

A conference organised by the British Screen Advisory Council

## BSAC FILM CONFERENCE

A BRAVE NEW WORLD: EMERGING PLATFORMS AND FORMATS

9 MARCH 2006





# FOREWORD

The British Screen Advisory Council is an independent advisory body to the government and policy makers at national and European level and to the audiovisual industry. It uniquely brings together the widest possible range of UK interests, experiences and contacts in the screen industries. Members include senior management from terrestrial, satellite and cable television, telecommunications and new media companies; international film producers and distributors, cinema exhibitors, video distributors, technical experts, business people with media interests, media lawyers, communications consultants, TV producers and trade unionists; and the heads of training and trade organisations.

BSAC regularly commissions and oversees research on the audiovisual industry and uses its research to underpin its policy documents. In addition to regular monthly meetings, BSAC organises workshops, seminars, conferences and industry briefings.

BSAC relies on industry funding for its activities and we are therefore particularly grateful to Time Warner for sponsoring this event. BSAC also wishes to express its gratitude to all the speakers and panellists at the conference for their interesting contributions. The Chair of the conference was John Howkins, Deputy Chairman, BSAC and Director of Equator Group plc, to whom the Council is most grateful.

Please note that the speakers' presentations and panel sessions in this report are edited transcripts. Presentation slides are available on request, or on BSAC's website ([www.bsac.uk.com](http://www.bsac.uk.com)).

# TIME WARNER

Time Warner Inc. is a leading media and entertainment company, whose businesses include filmed entertainment, television channels, interactive services, publishing and cable systems. In Europe, Time Warner's businesses include Warner Bros. Entertainment, New Line Cinema, Home Box Office, Turner Broadcasting System, Time Inc. and AOL.

## **Warner Bros. Entertainment**

Warner Bros. Entertainment is a global leader in the creation, distribution, licensing and marketing of theatrical motion pictures, TV programming, animation, video/DVD and related products. In Europe, Warner Bros. is also committed to producing and distributing local productions. Films currently being produced in the UK include Harry Potter and the Order of the Phoenix.

## **New Line Cinema**

New Line Cinema is the oldest and most successful independent film company in the world. In addition to the production and distribution of theatrical motion pictures, it has divisions devoted to home entertainment, television, music, theatre, licensing, merchandising and international marketing and distribution. New Line has been a pioneer in franchise filmmaking and its award-winning Lord of the Rings trilogy is the most successful film franchise in history.

## **Turner Broadcasting System**

Turner Broadcasting System is a leader in news and entertainment around the world. In Europe, Turner delivers cable and satellite television channels and Web Sites, including CNN International, Cartoon Network, Turner Classic Movies, Boomerang and Toonami.

## **Home Box Office**

HBO is America's most successful premium television network, whether measured by subscribers, profitability, viewers, awards or critical acclaim. HBO sells its original programming such as The Sopranos and Sex and the City to broadcasters throughout Europe. HBO's film division is involved in local productions such as The Life and Death of Peter Sellers and the distribution of such acclaimed HBO films as Gus Van Sant's Palme d'Or winning Elephant and Sundance winners Maria Full of Grace and American Splendour. HBO Central European ventures offers basic and pay television channels throughout Central Europe.

## **Time Inc.**

Time Inc. is the world's leading magazine publisher. Its more than 130 magazines reach total audiences of more than 300 million worldwide. In Europe, Time Inc. offers readers the best in serious journalism, including Time and Fortune, as well as popular consumer magazines. Time's IPC Media is the UK's largest consumer magazine publisher, with over 100 titles, including Country Life, Loaded and Marie Claire.

## **America Online**

AOL is the world's leading provider of interactive services, offering a full range of online products and services to consumers around the world. AOL Europe's localised AOL subscription services in the UK, France and Germany have established themselves as leaders in their regions.

# CONTENTS

<b>CHAIRMAN'S WELCOME AND INTRODUCTION</b>	5
John Howkins, Deputy Chairman, BSAC and Director of Equator Group plc	
<b>KEYNOTE ADDRESS</b>	6
Duncan Kenworthy, Film Producer, Toledo Productions	
<b>DISRUPTIVE TECHNOLOGIES AND THE FILM INDUSTRY</b>	14
Chris Yapp, Head of Public Sector Innovation, Microsoft	
<b>RESPONDING TO THE CHALLENGES OF THE DIGITAL WORLD</b>	18
Josh Berger, Executive Vice President & Managing Director, Warner Bros. Entertainment UK	
<b>NEW OPPORTUNITIES - A FOCUS ON IPTV AND VOD</b>	25
Chair: John Howkins, Deputy Chairman, BSAC and Director, Equator Group plc	
Andrew Burke, Chief Executive, BT Entertainment	
Salman Momen, Director of Media Technology Services, Capgemini	
Brian Sullivan, Director of Product Strategy & Management, BSkyB	
Jonathan Sykes, Managing Director, Content Strategy, Video Networks	
<b>FILMED ENTERTAINMENT AND MOBILES</b>	34
Anil Malhotra, Senior Vice President of Marketing and Alliances, Bango.net	
<b>ONLINE PIRACY</b>	39
Chair: Andrew Yeates, Rights Consultant	
Lavinia Carey, Chair, Alliance Against IP Theft	
Thomas Dillon, Legal Counsel, Anti-Piracy EMEA, Motion Picture Association	
Billy Watson, Strategy Advisor, UK Film Council	
<b>THE IMPACT OF NEW TECHNOLOGIES ON THE FILM BUSINESS - EXPLORING OPPORTUNITIES AND THREATS</b>	48
Chair: John Howkins, Deputy Chairman, BSAC and Director, Equator Group plc	
Nick Fitzpatrick, Partner, DLA Piper Rudnick Gray Cary	
Mick Southworth, Managing Director, The Works	
Luc Tomasino, Managing Director, SDI Media	
<b>A BRAVE NEW WORLD - HOW SHOULD FILM BUSINESSES ADAPT?</b>	57
Chair: John Howkins, Deputy Chairman, BSAC and Director, Equator Group plc	
Josh Berger, Executive Vice President & Managing Director, Warner Bros. Entertainment UK	
Michael Kuhn, Chairman, Qwerty Films	
Tim Richards, Chief Executive Officer, Vue Entertainment	
John Woodward, Chief Executive Officer, UK Film Council	

# CHAIRMAN'S INTRODUCTION

## **John Howkins, Deputy Chairman, BSAC and Director of Equator Group plc**

The Chair welcomed guests, and said the discussions during the day would focus on technological changes affecting the film industry, specifically the impact of new platforms and formats.



*John Howkins*

He said that since last year's BSAC Film Conference, technological developments, usually from outside the industry, had continued to rapidly transform the entertainment business. Google continued its march into entertainment - last December an alliance was formed between Google and AOL (Google taking a 5% stake in AOL). Google also launched its video playback service, which enables anyone to download (or upload) content. Meanwhile, the appetite for legitimate downloading of content continues to grow - iTunes has recently celebrated its billionth download. Another significant development was that iTunes began making some filmed content available for download, selling not only music videos, but also some popular TV shows through a deal with Disney (e.g. 'Desperate Housewives' and 'Lost'). Unauthorised downloads are also gathering pace, with BitTorrent and eDonkey gaining popularity as more people get hooked up to broadband. Meanwhile, more TV, film and telco companies are edging closer towards providing online provision of entertainment. Significantly, last year Sky purchased Easynet and Myspace.com. This year both Sky and BT are reported to be launching IPTV services - and VOD service launches have also been announced by Blockbuster, Telewest and others. And the CEO of ITV wants 50% of the company's revenues to come from online by 2010 compared to 37% in 2005.

The question is, what does this all mean for the film industry? How will film producers, distributors and exhibitors be affected in the long term? What do we all need to be doing to prepare for these changes?

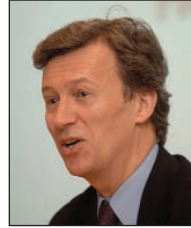
We will also look at copyright. This year, the consequences of technological change for intellectual property are very much under the spotlight. Gordon Brown, Chancellor of the Exchequer, has recently published the terms of reference for the Gowers review, Britain's biggest ever inquiry into the IP regime.

We are most grateful to Time Warner for its ongoing support in sponsoring this event, for the third year running, and enabling us to put together a first-class programme.

# KEYNOTE ADDRESS

## Duncan Kenworthy, Film Producer, Toledo Productions

It's a brave man who makes predictions about technological change. Ever since Harry Warner's reaction to the first demonstration of talking pictures in 1925 - "Who the hell wants to hear actors talk?" he's reported to have shouted at his brothers - the brightest brains have frequently got it wrong.



*Duncan Kenworthy*

In 1943 Thomas Watson, then chairman of IBM, guessed there would be a world market for perhaps five computers.

And as recently as 2002 the technologically-minded George Lucas, who shot 'Star Wars' episode 2 on digital media but had to release it on film, predicted that by the time episode 3 came along in 2005, most cinemas in the world would be digital. Last year 'Revenge of the Sith' unspooled on the world's movie projectors using a technology virtually unchanged for a hundred years.

But now - right now - doesn't it feel as though we're on the verge of a new industrial revolution? From user-generated content made on mobiles to VOD releases of major Hollywood movies, platform change is everywhere. Of course, change is going to affect us all in very different ways. The impact on major owners of content is likely to be very, very different from the impact on the UK independent producer, distributor or exhibitor.

But the digital revolution is upon us. And its keynote, in my opinion, is going to be the way in which new digital technology will radically empower consumer choice - with huge knock-on effects for all of us.

Given the constraints of time this morning, and the potentially vast scale of the subject, I'm going to restrict my remarks today to five pointers about the digital future of film. I've resisted the urge to call them four weddings and one funeral.

**1. The traditional way in which movies are distributed is based on the economics of scarcity - and digital will forever alter this, to the benefit of those outside the Hollywood mainstream as well as to consumers.**

First, an economic snapshot. Movies, as we know, have traditionally made money by enticing large numbers of people into cinemas in towns and cities around the country, all at the same time. This movie-going model evolved because of the economics of scarcity. Cinemas and film prints are finite, so it makes economic sense to attract everyone into cinemas at the same time, and for cinema-owners to keep films in their cinemas only so long as they are making more money than other available films might make.

As costs increase, the window of time that a film can stay in a cinema before demand to see it falls below a viable threshold gets shorter and shorter. The opening weekend is considered to be the high-watermark of the film's economic life, and the star system is invented so that marketing departments can drive advance demand. Everything relates to the opening weekend, and a film whose business falls the second weekend by only 25% is a hit, but one whose business falls by 55% is a flop.

This is a snapshot of the release cycle that has effectively operated since movies began. Everyone who works in the film industry is currently working in one part or another of that system. But it's not an immutable model. In fact its structure derives entirely from the scarcity and cost of the elements. Change these, and a different model becomes possible - one perhaps in which the rewards are distributed more widely and do not mostly accrue to a relatively small number of hits.

Imagine not just 120,000 cinema screens worldwide as at present, but 500,000, each one of which can be programmed with inexpensive film copies. Of course the films may be expensive or inexpensive to create, but the expansion of the system - and the deflation of the costs - will clearly lead to a greater potential for variety and programming flexibility at the margins.

Mainstream movies will continue to dominate, most likely with simultaneous world releases in order to combat piracy, but local movies - some with international potential, some without - should be able to develop another, more relaxed release pattern for niche tastes.

All this, of course, is good news for consumers, who ought to be able to enjoy a far wider range of films at the cinema.

But the impact of these changes becomes even more apparent in the world beyond theatrical.

## **2. Beyond the cinema, the digital storage of movies will have the biggest impact, opening up entirely new markets based on more varied patterns of consumption.**

Doesn't it seem as though DVDs have always been there? It's hard to believe they only arrived in the UK in 1998. 8 years later, DVD has had a profound effect on the finances of film, with revenues that far outstrip those earned from theatrical, or from pay or free TV. Yes, the growth of DVD has plateaued, with newspaper giveaways taking the shine off the price, but new formats are nearly here.

And behind all of them shines the new dawn of Video-on-Demand. With broadband penetration rising - 10 million connections in the UK alone - films will be delivered electronically to the home at the same time as they're available to buy in stores on Hi-Def or Blue Ray. In other words, the film equivalent of iTunes.

Films will be rented and sold digitally at the click of a mouse.

The television will finally be what we've been promised for 30 years - a broadband entertainment and information centre. A quick zap and a film is downloaded. And transferred to devices across the house.

The complexity of the rights issues is slightly daunting - witness the current wrangling over rights and windows between the broadcasters and independent television producers. But I'm sure the lawyers will sort it out cheaply and efficiently...

Most importantly, in an electronic world, where supply is no longer dictated by the economics of scarcity, purchasing patterns start to look very different. In fact, consumption statistics may well reveal that our nation's tastes go a long way beyond the 'hit' mentality promoted by the studios to stimulate identical and simultaneous choice amongst large groups of people.

The widely discussed phenomenon of the "The Long Tail" is already taking hold in the world of online DVD services. Many of you will recall that the originator of the term "Long Tail", Chris Anderson, explored how vastly enhanced shelf space allied to Amazon's system of recommending other books based on a particular purchase, have created a retailing phenomenon. An average mass-market bookstore stocks 130,000 titles that shoppers can browse. But more than 50% of Amazon's book sales are generated outside its top 130,000 titles.

As Anderson says: "If the Amazon statistics are any guide, the market for books that are not even sold in the average bookstore is larger than the market for those that are. In other words, the potential book market may be twice as big as it appears to be, if only we can get over the economics of scarcity".

And why should the potential movie market be any different?

Already the online video rental stores, which deliver films to customers by post, demonstrate the impact of greatly enlarged inventory. According to a recent article in *Variety*, the split of material that the US online DVD service Netflix ships for rental is 70% library inventory against 30% new releases - the precise inverse of the ratio that holds for a physical rental store.

Now imagine a fully digital world - and remember that both Amazon and Netflix still rely on physical stock. In the digital domain, selection is virtually limitless, and the cost constraints of maintaining vast numbers of physical titles simply disappear. In this domain, the opening weekend followed by its declining graph of interest is no longer the only model.

The push-pull equation of studio supply and consumer demand shifts, and consumers rule. Just as with the Amazon inventory, they may well dig deep into the catalogue, and start to wander off the beaten track - discovering, as Anderson has it, that "their taste is not as mainstream as they thought (or as they had been led to believe by marketing, a lack of alternatives, and a hit-driven culture)."

The key to this vast new world, as in 1492, will be navigation.

**3. The masters of the digital film world will be those with the biggest and most varied libraries and the most sophisticated systems for navigating infinite inventories.**

How do we find the things that interest us? The Oprah Winfrey pick, the Richard and Judy tip, the book club choice, the search engine, the Amazon recommendation? Word of mouth - that Holy Grail of movie marketers - has taken on many new forms.

But the future of individual choice in a world of near-infinite digital inventory will be based on mechanisms like these. The key characteristic is that it will be pulled by the consumer much more than it will be pushed onto him or her.

Of course, the marketers will still try to guide our taste and influence our choice, and the brand presence of star names will certainly be one of the drivers. Arguably, those worldwide brands - the ultimate product of scarcity - will become even more valuable. But once in a search engine, personal taste and sophisticated filtering will always tend to lead people further and further afield.

The relationship between a movie and its audience may now become more than how many of the demographic quadrants a studio feels a movie ticks. Not 'does it satisfy males under 25 without alienating females over 50?' but maybe 'how many people would like to see a movie with a Harley-Davidson in it?'

Content will continue to be king, but at the beck and call of a consumer intent on pursuing his or her own individual taste.

**4. The independent film business, especially in the UK, needs to move fast to embrace the coming changes.**

Change is the new mantra of the Hollywood majors. A few months ago, Disney's Bob Iger floated the idea of releasing films simultaneously to cinemas and on DVD. At the beginning of this month, Peter Chernin at Fox announced that they are exploring the notion of a 60 day window between theatrical and a hi-def release to the home via cable and satellite. Windows are, at last, in play - to the consternation, I imagine, of the exhibitors amongst you.

And it's not just windows. The studios are releasing their material to a bewildering array of platforms ranging from Playstation Portables to Video iPods. This time the major studios, historically slow to adapt to change (think of the VCR, which they resisted fiercely long after it became fixture in millions of homes) are moving much faster. Perhaps the film divisions have learned from what happened to the majors in the music sector: how they let change run away from them, so that the retail end of the market, rather than the content owners, ended up driving the pricing strategy. Doubtless some sort of equilibrium between content owners and retailers - Apple and the rest of them - will eventually be restored, but it's been an expensive lesson for the major media conglomerates. One they seem determined not to repeat with film.

The independent film business is also responding to these changes. Historically, it has always been quicker off the mark than the studios - certainly that was the case with television and again with the VCR.

One example. Tonight, Channel 4 will air Michael Winterbottom's 'Road to Guantanamo'. Tomorrow, it will be released theatrically, on DVD and via the Internet - all at the same time. Heretical, unthinkable even, just a couple of years ago. Arguably, the importance of an exclusive theatrical window as a platform for building awareness may decline for niche product - the costs of advertising in the theatrical space may simply not offer a sufficient return when compared with the advantages of Amazon-style viral marketing that can be deployed in the digital space. That may not be true for the mainstream releases, where day and date global awareness is best achieved by massive media spends across a vast array of platforms. So different models may open up for different kinds of films.

But perhaps the surprise is not that 'Road to Guantanamo' has been released in this way, but that there are so few other explorations of the potential to change the rules for indie films.

## 5. From digitisation to atomisation?

I was at the Oscars this week, and a lot of the things I've been musing about here started to become clearer in LA. Falling ratings for awards shows and for the normal TV event tentpoles like the Winter Olympics (US network ratings down 37% on 2002); the increasing TV dominance of shows about amateurism, like Pop Idol or Strictly Come Dancing, or Faking It; the changing nature of the star system and the way in which brands are created; the increasing dominance of Google, which made as much money in the last 3 months of 2005 as it made in the whole of 2003, and whose CEO Eric Schmidt is aiming at the entire \$600 billion global advertising industry; the extraordinary internet success of the Arctic Monkeys and MySpace.com at a time of falling theatrical revenues for the summer blockbusters; and the low-budget, niche nature of this year's five Best Picture nominees.

Patrick Goldstein, writing in Sunday's LA Times, had a theory about the Oscars' falling ratings, seeing a radical shift in today's pop culture that is helping to undermine the Oscars along with other traditionally high-rating events. In his view, our elite, top-down culture is now being supplanted by a "raucous, participatory bottom-up culture in which amateur entertainment has more appeal than critically endorsed skill and expertise". "The era", he says, "when studios, networks and record companies were tastemakers is long gone. Ask kids today where good music comes from and they'll say iTunes or Myspace.com, not Warner Music. The best brands are being built from the bottom up". Goldstein's view is echoed by Rupert Murdoch, who last year paid \$580 million for the MySpace.com site, saying "Young people don't want to rely on a Godlike figure from above to tell them what's important...They want control over their media, instead of being controlled by it".

This view is a plausible end result of the phenomenon of digitisation I've been describing - that the atomisation of delivery which is on its way will also lead to an atomisation of the traditional structures of entertainment.

In this view, brands - like stars or movies that have built-in title recognition like those based on comic books or famous works of fiction - are not less important, they're more important. But they're being created in very different ways, with very different costs and very different risks.

This will surely have a huge impact on the studio financing of movies. Why spend mega-millions on so-called blockbuster movies if you're no longer certain that the brands you create are going to cut through?

This is an argument that can be pushed too far, but it seems to me true that the world does look different when you're facing it from your own home network rather than the cinema screen: first of all, you programme it yourself rather than choosing from the small preordained selection that's available that week. You're in control.

And secondly, it seems to me inevitable that it leads to an equivalency of the media content on offer. On your home system, Chantelle and Preston may be your first choice, and George Clooney your second. Or George may come a poor fifth behind a selection of your holiday snapshots, the self-generated video of your daughter's school play, two hours spent downloading music from iTunes and organising your iPod, and writing your blog. Suddenly, the star system doesn't operate in the same way. There are other stars - and other moralities that apply too in the absolute privacy of our own widescreen world. And by the way, who cares how much anything cost to make?

In other words, now that we're able to - indeed, forced to - contemplate a time when issues of delivery are eradicated, where consumers are completely in control, we must also consider the way in which films are amalgamated and incorporated into their moving image preferences. One thing's for sure. It won't matter a jot what format they were shot on.

Whether today's reality is just a moment in time before the new orthodoxy asserts itself, or the way it will be from now on, I don't know. But I see opportunities for those British independent movie makers who recognise that scale is less important than immediacy, who know a niche well and know how to supply it.

The most envied business model in Hollywood at the moment is that of Lionsgate, whose two SAW horror movies, made for a combined cost of \$6m, have earned \$142m in domestic box office alone. And who now, of course, have the Best Picture Oscar for CRASH, a movie that cost \$6 or 7m and has already generated many multiples of that in profit.

Much has been said about the five Best Film BAFTA and Oscar nominees not being representative of the cinema-going audience's mainstream interests, but I have a feeling that in singling out these exceptional, low-budget movies, we may well be ahead of the curve for the new digitised world just ahead.

The Chair thanked Mr Kenworthy, and began the Q & A session by asking if technology and service developments would have an effect on the subject matter of films.

**Duncan Kenworthy:** I can see a future where most movies will be watched at home - and most of those will be driven by people's particular interest. People are social animals, and exhibition as it is now will not end - but it has to change. People will still want to go and see movies on big screens, so there will still be a demand for big screen kinds of movies. It will be all about the viewing experience - because once we are used to watching movies on our home cinemas, I don't think we are going to put up any longer with going to cinemas and having people throwing popcorn around and shouting at the screen. Maybe there will be different kinds of viewing experience - for example, some people may pay £50 to go to a cinema screening where there are security guards making sure that nobody shouts at the screen. Or maybe it will be that the people who can afford home cinemas will stay at home, and cinema going will tend to be a lower socio-economic activity. But along with that it's likely there will be changes in the types of films that are made - in the end, we're going to be able to watch movies on mobile phones or home computers. However, despite this, I think there's nothing better (for a producer of romantic comedies) than sitting in an audience of 2,000 people with everybody laughing. I don't think cinema is going away.

**Julian Friedmann, The Writers' Guild:** *You mentioned low budget niche films. Do you see this as a major growth area for British filmmakers in the next couple of years? In my view, scripts are very often not paid enough attention. How do we deal with this problem? How can we get to a point where there are more British films - such as*

*Lions Gate films, which cost very little and make a lot of profit - if we don't actually invest much more in script development and script training than we are at the moment?*

**Duncan Kenworthy:** I can't disagree - obviously the script is important. But I think the trophy is there for the grasping, frankly, at this stage. There has never been a more interesting time for filmmaking here in the UK - because I think suddenly the American star system is being questioned. I even think the era of \$200 million movies may be coming to an end. After all, the five best picture nominees for the Oscars famously cost an average of about \$7 million each. I can certainly see a point now where stars are trying not to be stars a lot of the time - George Clooney has shown the way. Stars are now demonstrating that they are prepared to do movies that they are interested in, like 'Crash', for no money at all. Is this the end of the system - or are we just renting stars at a lower upfront cost? Either way, it may be that British filmmakers now have the opportunity to tap into the star system and still keep budgets low. So, it's all down to us. I think it's now down to the quality - as you say, Julian - of the script, the filmmaker, the whole package. A film has got to have something interesting to say about a very particular audience. In the future that I see, consumers will be completely in charge. Many consumers don't particularly care about expert filmmaking any more - currently, they seem to have a taste for more amateur films. They'd rather make their own film, put it on the net and get their friends to watch it on Myspace.com - than watch a beautifully made artefact. I hope there'll still be room for expertise, but I think now is the time for people to go out with their video cameras and shoot movies. We recently saw a TV commercial that was shot on a mobile phone and put on TV - and guess what, the world didn't collapse. People are comfortable with accepting different levels of quality, because it's the idea that they are interested in.

*Jonathan Davis, Strategy Advisor, UK Film Council: If 'The Road to Guantanamo' is successful, then to what would you attribute that success? Is it the marketing? The nature of the film itself? Is it the zeitgeist? And what do you think the industry will attribute that success to?*

**Duncan Kenworthy:** Well, obviously it could be successful in two different ways. Either it will please us as a film - or it could make a lot of money. But why would I watch it? Why would a member of the public watch it? Well - it's a great idea. Critical reception is important of course as well. If 'Guantanamo' is a success theatrically, it will be because the TV broadcast has proved to be a clever way of getting other people to pay for the marketing. How many people go to movies the day of opening? Not many that I know. In America I know that's often the case - people really do wait for new movies to come out and go the first weekend. But here I usually see a movie about 3 weeks after it's opened - so, if I've missed the TV broadcast but it's been written about in the paper, or my friends tell me how brilliant a film is, that might just be the trigger I need to go and see it at the cinema.

# DISRUPTIVE TECHNOLOGIES AND THE FILM INDUSTRY

**Chris Yapp, Head of Public Sector Innovation, Microsoft**



*Chris Yapp*

I'm going to talk about disruptive technologies, where we are, what's happening and some of the ramifications to the film industry. I am here as an outsider to your industry, but I do have a long held interest in the creative industries and the creative exploitation of new technologies.

What do I mean by disruptive technologies? There are two classes of technologies -sustaining and disruptive. Sustaining technologies are those that help you do what you already do better. Disruptive technologies are those that cause you to question what you do, how you do it, and how you organise it.

One insight that was given to me from some friends at the Institute for Future Studies in St Andrews, is that the only real disruptive technology is people and learning - because that is transformational. That is to say, you can never go back on it. There is a difference between reforming the film industry and transforming it. The point about the transformation of an industry enabled by technology is that the dynamics of the market has fundamentally changed. We can see how this has already happened to the music industry - now, an entire generation sees downloading as the natural way to access music.

So, the question I want to pose is - in terms of the next 5, 10, 15, 20 years - what are the dynamics around the technologies that are potentially disruptive to what you do, how you do it and how you organise to do it? Let's begin by thinking about what a computer is. According to the Oxford English Dictionary definition, in the 1930s a computer was a person who computed - today it is a machine. Microsoft's long-term bet is the wave of innovation in the space between computing and life sciences in an area of mathematics called computational systems biology. This means redefining computers in terms of the language of complex adapted systems. That is maybe 5, 10, 20 years away - but we can see it coming, and it will change everything that we do.

Over the last 50 years or so we have seen several waves of technology change:- the mainframe computer, the mini computer, the personal computer, the notebook computer, the Internet, the World Wide Web etc. But actually, there is a series of myths about the IT industry which I think is worth looking at. One myth is that it changes at a phenomenal rate - actually, you have to be a bit careful about that. I can trace back the word "convergence" to 1962. Koji Kobayashi, who wrote a book called 'Computers and Communications' and became the Chief Executive of NEC in Japan, was the first person to predict that computers and communications would merge. But that was 30 years ago, and it's been "next year" that it would happen since then. But convergence is finally coming - seriously.

As for the Internet - the first email sent on the Arpanet (the Internet's predecessor) was in 31 March 1969. The current Internet protocols for IP were switched on in June 1982. Incidentally, the backbone of the Internet on that day was 52 Megabytes, today my home wireless network is 54 Megabytes.

Ubiquitous communications is actually the real key to understanding the dynamics and drive in this area. Currently, we are in an era where we have high-speed networks out and slow speed networks back. The traditional model of broadcasting (one way communication) has been dominant - i.e. while we've been able to send out very high quality information one way, there has been restrictions on the back channel. To date it has been very expensive achieving high-speed symmetric networks - but this is changing rapidly and will continue to over the next decade. When we can reach a point where information can go in both directions at the same speeds (or a minimum of 2:4) we can get photo realistic games etc.

I worked at the Financial Times in the late 1970's. One day in 1979 a mad eccentric inventor visited us. I had just been to Florida to look at photo type setting machine that had cost £130,000. This inventor from St Albans had built one for £7,000 - in effect he invented a form of desktop publishing. By 1994 I was teaching desktop publishing to 7-8 year olds in Bristol - it's amazing how quickly technology develops. Similarly, the current trend of podcasting is essentially the broadcast model but via downloading. Uploading is also taking off - which enables one to give people tools to download content, enable them to people to play with it, and then send it back in its new form. The sodaplay website is an example of this interaction and co-creation of content between users and the suppliers. Consumption values matter as much as production values - and I think that's crucial.

Another thing that is important to understand is the storage environment. According to Moore's Law, computer storage doubles every 18 months. However, it's crucial to understand that communications speeds are increasing at a faster rate. Looking at the next generation of nano storage devices - we will be able to shrink storage by 2 orders of magnitude in each of the 3 dimensions. This means, a million times more information packed into the same physical area - cheaper and longer storage, faster retrieval and lower engine consumption. Being able to put 4,000 tunes onto a single box called an iPod is quite something. Within 10-15 years we believe it may be possible to put a million films onto a single storage device. One thing to bear in mind about advancing technologies is that although they will cut costs in one place, they may raise prices in another. High Definition TV (HDTV) is a case in point. I remember going to a meeting at the BBC in 1990 about HDTV - again, another slow burner that's just beginning to arrive.

Another crucial issue is the management of digital rights. Creative Commons and the Open Source movement are interesting examples of different licensing systems. There is currently an ongoing policy battle over how to manage rights in the digital age. John Howkins has been one of the leading advocates in this area, and the Adelphi Charter is to be congratulated on its attempt to take a fresh look at this important area. We have to look at traditional notions like fair use - for use of materials for education purposes. We also need to look at long-term storage and preservation of our culture in the context of this - and Microsoft and others will focus on what is deliverable in the short and medium terms. We absolutely and fundamentally believe that in a knowledge economy and a creative economy there needs to be a proper framework for digital rights. There is disagreement about whether the current framework is adequate, or whether it should be abandoned entirely and start afresh. Any decisions have to be policy led - and they have to make commercial sense. When multimedia first appeared in the 1990s, we discovered that the trade and management of rights in different media sectors (e.g. music, film, publishing) was completely different sector to sector. When you bring lawyers from different parts of the creative industries to talk to each other - often they don't appear to be talking in the same language. It is difficult to reach consensus in this way.

Consumer behaviour is important. Look at the Xbox 360, and look at companies like Immersive Education in Oxford - which has been testing a create-your-own game environment. These technologies enable people to be able to mix and match, set up their own rules and interact in a different way. Understanding what consumers want is key.

As for large screen entertainment - remember there used to be myths that TV would kill cinema. Of course it dipped, but then it did come back again. I'm not arguing that you are all dinosaurs, doomed to extinction - but you do need to be prepared to reinvent and think beyond the next wave of technology beyond the short term. You have to look at storage technologies and consumer behaviour instead of trying to protect what is done now.

It is interesting to note that the more advanced the technologies become, the more traditional the narrative form has become. One of the exciting opportunities that new technologies bring is the possibility to create new narrative forms and new stories. Non-linear interactive personalised and co-produced media could create a much bigger market for talent than currently. We actually have the bandwidth, the storage capacity and the software to do these things. I could have Romeo on Channel 1 and Juliet on Channel 2, and surf between the two - everybody gets a different experience. There are so many different things we can do now - but we are still telling quite traditional stories. Whenever I go to see films, it's usually for the special effects rather than for the story. I think that people are ready to use media in different ways. For example, at Microsoft we have recently been demonstrating the Media Center - one GP asked if it would be possible to set up his own TV channel to serve obese people in his community. This kind of thing will be possible in the next 2-3 years. To summarise, this is a very disruptive age. I can't tell you what the film industry will look like precisely in a few years - nobody can.

But I can tell you that we need an open dialogue between all the players to deal with the thorny issues around intellectual property. I also advise you to think very hard about the ramifications of massive storage and high-speed communications for your industry. What Bill Gates calls “the digital lifestyle” is upon us.

The Chair thanked Mr Yapp and opened up the session to questions from the floor.

*Julian Friedmann, The Writers' Guild:* Were you implying that technological changes will bring about a change to traditional storytelling? Two and a half thousand years ago Aristotle set out some fundamental principles on the ways that human beings relate to each other, and which have been used by dramatists ever since. Are you saying that traditional storytelling is not going to be with us for much longer?

**Chris Yapp:** When a new technology comes along, people assume that it is going to kill the last technology off. Actually, what tends to happen is that bigger markets are created for the new technology. Film hasn't killed theatre - it's just human nature to create new forms of content when new technologies come along. My point was that each medium brings new possibilities. We've already seen a new form of storytelling emerge in the computer games scenario. In games, it's the quality of the experience and the skill of the audience that is important - rather than the story itself. Going back to my example - if we could have Romeo on Channel 1 and Juliet on Channel 2, and be able to watch the story from each one's perspective at the same time - this could be interesting. These kinds of experiments happen in theatre. We now have a medium which enables us to do this in a much richer way. The question is, is there an audience for this kind of thing? My worry is that people will cling onto traditional models and not look at new opportunities. That is what causes industries to die - romanticising about the past and not seizing the future.

*Alby James, London Metropolitan University:* You said that disruptive technologies mean that we have reached a point of no return. Yesterday I was at the London Film School. The people I spoke to were so proud of holding onto the tradition of film - they said that they were not going to give in to digital technology. Do you think we should be training people to adapt to and use emerging technologies as they come along?

**Chris Yapp:** No matter how advanced the technology is, it's the content that actually creates the value. We provide the enabling tools - we are not in the content business. I like to think of this era as the new renaissance, rather than a new industrial revolution. The reason I try to draw that distinction is that in the renaissance, on the back of books and publishing, there was the dissemination of new ideas. With that came changes and threats to the status quo, for example the rise of the Lutheran church at the expense of the Catholic church. There was not just an explosion of information, but also an explosion of concepts - in art, music, philosophy etc. Fundamentally, if Britain is going to be one of the most creative nations in the future, I think we need a renaissance here now. This means experimenting. Of course lots of things will fail - but building a community that is committed to finding out what works artistically, technically and commercially is what we need to do. The quality of the debate is key, as is the way we engage with and exploit these new technologies - so that we can create a gift that we can leave to generations after us.

# RESPONDING TO THE CHALLENGES OF THE DIGITAL WORLD

## Josh Berger, Executive Vice President & Managing Director, Warner Bros. Entertainment UK



Josh Berger

Good morning ladies and gentlemen. Last year I spoke at this conference about moving the film industry into the digital age - and in 12 months the change has been phenomenal. Today I've been asked to talk about how Warner Bros. is now responding to the challenges of the digital world across all media, one year on.

So let's start by taking a look at how the market is evolving at present. What is clear today is that there has never been more choice for consumers; the availability of product is expanding in every direction. Not only can you watch a film at the cinema, on DVD or on your TV; now you can watch it on your PC, or on a handheld device such as a Playstation Portable or a Video iPod - and soon on your mobile phone.

And this is not a zero-sum game, in which one medium cannibalises another. The proliferation of outlets will surely grow the overall market for filmed entertainment across the globe. There are now almost 400 television channels available in the UK across a variety of platforms. In fact, according to Ofcom, multi-channel TV now accounts for almost a third of audience share in the UK. Broadband is now mainstream, with more than 10 million connections in Britain (and growing by 70,000 a week), enabling exciting new services such as IPTV, VOD & EST. The mobile phone industry is also starting to see rewards from its huge investment in 3G. The UK now has over 3.6m subscribers to 3G (+45% on 2004). These customers are now able to watch streamed TV services on their handsets, as well as downloading games, music and video.

In today's digital world, people don't want to just passively consume entertainment. They want to take it with them, share it, forward it, take a picture of it and even interact with it. On the Internet, this is exemplified by the explosion in the popularity of social networking websites in the UK and elsewhere. In fact Technorati, a blog search engine, now tracks more than 27 million blogs - with 75,000 new blogs created every day. And teen community website myspace.com has just reported 32 million users. All of these new technologies are creating powerful new ways for companies such as ours to connect with fans of our content across the globe.

One example of this is how the exploitation of the Superman franchise has evolved. In 1978, when we released the first Superman movie starring Christopher Reeve, people learned of the film before its release largely via the theatrical trailer and classic

advertising like posters and TV spots. After the theatrical release in December 1978, many months later the film could be rented at a local video store on either VHS or Betamax. Twelve months later the film aired on terrestrial television, which in this country meant either the BBC or ITV. That was effectively the initial lifecycle of the original Superman movie.

Cut to 2006 when we'll be releasing 'Superman Returns' on July 14th in the UK. The level of interest surrounding this film today is likely to be as high as it was for the first film in 1978.

The difference today is that new technology allows us to more effectively satisfy the demands of the fans; and by interacting with them in a number of ways, build the hype to a scale not possible before. Through our dedicated Superman website, fans have had the opportunity to download photos, posters and wallpapers to their PC – and watch video blogs from the director Bryan Singer live from the film set. Through our affiliated fan site, Bluetights.net, they can access a whole host of message boards, interviews and links – and buy merchandise, clothing, the Superman-themed mobile phone, mobile games and ringtones. They can watch a whole variety of Superman related programmes on TV or DVD – from 'Smallville' to 'Lois and Clark - The New Adventures of Superman', to the Superman animated series – and of course buy the DC comic book. All this and the film hasn't even been released yet.

Once the film has been released theatrically, there will be many more ways that people can watch this film, compared to the original. From Hi-Definition DVD and UMD, to VOD, to Wireless and all of the currently available TV platforms. All through this time, the message-boards and blogs will be full of discussion about all aspects of the production, and it is in this way that the fans can interact much more actively with today's Superman, and we can create even greater interest in the property.

As we've heard repeatedly, the digital revolution is enabling people to take control of when, where and how they consume content. **The consumer is definitely King.** The challenge that Warner Bros. and all of our competitors face is satisfying the increasingly sophisticated expectations of those consumers. So let's look in more detail at some of the major developments of the last 12 months and see how media companies, such as ours, are rising to the challenge.

Warner Bros. has always been at the forefront of technological innovation, from putting sound together with moving images with the release of the 'Jazz Singer' in 1927, to co-owning key patents to the DVD. We have never been content to rest on our laurels in the face of far-reaching change. Today we're continuing to embrace new technologies. For example, we have made use of the IMAX format more aggressively than any other

studio, and last year released key titles such as 'Harry Potter and the Goblet of Fire', 'Batman Begins' and 'Charlie & the Chocolate Factory' simultaneously in both IMAX and traditional cinema.... And of course the acclaimed documentary 'March of the Penguins' was filmed entirely in digital.

Of course last year when we met, we were talking about the upcoming rollout of the Digital Screen Network by the UK Film Council - at that time it was still a plan on a piece of paper - and now 50 screens around the country have already been converted, with another 190 to come by Spring 2007. For a company such as Warner Bros., the roll-out of digital cinema will eventually allow us to physically distribute a title faster, cheaper and more securely than ever before. This will allow the industry to save hundreds of millions of dollars in print costs across the world every year.

It will also allow more flexible forms of programming, which will permit the market for niche product of all kinds to grow - alongside that for mainstream movies. And it would seem that exhibitors are looking to extend their involvement in digital cinema beyond that of the Film Council. We also realise that the growth of DVD is starting to plateau and we need new formats to grow our revenue. So we have been working with consumer electronic businesses, PC and chip manufacturers and content partners on the launch of High-definition DVD. This promises stunning picture quality and we're looking forward to a UK launch at the end of this year.

Mr Berger then showed a short video, which provided more information on the High-definition format.

At the moment there are two competing High-definition formats: HD-DVD, as just demonstrated in the video, and Blu-ray. HD-DVD, developed by Toshiba and NEC, is currently backed by Warner Bros., Paramount and Universal, among others.

Blu-ray, developed by Sony and Phillips, is backed by ourselves, Disney, Fox, Paramount and, of course, Sony. To ensure that our content is available to all consumers, Warner Home Video will release a selection of our titles on both formats for the time-being. Clearly we would have wished there to be only one standard, but as the games industry has proven, there can be room for multiple formats.

One other major benefit of Hi-definition DVD is that it is much more difficult for the pirates to replicate the quality of the content. At this event last year I talked in depth about the problem of piracy and said that we expected the cost of lost sales in the UK to be £1 billion by 2008. Currently we estimate the cost of lost sales to the UK industry in 2005 to already be over £800 million. Detailed consumer research shows that approximately 12 million UK adults, or 1 in 4, have viewed a film via pirated means in 2005.

Some 6% of the UK adult population illegally downloaded a film or TV series from the Internet during the same period. Piracy remains a serious threat to the revenue base of the UK industry - right across the value chain. Offering competitively priced, high-quality product is the best way to challenge the pirates - and the Internet offers us a great opportunity to give consumers what they want, at a price they find attractive - and in doing so, to grow the market for our product.

Last year at this conference, I also said that we were working on a legitimate, online movie downloading service. In January of this year we became the first studio in the UK to make our films available online in this way - in partnership with Lovefilm.com and AOL. Consumers can now visit the Lovefilm.com site - either directly or via the AOL portal - select from the list of films available, and pay as little as £2.99 to download a movie to their PC. They can then watch their chosen film as many times as they want within a 24-hour period. Currently customers can choose from new-release titles such as 'Charlie & the Chocolate Factory' & 'Batman Begins' and catalogue titles such as 'The Matrix' or 'Lethal Weapon'. This is an exciting new outlet for our content.

AOL is the first ISP in the UK to embrace such a service - meaning that our films are now available for digital download by each of AOL's 7 million visitors in this country. On sites such as Lovefilm you can do more than just download a film. Customers can also read other peoples' reviews - as well as contribute their own, watch trailers and even have similar titles recommended to them. Lovefilm is purely a rental model currently; however we have recently announced a joint venture with Arvato Mobile in Germany for a new electronic sell-thru service or EST called **In2Movies**. This soon-to-be-launched service offers consumers the ability to download a copy of one of our films, and for a higher fee than the rental price, own it permanently on their hard drive. This is a significant development for us. Not only are we selling our films directly to the end consumer, but the service utilises peer-to-peer technology. This allows consumers to download a copy of the film far more quickly, because they are getting it from each other, rather than from one central server.

Clearly it is also important that we offer our customers the ability to watch our TV shows online. Most of the UK broadcasters are already experimenting in this field. The BBC has talked of plans to enable viewers to catch up with missed episodes of favorite TV shows, online, within seven days of the initial broadcast. The BBC and Channel 4 have also experimented with releasing episodes of new shows online before TV broadcast. 150,000 people watched the first episode of new Channel 4 comedy series 'The IT Crowd' online - representing 8% of the eventual TV audience.

4's online offering also includes the launch of '4on-demand' - a video on demand

service - and Four Docs, which allows users to upload their own films for anyone to watch. Finally, Sky has launched 'Sky by Broadband', which gives premium subscribers the opportunity to receive sports clips and films on their computer desktop.

And that list doesn't even include moves by online players such as Google, Yahoo and AOL - who now offer alternative content for their millions of customers to watch.

We are currently in discussions with many of the major players over how our content will be made available online in the UK. I'm sure that there will be further announcements in the coming months. In the US, customers can already pay to download episodes of their favourite ABC TV shows - such as 'Lost' and 'Desperate Housewives' - to watch on their PC or video iPods.

Late last year Warner Bros. also announced a collaboration with AOL in the US to create a new broadband content network called In2TV - offering the largest collection of long-form television programming online. The service launches in the US on March 15th and fans will be able to watch over 3,400 hours of content from some of our most popular TV series - such as 'Lois & Clark', 'Maverick' and 'Falcon Crest'. The service is advertiser-funded, meaning that the content is available free to consumers. It's the Long Tail at work in the TV space, as there are many people who still want to watch some of our classic TV series; through services such as In2TV they will soon be able to. We are exploring similar initiatives for the UK market.

We also see real growth in mobile TV, as recent trials have shown that there is definite potential for incremental revenue streams. Last year Vodafone and Sky joined forces to launch a package of TV channels offering subscribers a mix of news, sport and entertainment. Virgin Mobile is running BT's Movio TV and radio service, and T-Mobile is planning to launch mobile TV broadcasts in time for the World Cup. A report released at the Barcelona 3GSM World Conference predicted that sales of mobile phones capable of receiving TV in the UK would overtake those of televisions by 2012. Early indications from the recent Oxford Mobile TV Trial, which was a partnership between Arqiva and O2, demonstrated that consumers are willing to pay an additional subscription to have access to mobile TV content.

Some of the results of the trial were quite surprising. Trialists watched for an average of 23 minutes at a time, primarily in the home - and when asked, three quarters said that they would be prepared to pay between £8-10 for the service. We will be working with mobile operators to develop our content and make it available to consumers in this new media space.

The last 12 months have seen some enormously exciting developments in our industry and as a result there have never been more ways for consumers to access our content.

Increasingly customers are taking control of when, where and how they consume our content and our challenge is to satisfy their demands. Warner Bros. is responding to this challenge as it always has done, by being at the forefront of technological innovation in our industry. The good news from our perspective is that consumer demand for filmed entertainment of all kinds continues to grow.

I think the advantages of scale and ownership of vast quantities of intellectual property, which a traditional media company such as ours enjoys, will allow us to survive and prosper in the digital age. At root, the challenge is to remain responsive to an ever-more demanding audience - that is what has sustained this company across the decades, and it's what I believe will continue to sustain us across the decades to come.

The Chair thanked Mr Berger and opened up the session to questions from the floor.

*Adam Davis, UK Film Finance Handbook: Will there be new entrants into the film financing market based on new distribution methods? If so, who you think they would be?*

**Josh Berger:** I think there will always be new entrants. People always become enamoured with the film business, either for financial reasons or other. Even with these upheavals in the way money will be made, I think this will continue to be the case. I think that much more non-US finance will be attracted to the film business. Duncan alluded to the increasing importance of local film in every market - this is an undeniable phenomenon, and technology is going to hasten that process. Whether this means more films being made with home cameras, or established film makers - there will be more money in local markets, and more finance that will find its way to making films in each country. As for the new players - we don't know for sure. Will Google and Yahoo fund films for example? It's possible. Terry Semel spoke at the RTS in September and made noises in that direction - however, I think they backed away from some of their content investments just last week. So - it's silly to predict who the new entrants might be - but I think it'd undeniable that there will be new entrants into film financing.

*Mervyn Levin, DTI: The question I have is around the relationship between computer games production and film production. How will the techniques of games production influence the economics of film production, innovation and the viewing experience? What are the crossovers, especially in terms of distribution?*

**Josh Berger:** It's a very good question. The two businesses certainly are converging in terms of techniques and innovation - and of course the economic model. I think the average development cost of games is now about £10 million. In just a few years these costs have spiralled upwards in a way that film production has. Film production costs have stabilised now I believe.

In terms of financing - the two are very similar, i.e. very high up-front costs, so it's very risky. As for the methods of production, obviously these are very different, but for both film and games the starting point is a story and characters. I think games companies spend much more time on their script because there are sometimes up to 50 different options within the story. With film or TV, we don't have to go into that kind of detail and create all those other worlds yet. However, we do when we create video games for all of our major releases. We have to make that process work on a parallel track alongside the production of the film. Often we have to accelerate the production process for games because they need a longer lead time.

In terms of how games are sold - it's a similar process to film. There are big up front marketing costs, they have a big opening weekend. So it's much more risky business than it was. The businesses are certainly converging - however, the biggest hits in the games space tend to be those that are developed specifically for the games space. 'Harry Potter' isn't the biggest video game - it's 'Halo'.

**Arash Amel, Screen Digest:** *Are secure DVD burning and portability the keys to unlocking the download model? If so, how far away are we from it?*

**Josh Berger:** I think Chris (Yapp) may be able to answer this one better than I can. I would say they are important certainly, but I don't know if they are key. What's important is giving consumers maximum flexibility. All the consumer wants is to be able to burn it, take it around and make copies. The industry is still trying to get their heads around it. But we are going to have to get there one way or the other, and I don't really know when, because it's about getting the whole industry to agree to it first. These technologies are here today - but that doesn't mean that everybody's on-side. It's tricky but imperative.

**Chris Yapp:** I would agree with Josh. The big problem is that security is a never-ending battle. As soon as you have made a piece of content secure, people always eventually find ways of getting around it. At Microsoft, we believe it's rather like saying, "When are you going to cure disease?" We make progress, our new technologies can help treat these problems - but they are not the cure. Unless you can accept this, you will become a dinosaur. I would say that in fact a very open dialogue to address these issues is just as important right now.

# NEW OPPORTUNITIES - A FOCUS ON IPTV AND VOD

**Chair: John Howkins, Deputy Chairman, BSAC and Director, Equator Group plc**

**Andrew Burke, Chief Executive, BT Entertainment**

**Salman Momen, Director of Media Technology Services, Capgemini**

**Brian Sullivan, Director of Product Strategy & Management, BSkyB**

**Jonathan Sykes, Managing Director, Content Strategy, Video Networks**

The Panel Chair introduced the panel members and invited Salman Momen, Capgemini, to begin the session with a presentation on VOD and IPTV.

**Salman Momen, Director of Media Technology Services, Capgemini:** I'm here to talk about IPTV and VOD. It's not telecoms, it's not media - it's both. I'll talk about what I think the implications are for the movie industry, and I'm going to try to focus on the UK and the EU. Most importantly, broadband Internet penetration is growing - and with this we'll see digital recording devices and IPTV growing as well.



*Salman Momen*

Let's start with the consumer. Ad agencies tend to think in terms of the 18-34 year olds (I'd stretch to the 18-36 to include me in that!) - the early adopters are largely in that age group. They are very tech savvy, they tend to be male, and to be honest I'd say they are frustrated. They want this to happen, they are waiting for it. If we step back for a moment and think about digital piracy - it's a black market. The history of economics tells us that black markets only exist for two reasons: 1) because of frustrated and unmet consumer demand; 2) because products weren't fairly packaged or priced. If one can address these two criteria, piracy should start to fade away as a threat. According to consumer research, the home viewing experience is very attractive to this age group. When they've got surround sound, and flat TVs hooked up to the Internet, this will be increasingly popular. What's also interesting is that there is a demand for more community-based entertainment. Chat magazine, which is based on readers' stories, is a case in point. Maybe the cult of celebrity is coming to an end.

According to the research I have gathered, the key lessons for the movie industry include: make your archives available online and make them easier to find. This has key implications for programme guides - which are slightly limited in today's world. Another lesson - be more flexible with formats and associated rights so that people can consume

it in different formats. Also, be fair with pricing and packaging and allow payment to be quick and easy.

So what's the market? Looking at the US as an example, the picture's healthy. In terms of cable, by the end of the decade Forrester estimate there will be 50 million VOD users. That's a very high conversion rate - and that's just cable, not including ADSL. One key point to make is that I don't think the market for IPTV and VOD is just about broadband subscribers. I think it's about anyone who watches TV programmes or films - so that starts to build a far larger potential audience for operators, broadcasters, producers and studios. We estimate an audience size of over 15 million in the UK - potentially quite a large market to go after. It's a popular option, just waiting in the wings to come out.

If we look at research on online video - in the US it's very popular with broadband users. Viewers appreciate the quality and privacy of viewing that they can have at home, as opposed to the drawbacks of going to the cinema. As bandwidth increases, the interactivity in usage is only going to rise. Interestingly enough, the research also throws up some differences with Europe - perhaps due to the different cultures associated with consumers in different countries, and different tastes.

IPTV has unique advantages over other platforms. There is another central theme I want to bring out - broadband distribution of TV programming and films. The competition is partly competing for people's leisure time, but also against other distribution platforms like traditional broadcast or satellite cable. It's an ongoing debate as to whether they are complimentary or competitive platforms.

Let's now look at products and services. How do you bundle them? Looking at Europe particularly, triple play (which means offering Internet access, TV, and voice services all by ADSL) seems to be the starting point. Fastweb in Italy seems to be the leader currently, the French market is also quite advanced. Research suggests that corporates can make money out of this, particularly distributors and operators. They need to have value added services, and these need to be tailored towards different audiences, e.g. allowing personal video recording and perhaps even portability to other platforms. Flexibility is key. It's also part of a bigger picture. It's not a device or viewing terminal in its own right - it's part of the digital home. I think Chris from Microsoft alluded to this also. People are going to be sharing all kinds of media across all kinds of devices. It's one part of a puzzle. So, IPTV needs to find a way to integrate into the digital lifestyle.

So, if you are thinking of this market place, what are you going to be needing, apart from infrastructure and content? I think that the economics of the Internet allows one to properly address niche audiences, i.e. target content at specific groups. They may be smaller than traditional mainstream audiences for blockbuster movies, however these

audiences tend to be extremely loyal and the “sticky factor” is high. There are particular demographics which are attractive to advertisers - and therefore are of great interest, but you've got to target them carefully. This means monitoring who is watching what, when, and how. Companies will need to gather data and intelligence, and test things out. Build your delivery systems, marketing systems, and content charging systems with this in mind - make sure that the service is dynamic, in real time - and most importantly personalised. We're getting close to the age of one-to-one marketing, as Peppers and Rogers wrote about a decade ago. As for EPG design - they need to integrate content with billing and real time marketing.

*Salman Momen's PowerPoint presentation will be made available on the BSAC website:- [www.bsac.uk.com](http://www.bsac.uk.com)*

**Brian Sullivan, Director of Product Strategy & Management,**

**BSkyB:** The theme of this session is IPTV and VOD. I would like to start by saying that as far as Sky is concerned these two categories have no relevance or even existence in the general consumer's mind. They are both just new means by which consumers can get their entertainment. And that is very much the way that we approach how we are going to enter these new categories, i.e. from the consumer's mindset. We are always interested in being able to provide as much entertainment choice and as many options as possible - and as new delivery mechanisms become available for the consumer, we'll take advantage of them. But, the focus has got to be on the content and on the experience - not on whether you have digital satellite, digital cable, VOD or IPTV etc. Most customers just don't care.



*Brian Sullivan*

Looking at the market place itself - over the last 15 years multichannel penetration has increased almost directly in proportion to the number of available channels. That has not been the only thing that has been driving it - but it's mainly because of the choice. I think most of us that have access to multichannel TV will agree that there are normally 10, 20 or 30 channels that fit one's particular interest, but the rest of the channels are not of interest. Broadband penetration is starting to follow that exact same track, and probably will at the very least catch up if not surpass it in the next few years. When we look at market opportunities, in particular for our 8 million customers, we look at every way that they may consume TV - and that is changing rapidly. The term convergence, which was very popular when I first moved over here 10 years ago, has become popular again.

Again, I don't think the consumer cares about what convergence means. All they care about is being able to access whatever they want in whichever format they want. Looking at the UK landscape in particular - there are so many different ways that people

can get their entertainment compared to 10 years ago. Obviously as the landscape changes, so does your strategy. We now have Freeview, and Freeview PVRs are starting to get some ground now. They didn't have much luck in the first 3 years when Sky+ was introduced, but in the last year they have virtually doubled their number of sales within retail. And this will continue as their user interfaces get better and simpler to use, and as the price comes down. Personal media players are now available. VOD has been on cable for close to a year now, and is now virtually close to full rollout. PSPs are now Wi-Fi enabled, and will eventually have access to content from a lot of different sources over and above the games and movies that you can buy now on the disks. XBox 360 has recently been launched - primarily as a gaming platform, but as we all know it is a virtual multimedia platform that can get content from anywhere, including via a broadband connection. We now have the Microsoft Media Center. We have ADSL TV, like Homechoice. Google has got many arms in many areas of the entire information world, of which entertainment and media is just one part. Cable PVRs have recently launched very quietly - but I'm sure they will get much louder over the course of the next 6 months, Telewest's PVR is quite good actually. And mobile TV is arriving too.

So, what is Sky doing, and where does IPTV and VOD fit into it? High Definition (HD) is the first thing we are launching in about a month. We've been talking about it quietly for a while, and soon we're going to be talking very loudly about it over the course of the next few months. We're going to be out there educating the market place. The reason why I thought I'd put HD into this presentation is because it's one of the challenges around an IPTV world, because of the fact that it requires so much more bandwidth. This is one of the dilemmas that our industry has always found itself in and will continue to find itself in. Whenever we get a technology that suddenly becomes viable for mass market, like IPTV over broadband, lo and behold there will be a content development that puts a lot of pressure on the underlying architecture for that distribution system - sometimes more than it can handle. So, just as IPTV gets to the point where it can deliver standard definition on a good quality reliable basis, along comes HD which sucks up so much bandwidth. It's going to be very hard to deliver HD with our current world of broadband. Of course, this will change, and broadband will get even better - but I guarantee that there will then be another version of HD which will suck even more bandwidth. This is a continual cycle. One key point on Sky's HD service is that it is the first time we are looking at content delivery beyond digital satellite. So, the Sky HD box is also broadband enabled. Every home that we'll be putting Sky HD into - to start with they will only be receiving digital satellite services, but we will eventually plug a broadband pipe into the box and deliver content both ways. We will use the efficiencies and high bandwidth capacity of satellite for broadcast content - and we'll use the one-on-one connectivity of broadband for on-demand content.

In terms of our satellite service going forward - we are going to be taking that hybrid approach through to every service that we deliver. Sky+ will soon be able to take a

broadband connection opening up a hybrid model of content delivery. We are also simultaneously expanding the hard drive of the Sky+ box, and are starting to keep some of that hard drive space aside from the consumer storage capabilities so that we can actually deliver VOD not just using broadband, but also by pushing content into the box and having instantaneous access. We think that the power of local storage is just as important to our overall strategy for consumers as the power of broadband enablement.

A simple user interface is important. One of the big successes for Sky is our user interface or EPG, the Sky Guide. What's great about it is that my 3 year old can navigate Sky without any help whatsoever - and my 75 year old mother figured out how to use Sky in 2 minutes. As more types of content become available, it has to be simple to search for items - so we are completely focussed on making sure that user interface is simple to use by everybody in the household. It is absolutely critical.

In terms of mobile, we have already introduced a service called 'Sky by Mobile' which allows our customers to be able to receive text and video stories on their mobiles. I can show some of this to you later. More importantly we are introducing the EPG, the Sky Guide, into that mobile device in about a month. The entire listings across all of Sky will be available to everyone on their mobile phone. This will enable Sky+ customers to be able to push a button on their mobile which will send a signal to our computers, up to our satellite, down their Sky+ boxes, and it will set your recordings for you. We also have a mobile TV service with Vodafone that is doing very well.

As for broadband, we've started a download service - the first legal movie download service in the UK, available to all our Sky customers for free. It provides content that's on our Sky movie channels that customers already have a subscription for - but they will have to wait until after it has been broadcast on a schedule. This has been very successful as well, and we'll extend it into our on demand offering going forward.

So, what is Sky's roadmap? We'll begin delivering broadband access as a web access service later this year - our acquisition of EasyNet will help in this regard. We are planning to deliver some telephony services as well. Initially we will offer "soft" Voice Over IP (VOIP), which means it has to be connected to your pc. However, eventually there will be a true VOIP service - in due course we will start the broadband enablement of our set top boxes.

To summarise where Sky wants to get to in the long term. Personal computers (and laptops) services - we'll be delivering broadband some time in the summer/autumn we hope. We have already launched the "Sky by Broadband" download service, and soon we'll offer internet calls. Mobile services - Sky+ remote booking will be available in about 2 months time, and mobile TV is out there today.

The Gnome - a portable wireless device is already available. TV services - HD is coming out in a few months. Multiroom - has already been launched, and is starting to make it easier for customers by having boxes serving multiple rooms. VOD services - we will launch VOD services sometime in the next 12-18 months because we'll have that broadband pipe in the box. Telephony services - soon, customers will be able to make traditional calls over the Internet. We like to talk about the "future" - but it's kind of here already. What's missing is pulling it all together in a easy, consumer-friendly way - and that's what Sky intends to do.

*Brian Sullivan's PowerPoint presentation will be made available on the BSAC website:- [www.bsac.uk.com](http://www.bsac.uk.com)*

**Andrew Burke, Chief Executive, BT Entertainment:** I'd like to talk about what BT is doing in this field, and in particular the three things that are keeping me awake at night about delivering a video-on-demand service in the UK.



*Andrew Burke*

First of all, what is BT doing? We've put broadband into the Freeview box - so viewers can get the best of both worlds. The broadcast will come down the aerial, and the on-demand plus interactivity will come down the broadband line. We are also busy negotiating rights. We've gone to the Hollywood studios, we've announced content deals with Paramount, and we'll announce some more very soon. We are also dealing with the issue of innovation leading rights availability, whereby it is difficult to acquire rights for new platforms which were not envisaged during the original contract negotiations, or are not established enough to compel content owners to make the effort to license or indeed waive holdbacks.

What are the 3 things keeping me awake at night? First and foremost is the whole customer experience of VOD. It is a complex issue end-to-end. First of all you've got to order the box and have it installed. Broadband does not sit behind the TV naturally - I don't know how many of you have got broadband behind the TV, but I'd be surprised if any of us do. The experience of course includes the Electronic Programme Guide (EPG) - so you've got to understand that and demonstrate it. Then you've got to support it. The network has to deliver these services seamlessly - so, you have to ensure that the picture won't disappear on the TV if someone else in the house is downloading from BitTorrent in their bedroom! This end-to-end experience is critical.

It's a completely new world. The media world is used to talking about viewers, readers and listeners - but in this world we talk about customers. It is an excellent customer experience - that is paramount in delivering a successful IPTV service.

The second thing that is keeping me awake is the marketing of a service like this. Converged services are multi-featured - there are lots of different things they can do now, but this doesn't resonate with the customer. What does resonate is simplicity. The key marketing message almost certainly has to be about the availability of blockbuster films on the service. Price is also important. Looking at a Jupiter Research report that has recently come out - VOD consumers want good prices. As Brian Sullivan said earlier, people don't understand IPTV - but they do understand TV. IPTV will have to be marketed as an existing TV product. The presentation of this content is also critical. It's a typical "KISS challenge" (keep it simple stupid). It has to be simple - but of course to differentiate you need complexity - you need a lot of archive content, a lot of interactivity, and trying to marry those up is going to be very challenging. Expect to see voice input being used in future to find items i.e. you would ask the device "show me all films produced by Peter Jackson or starring Bruce Willis etc". Ultimately, I think the trusted, editorialised brand through the EPG will be recommendations from friends and family. Launchcast has demonstrated this extremely well with their product, which enables one to tune into other people's music choices. EPIC2015 is a great blog that predicts the future of communities. The main recommendation engine in this vision of the future will be your friends and family - so I think that will also be critical in the consumption of entertainment. Looking at the growing communities on Myspace.com - you can see why News Corporation bought that.

The last thing that is keeping me awake is interactivity on TV. How will that manifest itself? How will people interact? We already interact of course - by changing channels. I don't think many of us watch one TV channel continuously for more than a couple of hours - we tend to change channels continuously. The Sky EPG and PVR has got people used to delaying how they watch content, and scheduling it to suit their needs. But there's another phenomenon currently - participation TV. Millions of people are interacting with their TVs today, e.g. through voting on X Factor (which received nearly 12 million votes on the night of the X Factor final). So that's a great indication that people want to interact. But what's interesting for me moving forward is how that will work with movies? Will we start to see interactive movies in this way? Will we start to see people deciding how they consume? And what might develop community-wise around a blockbuster release that goes straight to home? It's going to be a challenging world.

**Jonathan Sykes, Managing Director, Content Strategy, Video Networks:** As you are probably aware, Video Networks' services Homechoice is providing IPTV currently - so BT and Sky are spending a lot of time looking at what we are doing. Homechoice is television delivered by a telephone wire - at the moment over a proprietary network. Video Networks controls the intelligence of the network. In future, I'm sure IPTV will go far broader - and broadband TV will be viewed as IPTV in the sense that it will be via the public Internet. Currently in order to be able to offer quality broadcasts together with the functionality of the Internet, you need to go through a proprietary access network.



*Jonathan Sykes*

We provide our services directly to the TV - and BT will be following in the future. Customers are able to subscribe to our film services via pay per view or "subscription pay per view". But the Homechoice pay per view offer provides all the current releases when you want (as opposed to the current Sky offer which has scheduled start times). Homechoice has relationships and agreements with all the major studios. Customers can turn on the TV and watch any film they want, without having to wait for the linear scheduling. We have "current" and "library" movies. There are over 1000 movies available through our service - and we can obviously get many more. We also have what is called subscription video on demand. For £5 you can get 50 films whenever you want. With pay per view we currently charge £3.50. I think Sky charge £2.99 for a certain period of time. So there's a huge abundance of choice.

It's very easy with IPTV. If you want to watch a film you will be able to press a button and it will immediately be sent to your TV because of the 2-way connection. There will soon be time for electronic sell through - when the "window" will be the same for the video store, so you won't have to go to the video store. There will obviously be protection rules to ensure that we protect the copyright.

Looking at consumers, they are really going to benefit because of the huge amounts of choice - personalised choice. Homechoice customers can already customise their EPGs. My EPG at home is scheduled by myself - so my Channel 1 happens to be Sky Sports, Channel 2 is BBC 1, Channel 3 is BBC News, Channel 4 is our Homechoice film service. The point is, EPG personalisation is happening - and that's just the start.

I think in the future, content creators will have a better chance of their films being picked up by consumers. The availability of content on multiple devices is just going to explode. The business models of the creators will change - at the moment it is mostly business to business - but Josh Berger talked about his Superman, etc. sites which are increasingly spending more and more time talking to the consumer.

Lastly, from the platform side, we believe that these improved consumer services will translate into better revenue streams. Targeted advertising is also going to be a hugely important revenue source for the future.

The Panel Chair opened the session to questions from the floor.

*Neil Watson, UK Film Council: I think as a consumer the news is extremely good. But, in terms of policy, to borrow Andrew's phrase, there's one thing that's keeping me awake at night. If we assume that electronic delivery will gradually replace packaged media as the main form of delivery beyond theatrical, there's potentially a big problem looming for independent movies here - and it's from the financing point of view. The model for independent film financing for the last 25 years has depended upon the abilities of distributors or sales agents to monetise the value of rights for different media platforms in advance of their exploitation. For example, revenues delivered up front from DVD exploitation further down the line help enable independent British movies to be made. But with the emergence of new platforms, it looks like we are moving towards a completely different model - absent minimum guarantees, absent means of being able to monetise the value of these platforms in advance. I just wondered how the panel thought that would play out, because it's a very big challenge for the British independent sector.*

**Andrew Burke:** It's interesting, at the moment it's like the Wild West out there. There is lot of opportunity, there are a lot of options - and of course there is significant risk in developing these new platforms. Everybody is trying to share that risk as much as they can. But, don't expect it to be like this forever. Like everything else - the market will consolidate to a number of key players, and scale will be everything. As the DVD market has matured, so will this one. So, there is a transition period to take account of. Borrowing the 'Arctic Monkeys' as an example again, I think that for independent filmmakers there will be distribution opportunities - and if they are willing to take the risk, they will have the opportunity to build their own market, build their own brands and take a much larger chunk of the market share. Arctic Monkeys did it by putting out their product, and then of course it became No.1 in the CD sales afterwards. So, it isn't all bad. I do think the market will settle down. It's going to be anarchy for the next 3-4 years - but ultimately it will come back to a normalised market situation.

*John Woodward, UK Film Council: This is a follow up question to Neil Watson's. How many of you gentlemen are prepared to put up minimum guarantees in the future to acquire rights, and help British producers and distributors fund movies?*

**Andrew Burke:** If it makes good commercial sense, yes. If it doesn't, no. That's the world we live in.

**Jonathan Sykes:** I would echo Andrew's point. Do I believe that the existing business models are going to remain exactly the same for financing films? It's unlikely. But I think that if the product is going to be good enough, there will be aggregators and financiers out there ready to get a piece - and there are going to be far more different ways of reaching consumer direct.

**Brian Sullivan:** Very briefly, yes!

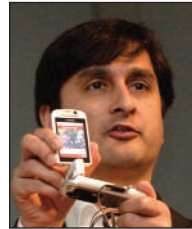
The Panel Chair thanked the panellists for an interesting session.

# FILMED ENTERTAINMENT AND MOBILES

## Anil Malhotra, Senior Vice President of Marketing and Alliances, Bango.net

The Panel Chair, John Howkins, invited the panellists to outline their companies' technologies and business models.

This is a 3G handset (holding up phone) - I can watch TV on it. It's a pretty standard Vodafone product, it has a nice twistable screen. One of the good things about it is that you are supplied some good headphones. The TV playback is quite impressive. Because it is one of these clamshell phones you can rest it virtually anywhere - and then sit and watch TV programmes or movie clips. But first of all, lets step back a bit and spend a couple of minutes looking at what's happening in the mobile world at large.



Anil Malhotra

The number of users that are passing through Bango's platform in order to access third party content is rising massively each month. In the last 12-18 months in particular there has been a phenomenal increase in usage. Mobile penetration is rising very fast. Within a couple of years, there will be over 2 billion handsets globally - so it will become the most ubiquitous digital platform. Mobile should therefore be of interest to anybody in the content industry.

What are people using phones for, other than communication? According to Bango numbers, music has a 32% share, followed by adult services at 22%, pictures followed at 15%, followed closely by games at 14%, information at 10%, and lastly video at 7%. It has been very interesting to note in the last 12 months that pictures, both still and moving images, grew dramatically from the previous year.

Having networks and phones like the one I've just shown you is key to distributing rich content, i.e. moving images. Some research which was commissioned at the end of last year asked people what they used their phones for, and specifically how many of them would use their phones for specific types of usage. The key driver is clearly going to be 3G phones and network availability. I was quite surprised to learn that 34% of 3G consumers use video messaging - I think this had probably been skewed by including Korea and Japan in the survey. Certainly the evidence in Western Europe is there is very little video person-to-person messaging going on just yet. But I think what's revealing about the research is that the phone is, as well as being clearly a communication device, it is becoming used as a media player. The MP3 player on this Vodafone handset is, in my personal view, as good as an iPod. The unique advantage of this device is that it doesn't have to be attached to a pc at any point in content acquisition process. So, mobiles have huge potential beyond the iPod because you can connect to the Internet and get content wherever you are.

So, who is watching? I have already made the observation that video calling hasn't really taken off yet outside of Asia. Mobile TV packages are growing in popularity - however in most markets they are still subsidised. So, I'm a Sky customer through this device here - but that's largely because at the moment I'm in the fortunate position whereby Vodafone subsidises my ability to get to the content. There is promising take up, certainly in Western Europe, and increasingly in the US as well.

There is little pure film content available on mobiles right now. There is some re-purposed film content from studios like Fox or Sony Pictures for example. The closest we are getting to film content are made-for-TV shows e.g. '24' is very popular - but there is little call for mobile only film content right now.

To give an example of the uptake of mobile TV - in the US there are an estimated 1 million TV subscribers. Out of a consumer base of 200 million mobile devices - that's quite a low amount. Nonetheless, those users are heavy consumers and spend large amounts of money on multimedia services.

Who is driving the market? There are a number of constituencies that have big stakes in this business:-

1) *Handset manufacturers* Nokia is a key player - as is Samsung, who is making various strategic investments in individuals and businesses who are developing made-for-mobile film content, or at least content that can be distributed sensibly onto mobile devices. These manufacturers have a big stake in getting people to buy the next generation of 3G. There's new technology later this year that will make these networks able to distribute rich content more quickly.

2) *Network operators* Leadership in Europe is being shown in particular by Vodafone - and in the US by Sprint in the film/movie area. They have the challenge of how they get more usage of the devices - particularly for data services in markets that are effectively hyper-saturated. In certain European markets there is more than 100% penetration of mobile devices, i.e. more than one mobile phone per person.

3) *The film industry* Sony in particular, and certain TV broadcasters such as Fox in the News Corporation empire. What are their motivations? Clearly there is a new market opportunity there. I would expect that there is also a motivation driven by a fear of market disruption from mobile distribution. The music industry was severely disrupted by digital distribution through the PC internet, both legal and illegal, and I think the film industry has learned to lead rather than follow the mobile internet.

4) *Venture capitalists* Who are looking at how to spend money wisely, and showing interest in start up, "made for market" companies. In this space there is a company in the US called MobiTV, which is doing a number of interesting things funding development of films and film-based content.

Last year, Sony said that this year they would go through the process of digitising their top 500 movies for portable devices (i.e. all kinds of wireless players) and they very clearly included phones as being one of their core target segments. ABC is starting to offer its top TV shows as mobile downloads. It means that if you missed the TV show you can get it on your phone etc. They are also looking at an advertising-funded model for mobile content distribution of films and TV.

So - would the consumer pay? ABC don't believe so - essentially the advertiser pays for the consumer to reach that content, just as on the TV. There are various other players out there e.g. mini movies being made for mobile at [Funlittlemovies.com](http://Funlittlemovies.com). Sprint is working with a company called mSpot to get some sort of classic back catalogue films re-purposed and segmented so that they can be sent down to mobile phones. Samsung are funding an initiative called [Anyfilms.net](http://Anyfilms.net), which I recommend you take a look at. And John Kilik, the film director has a business called Ubiquitous Films - where he is focusing just on filmmakers that want to make movies for small screen mobile devices. So, suddenly in the last 12 months there is a groundswell of activity from majors and minors, looking at mobiles as being an interesting way of getting content out to consumers.

What else is driving the market? Mobile operators are clearly looking for a new business model. There has been a large amount of research commissioned by mobile network companies about the idea of advertising-supported content. One of the theories is that this would encourage more widespread use of phones for content delivery and would in turn lead consumers to higher profit margin services. Perhaps a way of getting consumers to try out services is by eliminating that particular barrier to entry - that you have to pay for something you have never tried before. If people respond positively to an advertising funded model for content on mobiles, then perhaps we can upgrade people to subscriptions. Subscriptions would be a very popular way of selling TV and movie packages on mobile phones.

Video clips from broadcasters are also driving the market. Broadcasters are putting out clips of shows as teasers. This year, some broadcasters will be putting out teasers even before the show launches on satellite or terrestrial TV just to whet people's appetites. Again - this is a model inspired by the music industry. What about grass roots filmmaking? We believe this is a potentially interesting area - enabling small filmmakers to try stuff out and push their content to users through the mobile internet relatively inexpensively. How users will find out about this content is an interesting question. There is also a promotional opportunity for unsigned music. Maybe there's a parallel of [Myspace.com](http://Myspace.com) for film on mobiles i.e. a portal that people will go to on their mobile phones to look for innovative film content.

One of the other drivers is the data storage business. My phone here has a side slot with a 4mb storage disk - so I can get an enormous amount of music on that, and a reasonable amount of film-based content. You can also get 8mb storage disks. SanDisk and others are leading the market in storage devices for mobile phones. Clearly they are very interested in the growth of rich content. Not only can you download and store content on your phone, there is also a business model for distributing content onto a disk and then putting it into the phone.

So, to wind up. What are the points of resistance? The old chestnut of DRM clearly is an issue. I'm intrigued when I talk to entertainment companies. I imagined everybody would say that DRM absolutely has to get solved before it's time to enter the market - but not so. One or two companies are saying that they are more interested in learning what users want, and stimulating usage through mobile devices particularly for customers they don't yet reach through traditional channels. Devices - they will obviously have to be similar to this type of phone. They aren't massively prevalent yet, but there's a chicken and egg theory - the operators and handset makers are hoping that if the idea of films on mobiles is sufficiently compelling, people will upgrade their devices. There are also a couple of issues around *network capability*. In Korea, for example, where film and TV downloads to phones has taken off in a big way, there were suddenly network capacity problems. In fact it was so severe, that telco and entertainment companies got together and built a satellite network for video-to-mobile distribution. *Ownership of the business model* I think this is an interesting issue. For example, if film content is paid for by advertisers, then by definition the network operators who normally like to control who advertises to their subscribers will lose that control to some extent. Also to consider is the *attitude of movie companies*. I still speak to film executives who are convinced that the screen size is not big enough. My phone screen is made by Sharp. It's a pretty good screen in terms of quality and resolution. Maybe it's a generational thing - today's teenagers are more than happy to watch stuff on their mobile phones, and certainly younger children will sit there happily for half an hour watching cartoons on mobile phones with their headphones plugged in.

Bango anticipates that in the not too distant future, not only will large global brands and national brands be providing content to consumers via mobiles - there will also be a growth of made-for-mobile content from niche and community players.

The Chair opened the session to questions from the floor.

**Audience Member:** If you watch live TV on your mobile device do you need a TV licence? If so, how would that be enforced?

**Anil Malhotra:** In this country, yes you do need a TV licence. The enforcement question is really an issue for the BBC.

**Lavinia Carey:** On the Ten O Clock news last night there was a feature about Wi-Fi connecting communities in towns e.g. Bristol, London etc. How much of a challenge is that to the 3G investment?

**Anil Malhotra:** I think there is a challenge potentially, but I think that Wi-Fi is actually a localised phenomenon rather than a global facility. You mentioned quite rightly in your example that it might be Oxford, Cambridge, London, Bristol - certainly if you go to the United States - in San Fransisco there is actually a city-wide statute that rules Wi-Fi must be provide free of charge. But the real beauty of these mobile phones is that as 3G networks roll out you can use them anywhere in the world at any time. I actually use 3G on my pc - where you might expect me to use Wi-Fi. At the moment, especially in Europe, Wi-Fi costs are very high at about £20 per hour. With my 3G card in my laptop I am able to listen to BBC Radio and look at the BBC website almost anywhere - even in Luton. So the service is actually good. The problem with Wi-Fi is connecting, as providers change from one location to another, and getting connected is a hassle. So, I think there is a localised threat - but the beauty of 3G is that it is truly a global network that is available at all times.

*Anil Malhotra's PowerPoint presentation will be made available on the BSAC website:- [www.bsac.uk.com](http://www.bsac.uk.com)*

# ONLINE PIRACY

**Panel Chair: Andrew Yeates, Rights Consultant**

**Lavinia Carey, Chair, Alliance Against IP Theft**

**Thomas Dillon, Legal Counsel, Anti-Piracy  
EMEA, Motion Picture Association**

**Billy Watson, Strategy Advisor - Film Theft,  
UK Film Council**



*Andrew Yeates*

**Panel Chair:** Some of the issues that will be discussed in the panel have been put into perspective by the reminder that the consumer is king, and the importance of getting consumer messages out there in the right way. Fundamentally this panel will put the threat from online piracy into perspective, discuss what the industry is currently doing about it, and confer on why getting it right is so terribly important for us. I think one of the things that struck me the most from this morning was the remark that customers do not really care how much a film costs to make. This is a real challenge for us, because we do need to persuade people to understand better the terms and conditions that will apply to accessing films over multiple services. If they don't understand these terms and conditions, they will ride roughshod over the commercial choices that we are endeavouring to provide them. I feel that one of the key issues is "education, education, and education". Policy makers need to enable us to persuade customers to appreciate that going forward. The Panel Chair then invited Billy Watson, UK Film Council, to begin the session.

**Billy Watson, Strategy Advisor - Film Theft, UK Film Council:**

I can tell that copyright theft is moving up the agenda, because this slot is actually before lunch. Usually we tend to be a matinee showing! First of all I'd like to talk about the music industry experience. The Internet provided us all with a tremendous opportunity - but also the accompanying threats. The threat of piracy appeared very quickly, like a shark. With the benefit of hindsight, we now know that online music piracy was about demand not being met. At the UK Film Council we always find that dynamic very interesting, because we actually believe that there could still be an explosion in peer-to-peer file sharing in film - it's still a major threat.



*Billy Watson*

The music industry achieved global download revenues of \$1.1 billion in 2005 - three times the value of 2004. The good news is that legal online purchasing is now catching up with illegal file sharing. The recent IFPI research shows that in the UK 5% of Internet users are regular legal consumers, compared to 4% of users who are illegal file sharers.

There is no doubt that the profusion of official online music services and diverse availability of repertoire is vital in turning the tide against digital theft.

Looking specifically at the hybrid model of Rentmail - as we are seeing demonstrated by services such as Lovefilm.com and Screenshot.com, this is good news for independent filmmakers as they now have a tremendous opportunity to reach audiences with a type of specialised film that would probably find it difficult reaching significant audiences in the traditional value chain. The accessibility of online services creates that opportunity for the creator and the consumer to come closer together. Lovefilm and Screenshot provide specialised films, and enjoy a larger share of the transactions than the bricks and mortar distribution model does for this genre.

Not only does increased consumer access mean that they have access to more culturally diverse content, it also means increased funding access for independent filmmakers. But what we have to remember is that the indie film sector is more vulnerable to online piracy than larger distributors. Independent distributors have less financial resources to apply a level of pre-theatrical security. Last year, the Afd study in German revealed that 28% of cinema titles were online prior to the theatrical release. 70% of these titles had 100,000 or less viewers at the cinema, indicating a smaller audience appeal.

To ensure digital theft does not stifle real choice and creative opportunity, the key challenges are: 8-10 mb bandwidth speeds will be here by summer which presents a huge threat - the wide availability of a diverse range of repertoire and movies through legal downloading could help thwart piracy; we need interoperable DRMs to facilitate consumer-friendly usage; we need more effective protection and reinforcement of IT rights as per the conclusions of the Government-led Creative Industries Forum; we need better education for consumers and citizens, regarding the importance of respecting IP rights; and finally we need cooperation between ISPs, content aggregators and the rights holders to deal with infringing online elements.

To conclude, the digital frontier is forcing a variety of traditionally unrelated business sectors to work together i.e. telcos and film distributors. These new commercial partnerships need to offer varied and culturally diverse film content to satisfy the consumer's needs. We expect that specialised filmmakers will be able to reach significant audience levels. And finally, the online piracy threat will be reduced as creators and audiences are equally rewarded and satisfied.

*Billy Watson's PowerPoint presentation will be made available on the BSAC website:- [www.bsac.uk.com](http://www.bsac.uk.com)*

**Panel Chair:** Tackling consumers' expectations of having a right to free content (e.g. as seen in the free to air TV model) will also be a challenge. Trying to sell the terms and conditions for DRM as to limits that consumers will have on accessing content from various

services may be a problem. Perhaps this is something we can put in perspective as we look at why it is so vital that the MPA is taking action in this area that some consumers might not understand.

**Thomas Dillon, Legal Counsel, Anti-Piracy EMEA, Motion Picture Association:** I've been very excited to hear all the clever analysis and the technological developments that have been described this morning, but when we talk about business models for distributing content online we need to be aware there is a very successful model for delivering content online - unfortunately it's in the hands of criminals. Although the MPA represents traditional studios - there is also a major that is not a member of the MPA, and that is the pirate distributors. In this country alone they take about 15-20% share of the market. So we have a major competitor, who has the significant downloading business in its hands, despite all the brilliant advances in technology and services that have been described this morning.



*Thomas Dillon*

In the next 2-3 years, the issue of piracy will remain very important for us as we redesign our industry to make the best of these new opportunities. Without new commercial models, without considerable public outreach, without most importantly technological development, we are not going to get a handle on this problem. But enforcement is also part of the solution - if only because it's a very powerful form of public education. Generally speaking, the public understands when something is wrong when people are punished for it.

I'm going to talk about how the MPA sees the shape of Internet piracy, and what we are trying to do about it. Here is a photograph of a computer server in Sweden (shows a slide), which used to live at one of Sweden's leading service providers. Some people who may or may not have been employed by the service provider used to make it their hobby/business to store thousands of files of illegal copies of films and music on this server, and make it available to their friends in the pirate community. Thankfully last year there was a raid at the service provider and that was put an end to.

What is the structure of this alternative industry that we are competing with? We see it essentially as a pyramid (shows slide). At the top, there are the originators of content - the release groups or so-called encoding groups. Their business is to obtain copies of films before they have been officially released and design them for their local market. In Europe that may mean getting a German language track from a dubbing studio - or from a performance in a cinema during theatrical release.

In France it may involve getting the French soundtrack from Quebec and marrying it up with the download and making it available for use in Europe.

The way in which the release groups make films available is through high powered servers - and then from that point, once the film has circulated a little in the pirate community, or has been the subject of paid for downloads from the FTP servers, then it will filter out into Internet Relay Chat and on to Usenet. Finally it will end up in the peer-to-peer space e.g. KaZaA as it was.

Of course, a lot of MPA work is dedicated to hard goods piracy - piracy in the streets. This is a different subject but it's a connected one, because often the source of the illegal DVD sales in the supermarket car park is a download, and sometimes it goes the other way. Sometimes the first appearance of a film on the Internet will be from a hard copy that someone has acquired. But it still remains a fact that the first time a film appears on the Internet, it's usually a camcord - a recording illicitly made in the cinema, during a public performance. That's why it's very important that Governments should listen to the call of the UKFC and introduce a law prohibiting camcording in cinemas.

Our policy of enforcement has been to focus essentially on two targets. Film has the advantage that it consist of much more data than music, for example. So, it's still quite boring and difficult to get a good copy of a film on the Internet. There is a big intermediary service provider infrastructure of people who provide Internet locations - which put the people who have the films in touch with people who want to download them. These are systems like BitTorrent - eDonkey, eMule etc. I am happy to say that on the 21 February, we were able to secure the taking down of the biggest eDonkey server in the world, which had 1.3 million users. This was Razorback 2 - it's a big job to take one of these sites down because of course you can't do it without persuading the authorities to take action. In this case, in May of last year we made a complaint to the Swiss authorities. After months of discussion, they sent an international rogatory commission to the Belgian authorities, who went to a data centre on the outskirts of Brussels last month and seized 5 servers. At the same time, the Swiss authorities arrested the man who was leading the operation of these sites in Switzerland. In the United States we have worked with the FBI to take down similar sites. EliteTorrents was a major such site in this case, and in May of last year the FBI with our help took them down.

But "Does it work?" is the big question. Of course we're not going to stop piracy just by enforcement - its only one part of the strategy, but at least in the United States and Canada enforcement has had an impact on the number of Torrent sites. We can see from this chart (shows slide), between 2004-2005 the situation improved in Canada and the US, in Netherlands it got worse, as it did in Sweden. The reason why this is happening is because in those countries there is a perception in the public that unauthorised downloading is not really illegal. It's quite hard to get enforcement in those countries.

Enforcement is an essential element of public education. Of course we can't sue

everybody, but until we sue some people successfully with the help of authorities in these countries, we are not going to be able to make people understand that unauthorised downloading is actually wrong.

A second part of our strategy is to pursue release groups. This is done very much at a national level, and our anti-piracy organisations in France and Germany have been particularly successful. As recently as January of this year, our German anti-piracy organisation, GVV, helped police carry out 300 raids in several Länder. Although we have had these successes, the problem can only be solved by a combination of public outreach, commercial developments, and last but not least enforcement.

*Thomas Dillon's PowerPoint presentation will be made available on the BSAC website:- [www.bsac.uk.com](http://www.bsac.uk.com)*

**Panel Chair:** We will almost be like parents holding out a yellow sweet and a green sweet to our children, and asking them what the difference is and which one they want. This is because as we start to educate people about authorised and unauthorised use of these online services it's going to become quite a sophisticated argument.

**Lavinia Carey, Chair, Alliance Against IP Theft:**

My presentation is going to be focused mainly on consumers, and what they are doing. In 2005, household penetration of the Internet increased to 62% - therefore, downloaders had the joy of increased access to broadband and fast connections. And, of course they spend a lot more time on the Internet than non-downloaders do. Nevertheless, everyone is spending a lot more time on the Internet.



*Lavinia Carey*

To make a very quick comparison with what's going on in the physical world - it's very nice to see that the number of people who are buying counterfeit DVDs is falling. According to the numbers gathered in November from British adults aged 15+ it has fallen from 13% in November 2004 to 9% in November 2005. Despite this, the total number of counterfeit DVDs purchased in the last 12 months was 61 million units. The criminal gain from this is £270 million. We are not saying that every pirated DVD produces a criminal gain at the retail value - this is measured at the value that people say they pay for counterfeit DVDs. Therefore, fortunately the number of people who buy counterfeit DVDs is falling, although the people who are buying are buying more. Worryingly, as less people buy counterfeit DVDs, more are downloading instead.

Of the 6% who are currently indulging in illegal downloading of content, they are

increasingly happy with the service. There was a period of churn in the earlier days of downloading - but worryingly, now more people (5%) are staying with it because the result is more satisfactory.

The average number of film or TV titles being copied (from any source) on average per person is 17. As for downloading, the average is 15. Film only downloads stands at 8 titles. Worryingly, everybody who copies in turn fuels a wider problem as they pass titles around their friends and family. This means that people are unlikely to go out and see a movie at the cinema or buy it legitimately.

Looking back at the numbers that Josh Berger mentioned earlier, which was the total loss to the industry of over £800 million - of that, online copyright theft stands at £94 million. Of this, estimated loss to box office revenues is £32 million, estimated loss to the retail video business is £51 million, and the loss to TV pay per view is about £1 million currently.

Thomas mentioned that legal action against unauthorised downloaders helps people understand that it is an illegal practice. We are not suing at the moment in this country, however according to our research, most people know that downloading is illegal. We asked a range of people - those who actually engage in it, and those who do not. Non-downloaders are only slightly more of the opinion that it's illegal than the actual downloaders. So what are we going to do about that? We asked non-downloaders whether it's acceptable to download from the Internet before a film is released. 81% said that it's definitely not acceptable, although amongst the downloading community it's quite acceptable. This attitude changes throughout the life of a movie - so, after a film is released in the cinema, more people think it is acceptable, although the non-downloaders don't. After a film is released on DVD, the majority of people think it's OK to download a movie illegally. As it becomes easier to access movies, and there don't appear to be many preventative measures, downloaders become more encouraged and think there's nothing wrong. Throughout the life of a movie, generally the downloaders think unauthorised downloading is more and more OK, while the non-downloaders think it's less and less OK. Maybe that's because our communication strategy at the Industry Trust is beginning to have an effect. But whatever the reason is, it's encouraging. However, will these entrenched downloaders ever want to pay for a movie at all again?

The top three reasons why people download are:- they like to be able to watch movies before they buy them; if they can't find them in the shops; or because it's free. We also asked a few people what they would be willing to pay for legal downloads. Although it was only a small sample of people, the average price was about £5. We know already that Lovefilm.com are charging on a rental model £2.99 per download. Lovefilm.com are looking to move to a retail download and keep model, for about £6 per movie. At the Alliance Against IP Theft, we feel that this research gives us some hope that there is a viable business out there for everybody.

Lavinia Carey's PowerPoint presentation will be made available on the BSAC website:- [www.bsac.uk.com](http://www.bsac.uk.com)

**Panel Chair:** What strikes me the most is that consumers need to feel comfortable about the services that are arriving under the general banner of TV i.e. VOD, IPTV and TV. However they won't necessarily distinguish between these services. If they are not going to do this, we will have to work together to make sure they understand the varying terms and conditions that apply to these different services. Otherwise, the sorts of depressing attitudes that Lavinia described are going to override our efforts.

The Panel Chair then opened up the session to questions from the floor.

**Adam Betteridge, Great British Films:** *I'm not an expert in this area, but it strikes me that there seems to be a connection between the fact that a film is pre-marketed very well, and therefore there is an appetite developed in the marketplace to see a particular movie. The convenience that is offered by pirates allowing people to see this movie even before it has been released at the cinema could be therefore quite appealing. As such, it strikes me that perhaps this new strategy of releasing a film at the cinema, on TV and on DVD at the same time may in fact offer people the opportunity to get their hands on that movie legally quickly, and would remove a lot of the frustration that they currently experience from having to wait.*

**Lavinia Carey:** I think that's absolutely right. It's simply a question of when will rights owners allow that. If you can do away with the massive cost of transporting acetate all over the world, then you can consider other way of delivering - getting from the filmmaker to his/her audience in a way that doesn't cost a fortune anymore. So, I think this is the way it's going, but people will make their own choices about how they want to consume a movie. If and when this happens, I don't think the movie going experience will disappear. These days young people are growing up watching movies on portable players. My sons watch movies on their PSPs, but still love going to the cinema.

**Thomas Dillon:** It is indeed a great development that there is going to be more day and date releasing - but I think it's kind of ironic that the pirates validate our traditional industry model by having a pirate window i.e. the window before any release.

**John Whittingdale MP, Chairman of DCMS Select Committee:** *To what extent have you attempted to persuade the Internet Service Providers that they may be able to assist in countering online piracy, and how much success have you had?*

**Lavinia Carey:** Our enforcement body has a good dialogue with the ISPs. In fact, an industry enforcement group (which also has music and games industry representatives) is also talking to ISPs. In our talks with ISPs we focus mainly on enforcement, and trying to get them to see the benefits as potential providers of content.

**Panel Chair:** I think it is terribly important that every intermediary feels responsible for the terms and conditions that surround the service that they are providing. It's not just a question of, "It's your problem" - we do need to rely on the DMCA (Digital Millennium Copyright Act) and other principles that have been established around the world, to work with the ISPs and help us enforce the rights. But, ultimately it is probably in our interests to make sure that there is a difference between the service provider and the content - and therefore emphasise their different responsibilities. Because although there is a huge temptation for consumers to bulk the two together and see them as one thing - that actually is not in the long-term interest of content owners. Content providers do have a life of their own and should be distinct from the service providers - particularly as they move into a more non-exclusive parallel world of presentation.

**Thomas Dillon:** I think the question is a very pertinent one - and is under discussion in many countries and also at the European level, i.e. how best we can be partners with the owners of the infrastructure. I think it would be unrealistic to say that the existing tensions have been entirely resolved at this stage.

**Martin Le Jeune, BSKyB:** *One thing that has always struck me about the subject is that a lot of the kudos that surrounds accessing film material early drives the market both from the point of view of the people who start the service, and at the peer-to-peer level. Thomas, differential release dates in different geographical markets do strike one as being a bit of an open goal - no doubt there is a very strong commercial model behind it, but do you think that will change in the future?*

**Thomas Dillon:** These are very much commercial matters for each of our Members. As a trade association, we have to leave our Members to make their own minds up about that. The system has been developed over 100 years - but I think it's clear from recent public statements from studios, that the day and date direction is one they want to go down. From a purely anti-piracy perspective, of course we're very happy about that.

**Billy Watson:** I'd just like to add that the risk that is involved for a large capitalised media provider like a Warner Bros. or Disney is the same for an independent producer. Relating back to what Neil Watson said earlier - the sophisticated infrastructure that has developed to deliver funding back to movies getting made has developed over many years. Changing these complex business models over night is going to be a challenge.

**Tim Gettins, DTI:** *How is DRM going to inform the debate on pricing content on the Internet? Do you think it will polarise things? Are you going to be entering into the discourse associated with marketing conditions? There is currently a debate amongst providers about who should be paying for providing content across the improved infrastructure of the Internet. Should it be a case of, "If you pay more you're going to get more security"?*

**Lavinia Carey:** I think that to start with, new technologies always cost a lot more. If you look at the original price of DVDs and how it has fallen dramatically, clearly people who are investing in new technologies are going to be looking for a return on their investment. Prices will be perhaps higher than they will be sometime down the line. I like the concept of the authorised domain, which is now almost here with the arrival of the set bottom boxes (i.e. a server with DRM which allows not only the possibility of downloading, storing, burning, and transferring content to other devices - it will also will give people more access to movies, and allow them to do all sorts of things that will suit their lifestyles). In terms of pricing - I think the market will determine this. If you need to get your investment back, then you've got to charge a price that people will pay. But of course, people must have the ability to be able to pay, and DRM has got to enable rights owners to keep control of their content.

**Tim Gettins, DTI:** *Provided that the DRM tool doesn't actually harm access to other services on that device.*

**Panel Chair:** I entirely take that point, but I think that's one of the myths that we need to debunk in the DRM debate. It's important that we help people understand what DRM actually is. There are a lot of rights management information services that provide increased choice, opportunity and efficiency of services. Customers will hopefully accept technical protection measures when they sign up to the terms and conditions (in order to receive a particular service). As long as the terms are transparent, and the relationship of how the cost is allocated between the content owners and the service providers is clear, this should put DRM in a more positive light.

The Panel Chair thanked the panellists for an interesting session.

# THE IMPACT OF NEW TECHNOLOGIES ON THE FILM BUSINESS - EXPLORING OPPORTUNITIES AND THREATS

**Chair: John Howkins, Deputy Chairman, BSAC and Director, Equator Group plc**

**Nick Fitzpatrick, Partner, DLA Piper Rudnick Gray Cary**

**Mick Southworth, Managing Director, The Works**

**Luc Tomasino, Managing Director, SDI Media**

The Chair introduced the panel members and invited Luc Tomasino to begin the session.

**Luc Tomasino, Managing Director, SDI Media:** I'd like to start off with an interesting fact. There are today over 6,000 languages spoken in 200 countries around the world. 2,261 of these languages have writing systems. Another interesting fact is that 8 languages account for 40% of the world's population (which is about 6 billion people). 75 languages account for 80% of the world's population. Why am I telling you about these facts? At SDI we are in the business of helping the film and broadcasting industries monetise their video content through language localisation, i.e. localising English based video content into over 52 languages around the world.



*Luc Tomasino*

SDI is the leading provider of localisation services to the entertainment industry. We also provide disability access services, including hard of hearing and audio description. Our divisions include entertainment; corporate; software; online; mobile TV; and interactive games. We are owned by Warburg Pincus equity investments. Our clients include Warner Bros. and Hallmark. We work with most of the film studios, and the broadcasters who distribute on a global or pan regional basis. We have 400 full time personnel and approximately 2,000 leading language experts distributed across 23 offices around the world. We work in 52 languages.

Each of the clients we work with are very unique - but they do share something in common - high quality and faster turnaround at lower cost. Helping build brands for our clients by localising them into many different languages is a unique and creative process - it is a process of adaptation rather than translation. All our clients want their content to get out to the markets quickly and cost effectively and to a high standard.

In terms of technology - we've been in the industry for over 25 years, and there continues to be a proliferation of video formats and distribution windows. There are about 20 different video formats, and for us the challenge is having to work in all of them fluently.

For us, technology means flexibility. Each one of our clients works in a different way, in different formats, using different distribution windows. To give you an example of how global and virtual we are - some of our clients will receive video assets in Los Angeles, we will encode them and push them through our project management system, record in several territories across Europe, mix the recordings in a central dubbing hub such as Prague, and then digitally return the mixed voice assets to the client in London for broadcast.

Another point on technology is the relationship that it creates between SDI, our own vendors and our clients. Increasingly we are virtually connected. In other words now our clients, thanks to technology, will essentially download their video content (and schedules) directly into our database - whereby we then ingest it and work it through our production system. Until recently, we would receive all content via DHL on digitbeta tapes and a piece of paper which showed the broadcast schedule.

Technology also has a big impact on the relationship between the content owner and end user. This is where the mobile TV discussion becomes very pertinent - where technology is enabling the content owners, the film studios, and the broadcasters, to create with the end user a very unique user experience. It helps the end user personalise that experience, and I think it creates some brand loyalty in a lot of ways if it's done right. Of course technology also has a big impact on piracy and security, as we've heard earlier today.

Mr Tomasino then showed a film illustrating translation services for 'Nip and Tuck' and 'Lost'.

To conclude, thanks to technology we can actually subtitle a feature film within 48 hours, and dub a feature film within a week.

**Mick Southworth, Managing Director, The Works:** Works Distribution UK which was formed about 8 months ago, is part of The Works Media Group plc on AIM. Previously I worked for a company called Content Film. Before that I was at Winchester Films Entertainment, which was also an AIM listed company. Prior to that I worked for Film Four Distribution, which was again a company I started up for Channel 4 to bring their TV product to the big screen. I also worked for ABC cinemas back in the 80s, who alongside Odeon dominated the market. As an independent distributor, I handle all aspects of distribution in the UK - including the front-end activities around DVD and selling to TV etc. I also handle the terms and conditions when dealing with the cinemas.



*Mick Southworth*

The Works has evolved over many years. It was one of the franchise lottery funded companies - the Film Consortium became The Works and has been a producer of rather excellent British films over the years. But with the current flux in the tax situation in the UK, the company diversified into distribution and other areas of the cinema market. My role is to go to all the different markets and festivals and acquire films. When I acquire those films, I have to make a value judgement on what I think the film would be worth in this territory, the costs of marketing the movie, and negotiate the deals. I go through Universal who is our partner, and then I try my luck selling my movies to the TV operators.

I've currently got 6 acquisition documents in my in-tray - and they all have the same nightmarish problem attached to them. That is to say, the Internet rights and the legal language going forward. I can't tell you the grief that this is causing my legal department - it really is an extraordinary time to be working in acquisitions. I would say we are quite representative of any smaller distribution company in the UK. I'm open to any questions.

**Nick Fitzpatrick, Partner, DLA Piper Rudnick Gray Cary:** The two key areas I was asked to look at in particular were IP protection in the digital environment, and some of the issues relating to windowing in the context of the emerging platforms (which have been highlighted recently by the simultaneous release of Steven Soderbergh's film 'Bubble' across theatre and DVD platforms simultaneously).



Nick Fitzpatrick

Firstly, IP. It won't escape the attention of anybody in the room that since 2001 we have had in Europe a reasonably robust level of protection for copyright in the digital environment in the form of the 2001 Copyright and Related Rights Directive. The copyright environment is currently in the process of review, in the UK in the context of the Gower Review, and in Europe in the context of the review of the Copyright Directive which is due to conclude in 2007. It is not anticipated that either of those reviews will fundamentally change the IP regime that governs distribution across digital platforms. There are significant issues to be debated, but they are unlikely to focus on the issue of levels of protection needed, rather the issues debated are likely to centre on copyright protection for sound recordings, and on DRM's impact on fair dealing, consumer rights, and orphan works, particularly in the context of making material available by means of Creative Commons type-licensing schemes. A more general aim is the harmonisation of copyright across Europe where that wasn't achieved in the first Directive. Here, the particular area of focus is in the context of exceptions to infringement, and the private use exception - which is seen across Europe in those territories using levy compensation systems and is not applicable in the UK.

The key message, which I hope will come out further later, is that there is in place a robust system to protect the business models that we are discussing today. It is not anticipated that the changes will mean having to fundamentally tear down the current system and start all over again.

As for windowing - I think the key point to make is that there has clearly been a process of evolution. We have seen the merger of the DVD rental and sell-through window. We are now seeing the reduction of the window between theatrical and DVD release, which typically and historically we saw as 6 months but now is an average of around 4 months. We are also seeing the reduction of the window between VOD and pay per view release. Again, typically it used to be 6 months, and now it is in some places as short as 60 days. But, never the less the windows exist. The revolutionary step that was suggested by the recent Soderbergh film, simultaneous release, I think is perhaps to some degree a consequence of hype as well as a genuine evolutionary process. I think it's perhaps ironic the Soderbergh film is entitled 'Bubble'. The backers include Mark Cuban, who made his money from the first dot.com bubble! There is a high degree of hype surrounding this film release, which as I say, will take time to build across the rest of the market.

Ultimately the purpose of windows is to allow the market to determine the natural release cycles of a product across the multiplatform environment. Increasingly we are seeing the market judge by reference to the sensitivities of particular projects. For example, VOD windows are being reduced internationally, typically because of the requirements of a particular film. 'Troy' was an example of that. Where it performed very well in the domestic box office (i.e. in the US) it saw quite a lengthy window between its initial theatrical release and subsequent DVD release - where it performed less satisfactorily across the international theatrical market it saw a much shorter window (in the hope that the DVD release could capitalise on the promotional activities that surrounded the initial theatrical release).

The final message I would like to leave you with before we get onto the discussion is that windows are about markets ultimately, and that's what we shouldn't forget here. The market is going to determine where the windows go.

The Panel Chair asked Mick Southworth whether he believed that day and date release across all media was on the way.

**Mick Southworth:** Windows are very important. The front end of your expenditure on a film is going to be on the release of the film theatrically, and obviously the cinemas want to protect their capital outlay because they've spent many millions on developing cinemas. So, it's important that they are kept in place. Frankly, I think there are far too many films released, which also creates a problem. By this I mean that there is not enough breathing

space in cinemas for the films to see their natural commercial life. There is a kind of voracious appetite, which is eating films up and spewing them out as failures because there's not enough space in the cinemas. As an example, let's say a company has a capital outlay initially in the UK for 100 prints, and it spends £300,000 - £400,000 on supporting those prints, but then the film goes out and dies, obviously as a distribution company you want to squeeze the window because you want to get to the valuable DVD market.

In many instances, and this pains me to say it, but a great deal of films use cinemas. It's a kind of understanding, cinemas are a profiling device to give the films some worth in ancillary markets. So, what a distribution company might see as a successful movie for them, to the outside world may look like a flop. They need to put the film into a cinema in order to get the value out of it. The cinemas themselves obviously want to protect their capital outlay and their investments, and so they are going to hang onto those windows. As for the VOD windows and the other ancillaries - I wouldn't even bother putting my nose in that trough as an independent. With everything dictated by the majors, as is the case with the important issues such as terms with cinemas themselves, the independent market generally follows hand in hand.

*Jonathan Davis, UK Film Council: If someone wants to put you down at the UK Film Council, they say "That's a very 35 mm thing to say". I think this discussion is a bit 35 mm. In particular, it's not addressing the questions that are set out in the programme - in other words, can we use new technologies to create access to films more widely across Europe? Can Europeans do that in the same ways that the studios can do it? And to what extent might the rights system need to change? What are the evolutions we'd like to see in the relationships between the vendors and the buyers in order to respond to the opportunities? When I mentioned 35 mm, I was reflecting on what Duncan Kenworthy said this morning about Netflix - that the opportunity is perhaps more to do with access to archive material than it is new releases. I'm wondering, do we have to get away from the current logic which is driven by maximising exploitation of films in the cinema? If so, how do we respond to the challenges that represents?*

**Mick Southworth:** From my side, I can only respond to what's in front of me at any given time in business. At this moment, I'm getting new legal challenges every day (e.g. from rights owners in regard to delivery systems), and I am also dealing with controlling the potential leakages of our films into other territories. I respond as any licence owner would in the UK to the new challenges that are in front of me. I don't really want to make statements about the future, when no one knows how things will pan out.

**Panel Chair:** Give us an example of the sort of issues you are facing on licencing.

**Mick Southworth:** It's mainly the wording of the rights contracts. For example, in the last three months, on three contracts I have had the same problem. The studios are putting

pressure on me to change the language in the contracts so that they can have more control over the delivery systems. Definitions on rights keep changing - this makes it extremely difficult for smaller companies as they don't have the resources for long, drawn out and protracted negotiations.

**Panel Chair:** Can you give us an example of the sorts of language that is being used, and the rights that you would like to have to sell.

**Mick Southworth:** I'd like everything.

**Panel Chair:** You are being given less than you were?

**Mick Southworth:** Yes.

**Panel Chair:** Has the price gone down?

**Mick Southworth:** Do me a favour! No - that's not the case, and never will be the case. The Internet is the biggest bugbear. It's so difficult for distribution companies at the moment. Historically of course, we have taken licenses at 20-25 years. Some companies are now taking them in perpetuity. They can look at licencing agreements they signed a year ago, and they are now out of date. Because, if you are looking at the DVD market - and some of the experts in this industry are saying that it's going to dissipate down to nothing as the other delivery systems come online - then you could be sitting there with a film that is possibly worthless if you don't have the internet rights tied up correctly.

**Panel Chair:** Does each studio have a different set of language when it comes to negotiating rights?

**Mick Southworth:** I only deal with one studio in relation to the UK. Their legal advice is at an extraordinary level - it's really cutting edge stuff. So, one can only assume that they are not going to get anything wrong. We are in a lucky position - but if you are a small trader there is a risk there may be problems. These days I have to think very clearly every time I make an acquisition, and try to ensure that we get the rights to absolutely everything.

**Nick Fitzpatrick:** I'd like to make a couple of points. Firstly, in relation to the IP issues - the point I was trying to make is that IP is not a barrier to entry into this market per se.

Secondly, in terms of windowing, the rights owners are going to react to the new technology tools they have in their hands, which will allow new interesting ways of exploiting their content to permeate into the market. How that will impact on existing windows will also be interesting. I don't see an immediate collapse of the windowing system. I think that rights holders will continue to experiment, as in the case of 'Bubble' -

particularly, for example, in the context of what's being called electronic rental and electronic sell through. Online distribution movies - where do those windows fit? Do they typically sit alongside the existing DVD release, for example? As an IP lawyer, I'm not sure it's for me to get into the finer points of the business models themselves - but it does seem to me that they represent quite fascinating issues. One of the obvious issues is that the language of the new business models, electronic rental, electronic sell through - is in some respect mirroring the language of the video market or DVD market. It's quite interesting that there is at that very core level a cross comparison between hard copy sale and videos - and online distribution in effect. One of the legal points that emerges from that - and my understanding is that it hasn't been picked up particularly by regulators in Europe at the moment - is whether you are really talking about two different markets at all, or whether you are talking about one market. That is to say, the market for getting films into the hands of people either on a transitory basis or a permanent basis, which was at one time fulfilled only by the DVD market but which now can equally be fulfilled by the online distribution market. That raises interesting issues, which start to move away from IP into issues of whether the Commission is going to start regulating the windowing activities of producers in Europe.

That raises interesting issues, because it starts to move away from straight IP - which is the point you had a problem with earlier on - and into issues of whether the Commission is going to start regulating the windowing activities of producers in Europe. That there is a legal debate based on the fact that perhaps we are talking about one homogenous market, not two markets, seems to suggest that the DVD window and the online VOD window should really be one window.

**Mick Southworth:** I'd just like to say that 'Bubble' is a red herring. It's really a PR exercise - and it's all froth and no coffee. The picture itself is not a commercial item.

**Andrew Yeates:** *There are a lot of people challenging what IP is all about. My feeling is that it's not the rights that are getting more complicated - actually there's only very few different types of right - but it's the commercial back office deals that are needed to be done, in order to pay people to reflect the rights that are being exercised. Does the panel agree that we ought to keep reassuring the policy makers that it's not the rights that are at fault, but that we are having to grapple with new technology - and that what matters are the back office functions and ensuring that people are paid properly?*

**Panel members:** Here, here.

**Audience Member:** *Traditionally rights owners have withheld Internet rights, and local territorial distributors have picked up everything else. In relation to broadband going into the back of one's TV - technically does this have implications for Internet rights? Mick,*

*are the Internet rights you are getting now also covering film going to the TV via broadband, to the computer, or mobile phone?*

**Mick Southworth:** Yes - that's the definition of streaming. Download to own is technically a video right, but it's being delivered by the Internet. So, there are lots of problems here. What's interesting is the amount of companies that are going through their old contracts now and realising that they don't have the rights. They are not trading illegally, but when they put a film out on the Internet, they don't have the proper wording. Going forward, it's going to be very interesting - I'm sure that you lawyers will be putting your prices up accordingly in the coming months!

**Nick Fitzpatrick:** It is increasingly true that that task of carving up the windows, which ultimately comes down to increasingly complicated legal drafting, is becoming difficult given convergence and the multifarious ways that a particular signal is going to be delivered to the consumer. The most obvious problem that we are currently facing is the delivery of audiovisual signals to mobile devices - not purely by means of traditional mobile telephony but by means of the mobile broadcast protocols DVB-H and DMB. We are at some stage going to have to start dealing with rights exploitation models on a platform-neutral basis. It's already happening in other industries. In the context of the sports industry, if you have been following the rights sales of some of the sports governing bodies, you will have seen that the latest proposals are to put those rights out on a platform neutral basis, as packages distinguished in terms of time but not by means of delivery platform. The problems are going to accelerate as convergence becomes more complete.

**Panel Chair:** Is there an advantage in having short licence terms, and the ability to invent as many rights as you possibly can?

**Mick Southworth:** Most contracts have "all future technologies" in there - but you try to impose that when something comes online. We pay for films, we put our money up, and we want as long a licence as possible and as many rights as we can get. Generally speaking, producers need enough money to replenish the pot or get films made - so they wouldn't go down the short term route. Distributors feel that 20-25 year licences are not out of the question. We are trying to put wording in our acquisition contracts to make sure we throw a big a net as we possibly can over future technology - because of course a new technology or distribution platform will emerge before long which our contracts won't cover.

**Panel Chair:** It's quite problematic isn't it - to have both long licence terms, and to cover all possible future technologies, while at the same time hoping to do a deal that will be seen fair by both buyer and seller in the long term. I would say that is difficult, if not impossible.

**Mick Southworth:** Yes, but in many instances if a relationship between the sales party and the distribution company is a happy one, there is no reason why they wouldn't want the continuity of keeping the film in the market place.

The panel chair thanked panellists for their contributions.

# A BRAVE NEW WORLD - HOW SHOULD FILM BUSINESSES ADAPT?

**Chair: John Howkins, Deputy Chairman, BSAC and Director, Equator Group plc**

**Josh Berger, Executive Vice President & Managing Director, Warner Bros. Entertainment UK**

**Michael Kuhn, Chairman, Qwerty Films**

**Tim Richards, Chief Executive Officer, Vue Entertainment**

**John Woodward, Chief Executive Officer, UK Film Council**

The Panel Chair said that this final session of the day is traditionally known as the “blue sky” session. Panellists are asked to speculate on what they have heard during the day, and to provide their views of the future over the next 10 years. He then introduced the members of the panel, and asked John Woodward to begin the session.

**John Woodward, Chief Executive Officer, UK Film Council:** My first observation is that I have had a very interesting day. For me, Duncan's excellent keynote at the beginning of the conference hit the nail on the head. What we're dealing with here is, as he uniquely put it, a change to the economics of scarcity - which characterises the industry today. Putting my cards on the table - I think the glass is more than half full. I think there are fantastic opportunities for the British film industry. My remarks today will focus mainly on British production, distribution and exhibition, and will try to tease out some of the issues over the next few years because I think there are some challenges along the way.



*John Woodward*

The first thing that occurred to me is that the supposed flexibility offered by the digital world doesn't actually mean more opportunities for British distributors and producers. The flexibility offered by the digital projectors which are going into cinemas around the UK and around the world doesn't necessarily mean more choice. It could result in 'Star Wars' being shown in 15 screens rather than in 10, resulting in independent product and British product actually being squeezed right off. So, we need to think about that.

Equally, the change in the distribution paradigm in terms of production doesn't necessarily mean that the long tail theory is going to be a bonanza for the British producers. It seems to me that on demand has its challenges and has its dangers - and it's worth just dwelling on those and trying to work out how to turn them into an opportunity.

For me, what has also come out of today, is the sense that in order to succeed in the on demand world, you need good navigation for the consumer to be able to find the films they want. That's the problem for British films by and large - that British films have fragmented in terms of their ownership, in terms of their brand, in terms of their availability, their pricing. They are all over the place, but they're not owned and controlled, by and large, by big institutions like the seven Hollywood majors.

Marketing and profile is also going to be key for British films going forward. In my view, that's what British films all too often don't have. The danger, in this new world, is that British and more specialised films will just get lost in cyberspace. Unless the industry can respond to this we've got a problem.

A second allied danger is that VOD rights could be a new source of value for financiers, for producers, and of course production finance. At worst, they should be a kind of replacement source of finance to step into what will be the end of the DVD window at some point in time. But what we are starting to hear is the beginning of a kind of nightmare scenario. That is to say, that as these windows crunch together, the short term rights value that producers and financiers are using at the moment to leverage money collapses and suddenly the money isn't there to make films. If this happens the whole production sector's got a real problem. That tussle over VOD rights seems to have really started now. The issue of whether those are new on demand rights, or whether they are actually already owned by broadcasters is being illustrated by the current Channel 4/Ofcom row in the TV world. Are these rights in fact owned by producers? Can they be reserved at this point to create extra value? These are really key issues - how you monetise these rights to make your business run off them if you are in the production or distribution business is really important. There is a lack of any clarity about what on demand rights are. There isn't an accepted definition, and the industry needs one really badly for two reasons. 1) Obviously to ease the process of financing and distribution going forward; and 2) We also need to unlock the value of the back catalogue, because there are many films where the rights ownership is unclear. The challenge I'd put to BSAC is to bring the legal community together and try to thrash out a consensus about what on demand rights are. Without that, it's going to be much more difficult to drag the business forward.

I think the exhibition sector has got to work very hard over the next few years to master the kind of flexibility that the new Digital Screen Network is going to give them potentially. If exhibitors and cinema owners can try out new scheduling patterns, and push really hard at the terms that they are getting from distributors, then I think they will be in a much better place in a year or two's time.

I think the challenge to the distribution sector is to push forward as fast as you can on encouraging the digitisation of cinemas. It is coming. The only intervention in the market so far has been in the public sector through the UK Film Council's Digital Screen Network, which as you know has an aim of reserving space for specialised films. Looking at what is happening in the US - last year everyone signed off on what the technical standards are going to be. A business model is clearly being arrived at - where a trade off is going to be made against the cost of prints. I think it would be incredibly helpful if the British market moved quickly to digitising its cinemas. The faster those projectors are in there, the faster we are going to get over the teething problems, and start learning how to maximise the value going forward.

My second challenge to the distributors is also to try out as many deal structures for on demand as you can, to talk about them, and tell the market what's going on. It would be great to see some exclusive platforms with minimum guarantees being paid. Brian Sullivan from Sky said he'd pay minimum guarantees. I'd also like to see some exclusive platform deals on a revenue sharing basis, and to see some non-exclusive deals across platforms. It would also be great if people worked with minority niche content aggregators - just to try it out and see what happens, find out what works, and talk to the industry about it. The more that happens, and the faster that happens, I think the better shape the industry is going to be in.

Finally, the challenge for producers is that they have to get more savvy about distribution and what audiences want. The big message I took out of today is that the people who are going to succeed over the next 5-10 years are the those who know most about their audiences and can target them effectively. It seems that audiences are becoming much more demanding about getting what they want - and people who can answer the demands of the audience in a more segmented way are going to win.

The really good news I took out of today was that the retail sector in different forms - whether electronic or cinema - is actually quite far advanced. People are working quite hard to get to know their customers. I think distribution and production would do well to recognise that. I feel quite optimistic. I was here two years ago - and everyone was saying, "What the hell's going on?" The sense I get today is that people actually have quite a good idea of what the problems are - I don't think anyone's got all the answers - but I have a sense that people are really starting to get to grips with the key issues.

**Tim Richards, Chief Executive Officer, Vue Entertainment:**

I have been actually encouraged by a few of the speakers today, who - unlike the media trade press last year - have not predicted the ultimate demise of exhibition. I think digital cinema for us is going to be life transforming. After having spent fifteen years in the business I am more excited today than I have ever been. I think the whole business is going to be turned upside down in the next 2-3 years.



*Tim Richards*

I have been following digital projection technology/transmission for about 12-15 years. As we've discussed today, it's something that has always been out there on a 2-3 year rolling basis. But now it has absolutely arrived. We currently have 10 digital projectors in our circuit. Last year I would have thought that unthinkable. A large part of that is thanks to the UK Film Council initiative, which is market leading internationally. It's going to produce the first digital network in the world in the space of the next 12-18 months. For us, what does that mean? Recently, in the last few months we've had increasing difficulties in securing prints of some of the movies that we have wanted to show. Our customers wanted to see those movies, but there have not been enough prints going around. Some of them are UK productions, some European, some art house, some more commercial. We wanted to show those movies but could not. Digital projection technology in the future will allow us to have access to those prints, and we'll be able to significantly diversify the product to cater to individual markets across the country. My business lives in the dark ages presently and is in desperate need of updating. We still have the 8 track tape mentality. When the film arrives, they arrive in exactly the same way they have for the last 120 years. They arrive in cans. They are put together by a projectionist, they are put on a projector, they are taken off, they are unspliced again, put back in the cans and then shipped off. It is 100 years out of date.

Digital projection will also allow us to test a lot of new products. Last fall we approached Brian May of Queen, and asked him if he wanted to test launching his new DVD of Queen's live concert tour at the Vue Cinema in Leicester Square. At first he wasn't really sure - but he came over and was absolutely blown away by it. People forget that a cinema auditorium is a soundstage with absolutely perfect acoustics, digital surround sound, and we have double woofers in the front behind the screen. We turned our cinema in Leicester Square into a rock concert - it was phenomenal. If we had more cinemas with digital projectors at that time we would have linked them up by satellite and done it across the country. On the back of that Green Day approached us about 3 weeks later.

I've also been to a video game demonstration recently. There is a technology available today with a very inexpensive wireless LAN - where you can have 100 recognisable characters up on the screen shooting each other, chasing each other, racing each other and destroying each other - it is absolutely fantastic. Again, potential for us in the future. Once we have started linking cinema sites by satellite we can have competitions for video games between cities on a national or even international level.

The other interesting thing on the horizon is 3D. I don't know if any of you saw 'Chicken Little' in 3D - the first true digital 3D system to be put in place. We have had it showing in the West End for a couple of weeks. It's a brand new technology, perfect, clean, digital 3D. It is an immersive experience - not the 3D that is out there somewhere - it is actually touch and feel 3D. It is very different to 3D systems in the past which had an 85-90% overlap. That 15-20% gap is what gave people headaches, inner ear issues or nausea - that is now gone. Digital 3D is 100% accuracy. Last year, at the big trade show ShoWest in Vegas, George Lucas, Robert Rodriguez, James Cameron and Peter Jackson all said their next movies would be shot in 3D. When films are shot in digital, it is reasonably easy to convert it into 3D. Another advantage of this is that it has additional benefits of not being able to be pirated. It simply can't be copied. It also doesn't work on home entertainment systems, which is a big plus for us as exhibitors.

So, that's a little taste of the future. I think digital projection technology is going to have a lot of potential, and we are going to have some hits and misses. Because we don't really know what is going to work and what is not going to work. But I do know that we will continuously innovate and test new ways of delivering services on our 54 sites across the country.

**Michael Kuhn, Chairman, Qwerty Films:** The main topic I want to talk about is the collapse of the traditional film financing model, which has held for the last 50-60 years. Every one of the income streams that has supported the studio model is about to collapse or has collapsed. Theatrical revenues are going to change fundamentally with digital projection because whatever anyone tells you, digital projectors are very expensive. They are going to need to be upgraded every year, and they are very software dependent. The old projectors, which you bought in the 1930's, just needed a spot of oil every now and again. The result of these changes will be that as few as a third of existing screens are going to justify the investment in that kind of digital cinema. And the other two thirds will not justify the expenditure on special chemical prints and cans to service them. So, I think there will be a tremendous change in that revenue stream.



*Michael Kuhn*

Therefore, the marketing and shop window effect of cinema is also going to have to be looked at, because if there is going to be a great reduction in screens, is there really the justification for spending the kind of marketing money as they currently spend in the US?

So, that's 20% of revenue which might be adversely affected. The 50% of revenue that's home video will probably also decline. It's not all doom and gloom though. Yesterday, ITV were discussing their results and all they talked about was digital - but studies show that 10-15 years from now 70% of the business will still be traditional broadcasting. People forget that. I think home video is very strong and isn't going to suddenly die - but still, tremendous change is on the way.

We all know the story about terrestrial TV. It is challenged tremendously by growth of digital - digital channels can't pay what terrestrial channels used to, and terrestrial can't pay what they used to because they haven't got so many viewers. Pay TV, we all know the story there. The huge pay deals which Showtime and HBO and their equivalents around the world pay for movie packages and individual movies for exclusive rights. Why would they do that when there's VOD available on the Internet or whatever other system? That whole model is collapsing. Various people like my great friend on the right here (Josh Berger) have introduced some forward looking cost cutting and downsizing measures to their companies - but in my opinion, they don't begin to scratch the surface of what's needed. The other day I said to my former boss who runs EMI, the way forward is to think about selling music at £1 per album, not per track - and then figure out what sort of company you need. And I think the movie business and the studio sector has to think along the same lines.

So, what does this mean for the indies? I think there are threats and opportunities. The good news is that the one thing we always needed the studios for - which was physical distribution around the world - is not necessary any more. We will be able to just press a few buttons and deliver our movies wherever you want - to screens, to digital platforms, direct to the consumer etc. On the other hand - what we do still need them for is their marketing talent. I think the main challenge is to figure this out. I think legal definitions and windows will sort themselves out - it just takes a bit of time. But we do have to learn how we can rise above all the noise and say, "Here's my movie". The last point I would make is on low budget filmmaking. If a visitor from Mars came down and looked at the process we go through that has developed over years and years, they would think it's completely mad. The whole process from developing scripts, production honey wagons, lawyers, agents, etc. is completely mad. We have to find a way of lowering costs.

It's very hard for the studios to find a way of making commercial movies that don't cost much. The truth of the matter is, if you make a movie that really does the business,

whether it's a 'Football Factory' in the UK or whether it 'Open Water' in the US - those kinds of low budget movies that do really well, the business gets a tremendous boost. You get investors, and everyone wants to be your friend. And that's what the business of independent production is.

**Josh Berger, Executive Vice President & Managing Director, Warner Bros. UK:** In terms of looking into the future, this morning I didn't look 10 years ahead - I went about 12-24 months, which I think is probably the most sensible thing to do. Going beyond that would be an act of folly because I don't think anybody knows.

Firstly, I'd like to give a couple of reactions. I have to say I agree with a lot of what Michael has just said. The studios' control over distribution, as we've heard today pretty convincingly, is going away now. It will indeed be as simple as pushing a button and getting your product out to pretty much whomever has an email address or a computer or a server. As for marketing - I think Michael covered it pretty well. In a way marketing is going to become even more important because of the clutter in the market. The only way to really create something that's big is to do it via marketing and getting people to find it. That doesn't necessarily mean you have to spend \$75 million releasing a film, which is what we often do in marketing a film around the world. The Arctic Monkeys became the biggest selling group in British music history in a week because it was on Myspace.com and was emailed around. So, success with minimal marketing spend can happen. I don't know if they started out knowing that that's where they were going to end up, but it worked very effectively. The 'Blair Witch Project' was the first time that the power of the Internet as a marketing platform dawned on people. The people who can figure out how to cut through the clutter with new innovative way of marketing on the Internet are going to have an asset that may even be as valuable as the content.

I'd like to add a few words about windows. If it wasn't for piracy, I'm not so sure that we'd be having this heated debate about windows. I think the fact that we can see billions of dollars evaporating is making people look much more at this business from a consumer focused way. But 5-10 years ago were people always talking about the business this way? Were people always talking about the consumer as king? That was a mistake - and is not something to be proud of. But, now we're talking in the right way, as to how to provide the customers with what we think they are looking for.

I've sat through a lot of consumer marketing sessions, talking about new services and new ways to deliver movie or TV shows to consumers. Consumers don't always know what they want. Fifteen years ago, if someone had showed me a BlackBerry and said, "In the future you will use this every five minutes, every day you are alive", I would have thought they were out of their mind. But, now it's what I do every day. We would not have predicted many of the entertainment technologies that we are using today.

So, I'm not sure that we can be too reliant on consumer research. I would agree with John Woodward - we have to experiment, and be very expansive in the way we try to create new services. Again, as John said, sharing information is critical, amongst studios as well as amongst the independent communities. For example, when the video rental and sell-through window collapsed, we had been the studio that decided that it didn't make any sense to keep that window, when we already had day and date DVD sell through and rental. When we did that, everybody knew it was the right thing to do, and they were happy to watch Warner Bros. getting mauled by the rental trade. Blockbuster actually boycotted us for a year - and it was at their peril as well. They lost a lot of money, so did we. But, within a year the entire industry had moved in that direction, because it was clear that it just didn't make sense anymore to have this window. Before Tim has a heart attack, I'm not saying that this is what we should do with the theatrical to video window. Actually, in a way it is! But it's very important for all the stakeholders to communicate, as the situation is becoming more and more complicated. So, I echo John's sentiment.

I'm sure Tim would agree with me, there is an awful lot of emotion tied up in the windows issue, and there always has been. It's not just exhibitors - it's everybody who enjoyed some form of exclusivity. But, I'm not at all convinced that the shrinking window between theatrical and video has really affected the industry that dramatically so far. It's very hard to know exactly what will happen unless somebody does it. Not 'Bubble', but a big film. It may well mean that there'll be fewer people going to the cinema - and if this happens, it will be a problem. In the end, distributors and exhibitors have to work this out and come to an agreement - because the movie business today really does depend very much on the event of a new movie release. It isn't quite the same when a film goes straight to retail, or goes directly online - however, that may well change.

The Panel Chair opened up the session to questions from the floor.

***Audience Member:** Tim, you said that your cinemas are going to be used for all kinds of different services, other than cinema projection. Can you imagine cinemas becoming the new "churches" of the future? Will content converge?*

**Tim Richards:** Actually, there are two cinemas in the country that are literally being used as churches right now. But seriously, I can see us showing live sporting events and live concerts in real time - possibly at the same time as they are happening on digital TV, iPods or telephones. We will be hoping the consumer will be interested in watching an event in life-size or larger-than-life size on our screen. We're definitely betting on the big screen format for those activities.

**John Woodward:** Thinking about convergence - it will be interesting to see what happens with 'The Road to Guantanamo', which is being broadcast on Channel 4 tonight. This is a much more interesting indicator than 'Bubble', of what convergence really means. It will go one way or another, either it will just go into the TV schedules, in the way the 'Play for Today' used to 20 years ago - or it may turn into a big event, which goes some way towards responding to Michael's point about marketing. Channel 4's strategy has been to try to turn 'The Road to Guantanamo' into an event - and the network TV broadcast has been turned into a major marketing tool. They are going to get their value out of it by broadcasting it on Channel 4 tonight, at which point the producers of that film will then make it available for downloading on the Channel 4 site, and they will also sell it abroad where it will go out theatrically. It has already picked up the second prize at the Berlin Film Festival. I think that area of convergence in TV broadcasting, particularly TV drama and to an extent TV documentaries, is very interesting. I think, for the British production sector, there's probably quite a fertile area where those things intersect - convergence and marketing content.

**Panel Chair:** Do we know the budget of 'Guantanamo'?

**John Woodward:** I think it was about £1 million.

**Audience Member:** *The theme of the panel session implies that the industry should be adapting. And yet, from what I have heard today, we should be as iconoclastic as we can and look at completely new models. Do the panel members think we should be iconoclastic, or should we just try to adapt? Who's going to win at the end of the day?*

**Michael Kuhn:** Well, I'm always in favour of icono... whatever it was! To answer the first question on creative convergence, my answer to that would be no. To compare a big event Warner movie to 'Guantanamo' - that's ridiculous. They are two completely different things. Certainly an industry professional can work on a number of different genres. But, when someone is working on a film, they're doing a film - and when their doing TV, they're doing TV. Creatively, genres have developed in the way that they have for a very good reason. It's an evolutionary process, and things are the way they are for a very good reason on that front. I've already said that I think the models have to change dramatically. I think that marketing is one of the studios' greatest strengths - and they should think very carefully about how they can turn marketing that into the core of what their business is about. Because, by and large, they are very expert at it, and they know far more than anyone else on the subject of marketing. I would have a slight quibble with you, Josh, on viral marketing. To me there's a big difference between PR and marketing. The good news about viral marketing PR is that it's free, but it's bad news you can't control it. Sometimes PR works really well in an unplanned way - for example at the 'Four Weddings and a Funeral' premiere when Liz Hurley turned up with a dress made of safety pins. The problem is marketing is very

expensive and you have to know what you are doing. I think these occasional examples of PR successes such as Arctic Monkeys just kind of happened. So, PR sometimes works but it's very hard to control. Whereas, with marketing you know what you are getting for your buck. So, I think you have to think very hard what your business is about. As a producer, the first thing you learn about marketing is that there's a difference between the playability of a movie and the marketability of a movie. In other words, it can be a really great movie that everyone talks about - but on the other hand, if only 2 men and a dog go the first evening, the word-of-mouth spreads too slowly. So, I think you have to open a movie widely enough for the playability to work. However, in terms of VOD and the new online world etc., you don't need marketability. You need playability. Playability is so much more important because it spreads like wildfire, and your product can be on for no cost for a long period of time. So, if independent producers can combine playability with marketing expertise - that is going to have fantastic results.

**Tim Richards:** Picking up on a few of Josh's comments about windows - I think one has to differentiate between protecting a revenue stream, and driving a revenue stream. I believe that theatrical release drives the revenue stream. It is the engine behind everything else. When I used to be in home entertainment, the same rules applied then as they do now. There is an absolute direct correlation between box office success and DVD sales. The theatrical business is still a multi billion dollar business. Messing with the windows is potentially going to jeopardise not only just theatrical revenues, but everything that follows. From our perspective, it is no secret that exhibitors didn't play 'Bubble' in the US. Equally, Vue in the UK would not play a movie on day and date release. It's an ongoing discussion that we all need to have - producers, distributors and exhibitors - and as Josh said, it can get emotional. I've yet to see any economic justification for the reduction in the window. I think also you have to differentiate between, not when the DVDs are released, but when the marketing for the DVD starts. And that's a very big difference, because the windows have reduced from 6 months to 4 months, to almost 3. In some instances there's even been 1 or 2 - and the marketing for that DVD release typically starts a month or two before that DVD release. At some point, this will begin to affect consumers' demand for going to see movies at the cinema.

**John Woodward:** I take that point. Going back Michael's point that 'Harry Potter' is not the same as 'The Road to Guantanamo'. Would you absolutely want to apply the same logic to a 'Harry Potter' film and a film like 'The Road to Guantanamo', 'Bloody Sunday' or another smaller film?

**Tim Richards:** I think it's absolutely a question of degree. We have actually shown old movies and TV movies - we even screened '24' at one of our cinemas. But, a first run release for a movie is very different, and the question is really differentiating between what's going to be big and what's not going to be big. There are some films which are

obviously going to be blockbusters, but equally there are a lot of sleepers. It's a very difficult one to answer.

**Ajay Chowdhury:** *I'd like to come back to the consumer wants. It strikes me that what the consumer really does want, is the "what I want it, where I want it" model. In the future, I can see a huge server in the sky where everybody puts their content as soon as it's out, so that the consumer can get it in whatever form they want. If they want to go to the cinema they can, if they want to see it at home they can. So, my question really is - if that's the way it's all going, will there be such a thing as a film business? Or does it just become a content creation and marketing business, whether it's a film or a TV series, or a piece of music etc?*

**Josh Berger:** I already think of the business in exactly those terms - many of us are involved in lots of different aspects of the content business. The world might very well go in the direction that you are alluding to, and in a way it already is going that way. Look at Lovefilm.com, CinemaNow and Movielink - and look at what AOL and Google are doing. Google in particular would like to be exactly in the position that you have just described - to have all content on their server, available to everyone. In this scenario, rights owners would end up paying Google for position, for real estate, and for marketing positioning - maybe even publicity. It will probably be all about how much money you spend. Following on from this, another consideration may well be, will you be putting actors in your show which cost £20 million, or £5,000?

**Michael Kuhn:** The danger for studios is that not only will independents not need studios for distribution - once studios lose control of distribution, they will lose control of pricing. And when pricing gets out of control - that is when the windows get in a mess. Of course the consumer wants everything now, perhaps studios need to devise a system where a movie could be made available on the day of release for £20, in a couple of months it could be available for £10, and a few months later it could be available for much less, and so on. This is a very traditional retail model - and it works.

However, looking at what has happened in the music business - Apple have 75% market share of online music distribution, and there's currently a big row going on because the record companies are not in control of pricing. So, that's the big danger for studios. Unless they are able to maximise their marketing clout over and above what a company like Google can do, there will be a big crisis in the movie business!

**Tim Richards:** This kind of scenario would have a profound impact on exhibition, and it's something that's very difficult to support. It goes without saying, if it was ever even in contemplation there would have to be a very serious change in the economic terms that currently exist between distribution and exhibition.

**John Woodward:** For me it's fairly straight forward. It's a content industry - exactly as Josh said - and film is part of the content industry. There is going to be some slippage around the definitions, which doesn't seem too surprising to me. But I think there will always be a film industry - and the defining characteristic of that product will be something that appears in cinemas as part of the collective experience.

**Tim Richards:** I'd like to add that exhibition in the UK is on a 20 year growth line. In the last 20 years there have only been 3 years that saw a decline - last year being one. In the UK there are still less than 3 visits per capita compared to 5-6 in the US, and 4-5 in other English speaking markets - so I believe there is still huge growth potential in the market here. Consumers really like the new multiplexes and the new big screens. As exhibitors we have had to be a lot more attentive to what the consumer wants. We are now providing big screens, stadium seating, digital surround sound - very high service levels. So - I think there are still huge growth prospects in the exhibition sector.

In closing the conference, the Chair said that he felt the discussions had become more mature and inclusive than had been seen at past BSAC Film Conferences. It was good to see the technology and business communities talking to one another and trying to work out the way forward together.

The Chair thanked the panel and all the conference participants for their fascinating contributions and insights. He also thanked Time Warner for sponsoring the event.

Copyright BSAC 2006. All rights reserved.

For written permission to reproduce any part of this report please contact BSAC at the address on the back cover. This will normally be provided if BSAC is fully credited.

Issued: April 2006  
British Screen Advisory Council  
13 Manette St, London W1D 4AW  
Tel: 020 7287 1111 Fax: 020 7287 1123  
Email: [bsac@bsacouncil.co.uk](mailto:bsac@bsacouncil.co.uk) Web: <http://www.bsac.uk.com>

A Company Limited by guarantee Registered at Cardiff Registration no. 3771572  
Registered Office as above