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What's ethics got to do with it?

Providing an ethical framework for the cinema exhibition sector

in the shadow of 'the dirty dozen' in the UK

Abstract

This paper explores how film marketing in the UK fares in terms of its ethical theory, practice and policy. Based on an examination of film marketing theory, practice and policy, the paper identifies three ethical dilemmas: These are the discrepancy between national policy and commercial practice in terms of social access, sustainability and diversity of choice. The paper offers an integrated supply chain model as a method for redressing commercial as well as ethical challenges facing the industry.

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Introduction

The film industry in the UK provides an interesting case for the study of business ethics. This is not only because a growing proportion of the UK population has a stake in its processes and offerings, but also because it is possible to identify both a number of ethical dilemmas that are facing this growing industry and a gap between its academic theory, national and institutional policy and practice in the UK. Aiming to provide insights into these potential ethical dilemmas and concerns in film marketing, the paper examines academic theory, evidence of practice and national and institutional policy in the UK film industry, as issues of ethical relevance. There are three emerging themes in this paper. First, there is the discrepancy between national policy for widening audience access to non-mainstream and national film and commercial practice in the UK. Second, there is a gap between policy intentions of widening audience access and implementation of this policy through the use of ill-chosen channels such as multiplex cinemas. Finally, there is a lack of integration in the supply chain of the UK film industry that has an adverse affect on the sustainability of the indigenous film industry.

Ethics in film marketing

Business ethics is the term used to define the systematic study of moral issues and acceptable forms of conduct and behaviour in business. Cooper (1989) highlighted many cynical views about business ethics ranging from considering it a contradiction in terms to questioning its infrequent use in business practice. Contemporary academic theory of business ethics has been also criticised for its failure to offer practical tools, which may aid decision making in business, and its elitist interest in aloof and highly abstract concepts which are borrowed from philosophy and social sciences and which, due to their 'reductionist' nature fail to address ethical dilemmas faced by business today (Kaler 1999).

The notion of 'marketing ethics' has faced even more merciless scepticism, because marketing, as a business function, traditionally focused business interests on profitability and satisfaction, all of which are highly contentious issues for any discerning business ethicist. This was largely due to the marketing profession's focus on profitability and competitive sales strategies and the prevailing assumption that marketing happened in a moral vacuum. This is now referred to as the 'sales concept'. The profit and need creation focus of marketing function is nowhere more marked than in the mission statement of the Chartered Institute of Marketing (2000):

'The management process responsible for identifying, anticipating and satisfying customer requirements profitably.'

Despite these criticisms levelled at business ethics, there is also an emergent recognition of business ethics as an integral consideration for business practice: A report by the Institute of Business Ethics (1999) shows that 54 per cent of the first 500 companies in the UK have a code of conduct. This is a significant change from only 18 per cent in 1987). Similarly, business ethics is increasingly recognised as an important subject of business schools (Sheridan, 2000). Marketing academics now

acknowledge that ethical marketing can exist; this form of marketing emphasises the positive result that societal marketing activities can have upon the community and the business itself. However, the ‘sales concept’ is currently recognised as an ethically dubious approach and criticised in marketing literature (Laczniac and Murphy, 1993). We also believe that ethics in film marketing warrant further academic attention, as the relatively uncharted terrain of current national policy and practice in the industry are ripe with ethical concerns. In order not to fall into the trap of ‘reductionist’ theorisation by applying mainstream ethical theory to this industry, we have explored the current structure and functioning of the British film industry and discussed ethical issues that emerged out of this examination.

Structure of the industry

The UK film industry is an integral part of the European film industry, which has, until recently, been characterised as fragmented, consisting of many independently operating companies involved in production, distribution and exhibition of motion pictures. In 1998, the Film Policy Review Group (FPRG) contrasted this with relatively more integrated Hollywood model, which emphasised the importance of the distribution function over production. Due to the revenue structure in the film industry, revenue is maximised at the exhibition and distribution stage with any remaining profits reverting back to the producer only after all costs are absorbed (Kerrigan and Culkin, 1999). This means that independent producers often do not make a profit on the films they produce although they may have performed very well at the box office. This leaves independent producers underfinanced and unable to break the cycle of hand to mouth film making where finance needs to be raised for each project individually in exchange for the rights to any future revenue for that project. The fragmentation of the European film industry has been cited as one of the major reasons for the domination of Hollywood films in Europe (Kerrigan and Culkin, 1999; Dale, 1997; Puttnam, 1997;

Finney, 1996). The FPRG called upon the British government to put structural support measures in place in order to encourage integration of all of the activities in the film industry supply chain (see Table One). This was viewed as necessary in order to “provide audiences with a consistent supply of commercially successful British movies” (FPRG, 1998: 18) as in this way, revenue from each project can be invested in the next and losses can be absorbed more easily.

Table One: Activities in the supply chain model for the film industry

Development →	Pre - production →	Production →	Post -production →	Advertising & Distribution →	Exhibition
Rights acquisition	Financing	Above the line	Editing	Sales	Theatrical
Script development	Greenlighting	Below the line	Soundtrack	Distribution	Video/DVD
	Crew		Special effects	Trailers	Pay TV
	Cast			Publicity	Free TV

Reference: Modified from Kerrigan, 2001.

Blair and Rainnie (2000) attributed the current pattern of instability in the British film industry to a series of unsuccessful waves of company formation and alliances of small production companies with large ‘studios’. The current phase of mergers and alliances (M&A) in the entertainment industries (Minns, 2000; Waters, 2000; Blair and Kerrigan, 2001), is but the latest in a series of waves of integration and subsequent fragmentation, "make-ups" and "break-ups" that has occurred in the British film industry since its inception.

The fragmentation of the industry dates back to the aftermath of the changes in the British industrial policy during the 1980s, which sought to deregulate the film industry, like many others, by removing support mechanisms in order to make it more competitive in a “free market”. Over twenty years on, the current state of the industry leaves much to be desired in terms of its global competitiveness and provides little, if any, evidence to support the assertion that deregulation and removal of state supports liberated the industry, or deemed it more competitive or appealing for investors.

While the UK industry is fragmented, the current trend in the global entertainment industries is towards integration. In supply chain terms, the European film industry consists of many operational partnerships rather than strategic partnerships. Mentzer (2001) recognised that strategic partnerships were entered into in order to fulfil the need for access to products. This need exists in the audiovisual industry at present with the advances in distribution technology, which have resulted in an increased demand for products. It can be reasonably expected that this demand is set to increase further when services like video-on-demand (VOD) are introduced on a wide scale.

As with previous waves, this phase of merger and strategic alliance activity is driven by access to product and access to markets for that product. Globally, there is evidence of increased levels of vertical integration among film companies in an attempt to integrate the various stages in the supply chain. The largest and most well documented case being the Time Warner and AOL merger which took place in 2000 after much scrutiny by various national and supranational competition bodies. For smaller film companies, mergers on this scale imply a greater shift in the balance of power and competition in favour of the large and integrated entertainment companies, ultimately reducing access of smaller firms to distribution outlets for their product.

National policymaking and practice in the UK film industry

A unified and strategic approach to policy making in the UK film industry is a very recent development. The British Film Council was established in November 1999 in order to develop the film industry and film culture in the UK. The formation of the Film Council was the result of the

amalgamation of all of the disparate film bodies in the UK into one strategic body. This development was a welcome change as the previous structure of the UK policy-making system was not capable of providing a strong enough response to competition from the USA. The two objectives of the Film Council reflect the council's desire to unify the industry around long-term, and pluralist objectives: "Developing a sustainable UK film industry" and "Developing film culture in the UK by improving access to, and education about, the moving image" (Film Council, 2000). The Film Council promotes a desirable policy discourse, which uses key terms of social responsibility such as 'sustainability' and 'widened access'. The Council propagates sustainability for local producers through restructuring the industry and offering support in the form of financial subsidies based on thematic priorities. They also promote widened access to non-mainstream and national productions and for a diverse audience participation in cinema going. It is early to appraise the effectiveness of these policies, bearing in mind that the period from production to consumption is on average between two and eight years for films. Despite this critiques of public subsidy such as Walker (2001) unjustifiably attack these policy initiatives, claiming that they reinforce the production of inferior quality films rather than support the development of a sustainable indigenous industry.

The British Film Institute (BFI) has also been realigned to fit in with these new objectives of the British Film Council, its parent organisation. The BFI is now responsible for increasing public appreciation of film, which can be achieved through improving public access to cinema, film heritage and educational provision. In line with this the BFI has launched an initiative through Multiplex cinemas in the UK whereby they provide incentives to multiplex cinemas in order for them to reserve some of their screening capacity for low budget independent films rather than the blockbuster films that they normally screen. Take up for this scheme has been quite promising. To date, both the British cinema chain Odeon and UCI (a joint venture between Universal and Paramount) have agreed to open up their programmes to include classic films, world cinema and previews of new films.

Odeon have introduced this scheme in eight towns in the UK and UCI's "BFI@UCI" will see 35 of their UK multiplexes becoming involved. Further seasons are set to include Film Noir and 1960s British classics strands. The need to open up viewing possibilities to the multiplex audience has been recognised by UCI's senior vice-president for Northern Europe, Steve Knibbs, "We are constantly looking for new ways to bring a wider choice of films to our audience" (Forde, 2001).

However, increasing access through multiplex cinemas is ethically dubious, as multiplex cinemas are often located in densely populated cosmopolitan areas and cater for only an elite segment of the British public. This social and geographical focus inevitably limits the access of groups that do not or cannot use multiplex cinemas. In addition, despite the growth in the multiplex sector over the last fifteen years, multiplex cinemas still only account for approximately half of the cinema going population, 46% of cinema visits in 1999 were to multiplex cinemas, an increase of 3% on 1998 (CAVIAR, 1999).

One of the aims of the Film Council (2000) is to; "extend and improve access to film culture and film heritage, serving the diverse geographical needs of the UK's nations and regions, and recognising the differing needs of rural, suburban and metropolitan locations." This is a welcome development for an inclusive approach to film marketing. A commitment to inclusion is also evident in the BFI's support for twenty regional independent cinemas in order to widen access to non-mainstream film. However, this is unlikely to make a real impact as it is consistent with the strategies employed by the major distributors, which only target urban areas for the exhibition of independent, art house or foreign language films. In this way, the industry is using an obsolete and risk-averse segmentation model, targeting mainly a secure segment of the national market, with the dual negative result of curtailing potential profit, and depriving non-urban populations of a diverse range of film. The Film Council through the auspices of the BFI is also using a rural/ urban segmentation model in its support

mechanisms, and in so doing is opening up access which at the same time denying access to a substantial segment of the population.

In addition, the Film Council has committed itself to ensuring that British film receives appropriate exposure. As a non-commercial body, the Film Council can concentrate on widening access to non-mainstream film unlike commercial organisations. In trying to achieve their aims, the Film Council recognises the need to work with the private sector in order to encourage a change in terms of film distribution and consumption provision within the UK. Despite the highly polished discourse of its policy statements is the stark reality that BFC lacks both the will and the influence to affect real change in an industry which is driven by risk averse and profit maximisation considerations.

This discrepancy between policy and practice resounds the theoretical debate between proponents of shareholder and stakeholder approaches. The shareholder approach, famously propagated by Milton Friedman, implies that a business' sole responsibility is to make profits and that stakeholder or social responsibility considerations should be integrated into business life through government intervention (Friedman 1970). It was also claimed that business managers are not elective members of the society and therefore they should not interfere with social and political issues. Wealth creation, which was the central focus of the shareholder approach, has long been considered as the pillar of free market economies.

However, there is now a growing recognition that wealth creation alone does not guarantee sustainable development of economies or markets. It was argued that sustainability of a business rests not only with its pursuit of financial performance, but it is also shaped by its fit within its broader environment. This new approach which recognises the significance of the social role and responsibilities of business is termed as the stakeholder approach. Wilson (1997: 50) explains that the

Royal Society of Art's report titled 'Tomorrow's Company' also identifies an 'inclusive approach' to business management as a source of sustainable success for business. An inclusive approach to business means that business decisions are made with attention to the diversity of viewpoints held by, and needs of, groups and individuals who are affected and who influence the operation of business, namely the stakeholders. Application of this debate to the film industry highlights that support for a more inclusive stakeholder approach is growing in terms of public opinion and at the policy level. However, it is hard to claim that this approach is adopted by cinema managers, who are still holding onto more conventional, profit driven, and risk-averse shareholder approaches.

The Film Council recognised a number of weaknesses in the British film industry in relation to the exhibition sector. Both in terms of industry provision and audience tastes, there are weaknesses. British films are not given priority by distributors but similarly; perhaps in response to this, demand for and take up of Hollywood films is greater than for UK films. They also identified the failure of the industry to reflect the British society as a whole, both in social and cultural terms.

In line with other European film councils (or equivalents) the Film Council is committed to increasing audience access to film from other European countries in exchange for British films achieving greater audience exposure across Europe. In order to realise this commitment, they will need to seek ways to make British film more appealing for the European audience.

While the industrial policy promotes a discourse which values inclusion, diversity and 'beauty of the small', marketing practices in the industry leave much to be desired. Film is a popular cultural and leisure pursuit in the UK. The film industry is a growth industry in this country: The total combined value of the UK box office and video sales and rental in 1999 amounted to £1.42bn (Film Council, 2000: 7). With the rise of the multiplex cinemas as predominant providers of film for entertainment

since the first multiplex was built in Milton Keynes in 1986, the market reach of this industry gained new momentum. Despite the increase in cinema admissions from 123m in 1996 to an estimated 148m in 2001, (<http://www.pearlanddean.com/marketdata/admissions.html>), the increase in the number of screens has not resulted in greater access to a variety of films and therefore not challenged the domination of mainstream Hollywood cinema. Moreover, historically, cinema going was viewed as an entertainment for the masses. However, the advent of communication technology and emergence of ethnically and politically diverse cosmopolitan regions meant that the film market was polarised between mainstream films and 'arthouse' films, the latter enjoying limited reach.

The most recent challenge to the status quo, where Hollywood products dominated the market, was the introduction of Bollywood films and most recently the commitment to introducing art house and foreign language films to the multiplex audience. Initially Bollywood films were screened in areas with a high Asian population and proved highly successful, although, the audience for these films was generally restricted to the British Asian population. Recently some Bollywood films have succeeded in crossing over into a wider audience:

‘Still in the UK top fifteen after five weeks on release, Bollywood crossover *Lagaan* passed the £500,000 mark at the box office over the weekend, making it the sixth highest-grossing Bollywood production in the UK. 1998's *Kuch Kuch Hota Hai*, distributed by Yash Raj Films, remains the best performing Bollywood film in the territory, with a total gross of £1.75m (Mitchell, 2001).

However, the success of the 'cinema from the margins' in comparison to the reach of the mainstream cinema can be overstated, when compared to the overall business performance of mainstream cinema in the UK.

A distinction can be made between the ethical approaches of the film producers and those cinema managers, who make film-programming decisions in exhibition venues. This paper is mostly

concerned with the ethical issues facing the latter group. Based on an examination of the practice of market segmentation of films in the UK, it was problematised that cinema managers only pay lip service to stakeholder participation or customer opinion, beyond seeking an aggregate understanding of the national market. This approach hinders the choice and access of diverse communities in the UK to films beyond the boundaries of mainstream films. The use of geographic and demographic segmentation of the market also creates closures and ethical dilemmas. In addition, the power of the 'majors', 'the dirty dozen', has resulted in independent distributors being squeezed out of mainstream exhibition. Because the 'majors' generally distribute blockbusters, which are eagerly anticipated, they can negotiate better deals with exhibitors. It is common practice, for example, that through these deals the exhibitors are obliged to take a number of other less popular films from the distributor in order to secure the right to exhibit blockbusters such as Star Wars.

The European Union implemented antitrust laws and a competition policy in order to curb state intervention and to promote a 'free enterprise' system (Schlegelmich 1998: 89). The practices of the 'major' distributors were investigated by the Mergers and Monopolies Commission (MMC) in 1998 and the European Commission's Competition Directorate in 1999. However, it was found that the 'majors' were not engaging in anti-competitive practices. Despite this, due to their size and strength it is extremely difficult for independent distributors to exist in a market which is dominated by the majors. However, PACT (1994) found that films distributed by independent companies recouped a greater percentage of their budget than those distributed by the majors in the UK. The domination of the market by the 'majors' constitutes a grey area between ethical and legal legitimacy: Although legal objections can be avoided in the present climate of deregulation, their ethical stance bodes ill in terms of widening access and removing barriers to entry for small independent companies.

It is possible to deduce two ethical considerations based on the above outline of the current policy and practice of the British film industry. The national policy moves towards a wider and more inclusive

definition of the stakeholder interest in the film industry. This is a significant departure from the current policy of the major producers who place 'profit' before 'people'. Admission of this discrepancy leads us to think how the national policy and industrial practice may converge. Ethical theory provides two alternatives: 'pull' of self-regulation and cultural transformation of the industry or the 'push' of increased regulation and enforcement of controls over the industrial practice.

The national and institutional policy in the UK relies on self-regulation of the film industry, rather than recourse to legislation. A central question for auditing ethics in film marketing would be whether self-regulation or legislation should be used to sustain ethical practices. Response of the current British government to this ethical question is in support of self-regulation. Stiles (1997: 47) explains the reasons: First, legislation with its reactive stance does not necessarily guarantee better behaviour. Second, particularly in the creative industries a legalistic approach may hinder innovation and creativity, and lastly, change induced by self-regulation is more effective and immediate than change proposed by legislation. However, it should be noted that self-regulation would be a sound alternative to legislation if the business were to observe these self-imposed controls. Frequent breaches of established codes of conduct may ultimately require legislative controls. However, as far as the film industry is concerned, self-regulation is currently promoted as a viable method for promoting inclusive marketing practices.

Discussion

This paper examined the ethical issues in film marketing in the UK, problematising the discrepancies between its policy and practice. It is noted that the global trends in the film industry are towards vertical integration and strategic partnerships. This is so, largely because the American film industry dominates the global market and presents 'an ideal model', for film industries, which aspire for similar commercial success elsewhere. However, it is identified that the course of development for the

British film industry contravened the American model, when it sought a strategy of fragmentation, through a process of liberalisation and deregulation in the 1980s. Having 20 years of undergoing fragmentation and subsequent ‘make ups’ and ‘break ups’ between its many small sized firms, the success of the British industry in challenging the American domination was only partial.

The failure of the British film industry in reaching a wider global audience does not only rest with the fragmented nature of the industry, but with its failure on two other accounts: First, the costing in the industry operates in such a way that producers receive profits after the exhibition of their films, once all the other costs are deducted. Even when their films achieve box office success, this approach exposes the independent British producers to greater business risk and financial instability. Therefore the FPRG’s current proposals of integrating activities in the film industry supply chain in order to minimise the risks for the independent producers is promising. Secondly, the UK and the European film industries are characterised by operational partnerships. However, evidence from successful companies suggest that vertical integration and strategic partnerships are instrumental in providing access to product and markets (Kerrigan 2001). As there are espoused alternatives for structural transformation of the British film industry, we decided to evaluate a number of futuristic scenarios, based on current global trends:

Scenario A:

It was argued in the paper that there is a growing public and policy awareness regarding domination of the majors in the British and European film markets. Although the recent legal claims of unfair competition were not successful, legal and policy controls may become more stringent following the spirit of the popular awareness. If there is a tightening of control over market domination by the majors, ‘the dirty dozen’ with changes in international, US or European legislation on antitrust or fair

competition laws and policy, the level of integration, this may allow small producers fairer opportunities for competition.

Scenario B:

Similarly the growing body of policy suggestions emanating from FPRG, BFI and BFC urge the UK government to provide support to its independent producers. This would work to counteract the domination of the majors as the independent producers will be able to provide a stream of small film, and business success of some of them will help to absorb some other's box office failures. Integration of the supply chain in this way could prove instrumental in responding to the challenge of the increasingly integrating global competition. Some progress has been made by the BFC towards realising this scenario through their new policy initiatives promoting support for independent producers. This is also the approach adopted by the European Commission's MEDIA programme, which is now in its third and enhanced phase.

It should be noted that Scenario A is overly optimistic in that legal and policy change is a slow and reactionary process and that Scenario B involves a more proactive strategy on the part of British film industry. Rather than waiting for legal or policy changes, structural adjustments, as explained in the latter scenario, could prove more useful.

At the national policy level the BFI and the BFC are setting objectives, which promote ethical discourses of 'sustainability' and 'improved access', which are key themes of socially responsible marketing. They go on to promote this policy through multiplex cinemas in Britain. However, their approach poses an ethical dilemma: Targeting multiplex cinemas for widening access may indeed limit the definitions of access and inclusion. Multiplex cinemas are often based in cosmopolitan areas

of densely populated towns in the UK. Therefore the reach they provide is limited with this human and social geography. So, how realistic is the claim that multiplex cinemas will contribute to widening access, when indeed their market reach is limited.

The national discourses, as reflected in national policy and public opinion, provide us a set of polished and hyped sentiments about inclusion, access, sustainability, all those things that would make the British film industry more socially responsible. However, we have identified a number of areas where there is a discrepancy between discourse and realities of film marketing in Britain:

Although the discourse or rhetoric of film marketing policy propagates a stakeholder approach, the industrial practice and particularly the attitudes of the managers of exhibition venues are driven by financial considerations.

This may indicate at first sight that film marketing practice and ethics do not constitute an easy ensemble. However, the most recent success of film from the margins, in particular the Bollywood cinema, in reaching wider national and international audiences challenges the common wisdom that it is difficult to reconcile social responsibility with business sense. We conclude that although a few examples exist to demonstrate that independent producers may achieve business success against all odds, structural reform towards strategic integration and policy support for independent producers may provide a real panacea for sustainability and widening access in this sector.

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