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**OCTOBER NEWSLETTER - '09**

## Film Distribution Concerns

In my book *“So You Wanna Be A Filmmaker”* we discuss in detail all the areas of distribution including distribution contracts and distribution deliverables. In this month’s newsletter, I am going to discuss another example of particular things to watch out for when negotiating these contracts. As always, remember that it is vital that you have an entertainment attorney on your team that understands these kinds of agreements so that your interests will be protected.

Distribution in the movie business is very complicated and there are many ways to slice and dice these contracts. It is important that you (and your attorneys) pay attention to the details, or you could negotiate a bad deal for yourself and your partners. One thing to keep in mind that the initial boiler plate contract from any distributor is always written in their favor. Many times I have seen filmmakers sign these contracts because they just want to get their film in distribution.

The most frustrating thing for a filmmaker is to see their product on the shelves in all the stores and when the results come in they only get a report, not a check. What is even more frustrating is when you see the gross receipts, followed by all the distribution fees, returns, discounts, distribution cost, manufacturing cost, marketing/advertising cost and return escrow. At that point, you understand how a movie can make a lot of money and the producers of the project are wondering “Where is the check for me?”

Most good distribution deals contain an advance, usually around 10 – 20% of the amount of revenue that the studio/distributor believes the film will produce. In most cases, producers will never see a dime over the advance because of all the hidden costs the film has to pay. This is one of the reasons why that Sundance deal may not be so hot a year later.

It is very important to work with a studio/distributor who will provide information for you other than just the royalty report, which is due 60 days after every quarter. They have the sales information on how the DVD/TV deals are performing on a day to day basis. This means how many items have been shipped sold and are on order from the current date. This information can help you in your planning with your investors/Bank, etc., because the roalty reports are usually 60 days behind.

You will want to develop a good working relationship with your distributor as they really are a partner of yours in your film career. You want to stay on top of them but not in an adversarial way. Stick to things like “help me understand this part of the contract” or “why are these moneys taken out” for example. It can be easier if an accountant or someone like that in your organization is the one calling and checking out all the terms of the agreement and the royalty statement. Always remember that the distribution companies deliberately make confusing contracts so its hard to understand them and they do this to make sure that they make money. It is your job to check up on them to make sure you get paid as the contract stipulates.

In the book **“So You Wanna Be A Filmmaker”** we go over in detail the different type of distribution deals. The royalty deal is usually the least complicated because you get paid a % based on the net sales of the film (Net sales from what the film did at the box office and how it perform in the stores and TV). The distribution fee is somewhere between 20 – 30% and is the best way to go if you don’t think the film will perform at a high level. The reason for that is you get paid even if the film only makes 1 dollar. You still need to go through the contract with a fine tooth comb to protect your investment. As we discuss in the book, it is about a career in filmmaking not just making a film. To do this you need to make sure everyone is in the best possible position to get their money back so you can continue on your path to make movies.

If you think the product has the potential for a long shelf life and the opportunity to produce long term income, then a distribution deal might be the way to go. A distribution deal is much more complicated and has a lot of moving parts. The studio/distributor takes their distribution fees, returns, discounts, manufacturing cost, marketing/advertising cost and return escrow first before any other money is paid out. At that point if there is any money left over, they will apply that towards your advance, and if you have earned more than your advance you will receive a check. The good news is most of your cost are at the beginning so after those fees are paid and your product continues to perform your royalty is around 30-45%, which is higher than a royalty deal. If the film does not perform well, however, you could be in the hole for a long time. In many cases the film will never gets out of the negative. That means no more money for you or your investors.

When you get a distribution offer, make sure you have a great entertainment attorney, who is looking out in your best interest, demanding a fair deal for both parties. Even when this happens you or someone in your organization needs to go through the contract and make sure you understand everything, because no one is going to protect your interest as much as someone in your own organization. Even when you secure a fair agreement with the distributor, make sure when you receive your royalty statement, check the contract and see if the studio/distributor has followed the guidelines. Do not assume the royalty statement is correct; take the time to go through it. If you are not capable have someone else do this, or otherwise you might not be receiving all the monies that are due to you. You also need to watch out for paragraphs in the contracts that contradict each

other. This happens a lot and when you are looking at your royalty statement and wondering why you are paying for this fee and that fee, you don't want to reference your own contract and find out they are allowed to do this. Spend the time up front before you sign the contract. Remember Murphy's Law, because in this business it will go wrong.

In the book "[So You Wanna Be A Filmmaker](#)", we go into detail in all these areas as well as many more to help you navigate these troubled waters. Solving the mysteries of distribution is one of the many reason that I wrote the book. I want to help you avoid making costly mistakes in this business and help you get off to a successful film career.

Don't forget to pickup a copy at [film3001.com](http://film3001.com), you won't regret it.

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If you have any questions about this newsletter or the book, send me an email at [info@film3001.com](mailto:info@film3001.com) and I'll get back to you as soon as I can.

Thanks,  
Dennis

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