

>> COVID-19 ALERT

COVID-19 May Lead to Permanent Changes to Theatrical Film Distribution

THE BOTTOM LINE

- >> Universal Picture's move to bypass theatrical distribution with *Trolls World Tour* has the potential to fundamentally shift the film distribution model.
- >> As Universal and other studios look to compress or eliminate the exclusive theatrical distribution window, parties throughout the entertainment industry will need to rethink negotiation strategies for a variety of new and evolving deal points.

With movie theaters across the country shut down, film distribution has radically changed during the COVID-19 crisis.

Last week brought the first indication that some of these changes may outlast the acute public health situation.

TROLLS WORLD TOUR STAYS HOME

In the wake of the successful April 10 Video-On-Demand premiere of *Trolls World Tour*, Universal Pictures announced on April 28 that, in the future, the studio would release films simultaneously in theaters and on demand (VOD). Universal did not specify how many of its films would get a simultaneous theatrical and VOD release, but the message was clear — the industry is about to change.

The elimination of the exclusive theatrical release window would represent a seismic shift in how films are distributed. In response to this threat to its business, AMC Theatres quickly announced that it would no longer exhibit any film released by Universal.

Since the advent of the VHS cassette, film distributors and exhibitors have fought over the length of the exclusive theatrical window. Currently, the theatrical window for major studio films is about 75 days before digital sell-through begins and 90 days before DVD sales and digital rentals.

While COVID-19 caused a few films to release onto on-demand and streaming platforms much sooner than this (for example, Pixar's *Onward* was released on Disney+ within just a few weeks of its theatrical premiere), and many others have delayed their premiere for several months or a year, *Trolls World Tour* broke ground by skipping the theatrical release entirely and going straight to premium streaming.

Other studios have announced switching some theatrical releases this summer to direct-to-streaming releases (such as Disney's *Artemis Fowl*). However, no other studio has made any public statements along the lines of Universal's, which amounts to a repudiation of the value of releasing a film exclusively in theaters.

FAR-REACHING IMPACT

It is not surprising that AMC, and likely other theater chains, view this as an existential threat to their business. AMC's statement was a response to Universal, but also a warning to other studios: their stance "also extends to any movie maker who unilaterally abandons current windowing practices absent good faith negotiations between" AMC

and the distributor, according to a press statement. While exhibitors have (reluctantly) agreed to exceptions to the theatrical window structure for individual films, this signal of a wholesale change to the central premise of theatrical exhibition was too much for AMC to let pass.

Even if studios do not end up moving to a completely simultaneous release structure, the theatrical window will continue to face pressure. As viewing habits change and long-term restrictions on crowds continue, the efforts by distributors to reduce or eliminate the theatrical window will only increase.

Moreover, a significant change in theatrical release strategy will have trickle down effects throughout the industry. Agreements with actors, directors, writers and producers that include box office bonuses will need to be reconfigured to account for the new economics of premium VOD.

Subsequent streaming windows may take on greater importance in the life cycle of a film.

For profit participants, the move increases the internal accounting associated with a film, going from a Universal premium VOD release, to the Peacock streaming service, to NBCUniversal television properties, creating challenges to verifying revenue and ensuring compliance with profit participation obligations.

Similarly, the marketing and promotion of premium VOD films will likely transform. Merchandising, product placement, co-promotion and other ancillary partners should consider whether they will receive the same value from their agreements if a film is not released in theaters, or is only in theaters for a short while. Marketing partnerships will increasingly rely on quality impressions as a measure of value and the substantial upfront guarantees paid by partners to studios

in the past may be supplanted by tiers of earned value based on delivery of those impressions.

As studios move to digital distribution, they will need to deliver on the economic metrics of digital marketing.

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