

# The Economics of Independent Film and Video Distribution in the Digital Age

**A Report Prepared for the Tribeca Film Institute by Intelligent  
Television**

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## I. Background and introduction

As the 2007-2008 strike of over 12,000 writers for television and film highlighted, the challenge of understanding, and participating in, the online distribution of television and film is a complicated one indeed. Film and video distribution has entered the digital age with a fury. Twenty percent of all U.S. Internet users—and a third of all Internet users ages 18 to 29—now watch or download a video online every day. Internet users in the United States watched nearly 10 billion videos online in August 2007—up 26 percent from January.<sup>1</sup> The number of video viewing sites has proliferated—from YouTube, Yahoo, and MySpace to the network and studio websites (Fox, Viacom, Disney, Turner) to the startups (Metacafe, DailyMotion, Veoh, Joost, Hulu). Twenty percent of American homes now have digital video recorders linked to their television sets and an even greater percentage of homes have digital storage units capable of holding video files tied to their computers. Forty-seven percent now have a broadband connection.<sup>2</sup> With video cameras now in virtually every cell phone and laptop, portable video cameras such as the Flip costing approximately \$100, video editing software in almost every laptop, it is no surprise that video is being called the new vernacular, and Apple’s iMovie and Windows MovieMaker the new tools of speech in the digital age.<sup>3</sup> The acceleration of online demand for moving images has been such that Cisco Systems, a leading provider of networking technology, predicts that video streaming and downloads will grow from 9 percent of all consumer Internet traffic in 2006 to 30 percent in 2011. Online film and video distribution is also where the money is. According to the *Wall Street Journal*,

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<sup>1</sup> According to an October 2007 Nielsen Media Research report, one in four Internet users had streamed full-length television episodes online in 2007—including 39 percent of people ages 18 to 34. See: Brian Stelter, “Serving Up Television without the TV Set,” *New York Times*, March 10, 2008; Kevin J. Delaney and Bobby White, “Video Surge Divides Web Watchers,” *Wall Street Journal*, August 14, 2007; Comscore, “U.S. Viewers Watched an Average of 3 Hours of Online Video in July,” September 12, 2007, at: <http://www.comscore.com/press/release.asp?press=1678>; and Nick Wingfield, “The Internet. The TV. Here’s How to Finally Bring Them Together,” *Wall Street Journal*, December 11, 2007.

<sup>2</sup> Michel Marriott, “Nothing to Watch on TV? Streaming Video Appeals to Niche Audiences,” *New York Times*, August 6, 2007; Jason L. Riley, “Movie Man,” *Wall Street Journal*, February 9-10, 2008; and Michael Learmonth, “Hulu Off to a Strong Start,” *Alley Insider*, March 26, 2008, at: [http://www.alleyinsider.com/2008/3/hulu\\_became\\_a\\_player\\_before\\_it\\_left\\_beta](http://www.alleyinsider.com/2008/3/hulu_became_a_player_before_it_left_beta). Devices for improving the digital download of movies and television have also proliferated, include Apple TV, TiVo, Xbox 360, and the newest arrival, Vudu.

<sup>3</sup> Peter B. Kaufman, “Video, Education, and Open Content: Notes toward a New Research and Action Agenda,” *First Monday* 12 (No. 4), April 2007, at: [http://www.firstmonday.org/issues/issue12\\_4/kaufman/index.html](http://www.firstmonday.org/issues/issue12_4/kaufman/index.html)

“Internet video, including ad-based and user-based services, could exceed \$7 billion in the U.S. alone by 2010.”<sup>4</sup>

Given these trends, the Tribeca Film Institute asked Intelligent Television to launch an examination of the current economics of independent film and video distribution in the United States to help producers, distributors, and funders better understand current realities and trends in the film and video distribution market. This study, supported in part by the John D. and Catherine T. MacArthur Foundation, is intended to be of mainstream value—documentary films and education film and television remain popular, and education ranks high among the subjects American viewers watch online, tied in popularity with music, after news and comedy.<sup>5</sup> “The Economics of Film and Video Distribution in the Digital Age” thus investigates current financing models for independent educational media, the revenue that such film and video productions have realized from sales and licensing, and the potential for alternative models of video and film distribution in the digital age.

Intelligent Television conducted interviews with three groups of interviewees—funders, producers, and distributors—posing pointed questions to each. These questions involved sussing out often closely held information—how much revenue individual films generate, for example—and at interviewee request we are keeping the names of respondents and the titles of specific films and grants in the dark. We hope that this effort, in association with other studies in the field—the Center for Social Media reports from American University, white papers being produced by public broadcasters such as WGBH, other research material that Intelligent Television has been compiling<sup>6</sup>—will begin to provide a fuller picture of the changes that might be implemented by funders, distributors, and producers who face rapid shifts in the world of educational video and film production.

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<sup>4</sup> Yukari Iwatani Kane, “Sony to Challenge Apple in TV, Movie Downloads,” *Wall Street Journal*, September 4, 2007.

<sup>5</sup> Mary Madden, “Online Video” (Philadelphia: Pew Internet & American Life Project, July 25, 2007), available at: [http://www.pewinternet.org/PPF/r/219/report\\_display.asp](http://www.pewinternet.org/PPF/r/219/report_display.asp)

<sup>6</sup> See the Center for Social Media resources online at: <http://www.centerforsocialmedia.org/resources/>; Harvard Law School/WGBH collaborative reports online at: <http://cyber.law.harvard.edu/media/files/copyrightandeducation.html> and Intelligent Television’s research work at <http://www.intelligenttelevision.com/index.php/research>

## II. Research results

### A. Filmmakers and producers

*No studio exists for educational film and video makers in the United States, and the system of production and distribution and funding has arisen without much central planning, largely on the strength of individuals whose vision and resources have broken through a system built and capitalized primarily to support entertainment. Michael Moore and Ken Burns have emerged as kind of figureheads for popular and educational filmmaking, but filmmakers with smaller and no less vibrant companies—Alex Gibney at Jigsaw Productions; Stephen Ives at Insignia Films; Martin Smith at Rain Media; Richard Wormser at Videoline; Alan and Susan Raymond at Video Verite; Skylight Films; the Center for New American Media; Great Projects Film Company; Big Year Productions; filmmaker cooperatives including New Day (the list goes on)—contribute to the national discourse in rich and meaningful ways, though they all struggle for the resources to do so.*

*Filmmakers were asked to describe what kind of revenues their films generate across markets from theatrical and broadcast to home video and online, and compare these to the size of their budgets for production, promotion, outreach, and publicity.*

One producer described the full picture of revenue from an educational or documentary film—recognizing that, to paraphrase Tolstói, each educational film is financially unhappy in its own way. If a film opens theatrically, a “good” performance will gross \$100,000 in box office receipts, with \$25,000 to \$75,000 likely to come from New York audiences at Film Forum and the like; net receipts to a filmmaker amount to 30 percent of that gross. Home video sales, he said, post, as a rule, “sad numbers.” Successes come in at 5,000 units or more sold and most titles fail to top 2,500 units; net receipts to the filmmaker are usually calculated as a royalty percentage (usually starting at 10 percent) of the net amount that the video distributor receives after returns, sales fees, and other distribution charges. Educational video sales are sometimes brighter. One filmmaker netted \$100,000 from this market for one film over a three-year sales period; another identified universities as his “primary” customer. Domestic television deals can be made among only a handful of channels and program strands (on PBS, P.O.V. and Frontline, for example; on cable, Sundance, Bravo, and HBO), where completed films will receive between \$25,000 and \$125,000 as a license fee and networks that buy an interest early in the life of a film will sometimes cover one-third or even one-half of the production budget. International deals rarely gather more. Another filmmaker told us that foreign countries and/or licensing territories generate gross licensing fees between \$5,000 and \$30,000. One filmmaker we interviewed produces and sells DVDs of his films himself, through a small subsidiary label, and told us that “finished goods” deals to distributors and retail chains can net him \$6 to \$7 per unit—healthy revenue when unit sales reach the thousands.

One filmmaker told us that his distribution model follows these markets closely and in time-honored fashion. He puts his films in festivals (the Human Rights Watch Film

Festival is one) to procure initial word-of-mouth attention and reviews, then looks for theatrical deals (although, he said, many distributors now want too many rights for too long to make this interesting), then looks for a broadcast partner, then markets DVDs and cassettes to educational institutions. A sold-out run at the Film Forum in New York will net him \$12,000, after all commissions are extracted. With great luck, educational video sales net in the tens of thousands of dollars per year, and television sales taken together will add up to a six-figure number over the full life of a film.

Producers described the production budgets of their feature-length films as always unique, but ranging between \$500,000 and \$1.5 million, with additional finances often needed for promotion and outreach. Indeed, a number of filmmakers told us in various ways that outreach often is the key to a film's success. The unique nature of film budgets notwithstanding (one filmmaker quoted his production budget as \$900), the math is stark and grim. One filmmaker remembered being asked by a foundation program officer, "How do you guys survive?"

*Filmmakers were asked what financial stipulations their funders/backers/distributors require of them, and how revenues are shared, and whether there are any improvements they would like to suggest for film financiers in the ways they approach film funding.*

Most documentaries, one filmmaker told us, "don't make any money." When funders are funding the production budgets of films, they need to be reminded constantly that their support is not covering the entire cost of filmmaking, including the blood and sweat and tears of the principal filmmakers. Likewise when broadcasters (especially public broadcasters) are coming in to acquire films, they should not ask for all rights—such as video-on-demand distribution—in all territories and media to be bundled together for the price of a license fee, as filmmakers need to make up costs and recoup their expenses by selling off these rights separately where they can. One filmmaker told us of a deal where a well-known public television strand offered him \$10,000 for the rights to show a film that cost him \$500,000 to make, but wanted to lock up all broadcast rights worldwide for that amount. Two filmmakers whose backers have included equity investors indicated that in their arrangements investors demanded to recoup their monies first, off the top, before gross proceeds are divided "as a pie."

One filmmaker expressed the hope that microfunding could be explored for documentary projects, where a multitude of stakeholders can invest money in the equity of a film, on the model of: <http://www.workbookproject.com/> Another described his interest in new, hybrid models that feature finance from sponsor-type advertiser/underwriters together with investors and philanthropic supporters. All filmmakers we interviewed expressed an interest in exploring more systematically various alternative structures for film finance. This includes exploring new sources of foundation grants all the way to developing alternative business models for sales of films and investment in them. One filmmaker suggested convening a conversation about the economic questions in this report with key commercial and noncommercial players in the same room—much as parties in a real-estate closing come together, he said—as a means of addressing the future "vitality" of filmmakers they support and invest in.

One filmmaker identified university libraries as his biggest current and potential market—and reminded us that universities are superb outreach partners, as they can afford to subsidize a filmmaker’s national tour by bring that filmmaker to campus. He questioned whether it makes sense to sell, according to the prevailing model today, a DVD with a site license to a university for \$300 to \$1,000 dollars, only to see hundreds of students then watch the film—netting the filmmaker just “pennies” per viewing—and then seeing it becoming impossible to assign the film for purchase. Universities, several filmmakers told us, should begin to treat films more like print resources, and also as books and journals are being treated in the digital realm. Films sold into the educational market should be made available for download, streaming view, or subscription. They each would cost, say, \$10 for a patch of time—much like an individual coursepack is priced—and be available in the equivalent of online bookstores, much as other assigned media is today. Many interviewees agreed that the current pricing and sales model for the education market “needs to change.”

*Filmmakers were asked if their funders/investors/distributors require them to clear or assign rights, licensing, and intellectual property in any particular ways, and if, for example, foundation supporters request them to provide access to certain markets for free.*

While film funding from foundations has not yet reached the point that research funding is at—with the National Science Foundation, the Gates Foundation, and the Wellcome Trust often mandating open access distribution for the results of their funding—several filmmakers noted that that foundations are beginning to advocate more explicitly for broadening access in the grants they make for media production. There is a sense that the filmic community has to engage in more testing of copyright boundaries and fair use, and that foundations are exploring how to encourage and facilitate greater experimentation among their grantees.<sup>7</sup> One filmmaker told us of his wish that more foundations hire officers with knowledge of film and broadcast media in a variety of programs—from health to education—because of the centrality of the moving image in American life and indeed life worldwide. Films “look like [they cost] a lot of money,” he told us; but films have “long legs” and can be very cost-effective vehicles for enhancing understanding and advocating change. Improving the way foundations and government agencies think through film use and distribution—especially for education—could be cost-effective in the long run.

## B. Film distributors

*The range of U.S.-based independent film and video distributors is broad indeed. Companies including California Newsreel, Criterion, Docurama, FirstRun/Icarus, Kino International, Magnolia Pictures, New Yorker Films, Picturehouse, Tartan Video, Thinkfilm, Zeitgeist—small independents and mini-majors—compete with the seven Hollywood studios and network and cable and pay-cable television stations like PBS,*

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<sup>7</sup> See: <http://fairuse.stanford.edu/>

*HBO and the Independent Film Channel to bring educational and arthouse films to the public. These films include recent cinematic achievements such as “No End in Sight,” “King Corn,” “Born into Brothels,” “My Architect,” “Taxi to the Dark Side,” “Bowling for Columbine,” “Sicko,” and “Al Jazeera.”*

*Film distributors were what criteria they had for selecting projects to distribute.*

One distributor told us that her main criterion for picking films to distribute was that she loved the films!—followed closely by a film’s accessibility to critics, writers, and eventually audiences. Another distributor told us he looks for elements in a film that can capture both broad public interest and a large degree of interest from specialized core interest groups—but always films where there is a “balance” between “a need to see” and “a desire to own.” This includes political advocacy documentaries and other films reflecting the “zeitgeist” as well as films that have marquee value, great storytelling, and are newsworthy. Look at top 10 grossing documentaries over the past year, he advised; in all of the cases, marketing was not the key to their success. Another distributor told us that he looks for the best educational media for each topic he deals in; that very few titles come up to his standards; and that he rejects 9 out of 10 submissions. Several distributors said that one tent-pole title—where revenue is in the high hundreds of thousands—can sustain a small independent distributor for a year or more.

*Film distributors were asked what kind of revenue their films generate from distribution, and to specify where possible approximate income from each market.*

One distributor—a company with a staff of 10—told us she acquires finished films, organizes theatrical release around the country and the world, produces educational DVDs for sale to universities, and brokers TV sales. She said there is no such thing as an average film in her quiver—some can recoup investments from theatrical release, some can sell a “couple thousand” DVDs and have a “small sale” to television. Where sources of film revenue used to be split 60 percent from theatrical box office and 40 percent from video, today the ratio is flipped, with 40 percent coming from theatrical release and 60 percent from video. Another distributor told us that most of his revenues come from universities, colleges, and high schools, where he sells high-priced titles at a steep discount, with the remainder coming from home video sales.

*Film distributors were asked to identify the economic relationship between the broadcast window and other releases, and also whether offering films for streaming and download helps to generate attention and/or revenue.*

One distributor told us she hasn’t offered any films yet for streaming or download; her company is “just beginning to look at those revenue streams,” she said. Another told us that investments in theatrical release usually will dwarf any other money from an advance to defray a production budget. The Netflixes of the world today “pay more than is appropriate,” and for a while they will be able to overpay as they build their brand and market loyalty. That said, there is a new distribution model that is vital to explore, he said—the direct-to-consumer model, an opportunity presented, as so many others, by the



Internet. This model identifies “core constituencies”; plumbs and seeds “immersive sites”; takes advantage of blogging interest; and “infiltrates” core affinity audiences that organize house parties, for example. This type of marketing works best when a producer “rolls up his sleeves” and commits one to three years to marketing his film, “recruiting almost every buyer and viewer individually,” often together with his distributor. With stakeholders and audiences identified, the distributor will “carefully sequence” how he reaches them—by making a film available online first and exclusively (capturing the direct-to-consumer market where the margins are highest); then a differentiated DVD product; then a different product made available online after the premiere.

One distributor told us that in his experience with public media’s P.O.V. and ITVS and cable stations Sundance and IFC there has been “remarkably little connection” between a film’s broadcast premiere and sales in other markets. In part this is due, he said, to the technical architecture of PBS’s websites and how they enable sales. The interface between PBS online and a distributor’s website can snarl up demand. This distributor spoke of the steps he needs to take to actually buy a video after seeing a show premiere on PBS—involving five or six steps to get to the online checkout counter. There may also be an aversion to buying a documentary to see it again—as opposed to a more heart-warming feature film.

One distributor we interviewed had conducted his own survey among his peers to see who intends to offer streaming and downloadable films for sale and rent. His respondents told him that, whatever he does, his company must offer downloadable films and programs—such is demand. The market opportunities he sees, he said, are not in the academic market (which remains fixed in size), but in the home video market. That said, the general consumer market is “determined by the pervasiveness of the kind of media people want—generally crap, like teenage boys jumping out of windows.” This distributor remains uncertain about the potential for growth in this market until people get more interested in experimental arts and alternative politics stories. “We wouldn’t invest a dime in an internet downloading company right now,” he said.

*Film distributors were asked about their general approach to intellectual property, whether there are licenses and/or clearance procedures that they encourage or discourage, and what their tolerance is for IP risk-taking in productions—around fair use, for example.*

One distributor told us she is not at all involved in production, and as a consequence doesn’t get involved in obtaining clearances or licenses. “We really have not taken on a film with just a fair use argument” underlying its clearances, she said; “we need to have our clearances or licenses in place.” “We rejected one film because the filmmakers said they were going to depend on fair use,” she told us; and those filmmakers (who had to change the clearance scheme) ended up going with another distributor. Another distributor told us that he employs a “fairly strict interpretation” of fair use—not like some producers and distributors who define transformative use and clip length “very loosely.”

Another distributor told us that a lot of filmmakers attempting to guard “back-end” revenues from the cannibalization that is postulated to take place when content is made freely available often are guarding “imaginary” revenues—and that emphasis would be better placed on using free material to make the film better known.

*Film distributors were asked to describe their strategies for digital distribution—for example, streaming and downloadable distribution online.*

Several distributors told us that they are acquiring streaming and download rights where they can, but they embody a wait-and-see attitude now until the market benefits of such rights become clearer. One told us that she is “watching larger companies” to see how their strategies will emerge. Another told us that having pieces of a film available free for sampling is “very important”—such clips can help move product on a DVD retailer site as well. A distributor with many years of experience in the business told us that it remains unclear today whether making the entire film available online for free in fact enhances or cannibalizes that film’s sales and licensing potential.

Another film distributor told us that he recognizes that within five years the DVD will be “obsolete”—but said he still needs to conduct more research among his customers and middlemen. He said he is tending toward creating his own Internet portal, one that presents a range of licensing and pricing options for academic use, some of which will be cheaper than his present model, where licensing one film to show in one course can cost as much as \$195 for a single institution. The rigid sales model of today carries the following conditions, which are out-of-date for the contemporary marketplace:

- All videos are leased for the life of the tape.
- Public performance rights are included with institutional purchase.
- A license for closed-circuit use within a single campus is included with institutional purchase.
- Purchase does not include nor imply the right to duplicate, recast, edit, abridge or transform the videos by analog or digital means or any other fashion whatsoever without the express written consent of [Distributor].
- Purchase does not include nor imply the right to transmit videos by analog or digital means by broadcast, open-cable, direct broadcast satellite, internet or other means nor to any off-campus or distance learning site without the express written consent of [Distributor].

*Film distributors were asked whether there are any films they distribute that are unavailable to the public now because of rights or finance issues.*

Distributors are all aware of the situation of the documentary classic “Eyes on the Prize,” which could not lawfully be shown on television or exhibited in public because certain rights had been allowed to lapse by the producing company.<sup>8</sup> Several distributors indicated that various films they know and have worked on also have gone out of print, as

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<sup>8</sup> <http://www.npr.org/templates/story/story.php?storyId=6145871>

it were, because of rights issues—especially performance-based films such as rock-n-roll documentaries. One distributor told us he lets rights run out on a number of his films. “It’s very hard to negotiate rights in the Internet age,” he said, especially when “people don’t know what the ‘long tail’ will be worth.” This distributor told us he is very suspicious of this concept. Most so-called ‘long tail’ films, he said, if they are only digitized and not advertised, will just clutter your database and your website.

*Film distributors were also asked whether there are new models of film distribution or finance that they would like to encourage in the near future.*

One distributor recommended that we should find funding to help finance new distribution approaches—direct-to-consumer approaches, and also how to “create communities” around films and programs. This—a whole new approach to web-based marketing—is “exactly where money should be invested” by film funders interested in the future, he said. This doesn’t involve giving money directly to producers, but instead helping to support a whole new class of distributors now emerging. Another distributor who sometimes funds films too told us that films like “Fahrenheit 9/11” are relatively few and far between; and that the whole industry needs to be rejiggered to support more quality films about social issues at a time when our country is at war.

One distributor we interviewed unfurled a rather dramatic multipart vision for the future. First, he said, he’d like to explore how to make filmic content directly accessible on academic and political/advocacy websites, cutting out the middleman (this distributor is a middleman). “Filmmakers have not yet had the chance to address themselves to new kinds of genres” involving the use of much shorter content in an interactive environment, he said. Second, he said he would like to see distributors move towards a model where there is no pricing distinction between universities, public institutions, and consumers—where all media would be “consumed on a pay-per-view basis”—a \$2 pay-per-every-view, say, instead of a university paying \$200 for a DVD and unlimited use. “We have some DVDs that have been seen by 10,000 students at a university,” this distributor said, and as a consequence there is “great inequity in not having a user-based model” and a close “correlation between price and use.” If we can charge by how many students are in a class, he said, and get records from university servers about how many downloads there have been, price could really match demand. Then true criteria could be established based on:

- Term of license – 1 year or 5 years
- Size of institution – how many potential users there are
- Budget of the institution – there are certain algorithms
- Streaming v. downloading (and downloading for a semester v. 48 minutes)
- Incorporation in online texts
- Distance learning
- Multi-campus use
- Library reference only

But his customers may not be “paradigmatically ready” for that yet.

When asked what messages he would deliver to funders of films and video, this distributor did not disappoint. He indicated that funders appear to have “fetishized” public television—where they should fund films that will be released only on the Internet. “I don’t think public television has an impact,” this distributor said. If we went to a foundation with a proposal to do a one-hour film that could be virally circulated in chunks on the Internet, the foundation program officer would probably say that it needs to be a four-hour film on PBS to have an impact. “Foundations don’t know anything about the distribution business,” he said. “They listen to so-called media gurus who have never distributed a film or taught a class.” Producers often are in similar shoes, he said, with no real sense of their market. “It is breathtaking how out of touch they are,” he said—because they haven’t done academic fellowships and seen how films are used and taught. They usually just make their films and tell the distributors to find an audience. Many foundations, this veteran said, are wasting huge amounts of money on films that should never be made at the budget levels they are. Where money needs to be invested is in research to case the markets for individual films and markets. Filmmakers should be required to do fellowships in the academy and in the field to see what kind of media is useful to advance progress on key social and political issues, he said. And if a film is fully paid for and the producer compensated, he said he did not see any good reason why it should not be made available to the wider world for free.

### C. Film funders

*The universe of film funders in the education features several foundations whose support has been critical to independent filmmakers for decades. These key players include the Ford Foundation, the MacArthur Foundation, the Rockefeller Foundation, the Sloan Foundation, and several lesser known funders still critical to the ecosystem including the Arthur Vining Davis Foundation and the Park Foundation whose annual grants for public broadcasting programs fall into the millions of dollars. The work of these top independent philanthropies is supplemented by government agencies including the National Endowment for the Humanities and the National Science Foundation, funders from within the public media system such as ITVS and P.O.V., new foundations such as the Omidyar and Skoll Foundations; and also a sprinkling of hybrid/investor vehicles such as Participant Productions.*

*Film funders were asked how media fits into their foundations’ and agencies’ overall funding priorities, and how they judge success in media funding.*

Several film funders described media as “central” and “crucial” to their foundation and agency programs, with one funder describing media and film in particular as in the service of bringing research and scholarship to public audiences. Regarding how best to judge success, one funder bemoaned the absence of clear metrics to measure impact in social-issue media as a “major dilemma with the field.” Impact tends to be measured on an anecdotal or at best quantitative method—how many people come to a screening or watch the premiere on PBS—rather than a scientific, qualitative method. Another funder listed the following criteria: whether a film gets national distribution; what kind of viewer

response it generates; what kind of community engagements the film spawned; what online activity exists around the film on websites, blogs, and discussion boards; and what kind of press it receives in print, radio, and television. Another funder whose grants focus on television spoke of two levels of metrics. The first, or television, level, features national “ratings, carriage, press, awards, key demos.” The second, or what she called the metrics of engagement, is where impact is tracked by looking at public awareness and behavior—that is, how corporations or governments or non-governmental organizations have changed their work or whether laws have been changed as a result of a film. One funder who focuses on digital distribution added that the number of online access requests—for streaming and, where available, downloads, is another valuable metric, too.

There was some dissent among interviewees regarding which sorts of funders have the best apparatus for evaluating their media grants. The larger funders who have consistently funded media over time tend to be more rigorous in evaluating these grants, some say; others identify the smaller and younger foundations as nimbler and more modern in their understanding of media impact.

Our interviewees who fund media do so at different stages in the media’s lifespan, with one funder saying he was proud to be “frequently the first money in”—funding a film for example, from a written proposal. For this funder, national public television ratings used to be the primary success criteria. That has changed to include national cable ratings, and soon, this funder predicted, it will broaden further to include online distribution.

*Film funders were asked to identify their criteria for selecting projects to finance, whether they require any commitments from their filmmakers in terms of outreach and marketing, and what distribution choices their grants encourage or discourage.*

One funder reminded us that foundation-funded media has been shown primarily on public television. If you look at the demographics of public TV, he asked, is this really the audience we are trying to reach? There are other television venues, he reminded us, including MTV, IFC, and HDNet. This funder indicated that she asks her filmmakers to think of where their target audience is likely to congregate, and go reach them there. Several funders indicated that it is still television that brings in “real numbers” of people, and said that filmmakers need to be on television if they want to reach a mass audience. “Nobody is going to watch a documentary on the web,” one funder said, “when you can DVR and watch it on TV in reasonable time.” There is “a need,” another said, for the longer-form well-crafted film. “Three to five minutes on YouTube will not change public policy.”

Another funder told us he collaborates with all of the filmmakers he finances—he looks at filmmakers as his media “partners.” Traditionally, he reminded us, films take between three to five years to make. Rather than setting benchmarks and requirements, this funder will talk to the filmmaker about what audience he want to engage in and come up with a detailed marketing plan over this many years for each film he has in production. For a film on labor history, for example, this funder will work with the filmmaker to recruit a union to help provide materials and then help screen the finished work.

Another funder told us she gears her funding to support distribution on public broadcasting, and that home and educational video rights of the films she funds often stay with or revert to the producer. This funder reminded us that while rights to digital delivery may be tempting to exploit, PBS requires an exclusive period (sometimes 90 days from the date of the broadcast premiere) for streaming from its websites many of the films that it finances.

Another funder listed “diversity” as being a key objective of the films he finances—bringing to the fore the traditionally underrepresented viewpoint. He spoke of his goal to find strong central characters in the films he finances, films that take artistic risks, films that address issues in ways they are not addressed in other media, and films that challenge people’s preconceived notions, where you “empathize with characters you might not expect to like.” Another funder spoke of his “standing partnerships” for funders and distributors—with different PBS strands, for example, or with AOL, and with distributors such as Docurama—as being fruitful for refining strategic and technical requirements to impose on grantees.

Another funder told us that his agency’s criteria for funding films are changing. In the past the agency was focused uniquely on the scholarship and research level in the film, and the reach that film had via broadcast television. Now, in light of changes in the television industry, new guidelines have been issued to encourage the funder to study digital engagement across a multitude of fronts—how effectively the producer might partner with museums, for example; engage the community on a website; or work with educational institutions and media distributors. This funder told us his agency is looking at distribution avenues to assess where millions of dollars of U.S. taxpayer money (after all) can be deployed with the most “bang for the buck.” Today, the agency will look at distribution and outreach centered on national public television, but also filmmaker plans for Sundance, YouTube, and house parties.

*Film funders were asked about their approaches to intellectual property generally, and specifically whether there are licenses and/or clearance procedures that they encourage or discourage.*

One funder told us of her efforts to proselytize about various open licenses—especially Creative Commons licenses—for films, and creating situations where funders can encourage filmmakers to make their work and the underlying footage and research available to the public. “No publication that a foundation fully finances,” she said, “should have ‘all rights reserved’ written on it.” Films that are funded with built-in barriers to access will wind up becoming unavailable, and it is up to foundations and other activists to engage the unions and the guilds and other rightsholders to begin to appreciate the benefits of more open clearance and licensing arrangements. Another funder expressed the view that producers should retain copyright, and that producers should not be encouraged to sign or give away rights, because this interferes with their economic gain. Another funder said that her organization backs fair use and the advocacy work of the Center for Social Media, but she requires that a lawyer vet the

films they fund for any potential infringement. Other funders spoke of working with law school clinics at the University of Southern California and the University of California-Berkeley to develop ongoing legal advice for media professionals involved in education.

One funder spoke of the success he has had in bringing together key players in the fair-use universe—the errors and omissions insurers—to understand the rightful place of fair use in the clearance spectrum. This funder spoke of having convened insurance brokers and representatives from companies including Chubb and AIG to agree they will extend coverage to producers when producers claim fair use as a legitimate payment exemption for a source clip. One funder mentioned that he is looking into the future at how certain documentaries make material available to the public for mashups, and indicated his interest in funding showcase productions where licensing benefits are more fully understood and explored and documented, starting with the world of public media. “In reality,” he said, “there has not been any significant “history of litigation” in the intellectual property arena for documentaries and educational media. One funder remembered the initial plans for his foundation to have filmmakers retain all rights to the documentaries they had made. “Now I think, shouldn’t you put it all into the public domain?” This foundation is considering such a change in its grant guidelines—but that will require a larger “culture shift” in the organization.

*Film funders were asked to characterize their approach to revenues generated from projects that they finance—whether they encourage or discourage commercial deal-making, and whether they request a portion of the revenues be returned to them.*

One funder from a government agency told us that his agency has a complex formula for “income recovery,” and provided us with a patch of language from the agency:

In reporting program income earned after the grant period, the grantee shall indicate the amount and sources of the gross income it has earned and the percentage of funding provided to the project by [the agency]. The federal share of program income will be determined by (1) deducting the first \$50,000 in gross income from total gross income, (2) deducting 5 percent of the balance of gross income to cover possible grantee costs, and (3) multiplying the balance of gross income by half the percentage of funding provided to the project by [the agency]. For example if [the agency]’s award of \$250,000 covered 60 percent of a project’s costs and the project earned \$200,000 in program income during the seven-year reporting period, the federal share of that income would be \$42,750 (\$200,000 minus \$50,000 minus 5% x 30%). Once the federal share of income equals the amount of funding provided by [the agency], [the agency]’s claim to additional income will be reduced by half.

Another funder told us that he has “never seen a penny” of revenue back from his grantees—and his foundation helps filmmakers arrange solid commercial deals whenever they can. One funder from a private foundation said that he never asks for money back. Another funder told us that her only stipulation is that she discourages commercial distribution during a public broadcasting window (i.e., for the 3 to 4 years that PBS, say,

will distribute a film). Some film funders—including nonprofit organizations—have equity stakes as high as 20 percent in some films, we heard. But as a rule, films and the companies that produce them have not generated enough profits for funders to reap significant rewards. “We’re not going to chase them down for \$2,000,” said one funder, speaking of his producer-grantees. Another agency funder told us that a program officer or a lawyer looks to review all distribution agreements that his filmmaker grantees have entered—to make sure these agreements do not conflict with the funder’s guidelines about credit and profit participation, for example.

*Film funders were also asked whether any films that they have funded are now unavailable to the public because of rights or finance issues.*

One film funder was certain that most of the material she had seen funded for airing on public broadcasting was or would be unavailable, and indicated that “everyone is to blame” for a funding process “lacking in foresight”—filmmaker, broadcaster, network. She complained about the fact that no one challenges putative rightsholders when it does appear that broadcast rights may have expired, decrying what has been called a “culture of excessive deference.”<sup>9</sup> Another funder told us that there are a lot of films where underlying rights have expired because the filmmaker has not had enough money to “re-up” those rights. This funder told us that her organization is helping to rebuy some of these older rights so that these films can be seen again on broadcast television. Another funder told us he recently resolved re-clearing a film for redistribution today by enlisting fair use as an operating principle for some of the archival rights. Another funder told us “probably, but we don’t really track that”—and that it was difficult to ask grantees to secure clearance rights to underlying material in perpetuity, especially if grantee filmmakers were working off small budgets. Many funders reminded us that filmic media is especially complex—rights clearances have to be handled over various times, formats, and territories; it is understandable that many educational films today are unavailable to be seen because the underlying rights have expired.

*Finally, film funders were asked whether there are new models of film production, distribution, or finance that they will be encouraging through grant-making in the year ahead, and what kind of larger changes need to be encouraged in the film and video distribution marketplace?*

One film funder told us that as “the lines smudge” between broadcast, theatrical, and digital distribution, we need to sort out new finance models and rules for the whole filmic ecosystem. Think beyond broadcast, he said, and come up with creative uses of new digital technologies beyond distribution. Another told us that with the profusion of platforms today there is a greater opportunity to get things “out there,” so his overriding concern is to find new mechanisms of “sustaining the storytellers.”

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<sup>9</sup> See: [http://rlg.archival.tv/index.php?title=Meeting\\_notes](http://rlg.archival.tv/index.php?title=Meeting_notes) and [http://ccnmtl.columbia.edu/opencontent/may23/next\\_steps\\_ii\\_opening\\_code\\_and.html](http://ccnmtl.columbia.edu/opencontent/may23/next_steps_ii_opening_code_and.html)



Another film funder indicated that his foundation could continue to support the two-hour, 90-minute, and 60-minute long-form documentaries; he also spoke of the crying need for new models of digital distribution, especially for shorter films. Another funder asked us to understand which foundations and agencies claim ownership rights in a film—his does not—as this helps to determine what grantees will do when it comes to taking risks in distribution. In the end, one film funder said, together with the community of filmmakers, educators, lawmakers, and business people, he wants to illuminate new “pathways”—pathways between free and open content, on the one hand, and self-sustainability, on the other.

One film funder described the grey area of today by saying that funders generally are “feeling around in the dark”—“we still have linear television,” he said, “but more and more stuff is going online.” There has been “no reconciliation,” he said, between the different acts of engaging on one’s computer and watching TV from a couch. This funder allowed that he is trying to explore new models of film funding that blend these two acts together—putting into production standalone 7- to 10-minute films that can be woven together to form the longer and more traditional narrative pieces we all have come to know and love. These short pieces embody a different “conceptual approach”: they are geared with a mobile/iPod viewer in mind, and they can also, eventually, be ad-supported—so that the whole funding model tilts a bit on its axis.

Understanding and most likely encouraging user-generated content is a critical area for the future as well. One funder told us he used to fund projects that gave video-cameras to viewers and encouraged them to videotape their responses to a film and mail them back—he’s now hoping to revitalize that kind of project. That said, and even though the “means of production” appear to be so accessible, this funder told us that there is still an art to storytelling, still a place for long-form content, and still a need—social and artistic—to spend 40 or 60 or 90 minutes with a character to understand an issue or a place in time.

One funder who used to work for many years in commercial media reminded us of the mindset of big media years ago, when companies sought to own all media in all forms in perpetuity and often ignored step deals with unions and guilds. These companies now have to go back and reopen old conversations about money and credit. Today, he said, the challenge is simple: “get people to think a little differently.”

### III. Conclusions

The advent of digital technologies and the skyrocketing demand for online video are going to change the nature of independent film and video production, distribution, and funding forever. These changes will be evident across the spectrum of rights and rewards, responsibilities and obligations for all parties to the art and the business—from enabling new forms of guerrilla marketing and spotlighting new sources of revenue and compensation for creators to reordering the ways that films are bought and rented for educational use.

That said, the game is still in its early innings yet, and even the most experienced stakeholders are ill-prepared to predict how the future will unfold. What does seem clear is that just as the web networks people and institutions in previously unpredicted ways, so the advent of digital production and distribution brings all parties involved in filmmaking and video production to recognize their own self-interest in collaborating with one another. More than one interviewee in this project indicated his/her interest in working with others in the study to better understand and plan for the digital future as it arrives. “Sustaining the storytellers” is how one film funder said he viewed his mandate in the new digital age, and all recognized, one way or another, that new means of supporting moving-image producers need to be developed for any real progress to be made.

We hope this initial phase of interviews proves useful to the communities whose representatives gave their time to be interviewed, and that additional work—including statistical research, more interviews, and case studies of individual films and videos—in this area can continue. What has become clear is that more work needs to be developed in analyzing new financing models; new pricing and sales models; new distribution models; and new production models (our particular area of interest)—and to study the music industry, to see how the crisis of that sector can be avoided in this one.<sup>10</sup> We hope that additional research support will make possible more studies, conversations, and activities in these areas which are so vital for the future of education and culture.

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<sup>10</sup> See, for example, Frank Rose, “Let My Video Go,” *Wired* 16, No. 3 (March 2008), pp. 33-34.

## ABOUT THE AUTHORS

**Peter B. Kaufman** is president of Intelligent Television in New York. Intelligent Television (<http://www.intelligenttelevision.com>) produces films, television programs and videos in close association with educational and cultural institutions, and its research projects explore how to make educational and cultural material more widely accessible worldwide. Mr. Kaufman serves as an advisor on access issues to the Library of Congress's Division of Motion Pictures, Broadcasting and Recorded Sound (<http://www.loc.gov/avconservation/>) and co-chairman of JISC's Film and Sound Think Tank, established in 2008 in London. In 2007 he completed a one-year appointment at the Center for New Media Teaching and Learning at Columbia University (<http://ccnmtl.columbia.edu>). Educated at Cornell and Columbia Universities, Mr. Kaufman has written about culture and history for the *London Times Literary Supplement*, *The Nation*, the *New York Times*, *Publishers Weekly*, *Russian History*, *Scholarly Publishing*, and *Slavic Review*, and he is the author of "Video, Education, and Open Content: Toward a New Research and Action Agenda" ([http://www.firstmonday.org/issues/issue12\\_4/kaufman/index.html](http://www.firstmonday.org/issues/issue12_4/kaufman/index.html)); "Marketing Culture in the Digital Age: A Report on New Business Collaborations between Libraries, Museums, Archives, and Commercial Companies" (<http://www.intelligenttelevision.com/MarketingCultureinDigitalAge.pdf>); and, with Jeff Ubois, "Good Terms: Toward Improving the Equity of Commercial-Noncommercial Partnerships in the Digitization of Cultural Heritage Materials" (<http://www.dlib.org/dlib/november07/kaufman/11kaufman.html>).

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**Jen Mohan** is a research associate with Intelligent Television. Ms. Mohan recently completed a Digital Library Federation project that investigated the current condition of moving image collections across the United States. Among her research interests are moving image archiving and preservation, copyright law and media distribution, digital distribution of moving images, new technology, Internet culture and new media sharing and creation. Ms. Mohan graduated from Emerson College in 2000 with a B.A. in Film, concentrating on film history, theory and genre. She received her M.A. from the University of Massachusetts-Amherst in 2004 in Public History/Museum Studies with a concentration in Modern American Cultural History. In 2006 she earned her M.A. in Moving Image Archiving and Preservation from New York University, where she wrote her thesis on the digital distribution of archival materials.

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## **MISSION & BACKGROUND**

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Robert De Niro, Jane Rosenthal, and Craig Hatkoff founded the Tribeca Film Institute in the wake of September 11th to educate, entertain, and inspire filmmakers and film lovers alike. The Institute creates innovative programs that draw on the power of film to promote understanding, tolerance and global awareness.

Tribeca Film Institute and Renew Media, founded by The Rockefeller Foundation, recently combined their organizations and will operate going forward under the name of the Tribeca Film Institute. These two institutions, which have provided significant resources, financial support, and guidance to creative individuals, will now build on their respective missions in a move to create a dynamic, scalable infrastructure which supports film, media arts and artists.

TFI supports the cultural and economic revitalization of New York City and Lower Manhattan through arts-based initiatives that:

- Celebrate and promote film and filmmaking to people of all ages as a medium for self-expression and social action.
- Identify and encourage diverse voices from the US and around the world to participate in creating the cultural landscape.
- Develop new opportunities and access for those interested in film and the arts.
- Educate children, youth and adults about historical and emerging themes in culture.

## **Alfred P. Sloan Foundation Partnership**

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Through its partnership with the Alfred P. Sloan Foundation, the Tribeca Film Institute will implement a Filmmaker Fund and a Retrospective Screening Series to champion and cultivate narrative feature films that increase awareness of science and technology in everyday lives and in those of celebrate personalities in the field.

## **Tribeca All Access**

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Tribeca All Access provides unheralded and established filmmakers with unprecedented access to industry professionals, giving them the contacts and confidence they need to make their movies. Over the course of three days during the Tribeca Film Festival, selected filmmakers and invited industry representatives meet in pre-scheduled 30-minute meetings. Other activities include an orientation day, as well as dedicated workshops and panels.

### **The Gucci Tribeca Documentary Fund**

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The Gucci Tribeca Documentary Fund will provide finishing funds to documentaries that promote social change and illuminate issues in need of comprehensive coverage currently missing in mainstream media. Funded films will be driven by thoughtful, accurate and complete storytelling of the subject matter. TFI will offer grants ranging from \$5,000 – \$30,000 in 2008 totaling \$80,000. Fund recipients will be announced by August 1, 2008.

### **The Looking At: Series**

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The Looking At: series is an educational program that curates, promotes and distributes collections of documentary films nationwide. The program's objective is to increase public awareness of the events, issues and people that have shaped our historical and cultural experience through film. The current series is Looking At: Jazz. It is open to the public and free of charge at 50 venues throughout the country. Each of the 6 part public programs will include lectures, documentary film screenings, music performances, readings of works by scholars and discussions on the history of America's beloved art form.

### **The Media Arts Fellowship**

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The Media Arts Fellowships recognize the artistic excellence of film, video and new media artists in the United States and Mexico. For two decades, the Fellowships program has awarded more than \$12 million of support to nearly 500 artists whose work collectively represents some of the most groundbreaking and visionary pieces of independent film and media in recent history. The Fellowships are intended to provide support to media artists whose work represents creative risk-taking – pushing the boundaries of genre, form, technique, medium, and content – as well as social and political relevance.

### **The Reframe Project**

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The Reframe Project is a new initiative that promises to offer exciting solutions for the dissemination of independent media arts. The Reframe Project will serve as an aggregator, digitization and dissemination outlet, and as a resource for curated independent media arts. The Reframe Project will help distributors, archives, filmmakers and others to digitize, disseminate and profit from their content on a nonexclusive basis, at terms favorable to rights-holders. In addition, the project includes the convening of filmmakers, distributors, archives, technological and legal experts to address multiple issues affecting the broad dissemination of independent media arts.

### **Tribeca Teaches: Films in Motion**

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Tribeca Teaches: Films in Motion is a media-based curriculum designed to enrich the educational experiences of students at schools in outlying communities. Tribeca Teaches is organized around giving students filmmaking tools with which to identify and better understand themes of identity, community and tolerance. Classroom curriculum activities include writing exercises, basic hands-on filmmaking training, and in-class visits from Tribeca Film Festival filmmakers.