

INTRODUCTION
— to the —
Motion
Picture
Industry

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**Motion
Picture
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**A Guide for
Filmmakers,
Students & Scholars**

**JOHN W.
Cones**

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Spokane, Washington**

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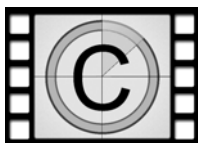
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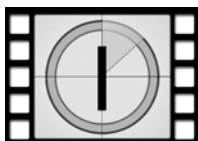
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Introduction

The film industry traces its roots back more than one hundred years, and, needless to say, it has an exciting and colorful history. For this reason many historians and other writers have exhaustively researched and reported on various aspects of the history of the film industry. Even a brief review of the book titles in this book's bibliography reveals a wide variety of perspectives on Hollywood, many of which are critical of the institution. In addition, because of the more recent creation, growth and popularity of the Internet and the World Wide Web, several Hollywood historians have created extensive Web sites devoted to the history of this institution. (See discussion under "Internet Community Devoted to Film" in Chapter 4.)

Because of such massive coverage of the historical aspects of the film industry, it serves no purpose to repeat or restate such information here. For that reason, this work offers a more contemporary snapshot of the Hollywood-based U.S. film industry. The objective is to make this book an authoritative and indispensable guide for anyone considering a future working in the film industry and a valuable resource for anyone already involved in this industry or simply interested in the industry in general.

My primary objective was to present a balanced overview of the American film industry. We will begin by considering the various phases in the life of a feature film (Chapter 1) and then study the structure of the U.S. film industry (Chapter 2). This is followed with an examination of the distribution and exhibition of films (Chapter 3) and exploration of the many film-industry support services (Chapter 4). Chapter 5 identifies and describes scores of individual jobs available in the film industry. Many of these professionals have organized at the industry level to protect their mutual interests (Chapter 6), and this review of film-industry groups is followed by an overview of some of the problems and issues the industry faces

(Chapter 7). The final chapter examines the economics of the industry (Chapter 8). The Appendix includes an essay that criticizes the centralized control of the film industry. Also included at the end of the book are endnotes, references, a glossary of film-industry terms and an index.

John W. Cones
Film and Entertainment Attorney
Los Angeles, California



HOLLYWOOD

PRODUCTION _____

DIRECTOR _____

CAMERA _____

DATE

SCENE

TAKE



Phases in the Life of a Motion Picture

Even though being on the set and participating in the production of a motion picture may sometimes appear to be a chaotic endeavor, feature films are produced through a fairly organized and well-established stages or phases. Different film-industry professionals may be more or less involved with each phase. The filmmaking process usually takes twelve to twenty-four months from the start of the acquisition/development phase to theatrical release, and even longer to generate profits for the distributor and other profit participants, including investors.

The actual production phase tends to be a short-term project lasting only a few months for most of those who work on the project. A few individuals, such as the producer and director, may be involved for a longer period of time. In addition, each film production may bring together different combinations of producers, director, cast, crews and other independent contractors or temporary employees. To the extent that problems occur – and they nearly always do – they must be resolved quickly, because time on a film production costs money.

Acquisition/Development

Acquisition and development are typically the first activities undertaken in producing a feature film. A film producer, or someone acting in the capacity of a producer, will acquire rights to an underlying concept or material and hire a screenwriter to draft a script based on that concept or material. This early acquisition of rights may occur as an outright purchase, through an option to acquire such rights, or by engaging a writer to create original literary material. If the literary

material is not in script form, a writer must be engaged to create a script. Alternatively, a producer may acquire the rights to a script written on speculation (i.e., a “spec” script).

Some of these acquisition and development activities may require significant expenditures of money, in which case some film financing activities may have to be undertaken in order to finance this acquisition/development stage.

The script must be sufficiently detailed to give the production company and others participating in the financing of a motion picture enough information to estimate the cost of producing the picture. Once the script is fairly complete, the producer will create or hire someone to create a production budget and begin packaging the project. Packaging is the attaching of creative elements to the project, such as director, lead actor and lead actress. Once again, these activities, particularly attaching elements, will cost money. Thus, some form of film finance, at least for the development phase, usually must be undertaken. In other instances, the production financing is sought before attaching some of the more important creative elements, because, again, obtaining a firm commitment from directors and actors often requires additional sums of money. (See discussion on “The Independent Film Producer’s Classic Catch-22” in Chapter 8.) Projects in development often do not become completed motion pictures.

The term “development,” in its broadest sense, begins with the acquisition of underlying rights and/or a script. The script is then further developed, elements are attached (packaging), and the fully developed script and attached elements (i.e., package) are marketed to the industry or outside investors for production financing.

Often, major studio/distributors or other production entities enter into agreements to furnish early funding for an independent producer, writer, director, or actor during the development of a motion picture project or projects. The major studios will typically fund at any one point in time the development costs of some 50 to 250 screenplays. But the vast majority of such projects are never approved for production. The major studio/distributors will seek to recoup their development costs from the budgets or revenues of the movies that are produced and distributed. In many instances the entities will also seek to recover such costs from the revenues generated by the independent films they release as part of the major studio/distributor’s overhead charges.

For years it was difficult to determine exactly how many film projects were in development at each studio at any given time. However, in 2006, an enterprising company began a publication whose purpose was to sell information about projects in development. *The Hollywood Creative Directory*, in conjunction with Baseline StudioSystems, now offers a directory on development titled *Studio Report: Film Development*. The directory includes an alphabetical listing of all in-development

.....

projects that have achieved a forward-moving milestone sometime in the previous five months. Other sections sort and cross-reference the information to highlight various aspects of the projects under the headings “spec screenplays sold” and “hot studio projects,” then cross-reference the information by studio, production company and genre. The publisher reports that every year the major film studios and financiers place more than two thousand new projects into feature-film development. Comprising spec scripts, pitches, remakes, sequels and all manner of intellectual property, each of these projects enters the pipeline ostensibly to be developed, produced and released as a major motion picture. Each newly acquired project competes with the roughly five thousand projects in various stages of development at any given time.¹ Of course, these numbers, as reported by Baseline, make the odds of actually producing a project under development at a studio an extreme long shot.

Such figures should also be of concern to any legitimate screenwriter, director, producer, or actor seeking a development deal at a studio, because it means that the chances of getting the project out of the studio as a film are quite slim. Thus, the effect of putting a film project into development at a major studio/distributor is, in most cases, simply to take it off the market. Some in the industry actually accuse the studios from time to time of intentionally acquiring rights to certain projects, just to eliminate the competition of a project that is similar to one already in development, without, of course, informing those tied to the doomed project.

The Film-Finance Phase

Many analysts and film-industry observers tend to skip over this important phase in the life of a film. A couple of reasons might explain this oversight: (1) most people who write about the film industry do not know very much about film finance; or (2) most writers writing about the film industry are biased in favor of the major studio/distributors who dominate the industry. Thus, the independent film sector is not considered important enough to write about. Such observers assume for purposes of their analysis that the financing is already there (i.e., being provided by the studio), and knowledge of film finance is not an important consideration for a filmmaker seeking a studio-financed deal. In addition, of course, the major studio/distributors do not make available many of the details regarding their financing schemes.

On the other hand, an independent producer seeking to move a film project forward, or to create opportunities for himself or herself, is sometimes forced to become somewhat entrepreneurial and spend a considerable amount of time and

energy seeking development and production financing, if not distribution financing. To the shock and surprise of most filmmakers (those whose next film is not being financed by a major studio), they will have to develop a certain level of expertise in the complex area of film finance and spend a considerable amount of time seeking that financing. Thus, film-industry observers, analysts, writers, seminar providers and even film schools that skip over this important topic will have slighted the largest segment of their potential reading audiences and/or students. (For the balance of the presentation relating to film finance, see "The Financing of Feature Films" in Chapter 8.)

Production of Motion Pictures

As already noted, the production phase of a motion picture is typically divided into three sub-stages: pre-production, principal photography and post-production. The leading film production centers in the U.S. are Los Angeles, New York, Chicago, Dallas, Orlando, Miami and Wilmington, North Carolina.² Also, an estimated 90 percent of the production budget for below-the-line expenses are spent on location.³

The Pre-Production Phase

If a film is successful at locating production financing, it will enter pre-production, which is a preparation phase for the actual filming or production of the film. At this stage, key elements are secured, casting takes place, equipment is rented, storyboards are drawn, commitments are sought for talent, the director and crew are hired, and contracts are finalized and signed. During this pre-production period, most all of the scheduling and planning is done (or finalized) for how and where the production will take place. This can be a very intense period for film producers, a time when they review every detail of the planned production so that principal photography will proceed as efficiently as possible. As noted earlier, delay on a film set costs money.

Principal Photography

The actual production or filming of a motion picture is called principal photography, and it is the most costly stage in the production of a motion picture. It can take from a few weeks to several months, depending on the scope and budget of the film, although the services of principal cast members may not be used during the entire period. Bad weather at locations, the illness of a cast or crew member, disputes with local authorities or labor unions, a director's or producer's decision to re-shoot scenes for artistic reasons, and other often unpredictable events can

seriously delay the scheduled completion of principal photography and substantially increase the film's costs.

Principal photography wraps when all of the scenes necessary to tell the story are shot. A second unit will pick up less critical shots that do not require the direct supervision of the director or participation of the principal talent. Occasionally, film scenes have to be re-shot after principal photography has wrapped, but producers try to avoid such situations, because re-shooting is generally more expensive. Once a motion picture reaches the principal photography stage, it usually will be completed.

Post-Production

Post-production follows principal photography. In this stage, the film is edited and synchronized with music and dialogue. Special effects may also be added. The motion-picture lab will take the original footage and conform it to match the edits made by an editor on a digital editing system. The soundtrack is added, and a release print is struck from the resulting negative. Then the negative is made available for sale to a distributor. The producers may also choose to submit the film to film festivals in order to obtain critical recognition and additional exposure, ultimately leading to a distribution deal. It is hoped that the distributor will promote and secure exhibition of the film in a variety of markets, including domestic and foreign theatrical, home video and DVD, pay-per-view, cable, satellite and broadcast television.

Production Schedule and Timetable

The following is a sample schedule of events and expenditures for a typical low-budget, independently produced feature film.

Dre-production: 8 weeks

Active pre-production commences with the successful funding of the project. Thereupon a skeletal staff of key personnel will begin preparing for production. The purpose is to organize and prepare for principal photography. About 20 percent of the budget is used during pre-production. Here typically are the things to be accomplished during this period:

- Complete casting
- Finalize script changes
- Crew allocation





Structure of the U.S. Film Industry

In some ways, the theatrical motion-picture industry in the United States has continually evolved during its more than one hundred years of existence; in other ways, not so much. Certainly technology has had a major impact on the business (e.g., the advent of sound, color, video and so forth). Many motion pictures have been produced by so-called independent producers, even though some of the production financing and distribution funds for such pictures were furnished by the major studio/distributors. But large studio/distributors have dominated the business almost from the beginning, and they continue to earn the lion's share of domestic box-office revenues each year. These companies, which now number a half dozen, are members of the Motion Picture Association of America (MPAA) and its international arm (MPA), the trade associations that represent their interests (see Chapter 6).

The U.S. motion-picture industry produces many of the feature films viewed in theaters by moviegoers around the world. Associated companies may also produce many recorded television programs, made-for-television movies, music videos and commercials. Some motion-picture and video companies produce films for more limited, or specialized, audiences. Among these films are the independently produced "art house" movies – the films getting a limited release. Also in this category are the documentaries that use film clips and interviews to chronicle actual events, as well as educational films ranging from "do-it-yourself" projects to exercise films or videos. In addition, the national film industry produces business, industrial, and government films that promote an organization's image, provide information on its activities or products, or aid in fundraising or worker training. All major metropolitan areas have local production houses that produce

many of these films and videos. Some of these films or videos are also short enough to be released to the public through the Internet, and this segment of the industry offers opportunities for aspiring filmmakers to develop their craft.

The main focus of this book, however, is on the film industry as it relates to feature-length films and documentaries. That part of the industry is primarily based in and around the Southern California area referred to as Hollywood and in New York City.¹

Six Vertical Levels

Although some other film-industry observers may use a three-² or four-phase³ analysis to explain the stages in the life of a motion picture, it seems more realistic to organize consideration of the film industry's various vertical levels into these six categories:

1. *Development*. The acquisition of rights, writing of a script, packaging (i.e., attaching elements to the script to create a package), and marketing of film concepts and scripts. Note that the term "development" has a broader meaning as it applies to the initial stage in the life of a film, and a more narrow meaning as it applies to the writing of a script.
2. *Finance*. Making arrangements to cover the costs associated with development, production, and distribution of one or more films. Note that each of these three stages in the life of a film can be and often is financed separately. (See "The Financing of Feature Films," Chapter 8.)
3. *Production*. The period during which the movie is actually created, including its three sub-stages: (a) pre-production; (b) principal photography; and (c) post-production.
4. *Distribution*. The process of marketing, selling, and/or licensing the completed movie in various markets to media companies that, in turn, make the movie available for viewing audiences.
5. *Theatrical Exhibition*. The operation of the theaters in which movies are screened.
6. *Exploitation in Other Media*. The sale, rental, or licensing of motion pictures in other media besides theatrical exhibition (e.g., DVD, television network, cable, satellite, television syndication, etc.).⁴

This analysis allows the important functions of development and finance to receive some well-deserved attention without burying these important activities within the production phase. It also places advertising within the context of

distribution, where it belongs, and recognizes that if exhibition is worthy of a separate status, so then should the activities associated with the exploitation of feature films in other media.

Vertical and Horizontal Integration of the Major Studio/Distributors

In addition to being vertically integrated, the current “big six” major studio/distributors are also horizontally integrated. In other words, in addition to being integrated in terms of development, finance, production, and distribution, they also typically own several different production companies or production arms, and several divisions or subsidiaries and/or affiliates that distribute films at various levels. The current major studio/distributors are:

1. *Paramount Pictures* (Los Angeles-based subsidiary of the Paramount Motion Pictures Group; owned by the New York-based Viacom). Viacom is one of the largest global media empires, with a financial interest in broadcast and cable television, radio, the Internet, book publishing, and film production and distribution. Some of this vertically integrated conglomerate’s highly recognizable properties include the CBS network, MTV, Infinity Broadcasting, Simon & Schuster, Blockbuster, and Paramount Pictures. Other film interests include Paramount Vantage/Paramount Classics, DreamWorks SKG (which distributes DreamWorks Animation films, a separate company spun-off by DreamWorks in 2004), and Go Fish Pictures.
2. *Sony Pictures Entertainment* (based on the studio lot in Culver City, California, but owned by Japan’s Sony Corporation). Sony’s film companies include Columbia/TriStar Motion Picture Group, Columbia Pictures, Sony Pictures Classics, Screen Gems, Triumph Films, Destination Films, Sony Pictures Animation, Metro-GoldwynMayer (MGM — co-owned by Comcast), United Artists, The Samuel Goldwyn Company, Orion Pictures (defunct, an in-name-only unit), American International Pictures (AIP) (defunct), and Filmways (defunct). Other interests include television, games shows, music, and electronics.
3. *Twentieth Century Fox* (based in Los Angeles; a subsidiary of the Fox Entertainment Group and owned by News Corporation). News Corporation has interests in television (Fox Broadcasting Company and National Geographic Channel), film (Twentieth Century Fox, Twentieth Century Fox Animation, Fox Searchlight Pictures, Fox Atomic, and Blue

Sky Studios), newspapers, magazines, book publishing, sports (Los Angeles Lakers), radio, interactive, and music.

4. *Universal Studios* (based in Universal City, California; a subsidiary of NBC Universal and owned by General Electric). Universal has interests in sports, music, games, interactive media, and telecommunications. Its film interests include United International Pictures (joint venture with Universal Studios), MTV Networks branded labels, MTV Films, Nickelodeon Movies, Republic Pictures, Focus Features, Rogue Pictures, and Working Title Films (based in London).
5. *The Walt Disney Company* (based in Burbank, California). Has holdings in publishing, broadcast and cable, movies, financial and retail, multimedia, music, theater and sports, theme parks and resorts. Its film interests include Walt Disney Pictures, Walt Disney Feature Animation, DisneyToon Studios, Pixar Animation Studios, Touchstone Pictures, Miramax Films, Hollywood Pictures, and Buena Vista Motion Pictures Group.
6. *Warner Bros. Pictures* (based in Burbank, California; a subsidiary of Warner Bros. Entertainment but owned by New York-based Time Warner). Time Warner is the largest media company in the world, the standard-bearer of synergy and vertical integration in the modern digital age. Its most recognized companies include CNN, Warner Bros., *Time*, *Sports Illustrated*, and AOL Instant Messaging. It also has interests in publishing, cable, radio, sports, television, Internet, theme parks, satellite, and magazines. Its other film interests include Warner Bros. Pictures, Warner Independent Pictures, Castle Rock Entertainment, New Line Cinema, HBO, HBO Films, and Picturehouse (co-owned by New Line Cinema).⁵

Major Studio/Distributor Dominance

One of the more striking and rather permanent characteristics of the Hollywood-based U.S. film industry is that it has been dominated by some six to eight so-called major studio/distributors during its one-hundred-year history. The exact number of these vertically integrated corporate conglomerates that are properly characterized as major studio/distributors has changed slightly from time to time. As noted above, and as of this writing, those entities are:

- Paramount Pictures
- Universal Studios

TABLE 2.1
TOP 10 DISTRIBUTORS

Rank	Distributor	Market Share	Total Gross	Movies Tracked	2006 Movies
1	Buena Vista (Disney)	17.7%	\$1,163,400,000	19	13
2	Columbia (Sony)	17.5%	\$1,146,000,000	21	17
3	Twentieth Century Fox	15.1%	\$ 994,100,000	19	15
4	Universal	10.8%	\$ 708,300,000	16	12
5	Paramount	10.2%	\$ 668,200,000	12	9
6	Warner Bros.	10.1%	\$ 664,600,000	18	12
7	Weinstein Co.	3.3%	\$ 217,000,000	11	4
8	Lionsgate	3.2%	\$ 213,200,000	15	13
9	New Line	2.5%	\$ 162,200,000	9	6
10	Fox Searchlight	2.1%	\$ 140,100,000	11	8
11	Focus Features	1.6%	\$ 105, 600,000	7	5
12	MGM/UA	.9%	\$ 57, 500,000	3	3

- Sony Pictures Entertainment (Columbia/TriStar)
- Walt Disney Pictures
- Twentieth Century Fox
- Warner Bros.

As mentioned above, this list of the major studio/distributors has changed only slightly over the years. Other film companies considered major studio/distributors at one time or another include Columbia, MGM, United Artists, MGM/UA, DreamWorks, Miramax, and Orion.

The most important factor in determining which entity is a so-called major studio/distributor (sometimes simply referred to as a major studio) is its market share in the domestic theatrical market. As of September 10, 2006, the top twelve U.S. film companies with respect to domestic theatrical market share are shown in Table 2.1. The overall domestic box-office gross through September 2006 was \$6.565 billion. The “total gross” figure is the domestic box-office gross. The movies tracked for purposes of creating this chart include those movies released in the prior year that were still generating box office in 2006. The “2006 Movies” are those released in 2006.⁶

Note that the top six of these market-share rankings are the major studio/distributors, and the market share for each of those entities is in double digits. No other companies are in double digits. In fact, a significant drop-off in market share occurs between the last of the major studio/distributors (sixth-ranked Warner Bros. at 10.1 percent) and the best-performing independent (seventh-ranked The Weinstein Company at 3.3 percent). The top six companies, considered together in this listing, account for 81.4 percent of the domestic box-office earnings to that point in the year 2006.

On the other hand, the ninth-ranked company in this market-share ranking, New Line Cinema, is a unit of Time Warner, thus under common ownership with Warner Bros. The tenth-ranked company, Fox Searchlight Pictures, was founded in 1994 as the independent arm of Twentieth Century Fox. It has its own marketing and distribution operations; however, international distribution is handled by Twentieth Century Fox. The eleventh-ranked company, Focus Features, is a special film unit of Universal Pictures, and MGM/UA is now affiliated with Sony. Only seventh-ranked The Weinstein Company and eighth-ranked Lionsgate are truly independent film companies (i.e., not a major studio/distributor, subsidiary, or affiliate). Also, The Weinstein Company was only recently formed after its management severed ties with Disney, which several years earlier had purchased the former independent company Miramax (previously owned by the Weinstein brothers – Bob and Harvey).

Thus, if the total percentage of market share is expressed so as to include the major studio/distributors, along with their subsidiaries and affiliates, the figure was about 88.5 percent at that point in 2006, much closer to the 92 percent traditionally garnered by the major studio/distributors, subsidiaries, and affiliates. To illustrate that market share among film companies does change from time to time, note that the domestic box office total for 2007 was \$9.62 billion, the best year on record. The figure represents a 5% gain over 2006 and a 4% increase over the previous highest year of 2002. Admissions, however, were up only 1% over 2006 and were down when compared to 2002.

In another first, all six of the major studio/distributors reached the \$1 billion mark at the domestic box office. Market share among the majors is shown in the Table 2.2.

The foreign box office for 2007 also reached record levels. Seven tentpole pictures combined for nearly \$3.5 billion and the six major studio distributors saw their offshore grosses jump 9% to \$9.4 billion.

Among the studio specialty divisions, total box office receipts for 2007 were down 4% from 2006. The top 15 specialty units and independent distributors,

TABLE 2.2
BOX OFFICE RECEIPTS IN 2006 AND 2007

Rank	Studio	2007 Box Office	Change from 2006
1	Paramount	\$1.49 billion	up 55%
2	Warner Bros.	\$1.42 billion	up 34%
3	Disney	\$1.36 billion	down 9%
4	Sony	\$1.24 billion	down 27%
5	Universal	\$1.1 billion	up 38%
6	20th Century Fox	\$1.01 billion	down 28%
7	New Line	\$485 million	up 93%
8	Lionsgate	\$368 million	up 11%
9	MGM	\$363 million	up 122%

Source: "2007 Films Hit Record Box Office," Pamela McClintock, Variety, January 2, 2008

including MGM and the Weinstein Company, posted domestic box office receipts of \$1.03 billion, down slightly from the \$1.04 billion in 2006.

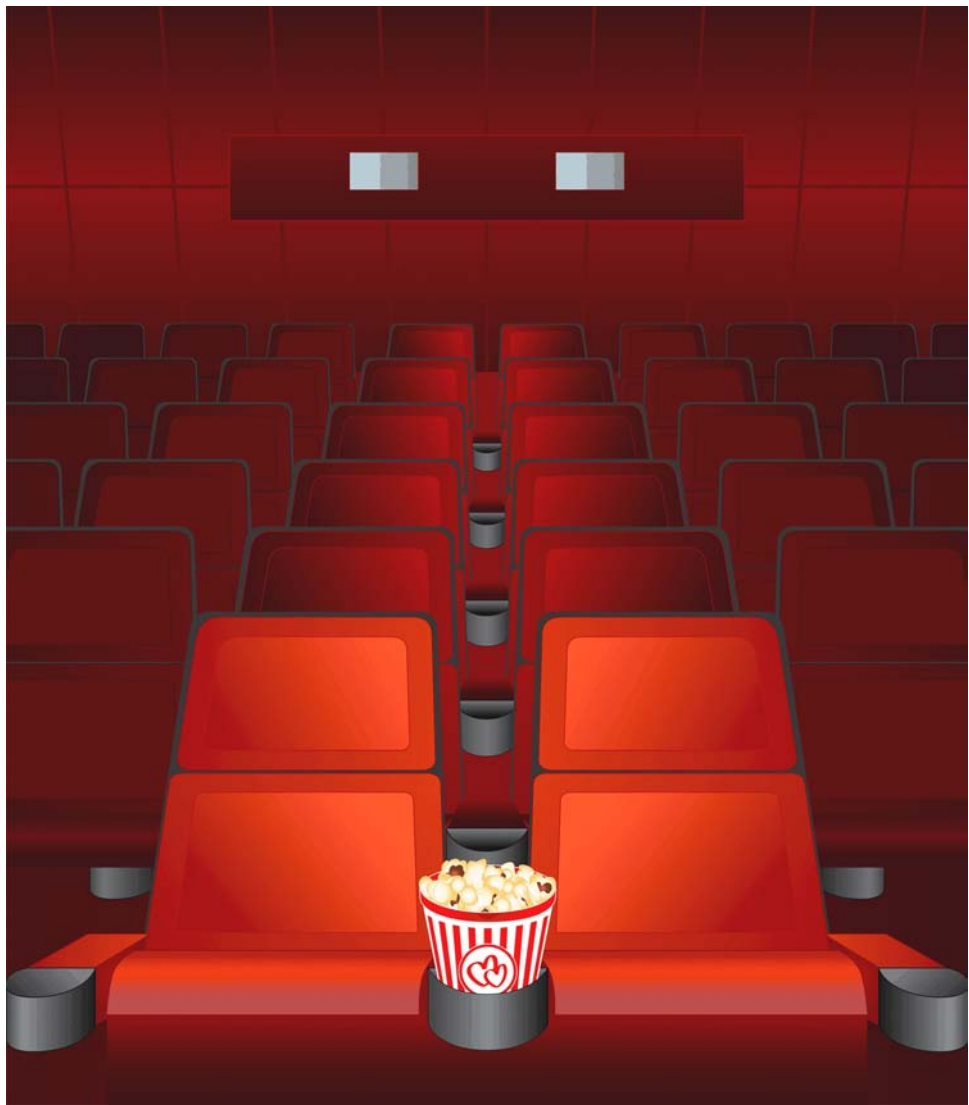
All of the major studio/distributors are vertically integrated in the sense that they are actively involved or have ownership interests in all levels of the core industry: development, finance, production, distribution, exhibition, and exploitation in other media besides theatrical. In addition, they are horizontally integrated in that they are part of huge corporate conglomerates that have interests in television, cable, publishing, theme parks, and other related businesses. Furthermore, and as noted above, in recent years most of these major studio/distributors have acquired or merged with other production companies and/or distribution entities that were previously considered "independent," and now these subsidiaries are specialty producers and distributors, financially and otherwise tied to the parent major studio/distributor. These smaller subsidiary or affiliate companies tend to specialize in the production of the kind of films that independents make. They tend to be smaller-budgeted pictures targeted for more narrowly defined audiences than the usual releases of the major studio/distributors. Critics of concentration of ownership point out that these subsidiaries and affiliate companies are another way for the major studio/distributors to take away market share and film revenues from the independent sector of the industry.

With the increasing popularity and worldwide availability of cable television, digital video recorders, computer graphics, and editing software, along with the Internet, many small-and medium-sized independent filmmaking companies (independent producers) have new opportunities to help fill what is perceived as a growing demand for filmed product. There has always been an independent sector of the film industry. In fact, the current majors were, at the very beginning of the U.S. film industry, independents themselves. But because of the business practices and resulting dominance of the major studio/distributors, the survival of the independent producers has always been an ongoing struggle. Many critics argue that these Hollywood-based major studio/distributors achieved and have maintained their control over the film industry for nearly one hundred years through the use of unfair, anti-competitive, and in some cases illegal business practices.⁷

Major Studio/Distributor Subsidiary/Affiliates

As noted above, in recent decades the major studio/distributors have also acquired interests in various well-established and formerly independent production companies, some of which may have previously been considered mini-majors. Some of these subsidiary/affiliates were also listed above in the market-share list of major studio/distributors. In addition, the major studio/distributors have formed some entirely new subsidiary companies. Many of these subsidiary/affiliates are listed below with their affiliated major studio in parentheses.

- Buena Vista Home Entertainment (Disney)
- Castle Rock Entertainment (Warner Bros.)
- DreamWorks SKG (Paramount)
- Fine Line Features (Warner Bros.)
- Focus Features (Universal)
- Fox Atomic (Twentieth Century Fox)
- Fox Searchlight (Twentieth Century Fox)
- Hanna-Barbera Cartoons (Warner Bros.)
- Hollywood Pictures (Disney)
- MGM/UA (Sony)
- Miramax Films (Disney)
- New Line Cinema (Warner Bros.)
- Paramount Classics (Paramount)
- Paramount Home Entertainment
- Paramount Vantage





Distribution and Exhibition of Films

In recent years, U.S. theatrical exhibition has generated a declining percentage of the total income earned by most pictures, largely because of the increasing importance of cable and pay television, home video, and other ancillary markets. Nevertheless, the total revenues generated in the U.S. theatrical market are still substantial and are likely to account for a large percentage of revenues for a particular film. In addition, performance in the U.S. theatrical market also generally has a profound effect on the value of the picture in other media and markets.

Distribution of Motion Pictures

Motion pictures may be distributed to theatrical markets through branch offices. Theatrical distribution requires the commitment of substantial funds in addition to a motion picture's negative cost. The distributor must arrange financing and personnel to: (a) create the motion picture's advertising campaign and distribution plan; (b) disseminate advertising, publicity, and promotional material by means of magazines, newspapers, trailers ("coming attractions"), and television; (c) duplicate and distribute prints of the motion picture; (d) "book" the motion picture into theaters; and (e) collect from exhibitors the distributor's share of the box-office receipts from the motion picture. (For a more detailed analysis of the functions of feature-film distributors, see below.) A distributor must carefully monitor the theaters to which it licenses its picture to ensure that the exhibitor keeps only the amounts to which it is entitled by contract and promptly pays all amounts due to the distributor. Distributors will sometimes reach negotiated settlements with exhibitors

as to the amounts to be paid and such settlements may relate to amounts due for several pictures.¹

For a picture's initial theatrical release, a U.S. exhibitor will usually pay a distributor a percentage of box-office receipts, which is based on the expected appeal of the motion picture and the stature of the distributor. The negotiated percentage of box-office receipts remitted to the distributor is generally known as "film rentals" and is typically characterized in distribution agreements as a portion of the distributor's "gross receipts." Such film rentals customarily diminish during the course of a picture's theatrical run. Typically, the distributor's share of total box-office receipts over the entire initial theatrical release period will average between 25 and 60 percent, depending on the distributor. The exhibitor will retain the remaining 75 to 40 percent.² For this reason, it may be misleading to use 50 percent as a rule of thumb in preparing financial projections, because the average ratio of film rentals to box-office gross is closer to 43 percent. The exhibitor, on the other hand, will retain all receipts from the sale of food and drinks at the theater (concessions). Occasionally an exhibitor will pay the distributor a flat fee or percentage of box-office receipts against a guaranteed amount. Pay-television and new home entertainment equipment (such as video games, computers, and video cassette players) offer a more general competitive alternative to motion picture theatrical exhibition of feature films.

Major film distributors are often granted the right to license exhibition of a film in perpetuity and normally have the responsibility for advertising and supplying prints and other materials to the exhibitors. Generally, the distributor retains a distribution fee from its gross receipts, and averages about 33 percent.³ The distributor then recoups the costs incurred in distributing the film. The principal costs incurred are advertising of the motion picture and duplicating the negative into prints for actual exhibition. The distribution deal usually stipulates that the parties providing the financing are then entitled to recover the cost of producing the film. However, bank-financed productions will typically require that the bank be paid back its principal, interest, and fees before the film is actually released (i.e., upon delivery to the distributor).

Expenses incurred in distributing a motion picture are substantial and vary depending on many factors. These factors include the initial response by the public to the motion picture, the nature of its advertising campaign, the pattern of its release (e.g., the number of theaters booked and the length of time that a motion picture is in release). The amount film distributors spend on prints and advertising is generally left to the discretion of the distributor. In some instances, however, the producer may negotiate minimum expenditures or ceilings on such items.

Foreign Theatrical Distribution

While the value of the foreign theatrical market varies because of currency fluctuations and political conditions in the world or specific territories, it continues to serve as a significant source of revenue for theatrical distribution. In recent years foreign theatrical revenues have often accounted for more than 50 percent of a domestically produced U.S. film's gross theatrical revenue. Because this market is comprised of many countries and, in some cases, requires the making of foreign-language versions, the distribution pattern stretches over a longer period of time than does exploitation of a film in the U.S. theatrical market. Major studio/distributors usually distribute motion pictures in foreign countries through local entities. These entities will generally be either wholly owned by the distributor, a joint venture between the distributor and another motion-picture company, or an independent agent or sub-distributor. Such local entities may also distribute motion pictures of other producers, including other major studios. Film rental agreements with foreign exhibitors take a number of different forms, but they typically require payment to the distributor of a fixed percentage of box-office receipts or a flat amount. Risks associated with foreign distribution include fluctuations in currency values and government restrictions or quotas on the percentage of receipts that may be paid to the distributor, the remittance of funds to the United States, and the importation of motion pictures into a foreign country.

Markets

There are multiple markets and media from which a producer of a completed motion picture can seek to generate revenue. As already noted, these include domestic and foreign theatrical; the home-video market; foreign and domestic pay, cable, and syndicated television; network television; the newly emerging Internet/broadband audience; and ancillary distribution to airlines, military services, educational institutions, and other non-theatrical venues.

These markets and media may be handled by a single distributor, or producers may elect to seek separate distributors who specialize in various markets and media. In the event that sufficient funding is raised, a producer may also seek to arrange for a so-called Rent-a-Distributor deal or even engage in self-distribution. In situations other than self-distribution, producers may choose to approach such prospective distributors with a completed or nearly completed film, thus potentially maximizing the producer's bargaining position with respect to negotiating the terms of distribution arrangements (assuming the movie is a quality motion picture).

The terms of agreement between feature-film producers and distributors vary widely depending on the perceived potential of a film and the relative bargaining strength of the parties. A distributor will customarily advance funds to the

production company for the right to distribute its film and will agree to expend a minimum amount for prints and advertising. An advance or guarantee may range from a token fee to an amount in excess of the entire production cost. The distributor ordinarily requires that all its advances and expenses be recouped before percentage participation monies are returned to the production company and/or its investors. The advertising costs, plus the costs of publicity, print purchases, shipping, accounting, and collecting are customarily deducted, along with a distribution fee, by the film distributor from the distributor's gross receipts. The costs incurred by a distributor to market and promote a film may be equal to, or often exceed, the cost of production.

Motion-picture revenue is derived from the worldwide licensing of a motion picture in some or all of the following media: (a) theatrical exhibition; (b) non-theatrical exhibition (viewing in airplanes, hotels, military bases, and other facilities); (c) pay-television systems for delivery to television receivers by means of cable, over-the-air, and satellite delivery systems; (d) commercial television networks; (e) local commercial television stations; and (f) reproduction onto video cassettes and DVDs for home-video use. There are also several new technologies, including Direct Broadcast Satellite, Video on Demand (VOD), Near Video On Demand (NVOD), and the Internet that may allow a film to generate additional revenues. Revenue may also be derived from licensing "ancillary rights" to a motion picture for the creation of books, published music, soundtrack albums, and merchandise. The rights to a motion picture are not always sold in all of these markets or media.

The timing of revenues received from the various sources varies from film to film. Typically, 90 percent of theatrical receipts from U.S. distribution are received in the first twelve months after a film is first exhibited, and 10 percent are received in the second twelve months. Theatrical receipts from the rest of the world are typically received as follows: 40 percent in the first year following initial theatrical release, 50 percent in the second year, and 10 percent in the third year. For home videos, 80 percent of royalties are typically received in the first year following theatrical release, with 20 percent coming in later years. Pay and cable license fees typically generate 65 percent in the third year, 25 percent in the fourth year, and 10 percent in the fifth year following theatrical release. The majority of syndicated domestic television receipts are typically received in the fourth, fifth, and sixth years after theatrical release if there are no network television licenses, and the sixth, seventh, and eighth years if there are network licenses.

The markets for film products have undergone rapid changes due to technological and other innovations. As a consequence, the sources of revenues

FIGURE 3.1
TYPICAL FEATURE-FILM RELEASE SEQUENCE

	Years of Movie Release						
	1	2	3	4	5	6	7
Domestic Theatrical	» » » »						
Pay-Per-View	» » » »						
Foreign Theatrical	» » » »	» » » »					
Home Video	» » » »	» » » »	» » » »	» » » »			
Pay Television						□ □ □ □	□ □ □ □
Foreign Television*		□ □ □ □	□ □ □ □	□ □ □ □	□ □ □ □	□ □ □ □	
Network Television				□ □ □ □	□ □ □ □		
Television Syndication					□ □ □ □	□ □ □ □	
LEGEND:	» » » » Windows with open-ended time periods						
	□ □ □ □ Windows with exclusive runs						
* The window typically used for airing classic pictures on pay television							

available have changed, and the relative importance of the various markets as well as the timing of such revenues has also changed and can be expected to continue to change.

Feature-Film Release Sequence

The release sequence is an important part of distribution strategy. A motion picture’s release sequence is partly a function of the marketplace and to some extent the prerogative of individual distributors. Thus, release sequences change from time to time, as new delivery technology is introduced, and may vary with specific films, as distributors experiment with new schemes. As a result of the different time periods during which movies are exhibited and/or viewed in various markets, the revenue stream generated by a given movie may typically continue for seven years or more.

In the sample release sequence chart shown in Figure 3.1, all but home video/DVD, network television, the presentation of classic pictures on pay television, and television syndication are completed by the end of year two. Thus, the greater percentage of the revenue generated by a movie following such a release sequence comes during and immediately after the earlier windows, assuming payments are made promptly (i.e., distributor collection activities are successful). Also, the percentages of revenue generated by each market will vary from year to year. In recent years foreign theatrical and DVD rentals have yielded an increasing percentage of a film’s earnings relative to domestic theatrical. This sample release





Film-Industry Support Services

Many specialized businesses have sprung up over the years in support of the motion-picture industry. In addition to providing specialized services essential to the development, production, and/or distribution of feature-length motion pictures and documentaries, these businesses may also be involved in television shows, television commercials, infomercials, government and industrial films, educational films, music videos, the music business, and live stage plays. Businesses and services offering support for film projects (even if, in many cases, the providing of film production services is not their primary business) exist in many cities around the country and from time to time get involved in film development, production, or distribution-related activities.

It is difficult to rank such businesses in order of their importance to films generally, because their value and importance varies according to the kind of film being produced. As an example, a film requiring significant special effects will rely heavily on a special-effects house. Similarly, a lender-financed film will almost always require the services of a completion guarantor, whereas an investor-financed film typically will not. In any case, a selection of these film-industry support businesses are described below in approximately the order in which their services are typically required in the development, production, and/or distribution of a given feature or documentary film. Not all of the businesses that contribute from time to time to the production of a feature film are listed here. But industry directories such as the *Creative Handbook* published annually by GMM, Inc. and myShowBizDirectory.com can provide a more expansive listing.

Film Schools

Several Web sites furnish lists of film schools or links to film-school Web sites. One in particular, www.FilmSchools.com, provides an online directory of film schools. The site lists about 109 so-called film schools in the United States, along with 49 international schools, although no distinction is made between the four-year degree programs, the two-year community college programs, or film institutes. The site also lists sponsored links along with online film programs. In addition, it includes a section titled "Film School Guidance" with limited essays related to topics like Careers, Jobs & Salaries in Film, Film Career Specialties, Film Career Statistics, Choosing a Film School, Film School Accreditation, Degrees in Film, Film School Continuing Education, Top 10 Qualities of a Great Filmmaker, Film Organizations, and Resources for Film School Students. In some instances the material is dated (for example, in listing seven major studio/distributors instead of the current six). The filmschool.com site also includes some information relating to scholarships and film festivals, along with articles, interviews, and a glossary. It also offers a separate list of some twenty-two so-called nontraditional film schools and seminars.

At the Library of Annotated Film Schools (LOAFS), film students review schools and share their experiences (www.filmaker.com). LOAFS raises the question of whether it is a worthwhile investment to spend tens of thousands of dollars on a film-school education or whether it is better to take a shorter course and just make a film. Of course, this is an important question, but neither LOAFS, the film schools, nor the shorter courses collect comprehensive data on how film-school graduates fare in the marketplace over time.

The International Cinematographers Guild (www.cameraguild.com) lists some thirty-seven film schools with links to the Web sites for those schools. A number of other Web sites purporting to list film schools or offer links to film schools are actually sponsored sites in the sense that the only schools listed are those choosing to pay a fee for the listing. Those Web sites typically have fewer film schools listed.

Another Web site, www.MusicFilmSchools.com, lists twenty-two film schools in the United States, making the claim that their list represents "some of the most respected film schools in America." But the list doesn't include the film schools at the University of Southern California, the University of California at Los Angeles, New York University and the University of Texas at Austin, which experts consider to be four of the best schools. Prospective film students seeking information relating to film schools must read carefully and critically all material posted on the Internet regarding institutions being promoted.

.....

An international association of film and television schools exists. It is called CILECT (Centre International de Liaison des Ecoles de Cinema et de Television), and it is based in Brussels, Belgium. CILECT has member schools in about fifty-three countries, but only fourteen of these schools are in the United States. As with most of the film schools in the United States, the major focus of the CILECT association is on the teaching of creative aspects of film, television video, and digital image production. Most of the schools are not set up to help students who wish to become executives at major studio/distributors or independent production companies.

At least two books are available that specifically examine film schools and two more in which filmmakers talk about film schools and their careers. *Film School Confidential: The Insider's Guide to Film Schools*, by Karin Kelly and Tom Edgar, presents a detailed guide to university film programs that offer MFAs in film production. The book serves as a guide to the country's more popular graduate film programs, as a general instruction manual on choosing a film school, and a guide to how to get the most out of the film-school experience. An affiliated Web site appears at www.avid.com and allows people who attended the schools to add their own comments. The Web site (sponsored by the digital media company Avid) seeks to enable past and present film students to help future film students make important decisions. The Web site contains both portions of the book and Web-only additions, such as a hyperlinked listing of MFA film programs. And as the information in the book ages, updated information is supposedly posted at the Web site.

Another similar Web site for film students is located at www.studentfilmmakers.com. The site is affiliated with *Student Filmmaker* magazine, contains film and video news updates, a directory of film festivals and online contests, discussion forums, a classified section, information on workshops, and an extensive listing of film schools with Web links and e-mail addresses.

Another book written specifically about U.S. film schools is Ernest Pinoff's *Complete Guide to American Film Schools and Cinema and Television Courses*, which was published in 1994. Unfortunately this edition has not been updated.

Preparing for a Career in Filmmaking

Any individual thinking about becoming a filmmaker is confronted with an important question: "What is the best way to prepare for a career as a filmmaker?" Even before addressing that question, however, there is the even more important question that must be answered and that relates to whether becoming a filmmaker is likely to achieve the individual's life objectives. For example, two of the most disturbing questions about film schools that no one seems to have an answer for are: (1) How many students graduate from U.S. film schools each year? and (2) How many of those film-school graduates actually end up making a living in the film

industry? Some individual film schools may offer limited information relating to these questions for their own graduates, but there does not appear to be any organization — such as an association of film schools — that is interested in collecting the data for an overview, so that prospective film students will have better information on which to base their decision.

Considerations relating to the film industry's bigger picture — whether the industry is turning out too many film-school graduates every year, whether the industry is producing too many films every year, business and legal aspects of the film industry, film finance and distribution — are topics that seem to escape the attention of these more creative and technically oriented academic institutions. Other relevant courses that may need to be added to film-school curricula include public speaking for filmmakers, ethics for filmmakers, and everyday law. As a result of such omissions, the vast majority of film-school graduates may not only be entering an overly competitive industry, but they may not be armed with much of the information that will actually help them survive, much less prosper. After all, of what value is a film-school education if the marketplace is so saturated with film-school graduates and filmed product that it is highly unlikely for all but a very small percentage of the latest film-school graduates to find employment in the field or to be able to carve out their own film-related business? If, for example, it turns out that 95 percent of film-school graduates do not get hired by existing companies in the film industry and have to strike out on their own, start up their own film-related company, and seek funding from investors (i.e., become independent filmmakers), will they be adequately prepared for such challenges, based on the current curricula of most film schools? Do film schools have any responsibility for preparing their film students for what they are most likely to face in the real world, or is it the mission of the film schools to prepare their students for an unlikely scenario?

Again, in his *Filmmaker* article, "Indie Film Is Dead," producer Ted Hope takes a rather dim view of film-school education:

Film schools produce directors and not producers. Conspiracy theories, as comforting as they are, can stretch only so far, but it is curious how embraced and weaved into the industry the film schools are, yet how limited their curriculum is. By ignoring the business aspects of an art form driven by commerce and promoting "auteurs" and "masters of light," the film schools assure that there is a constant and overabundant supply of lambs trotting towards the slaughterhouse.¹

Unpaid Internships

In fact, nearly everyone agrees that most segments of the film industry are highly competitive. They are so competitive that one of the most common pieces of





Jobs in the Film Industry

Creating and moving a motion picture through its several phases typically requires the work and cooperation of hundreds of people. It is a collaborative endeavor. Each individual makes a unique contribution to the process. A brief summary of most of the job descriptions for people involved in one aspect of moviemaking or another is presented here. This job-description presentation, however, is unique in that it is much broader in scope than the traditional “production-only” job-description approach seen in most literature. In addition, it represents a merging of descriptions from numerous sources.

Jobs in the film industry are most commonly classified according to three particular phases of filmmaking (in this instance meaning “production”): pre-production, principal photography, and post-production). Unfortunately, that represents a very narrow and somewhat misleading view of the filmmaking process, inasmuch as it only relates to production. As an example of this more narrow view, the U.S. Department of Labor considers “motion picture industry jobs” to be only those relating to “producing” motion pictures (the more traditional approach mentioned above).¹ Such a narrow view does not consider the important and essential activities related to the acquisition of rights, the development phase, or film finance. In addition, the U.S. Labor Department job categories do not include entertainers or jobs involved in the distribution and projection of films in theaters. Those, in turn, are categorized by the government as amusement and recreation-industry jobs. Furthermore, jobs relating to developing, printing, and preparing film are included, for the government’s classification purposes, in the photofinishing industry or photographic industry. Thus, by merely looking at the Labor Department’s film-industry job descriptions, readers get a very limited

understanding of who does what with respect to the entire life of a motion picture and what jobs may be available. This presentation seeks to go well beyond that perspective.

For purposes of this discussion, all jobs related to the acquisition, development, financing, production, distribution, and exhibition of motion pictures are included and are thus considered part of the "film industry." By providing a more comprehensive overview of the jobs involved in creating and exploiting a film, a reader can gain a more realistic picture of who needs to be on the film team at one point or another. By extension, those who may be interested in entering the film industry will have a better idea as to the possible career paths they might follow.

Development Phase Jobs

Before a film moves into the production phase, it begins as a movie concept and must be developed into a script. In theory, anyone can pitch a movie concept to a studio executive or an independent producer, but often an agent representing an actor, writer, or director, or even a pitching consultant, will have a better opportunity (i.e., greater access to someone working at the studio who can become an advocate on behalf of a project or who can actually green-light it, or get it approved, for production financing). The following jobs are typically involved with the development phase of a motion picture.

Creator. The writer or other creative force behind a movie or group of characters. A film's creator may or may not be a screenwriter. A writer may draft a script on "spec," hoping that he or she will be able to market the script to a production entity for production, or may be hired by a producer or others to write a script based on a concept created by someone other than the writer.

Executive Producer. A producer not involved in any of the technical aspects of film production but who is still responsible for the overall production. Typically, executive producers are more involved in film finance along with business affairs and legal matters. According to PGA credit guidelines, an executive producer is someone who makes a significant contribution to the motion picture and who either secures an essential and proportionately significant part (no less than 25 percent) of the financing for the motion picture, and/or makes a significant contribution to the development of the literary property, typically including acquisition of the underlying rights to the material on which the motion picture is based. The

title or screen credit of executive producer is sometimes retained by a distributor who finances or expedites the financing of a motion picture.

Producer. One of the individuals who may work on a film from beginning to end and be involved in every phase. Often the producer is (or is one of the) moving forces behind a particular motion-picture project – the person who plans, organizes, and coordinates the production of the motion picture. These individuals research material, look for ideas that they believe can be turned into film projects, approve the development of ideas, acquire the underlying rights, write and/or arrange for scripts to be written or select scripts for option or purchase, package the film project (i.e., attach elements), hire key above-the-line personnel, and often become involved in the financing and distribution of the film project.

Co-Producer. A producer who performs a substantial portion of a creative producing function, or who is primarily responsible for one or more managerial producing functions. A co-producer has less responsibility than a producer for the completion of a project. Note that if a project has more than one producer, that does not mean that they are co-producers in the technical sense of the term. According to the PGA, the co-producer reports directly to the individual producer(s) and is primarily responsible for the logistics of the production, from pre-production through completion of production. Under the PGA scheme, all department heads report directly to the co-producer. On the other hand, if the film is not being produced pursuant to PGA rules, the co-producer may simply be one of two or more producers whose duties or contributions are not as significant as the other(s).

Literary Agent. Represents the interests of writers of books, articles, and scripts. This person seeks to get such material optioned or acquired for development or production and may be involved in the negotiations and the drafting of a written agreement, as between the author or owner and a producer/production company. He or she typically works on a commission basis and may be involved at the very beginning of the acquisition of rights to underlying material or a screenplay.

Writer. A general term describing a person who creates written works which (in film terminology) may serve as the basis for a movie, including articles, essays, short stories, novels, plays, teleplays, or screenplays.





Organizing at the Industry Level

Many, if not most, of the individuals whose film-industry jobs are described in the previous chapter have organized at the industry level to protect their mutual interests. These groups (often overlooked in reports on the film industry) typically serve as excellent sources of education and information relating to specific areas of focus for the group and its members, as well as for newcomers to the industry. Consideration of such groups helps to develop a better understanding with respect to the way in which different segments of the film industry relate to each other. These groups also tend to focus their efforts on issues that are important to one or more segments of the industry. The more established and sophisticated groups also generally serve as advocacy organizations (i.e., engage in lobbying, or so-called governmental relations activities) at both the state and federal level. Other groups are formed exclusively for the purpose of lobbying for or against a single issue. Some of these groups are also coalitions of other organizations.

This chapter is organized under the following sub-headings:

- Professional and Trade Associations
- Guilds and Unions
- Advocacy and Other Special Interest Groups
- Organizations Providing Educational Services and Awards Programs
- Who Represents Independent Filmmakers?

More than one hundred such groups are listed; however, due to space limitations, the film-industry groups described here tend to be U.S.-based

organizations whose focus is national as opposed to city, state, regional, international, or foreign, although a few exceptions are included.¹ Corresponding groups or chapters for many of the national organizations listed may also be found at these other levels. In addition, many of these organizations sponsor regular awards ceremonies or programs for their members. Sources for the group descriptions are the respective Web sites of each group, thus, for additional information, see the affiliated Web sites.

Professional and Trade Associations

Alliance of Motion Picture & Television Producers (AMPTP). Since 1982, the AMPTP has been the primary trade association representing the interests of producers with respect to labor issues in the theatrical and television motion-picture industry. The AMPTP negotiates eighty industrywide collective bargaining agreements that cover actors, craftspersons, directors, musicians, technicians, and writers – virtually all of the people who work on theatrical and television motion pictures. In negotiations, the AMPTP represents more than 350 production companies and studios. (www.amptp.org)

Alliance of Special-Effects and Pyrotechnic Operators (ASEPO). With offices in Studio City, California, ASEPO meets with state and national governments on regulation issues, keeps its members updated with the latest special effects and pyrotechnic methodology, and provides safety bulletins and member seminars covering topics on theatrical, film, and television special effects and pyrotechnics.

American Cinema Editors (ACE). An honorary society of motion-picture editors founded in 1950. Film editors are voted into membership on the basis of their professional achievements, their dedication to the education of others, and their commitment to the craft of editing. (www.ace-filmeditors.org)

American Federation of Musicians (AFM). Represents the interests of thousands of professional musicians in the United States and Canada. The AFM negotiates agreements, protects ownership of recorded music, secures benefits such as health care and pension, and lobbies legislators. The AFM is committed to raising industry standards and placing the professional

musician in the foreground of the cultural landscape. (www.afm.org/public/home)

American Film Marketing Association (AFMA). Name has changed; see Independent Film and Television Alliance.

American Screenwriters Association (ASA). Organized for educational purposes, including the promotion and encouragement of the art and craft of screenwriting. ASA is committed to the international support and advancement of all screenwriters, including those from around the world who are pursuing the writing of documentaries, educational films, feature films, television, and large-screen format films. ASA seeks to serve screenwriters who are working to write and sell their film and television scripts, or are currently working in film or television and looking to advance their careers. ASA has an international membership of more than thirty thousand in forty countries. ASA estimates that there are more than three hundred and fifty thousand screenwriters in the world, and only eighty-five hundred are in the WGA. (www.goasa.com)

American Society of Cinematographers (ASC). Membership is by invitation and is extended only to directors of photography with distinguished credits in the industry. The ASC received its charter from the state of California in January 1919, making it the oldest continuously operating motion-picture society in the world. Its purpose is to advance the art of cinematography through artistry and technological progress, to exchange ideas, and to cement a closer relationship among cinematographers. The ASC publishes *American Cinematographer* magazine and has published a series of books about cinematography. The group has more than 340 active and associate members. (www.theasc.com)

Association of Cinema and Video Laboratories (ACVL). An international organization of motion-picture film laboratories and associates with allied interests. ACVL members serve the film, video, and digital industries. The group publishes *The ACVL Handbook* (5th ed.) as a technical reference guide, and each year members gather at the ACVL Spring Conference to exchange information on industry practices, issues, and trends. (www.acvl.org)

Association of Film Commissioners International (AFCI). The official professional organization for film commissioners who assist film, television, and video production throughout the world. AFCI was founded





Film Industry Issues and Problems

The film industry, like other industries, faces a number of problems. This chapter furnishes a brief overview of these problems, as well as the problems facing independent filmmakers.

It is important to point out that the problems or issues are not the same for all segments of the industry, and that in some instances, different segments of the industry may be on opposite sides of a given issue. When reading about such issues, ask yourself whether the writer is focusing primarily on the industry as represented by the major studio/distributors (i.e., the most highly publicized and visible part of the industry), the independent sector, or other specific interests such as talent, screenwriters, directors, etc.). In addition, ask whether the author is focusing on the point of view of some specific racial or cultural population, such as African Americans, Latinos, women, Christians, Mormons, whites from the South, Italian Americans, Irish Americans, Native Americans, and so forth. After all, each has had a different collective experience in Hollywood. In addition, readers should also ask whether the presentation is fairly balanced. Certain observations about one segment of the film industry may or may not be true of the other or, even worse, could be biased.

The Piracy Problem

Piracy is considered to be the biggest threat to the U.S. motion-picture industry. "In 2002, losses were estimated to be \$3.5 billion, a sixty percent jump since 1997."¹

As phrased by Deloitte in its 2004 report, “piracy is widely regarded as the key threat to movie distributors’ business models.” The 2004 study by consultancy Deloitte & Touche found that combined piracy of film, music, and video games is costing the entertainment industry from \$13.6 billion to \$15.1 billion per year. The company found that online movie piracy represents lost revenue of \$3 – \$4 billion, while illegal DVDs and other hard-copy piracy cost the industry \$3 – \$3.5 billion.²

In 2004, the MPAA’s international arm (the MPA) commissioned a study conducted by the international strategy consulting firm L.E.K. to develop an accurate and detailed assessment of the film industry’s worldwide losses to piracy and the demographic profile of those engaging in piracy. The study’s major findings were:

1. The major U.S. motion-picture studios lost \$6.1 billion in 2005 to piracy worldwide.
2. Eighty percent of those losses resulted from piracy of hard goods such as DVDs, 38 percent from Internet piracy.
3. Piracy rates are highest in China (90 percent), Russia (79 percent), and Thailand (79 percent); on the other hand, the actual dollars lost are greatest in Mexico (\$483 million), the U.K. (\$406 million), and France (\$322 million).
4. The worldwide motion-picture industry, including foreign and domestic producers, distributors, theaters, video stores, and pay-per-view operators, lost \$18.2 billion in 2005 as a result of piracy.
5. The typical movie pirate is 16-24 years old and male. Forty-four percent of MPA company losses in the United States are attributable to college students.³

In recent statement, MPAA argues that

Movie pirates are thieves, plain and simple. Piracy is the unauthorized taking, copying or use of copyrighted materials without permission. It is no different from stealing another person’s shoes or stereo, except sometimes it can be a lot more damaging. Piracy is committed in many ways, including Internet piracy, copying and distribution of discs, broadcasts, and even public performances. Downloading movies without the authorization of copyright holders is a growing international phenomenon, and it has serious consequences.

People often steal movies on the Internet because they believe they are anonymous and will not be held responsible for their actions. They are wrong. Illegal distribution of digital movie files on the Internet is a serious crime, and individuals who engage in piracy via the Internet can easily be





Economics of the Film Industry

Economics is that social science concerned chiefly with the description and analysis of the production, distribution, and consumption of goods and services. In the case of the film industry, the principal product being produced and distributed is the motion picture. Economic analysis at the industry level describes the arrangements or modes of operation for the industry of concern (i.e., the structure of the industry, described above in Chapters 2 to 4). Economic indicators are the key statistics showing the direction of the industry. This chapter's presentation begins with information (or the lack thereof) regarding the number of films being produced each year. It then follows with an analysis of film finance, proceeding through the primary stages in the life of a motion picture (i.e., development, production, and distribution), recognizing that without some form of film finance, movies are not likely to be developed, produced, or distributed. Finally, this presentation "follows the money" on the backside, in the "Markets, Media, and Revenue Streams" section.

Industry/Economic Indicators

In talking here about measuring the film industry, reference is being made to the Hollywood-based U.S. film industry, a subset of the broader entertainment field, which in turn is an important segment of the worldwide communications industries. No one should be seduced by the common gambit of the MPAA and other top Hollywood executives that "movies are merely entertainment." (See "Globalization

of Communications Media" in Chapter 7.) For approximately one hundred years, this Hollywood-based U.S. film industry has primarily produced and released feature-length motion pictures that are exploited for profit in theaters and in other media including DVD/video. As a practical matter, the "film" industry could be defined more broadly to include government films, industry films, educational films, instructional videos, and so forth, but then the statistics or other economic indicators would not be as focused on the core industry that is being described in this book.

The Number of Films Being Produced

Observers of the U.S. film industry might reasonably assume that people in the industry know just how many feature films are produced in the United States each year. Unfortunately, that is not the case.

The number of theatrical films produced, rated by the MPAA,¹ and released theatrically between the years 1995 and 2005 is shown in Table 8.1. However, these figures do not include many independent productions. They only represent those feature-length movies produced each year that sought a theatrical release and whose producers were willing to pay the MPAA ratings fee for the service. A number of other films are clearly produced every year, and their producers may have fully intended that they be released theatrically. But for whatever reason they decided or were convinced later that the film was not suitable for a theatrical release, or for another reason they chose not to obtain an MPAA rating.

The best evidence of the discrepancy is the difference between the MPAA's reported number of films produced in a given year (699 for 2005) and the number reported by the Sundance Film Festival for the U.S. submissions to its January 2006 festival (a whopping 1,764). The number of U.S. submissions to Sundance for 2007 was even higher, at 1,852.²

The much higher Sundance number may indicate that a few of the Sundance submissions for a given year were actually produced in the preceding year. The more likely explanation is that the MPAA's research department relies on *The Hollywood Reporter* for developing its database of films produced each year, readily admitting that some independent producers do not choose to have their films listed in *The Hollywood Reporter's* "Films in Production" column. Therefore, the MPAA research office concedes (when asked directly) that the true figure for the number of films produced in a given year may be higher than that reported by the MPAA, but for some reason just the opposite is stated with the published statistics. In any case, the MPAA numbers are more likely to represent the minimal estimate of the number of U.S. feature films produced each year.

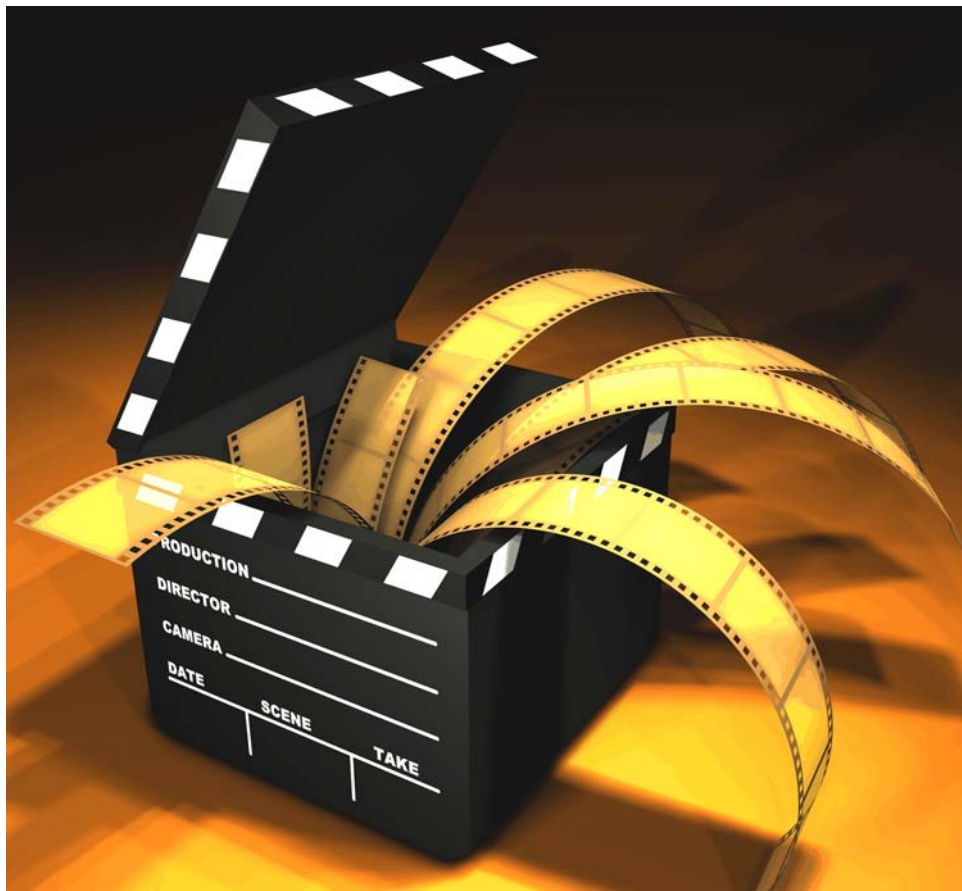
TABLE 8.1
 NUMBER OF FILMS PRODUCED, RATED AND RELEASED
 ACCORDING TO THE MOTION PICTURE ASSOCIATION OF AMERICA

Year	Produced	Rated	Released
2005	699	931	549
2004	611	871	528
2003	593	940	473
2002	543	786	466
2001	611	739	483
2000	683	762	478
1999	758	677	461
1998	686	661	509
1997	767	673	510
1996	735	713	471
1995	637	697	411

During a panel discussion on film finance held in February 2007 at the International Family Film Festival (conducted at Raleigh Studios in Los Angeles), an established independent producer estimated that the number of U.S. features produced each year was three thousand. Adding further to the confusion regarding the number of films produced in the United States each year, authors John Lee and Rob Holt (without citing any evidence in support of their contention) state in the foreword to their book *The Producer's Business Handbook* that "over 4,000 U.S. independent feature-length movies" are financed (and therefore presumably produced) each year.³ If true, that means that four thousand independent films are produced each year in addition to those produced by the MPAA companies.⁴

In the meantime, the academic research team of Eliashberg, Elberse, and Leenders reports a four-thousand figure for the number of movies "produced worldwide each year" and that "only about 700 are produced in the U.S." They, of course, cite the MPANs 2003 statistics for the domestic number of productions. The three academic researchers also state that "India is the most productive country ... it produced more than 1,000 films in 2001"⁵

It is somewhat disconcerting to discover that no one knows for sure how many feature films are being produced each year. A reasonable estimate could be based on the number of known U.S.-produced feature films being submitted to Sundance each year. That figure could then be adjusted slightly downward, using the assumption that not all of the Sundance submissions were produced in the





Appendix

An Essay on the Role of Movies in a Democracy

As many know, the U.S. Constitution was approved in 1787, and the Bill of Rights – including the free-speech guarantee – became law in 1791. Of course, the motion picture wasn't even invented at the time and did not come along until about a hundred years later, in the 1890s, so obviously this form of communication was not considered as the Constitution's free-speech amendment was being drafted and debated. Feature-length films were not exhibited in the United States until even later – in 1907 – and Hollywood did not assume its dominant role in the U.S. film industry until about 1915.

It then took the U.S. legal system another thirty-seven years to fully appreciate the true nature of motion pictures, and the First Amendment right of free speech was finally applied to feature films in the 1952 U.S. Supreme Court case *Burstyn v. Wilson*.¹ The film industry, as might be expected, welcomed the freedom, and has taken great advantage of it ever since.

In making its decision, the Supreme Court accurately observed that the motion picture is a "significant medium for the communication of ideas." Of course, U.S. democracy and this concept of free speech are based on the principle that a vigorous and free marketplace of ideas will eventually result in the emergence of the most worthy of those ideas as they relate to all kinds of important issues that confront and confound society. In order for the citizens of this democracy to make informed judgments on debatable questions, they must be exposed to a fair representation of the ideas on all sides of such issues. That is why such a high value is placed on

freedom of speech. That is why free speech is such an essential part of this democracy. And the reason the constitutional right to free speech applies to film is precisely because the motion picture is a significant medium for the communication of ideas.

Many critics, however, argue that the Hollywood-based U.S. film industry (which, by the way, dominates this communications medium in the United States and around the world) is neither a free market nor a level playing field, nor is it even based on merit. The critics contend that the major Hollywood studios severely limit freedom of speech in the industry and the country by arbitrarily restricting who gets to express their ideas through this important communications medium. Thus, not all ideas that could be effectively promoted through motion pictures have had an equal opportunity to be expressed. Therefore, this democracy's overall free marketplace of ideas is flawed, because a single important communications medium is significantly biased.

Critics point out that, in addition to influencing a significant variety of commercial decisions and associated conduct, the idea that movies can be a powerful agent for positive social change is widely accepted – so accepted that members of the so-called “entertainment community” themselves have created an organization referred to as the Entertainment Industries Council, which is dedicated to the purpose of serving as a bridge between the entertainment community and the public interest in addressing health and social issues through films.² One of this group's successful campaigns was to encourage the use of auto seat belts through more positive portrayals of their use in movies. Another of their efforts has focused on the portrayal of drug use in films. Other organized efforts have been made over the years to insert blatant – mostly liberal-oriented – political and environmental messages into Hollywood films, along with another little-known but effective organized movement aimed at eliminating or reducing the negative portrayals of one specific population in our society from Hollywood movies, all activities based on the accurate premise that movies can make a difference.³ Research in mass communication also shows that movies can have a tremendous impact on social movements and individual behavior.⁴

Critics point out that not only do movies influence human thinking and behavior; they sometimes actually bring about pivotal changes in people's lives. David Rosenberg collected some of the evidence in support of that assertion in the form of twenty-three essays from prominent people all over the world, and he published them in his book *The Movie That Changed My Life*.⁵ Those essayists were authors, poets, university professors, novelists, and literary critics who reported various life-changing reactions to films. They include developing moral notions, influencing one's ability to write, patterning an adult life after a character in a



Glossary of Film-Related Terms

People working in or seeking to describe the operations of the film industry often use terms that are unique to this industry. A selected listing of such terms follows. The various film-industry job descriptions are excluded here because they are discussed in Chapter 5 of this book.

Above the Line. The creative elements of a production such as the writer, producer, director, and actors. These are the line items that appear above a bold line that divides the typical production budgets. (See “Blow the Line.”)

Act. A collection of scenes forming one of the main sections of a film script. Because screenplays do not show act breaks, an “act” is really a theoretical concept. When screenwriters talk about three acts, they mean “the beginning,” “the middle,” and “the end.”

Adaptations. Derivative works. When a motion picture is based on a book, the movie is said to be adapted from the book.

ADR. Automatic Dialogue Replacement. A process of re-recording dialog in the studio in synchronization with the picture. Also known as “looping.”

Advance. Up-front payment that counts against monies that may be payable at some time in the future. Non-recoupable advances are payments that are not refundable even if future monies are never due.

Agency Package. The elements of a film project including writer, script, director, and lead actors brought together by a single talent agency for the purpose of seeking production financing. Generally, all of the elements are represented by the same agency, and such packages are usually offered to a major

studio/distributor on a take-it-or-leave it basis. Such activity may also be a violation of federal antitrust laws.

Agent. Licensed representative of talent (i.e., writers, directors, actors, and sometimes producers) who works on behalf of such talent in procuring work. Agents typically work on a fee-commission basis.

Answer Print. The first composite (sound and picture) motion-picture print from the laboratory with editing, score, and mixing completed. Usually color values will need to be corrected before a release print is made.

Art Theater. A movie house that shows specialized art films, generally in exclusive engagements, rather than mass-marketed studio films.

Aspect Ratio (A.R.). The proportion of picture width to height.

Auteur. A French term; the auteur theory holds that the director is the true creator, or author, of a film, bringing together script, actors, cinematographer, editor, and molding everything into a work of cinematic art with a cohesive vision.

Author. Creator, originator. Under U.S. copyright law, the author may be the employer of the person who actually creates the work. (See "Work for Hire.")

Back End. Profit participation in a film after distribution and/or production costs are recouped.

Below the Line. The technical elements of the production staff. These are the budget line items that appear below a bold line on the typical film production budgets.

Blockbusters. Films that are very successful at the box office (i.e., those generally earning more than \$100 million in their theatrical release).

Box-Office Receipts. What the theater owner takes in from ticket sales to customers at the box office. A portion of this revenue is remitted to the studio/distributor in the form of film rentals.

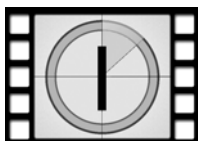
Break. To open a film in several theaters simultaneously, either in and around a single city or in a group of cities, or on a national basis.

Breakout. To expand bookings after an initial period of exclusive or limited engagement.

Call Sheet. A list of required actors and crew members needed for scenes to be shot on a given day. The call sheet is typically prepared by the Assistant Director and includes the time of day that each actor and crew person should report to the stage or location for that day.

Camera Blocking. The process of noting the changing position of the camera, lens size, and focus during a particular scene.

Cel. A transparent sheet of cellulose acetate used as an overlay for drawing or lettering. Used in animation and title work.



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Mr. Cones is author of 11 other books and numerous articles on the legal and political aspects of filmmaking. His journal article "Feature Film Limited Partnerships" appeared in the January 1992 symposium issue on independent productions published by the Loyola of Los Angeles *Entertainment Law Journal*.

He has lectured extensively in Los Angeles, Las Vegas, Dallas, Houston and San Francisco on "Investor Financing of Entertainment Projects" for the American Film Institute, the University of Southern California Cinema-Television Alumni Association, Loyola Marymount Continuing Education Division, Cinetex '90, UCLA Extension and others. He has also lectured for UCLA Extension on "The Film Distribution Deal" and served as a Course Coordinator/ Instructor for the UCLA Extension course "Contractual Aspects of Financing, Producing and Distributing Film."

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From 1976 through 1981, Mr. Cones worked as a lobbyist/association executive and in-house counsel for professional associations headquartered in Austin and Chicago. In those positions, along with his more general association management responsibilities, he prepared and delivered congressional testimony, drafted legislation and wrote and edited books, magazines, magazine articles, newsletters, speeches and press releases. His article "What Lobbyists Really Do" has been reprinted in four state association publications in three states. As an association executive he was also involved in long term planning, board meetings, conventions, seminars, staff supervision and association membership activities.

Mr. Cones practiced law in Houston from 1981 through 1986. During that time, he supervised state securities compliance aspects of Regulation D (private placement) limited partnership and corporate offerings (including movie production/distribution, oil and gas, real estate, equipment leasing, night clubs, restaurants, cattle breeding/feeding, thoroughbred breeding and medical technology).

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