

# XI. INSIDE TRACK: **FREE RANGE DISTRIBUTION**

## **The new frontier**

Once upon a time, about a hundred years ago, a bunch of Eastern European immigrants moved to California and started the motion picture studio system. There were no rules, film was in its infancy, and, by making it up as they went along, these people started a revolution in entertainment and narrative creativity that transformed the world.

A similar revolution is taking place right now. The main characters of this uprising are filmmakers like you, who are maintaining control of their work and finding ways to make money in the process. In establishing this new frontier in distribution strategies, you are also shaping the future for filmmakers who will come after you, just as the first studio heads did a century ago.

In this Inside Track, you will learn about the opportunities in this new frontier. Let's call this frontier Free Range Distribution, which captures the energy and Wild West experience you'll find here. (I learned this term from my friends at Seed & Spark, an organization that supports and facilitates independent filmmaking.)

## **89. WHAT ARE FREE RANGE DISTRIBUTION PLATFORMS, AND HOW DO THEY WORK?**

Free Range Distribution platforms are websites that make it possible for you to sell or rent your movie. In a digital setting, a “sale” can be defined as a download that the customer can keep forever, and a “rental” is a streaming or viewing opportunity that expires within a certain period of time, usually 24 to 72 hours. Sale prices are typically higher than rental prices.

These distribution platforms go well beyond the monetization strategies of more basic sites like YouTube, where interaction is limited to advertising or requesting a donation. Instead, these platforms allow you to have a direct, transactional relationship with individual audience members.

Some Free Range Distribution sites are open to everyone, such as Vimeo, which allows you to upload and sell your movie as long as you subscribe to its Pro service. Other ones are more selective and require a submissions and acceptance process. I prefer these selective platforms because there are fewer movies on them, and their curation procedure establishes a certain level of quality. At the same time, they charge more for their services, through either a setup fee or a share of revenue.

If you’re interested in exploring the Free Range Distribution option, you need to do your homework. There are many Free Range Distribution platforms available (some

are listed in the Essential Resources section of this book), and because this is an emerging and fluid marketplace, their terms and offerings change frequently. Look for a platform that has been successful for films similar to yours and that has the features most important to you.

If you select a platform that has a submissions procedure, study it carefully and make sure you have all your materials in order. Often, staff members are available by email or phone to help guide you through the process, and to answer questions as you determine if this is the right platform for you.

It's a good idea to be in touch with your potential Free Range distributors early on in your filmmaking journey, even before your movie is finished. You'll learn what is possible and what is not, and it will be just one more step in planning your release strategy well before you premiere your film—which is exactly what the big studios do.

## 90. YOU CAN KEEP YOUR RIGHTS

This great revolution in filmmakers' favor has nothing to do with technology—it is all about rights ownership. You are selling some or all of your rights when you make a deal with:

- A theatrical distributor
- An international distributor of any kind
- An aggregator
- A digital distributor (such as Netflix)

This usually works in your favor, because you probably don't have access to large audiences and distribution pipelines yourself. You made your movie with the hope that lots of people would see it, and you will do whatever it takes to find an audience for your work.

However, in some cases you may want to keep all the rights to your movie. You might want this because you can't make a distribution deal, or you might prefer this because you believe you will make more money by keeping your rights and selling your film yourself. A new breed of technology platforms now exists to make this much easier for you, as long as you have been strategic in your thinking and have the resources and determination to use them well.

## 91. WHAT RIGHTS ARE THERE?

The idea of keeping all your rights may sound exciting to you; in order to keep them, though, you need to know what you have.

Here are the main rights that can be sold, licensed, or kept when you make a movie:

- Theatrical exhibition
- Pay-per-view
- Packaged goods (DVDs)
- Pay television
- Free television
- Airlines
- Cruise ships

In addition, all these rights are available worldwide, and you can sell, license, or handle them yourself territory by territory.

You can still pursue Free Range Distribution even if you have already sold some of your rights—it is possible to just “free range” the rights you still possess. That’s why you want to make sure an attorney looks at any contract you consider. The attorney will make sure that any rights are detailed with great specificity, so you know precisely what you are selling, and are quite clear about what you are keeping.

## 92. KNOW YOUR RIGHTS

Let's say you're entering into negotiations with a distributor. The distributor will begin by asking for everything. That's not because distributors are greedy by nature; it's just the way business is done. It's very likely your distributor will assume you don't know enough about the business to understand rights, and to try to keep some for yourself. This is another reason to have a good lawyer by your side!

In your negotiations, you can ask to keep certain rights. For example, many independent filmmakers successfully retain the right to sell their films on their own websites. But if you don't ask for it and don't get it in writing in your contract, then you won't have it.

Similarly, you might want to retain the right to sell physical DVDs. Or to host your own theatrical screenings. Or to handle the rights yourself in certain territories—which may be important if the distributor isn't equipped to service your movie everywhere in the world.

*Clip rights* is the right to use short clips of your movie. Most distributors don't care about these, and if you ask for them, you will probably be able to keep clip rights. This will allow you to use clips of your movie on your own promotional reel or on YouTube, or even to make mash-ups of your work, including your own movie clips, and collect some advertising revenue while doing so.

Part of knowing your rights is knowing you have full and complete chain-of-title. As you learned in Tip 88, chain-

of-title is an essential part of finishing your movie, and one which often gets complicated for independent filmmakers who have tried to make their movie on the cheap without good legal counsel. You'll need complete chain-of-title to make a distribution deal, and you'll need it if you plan to monetize your movie yourself. Otherwise, someone who worked on the film, or who made a creative contribution to the film, may sue you or try to stop you from distributing the movie.

If you're going to pursue Free Range Distribution, make sure you dot all your i's and cross all your t's in your legal documentation before you begin; it will be much harder, and more expensive, if you try to clean it up afterward.

## 93. INTEGRATE EVERYTHING

A filmmaker recently contacted me to ask if I could help him sell his movie. I looked at the film, and, because it was good, I told him I'd be happy to do what I could.

"Have any distributors seen it yet?" I asked.

"No," he said, and I breathed a sigh of relief. It's always an uphill battle when several companies have already seen and passed on a project. In general, it's better, and easier, to share something that hasn't been seen before.

Then the filmmaker added, offhandedly, "But it's been selling pretty well on my website."

Yikes! That's the kiss of death if you want to make a distribution deal. The filmmaker should have stopped to consider this question: Why would Hulu or iTunes take a movie and try to sell it, if it has already been available somewhere else?

When you're planning your movie, you should build your distribution plan in conjunction with your production plan. Consider all the possibilities and start determining all the screens on which you may wish to share your film, the sequencing of when your film will be available on which screen, and where you will need partners (like a theatrical distributor or a digital distributor) and where you will do it yourself. Don't divorce theatrical, digital, and physical distribution from each other; they all need to work together.

Your goal is to get your movie in front of as many peo-



ple as possible. Even though I love the full cinema experience and want audiences to see my movies in their full, wide-screen glory, I would rather people see them somewhere else than nowhere at all. Therefore, I have come to believe that as filmmakers, we should make our films available to audiences via any screen or device, and in any way and at any time they want to view them.

At the same time, sometimes you will want to sequence when and where the film will be available—for example, if you want to qualify for an Academy Award, you must have a theatrical run first and hold off on any other form of distribution for a specified number of days. (The Academy changes its rules each year, and they are different for documentaries and narrative features. To make sure you don't make an inadvertent eligibility error, check the rules yourself at <http://www.oscars.org/awards/academyawards/rules/>.)

And don't disregard physical merchandise. Conventional wisdom holds that DVDs are *passé*, but in this case conventional wisdom is wrong. Many independent films sell quite a lot of DVDs, especially when they appeal to special-interest groups or have an educational component to them. Approximately \$18 billion worth of DVDs are sold in the United States every year; that doesn't sound *passé* to me.

## 94. MARKETING IS YOUR JOB

A major theme of this book is that you must be your own marketing department. For any creative entrepreneur, in any field, this job requirement is the most important and the most uncomfortable.

Let's look at discomfort and importance.

For creative people, those of us who work primarily alone in coffee shops or studios, it is truly difficult to step into the public sphere and trumpet their own stuff. This is true for filmmakers as well, even though there's a lot of social activity involved in on-set camaraderie. When your movie's done, you'll probably feel the film will speak for itself.

Newsflash: it won't. It's *your* job to speak up for it. You must demonstrate to the world how important your film is, and you do this by talking about it, in every medium, at every chance you get.

If you choose Free Range Distribution, marketing is 100% a requirement, and you must build out and execute your own marketing plan. Movie tickets—or downloads—are not going to sell themselves. You must bring the audience to your film, hold their hands, entice and encourage them, and, finally, get their money.

Fortunately, as an engaged reader of this book, you have probably already been following the steps, and you will be prepared because . . .

- You know what your film is about.
- You know who your audience is with great specificity—your audience is a clear-cut, distinct niche, not a general demographic.
- You know the size and duration of your social media following (and the social media following of your actors and creative team), and you have been building it up over the past year, so you are ready for this moment.
- You did your crowdfunding campaign, maintained a strong relationship with the contributors (and the people who peeked but did not contribute), and you are ready to turn them into your core advocates.

You did do all these things, right? If not, get busy.

Congratulations! You are now the CMO of your very own film company!

## 95. FOUR-WALLING

Distributing your movie yourself and keeping your rights does not mean you have to forgo a theatrical release. If no theatrical distributor wants to take you on, consider four-walling.

Four-walling involves renting a theater and hosting the screening yourself. On a weekday, when movie theaters are 90% empty, you can often rent a theater for \$200 to \$500, and you get to keep the money from tickets sold. Not a bad investment, if you promote the movie to your friends and social networks.

If you create the right buzz and do only one screening, your screening has a good chance of selling out, which means you will probably get back all the money you spent four-walling the theater *plus* have an amazingly good time. If you get this kind of excitement going, it's a good time to reach out to potential distributors again and invite them to your screening. Not only will they be impressed by your entrepreneurship, but they'll also be fired up by your enthusiastic audience, and you may get an offer at the end of the evening.

A variation of pure four-walling is using a service like Tugg (<http://www.tugg.com/>). With Tugg, and other emerging services like it, audience members can sign up and pre-pay to watch your film in a theater. When your film hits critical mass, Tugg will book the theater and arrange the screening. A number of smaller distribution companies are now using Tugg as a marketing tool to create buzz and audience awareness. You can use it, too.

## 96. WHAT TO LOOK FOR IN A FREE RANGE DISTRIBUTION PLATFORM

Every film, filmmaker, financier, and audience has different needs, and you should select a distribution platform to fit your particular project. As you're evaluating Free Range Distribution platforms, here are eight important questions to ask:

1. **How much will it cost?** Is there a setup fee? A submission fee? If the platform hosts your movie, what percentage of the revenue will it take?
2. **Is it exclusive?** Some platforms require an exclusive commitment, meaning you cannot sell or distribute your film anywhere else. Others are non-exclusive, meaning you can sell your film anywhere else and it won't be a problem.
3. **Does the player work everywhere?** All platforms will say their video player works everywhere, but does it really? You need to test it yourself. Do this by trying to watch a movie from the platform in every major browser (Firefox, Safari, Chrome, and Explorer), on a Mac and a PC, on an iPad and an Android

- tablet, and on an iPhone and an Android phone. That may seem like a lot of work, but you'd rather be safe than sorry, and it would be disappointing if your movie couldn't play on any device an audience member has.
4. **Does the player travel?** In other words, can you embed the video player onto your own website and blogs, and those of your friends, or does the consumer have to go to the platform's website in order to buy and watch your movie?
  5. **Can you have affiliates?** An affiliate is someone who helps you sell your movie, in exchange for receiving a percentage of each sale. This financial incentive motivates the affiliate to sell for you. Good platforms allow you to have affiliates and manage your relationship with them.
  6. **Can you control the financial terms?** Can you set your own price both for sale and rental? Can you change the price whenever you want? Can you set the percentage you'll share with an affiliate? Can you give a different percentage to different affiliates?
  8. **Does it have an easy dashboard?** Most platforms have a great feature that allows you password-protected access to a filmmakers' dashboard, from which you can control all aspects of your transactions. Take a look at the back-end of the platform you're considering. Is the dashboard simple to understand and

easy to operate, and does it give you all the information and control you need?

9. **Is there real-time information?** With Internet analytics being what they are, there's no reason you should not be able to see information in real time—how many people have bought your film, how many have browsed it, and even how many are watching it right now. Real-time analytics are the secret power of large companies like Netflix, and you can use them as well, to adjust your marketing strategy and emphasize approaches that will attract the greatest number of paying customers.

## 97. WHAT YOU'LL NEED

As you are now the CMO of your own film company, you'll need to make sure you have all of the following before you begin employing Free Range Distribution:

- All chain-of-title and legal documentation fully completed and signed by everyone who needs to sign. You should keep physical, hard copies in a safe place, and also a scanned set of all documents in a file on your backup drives.
- All picture and sound elements of your movie, fully completed, and fully encoded with the relevant metadata. Different distributors have different requirements or recommendations for metadata; double-check what your platform needs.
- Key art. A great movie poster definitely helps sell your movie. In the digital ecosystem, your key art has to sell itself at merely thumbnail size. If you are not an experienced movie poster designer, hire someone who is—it will make a world of difference.
- A killer trailer. Hire a pro to do this, too. Editing a trailer is different from editing a whole movie and requires specialized experience and skills.



- Bonus content for use in marketing and also to share with your affiliates, so they can use it to sell their audiences, too.
- A database of your affiliates and potential affiliates.
- A database of your audience members and fans, including their preferred mode of communications, and a way of communicating with them.
- A written, well-planned release strategy, with a timeline and goals for you and your affiliates.

## 98. WHAT'S BEEN WORKING

As you know by now, comps are great research tools and will afford you the chance to make decisions based on evidence, instead of hopes and dreams.

By studying the comps in Free Range Distribution, three clear best practices emerge:

1. Keep your digital rights if you can.
2. Know your niche.
3. Own your followers.

Filmmakers who have successfully distributed content do all three of these. Here are some examples of people who have successfully navigated the exciting, at times unpredictable, landscape of Free Range Distribution:

Champion athlete Diana Nyad completed her historic Cuba-to-Florida swim on September 2, 2013, at the age of 64. This was her fifth attempt, and over the course of her career, which began with the Olympics and grew to include broadcast journalism, she developed a strong audience following. A documentary about her fourth attempt, *The Other Shore*, had come out earlier in 2013, and Nyad sold television rights while keeping all the digital rights herself. With renewed publicity as she finally pulled herself on the Florida coastline, and an ability to reach her fans directly, Nyad was able to mon-

etize her documentary directly with digital sales from her website.

Aquatic fans are one audience niche; UFO/alien fans, another. *Sirius*, a movie that purports to show a real alien autopsy, made Free Range Distribution history when its producers earned \$250,000 over one weekend via the YEKRA platform. They did this without a theatrical release and with almost no marketing budget; their affiliates were highly motivated and sold the movie to legions of alien abduction aficionados. I can't attest to the veracity of the film, but the movie certainly achieved liftoff.

The most profitable content thus far has come in the form of comedy shows, performed by well-known comedians who have large Twitter or other social media followings. Louis C. K. prototyped this strategy when he went on the road in 2012 and used his own money to create the video of his performance, *Live at the Beacon Theater*. Instead of selling the rights, he kept them and made the show available on his website for \$5 per download. In 12 days, he made more than \$1 million.

Keep your rights, know your niche audience, and be able to reach them: these are the three constants for Free Range Distribution success.

## 99. WHAT'S NEXT FOR FREE RANGE DISTRIBUTION?

Two years ago, Free Range Distribution was just emerging and was too unstable to discuss with any certainty. Today, it's clear that the "rights revolution" is an indelible part of the filmmaking landscape and will be a significant opportunity for all content creators.

Yet Free Range Distribution is still in its formative stages, and changes undoubtedly lie ahead.

From the perspective of the distribution sites, the marketplace created by Free Range Distribution may see a shakeout sooner rather than later. There is a wide variation in quality, in terms of both technical capacity and the movies that are available on each platform. In addition, as far as I know, none of the platforms are profitable yet. The stronger ones will survive; the weak will quietly disappear, leaving behind only 404 Error messages; and some entrepreneur will probably try to consolidate the market in the next few years.

From your perspective as a filmmaker, the technology to own and communicate with your audience, and to share and monetize your movies, will continue to improve. It won't necessarily get less expensive—even though some opportunities may cost pennies in cash terms, they will be balanced with the need for enormous resources of time and people-power to make them effective. In the end, you'll get what you pay for.

Yet, easy or difficult, cheap or exorbitant, the potential to own your rights and make money from them is here to stay. As a filmmaker, you'll begin planning your Free Range Distribution strategy from the moment you begin planning your movie, and you'll use Free Range opportunities either as an ancillary marketplace if you get a traditional distribution deal, or as your primary revenue stream if that best suits your film. You've made it to the 99th Inside Track tip, so you're probably doing this one already!