Cultural Daily
Independent Voices, New Perspectives

Indie Films: State of the Union

Adam Leipzig · Wednesday, February 2nd, 2011

By popular demand, I have edited together all 3 parts of my indie films series.

There were some surprisingly hefty deals announced at Sundance 2011, but despite major media reports that indie films are making a comeback, the overall news isn't that good. If we meet back here in a year, we'll learn that some of those films were sold for too much money, and if some of them underperform we can expect next year's headlines to read "America Loses Interest in Indie Films" instead of "Indie Films Come Back."

In fact, indie films are not in good shape. Here are the numbers that prove it: Only about 40 of the 3,812 finished films that were submitted to Sundance this year will get any kind of distribution at all. That's slightly over one percent. The other 98% you will never get to see – not even on Netflix.

To understand how this came about, you have to understand how indie films were born. I'm not talking about history; I'm talking about the creative process.

From an artist's point-of-view, the reason to make an indie film is not to make money. Sure, you want to make some money – enough to let your investors recoup and pay your rent this month. And, if you really hit the jackpot, enough to finance your next film. That's about it, as far as money expectations go. The reason artists make indie films is to make the movie they want to make, to express something that needs telling. It has never been primarily about getting rich. It has never been about financial greed.

But greed eats its own. Desire is insatiable: Goya painted it, Abraham Lincoln warned against it and Karl Marx inscribed it. The tale of American independent films in the past thirty years is a story about artists' aspirations being grounded by greed. About movie companies consuming themselves, wanting something so much that they devour it, and then, by owning, destroy it. It's a tale that sets your teeth on edge – for all the movies you didn't see, movies that would have represented the singular vision of a small band of committed collaborators; for all the bloated, meaningless movies you ended up seeing instead; and, if you're a filmmaker, for all the movies you didn't get to make.

That's good. The discomfort, the teeth on edge – these are the core of what causes independent movies to exist in the first place, the reason most artists don't go to sleep at night. Independent movies are filmmakers' natural reaction to being force-fed mainstream movies that don't address audiences' or filmmakers' concerns. In today's media ecology, audiences are like geese whose livers are being turned into foie gras; we're fed a steady diet of entertainment-product that only serves to make us delectable to the media and social networking companies that take money from our wallets. It's healthy to gag.

Maybe to revive independent films as films audiences can actually see, we have to explain, again, what they are and why they have vanished.

An independent film is one made outside the studio system. That's the business definition. Creatively, it is a film made outside and against the system, any system: the studio system, the political system, the system of society or class or ethics or whatever else the filmmaker wants to set right. That's why an independent film more authentically represents its creator's vision – even more important than the fact that there are no suits on the set, no executives from the Black Tower giving notes. The director and his or her crew make their movie, as they wanted to, and you like it or you don't.

You say those movies are being made?

If a tree falls in the forest, does it make a sound? For every *The Kids Are All Right*, there are hundreds that don't get seen.

The crisis of independent filmmaking is really a crisis of viable independent film distribution.

The creative impulse can't be stopped. There are plenty of independent movies being made, especially now, when digital cameras and desktop editing software are so cheap. The numbers again: this year, 3,812 films were submitted to Sundance – that's 3,812 full-length, finished features. One hundred eighteen of those were screened at Sundance this January. And no one will remember the 3,775 movies that didn't get sold or distributed.

3,775. About forty of the 3,812 finished feature films that were submitted to Sundance this year got picked up, although some will only get minor DVD distribution, and only about a half-dozen will get a full-scale, nationwide theatrical release. That still leaves those 3,775 movies you won't even be able to find on Netflix. To give you a sense of scale, let's assume, conservatively, that each film cost $300,000 to make (some cost way less, but many cost way more). *Those 3,775 films represent an investment of over $1 billion.* If we assume that 30 people worked on each movie (of course most films engaged even more people), those unseen movies will represent the efforts of more than 100,000 people – two and a half times the size of Park City's entire Sundance Film Festival-swollen population bulge.

In America, only about 500 movies are released each year, including all the big studios movies, and studio movies play on 95% of the 39,233 screens in America. The real problem for independent films is distribution.

Let's scroll back three decades. The Sundance Film festival started in 1978 and Miramax started in 1979. In the 1980s, Miramax paved the way for independent American films – they released great movies and turned a modest profit. In 1989, Miramax hit a new high with Steven Soderbergh's first feature *sex, lies and videotape*, which had played to audience acclaim at

Sundance, and for a few years it seemed as though independent American filmmakers would have a solid path to their audiences.

In 1993, Miramax started Dimension, its genre arm. Over the next few years, Miramax over-reached and allowed success to go to its head instead of its heart; it over-expanded its budgets and operational size. Harvey Weinstein, who ran Miramax, hungered to make bigger and bigger movies – more films like Anthony Minghella's $80 million *Cold Mountain*. Bob Weinstein, Harvey's brother, ran Dimension Films, and made movies like Scream and Scary Movie; eventually Dimension would out-earn its more serious-minded sibling's fare and would cash-flow the whole company.

At the same time, the major studios were being swept up in a wave of corporate mergers and transactions. Sony bought Columbia in 1989. The same year, Time, Inc. merged with Warner Communications. Matsushita bought Universal in 1990; Viacom bought Paramount in 1993; and in 1995, Seagram bought Universal from Matsushita and Disney acquired Cap Cities/ABC. With the wave of mergers begun and with more on the horizon, the studios exerted greater and greater control of what movies would play on America's movie screens. When it became apparent that even Miramax could no longer hold their screens against the bigger studio movies, they sold to Disney in 1993. Greed was also a factor here – the Weinsteins pocketed $70 million, and believed they would be able to finance larger-budget films. If they had kept to their original intention, and the original impetus of independent movies, the Weinsteins would still be running Miramax.

Beginning in the early 1990s, indie movies were distributed by major studios. (Although now I should probably start putting "indie" in quotes, because the nature of the films had changed.) Their budgets were ballooning and the process was becoming more corporatized. In fact, the studios started using the name "specialty" films. Although Disney forced the Weinsteins out of Miramax in 1995, Disney still had an operating indie division. What one studio has, other studios want. Sony had started its Classics division in 1992, and by the mid-1990s Michael Barker and Tom Bernard were running it successfully. Others followed: Fox Searchlight started in 1994; Paramount Classics in 1998; Focus Features (Universal) in 2002; Warner Independent in 2003; Picturehouse (New Line) in 2005.

As the 2000s continued, however, the studios, which now were merely small contributors to their corporate parents' bottom lines, took a hard look at their "specialty" divisions. Some of these divisions were profitable; others weren't. They all involved risk, quick decisions, and a lot of person-power. For a variety of reasons – some bottom-line reasons, some political reasons – the studios decided to eliminate their specialty divisions, and one by one, they shut them down. New Line and Warner Independent were killed in 2008. In 2009, Universal fired David Linde, and since then Focus has been at risk without a corporate champion. (Universal had posted a soft "for sale" for Focus, and several people quoted me the terms they were seeking. Comcast, Universal's new owner, recently took down the sign, but we'll see what develops in the coming year.) Disney officially fired the Miramax staff in January, 2010, after letting the label languish, and finally sold the company this past August. Only Sony Classics and Fox Searchlight remain.

In every case, greed was at the heart of these decisions. The specialty divisions that had operated too large, too much like their studio parents, were the least profitable. The reason to operate large is to covet awards, and eat at great restaurants and walk red carpets and enjoy the glamour; bottom line, it is about greed, about buying status in Hollywood. Companies that tried to buy status ended up committing suicide. Or the greed came from the studio side – some studios wanted even bigger profits than indie divisions can reasonably create. Paramount's case is a textbook example. Paramount Classics posted a profit every year with an overhead budget just under $4 million and a staff of 16. In 2006, new studio management replaced it with a new entity called Paramount Vantage, which grew to nearly 100 people on staff and a $25 million annual overhead. Paramount Vantage never posted a profit and lasted only two years.

Some may say that it's because the audience turned away from independent films in favor of bigger-budget, studio fare, and that is true, but you have to watch the chain of events. First, the studios bought independent distributors or created their own "specialty" divisions. This made the studios seem cool. It appeared to put them on the side of emerging artists. But it was about business, not art. When specialty division dollars were not sufficient in absolute terms (as I said, many of these divisions were overall profitable, but the number of dollars just wasn't that big), the studios started to abandon smaller movies and force their larger product onto the screens that were once available for indie films. Exhibition chains took over independently-owned theatres. Indie movies became less visible and less available.

It's analogous to what happens in your local supermarket, where food manufacturing companies pay for better shelf-space and end-cap displays, effectively muscling out smaller brands. Movies work the same way. When they are hard to find or don't get adequate shelf space (in the case of movies, when they don't get enough theatre screens), the buying public loses interest and finds an alternative. The public develops a taste for what is available.

With no structural path for distribution, indie films do get made. They have to find new formulas each time. They need to cobble together financing in inventive ways, or rely on angel investors who must realize the film may never get released and their money may never recoup.

Today, every indie movie has to start from scratch.

And the filmmakers do it. But their films are not being seen. The flurry of interest in them from a handful of distribution companies does not, as yet, amount to a genuine business change. It just drives up the prices on a few titles, and causes some of them to be sold above their market value.

For example, here's some math. The Weinstein Company reportedly paid $7.5 million plus a $15 Million P&A guarantee for *The Details*. Their "settlement rate" – the amount they get from each theatre ticket sold – will be 42% at most. So to clear their investment entirely in the US theatrical run, the movie would have to gross $55 million. However, TWC bought worldwide rights, so they will get some revenue from selling the film internationally, plus they will generate additional income from domestic home entertainment and cable TV deals. So let's say that they'll break even at about $22 million domestic theatrical gross. That is possible, but it means *The Details* will have to be in the top 20% of box office earners, and achieve results better than movies like *The Kids Are All Right* and *The Ghost Writer*.

But let's get back to those 3,775 movies.

It's one thing to make a product and discover people don't want it. It is quite another thing to make a product and not even offer it to consumers. That's exactly what's happening with indie films as each year more than $1 billion of "product" isn't even being put before the public for sale, all because there are not enough – or the right kind – of distributors.

Did somebody just say "Market Opportunity"?

Timing's ripe for new distribution companies. Fox Searchlight and Sony Classics can't significantly increase their current output. Recent players like Summit Entertainment don't release indie films. Others, like Apparition, never got off the ground. There are some small distributors, like IFC and Magnolia, but their business model doesn't give indie films a strong nationwide release. (IFC acquires indie movies inexpensively, to feed their cable channel, and gives them a theatrical release primarily to get some reviews that will promote their channel's offerings.) So, despite the thousands of independently-made films each year, there is no viable theatre distribution for most of that creative effort.

Until some new players enter with a viable, alternative distribution strategies, indie movies will be all dressed up with no place to go. Funny thing is, we all pretty much know what the viable strategy will be: Lean overhead, not built on the studio model; fair deals for films and filmmakers; reinvented marketing and audience-community building using available technologies and social networks; distribution to every possible screen and device. Plus plenty of ready cash, to make quick moves and acquire companies and platforms as well as movies.

While there are a few people working on these approaches, I've been surprised at how long it has taken them to get their companies going. Part of it is inertia, because it's hard for some well-paid executives to leave their comfortable "consultant" gigs and try being entrepreneurial. Part of it is investor fear, which seems irrational to me, because it is so much safer to invest in a portfolio of films being distributed, instead of bankrolling a single movie. Many investors won't take the time to understand how and why distribution makes sense; they think it is so much more glamorous to produce a movie. As most of these single-movie investors will soon discover, their movie will never be seen – because there are so few viable distribution companies.

For example, I'm aware of one investor who ponied up $20 million to bankroll one picture. It will not get distribution, and his entire investment will be a write-off. For that same $20 million, he could have financed a distribution company with a hefty P&A credit line. With a new distribution company, he might have brought 100 movies to audiences over the next five years. Why didn't he do that? He would have had to give over managing authority to professionals who understand the business, be prepared to build the new company over time, and not see his name onscreen as "Producer."

You may be thinking, "Lots of those unsold Sundance films aren't good enough for people to want to see them." You're probably right. But enough of them are good for specific audiences to find them worthwhile. If only 10% of those movies could find their audiences, that's another 300 viable films each year where artists would have their work seen, and be able to connect with their public.

The revolution will arrive when a critical mass of new distribution companies enters the scene. For that to happen, entrepreneurs will need to get bolder, artists will need to get vocal, and audiences will need to express their dissatisfaction. Because now, entrepreneurs are missing their chance, artists are seeing their work go to waste, and audiences are being force fed a diet of films that is only a fraction of what should be, and could be, available.

Images, from top: Pulp Fiction, released by Miramax in 1994, $8 million budget, $213 million worldwide gross

Saturn devouring his children, painted by Francisco Goya c. 1820

The Wrestler, released by Fox Searchlight 2008, $6 million budget, $43 million worldwide gross

The Details, acquired last week at Sundance by The Weinstein Company

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