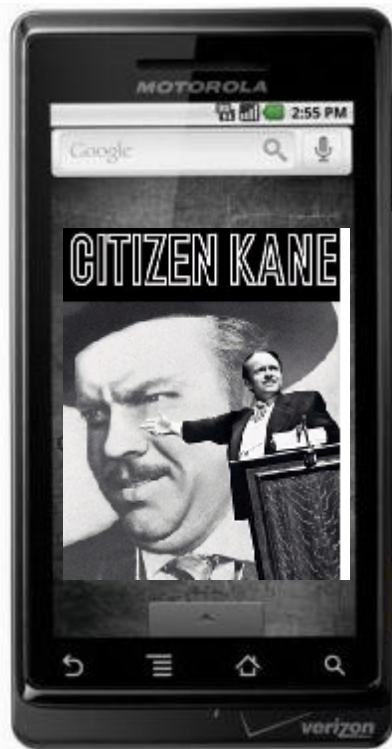


CONTENT, CONTROL AND THE SOCIALLY NETWORKED FILM



– *Jon M. Garon*
Hamline University
School of Law

Influences Reshaping the Movie Industry

- n The first organized film consortium was built in 1908 by Edison. Using his patent over the motion picture projector, he entered into exclusive agreements with Eastman to tie the sprockets in the film stock to the Edison projectors. Edison's Motion Pictures Patents Company was a combination with the Biograph Company and American Mutoscope.
- n During the height of the studio system, the studios were also vertically integrated.
 - n They owned many of the theater chains across the country, either by direct ownership or exclusive contractual arrangement.
 - n The control of the premiere movie theaters and the marquee talent gave the studios near absolute dominance over independent filmmakers.
- n Only Disney broke with the studios to work directly with television, a medium captured by the Radio industry rather than the movie industry.

The 1970's

- n The New Directors took over Hollywood
- n The Betamax invented the video store
- n George Lucas launch Tent-Pole filmmaking and the soundtrack album
- n And the center of gravity in entertainment shifted:
- n As the district court in *Sony* observed, the studios feared that “with any Betamax usage, ‘invisible boundaries’ are passed: ‘the copyright owner has lost control over his program.’”
- n We have passed those boundaries. The Media belongs to the audience.

Today: The social media revolution

- n Number 1 online activity
 - n (moving past pornography)
- n By 2010 GenY will outnumber baby boomers
 - n 96% joined a social network
- n 1 out of 8 married last year
 - n met online
- n 80% of companies use LinkedIn as primary job search tool
- n Social ranking of products far more convincing than professional reviews
 - n 78% trust peer reviews
 - n 14% trust ads
 - n 80% of twitter is mobile
- n 35% of Amazon book sales are for Kindle



- n YouTube – 200,000 video providers
- n 200,000,000 blogs on Net
- n Over 1.5 million pieces of content are shared on Facebook daily
- n Only 18% of traditional TV ads generate positive ROI
- n 90% of those who can skip ads do

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The modern challenge

- n The entertainment industry has exchanged analog dollars for digital [dimes].
 - n NBC Universal CEO Jeff Zucker
 - n Dimes increased from pennies in 2007
- n "Apple sold millions of dollars worth of hardware off the back of our content and made a lot of money," Zucker said.
- n "They did not want to share in what they were making off the hardware or allow us to adjust pricing." (October 29, 2007)

The Curatorial Audience

n Who are they?

- n The curatorial audience is comprised of active fans collecting content, sharing their opinions with others on social media sites, and promoting their favorite artists.
- n They have more similarity to the fan clubs of the 1950's, but with the power and connectedness of today's social media, the curatorial audience has the potential to reshape the marketing and eventually the green-lighting process for new media.

The "Curatorial Audience" demands a role

- n YouTube has become pervasive
- n Audience expects to collect content, post comments, promote views and participate in distribution
- n Commercial producers are unlocking controls to share in new audience interaction

The screenshot shows the YouTube homepage interface. At the top, the YouTube logo is followed by the text "Broadcast Yourself™ Worldwide | English". Below this is a navigation bar with tabs for "Home", "Videos", "Channels", and "Community". A search bar is located to the right of these tabs. The main content area is titled "Videos" and features a filter menu with options for "Popular", "Most Viewed", "HD", and "more". A secondary filter menu at the top right of the video grid allows users to filter by "Today", "This Week", "This Month", and "All Time". The video grid displays eight video thumbnails, each with a title, upload time, view count, channel name, and a star rating. The videos shown are: "BEN STILLER DOES JOAQUIN" (2:53, 374,247 views, ADREAMLIVESONFOREVER, 5 stars), "Jack Black and Jennifer Aniston ..." (1:07, 276,534 views, TrailersOfficial, 4.5 stars), "Dwight lets 'em fly - twice!" (0:20, 293,042 views, NBA, 5 stars), "Oscars 2009 SLUMDOG" (2:06, 280,090 views, tvguide, 5 stars), "2009 Oscar Opening~Hugh" (7:59, 224,638 views, katcry2008, 5 stars), "Beyonce Knowles performs with Hu..." (5:01, 219,512 views, greenbearwithit, 4.5 stars), "KATE WINSLET WINS FOR THE" (3:40, 212,082 views, williamsleator, 5 stars), and "Sean Penn Wins for 'Milk' Accept..." (3:53, 202,095 views, NewsPoliticsNews, 5 stars).

The Curatorial Audience

n What do they do

- n The curatorial participant has become a critical part of the Hollywood experience.
- n The diffusion of opinion has made the influence of any particular critic far less influential than before. Instead, the socially networked curatorial audience influences decisions with previews and posts.
- n Comments on trailers posted to YouTube, ratings on Netflix and other feedback systems fuel the information loop.

The Curatorial Audience

- n **How to reach them.**
 - n The curatorial participant has only begun to flex her muscle. Large groups on MySpace and Facebook, press briefings in Second Life and Internet-only promotions all help fuel the participation of the online, socially-networked audience.
 - n These activities will continue to expand as traditional media contracts in scope and influence. Moreover, film companies will invariably be developing affinity programs to help create anticipation by their more loyal audience members to participate more actively in their social networks.

Affinity – The Audience as Marketing & Distribution Partner

- Reintermediation uses richness and reach to make allow the company to anticipate the consumer's wants
 - Very socially relevant – high attention
 - Utilizes customer-identified data to personalize interaction
 - “Pulls” customer by initiating the interaction or the next move in the interaction



Affinity – The Audience as Marketing & Distribution Partner

- n The most effective media companies will adopt the reintermediation model which “uses exclusivity to improve affinity.”
 - n To compete in this open marketplace, the producer needs to differentiate itself from the competitors.
 - n “The Internet is the first true interactive commercial medium, and it appears that the general gratifications frequently identified in studies of non-interactive media must now be supplemented with ... socialization.”
 - n Reintermediation strategy utilizes contracting strategies, consumer data information, and structural business approaches to encourage additional steps in the consumer transaction which build an ongoing relationship between the enterprise and the consumer.

Brazil's Social media programming



MovieMobz

Using Internet, participants vote on movie of the week

Theater announces which movie will be shown by e-mail

- n Uses Bit torrent to download a digital “print” for showing
- n In different cities, the programming changes
- n The physical social environment married to the on-demand movie activity

Audiences could drive exhibition

- n Producer lists event
- n Users “demand it” to show interest
- n Exhibitors respond and book
- n Hottest shows survive
- n But – does it lengthen or shorten tail?

Demand events in your town [▶ Demand events](#)

Over 100,000 performers decide where to appear using Demand it!

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Inverted Film Festivals

- n Another is the “inverted” film festival, From Here to Awesome (FHTA), described as a “discovery and distribution festival....” Like Moviemobz, online viewers vote for their favorites, building an audience for their success.
- n SnagFilms provides opportunities for documentaries to be seen before they appear in theaters. SnagFilms has declared that its online documentary site has served one billion page views.
- n Other examples are also growing, including iTunes, Amazon Video on Demand, Netflix, YouTube, Hulu, Joost, Babelgum, Jaman, IndiePix, The Auteurs and the previously mentioned SnagFilms.

On Set Marketing and Promotion

- n The challenge for producers of controlling on set marketing may come from within the production as well as from the outside.
- n When things go wrong on the set, too many personal cameras, cell phone and other devices are at the ready to spread the gossip.
- n Future contracts will include language making blogs, tweets, photographs and video/film explicitly within the control of the production company. At the same time, however, building audience interest through well chosen content could build the fan base.
- n Just as production companies are expected to deliver hundreds of on-set publicity photographs for use by the distributor, some distributors may expect production companies to begin building an audience with on-set blogs, tweets, e-mail and posts.

@Jon_Favreau Lighting a scene with Robert, Gwyneth and Don.
-Jon Favreau, Director/Actor ("Iron Man 2," "Elf")

@jeremypiven 4 the record: Hayden Panettiere is a lovely hard w
enough to call my buddy.
-Jeremy Piven ("The Goods: Live Hard, Sell Hard," "Entourage")

@radiomaru S.P. The Movie shoots through August. 6-day week



Posts from the company

- n Others could potentially come from the characters themselves.
- n Well before the film's release, "The 9 Scientist," the lead human character in this animated feature, began updating "his" Facebook page.



- n According to the Facebook Statement of Rights and Responsibilities:
 - n "Facebook users provide their real names and information, and we need your help to keep it that way. ... You will not provide any false personal information on Facebook, or create an account for anyone other than yourself without permission."
 - n By the terms of the Facebook license, to run the marketing campaign used in 9, Focus Films is required to obtain Facebook's permission.

The Never-Ending Final Cut

- n Third party software can be legally used to skip select content on a film. Though not specifically allowed under the Copyright Act, it may also be possible to add additional material and program the playback device to incorporate this new material into the version presented.
- n Continued improvement in technology will lead to an increase in the amount of editing that can be done by the filmmaker after the movie has been released.
- n Undoubtedly, if a party were to create an unauthorized version of a film with additional material, that new work would be an unauthorized derivative work, constituting copyright infringement.
- n If instead, the new material were never added to a copy of the original work and were available only for home viewing and not for public performance, then a legitimate question remains whether or not the composite private performance is also an unauthorized derivative work.

Web Vignettes

- n story-lines using web-posted vignettes and other short projects created as derivative works from the original.
- n These additional vignettes or webisodes may be created by the original film producer or the content owners may encourage fans to create their own related content.
- n Producers encourage the audience to stay involved with the characters, to expand the scope of the story, and to legitimize fan fiction in a variety of media.
- n Nonetheless, to be successful, these webisodes will still require a good deal of time, effort and creativity to be successful.

The screenshot shows a YouTube search results page for the query "mystery team". The page includes the YouTube logo, navigation links (Home, Videos, Channels, Shows), and search filters. The results are sorted by relevance and show four video entries:

- Mystery Team Adventures: The Case of the Haunted Hotel** (HD): An all-new original short film featuring the characters from DERRICK Comedy's first feature film, "MYSTERY TEAM." "MYSTERY TEAM" is coming to ... (5:51, 106,665 views, derrickcomedy)
- Mystery Team Trailer**: Our first full-length feature film **MYSTERY TEAM** is coming to theaters this fall. For more information: bit.ly See the trailer and get more info at ... (2:01, 1,599,721 views, derrickcomedy)
- Mystery Team- New Theatrical Trailer** (HD): Our first full-length feature film **MYSTERY TEAM** is coming to theaters this fall. For more information: bit.ly See the trailer and get more info at ... (2:08, 176,277 views, derrickcomedy)
- Mystery Team Q &A: 2009 Sundance Film Festival** (HD): **Mystery Team** Q &A Have you seen the **Mystery Team** trailer yet? The film will be released in October nation wide through Roadside Attractions. This ... (6:27, 4,934 views, chrisbarrett)

Live Events – Virally Sent Online



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Lost Comic Con 2009 Panel - Part 1 HD



TostieProductions.com

The Fan Vids they played
can be viewed here:



★★★★★ 480 ratings

144,496 views

Live Events – Virally Sent Online

- n Lost staged live-action skits to accompany the webisodes they aired at the event.
 - n The producers fully expected the panel to be filmed by news outlets and audience members and posted on YouTube and other sites across the Internet.
 - n The webisodes and live-action content engaged the live audience at the panel, which in turn deployed a powerful distribution army after the event.
- n The goal was to keep *Lost* relevant to the audience in its final season.
 - n The model highlights the importance of maintaining an affinity relationship with the audience; not merely introducing new content.

Hybrid Distribution – Old is new again

- n Declaration of Independence: The Ten Principles of Hybrid Distribution by Peter Broderick (September 21, 2009)
- n Hybrid distribution combines direct sales by filmmakers with distribution by third parties (e.g. DVD distributors, TV channels, VOD companies, educational distributors).
- n In the Old World of Distribution, Plan A was to give all your distribution rights to one company and Plan B was self-distribution.
 - n In the New World, Plan A is doing your own direct sales while splitting up the other rights; Plan B is making an all-rights deal with one company.
 - n A hybrid approach enables filmmakers to choose partners with the resources and expertise to maximize distribution in different channels while allowing filmmakers themselves to do what they do best—reach core audiences directly.

Ideas that don't really add much

- n Receiving an advance sufficient to recoup is still better than the alternatives
- n Splitting rights discourages investment in marketing
- n Oprah sells the most books, a featured tune in an iTunes ad sells the most music, and talk shows sell music
- n These aren't better solutions, they are the available solutions
- n **The first five suggestions may not mean much:**
 1. Design a customized distribution strategy
 2. Split distribution rights
 3. Choose effective distribution partners
 4. Circumscribe rights
 5. Craft win-win deals

Much more important suggestions

- n **The long tail – reality and myth**
 - n Today's success drowns out yesterday's work
 - n Most older material simply is lost – if you cannot find it (on Netflix, Amazon or the first 3-pages of Google), it is the same as not existing
- n **Selective audiences are much more dedicated**
 - n Only applies to narrow-cast material
 - n Plan the content accordingly
- n **How this relates to the other suggestions:**
 6. Retain direct sales rights
 7. Assemble a distribution team
 8. Partner with nonprofits and online communities
 9. Maximize direct revenues
 10. Grow and nurture audiences

Crowdfunding Pre-Sale

- n Crowdfunding works by selling something directly to the public.
 - n In the case of buyacredit.com, the item sold is the purchaser's name in the end credits.
 - n That's it: £1 buys you your name on the list.
- n The purchaser is not an investor in the movie.
 - n For very low budget projects, crowdfunding can replace the much more technically challenging sale of securities to fund the production company.
 - n Avoids entanglement with state and federal securities laws.
- n The crowdfunding concept can be expanded by growing the list of products available to the curatorial audience supporting the project.

Crowdfunding Pre-Sale

Crowd-Funding For Better Movies

Posted by **Christopher Sisk** April 28, 2008 |

Jessica Mae Stover has come up with a pretty nifty idea to fund her movie, 'Artemis Eternal'. Cut out the middleman and let the people fund the movie.

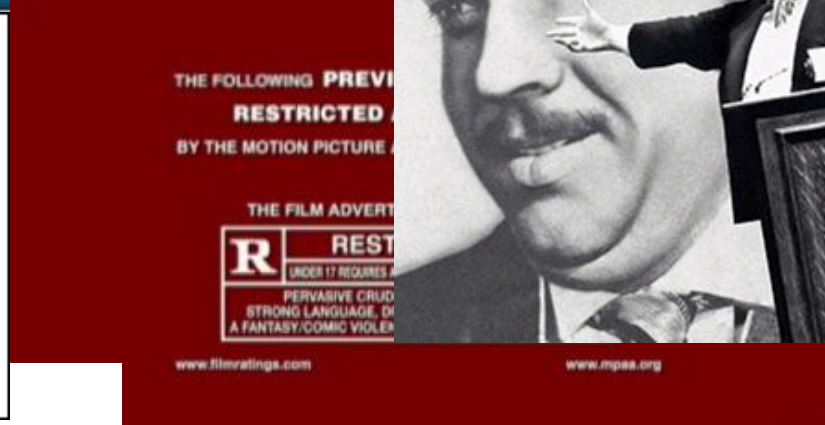
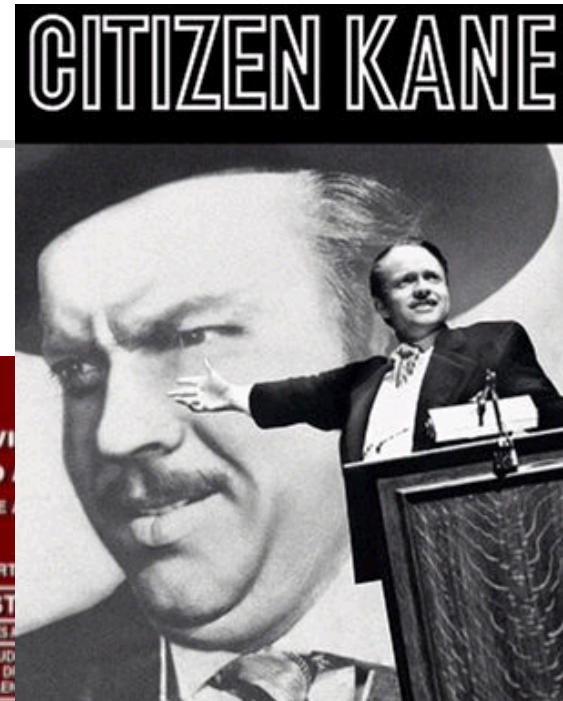


“



Crowdfunding – Wave of the Future

- n Instead of merely offering a special thanks credit, the audience member should be sold a DVD, contingent on the completion of the project, of course.
 - n For \$50, a supporter receives a credit in the film and an advance copy of DVD prior to its general release.
 - n Depending on the nature of the project, filmmakers could also consider adding a copy of the screenplay or production tee-shirts (necessarily at a higher cost).
 - n Only 20,000 purchasers are needed for a \$50 purchase to get the \$1 million needed to produce the film.
 - n Add ticket sales at advance screenings and the income can really make a difference.



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