



Center for Social Media
Showcasing and analyzing media for social justice, democracy and civil society

What Keeps Social Documentaries From Audiences-And How to Fix It

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Related documents generated by the study, including a market analysis of the free - download approach by Rick Prelinger, are available at centerforsocialmedia.org/whatkeeps.htm

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Table of Contents

EXECUTIVE SUMMARY	4
INTRODUCTION	5
METHODOLOGY	5
CHARACTERISTICS	5
OBSTACLES	6
RIGHTS ISSUES	6
RIGHTS CLEARANCE	6
RIGHTS HOARDING: EQUITY INVESTORS, BROADCASTERS AND DISTRIBUTORS	7
PUBLIC DOMAIN	8
PRODUCT DESIGN	9
PUBLICITY, PROMOTION AND OUTREACH	10
PUBLICITY/PROMOTION	10
COMMUNITY ENGAGEMENT	10
DISTRIBUTION	11
PRICING ISSUES	11
NEW TECHNOLOGIES	12
SEARCH PROBLEMS	13
SOLUTIONS	13
RIGHTS	13
RIGHTS CLEARANCE	13
RIGHTS HOARDING	13
PUBLICITY, PROMOTION AND OUTREACH	14
LEVERING LAUNCH WINDOWS	14
VERSIONING	15
PACKAGING DOCUMENTARIES	15
NEW DISTRIBUTION STRATEGIES	15
SEARCH PROBLEMS	16
SUMMARY	17

EXECUTIVE SUMMARY

What happens to U.S. social documentaries after they are first seen at a film festival or on television? Far too little—in spite of evidence of rising interest in the genre. And yet it's now technically possible for people to have access to social documentaries as readily as to a book for a book club, a document for research, or a speaker for a community event. This report, grounded in case-study research and building on conclusions of an expert convening, identifies what keeps social documentary from ready and convenient access today, and what can be done in the near future to improve the public's access to these films.

It identifies obstacles to public availability including:

- conditions of rights clearance for use of materials in the films that are owned by others, such as archival footage and music;
- contract conditions that share or give away rights to parties that then do not fully use them;
- the need for multiple versions for different uses such as television, commercial theatres, classrooms, and community meetings;
- insufficient promotion, publicity and community engagement;
- uncertainties about the economics of a direct-to-viewer (home video) market;
- poor indexing and search tools.

The study asserts that social documentaries can be more widely used, and found plentiful evidence that there is general interest in using them.

- Some problems are *intractable* at a structural level and should be dealt with by *coping*—especially with education of and support for filmmakers. These areas include the rights clearance problems that inhibit distribution. Filmmakers need to know legal realities better, they need to understand the importance of asserting fair use, and they need support to increase their clout as they negotiate.
- Some problems can be dealt with *technically*. These include indexing, where more streamlined cataloguing and support for consistent and automatic metatagging will vastly increase viewer access. Filmmakers also need existing and improved strategic marketing information, which permits the maximal use of current opportunities.

Finally, there are areas of enormous opportunity, but also entrepreneurial risk, in emerging direct-to-viewer markets. Market testing at this moment of great change in market practices could be of great utility.

INTRODUCTION

It can be frustratingly hard for viewers to find even award-winning and critically praised public affairs and social-issue documentaries after a brief airing on television or at film festivals. At the same time, the market is changing rapidly, with new opportunities for such work to be seen and used for years by different audiences. Personal (digital) video recorders, DVDs-by-mail, cable video on demand and broadband download are all opening up new possibilities in the direct-to-viewer market, which until now has been nearly nil for social documentaries. Meanwhile, audiences are turning to non-fiction content in theaters and on television at unprecedented levels. The theatrical success of documentaries such as *Spellbound*, *Capturing the Friedmans*, *Standing in the Shadows of Motown*, and *Bowling for Columbine* attest to this growing appetite for documentaries, as does the continued success of documentaries on cable outlets such as HBO and Court TV, and of documentary channels such as National Geographic, History Channel and the Discovery channels.

What keeps social documentaries from wider availability? This report summarizes the conclusions of research on this question, and the proposals of experts for solutions.

METHODOLOGY

In order to understand obstacles today, a case study approach was used. Seven films were analyzed, all funded in part by the John D. and Catherine T. MacArthur Foundation, and all social documentaries that can easily be described as “success stories”:

Fight in the Fields, by Paradigm Productions

Hoop Dreams, by Kartemquin Films

Legacy, by Nomadic Pictures

Local News, by Lumiere Productions

Long Night's Journey into Day, by Frances Reid and Deborah Hoffman

People like Us, by Center for New American Media, and

Well Founded Fear, by Epidavros Productions.

Analysts used interviews, contract documents, sales reports and published records to identify the process of funding, production, launch and distribution of the films. Then a group of 23 experts (see p. 2) convened to analyze the data and discuss ways to increase wide and longterm access to social documentaries.

CHARACTERISTICS

The films studied represent a niche among documentaries as defined by their budgets, source of funding, broadcast venue, distribution and outreach. They are relatively high-budget productions; the cost per minute ranged from c. \$3,240 (with \$500,000 of uncovered costs) to c. \$10,210 (no uncovered costs). They were typically aimed at a thoughtful, upscale audience on television,

mostly public television. Six of the seven showed on public television. Two first showed on HBO. Following broadcast, they were distributed primarily for educational use, and some had extensive community outreach programs. Funds for outreach ranged dramatically, from 4.5 to 63 percent of total costs.

These films, like many independently-produced social documentaries, were funded by a combination of foundation grants (the number of funders ranged from 4 to 15) and public television advance funding (or “up-front”). The amount of money contributed by taxpayer-funded entities such as the Independent Television Service and the Corporation for Public Broadcasting varied greatly, from nothing to 91 percent. Whether from public or private sources, the advance funding is essential, since broadcasters rarely commission this kind of work. The fees they and other later licensees and distributors pay (sometimes referred to as “back-end” revenues) currently cover only a small portion of the total costs. Filmmakers frequently defer payments to themselves and their own companies, in order to complete the film. Any profits—usually small, if anything—return to the company to invest in the development phase of the next work.

After the films are shown in a festival, they may have a short theatrical release (three of these films did), the primary function of which is to promote the film, including sometimes making it eligible for an Academy Award. The theatrical release box office income rarely covers the costs of promotion. The film gets broadcast or cablecast, usually on public television, with a contract that prohibits further domestic television use (except for reruns on the channel that licensed it) for anywhere from three to seven years, but often four.

Community distribution is sometimes facilitated with further foundation funds specifically for outreach, usually linked to the broadcast. European broadcasters, and occasionally broadcasters in other parts of the world, may purchase short-term rights to air the film. Distributors specializing in independent films sell the film for several hundred dollars a unit, to educational and other institutions. Home video is extremely rare.

OBSTACLES

This project identified obstacles to long-term access at every stage of a film’s commercial lifespan. Many of these obstacles are in the nature of absences, uncertainties and ambiguities rather than obstructions.

RIGHTS ISSUES

RIGHTS CLEARANCE

Rights clearance—a requirement for filmmakers using archival footage, recorded music, or other work made by others—limits long term availability for many reasons. Rights might only be licensed for a short time, or for limited uses such as public television; some rights might not have been cleared at all, making distributors reluctant to promote the film or broadcasters reluctant to air it. Filmmakers rarely have the money to pay for blanket clearances, may not be able to secure long-term or home video rights under any terms, and sometimes cannot find rights-holders at all.

Several case study films only cleared rights for public broadcast and educational distribution, not for home use, for reasons of cost. They later had to renegotiate rights with later distribution outlets. For some, acquiring rights, especially to music, involved not only large fees but time and effort to find out who owned the rights. Some used PBS' standing arrangement with music rights-holders for blanket clearances (solely for public television), but then had to renegotiate rights later for other purposes. Fight in the Fields producers had to negotiate with a cable channel for additional funds to cover some \$20,000 of additional costs to clear rights for the cablecast, for instance. (This situation is currently even more confused, since PBS now requires filmmakers to clear all rights for later use anyway, given its year-long permission to educators to tape programs off the air.) Some who tried to clear long-term rights at the beginning found rights-holders refused to issue anything more than a limited clearance. Rightsholders are often wary of selling long-term rights for a project whose future is unclear, and that might be able to pay more later.

Rights clearance problems are aggravated by the absence of standard definitions of various modes of distribution. For instance, in case-study film contracts there were ambiguous or vague definitions of terms such as "pay TV" and "Internet rights." Some broadcasters now require that "Internet" rights—a vague term--be cleared, but uncertainty about future technologies keeps many rights-holders from granting clearances.

Although most filmmakers have rights acquisition horror stories, the case-study films avoided deal-breaking rights clearance issues. Most of the films, except for the history film Fight in the Fields, were able to create almost all the material themselves. This is both a reflection of creative decisions and also of budgets that permit filmmakers to undertake projects that do not depend on others' footage. Even so, case-study filmmakers encountered much frustration and delay in the rights clearance process, particularly around music rights.

RIGHTS HOARDING: EQUITY INVESTORS, BROADCASTERS AND DISTRIBUTORS

Hoarding of rights—staking a claim to rights that the entity may not use--can take many forms. Institutions that end up holding but not fully using rights include equity funders, such as a local public TV station that refuses to release unused films from its contractual control. They may be distributors that hold all rights, but only intend to exploit one particular window such as theatrical or broadcast. They may be broadcasters that only air films once or twice, but hold the rights for several years. (The PBS term for exclusive right to broadcast was recently increased from three to four years.)

Among case-study films, equity investors made long-term and indefinite claims in contracts. Ambiguous contract language, such as the undefined phrase "best efforts," was common in these case studies. For the case-study films, the most common investor was a public television entity. In two cases, a local public television station took on half-interest in the copyright on the strength of the station's ability to get a place on the national PBS schedule, and in several cases public television stations were equity investors and received rights in exchange.

Contract terms have a range of sometimes unexpected constraints on long-term access. In two cases the broadcaster (a local public television station) controlled promotion and distribution; once the film was made, filmmakers struggled to find even basic information that would permit them to help promote their work. Equity investors can also make claims that affect the ultimate shape of the final product, and thus its suitability for a variety of uses. For instance, the Independent Television Service (ITVS) will not support theatrical versions, since it is a publicly funded television program producer. In some cases, different public television entities had potentially overlapping claims. For instance, the documentary program strand P.O.V., ITVS and stations all had interests in outreach around broadcast, but in one film studied it was difficult to get the various parties to sort out their responsibilities.

Broadcasters' and distributors' contract terms were also often unclear. For instance, three different distributors of the same film had three different definitions of "free television." The term "home video" in the contracts for these case studies means, variously, video delivered to the home in any way (for instance, video on demand), video on any playback machine (e.g. a DVD player), and videocassettes only. Even where one term is defined, another may overlap. A number of broadcast contracts did not deal clearly or completely with the allocation of rights in various Internet-based uses. Several distribution contracts refer to interactive or Internet rights without definition, rendering them meaningless. Thus, opportunities may be foregone simply because potential actions—e.g. broadband streaming, or satellite television distribution—are not even considered. Some distributors of case-study films are not pursuing current technologies—today, DVD—of these films, apparently because they don't want to invest in older products. Nonetheless, because they hold licensing rights, they stop anyone else from reissuing these films.

Broadcasters and distributors stipulated long contract terms, which may not have been exploited fully. Broadcasters and cablecasters often licensed the programs for exclusive domestic television use for four years or more, even though programs were not often rebroadcast during the entire duration of the license. Furthermore, the duration of the rights was not always clear. Distributors stipulated terms from 7-15 years long, with a short—perhaps 60 day—window for renegotiation of the contract, even though most sales occur in the first three years.

Explicit reversion clauses—permitting rights to return to filmmakers after a specified time, or after evidence that rights were not going to be exploited—were rare in these case studies. Even when present, such clauses are vague. For instance, one contract stipulates that rights revert if the distributor fails in "obligations hereunder," without specifying those obligations.

PUBLIC DOMAIN

The concept of the public domain from a legal perspective could mean the involuntary public domain—a zone of no ownership, or of collective ownership, for works no longer subject to protection. This has little relevance to the circulation of new social documentaries. Or it could mean a voluntary public domain within existing copyright law, of which Creative Commons (creativecommons.org) is one recent example. In this model, works might be generally available for one purpose (viewing for example) but not for others (such as commercial excerpting). For social documentaries to enter the voluntary public domain usefully-

-available for all to use without asking permission--there needs to be a way to find out what it is available under these terms. The Creative Commons model addresses this problem but has not solved it.

Even more to the point, in the current rights environment, films cannot easily be released into a voluntary public domain such as that envisioned by Creative Commons, in order to improve their prospects for wide usage. The kinds of contracts signed by the filmmakers in the seven case studies would keep the films out of a voluntary public domain. Five of the seven filmmaking companies owned copyright outright, and two others had half-ownership. But they still do not control all the rights, because of broadcasters' and distributors' contract terms. They also do not have the right to release other people's work into the public domain, and all the case-study films, even those entirely created by the producers, acquired some rights to content.

PRODUCT DESIGN

All social documentaries face a marketplace problem: The design of the material may not be appropriate for long-term access, perhaps precisely because they are designed to succeed in the crucial first-window release (film festivals, movie theaters, primetime television broadcast), without which there is no later access. First-windows create the publicity, legitimacy, and critical attention that bring audiences--especially niche audiences of particular concern to the filmmakers, and of value for future distribution contracts, and future funding. Critics, who provide the essential publicity for these works, are more likely to review a theatrical film than a television program. TV critics are more likely to review programs in a series than one-time, stand-alone documentaries (often called "one-offs"). They are more likely to write about commercial television than public television.

The audiences and distribution objectives of first-window venues typically conflict with goals of broader distribution over the long-term. On television, programming has to attract highly distracted viewers, and to compete with other emotion-soaked, dramatic and new programs—even if it is on public television. In a non-broadcast setting (a community meeting, home television viewing, or viewing a "streamed" version on a computer), a viewer—perhaps the very same viewer--may want a documentary to be shorter than a broadcast length, in order to permit interaction and education. Viewers may want learning points emphasized or repeated, and may want detail on an issue only touched on in broadcast.

The case-study films were designed, in general, to serve multiple purposes. They typically constructed their work in segments that would permit excerpting and had curriculum-related themes. Filmmakers developed related resources, often showcased on public TV websites. The films also had strong narratives, compelling characters and high production values needed to reach first-window television and festival audiences. In some cases, case-study films developed versions appropriate for other uses.

PUBLICITY, PROMOTION AND OUTREACH

In a noisy world, social documentaries need marketing and community engagement activities to call attention to themselves. But if social documentaries themselves are often underfunded, marketing and outreach are often starved.

PUBLICITY/PROMOTION

Publicity is crucial to the rest of the film's life. Festival presence is critical to distribution contracts and television broadcast slots, but there are few prestige openings. In fact, Sundance Film Festival plays a uniquely important role as a de-facto market for U.S. social documentaries. The greatest success for filmmakers would be a Sundance debut plus an Academy Award nomination/award. Five of the seven films studied received a Sundance showcase, and two also won Oscar nominations. Sundance, which is held in January, only includes U.S. premieres, and so a film made out of cycle may be held up for months in the hopes of winning a Sundance slot. In 2003, 1300 documentaries were submitted to Sundance for 18 competition slots.

Theatrical release (in commercial movie theaters) is valuable but rare, and usually at best breaks even financially. Four of the seven case-study films had no theatrical release. Theatrical release was valuable for its promotional function and its ability to create face-to-face discussions rather than for financial reward, in two of the three with theatrical release. Only two films were released theatrically outside the U.S.; these also made no money.

Within public television, publicity is further hampered by the lack of a national schedule. PBS sets a national schedule for its member stations during the primetime hours and often devotes considerable resources to national promotion and advertising. But local stations only agree to a few hours in the week of nationally-coordinated airing. Thus, in some markets, films are shown at different times than nationally advertised, or not at all.

COMMUNITY ENGAGEMENT

Outreach or community engagement—finding a connection between specific audiences and the program, and creating events where they can use the program to further their goals--is a common aspiration of both funders and filmmakers. Typical activities include special screenings for community leaders and appropriate groups, working with constituencies to get out the word about the television airdate, creating community-oriented discussion guides and background material, and creating ways for viewers to provide feedback on a topic (often on the Web).

Broadcast outreach depends on strong relationships between broadcast entities (especially local television stations) and community organizations. The promotional and advertising strategies are often out of the hands of the filmmakers, while conducting an outreach program to bring the film to the set of individuals and organizations potentially most interested in the content may be beyond the interests or expertise of broadcasters or cablecasters.

Public television entities may choose not to contribute expertise. They may not have funds, or they may believe that other public television partners (the program strand, or the producer, or the

station) will or should do it. Or they may simply be focused on programming rather than targeted audiences' use of it. PBS refuses to run other website addresses during the program, so as not to compete with PBS' "brand" and own website offerings. This inhibits outreach efforts designed by others, including the filmmakers. PBS itself does not typically engage in outreach activities; this is usually a station responsibility, since the station presumably has local contacts, or a filmmaker's job, since the filmmakers presumably know national constituencies of interest. Some program strands, for instance P.O.V. and American Experience, may create outreach materials and activities under the PBS web umbrella. Outreach may also conflict with the interests of distributors, if makers or their funders want community organizations to use free or low-cost versions.

On the other hand, specialized outreach firms (both nonprofit and for-profit) provide intensive efforts to connect films to organizations with a particular interest in the topic. These efforts can be expensive – special funding was provided for such work on *Legacy*. They can also have unexpected results. A law was recently passed by Congress providing housing assistance to low-income grandparents with custodial responsibilities for their grandchildren. The need for this law and the efforts that helped bring it into being, were initiated during the community meetings in which *Legacy* was viewed and discussed.

DISTRIBUTION

PRICING ISSUES

The market for social documentary has historically been very different from that for fiction and made-for-entertainment documentary. While a few filmmakers have become expert self-distributors, others have found the learning curve expensive and regretted the choice; both kinds appeared in our case studies.

Nontheatrical/educational distributors, developed in the 1950s to distribute independent films, catering to educational markets for the then-new 16mm film format. They have been the primary marketers of social documentaries. Their main markets are higher-education institutions and specific target institutions (e.g. hospitals and nursing institutions, for medically-oriented material).

This small-volume/high-price business, which developed in the era of 16mm, underwent a major change with the advent of VCRs and low-cost videos. Distributors evolved to charge relatively high prices for institutions (hundreds of dollars), with discounts for smaller institutions and the occasional individual (between \$40-\$99). For the case study films, total sales excepting the commercially successful Hoop Dreams ranged widely between about 200 and about 1300 total copies, with two in the lower range, two in the middle and two in the higher range. Sales typically dropped off rapidly after three years.

Direct-to-viewer distribution is still nascent. Early attempts to offer social documentaries in home video format were unsuccessful. Educational/nontheatrical distributors who lowered prices in the 1990s did not survive. Distributors of case study films believed that even discount prices

undercut their primary business, since some institutional users that were technically ineligible for the discount purchased it at a discount anyway. At the same time, consumers increasingly expect to be able to rent or purchase a film for home viewing at competitive prices immediately after broadcast, and public television viewers express irritation when they discover they cannot buy or rent a documentary they just saw on television. PBS has a home video distribution function that offers video or DVD versions of some of the films it broadcasts, making them available at time of airing for near-competitive prices.

Pricing problems deter library and school adoptions. While there is some higher-education library purchase of the case-study films, there was little evidence of public library purchase of any of the seven case study films. Librarians meanwhile report that patrons do rent social documentaries, but libraries cannot justify high-cost films, and may well choose less expensive films on the same subject, even when they are of lower quality or less utility. Public school teachers expect and want to use video in their classrooms, but balk at high educational-market prices and even subvert the payment scheme by borrowing copies or making dubs. College students are surprised to discover they cannot rent films required for class, or even check out the high-priced videos from their college libraries.

Of the case studies, only one had true home video—Hoop Dreams, a film that won broad audiences with commercial distribution. (Hoop Dreams succeeded at a broad commercial level through a combination of factors, its producers believed. These included the passionate interest of national but Chicago-based critics Ebert and Siskel, for whom the film was a local “find,” and the basketball element, at a time when the sport was at an all-time popularity high.) While all contracts have home video clauses, for the other case-study films it isn’t used. There is really only a discounted rate for institutional video. Rights clearances, in the case of these seven films, were not at issue in the failure to release in home video. They have been a problem in some other cases, including the Eyes on the Prize historical series, which is no longer in distribution for this reason.

NEW TECHNOLOGIES

New technologies seem to offer new opportunities. Cable systems are already offering video on demand. Broadband Internet service along with file compression promises much easier and faster downloads than ever before, making possible convenient film distribution through the Internet. Digital rights management software promises to safeguard the interests of filmmakers and distributors.

But there remain many questions around each of these opportunities. Video on demand business strategies are still experimental. The legal thicket around distributed networking (peer to peer file sharing) impede the development of commercial distribution. Broadband is being deployed slowly, and current cable and DSL broadband are still too slow for easily downloading films. Furthermore, cable operators usually put ceilings—officially or unofficially--on how much a user can either download or upload. Some maintain that the DVD, which is inexpensive to make, deliver and store and contains many extra features, will continue in popularity, even as Internet-delivered video becomes more convenient.

SEARCH PROBLEMS

Lack of search tools means finding out a social documentary even exists can be a challenge. Public libraries often delay cataloging because someone has to view the whole film first in order to create the entry. This limits the number of entries that end up in the computerized union catalog that professional librarians worldwide share access to, the Online Computer Library Center (OCLC). Consumers cannot yet find an image through a Google search the way they can a word. In fact, even basic metatagging conventions—the sharing of common terms and names for catalog entries, for example—are still in development.

SOLUTIONS

Participants in the convening in which the case studies and these issues were discussed—librarians, lawyers, scholars, distributors, makers, and funders—analyzed the obstacles identified in the case studies, and identified four major areas that need to be addressed to encourage the long-term use of documentaries:

- freeing works of rights constraints;
- ensuring that films are launched as effectively as possible;
- creating new distribution strategies.
- Improving search tools.

RIGHTS

RIGHTS CLEARANCE

Scholars and lawyers alike believed that there was little hope for copyright and trademark policy change that might loosen or simplify the terms for acquiring rights, although the lively ongoing policy discussion among academics has generated theoretically possible alternative approaches. They believed that education of filmmakers about the law would greatly improve the position of filmmakers. Service organizations for filmmakers have a major role to play in highlighting existing knowledge and resources.

It is urgently important, they argued, for filmmakers to understand the term “fair use,” which always must be interpreted on a case-by-case basis. Filmmakers should not preemptively surrender fair use by always erring on the side of caution. That cedes ground that both users and creators now stand on to create future works. However, they also acknowledged the difficulties in encouraging others to take risks. Good errors and omissions insurance, they noted wryly, is a safety net.

RIGHTS HOARDING

A reversion clause in film contracts—stating clearly when rights return to the filmmaker--was the most important remedy suggested by the lawyers for the problem of rights hoarding. This clause, standard in publishing, would allow filmmakers to regain control of their films, either exclusively or nonexclusively, if the rights holders are not exploiting the rights. There may or

may not be payment involved. Other participants, especially commercial cable distributors, believed that such clauses might be unobtainable. Filmmakers also worried that open discussions of such clauses—and other terms that might limit the other party’s rights—would raise red flags in negotiations.

All agreed on the importance of freeing up rights so that people who want to can use them. Four ways that reversion clauses might become more common in filmmaking were identified:

- Funders suggested that they might introduce the request for such a clause into their contracts with grantees. At least two of the funders present had already considered a similar approach, and two of the informants for the case studies had suggested that funders might provide leverage for them in negotiations. If major funders all had the same clause, funders suggested, it might become a more successful strategy. Distributors and broadcasters noted, however, that such clauses needed to be worded carefully, to avoid becoming a “poison pill” for potential partners. A softer approach would be for funders to strongly suggest that filmmakers request the clause be written into their contracts and to educate filmmakers, lawyers, and rights buyers about the benefits of such a clause.
- A strong legal test case, supported by a broad range of entities, might establish the reversion clause as standard. In the current legal climate, however, some lawyers felt that this approach might not succeed.
- Education was unanimously endorsed, and not just of filmmakers. Some participants suggested that rights buyers, especially PBS, might be told about the strong feeling among filmmakers for more reruns in shorter licensing periods (i.e. three years) and given information about contract options that permit filmmakers to regain control of their films, even nonexclusively.).
- Filmmakers can discuss return of rights with any partner or distributor, if rights are not being used, whether or not there is a reversion clause. Distributors and broadcasters in the meeting were able to cite examples in their own work of successful renegotiations. A shared understanding about when a film is in the analogous position to the publishing industry’s “out of print” would help. (The group noted, however, that even consensus in this area would not resolve problems of rights inhering in acquired material.)

PUBLICITY, PROMOTION AND OUTREACH

Filmmakers need to improve strategic approaches to marketing, promotion, and community engagement by: effectively *leveraging the launch windows*, which propel the films in the after market; creating different *versions* for specific audiences; and *packaging* films within the consumer expectations set by more commercial material.

LEVERING LAUNCH WINDOWS

There is a great deal of information available on websites, in books and in industry magazines on how to make the most use of the crucial and unrepeatable moment of launch, but filmmakers often do not use this information. Filmmakers may need both an information nexus, where they

can do one-stop shopping, and also mentoring and access to professional expertise. Suggestions for how to accomplish this included:

- workshops (possibly through service organizations);
- a small clearinghouse that could aggregate and link resources on this topic;
- a website that could showcase such resources (either through service organizations or a clearinghouse);
- and a requirement by funders to consult or use such resources.

They also noted the need for better data—and funding to collect it--on tracking the effectiveness of community engagement strategies, so that filmmakers and funders could ascertain what works and what does not work in the field.

VERSIONING

Making different versions for different purposes (e.g., separate, shorter components for classroom and community meeting use) clearly extends the life and value of social documentaries. Funders noted that planning for versions could be included in budgets for grants. Distributors noted that filmmakers may now want to plan from the outset for the kind of ancillary material that now is expected on web sites and DVDs.

PACKAGING DOCUMENTARIES

Librarians noted that patrons develop their film and video use habits in a highly commercial environment. When they select from the library collections, they are attracted by packaging that meets the expectations they have developed for more commercial work. For instance, documentaries with lively packaging were rented from one library much more often than the same title in a black “coffin” box with a plain label. As libraries cater to customer expectations and measure their success by broad public use (including statistics on how often a film is checked out), packaging has to accommodate to the self-service, on-the-shelf environment

NEW DISTRIBUTION STRATEGIES

This is a critical moment for distribution, participants agreed. Almost everyone also pointed to user impatience with current market practices. People now expect to be able to take home a film if they hear about it or see it. Nontheatrical distributors, who have developed expertise in identifying and promoting independent films, are wary of new strategies, fearing that a direct-to-viewer strategy could gut the only viable market for social documentaries today. Overall, participants agreed that the price was a major obstacle for broader public use of social documentaries, and that the direct-to-viewer market was untested. It would be useful to better understand the experience of PBS Home Video and the direct-to-viewer sales by some local public television stations that produce programming.

Market testing of the emerging direct-to-viewer market is imperative. Participants generated suggestions for exploring the potentials of the direct-to-viewer market, through funded market trials:

- The mail-order DVD rental model provided by NetFlix (represented at the convening). The service has some 65,000 renters of documentary at the moment, and has developed

software that permits the service to learn those customers' rental habits. NetFlix might, it was suggested, become a collaborator in essaying selected social documentaries, to discover current public appetites for such films, and even collaborate with scholars to analyze results.

- Video-on-demand services on cable and public television.
- Personal or digital video recorder-based strategies. For instance, filmmakers or distributors might rent low-cost time in the middle of the night from a cable channel time to deliver niche material such as social documentaries, to viewers who had previously set their recorders to collect such material.
- Direct sales to existing networks of activists and professionals. For example, in autumn 2003, MoveOn.org distributed some 100,000 copies of Uncovered, a DVD critical of the Iraq campaign.
- Downloading or peering. A trigger paper by Rick Prelinger (centerforsocialmedia.org/whatkeeps.htm) grounded discussion; he had suggested that filmmakers make films available for free download, and also sell higher-quality versions, or provide other elements that add value. This model, Prelinger noted, had increased sales for his own archive in the last year. Participants believed that such a model had great value for some kinds of films, and certainly for wholly-owned archival material, but that rights acquisition problems often crippled such a strategy for social documentaries.

SEARCH PROBLEMS

Librarians, distributors, and experts in community engagement all noted that lack of a common method to find documentaries limits use even within the current market. Several participants had experience packaging documentaries thematically, and making such lists available to target markets; this, participants agreed, was helpful but not a solution to the problem. Gateway sites for social documentaries, such as MediaRights.org, need greater visibility. Librarians, broadcasters and distributors noted that consumers are resorting to netflix.com and amazon.com as de-facto databases and card catalogs. One area of frustration, several participants noted, was public television. Consumers tended to assume that something shown on public television would then be easily available, and neither pbs.org (which does not distribute all the programs it airs) nor library services met their needs.

The group discussed two levels of indexing: professional and consumer. Librarians noted the notorious lag time in creating catalog entries for films, because librarians have to watch the film first. They suggested that distributors or makers provide the information on a standard form, thus speeding up the process. Distributors needed reassurance that this process would not be onerous. Such a process would be best developed, librarians recommended, in conjunction with the Online Computer Library Center (OCLC). They also noted the existence of several efforts to standardize metatagging, including within public television.

At a consumer level, participants explored the idea that commercial services may provide a gateway point for consumers, and possibly a model.

SUMMARY

The group found many ways that social documentaries can be more widely used, and found plentiful evidence that there is general interest in using them.

- Some problems, the group believed, are *intractable* at a structural level and should be dealt with by *coping*—especially with education of and support for filmmakers. These areas include the rights clearance problems that inhibit distribution. Filmmakers need to know legal realities better and assert fair use confidently, and they need support to increase their clout as they negotiate.
- Some problems can be dealt with *technically*, the group believed. These include indexing, where more streamlined cataloguing and support for consistent and automatic metatagging will vastly increase viewer access. Filmmakers also need improved strategic marketing information, which permits the maximal use of current opportunities.
- Finally, there are areas of enormous opportunity, but also entrepreneurial risk, in emerging direct-to-viewer markets. Market testing at this moment of great change in market practices could be of great utility.