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POSITION PAPER: THEATRICAL EXCLUSIVITY

Exclusivity is of Vital Importance to Exhibition

Motion picture exhibitors around the world believe that a period of exclusivity for theatrical exhibition (the release window) is vital for the health of the cinema industry and the motion picture industry in general.

Exhibitors worldwide have spent billions transforming the industry's core projection technology, building new theaters and upgrading the seats, sound and projection, and introducing new food and beverage concepts, and continue to do so.

Theatrical exhibition sets the value for all following methods of distribution. Contractual agreements base the value of all subsequent windows on the performance of a movie in its theatrical run.

Filmmakers make their movies with theatrical presentation in mind.

Sequential release windows (higher value release formats come earlier in the sequence and command a premium) are well understood by the consumer and work for the industry. Collapsing release windows muddies the value proposition for the consumer, blurs distinctions between theatrical and "straight-to-video" and undercuts one of the important selling points for theatrical exhibition – the timeliness of the exclusive event.

Every ticket sold in the theatrical window can be effectively priced, something that cannot be said for the ancillary windows

New digital technologies make simultaneous or shortened release windows increasingly easy, but do not necessarily change the value proposition encompassed by theatrical exclusivity.

Movie distributors have seen a pronounced shrinkage in home video retail revenues accompany broad digital access to content. In the U.S. market alone, revenues in home retail have shrunk from a high of $24.9 billion at its peak in 2004 to $12.05 billion in 2016. Subscription streaming revenues in the U.S. have not replaced that lost retail revenue – making up approximately $6 billion in 2016; much of it related to television-like episodic content.

Meanwhile, U.S. and Canadian theatrical revenue has grown from $9.29 billion in 2004 to $11.37 billion in 2016. Internationally, theatrical revenues have exploded from $15.7 billion in 2004 to $27.2 billion in 2016.

Exhibitors understand the need for movie distributors to fix their revenue problems in the home market, but are wary of any fix that threatens the growing international theatrical market.

“Fixes” have been attempted in various markets around the world. Attempts to shorten the window in 2010 by Disney on “Alice in Wonderland” in the U.K. led to conflict and a negotiated agreement on windows with certain exceptions based on titles’ release dates. Unilateral attempts to shorten the window for “premium video on demand” in 2011 in the U.S. led to industry conflict and the release of 15 films by four studios roughly 60 days after theatrical debut at $29.99 in the home. The experiment found few takers in the home. An abortive attempt later in the year to release a title 6 weeks after theatrical debut for $59.99 fell through after news of it leaked before the studio gained exhibitor agreement.

In 2013, two major studios launched an early premium video rental service in South Korea. Little information is available on how box office has been affected. A third studio there has experimented with bypassing theatrical altogether on certain titles.

Another experiment in 2015 in the U.S./Canada market gained the agreement of two large exhibitors for a home release of two titles with home release predicated on the number of screens falling below a certain threshold. Exhibitors were to share in the early home release revenue based on their theatrical market share of those titles box office. An early announcement of the experiment before more than two exhibitors were onboard led to a backlash and limited theatrical footprints.

Meanwhile, distributors have quietly instituted a new window – Electronic Sell Through (EST) – ahead of the traditional DVD/digital rental window. In the U.S./Canada market, that window has reached below 74 days on nearly a third of titles from the major studios.

Position of the Global Cinema Federation

As competition laws and studio practices vary from region to region across the globe, it is difficult and legally problematic for an industry association to take a position on a material competitive concern such as the length of the period of exclusivity. In some regions, the window is set by broad industry agreements. In others, such as France, the length of the theatrical window is set by law. In others, the practice is a matter of custom and ongoing market concerns. Exhibitors may, of course, speak in their own company’s interest as they see fit.

The Global Cinema Federation will be guided by the following principles when addressing exclusivity issues:

1. Cinema owners give top priority to maintaining the period of the theatrical exclusivity.

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2. The theatrical window is an integral part of the commercial terms between exhibitors and distributors.

3. A surprise launch of a short theatrical window will be regarded as unfair and unacceptable business behaviour.

4. Any future discussions with regards to theatrical windows must have exhibitors at the negotiation table in view of the effect that it will have on revenue and attendance.

Information Gathering

Exhibitors around the world may share data.

Because distributors have moved their attempts to shorten the period of exclusivity around the world in response to market conditions, it is of paramount importance that exhibitors worldwide understand the windows situation in markets around the world.

Comprehensive data exists for release windows in the U.S./Canada market going back to 2000 (http://www.natoonline.org/data/windows/), and includes tracking of EST windows since 2012. NATO will make available the spreadsheets that contain the formulas for tracking movie release data to all GCF members.

Data per region on home video revenue is also not widely disseminated. That data paired with windows tracking around the world will be invaluable to exhibitors trying to understand the market.

The Top 20 exhibition markets by gross would be a useful start (Appendix 1). Exhibitors in each region are encouraged to share whatever release window tracking data they have and to use the NATO windows spreadsheets if applicable. They may also encourage their national/regional trade associations to compile and share whatever data they may have.

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Appendix 1

Top 20 Exhibition Markets
(All films; U.S. dollars in billions)

1. China	$6.6
2. Japan	$2.0
3. India	$1.9
4. U.K.	$1.7
5. France	$1.6
6. South Korea	$1.5
7. Germany	$1.1
8. Australia	$0.9
9. Mexico	$0.8
10. Brazil	$0.7
11. Italy	$0.7
12. Russia	$0.7
13. Spain	$0.7
14. Netherlands	$0.3
15. Indonesia	$0.3
16. Taiwan	$0.3
17. Argentina	$0.3
18. Hong Kong	$0.3
19. Poland	$0.2
20. Turkey	$0.2

Appendix 2

European Entertainment Revenues by Category

- Home entertainment revenues (includes: Digital Retail, Digital Rental, VHS Retail, VCD Retail, DVD Retail, BD Retail, VHS Rental, VCD Rental, DVD Rental, BD Rental, TV TVoD, TV EST) in Europe
  - €16.60 billion in 2004
  - €12.26 billion in 2016
- Subscription VOD revenues in Europe in 2016
  - €2.97 billion (TV & Movie)
  - €1.37 billion (Movie only)
- European box office
  - €6.37 billion in 2004
  - €8.35 billion in 2016