

NOT ON MY WATCH: HOLLYWOOD VS. THE FUTURE BY PETER DEKOM AND PETER SEALEY

New Millennium Press, 2003 \$25.95/280 Pages

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BOOK REVIEW PUBLISHED IN:

Entertainment and Sports Lawyer, a publication of the ABA Forum on the Entertainment and Sports Industries, Vol. 21, No. 4, Winter, 2004

It is a bit unsettling to think that you really understand a complex subject, in this case the entertainment industry, loosely called "Hollywood" by the authors of the recently published Not on My Watch: Hollywood vs. the Future, only to find that without your even realizing it there has been a paradigm shift of such huge proportion that what you know no longer is all that relevant or even necessarily true. A completely different understanding is now called for, and this book provides us with a window into this whole new world in which Hollywood is now - unlike even as recently as five years ago - is losing a lot of money.

Peter Dekom has been, for years, one of the most powerful entertainment lawyers in Hollywood, representing top movie stars, directors, writers and senior studio executives. He was named by Forbes one of America's top 50 corporate attorneys; he understands business and what it takes to be successful in it. Dr. Peter Sealey is a marketing expert and was formerly President of Marketing and Distribution for Columbia Pictures. He is CEO of a Silicon-Valley-based consulting firm and serves as an adjunct professor at the Haas School of Business at the University of California at Berkeley. Together, Dekom and Sealey have the requisite expertise, as well as courage, to think creatively and very much "out of the box". Lawyers should read this book, but they are, by no means, the only audience for it. Unlike many books reviewed in this journal, thinking people everywhere, regardless of their profession will benefit from this book.

Take the authors' proposition that Hollywood promotes executives because they seem to have "instincts" that can be trusted, not because they listen to consumers who, for opening weekends when it counts, are largely 15 to 25-year olds, a generation looking at entertainment (film and music, in particular) in a dramatically different way, as they face a world very unlike the one in which we grew up. They are willing to stand in movie lines on opening night because doing so is a social event; they don't get cold or tired or even hungry, nor do they consider waiting a weekend when lines will be shorter. But they're not lining up for movies with the mega-stars of yesterday, the actors who get paid a \$25 million fee against a dollar-one gross of 20% of the studio's revenues from the film. If anything, if a star is in the movie, to them, that's a sign that the movie is definitely not "cool". These kids have a "what's next" mentality that, by definition, rejects a big star from last year's movie (except maybe in sequels). The same can be said of directors who have established reputations that allow them to demand - and get - a 20/20 deal: \$20,000,000 up front as a fee against 20% of dollar-one gross. Those directors, accomplished though they may be, do not cut it with the younger

generation, interested in new, young, as yet undiscovered but hot, directors. Of course, once the director becomes hot, s/he becomes less interesting and carries little weight when Gen Y decides which movies to see next.

They want something new, and that can come in the form of animation, even spiritual fare, as long as it's edgy, weird or just plain gross. (Big stars can still open movies abroad but this is not enough to save Hollywood from the hemorrhaging of money that continues to afflict it.) Whereas in yesteryear, some pretty bad stories were clearly able to generate profits simply based on cast, that luxury is no longer an option. Stars almost never ensure success anymore, although they may simplify the marketing process.

The above-mentioned stars are people, of course, but there are other kinds of stars. Consider the "Harry Potter" books. It is books, and even famous authors, that are selling. It is even plays that have been adapted for the screen. If someone were to tell Dekom and Sealy about a great new comedy that was just opening their response would be that it is the newness of the character not the star playing the role that would make that movie a success. Primarily, though, they would respond that in today's world what sells are genre and stories, not stars. This, in essence, means that the film business has become a new niche-oriented business rather than a business that relies easily on event films like Titanic. Key to an analysis of a niche is understanding a narrowly defined audience and, very specifically, what appeals to them. "Creating product for that narrow universe requires sociological and psychological understanding, cultural and demographic awareness in extreme detail, completely beyond any analysis required for a mass appeal motion picture." (p. 135) The authors' conclusion about the film business: "the only consistently successful studios are those which focus on the niche market or those who spend in the \$70 to \$150+ million range necessary to create an event film." (pp. 136-7) In any case, fewer pure studios films are being produced. Attitudes about what films will be successful change slowly, despite the apparent willingness to deal with changing economics. Off-balance-sheet financing, mostly from risk-sharing with international distributors, who pay for the exclusive distribution rights in certain territories therefore contributing to the film's budget, seems to be a coping mechanism for studio executives who are sure that they want movies that have mass appeal, but are no longer prepared to take the sole risk of production or marketing.

The change in the entertainment industry has been brought about by another key factor: extraordinary technological advancements. This is most clearly explained in relation to the music industry. Here 15 to twenty-five-year-olds have learned about downloading songs free from the Internet, and they think that's okay. Key to Dekom and Sealey is the fact that "the modern music business has been ...and shall remain for the foreseeable future, a singles business, not an album business." (p. 30) Nonetheless, the Recording Industry Association of America ("RIAA") seems to like to sue its consumer base. Napster, using the MP3 compression format that had become the world standard for the digital transfer of music over the Internet, in six months racked up nine million users (vs. AOL's needing twelve years to get that many). The RIAA predictably filed suit, and, by the end of the trial, the court gave Napster seventy-two hours from the time it was presented with the relevant titles by the record companies to block access to those titles through its filtering program or

face being totally shut down. This ruling, however, was preceded in January 2001, alone, by 2.8 billion music files being exchanged by 50 million users in anticipation of a possible permanent banning of traditional Napster usage. Dekom and Sealey quote the Wall Street Journal: "The [RIAA] may have won this first major skirmish with Napster, Inc. but the war over intellectual property rights in cyberspace is far from finished...As alternative downloading sites like Gnutella [Morpheus/Kazaa] crashed from too much demand as people rushed to replace their Napster habit, it is clear that the world of copyrights has changed dynamically - no matter what the legal result - forever.

To Dekom and Sealey, despite RIAA v. MP3.com, legislation and litigation are at best a delaying tactic. (It is no small issue for a lawyer like Dekom to admit this.) "Whether it winds up being ... uncontrollable ... with no central directory or ... an offshore site that remains out of reach to those who wish to use the legal process..., one way or another, something will always be there despite all attempts to stop it!" (p.23)

The idea of encryption was not far behind as music companies frantically tried to stop their songs from being heard without being bought. Sony added encryption technology to a Celine Dion release that froze the CD drive of most computers in an attempt to prevent uploading. But technerds simply blinked, scratched their heads - for a nanosecond - and proceeded to black out the encryption on the outer rim of the disk with a marker pen. It worked!

"Hollywood is reluctantly realizing that what exists for music today is just a click away for the film industry tomorrow," according to the authors (p.40) Already, News Corp President Peter Chernin estimates the number of illegally downloaded copies of movies at 1 million per day and has warned that the survival of the motion picture industry is "threatened by the lack of digital content protection." (p. 40) In saying this, he, of course, is assuming that there is an effective form of protection.

Television does not escape a similar fate. Suddenly, my own personal gadget and one of the few I am able to work, TiVo, is presenting big issues for the TV industry. As the authors tell us: "Daily Variety notes that 70% of all people with such personal digital video recorders routinely zap past ads." Penetration will, no doubt, increase as this capacity is built "into many of the new set-top boxes and digital receivers, as well as TV sets themselves." (p. 42) However, it is not clear that all people all the time want to zap past ads, particularly if those ads are hawking some product they may want. For example, Time and Newsweek Magazines already send particular ads to people who live in particular zip codes, thus targeting the audience for every ad in the magazines. The authors predict that tomorrow, "advertisers will simply buy eye-balls of very narrowly defined subsets of consumers", taking advantage of "the Internet's capacity to customize the specific product that reaches specific homes. The ability to deliver the precise consumer that the advertiser wishes to reach is the essence of the future of media." (p.47-8). To be even more relevant to their targets, advertisers will know how often a household watches any program or type of program and shape their ads accordingly. This kind of sophistication by the sellers of goods and services goes for other forms of entertainment as well.

If [the] consumer's musical preferences are stored" as that individual's personal library of music, "if that consumer's television programming choices are automatically selected and stacked for instant viewing at the consumer's choice of viewing time, if a film library tailored to that consumer can be catalogued and earmarked, if new content matching the consumer's preferences can be readily identified and provided at no incremental charge, if only relevant advertising or no advertising is allowed in, if the consumer can access his/her playlists/preference in the car or from a distant hotel, and if cheap high-speed general Internet access... are thrown in the mix for a simple monthly flat rate, how appealing would that be.

The authors' conclusion: "The incentive for piracy vaporizes for anyone with this system." (p. 70)

This book does not fail to provide thought-provoking material on practically every page. Not on My Watch: Hollywood vs. the Future is, by far, the most important and creative book I have ever read about the entertainment industry.

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