

"No merchandising please. We're Australian."

Noric Dilanchian, Managing Partner
noricd@dilanchian.com.au

The prevalent attitude in the Australian film and television industry is that merchandising is of secondary, if not tertiary, importance.

As they are mixed with other revenue streams, it is hard to determine returns from merchandising in the Australian industry. Overall, results have not been great. Many films have had soundtrack and film script deals. But few have ventured beyond such standard merchandise.

Yet the existence of solid merchandising markets is confirmed by Australian experiences outside the industry. The music and sports industries are cases in point. For example, Sydney Olympic 2000 Bid Ltd, recognised the need to "brand the bid" to gain public support. For this it used Hugh Harris of Australasian Event Marketing Pty Ltd. Mr Harris estimates that up to 23 September 1993, the day Sydney won the bid, gross retail revenue of between \$7-8 million was taken for licensed merchandise.

So why the poor results in film and television? Insiders say that most Australian films and TV programs have budgets, subjects, target audiences and production structures which don't lend themselves to merchandising programs. Other standard responses point to the art house nature of the many Australian films, the concentration of the industry on film producing rather than selling and perceived Australian distaste for Dodgy Brothers types hawking junk.

Let's expand on that "producing rather than selling" line. Yes, merchandising is about selling, its about retailing rather than art. It has more to do with impulse sales at Woolworths and McDonald's than products sold at David Jones, let alone boutiques in Paddington or Carlton. It's a slim margins, high volume enterprise in which price, timing, exposure and market availability are critical.

Despite perceptions remaining from a past era, merchandising is not necessarily the marketing of cheap, shoddy tie-ins. It does not exclude higher-quality or higher-priced products. The fact that opportunity exists has been clearly illustrated by Australian merchandising experiences outside the film and television industry. To the above Olympics example we can add the merchandising, in a retail sense, of Ken Done and Peter Adele Weiss. Inside the industry note the quality books, CD's and videos regularly promoted by ABC Television and SBS Television.

If the position is to change within the industry then, to begin with, merchandising rights need to be managed seriously and properly integrated into filmmaking. This means closer scrutiny of merchandising rights clauses to ensure ownership and control are clear. Moreover, a merchandising program should be both reviewed regularly and scheduled.

Regarding scheduling, if a television network does not exercise merchandising rights within a certain time then perhaps agreements should provide that the

rights revert. Do television networks really follow up merchandising opportunities outside their sector? Had a look lately at revenues for video games? These questions and the topic of merchandising are critical given the ongoing exponential growth of new media technologies which provide additional product windows.

Established merchandise licensees and retailers know they are in a high risk business in which most product must be sold within a matter of months. At the very least they deserve a merchandising program that is meticulously plotted.

Further, as the experience of the Walt Disney Company illustrates, merchandising benefits from long-term support. After working through a local agent, in April 1988 the Walt Disney Company (Australia) was set up as part of a move to generate revenue from licensing. By January 1993, Disney had 120 licensees selling 300 different Disney-branded products; clothing accounted for 35% of the products, toys 25% and books and music 15% each. Its key licensees included Nestle Confectionery, Sony Music, AMP Society, Johnson & Johnson and McDonalds.

So what else can producers seeking to maximise merchandising revenues do?

On considering a script, a producer should prepare an inventory of merchandisable assets. Assets may include signage, unique props or vehicles, photographs of stars or

www.dilanchian.com.au

animated characters. The inventory should be reviewed to determine how to build intellectual property protection and exclusivity into each asset. Especially important for this is copyright and trade mark registration.

Early identification of merchandisable assets is vital. Both George Lucas and Steven Spielberg begin at the script stage. A common complaint of merchandising licensees is that they are not approached early enough. Films take years to complete, so do books and toys.

Select a suitable team of experienced consultants. They include graphic designers and other creators, publicists, merchandising agents, manufacturers and retailers. Most merchandising agents are happy to consider a project, and at least initial advice may come for free.

Here it's worth reconfirming that the high level of co-ordination between the merchandising players behind the Man from Snowy River helped make it a merchandising success story. More recently, Blinky Bill is showing progress, for example via a forthcoming novelisation and association with the Australian republican movement.

Admittedly, both these films were based on properties with track records - decades of sales of print publications. But while choosing a property with brand recognition helps, it's no guarantee of success. Walt Disney's Dick Tracey flopped at the box office taking with it the 32 local licensees who released 250 product tie-ins.

The next step is to brand the assets i.e. develop their identity. As is the case with the Garfield and Blinky Bill characters, serious rights owners

prepare a handbook to guide prospective licensees. In their level of detail, these handbooks are akin to the "Bible" for a television serial. They set out detailed guidance for maintaining the integrity of licensed assets.

Ideally with a merchandising agent, you should determine what might be the likely product lines and who might be the licensees. The plan should be co-ordinated with the overall project marketing plan and publicity kit.

Now you're ready to license. Typically, a merchandising agreement secures a recoupable advance, royalties which vary depending on the type of product involved (eg royalties for toys tend to be lower than for other products) and, sometimes, a minimum remuneration guarantee. There are many other important subjects which should be covered in merchandising agreements.

Returning to the key message that merchandising is about retailing, it's worth noting that the retailing scene has evolved greatly in recent decades. Cheap 1960's plastic items aren't on the scene, nor is Joe the Gadget Man.

Service and venues have improved. Retail malls are entertainment centres often with some class - for example within a kilometre of central Sydney there is the Gateway, Skygarden, Darling Harbour and Greenwood Plaza. Creators in the film and television industry clearly should not feel alienated from selling into these spaces.

Meditate for a moment on wallpaper. Surprisingly, it was the most commercially rewarding art ever produced out of the Bauhaus. Similarly, wallpaper based on

Disney's Snow White sold consistently at the top of the children's nursery market in the US from its first release in 1936, while the films enjoyed only short releases every five years after the last war.

So what categorises the "No merchandising please. We're Australians" attitude? It's not ostrich thinking when you consider the low revenues earned to date. But in the light of the potential, predicting merchandising revenues on the basis of past results is akin to driving with rear-view mirrors.

Credits

This paper was first published in *Encore*, the film and TV industry magazine in its 8 December 1993 issue.

Noric Dilanchian founded Dilanchian Lawyers & Consultants in 2000. Noric has almost two decades of experience in advising film, television, publishing and merchandising industry clients as regards contracts and in helping them identify, develop, manage, protect and effectively commercialise their intellectual property.

Dilanchian Lawyers & Consultants
Tel (+612) 9269 0229
Email noricd@dilanchian.com.au
More papers Dilanchian.com.au