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Congrats, You've Got a New Media Hit! **A "Think Tank" program for Digital Hollywood 2014**

With

Chris Horton, Sundance Institute
Vince Muscarella, Rentrak
Meyer Shwarzstein

Recorded October 21, 2014
For podcast release November 17, 2014

KENNEALLY: Welcome, everybody. My name is Chris Kenneally for Copyright Clearance Center. And you're very welcome indeed to this program at Digital Hollywood we call, *Congrats, You've Got a New Media Hit*.

Measurement is the first step that leads to control and eventually to improvement. If you can't measure something, you can't understand it. If you can't understand it, you can't control it. If you can't control it, you can't improve it. So said H. James Harrington, a performance improvement guru. And I think it's a telling phrase – a telling quote for us for this particular program.

We're asking some questions here. Whether you've got a new media hit or are hoping to have one, the question is where's the up side? Was your film a hit on VOD, on YouTube? How would you know? How much should you be paid?

In 2014, new media is a viable revenue generator. But the answers to these and other questions aren't always easy to come by. And our panel today will address these mysteries so you can learn what you need to do to maximize your share of revenues.

And I think it's important to say a couple of words about data generally. The challenge of any data analysis effort is to distinguish what is measurable from what is meaningful, to understand the difference between statistical significance and practical significance. There are always questions to ask about the data – the measurements that you are taking. Whether it's first party data or third party data, in either case, how well was it gathered? How well structured is it? How much data is too much data?

Creatives like yourselves and others attending the Digital Hollywood Conference are now owning data and have their own data about customers and audiences in ways they weren't able to have before. But there are some warnings as well. One



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is to avoid making the metrics prove what you want them to prove. And another thing is to answer this question – does what I am doing work? Does this marketing campaign work? Am I doing something right? What am I doing wrong?

And to discuss all of that, we have a terrific panel here today. I'll introduce them from the very far end first. We have Meyer Schwartzstein. Meyer Schwartzstein, welcome.

SCHWARTZSTEIN: Thank you. Glad to be here, Chris.

KENNEALLY: Meyer Schwartzstein has been directly involved in the development, financing and production of dozens of films. In addition to theatrical films, he's produced movies and series for Chiller, DirecTV, Epics (sp?), Lifetime, Hallmark, Oxygen and many more.

As the founder of Brainstorm, Schwartzstein has handled TV, SVOD, VOD and EST and other rights for many companies, including Lions Gate, Magnolia Pictures, Samuel Goldwyn Company and Shout! Factory. Today his company Brainstorm is relied on for strategic consultation, title placement and marketing.

And then to Meyer's left is Vince Muscarella. Vince, welcome.

MUSCARELLA: Great. Thanks for having me.

KENNEALLY: Vince Muscarella is Vice President for Studio Digital Services for Rentrak, the entertainment and marketing industry's premier provider of worldwide consumer viewership information – precisely measuring actual viewing behavior of movies and TV everywhere. From 2007 to 2012, he was Director of New Media at Millennium Entertainment, a leading independent supplier that acquires and distributes feature films.

And then finally, to my right, just by me here now, is Chris Horton. Chris, welcome.

HORTON: Thanks, Chris.

KENNEALLY: Chris Horton joined Sundance Institute in 2011 to launch #ArtistServices, an initiative that further extends that organization's mission of connecting artists with audiences through a series of innovative deals and partnerships.

Artist Services provides institute alumni with tools and enhanced creative funding and self-distribution opportunities. Deals have included an exclusive partnership with Kickstarter and arrangements that will allow filmmakers access to best-in-



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class terms and digital distribution on outlets such as iTunes, Netflix, Hulu, Amazon and Google Play – the ones that really count, obviously.

Chris Horton was previously Head of Acquisitions for FilmBuff, a pioneering New York digital distribution company. And under his leadership, FilmBuff acquired sales rights to hundreds of feature length movies, including *Exit through the Gift Shop*.

So again, a warm welcome to all of the panel. And Vince Muscarella, I'd like to start with you. You come from Rentrak, a company that I hope people here are familiar with. Certainly, we've been reading a lot about Rentrak in *Variety* in the last few weeks.

MUSCARELLA: We've been busy.

KENNEALLY: The company has been busy doing new deals, making acquisitions, working – extending partnerships that you've had with Fox and CBS and others and acquiring an outfit called Kantar Assets – most of that on the TV side of things, but I'm sure it really makes an impact as well on what you do.

And so I guess what I'd like to do is to start with a quick take from you as to the importance of data and to how Rentrak sees all of this measurement activity. It's not just about numbers any longer – how many people have seen something – but it's really about getting information that tries to – understanding better the consumer and the consumer behavior.

MUSCARELLA: Yeah. So part of it is still the numbers, but it's also where the numbers are going, where those numbers are migrating from – you know, let's say from the traditional media world to the online world. Is it transactional? Is it ad-supported? Is it subscription?

So what we try to do at Rentrak is, wherever the content is for movies and television, we're there to measure it. The data comes from a number of different sources. But ultimately that's what we want to try to provide is actionable information, whether it's timing for transactional data – to find out how much money you're making – or whether it's trending data and marketing data and other data that you can use in order to help reach that audience.

KENNEALLY: Right. And we call this film – or this program, rather – Congratulations, You've Got a New Media Hit. And in this new multiplatform world, the term hit is a really relative thing. And I think it's important to stress that. Can you give us your own sense of just how success is measured across those different types of fields?



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MUSCARELLA: Yeah. I mean it really depends on where you're coming from. A hit to a studio, obviously, means different – it's something different than a hit to a large indie versus a hit to a small indie.

Whether it's theatrical and you're looking for theatrical to support a home video release or if you're looking for direct-to-video numbers, it really depends on how you slice it and dice it. There's no absolute – well, I guess that's not true – I mean Harry Potter is an absolute success. But what that means to you, if that's actionable data to you – probably not. So it really depends on where you're coming from.

KENNEALLY: Right. And Meyer Schwartzstein, I know you feel much the same way about that. A hit is a hit, depending upon how you measure it yourself, really, and how important the investment has been to you – what kind of success you were looking for in the first place.

SCHWARTZSTEIN: Absolutely. It's a question of knowing what your market is and knowing how much – and having expectations. To take a studio film that costs \$100 million – if you only made \$1 million, that would be a failure. If you had a movie that you made for \$10,000 and you did \$1 million, that would be a hit.

KENNEALLY: Right. And you've certainly been in the business for long enough to see the way that the definition of hit itself has evolved over time. And so getting a big hit is a more difficult task than ever it has been.

SCHWARTZSTEIN: In some ways. I mean I think getting a big hit requires a bigger spend. I think that, again, it depends – it's a relative term. So if you're a big studio and you're looking to get a lot of money, you have to go out there with a sledgehammer and get the marketing.

If you are going out there with a small film and you want to do – get a hit – I mean hit defined, I suppose, in nature of financially, in the sense of having a greater percentage of earning – you know, earning more than you spent and having a greater proportion of that, at some point, I guess, is a relative number at which you may define it as being a hit. That's something you define personally, almost – environmentally, I suppose, from a PR perspective. But absolutely.

And I think that we've been involved in little films that have outperformed – they've sort or punched above their weight – by supporting them in somewhat untraditional ways or actually, in some ways, very traditional ways by getting talent to promote them – and that it has turned out to be very satisfying for all the people involved.

KENNEALLY: Right. And though information clearly is important and you were one of the first people to join our panel, I know that, when we were preparing for the



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discussion, you were telling me that you have a fundamental question about the whole proposition here, which is about the need to have all this information. Tell us about that.

SCHWARTZSTEIN: Oh, in terms of availability of information? Well, I'm sort of, frankly, kind of amused by the question of how much information should be available because, if I look at other industries, I'm certainly sure that Colgate Palmolive doesn't let everybody know how many tubes of toothpaste they sell to Walmart.

And I'm not really sure why we necessarily expect that all the information in our business would be public. And so that's kind of an anomaly as it relates to our business.

I think that we're used to it now because of box office performance. We think the information should be available. But there's a lot of information that isn't available. And it's very hard to get ratings data on TV shows. It's very hard to get information on how much license fees are being paid. We certainly get no information from companies like Netflix.

So I'm not really sure where the – I mean, frankly, I think the access of information – limited access to information is more the rule. And general access to information is the anomaly.

KENNEALLY: But essentially, though, there is a push to transparency that's coming from the creators, isn't there – and the independents?

SCHWARTZSTEIN: Well, I mean I think transparency, again, is – I think the important thing is that, when you make a deal with somebody, that you get transparent reporting. Then you get the information from whoever you're in business with, and you know what you're getting, you know what the reviews were, you know what the performance is. Transparency as something that's available publicly to everybody is of different value and it's a completely different context.

KENNEALLY: Right. And so it's a question of how you read the data. If you have data in front of you and you don't know what to do with it, it's not going to be meaningful in any kind of analysis to you.

SCHWARTZSTEIN: I mean I think there's definitely value in a general knowledge base, where people – for filmmakers and producers and distributors to generally have a sense of what the marketplace is – mainly, from my perspective, to manage expectations.



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KENNEALLY: OK. Well, Chris Horton at Sundance – you know, obviously a brand that is really associated with independent filmmakers and with their success and really invested not only in bringing their films to the public but making the filmmakers a success – that’s obviously very important.

I wonder, when we talk about hits, the question sort of underlying all of that is whether there’s too much product out there. And I know you have some strong feelings about that, because I think we want to set the stage for people here as to what a hit truly means. And tell us whether or not you think there is too much product.

HORTON: Sure. Well, that’s a good question. Is anyone familiar with sort of the little fracas that Manohla Dargis, one of the leading film critics from the New York Times, raised several months ago kind of decrying the fact that there were too many movies being made. And the Times has a policy where they have to review every movie that’s released theatrically in New York. And, you know, yeah, you can think of the world’s smallest violin playing just for her.

But at Sundance, I personally kind of have two minds of it. I don’t necessarily speak for my organization. We play 120 features at our festival every year. Some of those already have distribution lined up. But that’s a lot of films. Frankly, I think it’s too much. But there’s such array of diversity and we’re offering so many unique types of films that you could argue that it’s too little.

I don’t think that there’s too many movies. I think that there’s too many movies that are trying to do the same thing. And when we look at the emerging push of transparency and when you look at companies like VHX and Vimeo and Reelhouse and others that are able to give filmmakers really powerful tools that allow them to sell films directly off their own Website – or frankly even filmmakers who can put content up on YouTube – that really beautiful visualization and understanding of how many and who your audience is is really powerful stuff.

So frankly, I think that tools like that and things that we’re thinking about at Sundance – that like, hey, how can we build together a coalition that can maybe help create more understanding of these numbers – it’s certainly something that we want to do – I think can help eradicate that “problem” of too many movies.

If I had my way, in five years, I would see far fewer films trying to do very expensive and very, very pointless Oscar qualifying campaigns. Instead, I would maybe like to see more films doing day and date releases – putting a film up on iTunes the same day as it’s in theaters – or maybe not even in theaters at all. Who knows? I think, ultimately, data is going to point to distribution decisions and windowing decisions that filmmakers can draw from.



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And at Sundance, we qualify a hit in many ways. It's not just about box office. It's not just about how much net profit the distributor may be in. It might not be how much of an MG a film gets. A film could do nothing at Sundance, but that filmmaker gets signed to a deal and is directing a studio moving.

Rian Johnson came to the festival with *Brick*. He's directing the next *Star Wars* movie. Hit? Maybe. *Brick* probably isn't making Focus a lot of money. But Rian Johnson sure is doing pretty well for himself. So we try to look at the trajectory of careers and the support of art generally in ways well beyond financially.

KENNEALLY: Right. And I think the point that you're making there at Sundance with Art Services is to encourage kind of an entrepreneurial spirit among filmmakers. And I suppose they always have been entrepreneurial, going back a century, but it's especially important today because the landscape is so varied and so full of new opportunities, and it really requires a devotion to understanding the landscape as much as to understanding filmmaking.

HORTON: Yeah, absolutely. And the program that I run at Sundance – we're focused on helping filmmakers with their self-distribution. And I actually kind of hate that term, but there's no better way to describe it. Frankly, it's even better than DIY. I hate that word even worse. (laughter)

But, you know, there's a lot of films – every film, virtually, that premieres at Sundance gets distribution in the U.S., at least. We've had a 90% success rate the last three years in a row at our festival. That's different than, I would say, other premier North American film festivals. And that can mean anything from working with a company like Brainstorm or FilmBuff that might have a predominantly digital focus to selling worldwide rights to Sony or Fox Searchlight.

But that's also creating a lot of opportunity. Three years ago, it was sort of hard to get your movie up on iTunes if you didn't have a distributor. Today, it's never been easier. And what our program does is try to provide artists with tools that can allow them to sell that work on those platforms directly and use our brand as sort of the curatorial vehicle. We've been working with Cinedigm as a white-labeled aggregator the last three years to do that. And we've put probably about 110 films into the market using those deals.

KENNEALLY: Well, Vince Muscarella, aggregation is something that you do at Rentrak as well. And it's important, I think, to tell people about that because, as an independent, going into all these various platforms creates a kind of a data nightmare.

MUSCARELLA: Yeah. So the data comes from a number of different sources. I'm not going to get into all of them. But in some verticals, Rentrak acts as a gatekeeper



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for all data for that vertical and then – you know, like our theatrical service, for example, or VOD – there’s no other company in the U.S. that provides theatrical measurement services. There’s none that provides VOD.

But in others, where you’re distributing something on – digitally on EST and iVOD, those licensees make that data available to you directly, and then it’s a matter of, well, how do I use that, because you’re getting all these files from all these different companies, and you have to have a way of bringing all that data in on a daily basis or on a periodic basis and making sense of it all. And it can be kind of messy.

But I think that – you know, I wanted to actually – something that both Meyer and Chris touched on earlier was, from the outset – you know, I can’t tell you the number of producers that I speak with on a monthly basis that call me up and say, well, I need VOD numbers for this title. And we have to say, well, I can’t – you know, we don’t release that data publicly. We have confidentiality obligations to the MVPDs. We have confidentiality obligations to the distributors.

And they say, well, how do I get the data? And I say, well, who did you use for distribution, because they are likely subscribing to Rentrak services. They are likely receiving that data. Did you build in any obligation to report to you in your contract? No. OK, well, call them up, and they might still provide that data for you.

But data is always an afterthought – right – because you want a secure a distributor and then you want to be hands on with the marketing and really supporting the film. And then you’re concerned about the numbers in terms of how much money you’re making, but you have to – those numbers are going through the distributor, so there’s an intermediary there. You don’t have that direct connection to them usually.

So I would say that – you know, don’t make data an afterthought. Make that a part of the agreement up front. Ask the distributor, do you – can you provide data for VOD? Can you provide data for EST iVOD? On what basis? Who are you using? Ask those questions so that, when the time comes and your film is released, you’ll know where that data is coming from and you can point to that language in the contract.

KENNEALLY: Right. In fact you can say that making data an afterthought is a mistake. It sounds like you’re sort of packing for a vacation and not knowing where you’re going.

MUSCARELLA: Yeah, in a sense – yeah. I mean, if it’s important to you – maybe the distributor gave you a big enough MG that you don’t care. I’m guessing that’s



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probably not going to be the case. So I'm guessing that it is going to be important to you. Just realize up front that it's important and realize that that's a goal that you have.

KENNEALLY: Right –

MUSCARELLA: Sorry – a minimum guarantee. So if they pay you enough up front for it, then maybe you don't care about the back end. But that's not the standard for most independents.

KENNEALLY: And Vince, you raised issues of confidentiality and nondisclosure. When it comes to many of the platforms online, it's a licensing world where those are very common terms, and people should really be aware of that.

MUSCARELLA: Yeah. Yeah, it's true. And in the licensing world, I mean it's – you know, with DVD, it's physical goods and all those other consumer products – there's a history there of all of that data being aggregated and brought in somehow.

But there's not enough of a consumer demand for them, so there's not like a big spotlight on it. But everybody loves entertainment. Everybody wants to know how films are doing. And there's more of a spotlight on entertainment. But you don't have the history of theatrical exhibition and DVD distribution, and you have these license agreements with these MVPD platforms or online platforms.

And now, with an agreement – because it's not a physical good, it's not a ticket, it's not a DVD – now you're talking about rights. And there's all sorts of restrictions and confidentiality obligations surrounding those rights. So it's always sort of a dance that you have to do in order to figure out, what data can I get? Who can I get it from? Is it being made available directly to me? Do I need to go to a vendor? There's a lot of questions about these issues.

HORTON: A bigger problem is, if you get it, what does it mean?

MUSCARELLA: Yeah.

HORTON: You know, how many layers does it go through? What good is it doing for you?

KENNEALLY: Well, so how much data is too much data, Chris Horton? Is there a point where too much of a good thing really isn't so great?

HORTON: Well, I don't know. My colleague Brian Newman (sp?) likes to say that data is the new oil. I think Nate Silver had a great book called *The Signal and the Noise*, where he argued that simplifying the process and looking at a simplified

school of data within broader datasets can lead to greater truths, and there's a big point to that.

But I don't know. If I was a filmmaker and I sold a film to a distributor, I would want to know how many people rented my movie on iTunes. I would want to know how many views my movie got on Netflix, which, as Meyer pointed out, you're not going to get.

I would want to know, OK, my movie made X at the box office. What percent is coming back to me? You know, distributors know this information. A lot of sales agents who license the films don't even know that information. So having as much information before you even make the deal is probably a good thing to shoot for.

KENNEALLY: Right. Meyer Schwartzstein, one of the things that you have seen in your career is this transition that the business has made from being essentially a business-to-business model – a B2B model – and moving – now probably it's in a mixed environment, but moving closer and closer to the B2C model, where the customer is the consumer, the viewer. That changes things as well, and that changes what the numbers are, but it also changes how to analyze them.

SCHWARTZSTEIN: Well, I think that's one of the biggest changes in our business. And it's a fundamental one. I think that, when the movie studios started, they were theater owners who then made movies that – and they were dealing directly with the consumers. They knew what people wanted. They were in contact with them on a daily basis. And they had a very good sense of what was involved in the marketing.

KENNEALLY: And those people were the ones that the creators – the filmmakers – were actually transacting their business with – with the distributors.

SCHWARTZSTEIN: Exactly – on an ongoing basis. And over time, we've over time evolved the movie business to becoming a B2B business, where we were dealing with stores or we're dealing with networks or we're dealing with theater chains that were separated from the ownership of the studios in 1948. So we then became accustomed to working as a B2B business.

About five years ago is when I sort of sensed that change, and I started actually trying to learn about how to market to the consumer, because it was clear to me that this whole business was starting to disintegrate – disintegrate in the literally definition of the term – right – where everything is starting to sort of become disconnected from everything else fundamentally.

And I think that that's the biggest challenge that everybody who are purveyors of film have to be aware of. And I'm saying this – including the big companies to



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small companies and the filmmakers themselves – our job as distributors, so to speak, is to essentially try to create a connection between the creators and the audience. And we are facilitators of a sort.

And now we're in a world where we have to be able to establish that direct contact with the audience. We have to learn a new set of skills that we didn't have to know before.

And it's really quite fascinating. I think that we're seeing the proliferation of these new SVAD services, by CBS now having to learn how to deal directly with their consumers, by HBO dealing directly with their consumers. Netflix obviously has succeeded to a large degree, I would argue, because they have learned how to interact directly with consumers.

KENNEALLY: Right. But it's not just enough to know what your film is doing and how it's doing. You need some way to compare it – to do those kinds of comps. And that's what makes the challenge really that much more difficult, right?

SCHWARTZSTEIN: Well, I think the biggest issue there is knowing what to compare it to. I mean you can have access to a lot of data – and we do, because we subscribe to Rentrak, partly, but also for other reasons.

And as you sift through it, you've got to know how to cull through it and how to assign value to it and determine – it's as much of a science as it is an art. It's – you know, there's still a lot of hunch involved in film distribution – thank God. And data will only take you so far.

But it's also wonderful when you can beat the odds by understanding who your audience is, knowing how to reach them and creating some excitement for a movie because it's going to have people on the other side of it who are looking forward to seeing it.

KENNEALLY: Right. And Vince Muscarella from Rentrak – there are some numbers that are difficult to get at. And we've talked about that. But there are other numbers that are really sort of lying right there in front of you. And that would be primarily at YouTube. Talk about what those metrics can do for an independent filmmaker.

MUSCARELLA: Sure. It's true that, as everything is sort of moving online, where you have these tech companies who base their businesses on data – everybody does, but they've put more of a much greater gravity on that, and they treat it as much more of a currency – and they're willing to share, so you can go to YouTube – if you want to know what a success on YouTube is, you can just do a search for the top channels and top videos.

And you may not know how much money they're making, but you can generally assume that, the more views you have, the more ad impressions you have, the more money you're making. And it does depend on the kind of content – whether it's really professional content or otherwise – and what kinds of ads are being run against that content.

So it does fluctuate. It's not an absolute correlation. But by and large, you can – it's not that the – for other verticals – other traditional verticals – you're going to be hard pressed to find any sort of numbers, whether it's how many people viewed the content or how much revenue was generated. You're going to come across that from time to time when distributors want to release PR statements about how well a film did, but you still don't really know how the breakdown of that number looks like.

So if they say, yeah, we made \$500 million on something – OK, well, did \$400 million of that come from SVOD and \$100 million of it come from VOD? And what's that breakdown there? It's not actionable information.

So I think, as things move to a more online world and more and more companies realize that they have to build their platforms with data and data as a currency in mind, I think you're going to get more granularity in the detail and you're going to find it becoming increasingly easier to get access specifically to those new media platforms.

KENNEALLY: Right. And when you're doing those comps on your own, if you will – you know, sort of looking at like videos or films on YouTube, you really have to be sure to being doing an apples-to-apples comparison.

MUSCARELLA: Oh, yeah. Oh, yeah, absolutely. You want to make sure that – and not just the kinds of content but also the audience – there's a lot of different kinds of comedy out there, so you can't just look at it and go, oh, well, this comedy channel is doing this and so my channel should be doing this or I should be targeting these same people. Is it the same kind of comedy?

Not all horror is created equal. Not all – like my wife loves *Walking Dead* but doesn't like gore. So most of the other zombie films she's not really – zombie films, television shows, whatever – she's not really into. So you have to know your audience and make sure that that apples-to-apples comparison is being done and you're keeping the audience – always keeping your audience in mind.

KENNEALLY: Right. And Chris Horton, knowing what these numbers are is a good way to check your royalty statement as a reality check, but it's also about driving marketing campaigns and other programs to help grow the success of a film. It



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turns somebody who's sort of kind of doing a scattershot into a sharpshooter, really.

HORTON: Yeah. And Vince said it best – and it's an overused cliché term – but knowing your audience. At Sundance and other festivals, there's a lot – much ado about these deals. And I think a lot of filmmakers approach trying to sell an independent film to a distributor in a marketplace in a kind of zero-sum approach. Well, what do the distributors think? What is this going for?

You know, and especially for documentaries, I think, there's so much potential to do split rights and creative deals – and especially deals where you might have the ability to carve out direct digital distribution, where you can use a tool like VHX or sell your film directly to audiences on Vimeo while also getting television distribution, while also getting a Netflix deal, which is probably the same company that's handling your iTunes.

And I think, for documentaries especially, there's a lot of exciting stuff that's going on on the deal level. And a great example is a film that we worked on called *Burn*. And it's a terrific documentary. It won the audience award for best documentary at the Tribeca Film Festival.

It was supported by Cinereach and Film Independent, who are sister nonprofits through the Artist Services program at Sundance, so we were able to qualify it as a Sundance film – and a great documentary about a year in the life of the Detroit fire department, where they follow one company around. And there's super awesome kind of high-tech camera work of fires – like fire porn, so to speak – and – but it's also very moving and human and crowd pleasing.

And the filmmakers initially approached their premier at Tribeca with a pretty profiled sales agent like any other filmmaker would – I'm doing a deal, I'm doing a deal. And they didn't know that every firehouse in the country and every firefighter across the country wanted to get this movie. And they didn't care who they were getting it from. They weren't caring who was distributing it. They weren't even caring how much they were going to pay for a ticket to the theater.

And they embarked on this really great groundbreaking self-distribution approach, where they booked theaters themselves. They really would call every firehouse in every city in the country and be put in touch with an independent art house theater there and would four-wall the theater, which is renting it out and, you know, grossing a ton of money. They grossed over \$1 million, according to Rentrak, at the box office, which is impressive for any documentary, let alone one that's self-distributing.



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And their digital went through these automatic deals that we have, where the filmmakers retain the lion's share of the gross revenue coming back, and it was quickly the number one documentary on iTunes.

And that film's done very well. I can't say how much, because they own the rights and I'm under confidentiality with them – so much for transparency – but it's done really well. And that's an example where, for those filmmakers, they discovered kind of quickly in the process that getting it to their audience quickly and directly was better than kind of waiting for some all-rights deal that wasn't going to happen.

KENNEALLY: Right. So two things to underscore there – and particularly because I think there are a lot of documentary filmmakers attending Digital Hollywood – it's your understanding that the data for the documentary side of things is probably among the best in the business?

HORTON: Yeah, absolutely. And that's another reason why I think, as organizations like Rentrak evolve their practices, as transparency becomes something that's more broadly accessible by independent filmmakers – you know, documentarians, just as one example, can stand to benefit from cases like *Burn* or a social issue documentary can compare themselves with what other social issue documentaries have done in the market rather than what independent films generally have done in the market.

And I would love to see an indie film market world two years or even a year from now where a social issue documentary filmmaker can say I would be foolish if I didn't do a day-and-date release – in other words, putting it on iTunes the same day as in theaters – or maybe I'd be foolish to do it that way.

You know, I think that answers to that question are going to come from broader access to data and are going to really shift windowing strategies, are really going to shift how filmmakers and content owners approach getting their films to audiences.

SCHWARTZSTEIN: I want to talk about another way in which data is being used – is not by the filmmakers, but we had a documentary actually that we took on called *Women Aren't Funny* and that iTunes wasn't sure they were going to promote or not. And ultimately we were able to get presales numbers for that film up competitive to the same level as major box office movies.

By being able to push that number up, then we proved the fact that there was an audience. And it ultimately made sense for them to promote it. And the film has done very well. So I think that there is – you know, that's an internal measurement, right? If you know that you have – the companies who are essentially managing the product can see that there is a reason for them to promote it, then they have their own internal mechanisms by which they decide if something's going to work.



I mean they – a lot of the online platforms are self-fulfilling prophecies – right? You know, if something is promoted, it does better. If something isn't promoted, it doesn't do as well – which I want to use to digress off to one other point, which is, you know, I think that one of the things that you – *Burn* was a great movie. They had a clear idea where they were going and the marketing made a lot of sense from out of the box. That was an exceptional case.

I think, in most cases, movies are still hunting for their marketing hook, learning how to be able to connect with their audience. And then, ultimately, I find that what we, as distributors, bring is we can bring a coordinated effort to market something over many different platforms that can ultimately, in many cases, result in more revenue.

I'm not saying that one is necessarily better than the other. I'm just saying that, for each given program and every property – and also depending on the people involved and to what degree they want to work to market their own product – there are different ways to try to basically maximize the results, whether it be financial or otherwise.

KENNEALLY: Right. And in fact, Meyer, that was the question I wanted to ask you, which was – I mean you had –

M: (inaudible). (laughter)

KENNEALLY: Well, no, but we can extend it a little bit further. So in the case that Chris Horton was talking about, where the makers of *Burn* really kind of responded to what was happening in front of them in real time and made decisions about that and did very well with that – in your experience, how common is that? Is it not common enough? Is that what I hear you saying?

SCHWARTZSTEIN: Well, I mean there's always exceptions that prove the rule. I mean it's terrific to be able to have films that – and cases in which you have an appropriate mechanism by which to market, you've got – in that case, you had literally firemen who were out there essentially promoting the film – because it was – you know, it's basically a film about how the infrastructure of Detroit's fire department is being let go to – you know, they had these trucks that barely ran and that weren't well maintained.

So it was something that was a common issue for fire departments around the country. Then they used that as a means to help drive awareness. I mean documentaries are amazing at that.



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I think that you find that, generally, the ones that do the best, particularly theatrically, are the ones that are bringing along another issue that's got – that's resonant for a lot of communities around the country and have a natural built-in base, often in the nonprofit world, that want to promote their agenda, and they use a documentary to help promote the agenda.

It is hard to find those circumstances where those two things – that those things coincide. And unfortunately – and sometimes, when you have great examples like *Burn* out there, it becomes a thought – yeah, well, they did it – I can do it. It's like, well, yes, but obviously that's going to be the exception.

KENNEALLY: Right.

F: (inaudible) question. Vince, you mentioned that we, as filmmakers, should have an obligation with our distributors to get rights to this data. I have a deal with Universal for seven years, so (inaudible) my film on in theaters and Netflix, Amazon, department stores.

I did not sign the contract yet, but I'm curious – can we put that in the contract – that we can have an obligation to get the data, because our percentages for the next seven years will make a difference on me understanding how much I brought in and for future movie deals.

MUSCARELLA: Yeah. Well, first of all, I don't think it's – it's an obligation if that is important to you – if that's an expectation of yours, then I think it's in your benefit to try and attempt that. I can't tell you whether Universal is going to put it in the contract. I think it makes sense to ask the question. I think it makes sense to say, you know, look – and there may be some pieces of that.

I think you listed a number of different verticals there, from theatrical down to SVOD. Some verticals, they would probably say yes to – whether or not they're going to put it in the contract, they might say, well, we won't put it in the contract but, you know, we can provide it. In some other verticals, they probably won't.

But certainly, for most of the verticals, they have the data, so the question is – in most cases – and it's not just Universal, but the question is, if there is an obligation to report, you're more likely to get it, whereas, if you just say, well, hey, can you give it to me, you may or may not. And maybe Universal will be more responsive than others or less. But if it's on paper, you're more likely to get that, so I think it's in your interest to ask the question up front.

F: (inaudible) otherwise.

SCHWARTZSTEIN: Can I make a comment about that?



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F: Yeah.

SCHWARTZSTEIN: OK. In every distribution agreement that I've ever seen, there's some obligation to report – OK – so there's not a question about whether they're going to be reporting to you. The question is what are they going to be reporting? How often do they report?

KENNEALLY: When are they going to – yeah.

SCHWARTZSTEIN: And what's the degree to which they're going to report?

MUSCARELLA: Yeah, that's a good clarification. It's – you know, they're going to provide you with quarterly or –

M: (inaudible).

MUSCARELLA: – remittance or something like that, but the sales data – I mean that might come two, three months after the film is released. So do you want to wait that long? If you want it on a more frequent basis or an earlier basis, that's –

HORTON: It's really hard, though. In virtually any acquisitions deal, there's typically a quarterly accounting statement – sometimes only if there's revenue being associated with that or positive revenue or above a certain amount. And then they typically have anywhere from 30 to 90 days post-quarter to send you those statements.

So look at those fine points. It's – very few licensors who are selling their films to a distributor are able to get nuanced, specific metrics of data in a contract. But it really goes to who you're negotiating the deal with and who the distribution executive that you might have a relationship over there is with.

And what he or she will tell you – and hopefully you have a direct line – if they're not able to give you a dashboard where you get up-to-the-minute data – they may not – with iTunes, they get the data every day. In some other platforms, maybe not.

SCHWARTZSTEIN: But they may not have the internal infrastructure to provide information. I mean you're talking about an entity which is going to have – the iTunes data is coming into some guy in an office that's over here. And you're doing a deal with somebody who has an office that's over here. And you're getting reporting from somebody whose office is over here. This is a podcast – those are three different locations on the table. (laughter)

M: What Meyer's saying is drop that deal and go with him. (laughter)



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SCHWARTZSTEIN: No. (laughter) I'm just trying to explain – actually, oddly enough, sort of this is what the studio is going to tell you. It probably is that they don't have – it's not that information's automatically going to be clearly available.

They do have the reporting structures. And obviously they do this on an ongoing basis. And they may have – you know, they're going to be limited to how much they can probably give you, ultimately, because they've got the systems in place. But it doesn't hurt to ask the questions.

And part of it's also relationship driven. Right? If you're going to – you know, you can take them as far as they're willing to go from a legal standpoint, and the business affairs people will – are going to be more restricted than maybe the people you're talking to.

And then, if you have a good kind of ongoing personal relationship and they care about you being involved to help market the film, they care about you as somebody they want to do business with in the future – if they care about you as being someone who's essentially important to them on an ongoing basis, then you can have conversations.

You know, I'm going to call you every so often for this information. Will you please call me back and tell me – get it for me? Doesn't have to be all the time. I'm not going to nag you. But here's – you know, I just want to get a sense of how it's performing.

And also use it as a means of learning experience. Right? So if I can determine that this film did particularly well in this world or for this audience and that way it's like, well, gee, can I learn from that – that's the value of data. Right?

The value of data isn't gee, I have this information – it's like having something. It's like having data is really pointless unless you're going to do something with it. And if you can take it – and its value is in what you learn from it and how you then apply it – then, in that case, your argument to them could easily be I'm going to help you make more money next time.

KENNEALLY: And certainly it seems like Meyer is right – it doesn't hurt to ask questions. It's also great when you get some great answers. I want to thank the panel – Meyer Schwartzstein from Brainstorm, Vince Muscarella from Rentrak, Chris Horton from Sundance. (applause) And in about two minutes that we have left, we'll be happy to take some questions from the floor. So anyone else with a question for our panel? Yes, and is it for a particular person?



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M: Anybody can answer it. And it's we talk about distribution mainly in the U.S. China is dumping tons of money into trying to replicate the entertainment industry. They're letting things through their bamboo curtain, but there are issues, one of which being language.

But in terms of financials – like, for instance, I had a note from someone in Hong Kong saying we like your script – can you put it in Mandarin – or (inaudible) a script (inaudible) Mandarin Chinese – (inaudible) Mandarin. (inaudible) I can order in a restaurant and get my (inaudible) in Singapore, but I can't turn a dialogue into a regional language, so – but the point is they're becoming more and more interested in what we're doing and getting our material.

So from your three perspectives, what are the best ways of capitalizing on that interest and all the tons of money that they're dumping into the American economy?

KENNEALLY: Yeah. And the way I'd boil that down is this is really a global challenge. Right? It's not simply the American market that people ought to be interested in. Does that seem fair? Anyone want to take that? I mean, Meyer, it's a worldwide audience.

SCHWARTZSTEIN: Well, I mean, I think, ultimately, you've going to have a number of companies who are getting investments from – Chinese investment, who will be looking to acquire movies here and make movies here and connect with talent here. We're seeing more and more of that. As far as establishing a direct line there, I mean I would actually suggest – if you're asking for something you're particularly interested in, then you have to go to the film festivals there.

KENNEALLY: Right. And Chris Horton, at Sundance, it's more than just American buyers.

HORTON: Yeah. We're deeply interested in China as an organization. We have artist programs that we've done there with a corporation there called CNEX, but it's really just to – you know, for the creation of art and new films. I'm actually pretty admittedly clueless about the distribution opportunities there.

I think, ultimately, where we're headed is multi-territory day and date premiers for American movies on platforms like Netflix and iTunes and others as they take up more and more territories. You know, we're already starting to see that from indie levels, where there will be a global iTunes launch on multiple platforms.

We just had a film festival in Hong Kong where we took eight films from this year's Sundance Film Festival and screened them in Hong Kong. And it was a good little experiment for us. And it seemed to go really well. But we also were



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able to promote films on the Hong Kong iTunes store that had already premiered at Sundance, and it seemed to go well. So, you know (inaudible) –

KENNEALLY: Great. Well, with that, Chris, we have a panel coming in in five minutes, so we're going to have end it here. Thank you all for joining us.
(applause)

END OF RECORDING