing as many films a year as the studios, eg Entertainment One. There was also a long tail of small distributors that would distribute one, two or three films per year.

Changes in distribution

3. Studios used to enter into joint ventures to distribute films but now all operated and distributed separately in the UK. This recent change coincided with the consolidation of UK exhibitors. In the past the domestic market for the majors (ie the USA) would make up around 80 per cent of total revenue. However, as other countries developed a greater appetite for cinema-going the international market had generated the bulk of total revenue: now as much as 75 per cent might come from the international market.
4. We were told, however, that studios might jointly produce a film but would then agree to divide up the distribution and income of the film by geographic markets.
5. Until the mid 1980s it was practice for the studios to release films via particular exhibitors but now it was standard practice for films to be released to all available exhibitors (although there might be some exclusivity in relation to IMAX films).
6. The studios were fully integrated and therefore produced, marketed and distributed their own films in the vast majority of instances. However, independent film distributors were much less likely to be fully integrated and tended to acquire from sales agents or producers.
7. It was currently rare for the studios to pick up independently produced films for distribution.
8. Whilst Picturehouse programmed for other arts houses there was an alternative—a charity, the Independent Cinema Office (ICO), which was set up when the British Film Institute ceased to provide this service. Exhibitors could also draw on the services of independent programmers (typically veterans of the cinema industry).

The particulars of distribution

9. A given film would have an exclusive relationship for distribution within the UK that would normally include, in this order, rights for distribution for:
 - exhibition;
 - DVD/Blu-ray/online release;
 - pay television;
 - free-to-air television; and
 - various ancillary rights.
10. Studios typically had full distribution rights that were held in perpetuity whereas independents tended to negotiate for available distribution rights for a finite period.
11. It was general custom and practice that the 'window' between exhibition and DVD release would not typically be less than 17 weeks and four days but this was something which had caused difficulties for distributors looking to maximize both exhibition revenues and subsequent DVD sales during holiday periods. We were told that this timeline was strongly enforced by exhibitors, with anecdotal evidence that some exhibitors would refuse to exhibit a film where the proposed DVD release date was within this window.
12. There was a lot of competition between distributors to get their films on to the right screens, particularly for specialist films, with release dates often being delayed for long periods of time in order to obtain the screens desired. Distributors would look at benchmarking their film against similar, previous releases, eg same director/actor/genre to help make a prediction for where the film would perform best, ie which cinemas and what times.
13. As Picturehouse, an established UK-wide art house exhibition chain, also had a vertically integrated distribution operation, there were concerns that access to market might become more difficult for other distributors, leading to a lessening of choice.

Contracts for distribution

14. In terms of film distribution 'the UK' would include the United Kingdom, the Republic of Ireland, Gibraltar, Malta and the Falkland Islands. The legal maximum for a contract to exhibit a film was now two weeks but could be renewed as frequently as desirable by both parties and was legally bound to be done on a film-by-film basis.
15. A contract between a distributor and an exhibitor was in many cases as simple as an agreement reached by email, but would nevertheless have included:
 - the opening date (normally known to both at least six weeks in advance);
 - the number of screens;
 - days playing;
 - the geographic location in which the film would play; and

- revenue share agreed.
16. We were told that because the majority of exhibitors had moved to digital projection of films, it was increasingly common to agree only the opening date, number of screens and number of performances. Digitization was welcomed by exhibitors that had greater flexibility to maximize the use of their facilities. However, it was currently difficult to assess the benefit of digitization for distributors that continued to majority-fund the digitization process and had yet to achieve the potential savings.
 17. The UK film industry was buoyed by a strong market for cinema and an exhibitor would not wish to continue playing an unpopular film and particularly now, with digitization and so much supply, exhibitors could quickly replace films. [✂]
 18. The revenues for distributors in the UK were among the lowest in Europe. Distributors' revenue from ticket sales was typically 28 to 32 per cent on independent titles in the UK (after VAT), whereas in Europe generally it was closer to a 50/50 split between exhibitor and distributor.
 19. The revenue share increased for the exhibitor the longer a film was playing.