

Independent's Day

By Jeffrey Klein



When John White, AVION's Publisher, suggested I write a story about life in IFE from the perspective of the independent, inflight film distributor, my first reaction was, "Is he kidding or what?" I mean, people regularly read this magazine. Even my competitors read this magazine, and how much do I want them to know about what I'm doing?

Not much.

So, basically, my job is to tell you all about my area of the industry without revealing anything. This should be fun.

There can't be any harm to begin by drawing a distinction between the "major" film distributors and the "independents." The majors are those distributors who have very large things in their logos: there's a roaring lion in one with threatening, imposing teeth; another contains a multi-turreted castle, flags flying; one floats a huge, gleaming shield among the clouds; while another depicts a snow-capped, star-encircled mountain. There's even an entire rotating planet in one of those logos. Then there's my favorite: the toga clad, galactically proportioned female who holds a gigantic, flaming torch above her indescribably enormous armpit.

The inflight film companies who have smaller things in their logos are the independents: Terry Steiner International has a lovely, delicate globe of stars; 'e-source' is in lower case letters; Entertainment In Motion's logo has a graceful, soaring feel to it; and Jaguar has a cat with sparkle in its green eyes.

Hey, this is not so tough. I've written more than half a page and I've said practically nothing. Reminds me of my first marriage. But, I digress.

Just what is an "independent" anyway? Far too long ago, when I was working for Bell & Howell's Dick Bertagna as the Manager of Film Procurement for their Avicom Division, I was booking airline titles almost exclusively from major distributors like Paramount, Fox, Columbia, Warner Bros., and the rest of those guys with their big logos. But, every once in a long while, I'd get a call from an independent theatrical film company whose name rang a distant bell and who was offering a film I knew little or nothing about. It generally lacked the extensive and very costly publicity the majors would support to make it a household (albeit temporary) word. Ever hear of Castle Hill or Analysis Releasing? Or Cinecom?

These were not the brand names, but oftentimes their product was just right for the marketplace.

An independent distributor is simply defined as a motion picture distributor not affiliated with one of the major studios. The films it distributes are independent productions which, technically, are TV or film productions that are not financed by a major and are generally lower budgeted than studio produced films. Majors also distribute independent productions; but, in that context, "independent" is used to indicate that the producer of the film is not on the studio's payroll. The major may have either covered all or part of the producer's costs in exchange for distribution rights in all or part of the world in what's called a "negative pickup" (a film that requires further funding or a distribution deal prior to the start of production or before the film is completed) or, simply, as an acquisition after the film is in the can.

Theatrically speaking, perhaps the primary difference between the majors and the independents are in their marketing styles. A major, ever required to support its huge overhead, is most frequently compelled to score a goal with each of its titles, while the independent exercises more of a boutique operation that identifies its target audiences more narrowly for their more specialized films or foreign language titles. At the same time, independents seem to maintain a ready flexibility that may otherwise disappear under a major's red tape and SOPs (standard operating procedures). The independent's profit margin is smaller in most cases, but so is its risk. (OK, so *BLAIR WITCH* is an exception.)

There was once a time when it seemed that the American majors were the only game in town...or, should I say, the world. When they distributed a picture, it was theirs in territories beyond North America. In those Avicom days and nights, I could usually book the same film for American Airlines, Delta, Olympic, and Air India from just one source, and it was usually from the Lion, the Mouse, the Fox, the Big Armpit or another inhabitant of the Land of the Large Logos. In the mid 80s, however, things began to change. Filmmakers were becoming very aware that overseas revenues were escalating, and they wanted some alternative entity to coordinate the international push of their films. There were just so many majors to do so; but, more significantly, the financial benefits of bifurcating rights (separating the US from international distribution) were becoming apparent.

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Under the usual worldwide distribution deal with one of the majors, profits from overseas were used to recoup the fees and costs associated with domestic distribution (and vice-versa); all revenues were cross-collateralized. That is, profits from the stronger territories flowed back to offset losses in the weaker ones. However, when an independent filmmaker sold US rights separately from overseas rights, this could not happen. To that end and in response to the filmmaker's increasing desire to have more control over the distribution process, there began a growth of international sales specialists. More frequently then, as far as the majors were concerned, the film pie was cut roughly in half.* But an unexpected bonus, as far as the filmmakers were concerned, was soon developed by people already in IFE—people who knew how to get another slice out of that pie of rights.

It was commonplace for the foreign specialist to sell rights to a film to one buyer in each territory. That buyer bought everything: theatrical rights, television rights, home video rights, and ancillary rights, among which were hidden the airline rights. For me, as an inflight buyer from Avicom, or for Trans Com's Mike Covell, this was not helpful. It was conceivable that, for each of an increasing number of independent films, we might need to contact almost as many suppliers as the airlines we had to book for. And that depended, naturally, on whether we'd be able to track down the supplier in each territory in the first place and afterwards try to work out a deal.

A lawyer might salivate at the thought of all those contract hours, but an accountant would dread it. Moreover, compared to the revenue the territorial buyer anticipates getting from theatrical exhibition, television, and home video sales, airline revenue may not draw his full attention.

The early independent inflight distributors were the first to recognize and convince the foreign sales specialist that the aggregate of rights he would accumulate by holding back the airlines from each of his territorial sales enabled him to reach a new and unanticipated source of revenue. And it was one that couldn't be cross-collateralized.

The inflight independents meet these international sales specialists at various film markets where buyers and sellers from every corner of the globe gather to trade in motion pictures. The most popular of these annual events where Jaguar, EIM, TSI and the rest of us "indies" bump into each other in the halls and restrooms are February's American Film Market in Los Angeles, the springtime market in Cannes (which coincides with the boisterous Cannes Film Festival), and MIFED, an autumn marketplace in chilly Milan. At these and other cinematic supermarkets, we meet producers, their representatives, and multi-lingual sales teams from all over the world pitching us to plunder our budgets with what they usually describe as "the perfect film" for our marketplace. "No graphic love scenes," they ask incredulously, "even if it's from very far away?" Or, "I've got this really great comedic thriller about a giant rat who tries to find the perfect cheese danish... No? But it's very funny!" "Midget wrestling, perhaps?" Sorry.

If it's possible, we try to see a film before we consider picking it up. It's often that we indies find ourselves sitting near one another in nearby screening rooms and vicinity theaters the sellers reserve. If it's a good airline picture, we'll all walk out feigning disinterest ... but checking our shoe laces to make sure they won't trip us up sprinting to the seller's office to make "the deal."

** (Today, most independent films are sold to US distributors for domestic rights only, while a foreign sales specialist gets it for the rest of the world, territory by territory.)*

That deal can take several forms: a straight distribution deal with the seller (the Licensor) who does not require a financial commitment from us (the Licensee) or with a Distribution Guarantee (AKA a Minimum Guarantee) which is a promise we make to pay a specific amount of money at a specific time to the Licensor to distribute his film, whether or not the film works for us. In either case, we profit by keeping a negotiated percentage of the sales we make before or after recouping our distribution costs (cassettes, shipping, and the like). Our favorite deal, and the rarest, is the Outright Sale. This deal does not refer to a true sale, but to the licensing of rights for a flat fee rather than on a percentage basis... and accounting statements and no sales reports to reduce our expenses.

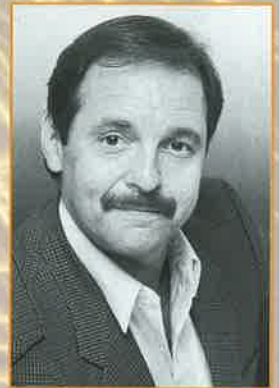
Buyers for the major studios also attend these events, and, while they might acquire all US rights for a film, including the airlines, the independents might compete for the international airline rights for that same title. This explains why more than one distributor can hold airline rights for the same picture (split rights), but, in theory, we never hold them for the same territories.

The average airline passenger represents a demographic profile that's generally older, more affluent and some-

what better educated than the average terrestrial moviegoer, and that's good news for the independent inflight distributor who excels at the kind of niche marketing and sales necessary to reach him. The continued growth of in-seat video systems welcomes the independent distributor with arms wide open by providing a more flexible format for his very independent wares.

There. Wasn't that fun? And I don't think I've said too much, have I?

Jeffrey "Jeff" Klein began his entertainment industry career as a Junior Accountant at Warner Bros. He later became Manager Non-Theatrical Sales with United Artists and then moved on to become Manager of Acquisitions for Avicom, International. In 1981, he founded the now Los Angeles-based firm Jaguar Distribution where he is President.



Jeff is a long-time active member of the WAEA and has served numerous terms on the WAEA Board of Directors.

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