4 The market for films in the UK

Contents

Introduction and background

4.1. In this chapter we principally describe the distribution and exhibition of films in the UK. The chapter begins with background information on the supply of films, a consideration of the main characteristics of the market for films and a brief introduction to the leading companies competing in this market. We then take a brief look at film production before turning in more detail to distribution and exhibition.

4.2. As mentioned in paragraph 3.23, the government department with responsibilities for the film industry in the UK is the DNH. The BFI (see paragraph 3.24) is the national body with responsibility for promoting the development and understanding of the moving image (film, video and television) as an integral element in the cultural life of the country. It does this in conjunction with the Welsh Arts Council, the Scottish Film Council and the Northern Ireland Film Council. About half of the BFI's funding comes from the DNH, the remainder being raised from the BFI's various revenue-earning activities, membership subscriptions, sponsors and donations. As well as undertaking a wide range of activities concerning film, television and video (including production, distribution, exhibition, archives, education and publishing), the BFI is responsible for the National Film and Television Archive, the three-screen National Film Theatre and the Museum of the Moving Image (these last two being situated at the South Bank complex in London), and it provides support for 46 regional film theatres (RFTs) in the UK. The BFI produces both feature films and short films, as well as supporting regional film and video projects (further information about, and from, the BFI is given in paragraphs 6.92 to 6.108).

Certification and release of films in the UK

4.3. The number of feature films *classified* by the British Board of Film Classification (BBFC) in 1993 for exhibition in cinemas in the UK was 350. This compares with around 500 feature films a year in the early 1970s, a subsequent low of 278 in 1981, and a recent peak of 396 in 1990. The average number of feature films classified by the BBFC over the last ten years has been around 350 a year. The BBFC also classifies shorter films such as short features, trailers and advertisements (in 1993 it classified 32 short features, 331 trailers and 137 advertisements).

4.4. In 1993 the BBFC also classified a little over 3,700 videos, including 699 trailers and 62 adver-tise-ments. Over the period 1985 to 1992 it classified about nine times as many video versions of feature films as it did feature films for exhibition in cinemas. Many of these were, however, from back catalogues of older films which were being released on video for the first time or had previously been released on video without needing to be classified (the Video Recordings Act 1984 requires that most videos should be classified before release, including films and television programmes which have not been exhibited in cinemas).

4.5. The number of feature films *released* by distributors to cinemas in any year is lower than the number classified in that year by the BBFC. The BFI found that 241 titles were released in 1992;[1] this compares with 319 that were classified that year. Some films submitted for classification are not subsequently released, and some are foreign language films not destined for general release.

4.6. Over the four years 1989 to 1992, 1,046 new feature films were released to cinemas in the UK (an average of some 260 a year), compared with 1,276 in Germany, 1,555 in France, 1,718 in Italy and 1,850 (including 158 re-releases) in the USA. Of the 241 feature films released in the UK in 1992, the BFI identified 136 (56 per cent) as US-made. US-made films accounted for about 86 per cent of UK box office revenue that year, while the 25 British-made films accounted for about 4 per cent of the box office (see paragraph 4.40 for an explanation of these terms).

[1]See the BFI's *Film and Television Handbook 1994*, Table 15, page 42.

4.7. In terms of box office revenue, US-made films have held between 80 and 90 per cent of both the UK and the Irish Republic markets for more than ten years. In other EC countries the share of US-made films, while generally less than in the UK, has increased considerably since the early 1980s (see Table 4.1). In Germany it increased from 55 per cent in 1982 to 83 per cent in 1992, in Spain from 46 to 77 per cent, in Italy from 32 to 69 per cent and in France from 30 to 58 per cent.

TABLE 4.1 **Share of US-made films in the film exhibition markets in various EC countries**

per cent

	US-made films: share of box office		
	1982	*1987*	*1992*
France	30	44	58
Italy	32	48	69
Belgium	43	62	73
Spain	46	58	77
Denmark	50	55	78
Netherlands	51	64	79
Germany	55	58	83
Luxembourg	62	65	N/A
Portugal	44	67	85
UK	**82**	**89**	**86**
Irish Republic	86	80	88
Greece	51	81	93

Sources: 1982 & 1987: Council of Europe document number MM-CM (93) 1, Appendix IV, February 1993.
1992: *White Book of the European Exhibition Industry* (Synthesis Vol, p19), Media Salles, March 1994.

Ancillary markets

4.8. Since the MMC's 1983 report there has been a marked increase in the importance of ancillary markets, first from the hire or sale of video cassettes and, more recently, from pay television. The video market for films only emerged during the early 1980s, but then grew very quickly, led by the video rental market from about 1983, and followed by the video sell-through market from about 1988. The arrival of cable and satellite broadcasting has greatly increased the number of television channels, some exclusively showing feature films. Pay television, either broadcast from satellites or received via cable, has developed in the UK since 1990. A distinction, therefore, should be drawn between free television (ie television financed largely by either an annual fee or by the revenue from advertisements, and normally, but not exclusively, received directly from ground-based transmitters), and pay television (received from satellites or cables, and paid for by subscription related to the number and types of channel received).

4.9. The audio-visual sector continues to benefit from advances in technology. It is expected that UK television viewers will eventually be readily able to watch broadcast films on a pay-per-view basis or via cables as video on demand. Experiments are already taking place in California with the direct transmission of films to cinemas via cable. This would give audiences high-quality pictures and sound without incurring the cost of making individual prints for each cinema, although there are huge investment costs involved.

4.10. The rapid growth, since the early 1980s, of ancillary markets (also known as the secondary markets) has meant that the theatrical release of films now probably accounts for around one-quarter of the total revenue generated by feature films over their full life cycle. Because of the time lags between the different forms of exhibition (see paragraph 4.19), and because distribution to the video and television markets is often undertaken by different companies, it is difficult to establish the share of revenues between these different markets. The information provided to us by four of the leading distributors in the UK showed cinema takings in the UK varying between 23 and 35 per cent of total revenues. These figures are consistent with estimates recently published in *Screen Digest*[1] which show that of the US studios' world-wide total revenues from feature films of $14.5 billion in 1993, 48 per cent came from video markets (compared with 12 per cent in 1983) and 27 per cent from theatrical exhibition markets (57 per cent in 1983). The remaining categories were free television (11 per cent), pay television (8 per cent) and other

[1]*Screen Digest*, Vol 7(8), 4 May 1994, page 10.

markets, including video discs and pay-per-view (6 per cent). In the US domestic market alone (estimated to be worth $8.6 billion in 1993), the video market accounted for 51 per cent of revenues, and the theatrical market for 25 per cent.

4.11. The growth of video and television as means of watching films is also shown by consumer expenditure figures. The BFI noted, for example, that in 1992 consumer expenditure on video rental, video sell-through and film subscription channels was almost four times as much as expenditure on cinema visits.[1]

Returns and risks of film-making

4.12. Investment in films is very risky. Every film is different, combining the different artistic and creative talents of numerous individuals from the initial ideas, through script development, design, acting, photography, background music and editing, to marketing the final product, including advertising and promotion. Until the finished film is finally released for exhibition in cinemas, it is difficult to tell whether it will be a success. What is certain, however, is that the film's investors will not see any return for their money at all until the film has been exhibited to paying customers. While the unpredictability of the returns from films can to a limited extent be managed (eg by the regular production of formulaic films containing what past experience has shown to be the important ingredients of successful films), it is the case, and the industry continues to expect, that only about one-fifth of new films will make a healthy profit from their theatrical release, a further one-fifth will break even, and the rest will lose money for those financing them (though some films will recoup these losses from the ancillary markets).

4.13. Exhibitors have the first call on the bulk of the box office takings generated by films. In the UK they retain on average about 64 per cent of box office revenue (to cover their own costs and to provide a contribution to their profits, though they may in fact make losses on some films), and pay about 36 per cent to distributors as film rentals. The distributors in turn retain about two-thirds of their rental receipts to cover their own costs, mostly in promoting and marketing the film. It is important to recognize that these are averages, and that for many films the receipts accruing to the distributor are not sufficient to cover the release costs (see paragraph 5.10). On average, about 12 per cent is left of box office revenue after the exhibitors have taken their share and the distributors have recovered their costs. This is then available to recover the film production and financing costs, and finally to make a contribution to the producers' profits (which may or may not be reinvested in the production of subsequent films). Paragraphs 5.4 to 5.7 have a more detailed analysis of `shares of the cake' in terms of both box office takings and total cinema revenue.

Defining the market

4.14. Our terms of reference relate to `the supply of films for exhibition in cinemas in the UK' and define `films' as `any record, however made, capable of being used as a means of showing a sequence of visual images as a moving picture'. While under this definition films are goods (usually 35mm colour prints[2]), cinema-goers are aware only of the `moving picture' element, ie the sequence of `visual images' presented to them on cinema screens. The goods are not purchased by, or otherwise physically passed on to, cinema-goers; instead the exhibitor provides facilities for consumers to view the film as a moving picture.

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[1] See the BFI's *Film and Television Handbook 1994*, Table 4, page 26.

[2] Video cassettes have so far hardly been used at all for the showing of films in cinemas (though they may in the future). This inquiry is therefore about the supply of films as prints. Common usage does not distinguish between `film' and `print' when referring to the supply of films to cinemas.

4.15. The term `films' includes feature films, short features, trailers and advertisements as shown in cinemas.[1] However, we have confined our inquiry to feature films, which we have defined as films over 72 minutes in length and made for theatrical release. This was the area of concern to the DGFT when making this reference to us, and feature films comprise by far the preponderant part of films made for theatrical exhibition.

4.16. Two main questions of market definition arise: first, whether films shown in cinemas are part of the same market as films shown on television (whether broadcast or replayed from video cassettes); and second, whether the market for films shown in cinemas should be broken down, for the purposes of the economic analysis, either by geographic region or by different types of film.

4.17. Cinema, video and television are different means of viewing feature films. Producers and distributors have taken advantage of these different ways to release films through each medium in succession to maximize their returns. People wanting to see the latest feature film have to see it in a cinema. Those who are prepared to wait (or who want to see it again in their own homes) may wait for the video version. Others wait rather longer to see it on television.

4.18. There are conflicting views about how the growing availability of films on television and video has affected cinema attendances. On the one hand, it is suggested that they are lower cost alternatives to seeing a film in the cinema, that they compete directly with cinemas, and have had an adverse impact on the number of cinema admissions. On the other hand, it is also suggested that the growth in film-watching on the small screen has created a much greater public awareness of new films when they are first shown in cinemas, and that this partly accounts for the revival in cinema-going in the last decade (see paragraph 4.87).

4.19. Because of the growing importance of video and television outlets for feature films, the time available for a film to earn revenue during its theatrical release has decreased considerably. Distributors operate a system of standard time delays, or holdback periods, after films are first released for exhibition in cinemas before they are made available through the other media. While in some countries these delays are laid down by government regulation, in the UK they are matters of convention within the industry, but appear nonetheless to be widely observed. The periods after the delays, when films become available in a particular medium, are referred to as `windows'. In the UK the release window for the video versions of films normally opens six months after cinema release (but can be up to 12 months or more, particularly for sell-through versions). For pay television the window normally opens 12 months after cinema release (but can be up to 18 months). For free television the window normally opens three years after cinema release in respect of US films; for other films the timing is flexible but the window rarely opens within a year of cinema release.[2]

4.20. The general view in the industry appears to be that a film's successful cinema release is good for its video sales, and that people who regularly view films on video are also regular cinema-goers (this is one of the findings of the CAVIAR surveys-see paragraph 4.68). The video version of a feature film may be seen by many more people than saw it at the cinema. Even so, the video viewing of feature films supplements, rather than substitutes for, cinema viewing. The relationship is not so clear when it comes to the watching of films broadcast on television: regular viewers of feature films on both pay television and free television tend not to be regular cinema-goers.

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[1]The MMC reported four years ago on aspects of the supply of cinema screen advertising services. This was published as *The Supply of Cinema Advertising Services: a report on the supply in the United Kingdom of cinema advertising services*, Cm 1080, HMSO, May 1990.

[2]Under an agreement reached under the auspices of the British Screen Advisory Council in September 1988, a minimum production cost of £4 million was set for the purpose of determining whether an English language film should be subject to holdback as regards release to free television. This figure was to be increased each subsequent year by the increase in the retail price index (RPI) plus 3.5 per cent (subject to a maximum increase in any one year of £300,000), but in practice this is not a calculation that has been strictly undertaken each year. The understanding in the industry at present is that the current figure should be taken to be £5.5 million to £6 million.

4.21. Feature films supplied for exhibition in cinemas are normally:

- in a distinctive form (ie 35mm or 70mm prints rather than video tapes);
- shown in distinctive buildings, most of which were designed for this purpose;
- projected on to wide screens with appropriate sound equipment; and
- intended to be seen collectively by large groups of people.

The collective experience is part of the enjoyment of viewing films in cinemas, in contrast to seeing them on video cassette or via television, both of which are meant for private showings.

4.22. The characteristics of the supply of films which we have described in paragraphs 4.17 to 4.21 lead us to the view that, despite the very considerable changes in both the means and opportunities for viewing feature films since 1983, it remains sensible to regard the supply of films for exhibition in cinemas in the UK as a separate and distinct market (we refer to this as `the distribution market').

4.23. The second issue of market definition is whether the market should be analysed as a single entity or whether it should be subdivided in some way (see paragraph 4.16). This needs to be looked at in the context of the related market for the supply of cinema services (`the exhibition market'). To show films, cinemas need prints from distributors: there is no alternative. There are two main constraints on the charges and other conditions of supply that film distributors may seek from exhibitors:

(a) the competitive position of each cinema in its own local market; and

(b) the extent and nature of competition between film distributors.

These constraints vary over time according to the number of different film titles currently available on release, the numbers of prints made for each title, and the number of suitable screens at which they can be shown.

4.24. We have considered whether the exhibition market is a national or a local one. We noted, for example, that in its analysis of the UK exhibition market Fox currently identifies 498 different local exhibition markets. (While its main criteria include travel time and each cinema's local reputation, Fox recognizes that such a classification inevitably involves an element of judgment.) Of these, 387 are, in Fox's view, monopoly markets (ie cinemas, including several city centre arthouse cinemas, which do not face strong local competition) and the other 111 are competitive markets (including all the principal provincial cities). We discuss later various elements of the exhibition market, including, for example, the existence of national chains of cinemas, exhibitors' policies on admission charges and the booking of films, and the bargaining relationship between exhibitors and distributors. These elements, among others, lead us to the view that competition in the exhibition market is driven primarily by factors which have a clearly national dimension, and justify looking at it on a national basis, while not ignoring aspects of local competition.

4.25. The process by which the supply of feature films is related to the likely demand is not the setting of cinema admission charges, since these do not vary from one film to another, but the allocation of cinema screens. If a film is expected to be in great demand, prints are made available for a larger number of screens and the cinemas may also extend the period for which they are shown. This is in turn the outcome of two separate decisions: first, the distributor's assessment as to the likely level of demand for a film and decision about the number of prints to be made; and secondly, the exhibitors' decisions about which of the films currently available will generate the greatest revenue and should be shown on their screens. Both of these decisions will depend on the supply of and demand for concurrently available films and the number of screens at any one site, ie on competition from other films. This means, too, that although a key feature of this market is that all films are unique, it would be inappropriate to subdivide the distribution market (eg into different categories of films) in order to analyse competition.

4.26. Cinemas as a group also compete against other calls on their potential customers' leisure time and income, eg television viewing, pubs, discos, theatres, concerts, bowling alleys and leisure centres. While these are not close substitutes for cinema-going, the existence of other leisure activities is a longer-term competitive constraint on cinemas, helping to explain, for example, the marked decline in cinema attendances during the 1950s and 1960s (a period when television was building up a huge audience). For continued commercial success, cinemas have to provide audiences with an entertainment experience which they perceive as being good value for money, in terms of both the quality of the films shown and the quality of other exhibition services provided (eg sound systems, comfortable seating, cleanliness, etc) compared with other leisure activities. While the availability of other leisure activities may bring competitive pressures on cinemas over the longer term, however, they do not have such an immediate impact on film exhibitors as to be regarded as being in the same market.

Distributors and exhibitors of films in the UK

4.27. In their 1983 report the MMC noted that, while in 1965 (the time of their first report on the supply of films) all the ten major distributors had operated independently of each other, by 1981 three joint distribution companies had been formed. The film distribution sector had become highly concentrated with six distributors accounting for 90 per cent or more of film rental payments (the 1983 report, paragraph 8.13). The report concluded, among other things, that:

> within a single system of decision-making operated by EMI and its aligned distributors on the one hand, and by Rank and its aligned distributors on the other, there is effective control of some 60 per cent of the film exhibition market and a still greater share of the film distribution market in Great Britain [the 1983 report, paragraph 8.17].

4.28. The industry has evolved further since 1983. While a small number of film distributors continue to be the main suppliers of films, their identity has changed with the dissolution of certain joint ventures and the creation of separate distribution companies (see paragraph 4.53). The effects of these changes, together with the impact of new entrants, is reflected in the somewhat lower concentration figures found during this inquiry. The five leading distributors now account for about 77 per cent of rental payments from cinemas (see paragraph 4.60). On the exhibition side, the rapid growth of operators of multiplex cinemas in the mid- to late 1980s has been a strikingly important development (see paragraphs 4.101 to 4.107).

4.29. We now identify the main companies currently operating in the UK market, first the distributors and then the exhibitors. Later in this chapter we deal with vertical integration and the links between companies in the industry (see paragraphs 4.143 to 4.158).

Film distributors

4.30. There are two broad types of distributor supplying films to cinemas in the UK. First, there are the five distributors who are vertically linked to Hollywood-based studios. These distributors, Buena Vista, Columbia, Fox, UIP and Warner Distributors, are each primarily sales and marketing entities responsible for the theatrical distribution in the UK of films that have been made or acquired by their parent companies. A brief outline of the ownership, history and main recent films of these five distributors is given in Appendix 4.1. We refer to these five distributors, for convenience, as the `leading distributors'. We refer to all the other distributors in the UK as the `independent distributors' or the `independents'.

4.31. There are currently about 24 independent distributors active in the UK. They trade on their own account. While some of the independents aim to acquire the UK distribution rights for mainstream films (and may find themselves in direct competition with the leading distributors for some of these titles), many specialize in acquiring the rights to arthouse films. One independent distributor, Guild, alone accounted for half of the receipts of all the independent distributors in the UK in 1992. There were seven independents who distributed ten or more new titles in that year: Guild, RFD, Entertainment, Mayfair Entertainment UK Ltd (Mayfair), Electric Pictures, Artificial Eye Film Co (Artificial Eye) and Metro Tartan Ltd. We regard RFD as an independent distributor, although its parent company, Rank, owns Pinewood Studios Limited (Pinewood) and has a half share in Universal Studios in Florida, as well as owning Odeon. Neither Pinewood nor Universal Studios produces films, both being providers of studio facilities to production companies. All the independents named in this paragraph, except Guild and Entertainment, have interests in cinema exhibition in the UK.

Film exhibitors

4.32. There are now five main exhibitors in the UK (compared with the four identified by the MMC in 1983). They are: MGM Cinemas, Odeon, UCI, Natl Amusements and the two affiliated companies Warner Bros Theatres Limited (operating the Warner West End cinema) and Warner Bros Theatres (UK) Limited (operating a chain of multiplex cinemas). We refer to these last two companies jointly as Warner Theatres, unless there is a specific need to distinguish them. UCI[1] and Natl Amusements, together with Warner Theatres' multiplex cinemas, have entered the UK market since the MMC last reported. We refer to these five exhibitors as the `leading exhibitors' (where appropriate, MGM Cinemas and Odeon are also referred to as the two `main circuit exhibitors'). We refer to all other exhibitors as `independent exhibitors'. A brief outline of the ownership and recent history of each the leading exhibitors is set out in Appendix 4.1, and a description of the links between some of these leading exhibitors and some of the leading distributors is given in paragraphs 4.147 to 4.158.

4.33. Some of the independent exhibitors operate several cinemas each within a region of the UK, but do not have national coverage. The largest of these exhibitors is Hutchinson Leisure Group of Companies Ltd, a subsidiary of Apollo Leisure (UK) Limited (Apollo), which operates mostly in North-West England, North Wales, the Midlands and Yorkshire. Others include Robins Cinemas Ltd (Robins) which operates a number of cinemas in various parts of Great Britain, CAC Leisure Limited (whose cinemas are known as Caledonian Cinemas) operating in Scotland, the Ward Anderson group of cinemas operating in Northern Ireland (and is a leading exhibitor in the Irish Republic), Charles Scott Cinemas operating in the West of England, Cinema Ltd (which also owns Artificial Eye) operating in London, Bloom Theatres Limited (trading as Mainline Pictures) operating in London and the South-East, and Oasis Cinemas Ltd operating in London and Edinburgh. Most of the other independent exhibitors operate one or two single- or twin-screen cinemas.

4.34. There are around 750 commercial cinemas in the UK, some of which are only part-time. Of the 750 cinemas, almost half are single-screen cinemas and a further third are two- or three-screen cinemas. The rest (about one-fifth) are cinemas with more than three screens (see also paragraphs 4.90 and 4.91).

Film production

4.35. Feature films, in both their financing and production, fall broadly into one of two categories, international or local. International films are intended to have strong commercial potential, can be made in any of several countries, generally have an internationally acceptable theme or style, and are made with a view to distribution in many countries. Local films tend to reflect national themes, customs and preoccupations. They are usually made in the local language and in the country where they are to be exhibited. As a generalization, most international films are made in English, while the second category includes mostly films made in other languages. English language films produced specifically for the UK market will be at a significant disadvantage (eg in the amount that can be spent on their production) compared with those produced with a world-wide audience in mind.

4.36. A feature film is the product of three basic specialist activities: the producer's talents in making a film from an outline or an idea; the financier's talents in identifying promising film proposals and supporting the film-maker; and the film distributor's talents in developing a marketing and distribution plan aimed at maximizing the film's revenues. While the production of a feature film requires a script, budget, casting, production crew, and plans or arrangements for the distribution and marketing of the film when it has been finished, none of this can be put in place without the film producer having first secured the necessary financial backing.

[1]UCI also manages two cinemas in the West End of London which are owned by CIC. Unless otherwise indicated, we have included data (eg on box office and film rental payments) relating to these two CIC-owned cinemas as part of UCI's data.

4.37. As was noted in paragraph 4.12, investment in film production is very risky, and the return unpredictable. The production of films can be very expensive: the average cost of films made by the US Hollywood studios reached almost $30 million (or about £20 million) in 1993, about two and a half times (in nominal terms) the cost ten years earlier (see also paragraph 4.42). The production budgets for some US films have recently exceeded $60 million. *Screen Digest* recently published (see paragraph 4.10) estimates showing that of the US studios' total world-wide revenues from feature films in 1993, 59 per cent came from the US domestic market and 41 per cent came from sales outside the USA (the figures for theatrical rental only were 55 per cent from the US market and 45 per cent from the rest of the world). The average expenditure per film on promotion and advertising is now a further $14 million in the USA alone (approaching three times the level of ten years ago). While there is no guarantee that the more spent on making and marketing a film the more successful that film will be at the box office, low-budget films do not normally include the best-known film stars, expensive special effects, sets or costumes, and such films rarely achieve the biggest successes at the box office.

Financing of films

4.38. Most films made by the Hollywood studios are internally funded. Profits from the distribution of their successful films, after meeting the losses on unsuccessful ones, are used to finance new productions. Even the major studios, however, often need outside financial backing for their particularly expensive productions, as do other film production companies for most of their films. The main sources of non-studio finance are: pre-production advances from theatrical and video film distributors; financial guarantees from sales agents against the value of overseas sales; television broadcasters, including the growing number of pay-television companies; banks, financial markets and other arm's length investors; and grants from governments and other public bodies.

4.39. More than one source is normally needed to finance an independently-produced film, ie a film made by a producer outside the Hollywood studios. Part of the challenge facing such independent producers is the cultivation of, and drawing upon, the various sources of finance, and determining the right combination needed in a particular case.

Production of films in the UK

4.40. As so many different contributions (finance, script development, production, direction, casting, locations, etc) go into the production of each feature film, it is often difficult to classify them into countries of origin. For the purposes of this inquiry we considered it sufficient to use two broad definitions: one concerned with the production of the film (eg `British-made', by which we mean any feature film which was produced or co-produced by a UK production company or which was made in the UK by an overseas producer), and the other indicating the country which was the prime source of the ideas or cultural values portrayed in the film (eg `British film'). Neither definition is watertight.

4.41. The number of British-made films produced annually (whether intended for the cinema or for television) has fluctuated since 1980, being as low as 24 in 1981, and as high as 60 in 1990 and 67 in 1993 (of which 35 were co-productions and eight were US films). In relation to other EC countries, the rate of production of British-made films has been about the same as in Spain, and a little lower than in Germany. France (155 films in 1992) and Italy (127 films in 1992) are the major film-producing countries in the EC. Research published recently in *European FilmFile*[1] showed that, at the end of 1993, 2,745 feature film projects were in progress in 34 different European countries, of which 553 (20 per cent) were in the UK. However, of the 2,745 films only 646 (24 per cent) were already in production or at a later stage: the others (including 493 in the UK) were planned, in development or on hold.

[1] *European FilmFile*, Volume 3, Winter 1993-4.

4.42. The BFI estimates that the average budget for British-made films has declined substantially in real terms since 1983. In 1992 it was £3.9 million compared with £8.2 million (at 1992 prices) in 1983. We were told by Channel 4 that both it and British Screen routinely looked at film proposals which had average budgets of £1.25 to £1.5 million. The average budget for French films in 1992 was £3.25 million and in Italy it was £1.85 million. Commenting on these figures, the BFI's *Film and Television Handbook 1994* notes (page 20) that `unlike the UK, neither France nor Italy is fishing in the same talent pool as Hollywood'.

Difficulties facing film production in the UK

4.43. We received a number of submissions drawing our attention to the apparent paradox that the film industry in the UK is at the same time both successful and, at least in the view of some, in decline. In particular, it was noted that while over the last eight or so years annual cinema audiences have been growing quickly and British films have continued to win more than their share of international awards, investment in film production in the UK has declined sharply; according to BFI estimates, in 1984 investment in British-made films (as defined in paragraph 4.40) amounted to about £426 million (at 1992 prices), but by 1992 the figure had dropped to about £185 million.

4.44. Many of the requirements for film production are present in the UK. These include ideas for plots, script writers, actors, directors, producers, various types of production talent (eg set design, photographers, special effects experts, etc), studio facilities and expertise in finding outdoor locations. Skills in the British film industry are widely acclaimed around the world.

4.45. We noted, too, that film studios in the UK are fully occupied at present, with a lot of interest being shown for 1995. Pinewood told us that the general level of film production there was higher now than it had been for some time. Pinewood noted particularly that a number of high-budget US films were using its studios in 1994. It hoped that this indicated an increasing willingness of US film producers to use UK facilities. Similarly, Shepperton Studios told us that there had been a tremendous upsurge in film production in the UK in late 1993 and early 1994, resulting in a shortage of stage facilities, and that it expected this momentum to continue into 1995.

4.46. One of the main problems facing the producers of British films is the spreading of risk. This means not just the spreading of risks across many different films, only a minority of which will be financially successful, but also the spreading of the risk between the production, distribution and exhibition sectors (bearing in mind, too, the prospects of revenues from the video and television markets). Film production in the UK has been very fragmented, with many British films being made by companies formed specially for the purpose of making a single film even if those financing it may be associated with other films. It has therefore generally not been possible for individual production companies to offset the failures of some films by the successes of others. The BFI told us that in the ten years to 1989, 464 feature films were made by 352 production companies, and that 250 of these companies existed to produce only one film (see also paragraph 6.97).

4.47. Television broadcasters, particularly the BBC and Channel 4, have been an important source of finance for British film production in the last ten years or so. A few films financed partly from this source have achieved international success in the cinema, for example *Four Weddings and a Funeral*, *Much Ado about Nothing*, *Peter's Friends*, *The Crying Game*, *Howard's End*, *Letter to Brezhnev* and *A Room with a View*. But some in the industry take the view that reliance on this source of finance may distance the film producer from the cinema audience (eg see the evidence of Mr Puttnam in paragraphs 6.78, 6.79 and 6.82). Television broadcasters may also impose restrictions, in return for their financial support, which adversely affect the film's opportunities for theatrical exhibition in the UK. On the other hand, when acting solely as purchasers of completed films, television companies are important sources of additional revenue. Both RFD and Entertainment drew our attention to the advantage which, they considered, was enjoyed by the Hollywood studios as a result of their output deals with BSkyB. BSkyB has recently entered into output deals with British Screen, PolyGram and Guild and is discussing similar deals with other British distributors. BSkyB told us that its deals with British film-makers brought them benefits that were unique in Europe, guaranteeing as they did nearly 9 per cent of production budgets, and involving no content requirements, no credits, and no distortion of release patterns.

4.48. The amounts available from UK government sources are relatively low compared with a number of other countries (eg France, Germany and Australia). See also the account given in Chapter 3 of the main sources of UK and EC support for film production in the EC. Banks and private financiers seem unwilling to commit significant sums to the high-risk business of film production in the UK. Reasons that have been put forward for this attitude include the experience of past losses made by UK production companies (notably EMI Films Ltd and Rank).

4.49. Other important factors affecting the financing of film production in the UK are exchange rates and taxation. Relative changes in exchange rates over time will affect the costs of film production in the UK compared with other countries: changes in the sterling/dollar exchange rate are, for example, thought to have contributed to the increase in the number of films currently being produced in the UK. Two aspects of the tax regime in the UK have been alleged to cause difficulties for film production. The first concerns tax relief for expenditure on film production and for new investment in film production facilities, and the second concerns the treatment of income tax (and in particular, bilateral and other taxation agreements between different countries). Taxation issues are summarized in Appendix 4.2.

4.50. We received extensive submissions about the difficulties faced by UK film producers from the BFI, PACT and others. These are summarized in Chapter 6.

Access to distribution

4.51. Unless a production company decides to set up its own distribution operation (a subject which is dealt with in the next section), it must look to either the leading distributors or to independent distributors to handle the film's distribution and marketing in the UK. The leading distributors told us that their primary purpose was to distribute the films of their parent studios. However, some said that they did acquire independently-made films, usually made by independent producers in the USA, but sometimes made by those in other countries, including the UK. The business of independent distributors depends largely on the acquisition of the distribution rights for films made by independent production companies.

Film distribution

Main changes in film distribution since 1983

4.52. While there have been a number of new entrants into this industry over the years, as well as distributors leaving it, the general picture, at least since the early 1960s, is one of the continuing importance of a limited number of distributors, albeit in a variety of combinations. In their 1983 report, the MMC noted that the leading six distributors were Columbia-EMI-Warner Distributors Ltd, UIP, UK Film Distributors Ltd, RFD, ITC Film Distributors Ltd, and Brent Walker Distributors Ltd. The first four of these were direct descendants of the ten companies which the MMC found in 1966 to supply practically all first feature films, and the first three are still the main distributors now, although their corporate identities have undergone further change.

4.53. Two of the joint ventures functioning in 1983, Columbia-EMI-Warner and UK Film Distributors, have broken up and each individual member is now responsible for the distribution of its own product or that of its parent company. Columbia-EMI-Warner (which became Columbia-Cannon-Warner following Cannon's acquisition of the EMI film business in 1986) split in November 1987 into two new distribution companies, Columbia and Warner Distributors. Cannon, by then owned by Pathé Communications Corporation, acquired MGM Inc in 1990. UK Film Distributors, which was jointly formed by 20th Century Fox and Walt Disney to distribute the films of both companies in the UK, ceased to trade in December 1987. 20th Century Fox then established its own distribution company. Between 1988 and 1992 Walt Disney films were distributed in the UK by Warner Distributors, but the distribution agreements were terminated and Buena Vista began to distribute Walt Disney films in the UK from November 1992.

4.54. Several of the smaller film distributors that were in business at the time of the last MMC report have now ceased trading (eg New Realm, Golden Era, Miracle Films and Sunn Classic). Some of the independent distributors who began distributing films to cinemas after 1983 did not continue in business for very long (eg Palace Pictures, Virgin Vision, Anglo American and Castle Target).

4.55. Two companies which were primarily concerned with video have expanded their interest in the distribution of films for theatrical release: Guild and Entertainment have both emerged since the late 1980s to become significant competitors in the market for theatrical film distribution. Some of today's larger independent distributors have expanded through acquisition. Mayfair acquired both Curzon and Hobo, and in May 1994 announced the merger of its distribution interests with those of Artificial Eye. HTV Group plc acquired Miracle Films and Vestron Film and Video Distribution Ltd and formed them into First Independent in 1990.

Size of market and growth trends

4.56. We measured the size of the distribution market by reference to receipts by distributors of film rentals over the four-year period 1990 to 1993. This information is shown in Table 4.2, together with figures for 1988 and 1989. The distributors are listed there in the order of their market shares in 1993. The distributors in Table 4.2 are split into three groups: the five leading distributors; the four largest independent distributors; and the remaining independents.

4.57. The film distribution market in 1993 was worth a little over £103 million (see Table 4.2). In nominal terms, this is almost double the figure for 1988. Growth in the market has been irregular because of the varying fortunes of individual films from year to year and the effects of recession on the economy more generally. The most important factor in bringing about the growth in the size of the market has been the growth of cinema attendances during this period: attendances increased by about one-third from 1988 to 1993.

4.58. This increase in the size of the market was not reflected in the number of films released for exhibition. Table 4.3 shows the number of new feature films on general release each year in the UK. This fell from 360 in 1970 to 219 in 1980, and (except for one year) varied from 215 to 256 a year subsequently. While the number of releases increased between 1986 and 1989 from 215 to 241, it dropped back in 1991 to 216 before rising again to 242 in 1993.

TABLE 4.2 **Distributors' rental receipts (excluding VAT) from the licensing of films for exhibition in cinemas in the UK in each of the calendar years 1988 to 1993**

Distributor	*1988*		*1989*		*1990*		*1991*		*1992*		*1993*		*1990 to 1993*	
	£m	*%*	*£m*	*%*	*£m*	*%*	*£m*	*%*	*£m*	*%*	*£m*	*%*	*£m*	*%*
Leading distributors														
UIP	22.8	39.2	29.5	36.7	25.5	30.9	15.2	17.9	16.2	18.9	32.0	30.9	88.9	24.9
Warner Distributors 17.6	30.228.4		35.325.9		31.421.9		25.727.9		32.523.2		22.498.9		27.7	
of which: Warner Bros films*	*6.6*	*11.3*	*15.0*	*18.7*	*11.7*	*14.2*	*10.1*	*11.9*	*16.2*	*18.9*	*22.7*	*22.0*	*60.7*	*17.0*
Walt Disney films	*11.0*	*18.9*	*13.4*	*16.7*	*14.2*	*17.2*	*11.8*	*13.9*	*11.7*	*13.6*	*0.5*	*0.5*	*38.2*	*10.7*
Columbia	3.9	6.7	7.0	8.7	6.6	8.0	6.7	7.9	14.4	16.8	15.0	14.5	42.8	12.0
Buena Vista	-	-	-	-	-	-	-	-	1.9	2.2	11.8	11.4	13.7	3.8
Fox	3.2	5.5	3.1	3.9	5.7	6.9	11.7	13.7	7.9	9.2	4.0	3.9	29.3	8.2
Sub-total: leading distributors	**47.5**	**81.6**	**68.0**	**84.6**	**63.7**	**77.1**	**55.5**	**65.2**	**68.3**	**79.5**	**86.0**	**83.2**	**273.6**	**76.6**
Main independent distributors														
Guild	0.3	0.5	0.6	0.7	3.9	4.7	12.2	14.3	8.6	10.0	5.1	4.9	29.8	8.3
Entertainment	0.7	1.2	0.3	0.4	0.9	1.1	1.6	1.9	1.5	1.7	4.9	4.7	8.9	2.5
RFD	2.4	4.1	3.1	3.9	3.3	4.0	9.1	10.7	2.1	2.4	2.2	2.1	16.7	4.7
Vestron	0.9	1.5	0.8	1.0	-	-	-	-	-	-	-	-	-	-
First Independent }	-	-	-	-	0.1	0.1	2.1	2.5	1.5	1.7	0.8	0.8	4.5	1.3
Sub-total: main independents	**4.3**	**7.4**	**4.8**	**6.0**	**8.2**	**9.9**	**25.0**	**29.4**	**13.7**	**15.9**	**13.0**	**12.6**	**59.9**	**16.8**
Total: above listed distributors	51.8	89.0	72.8	90.5	71.9	87.0	80.5	94.6	82.0	95.5	99.0	95.7	333.5	93.4
Other independent distributors														
Sub-total: other independents†	**6.4**	**11.0**	**7.6**	**9.5**	**10.7**	**13.0**	**4.6**	**5.4**	**3.9**	**4.5**	**4.4**	**4.3**	**23.6**	**6.6**
Total: all independents†	10.7	18.4	12.4	15.4	18.9	22.9	29.6	34.8	17.6	20.5	17.4	16.8	83.5	23.4
Total: all distributors†	**58.2**	**100.0**	**80.4**	**100.0**	**82.6**	**100.0**	**85.1**	**100.0**	**85.9**	**100.0**	**103.4**	**100.0**	**357.1**	**100.0**

Source: MMC, based on data from the companies, the SFD and Entertainment Data International Ltd.

*Approximate breakdown of Warner Distributors' rental income according to its two main sources of supply during the period up to November 1992.
†Estimated.

TABLE 4.3 **Number of new feature films released for general exhibition in cinemas in the UK**

Year	*Number of films*	*Proportion of films released which were:* US films %	British films %	Other films %
1955	350	57	23	19
1960	333	43	24	34
1965	302	36	23	41
1970	360	34	24	42
1975	282	46	25	29
1980	219	56	19	26
1981	225	60	14	26
1982	293	48	18	35
1983	226	48	15	38
1984	245	60	11	29
1985	256	52	15	33
1986	215	57	14	29
1987	216	57	20	23
1988	237	60	12	28
1989	241	55	21	24
1990	240	66	10	23
1991	216	72	11	17
1992	222	56	14	29
1993*	242	61	10	29

Sources: 1955/81: MMC's 1983 report on the supply of films (Table 2.1).
1982/93: BFI.

*Provisional figures.

Note: The BFI told us that the number of films shown for each year in Table 4.3 refers to films of 40 or more minutes in length distributed for the first time. The figures exclude re-releases, films which had only a short run at one cinema (eg some films shown at the National Film Theatre and the Institute of Contemporary Arts in London and at RFTs), and all films made on 16mm film. The BFI regards this definition of films, a narrower one than that used to compile the BFI data mentioned in paragraphs 4.5 and 4.6, as presenting a truer picture of theatrical films distribution in the UK for the purposes of the MMC's inquiry.

Distributors' market shares

4.59. Distributors' rental income in any one year may be heavily influenced by the success or failure of a small number of films. We have therefore assessed their market shares on the basis of rental receipts over four years, selecting the period 1990 to 1993. Table 4.2 shows that over this period UIP received 24.9 per cent of distributors' total rentals from the licensing of films for exhibition in cinemas in the UK. Over the same period Warner Distributors received 27.7 per cent of distributors' total rentals, but within this figure 10.7 per cent was generated by Walt Disney films, which Warner Distributors no longer handles.

4.60. The next largest distributors during this period were Columbia (12.0 per cent) and Fox (8.2 per cent). The five leading distributors accounted for about 77 per cent of rental revenues, and the seven largest distributors (the leading distributors together with Guild and RFD) a little under 90 per cent. The share held by the leading distributors declined from about 85 per cent in 1989 to 65 per cent by 1991, but has since risen to 83 per cent. The decline in 1990 and 1991 was due largely to the growth in the rental income achieved by Guild and RFD. These two companies have had less success in subsequent years, but Entertainment's share grew in 1993.

4.61. In 1993 the five leading distributors accounted for only about 35 per cent of the new titles released in the UK (see Table 4.4). In contrast, while the independent distributors accounted for about 65 per cent of the new titles released in 1993, they only earned about 17 per cent of the rentals in that year. This pattern is not unusual: as the BFI has pointed out,[1] a few blockbuster films account for most of the box office and rental figures each year.

[1] See the BFI's *Film and Television Handbook 1994*, pages 37 and 42.

TABLE 4.4 **Distributors' shares of films released in the UK and measured by number of titles, box office revenues and rental receipts, 1993**

Distributor	*Number of titles in 1993*	*Percentage of all titles*	*Percentage of box office revenues*	*Percentage of rental receipts*
Leading distributors				
UIP	26	10.7	25.6	30.9
Warner Distributors	20	8.3	23.3	22.4
Columbia	13	5.4	16.7	14.5
Buena Vista	18	7.4	12.2	11.4
Fox	8	3.3	4.5	3.9
Sub-total: leading distributors	85	35.1	82.3	83.2
Other distributors				
Sub-total: other distributors	157	64.9	17.7	16.8
Total	242	100.0	100.0	100.0

Source: MMC and the BFI.

Activities of film distributors in the UK

Functions of the distributors

4.62. The leading distributors' main role is to organize the successful theatrical distribution of their parent companies' films in the UK. All the leading distributors told us that they also distributed (to varying degrees) independently-produced films (though Columbia and Fox have distributed very few in recent years). The leading distributors' arrangements for acquiring the UK distribution rights are described in Appendix 5.1. All the leading distributors distribute films in the UK only for theatrical exhibition: the video and television rights for these films in the UK are handled by other, associated, companies.

4.63. Independent distributors have to acquire distribution rights on an arm's length basis in competition with other distributors. They largely acquire distribution rights for films made by independent production companies, and normally seek these rights for all the UK film markets, including video and television (they may have to compete to acquire all a film's rights outside the USA, and sometimes for the US rights as well). They are also likely to be involved in a variety of co-financing and other deals with independent production companies. Some independent distributors (notably Guild, RFD, Entertainment and First Independent) aim to acquire the distribution rights for mainstream commercial films, and may have to compete with the leading distributors in so doing. Other independent distributors in the UK concentrate on arthouse films and largely compete amongst themselves, although we were told that the leading distributors were taking an increasing interest in acquiring rights to the more commercial arthouse films, ie the potential `cross-overs'. As is shown in Appendix 4.1, a number of successful British films have been distributed by independent distributors in recent years.

Aspects of competition between distributors

4.64. There is significant competition between individual films for access to screens and for audiences. Information about likely release dates is known widely in the industry many months in advance. This enables distributors to try to plan their own release dates so as to avoid direct clashes with competing films of the same type. The marketing plan and release patterns for new feature films are determined on a film-by-film basis by their distributors. The following considerations are taken into account: the type of film and its potential audience; other films likely to be released around the same time by the same or other distributors; the number of cinemas available and willing to take the film; the budget available to support the release; and the success of the same film in other countries, particularly the USA.

4.65. The basic release patterns widely used in the industry are:

- *mass release*: 250 to 400 prints released simultaneously to take advantage of a concentrated national media campaign;

- *wide release*: for films with popular appeal, based on 150 to 250 prints directed to certain geographic areas;

- *limited release*: using 75 to 150 prints for cinemas in densely-populated areas; and

- *selected release*: usually three to five prints for specially selected venues known to have audiences interested in less popular or specialized films.

Other forms of release may also be chosen but are less common. For example: a *staggered release*, which is based on word of mouth response in large conurbations helping to establish a film thought to have a difficult message to convey but with good commercial potential nevertheless; and a *platform release*, whereby a film is released at one or a very limited number of cinemas in London's West End before it is given a wider release elsewhere in the country.

4.66. Advertising and promotional activities are a major feature of competition between distributors, and appear now to be more important in determining the commercial success of a new release than at the time of the MMC's 1983 report (see also paragraph 5.24). Advertising and promoting films encompasses a wide range of activities including in-cinema marketing (especially `trailers', and point-of-sale promotions), advertisements on television and radio, poster advertising and also interviews with actors, directors and producers. Music from films is sometimes released simultaneously on CDs and cassettes. Merchandising agreements may also be made, eg with clothing companies or fast-food retailers.

4.67. Distributors told us that the revival in cinema-going in the late 1980s resulted partly from their increased advertising and promotional activities. The revival, together with the potential benefits from the exploitation of ancillary rights, made it possible in turn to spend more heavily on advertising and promotional activities than when theatrical attendances had been declining. In contrast to the phased releases which were quite common at the time of the last MMC report, distributors increasingly favour releasing a film simultaneously across the UK in order to maximize the impact of national marketing campaigns. These now often incorporate advertisements on television, which, we were told, were usually placed country-wide.

4.68. Films themselves are potent marketing tools, in that virtually all the creative material used in any promotional campaign will be derived from them. The results of the latest CAVIAR survey (CAVIAR 11, February 1994[1]) show that, while people hear or read about films from several sources, the most frequently mentioned sources are television (33 per cent television advertisements, and 30 per cent television editorial comment, eg in various film review programmes), and word of mouth (29 per cent of visits). Other sources frequently quoted are national newspapers (24 per cent), posters and cinema trailers (17 per cent and 16 per cent), and the radio (10 per cent for both radio advertising and editorial). As these figures indicate, many of the respondents quoted more than one source.

4.69. Price competition between distributors does not appear to be significant because the methods used by the great majority of exhibitors to calculate rental payments for films have the effect of automatically increasing the rentals for films that perform well at the box office. In particular, distributors do not normally offer exhibitors (though occasionally exhibitors may seek) more favourable rental terms for showing particular films which have low or uncertain expectations. They may, however, seek to obtain special terms for films with particularly strong commercial potential.

[1]The Cinema and Video Industry Audience Research (CAVIAR) survey of cinema audiences is undertaken late each autumn on behalf of the Cinema Advertising Association Ltd (CAA). CAVIAR 11 reported the results of the survey undertaken by BMRB International between 19 October and 22 November 1993.

Decisions on which films to distribute in the UK

4.70. All the leading distributors told us that, in deciding which films to distribute, they relied on their assessment of the commercial prospects for each film. As already mentioned, the leading distributors largely concentrate on distributing films produced or acquired by their parent companies (see paragraph 4.62). Independent distributors search intensely for the distribution rights to independently-produced films.

4.71. UIP said that its policy was to seek a broad range of films, and that it would consider and, on occasions, seek to obtain films which it considered had limited or specialist appeal. It emphasized that it applied the same tests to its partners' films as it did to those of third parties when assessing their commercial viability, and that it might, after viewing a partner's new film, advise the partner that it did not consider theatrical distribution advisable in the UK. UIP told us that its partners frequently picked up independent films, 162 of them over the last six years. Between 1988 and 1992 UIP had distributed six films in the UK which had been produced in the UK by third parties, and a seventh, *Shadowlands*, was distributed early in 1994. These third party films generated, on average, 1 per cent of UIP's annual rental receipts.

4.72. Warner Distributors said that between 1988 and 1993 it handled 14 independent films, the rights to which had been acquired by Warner Bros International. Warner Distributors explained to us that Warner Bros International had the final say as to which Warner Bros films it released in the UK, and that occasionally Warner Bros International had decided (for its own reasons) to release a film in the UK which Warner Distributors did not consider to be commercially viable.

4.73. Columbia told us that, while it was not a primary part of its business to distribute films produced by third parties, it was not subject to any legal or internal constraints preventing it from distributing such films. In recent years it had not received many commercially attractive proposals to distribute the films of independent producers. In Columbia's view, this was because of the existence of strong independent distributors such as Guild, First Independent and Entertainment, whose principal source of supply was independent producers. Fox listed 35 independent films which it distributed between 1988 and 1993, but only one of these was acquired after 1989.

Distributors' trade associations

4.74. The SFD is the main trade association representing film distributors in the UK. There are currently 11 members, including all the leading distributors and the larger independents (see paragraph 6.39). Most of the smaller film distributors are not members of the SFD, but it told us that there were no restrictions which prevented them joining should they wish to. We also heard from the Independent Film Distributors' Association, formed in the early 1970s, which now loosely represents a few independent distributors (eg Artificial Eye, Contemporary Films, Electric Pictures and Mainline Pictures).

4.75. The SFD told us that its prime purposes were to provide a forum and focus for the discussion of matters of common interest to those engaged in film distribution in the UK and, where appropriate, to act as a voice in relation to the common interests of its members. The SFD did not, it said, play any role in the day-to-day business of its members (other than to the extent that they used its published *Standard Conditions*-see next paragraph), nor did it speak for any of its members on policy matters, eg decisions on the release of films or the revenue-sharing terms negotiated between distributors and exhibitors. The SFD's governing body is its Council, which comprises the managing directors of its member companies and is chaired by the SFD's President. The SFD's two main committees are its Publicity Directors' Committee and its Sales Managers' Committee. It also has an Irregularities Committee which comprises the managing directors of its member companies. This meets as required to consider reports of malpractice at cinemas revealed through checks made on the SFD's behalf by an outside agency. During the course of this inquiry we examined the minutes of all the SFD's committee meetings which took place during 1993.

4.76. The SFD has issued *Standard Conditions* which contain terms and conditions for the licensing and exhibition of films in cinemas in the UK. The *Standard Conditions* are reproduced in full in Appendix 4.3. We were told by the SFD that its members were free to vary the *Standard Conditions* or not to use them at all. In practice, however, all the members use the *Standard Conditions* as the basis for licence agreements with exhibitors (see also paragraphs 4.131 to 4.134).

Prospects for new entry

4.77. The two main factors affecting access to film distribution rights in the UK are the extent to which such rights are freely traded (ie are available to whichever distributor offers the most attractive deal to the original copyright holder), and the size and timing of the financial commitment required of the distributor, notably the expenditure on prints and trailers, on advertising and promotion, and the amount and terms offered for the UK distribution rights.

4.78. With few exceptions, new entrants are not able to obtain the UK distribution rights for films produced by the Hollywood studios, because most of these mainstream films are distributed by companies which have vertical links with those studios. Some independent distributors have, however, achieved significant success in the UK, usually by distributing independently-produced US films (eg Guild, which has a relationship with Carolco whereby all its theatrical productions are released in the UK by Guild).

4.79. The acquisition of film rights from independent production companies can entail quite complicated financial deals which bring together several different interested parties. RFD explained the various means by which it had invested in US film production in return for distribution rights outside North America. The types of deals RFD has entered into include co-financing deals with US producers and distributors for the joint financing of a series of films, purchase deals by which RFD acquires the rights to a single film in a specific territory, output deals whereby RFD agrees to distribute all films made or acquired by the licensor either for a specific period or for a specific number of films, and first-look deals by which RFD has first refusal of the chance to invest in and acquire distribution rights for films proposed by particular production companies (these are more fully described in Appendix 5.1, paragraphs 20 to 31). Apart from the amounts which may have to be paid in advance for the distribution rights, distributors must find increasingly large sums for advertising and promoting a film. Experience shows that for most films these costs will not be recovered from theatrical exhibition alone, if at all, so the distributor needs to have sufficient financial resources to spread its risks over a substantial portfolio of films.

4.80. Once a distributor has acquired the rights to a new film, there is still the need to find screen space for it. We were frequently told that there was a shortage of suitable screens, both in number and quality, in certain parts of the UK and at certain times of the year, on which to show newly-released films. This raises the question of ease of entry into exhibition (which is dealt with in paragraphs 4.126 to 4.129). We have also looked at the effects of some of the practices of the leading distributors and exhibitors to see whether they create unnecessary difficulties, eg the negotiation of extended minimum exhibition periods. These practices are discussed in the last section of this chapter. Difficulties in obtaining a suitable theatrical release in the UK may also affect the returns available for the film from the video and television markets.

4.81. The experience of the last ten years suggests that while theatrical distributors can enter and survive in the UK market, consolidation and growth are more difficult. Few independent distributors have shown long-term significant success, and their market shares have fluctuated widely (as indeed have those of the leading distributors-see Table 4.2). There is no strong evidence that over the last ten years the leading distributors serving the UK market have been seriously threatened by new entrants other than in the short term.

Film exhibition

Main changes in film exhibition since 1983

4.82. Over the last ten years the exhibition sector has undergone a remarkable revival after many years of decline. Since 1984 admissions, the number of screens, and box office revenues have all increased substantially. During this period the exhibition market has been transformed. The main changes include a number of acquisitions and amalgamations involving existing exhibitors, the closure of many cinemas, the building of new ones and above all the entry into the market by three operators of multiplex cinemas. As a result of these changes the market for film exhibition is less concentrated than it was ten years ago, and the nature of competition is now significantly different.

4.83. In 1993 the two main circuit exhibitors, MGM Cinemas and Odeon, accounted for almost 46 per cent of box office revenues (excluding VAT) from the showing of films in UK cinemas, compared with 60 per cent for EMI and Odeon in 1983. MGM Cinemas has undergone several changes of ownership and has made a number of acquisitions during this period (see Appendix 4.1). The development of multiplex cinemas, which has been such a striking feature of the exhibition sector in the last decade, is discussed in paragraphs 4.101 to 4.107.

Independent exhibitors

4.84. In July 1994 the five leading exhibitors operated 1,156 screens, some 60 per cent of the total number in the UK. There are a few other exhibitors who individually operate more than ten screens (they are mentioned in paragraph 4.33).

4.85. We sent a short postal questionnaire in early December 1993 to all the other independent exhibitors we could identify in order to obtain some quantitative data and their views on a number of matters relevant to the present inquiry. We received 178 replies, representing an effective response rate of 50 per cent. The responses to this questionnaire are summarized in Appendix 4.4. The questionnaire responses confirmed that most of the independents were operators of one cinema with a single screen. Some of the independent cinemas in rural areas and at university sites receive financial and programming assistance from the BFI (see paragraph 4.2). The survey suggested that total box office receipts of all independent cinemas in 1993 were about £60 million excluding VAT, compared with about £229 million for the leading exhibitors in the same year (see Table 4.7).

4.86. Film programming at the National Film Theatre in London and at the 46 RFTs is carried out by, or with the advice of, the BFI. The BFI also supports some of the RFTs with grants and provides film booking and publicity services to most of them.

Size of the market

4.87. From a low point of 54 million in 1984, cinema admissions rose to 114.4 million in 1993 (see Figure 4.1). This doubling in the number of admissions in less than ten years reversed a decline which had been a feature of the market since about 1950. The recovery in cinema attendances, up to levels last seen in the mid-1970s, has contrasted with the continuing trend of falling audiences and numbers of screens in much of the rest of Europe, although a number of countries, including France and Germany, saw a significant increase in admissions in 1993.

4.88. Factors which may have led to the increase in cinema admissions in the UK include:

- increased advertising of films, particularly on television and in national newspapers and magazines;

- greater public awareness of films as a result of, for example, the arrival of video cassettes and film channels on pay television;

Figure 4.1

Cinema admissions in the UK, 1980 to 1993

Source: MMC based on company data.

- a flow of new films with wide popular appeal, many with large production budgets (encouraged by the better revenue prospects arising from the growth of the ancillary markets) enabling some spectacular visual and sound effects which encourage the public to see the films on the big screen (eg films such as *Crocodile Dundee*, the *Indiana Jones* trilogy and *Jurassic Park*);

- the development of multiplex cinemas, and the refurbishment of many other cinemas; and

- growth in car ownership and the motorway network, which has increased the accessibility of the new out-of-town cinemas.

4.89. Expenditure on cinema admissions in 1992, at 0.07 per cent of household expenditure, has varied only a little in proportionate terms since 1985 (see Table 4.5). Expenditure on television licences and video rentals amounted to about 1.2 per cent of household spending in 1985, but declined to 0.9 per cent by 1992. Expenditure on theatres, sporting events and other forms of entertainment has accounted for a growing proportion of consumer spending over the years, reaching 1.2 per cent by 1992.

TABLE 4.5 **Household expenditure on entertainment in the UK**

per cent

	1980	*1985*	*1990*	*1992*
Cinema admissions	0.11	0.06	0.07	0.07
Television and video rental; television licences	N/A*	1.18	0.85	0.88
Theatres, sporting events, and other entertainment	0.84	0.86	0.99	1.17

Source: MMC, based on figures published by the Central Statistical Office in *Family Spending*, HMSO, 1993.

*This category was a much wider one in 1980 (including, for example, the purchase and repair of televisions and radios), so the figures are not comparable with those of the later years shown in the table.

4.90. In 1945 there were 4,723 cinema screens in Great Britain in 4,723 cinemas. By July 1994 there were 1,929 screens in 753 cinemas (see Table 4.6). The number of screens reached a low point in 1984 (when there were 1,246 screens at 660 cinemas), and the number of cinemas reached a low point of 648 (but with 1,299 screens) in 1987. About half of all cinemas in the UK have only one screen, and about 85 per cent of cinemas have three or fewer screens.

TABLE 4.6 **Numbers of cinemas and screens in the UK, July 1994**

Exhibitor	*Cinemas*	*Per cent of total*	*Screens*	*Per cent of total*	*Average number of screens per cinema*
Leading exhibitors					
MGM Cinemas (MGM and Cannon cinemas)	119	15.8	394	20.4	3.3
Odeon	73	9.7	319	16.5	4.4
UCI*	26	3.5	232	12.0	8.9
Natl Amusements (Showcase cinemas)	10	1.3	127	6.6	12.7
Warner Theatres	9	1.2	84	4.4	9.3
Sub-total	**237**	**31.5**	**1,156**	**59.9**	**4.9**
Main independent exhibitors					
Apollo	19	2.5	54	2.8	2.8
Robins	15	2.0	30	1.5	2.0
Ward Anderson group	12	1.6	39	2.0	3.2
CAC Leisure (Caledonian cinemas)	6	0.8	13	0.7	2.1
Charles Scott Cinemas	6	0.8	8	0.4	1.3
Panton Film Distributors (Coronet cinemas)	5	0.7	11	0.6	2.2
Mainline Pictures (Screen cinemas)	5	0.7	8	0.4	1.6
Cinema Ltd	4	0.5	5	0.3	1.2
Graves (Cumberland) Ltd	4	0.5	5	0.3	1.2
Sub-total	**76**	**10.1**	**173**	**9.0**	**2.3**
Small independent exhibitors					
Sub-total†	**440**	**58.4**	**600**	**31.1**	**1.4**
Total	**753**	**100.0**	**1,929**	**100.0**	**2.6**

Source: MMC, based on CAA data and questionnaire returns.

*Including the Empire and Plaza Cinemas in London's West End which are managed by UCI.

†Estimate. The figures include an estimated 60 cinemas which do not take on-screen advertising (and thus are not included in CAA data), RFTs and some part-time cinemas.

4.91. The increasing number of cinemas and of cinema screens since the mid-1980s is shown in Figure 4.2. Since 1984 the number of cinema screens in the UK has increased by about 50 per cent. During this same period 638 multiplex screens were opened, and the net change in the number of screens in cinemas other than multiplexes was quite small. In fact, there appears to have been very little change in the number of single-screen cinemas for a number of years, and changes in the number of non-multiplex screens are largely the net result of increases brought about by the splitting of some two- and three-screen cinemas into four- or more screen cinemas, partly offset by the complete closure of others.

4.92. In their 1983 report the MMC showed that there had been a significant fall in the seating capacity of cinemas in Great Britain: between 1970 and 1981 the numbers of seats fell from 1.5 to 0.6 million. Since then seating capacity has fallen a little further, to about 0.5 million by 1993. But as a result of the increase in admissions over this same period capacity utilization, as measured by admissions per seat per week, has increased one and a half times (from about 2.6 in 1981 to about 4.0 by 1993).

4.93. In 1992 the UK had the highest cinema seat capacity utilization rate, at 3.8 admissions per seat per week, of any country in the EC. The next highest figures were for the Irish Republic, Denmark and Belgium (each over 3 admissions per seat per week), and the lowest figures were for Italy, Greece and Spain (each about 1.8 per week), with France at 2.3 per week and Germany 2.8 per week. The EC average was 2.4.

4.94. In relation to its size of population, the UK has one of the lowest numbers of cinema screens in Europe. There are now about 4,400 screens in France, 3,600 in Germany, and 3,000 in Italy, compared with the figure of about 1,929 in the UK. In 1992 the UK had one screen for every 33,000 people, compared with one for every 22,000 in Germany, 19,000 in Italy and 13,000 in France. In terms of numbers of admissions per screen per week, the UK's figure of about 1,134 (for 1992) was higher than any other EC country, including Portugal (978), Spain (887), Belgium (736), Germany (561), Italy (532) and France (506). The EC average was about 650.

4.95. There are now about 7 million regular cinema-goers, ie people who claim to visit the cinema at least once a month, in the UK. CAVIAR 11 (see paragraph 4.68) found that cinema-going is at its greatest among young people, particularly those aged 18 and 19 years, of whom about 38 per cent are regular visitors. Of the other younger age groups, about one-third of 12- to 17-year-olds and about 35 per cent of 20- to 24-year-olds are also regular cinema-goers. The level of cinema-going falls rapidly with increasing age: about 11 per cent of those aged 35 to 44 are regular visitors, and of those over 44 years of age only about 3 per cent are regular visitors. There is a seasonal pattern to cinema attendances, influenced mainly by school holidays and by the weather. For example, poor summer weather enhances the appeal of cinema-going compared with outdoor entertainment.

Exhibitors' market shares

4.96. We measured the size of the exhibition market, using both exhibitors' box office receipts and their film rental payments, over the four-year period 1990 to 1993 although we also looked at figures for 1988 and 1989. The box office figures are given in Table 4.7 and the film rental figures are in Table 4.8 (in both tables the leading exhibitors are listed in order of their market shares in the latest year, 1993). Also included in Tables 4.7 and 4.8 are figures for the independent exhibitors, which we have estimated mostly on the basis of data supplied to us by the leading distributors.

4.97. The exhibition market measured in terms of box office, excluding VAT, was worth about £289 million in 1993 (see Table 4.7). This is almost double, in nominal terms, the figure for 1988. Box office takings, including VAT, in the UK have risen from £136 million in 1984 (including levy) to about £340 million by 1993, with most of this increase being due to inflation and the recovery in admissions (though there has also been some real increase in ticket prices, particularly at multiplex cinemas (see paragraph 4.118)).

4.98. Measured by film rental payments, MGM Cinemas is the largest exhibitor, with an average market share of just under 27 per cent over the four-year period 1990 to 1993 (see Table 4.8). (Although year-to-year fluctuations in exhibition are less than in distribution, for consistency we chose to measure market shares on the same basis for the distribution and the exhibition markets.) The next two largest exhibitors are Odeon (a little under 21 per cent) and UCI (20 per cent). UCI's market share, including the two CIC-owned cinemas in the West End, has grown from almost 12 per cent in 1988 to about 22 per cent by 1993. Between them, the five leading exhibitors accounted for about 78 per cent of film rental payments to distributors over the four-year period. Their share of rentals has been increasing over the years, from just under 70 per cent in 1988 to almost 80 per cent in 1993, thanks to the rapid growth of the three specialist multiplex operators.

4.99. Market shares measured in terms of box office receipts are not in general significantly different from those measured by rental payments. A comparison of the data in Tables 4.7 and 4.8 shows that for most of the years 1988 to 1993 (but not for 1991 and 1993), the five leading exhibitors accounted for a smaller share of rental payments than of box office. In other words, on average they tended to pay a slightly smaller share of their box office receipts as rentals to the distributors than did the independent exhibitors. In 1991 the opposite appears to have been the case, ie the five leading exhibitors accounted for a higher share of rental payments than of box office, and in 1993 their share was about the same under both measures.

4.100. While we have measured the size of the exhibition market in terms of film rental payments and box office receipts, it should be remembered that exhibitors also generate revenue from concession income (the sale of drinks, popcorn, confectionery and so on) as well as from screen advertising. While this revenue arises from the exhibitors' function as an exhibitor of films, distributors are not entitled to receive a share of it. For the five leading exhibitors these activities contributed about 22 per cent of total revenue during the five-year period 1989 to 1993 (see paragraph 5.34).

TABLE 4.7 **Exhibitors' box office receipts, excluding VAT, from the showing of films in cinemas in the UK, 1988 to 1993**

Exhibitor	*1988*		*1989*		*1990*		*1991*		*1992*		*1993*		*1990 to 1993*	
	£m	*%*	*£m*	*%*	*£m*	*%*	*£m*	*%*	*£m*	*%*	*£m*	*%*	*£m*	*%*
Leading exhibitors														
MGM Cinemas	53.13	5.5	60.53	1.5	58.0	26.9	64.5	26.0	70.0	27.8	73.8	25.5	266.4	26.5
UCI (including CIC)	15.8	10.6	28.5	14.9	40.0	18.4	47.2	19.0	51.4	20.4	59.5	20.6	198.1	19.7
Odeon	35.9	24.0	43.0	22.4	48.3	22.4	55.3	22.3	51.0	20.3	56.5	19.6	211.1	21.0
Natl Amusements	1.0	0.7	5.7	3.0	14.0	6.5	15.9	6.4	17.8	7.1	23.5	8.1	71.2	7.1
Warner Theatres	3.7	2.5	4.1	2.1	7.6	3.5	10.4	4.2	11.2	4.5	15.7	5.4	44.8	4.4
Sub-total	**109.5**	**73.2**	**141.8**	**73.9**	**167.9**	**77.1**	**193.3**	**77.8**	**201.4**	**80.1**	**229.0**	**79.2**	**791.6**	**78.6**
Independent exhibitors														
Sub-total*	**40.0**	**26.8**	**50.0**	**26.1**	**50.0**	**22.9**	**55.0**	**22.2**	**50.0**	**19.9**	**60.0**	**20.8**	**215.0**	**21.4**
Total*	**149.5**	**100.0**	**191.8**	**100.0**	**217.9**	**100.0**	**248.3**	**100.0**	**251.4**	**100.0**	**289.0**	**100.0**	**1006.6**	**100.0**

Source: MMC, based on data from the companies.

*Estimated by the MMC.

TABLE 4.8 **Exhibitors' rental payments for the showing of films in cinemas in the UK, 1988 to 1993**

Exhibitor	*1988*		*1989*		*1990*		*1991*		*1992*		*1993*		*1990 to 1993*	
	£m	*%*	*£m*	*%*	*£m*	*%*	*£m*	*%*	*£m*	*%*	*£m*	*%*	*£m*	*%*
Leading exhibitors														
MGM Cinemas	21.1	36.3	24.2	30.1	20.8	25.2	22.0	25.9	25.9	30.2	26.8	25.9	95.5	26.7
UCI (including CIC)	6.8	11.6	12.2	15.2	14.5	17.6	16.5	19.4	17.9	20.8	22.6	21.9	71.5	20.0
Odeon	14.0	24.1	17.0	21.1	17.5	21.2	20.0	23.5	17.4	20.3	18.4	17.8	73.3	20.5
Natl Amusements	0.4	0.7	2.0	2.5	4.8	5.8	5.4	6.3	5.9	6.9	7.9	7.6	24.0	6.7
Warner Theatres	1.4	2.4	2.0	2.5	2.6	3.1	3.4	4.0	3.4	4.0	5.4	5.2	14.8	4.1
Statistical adjustment*	-3.1	-5.3	-2.4	-3.0	+0.9	+1.1	-0.7	-0.8	-3.0	-3.5	+0.9	+0.9	-1.9	-0.5
Sub-total	**40.6**	**69.8**	**55.0**	**68.4**	**61.1**	**74.0**	**66.6**	**78.3**	**67.5**	**78.6**	**82.0**	**79.3**	**277.2**	**77.6**
Independent exhibitors														
Sub-total†	**17.6**	**30.2**	**25.4**	**31.6**	**21.5**	**26.0**	**18.5**	**21.7**	**18.4**	**21.4**	**21.4**	**20.7**	**79.9**	**22.4**
Total†	**58.2**	**100.0**	**80.4**	**100.0**	**82.6**	**100.0**	**85.1**	**100.0**	**85.9**	**100.0**	**103.4**	**100.0**	**357.1**	**100.0**

Source: MMC, based on data from the companies.

*Because of different accounting periods and other relatively minor differences, the data provided to us by the leading exhibitors about their rental payments to the leading distributors did not match exactly the equivalent data provided to us by the leading distributors about their rental receipts from the leading exhibitors. In the event, it did not prove possible to eliminate entirely the resulting differences. We therefore used the figures supplied by the leading distributors in compiling the data for Table 4.8, and adjusted the exhibitors' data as necessary in order to bring them into line with the distributors' figures.

†Estimated by the MM

Multiplex cinemas

4.101. Multiplex cinemas are purpose-built cinemas (as opposed to conversions) with multiple screens (at least 5 and usually between 8 and 12), located mainly on green-field sites (often as part of a larger shopping or leisure complex). They incorporate modern audio and visual equipment, a large foyer with a wide selection of refreshments, and free car parking. Multiplex operators claim to offer an `entertainment experience' for the consumer in secure and very comfortable surroundings. These new cinemas have stimulated further investment in older cinemas, many of which have been modified and upgraded (eg by converting single-screen cinemas into multi-screen cinemas, and by installing new equipment).

4.102. The rapid development of multiplexes in the late 1980s is apparent from Table 4.9. By July 1994 there were 71 multiplex cinemas in the UK (with two more due to open in August 1994), accounting for about one-tenth of all cinema sites, about one-third of all screens, and about one-quarter of all cinema seats. By the end of 1993, about 40 per cent of all visits to UK cinemas were to multiplex cinemas. The locations of all 71 multiplex cinemas are shown in Figure 4.3, together with the 13 locations where multiplex cinemas are expected to open in the next few years. Table 4.9 indicates that the pace of openings of multiplexes slowed down between 1991 and 1993. Warner Theatres told us that it planned to open a further seven multiplexes by 1995, while other leading exhibitors are also planning to add a few to their chains of multiplexes. Some operators are considering the desirability of opening new so-called miniplex cinemas (ie newly-built cinemas with fewer than five screens) in locations where a larger cinema could not be financially justified.

TABLE 4.9 **Multiplex cinemas in the UK**

Year	*Multiplex sites*	*Multiplex screens*	*As % of all screens**
1985	1	10	1
1986	2	18	1
1987	5	44	3
1988	14	139	10
1989	29	285	19
1990	41	387	24
1991	58	516	29
1992	64	562	32
1993	70	625	32
1994	71	638	33

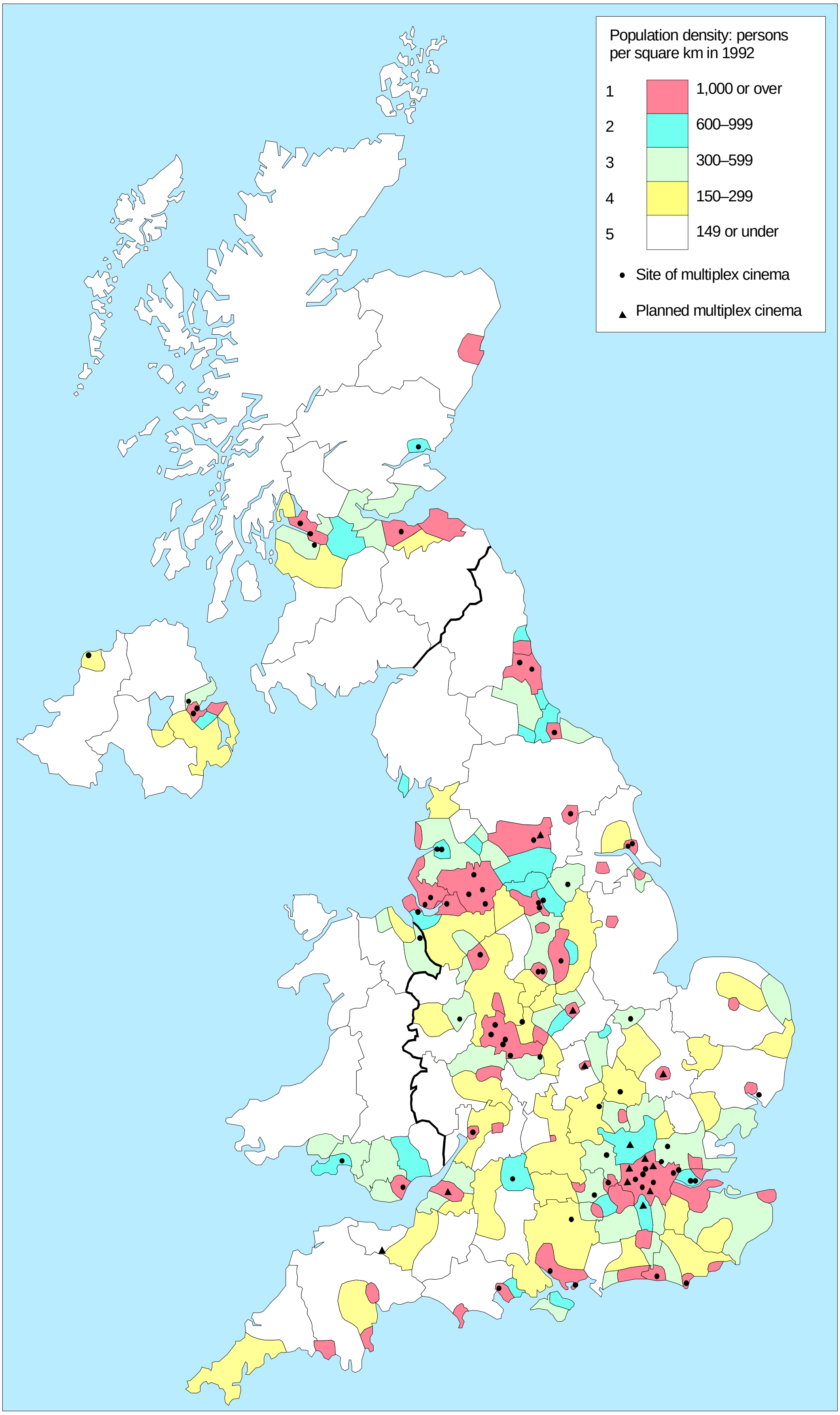
Source: MMC, based on data from the companies, CAA and Dodona Research.

*That is, as a percentage of those screens which accepted advertising (not all cinema operators accept advertisements for showing on their screens).

4.103. The first multiplex cinema, The Point in Milton Keynes, was opened in late 1985 by AMC, a US exhibition company unconnected to production and distribution interests. In 1988 AMC sold its chain of 19 multiplex cinemas, either built or under development, to UCI, a joint venture between CIC NV and United Artists Communications Inc (UA) which continued to develop the chain. CIC NV then transferred its multiplex interests to UCI which, since 1990, has been owned by Paramount and MCA Inc following UA's decision to withdraw from the joint venture. UCI continues to be the largest operator of multiplexes in the UK, where it now has 225 screens at 24 sites (see Table 4.10).

FIGURE 4.3

Locations of multiplex cinemas in the UK, July 1994



Source: MMC, based on:
(a) Population density: CSO's *Regional Trends (1994 edition)*, HMSO.
(b) Multiplex locations: information from exhibitors.

TABLE 4.10 **Operators of multiplex cinemas in the UK, as at July 1994**

	Multiplex sites	*As % of sites*	*Multiplex screens*	*As % of screens*	*Multiplex seats*	*As % of seats*
UCI	24	33.8	225	35.3	50,687	32.9
MGM Cinemas	17	23.9	125	19.6	30,765	20.0
Natl Amusements	10	14.1	127	19.9	32,718	21.2
Warner Theatres*	9	12.7	84	13.1	23,176	15.0
Odeon	8	11.3	56	8.8	13,256	8.6
Independent cinemas†	3	4.2	21	3.3	3,567	2.3
Total	71	100.0	638	100.0	154,169	100.0

Source: MMC, based on data from the companies and as published in *Screen Digest*, February 1994.

*Including the nine-screen Warner West End, which is a city centre multi-screen conversion rather than a purpose-built cinema.

†All in Northern Ireland, ie The Movie House cinemas in Glengormley (six screens, which opened in 1990) and in Belfast (eight screens, which opened in late 1992), and the Strand Omniplex in Londonderry (seven screens, which opened in October 1993).

4.104. The next largest operator of multiplex cinemas is MGM Cinemas which has 17. Natl Amusements, now the fourth largest exhibitor in the UK (after MGM Cinemas, Odeon and UCI), is owned through intermediate holding companies by Mr Sumner Redstone (a US citizen) and members of his family. It opened its first Showcase multiplex in Nottingham in 1988, and by the end of 1993 it was operating ten, all of them with 12 or 14 screens (its 11th cinema is due to open in Bristol in August 1994). Warner Theatres opened its first multiplex in Bury in 1989 and has since opened a further seven, with 75 screens in total (excluding the recently reopened nine-screen Warner West End in London). Odeon currently operates eight multiplex cinemas, and is due to open its ninth in Taunton in August 1994. There are three independent multiplex cinemas in Northern Ireland.

4.105. Unlike many other cinemas, multiplex cinemas expect to receive on first release most of the films they want to show. However, when multiplex cinemas first appeared in the UK this was not the case (see paragraph 8.103 and also paragraphs 7.51 and 7.59).

4.106. UCI told us that until 1989 certain aligned distributors refused to supply films for some of its cinemas until up to four weeks after first release. This practice effectively ended in 1989 when the Order prohibiting barring came into effect (see paragraphs 3.14, 3.15 and 4.168). All distributors of mainstream (as opposed to arthouse) films now appear to regard the supply of first-release films to all multiplexes (as well as the two main circuits) as their highest priority in planning the release of popular films and determining the number of prints to be made.

4.107. With their large numbers of screens, multiplex operators have more scope to keep on films that are performing well, and also to switch films with lesser appeal from larger auditoriums to smaller ones. From the point of view of the cinema-goer, the presence of so many screens in one cinema makes for a wide choice of films. Some of the multiplex operators, however, told us that they had found it difficult to attract audiences for arthouse films, and that they now showed such films only to a small extent, eg on one screen for one day a week.

Activities of film exhibitors in the UK

The booking of films

4.108. In the UK, release dates for new films are set for Fridays so that new releases can attract the best potential audiences over the coming weekend. Every Monday discussions take place between exhibitors and distributors, in the light of the previous weekend's box office figures, about which films are to be kept on at cinemas for the show-week beginning the following Friday and which are to be taken off to make way for new films. Sometimes difficult negotiations can take place, particularly when the distributor thinks that the film should be kept on and the exhibitor wants to take it off, but the negotiations have to be completed quickly so that exhibitors can meet their copy deadlines for advertising their programmes in local newspapers.

4.109. The leading exhibitors seek to plan their future programmes, and make their film bookings for new releases, well in advance. This is very important for organizing marketing and pre-release publicity. Because of the uncertainty about how well films will perform, exhibitors maintain considerable flexibility to determine their programmes in detail week by week to respond to consumer demand. Decisions on which films to book are made centrally, with relatively little discretion given to local managers. Local managers may be involved in the decisions about which screens, in a multiple-screen cinema, films should be shown on, and whether or not there may be scope (given the interests of the local area) for special presentations (eg late night shows, the showing of films of local interest one weekday evening a week, or even supporting or establishing a local film club). Independent cinemas do not plan as far ahead as the leading exhibitors, and beyond the month ahead they may have no firm knowledge of what particular films they will be showing. One of the more frequent complaints of independent exhibitors was about their difficulties in obtaining popular films from the leading distributors.

4.110. Leading exhibitors told us that they selected those films which they judged would maximize cinema attendances, subject to providing a broad range of films for the public. They recognized the need to encourage demand for films which had limited audience appeal; when exhibited in selected cinemas and at certain times these could attract reasonable audiences. When films have been first released in the USA, their performance there provides a useful, but not infallible, indicator to their likely appeal to UK audiences.

4.111. MGM Cinemas told us that it reserved dates well in advance for major releases, but these reservations were only provisional until its bookings department had viewed the films. If MGM Cinemas was unsure of a film's commercial potential, it insisted on seeing it before reserving dates. Few films from independent distributors had the clear commercial potential to justify advance reservations of dates, and it was at times difficult for independent distributors to find dates if their films became available for viewing at short notice. Odeon said that, following discussions with any distributor, it might `pencil in' dates for exhibition, but all such provisional bookings were subject to viewing by its booking staff.

4.112. The general practice in the industry is that a film distributor seeking a broad release for a film normally speaks first to whichever of the two main circuits, MGM Cinemas or Odeon, it is aligned (see paragraph 4.159). Subsequently, the three multiplex operators are informed of the agreed release dates, and offered the same films for the same dates.

Advertising and promotion

4.113. The advertising and promotion of films are mainly carried out by the distributors (see paragraph 4.66), though the leading exhibitors may participate in national advertising and promotional activities in support of particular films, and all exhibitors normally place advertisements in local newspapers giving details of films and the times of performances at their cinemas. In addition, some cinema-based promotional and advertising activity does take place (eg posters outside the cinema or in the entrance foyer or, where space allows, more extensive displays in the foyer), and this can, we were told, have a favourable impact on the success of films of less obvious commercial potential.

Cinema Exhibitors' Association

4.114. The CEA is the only trade association representing cinema exhibitors. It said that its membership accounted for approximately 90 per cent of cinema operators in the UK, including the five leading exhibitors as well as most independent exhibitors. The CEA's views are summarized in paragraphs 6.2 to 6.18.

Ticket prices

4.115. It is the common practice among exhibitors to set prices on the basis of the particular cinema or screen and not on the basis of an individual film. Exhibitors generally believe that to charge more for the most attractive films would alienate customers and would suggest that the films for which ticket prices were lower were not worth seeing. However, prices do vary by locality, with none of the major exhibitors having a uniform national admission price. The quality of the cinema may also be reflected in the price: the more modern and better-equipped multiplexes tend to charge higher prices than the older cinemas.

4.116. Within a given cinema, prices vary according to category of customer (lower prices being generally offered to children, pensioners and students), and according to the day of the week and time of the day. Concessions to those categories of customers mentioned have a substantial effect on box office takings.

4.117. There is not much difference in average prices charged among the leading exhibitors. Table 4.11 sets out, for each of them, the average adult evening admission charge and the average realized seat price (both for 1993). Our survey of independent cinemas (see paragraph 4.85 and Appendix 4.4) found that, on the whole, admission charges to independent cinemas were slightly lower than for cinemas operated by the leading exhibitors.

TABLE 4.11 **Average price levels of the leading exhibitors**

	(a) *Average adult evening admission charge in 1993* £	*(b)* *Average realized seat price in 1993* £	*(c)* *(a) - (b) as % of (a)* %
MGM Cinemas (124 cinemas)	3.55	2.69	24
Odeon (64 cinemas*)	3.82	2.93	23
UCI (23 cinemas)	3.71	2.68	28
Natl Amusements (10 cinemas)	3.79	2.73	28
Warner Theatres (8 cinemas)	3.41	2.21	35

Source: MMC, from information supplied by the leading exhibitors.

*That is, those 64 of its cinemas where prices are uniform throughout the week for all screens. At Odeon's eight other cinemas prices vary by screen and/or day.

4.118. Table 4.12 sets out the changes in average realized seat prices between 1988 and 1993. The table shows that MGM Cinemas, UCI and Natl Amusements have increased their prices significantly faster than inflation (as measured by the increase in the RPI), whereas the increase in Odeon's prices over the period was virtually the same as that of the index (despite the fact that during this period, mainly during 1990 and 1991, it introduced premium-priced seats in its cinemas). The figures may reflect in part improvements in the average quality of the cinemas in a given chain. For example, MGM Cinemas said that increases in its average prices was partly the consequence of the closure of some of its cheaper cinemas. While Odeon still had the highest average realized prices at the end of the period, it said that this to some extent reflected the fact that it had a relatively high proportion of its cinema seats in the more expensive London area. In contrast, the fall in Warner Theatres' average price is largely due to the opening of new multiplex cinemas outside London with lower admission charges than those at its Warner West End cinema in London, which was its only cinema until mid-1989.

TABLE 4.12 **Average realized seat prices, 1988 to 1993 (nominal prices, unadjusted for inflation)**

	1988 £	*1989* £	*1990* £	*1991* £	*1992* £	*1993* £	*% change 1988 to 1993*
MGM Cinemas: multiplexes	1.89	2.04	2.38	2.67	2.84	2.83	+50
other cinemas	1.87	1.94	2.19	2.51	2.58	2.62	+40
Odeon	2.20	2.34	2.49	2.78	2.93	2.93	+33
UCI	1.74	2.03	2.35	2.44	2.60	2.68	+54
Natl Amusements	1.88	2.19	2.49	2.59	2.62	2.73	+45
Warner Theatres	3.31	3.18	2.92	2.78	2.41	2.38	-28
Retail price index							+32

Source: MMC.

4.119. There are a number of factors that constrain prices in the wider context of the leisure sector. The availability of films on video cassette (either through rental or purchase) is likely to have some influence on exhibitors' prices. Some account in setting prices has to be taken of alternatives to a visit to the cinema, for example attending a theatre or concert, or a visit to a pub or restaurant. The prices charged by other cinemas in the locality provides a more immediate constraint. This is less effective in areas of lower population density, where the nearest competing cinema may be many miles away, but prices are noticeably lower in some places where two of the leading exhibitors have cinemas close to each other. (This does not apply to the West End of London, where prices are markedly higher than in the rest of the UK.)

4.120. We have also been given evidence of competitive price responses. In some cases this took the form of lower admission charges as an inducement to increased admissions, in part at the expense of nearby cinemas. In other cases there have been price promotions, such as `two seats for the price of one', that have been introduced by the major chains as well as by independent exhibitors.

4.121. We also considered whether cinema admission charges in the UK tended to be higher or lower than those in other European countries. We have seen two international comparisons of cinema prices, namely the *European Cinema Yearbook 1993 (ECY)* and *Screen Digest* September 1993, both of which suggested that average admission charges in the UK have in recent times been slightly lower than the average in other EC countries.

New investment

4.122. Cinema exhibitors have invested heavily during the past decade in the building of new cinemas and screens, the installation of new projection and audio equipment, the provision of comfortable seating in tiered auditoriums in order to improve line of sight and the provision of car-parking facilities. The CEA told us that, based on a survey it had conducted, £601 million had been invested in new screens, refurbishment and car-parking facilities since 1984/85. Capital expenditure by the five leading exhibitors during the six-year period from 1988 to 1993 amounted to almost £390 million (see paragraph 5.44). Whilst much of this new investment has been in the building of multiplexes, considerable investment in the upgrading of existing cinemas in town centres has also occurred (eg Odeon has invested heavily in recent years in the modernization of its existing cinemas and their conversion to multi-screen operation).

4.123. Of the two main circuit exhibitors, MGM Cinemas now has 17 multiplexes and Odeon eight. MGM Cinemas told us that it would have built more in the UK in the period 1986 to 1990 had it not been required to transmit funds to its overseas parent company. There is keen competition between the leading exhibitors for sites suitable for the construction of new multiplex cinemas (see also paragraph 4.127). We were told of several instances where, in public tenders, one or more of the exhibitors withdrew its interest because it appeared that the price had become too high given the likely construction and operating costs.

4.124. Two exhibitors separately expressed their concerns to us that UCI's and Warner Theatres' investment in new multiplex cinemas was not based on strictly commercial grounds viewed as stand-alone investment in exhibition, but rather was justified partly by the increased rentals which UCI and Warner Theatres then generated for their parent studios' films (see also paragraphs 7.181 and 7.182). They suggested to us that if this was in fact the case, competition in the exhibition market in the UK was being distorted by such new investment.

4.125. The MMC's questionnaire survey of independent cinemas (see paragraph 4.85) showed that about 80 per cent of respondents had invested in their cinemas in the three-year period 1991 to 1993. In some cases the sums involved were substantial, up to £0.5 million at one site.

Prospects for new entry

4.126. The prospects for new entry into the exhibition market are decided largely by three factors: the availability of sites with prospects for successful planning applications (either for new building or for conversion or renovation); the capital costs of entry and access to the necessary finance; and the readiness of distributors to provide prints.

4.127. We were told that it was becoming increasingly difficult to identify new sites for multiplex cinemas. This was a particular problem in the Greater London area. Many of the best sites had already been taken, and competition from other uses, as well as planning restrictions, meant that the opening of new multiplex cinemas was likely to be less frequent than it had been. UCI said that there was fierce competition between itself and other exhibitors for the limited number of suitable sites. So far as smaller cinemas are concerned, we were told that opportunities existed to invest in existing sites, or to build new cinemas in areas not already served by multiplexes.

4.128. Natl Amusements told us that the capital costs of its cinemas varied between £6 million (for its Derby Showcase) to over £10 million (for its Leeds and Teesside cinemas). At the other end of the scale, we understand that the Richmond Filmhouse (a single-screen cinema, but fitted out, we were told, to a high standard) cost about £0.5 million.

4.129. It is now the case, but it was not in their early days, that multiplex cinemas have few difficulties in obtaining prints. Smaller cinemas may face difficulties, particularly in obtaining prints on first release; their success in doing so will depend on whether distributors believe rental payments will cover the cost of the additional prints.

Appeals procedure

4.130. Differences between distributors and exhibitors are now resolved through negotiation between the parties concerned, rather than by recourse to any procedure involving, for example, representatives of the SFD and the CEA. A formal appeals procedure, involving a TDC and an Appeals Tribunal, was established following the MMC's 1966 report. These arrangements are effectively in abeyance (see paragraph 3.16). The principal purpose of the TDC was to resolve disputes over the application of the old system of barring (see paragraph 4.168). Once barring had been made unlawful by the 1989 Order (see paragraph 3.15), which implemented one of the recommendations of the MMC's 1983 report, this function disappeared, and the machinery has not been used to deal with other complaints.

Relationships between distributors and exhibitors

The SFD's *Standard Conditions*

4.131. The *Standard Conditions* (the full text of which is at Appendix 4.3) contain a number of clauses which affect commercial relationships between distributors and exhibitors. For example, they specify that: `The Exhibitor shall charge such admission prices at the cinema during the licence period as shall be agreed by the Distributor' (Clause 2(g)). This means that the exhibitor has to notify distributors in advance of any proposed price changes. A reduction in admission prices may affect a distributor's willingness to book films into a particular cinema, since the effect is likely to be a reduction in the distributor's rental receipts per admission.

4.132. During the first half of 1993, the SFD became concerned about the growth in the number of price promotions being introduced by exhibitors, such as `two seats for the price of one'. Some of these promotions, introduced by the major chains as well as independent exhibitors, had not been approved by distributors in advance and were thus unauthorized. The minutes of the meeting of the Sales Managers Committee of the SFD, held on 30 June 1993, recorded a statement by the SFD President that `the intervention of the Society had led to the curtailment of such promotions'.

4.133. The *Standard Conditions* also limit an exhibitor's freedom to show any other film it may wish to during the licence period for any one film. Thus, according to Clause 5(a), unless the distributor agrees otherwise, an exhibitor must show the licensed film each day of the licence period. Furthermore, Clause 5(b) requires that a film be shown at all times during the day when films would normally be shown (excluding children's matinées and late night shows) unless otherwise agreed by the film's distributor. Exhibitors may not switch a film from one screen to another (Clause 5(d)), nor show another feature film in the same programme (Clause (6)), without the distributor's agreement.

4.134. The SFD explained to us the background to its *Standard Conditions*, and the reasons for introducing some of the provisions (see paragraphs 6.39 and 6.42 to 6.47). The CEA made a number of comments to us about the *Standard Conditions* (see paragraphs 6.12 to 6.15).

Rental payments

4.135. Data from the leading exhibitors show that the average rental they paid for feature films during the period 1989 to 1993 was about 36 per cent of the box office (excluding VAT) (see Table 5.8). The *ECY* gives a figure of 40 per cent as the average film rental in the UK for each of the years 1989 to 1991. Although the data we received indicate that this estimate was too high, it is lower than equivalent figures (as reported in the *ECY*) in France (48 per cent), Germany (44 per cent), and Italy (41 per cent). Some of the leading distributors told us that the average level of rentals in the UK, expressed in percentage terms, was very low by international standards.

4.136. There are three main methods of calculating rental payments: the nut; the sliding scale; and the datum scale.

(a) The *nut* is a negotiated figure which notionally represents the cinema's costs (including a contribution to overhead costs) for a given screen plus a profit margin (see also Appendix 4.5). The rental for that screen is then the greater of: (i) 25 per cent of the weekly box office; and (ii) 90 per cent of what is left of the weekly box office after deducting the nut (though this percentage may vary between 75 and 90).

Example: Assume that the negotiated nut figures for a three-screen cinema are:

	£
Screen 1	5,231
Screen 2	2,846
Screen 3	1,923
Total	10,000

In this case, if Screen 1's box office receipts for a film in week 1 were £7,000, the cinema's rental payment to the distributor that week would be the higher of:

$$(£7{,}000 - £5{,}231) \times 0.9 = £1{,}592 \text{ and}$$
$$£7{,}000 \times 0.25 = £1{,}750$$

ie £1,750, being 25 per cent of the box office.

If, in the second week, the film was transferred to Screen 2 and the box office receipts fell to £5,000, the rental payment would be the higher of:

$$(£5{,}000 - £2{,}846) \times 0.9 = £1{,}939 \text{ and}$$
$$£5{,}000 \times 0.25 = £1{,}250$$

ie £1,939, being 38.9 per cent of the box office.

(b) Under the *sliding scale* method, the percentage of weekly box office takings for each screen paid to the distributor rises (usually from 25 per cent in steps of 5 per cent) as those box office takings rise over the pre-set break figures for the screen. It is usual under this arrangement for the maximum payment to be 50 per cent of the box office, except when special terms (see paragraph 4.140) are agreed on individual films which take the scale above 50 per cent. In some cases, the exhibitor may agree a guaranteed minimum payment to the distributor which is higher than the normal 25 per cent.

Example: Effect of the sliding scale method for a two-screen cinema where Screen 1 has a lowest break figure of £6,624 and Screen 2 a lowest break figure of £3,566:

Film hire rate	*Box office takings (£)*	
	Screen 1	*Screen 2*
%	£	£
25	<6,624	<3,566
30	≥6,624	≥3,566
35	7,609	4,097
40	8,593	4,627
45	9,583	5,160
50	10,568	5,690

In this case, if Screen 1's box office receipts in week 1 were £10,000, the cinema would pay a rental to the film's distributor that week of £4,500 (ie 0.45 × £10,000). If the box office receipts fell (by 30 per cent) to £7,000 in week 2, the payment to the distributor would fall (by 53 per cent) to £2,100 (ie 0.30 × £7,000). If the film transferred to Screen 2 in week 3, and took only £5,500, the payment to the distributor would rise to £2,475 (ie 0.45 × £5,500).

(c) The *datum scale* is a variation of the sliding scale method.

Example: 25% to £2,000 with 75% over and a 50% maximum.

Thus:	Net take	=	£2,200
	Rental	=	(£2,000 × 0.25) + (£200 × 0.75)
		=	£500 + £150

ie £650, being 29.5 per cent of the box office.

4.137. Another method sometimes used is the *straight percentage*, which is agreed on a film-by-film basis. For example, some distributors supply first-run films to RFTs at a flat rate of 35 per cent. In the case of second-run cinemas, ie those in which the film plays after it has been shown in other cinemas in the same locality, some distributors normally charge a flat fee of 25 per cent, with a minimum guaranteed to cover dispatch costs.

4.138. The different methods of calculating rental payments have been adopted by the various exhibitors as follows:

- *Nut*: MGM Cinemas, UCI, Natl Amusements, Warner Theatres and some independent cinemas.
- *Sliding scale*: Odeon and some independent cinemas.
- *Datum scale*: Some independent cinemas.
- *Straight percentage*: Some independent cinemas, including several RFTs.

4.139. All these methods, to varying degrees, reflect the general desire throughout the industry to manage and share the risk involved in the production, distribution and exhibition of feature films. Apart from the straight percentage method, their effect is to place most of the risk of a film performing poorly on to the distributor, whose share of the takings rises as the level of receipts rises. If an audience of a given size is spread over two cinemas, the distributor's share of the box office is lower than if the same audience is concentrated in one of the two cinemas. This dilution is more pronounced, particularly for very successful films, in the case of the house nut system than the sliding scale. The desire to avoid audience splitting, with the consequent reduction in rental payments, is one of the most important factors in leading distributors to restrict the number of prints for any film.

4.140. Most distributors said that they sometimes negotiated special terms. For films expected to be very popular, distributors may seek from exhibitors using the house nut method a minimum rental higher than the normal 25 per cent. But special terms apply more often to cinemas not using the house nut method. In such cases distributors may seek to negotiate `overage' for such films, ie the exhibitor agrees to pay a rental of more than 50 per cent if the film's box office takings exceed the 50 per cent break figure by more than a specified amount. If the particular films are successful, overage terms enable the distributor to take a larger percentage of the box office. Overage terms vary from film to film and from cinema to cinema.

4.141. Several, but not all, distributors said that they consulted other distributors about a particular cinema's break figures or nuts if the exhibitor referred in negotiation to what other distributors had agreed. One distributor said that it checked with other distributors from time to time that they were using the same figures, so that it could take advantage of better figures which another distributor might have been able to negotiate.

4.142. In general, the method of calculating the rental payments is decided by the exhibitor, but the actual nut or break figures have to be agreed with distributors on a cinema-by-cinema basis. Nut and break figures are renegotiated from time to time, usually once a year, at the initiative of exhibitors. One distributor said that the terms negotiated between distributors and exhibitors were affected by alignment: it told us that MGM Cinemas had operated three sets of standard terms, with the most favourable given to its two aligned distributors (UIP and Warner Distributors), slightly less favourable terms to its non-aligned leading distributors (Buena Vista, Columbia and Fox), and the least favourable terms to all the independent distributors. This distributor acknowledged that MGM Cinemas had recently, as an outcome of negotiations during early 1994, placed the major independents on an equal footing with the leading distributors in this respect. Nevertheless, we looked carefully at the nut and break figures for each of the leading exhibitors, as at the end of 1993, to establish whether or not they showed such differentials (see Appendix 4.5).

Vertical integration and links between companies

4.143. One of the factors that has in the past given rise to concern about competition in the film industry is the number and complexity of links between the companies. The DGFT mentioned vertical links as one of the reasons for the reference to the MMC (see paragraph 3.1).

4.144. The main links are those that involve the seven Hollywood studios. They may be horizontal (mainly in the form of joint ventures) or vertical (ie connecting businesses operating at the three levels of the industry, namely production, distribution and exhibition). Links between companies of different kinds can vary greatly in their commercial significance. Some are formal, for example ownership links, while others may be more a matter of commercial practice.

4.145. Links between the production and distribution of films have traditionally been strong. All the main seven Hollywood studios have adopted the same strategy and either own or have a large share in a distribution company, and the general practice has been to use that company as the studio's sole distributor in the main territories. Four of the seven (Columbia/TriStar, 20th Century Fox, Walt Disney and Warner Bros) have their own respective UK distribution subsidiaries. The other three studios (MGM Inc, Paramount and MCA/Universal) operate a joint-venture distribution company (UIP), each holding a one-third share. A brief outline of the market in the USA is given in Appendix 4.6.

4.146. While independent distributors are also involved, to varying extents, in the financing of films in order to obtain distribution rights, they do not participate in the development of ideas for films, nor do they initiate or have much influence over film production. Rank, in addition to investing in film production through RFD (see paragraph 4.79), also owns Pinewood which, unlike the Hollywood studios, provides studio facilities for film production without itself being involved in film-making.

4.147. Some, but not all, of the Hollywood studios have ownership links with exhibitors. In three cases (Columbia/TriStar, 20th Century Fox and Walt Disney) the studio has no interests in exhibition in the UK. By contrast Paramount and MCA/Universal have formed a joint venture (as they have also done at the distribution level in partnership with MGM Inc) and this company (UCI) is a leading exhibitor in the UK. Natl Amusements has also recently become linked to Paramount, which was acquired by its affiliated company Viacom Inc. Warner Bros is the only studio which has a wholly-owned UK exhibition operation (Warner Theatres). As well as its distribution interests, Rank owns the Odeon exhibition circuit. In the case of MGM Inc, there is also a link between production and exhibition, but an indirect one: the studio and the UK exhibitor (now MGM Cinemas) were both acquired by Mr G Parretti, before his interests came under the control of the French bank Crédit Lyonnais as a result of foreclosure. MGM Cinemas told us that it had no remaining connection with MGM Inc, and that it now reported, via its immediate parent, straight to Crédit Lyonnais. A number of the smaller independent distributors also have modest interests in exhibition.

4.148. Informal links involving distributors and exhibitors are described in paragraph 4.159. The system of `alignment' connects the Odeon circuit with a number of distributors, and MGM Cinemas' circuit with the two largest distributors.

4.149. We asked each of the leading exhibitors how they decided which films to exhibit in the UK, whether or not any ownership links between them and any film distribution or production company constrained their ability to act independently in choosing films for exhibition in their cinemas, and how readily independent producers obtained access to screens in the UK for their films.

4.150. The general response was that each of the leading exhibitors chose which films to show by reference to their box office potential, although some said that they also aimed to show a varied range of films. The main factors they took into account when deciding which films to show in which cinemas were the cinema's locality and catchment area in relation to the film's potential audience profile. The multiplex operators emphasized the potential size of the box office for the film, with a preference for showing films which were likely to generate the largest audiences. Some multiplex cinemas give limited showings for films which were expected to appeal to a limited audience.

4.151. MGM Cinemas (owned by Crédit Lyonnais) said that it had no links with any film production or distribution companies. UCI said that its ownership links did not constrain its ability to act independently in choosing which films to exhibit, nor did they cause it to treat Paramount, MCA/Universal or UIP differently from other production or distribution companies. Odeon told us that it dealt with RFD on an arm's length and normal commercial basis. Natl Amusements said that its links with Paramount through Viacom Inc did not constrain its ability to act independently in the selection of films for exhibition in its cinemas. Warner Theatres told us that its links with other companies imposed no constraints on the decisions as to which films it exhibited, and that it was treated by Time Warner Entertainment Group as a separate profit centre. It said that all its dealings with Warner Distributors, for example with regard to the setting of play dates, choice of screen, length of run and level of rental, were conducted at arm's length. (See also paragraph 4.161.)

4.152. We looked at the rental receipts for the five leading distributors as well as those for Guild and RFD, and compared for each distributor the shares of its rental receipts accounted for by each of the leading exhibitors in relation to the distributor's share of the distribution market as a whole. The figures are given in seven tables in Appendix 4.7. The figures show that UIP had a somewhat greater share of UCI's business than of the exhibition market as a whole in 1991 and 1992 (though not 1993). It can also be seen that Warner Distributors had a somewhat greater share of Warner Theatres' business, excluding the Warner West End, in 1993.

4.153. Commenting on these figures, UCI emphasized that its policy was to show commercially viable films in its multiplexes irrespective of the identity of either the producer or the distributor. It assessed the commercial prospects of each film and chose whether to exhibit any film on the basis of the revenues that

UCI expected the film to generate. When deciding which films to keep on at the end of each week, UCI reviewed new films available against films already playing and allocated films across its screens with a view to generating the highest possible attendances and revenues. Its success in selecting films to meet customer demand was demonstrated by the fact that it achieved the highest levels of attendance per screen and per seat of all the leading exhibitors. UCI submitted information based on box office takings which, it said, showed that UCI had no bias in favour of any particular distributor.

4.154. UIP stressed that its policy and practice were to try to have each of its films exhibited in those cinemas, regardless of ownership, which it believed would maximize its return from that film (subject to the alignments, which did not affect the supply of films to multiplexes anyway). Given the quality of multiplexes, UIP sought to book the majority of its films into all multiplexes. It treated UCI no differently from any other multiplex operator and its experience was that it received substantially identical treatment, both on bookings and holdovers, from all multiplex operators. UIP was unable to comment on the MMC's rental comparisons because it did not have access to all relevant information but on the figures which were available to it, based on admissions and box office receipts, it could find no evidence of any systematic preference in its trading with UCI. It pointed out that neither UIP nor UCI was much involved in the specialist or arthouse part of the market, which UIP estimated accounted for around 3 per cent of total box office receipts. The MMC's comparisons, therefore, overstated the difference between the percentage of UIP's box office receipts, and the percentage of total UK box office receipts, generated by UCI.

4.155. Warner Theatres said that, leaving aside the Warner West End, Warner Distributors' share of its box office receipts, at 26.9 per cent in 1993, was in line with Warner Distributors' overall share which, on the information available to Warner Theatres, was 24.1 per cent in that year.

4.156. In order to test whether exhibitors gave preferential treatment to particular distributors, eg with which they had some ownership or alignment links, we obtained information on the films booked by each of the five leading exhibitors in three of their multiplex cinemas for two six-week periods at the beginning of 1993 and 1994. We examined the gross takings of those films which were kept on from one week to another and also of those films which were taken off, noting in each case the relevant distributor of the film. We chose multiplex cinemas as the basis of this study since, with ten screens or more (eight in the case of Odeon), there was, in principle, some scope for preferential trading compared with those situations (in, say, three-screen cinemas) where pressure on screens is more acute.

4.157. The results showed few occasions where Natl Amusements, Odeon or Warner Theatres retained films with low box office takings at the expense of other films with higher box office takings. UCI appeared to do so to a much greater extent, but it told us that of 50 occasions, in the two periods taken together, where films with low takings were kept on, this was explained in all but three cases by the fact that the films had received relatively few showings, mainly at matinées. Where films were shown in matinées this did not affect the availability of screens for the exhibition of other films in the evening. In UCI's view, the data produced confirmed its statement that it decided which films to keep on and which to take off by reference to their performance at the box office.

4.158. As to the two aligned exhibitors (see next paragraph), we found more occasions in the six-week period in 1994 where films with low takings had been kept on, when other films with higher takings had been taken off, in the case of MGM Cinemas (19 occasions) than Odeon (six occasions). Of those 19 occasions, MGM Cinemas told us that this was explained in 18 cases by their retention for restricted showings, mainly matinées. In the remaining case, MGM told us that it had been asked by the distributor to give up a print to make it available for another exhibitor. Although based on a small sample, this evidence gave no support for the view that MGM Cinemas and Odeon engaged in discrimination in deciding which films to take off and which to keep.

Alignment

4.159. Alignment is an arrangement whereby, in the first instance, a distributor normally offers its films to, and discusses the timing and release strategy for those films with, its aligned circuit, ie either MGM Cinemas or Odeon. In the 20 locations where MGM Cinemas and Odeon operate directly competing cinemas (other than multiplexes), aligned distributors normally supply prints of their films to the cinemas of their aligned circuit but not to those of the other circuit. Aligned to MGM Cinemas are UIP (in respect of Paramount, MCA/Universal and MGM Inc films) and Warner Distributors. Two leading distributors, Buena Vista and Columbia, together with Entertainment, Guild and RFD are aligned to the Odeon circuit, as is UIP in respect of United Artists' films. Fox explained that it normally approached Odeon to discuss the release strategy for its films and would either offer Odeon booking priority or explain why it was not doing so. There was no obligation or understanding that it would give precedence to Odeon. Fox provided a list of the 57 films which it had released since January 1991 or was due to release in the latter part of 1994. Of these, Fox regarded 39 (68 per cent) as having been first offered to Odeon, 4 to MGM Cinemas and 14 to some other exhibitor. Fox also provided a list of Odeon cinemas where its key releases were normally shown in preference to competing sites operated by MGM Cinemas.

4.160. The different parties to alignment claimed that its impact had been much reduced during the past decade partly as a result of closures of cinemas belonging to the two main circuit exhibitors (RFD told us that the number of Odeon cinemas directly affected by alignment had not changed since 1990), but mostly because of the growth of multiplex cinemas, which were not aligned. We received different lists of the locations where alignment currently determines the allocation of films as between the two circuits: that is, those situations where both Odeon and MGM Cinemas have cinemas in town centres, often a few hundred yards apart, and the films of the aligned distributors will not usually be exhibited concurrently in both cinemas (ie the aligned locations). Of the 20 aligned locations, three are in London (but not in the West End) and 17 are elsewhere (see Appendix 4.8). We refer to MGM Cinemas' and Odeon's cinemas in these locations, together with Odeon's cinemas in the West End of London (see next paragraph), as `the aligned cinemas'. MGM Cinemas told us that it did not regard any of its West End cinemas as being aligned, but some distributors treated them as such.

4.161. In central London there is a kind of alignment relating to the supply of films by distributors to the few prestigious West End cinemas. Warner Distributors' films for which a platform release is selected are invariably shown in the Warner West End cinema in Leicester Square. In the West End of London, UIP's films are generally shown at either the Empire cinema in Leicester Square or the Plaza cinema in Lower Regent Street (or both), owned by CIC but managed by UCI. Distributors other than Warner Distributors and UIP requiring a West End showcase usually favour either the Odeon West End or the Odeon Leicester Square.

4.162. The direct effects of alignment may be gauged by measuring what proportion of rental payments made by MGM Cinemas and Odeon to their aligned distributors is derived from the cinemas affected (see Table 4.13). The higher figures shown in Table 4.13 for Columbia and Fox reflect the fact that the aligned cinemas represent a higher proportion of Odeon's circuit (currently 73 sites) than of MGM Cinemas' circuit (119 sites), and the importance of Odeon's West End cinemas. The low figures for RFD are due to the fact that relatively few of RFD's films are shown in the prestigious West End cinemas which bring in high rentals. Looked at from the two exhibitors' point of view, the cinemas in the 20 aligned locations accounted for 32 per cent of the total box office takings in 1992 in the case of Odeon and 17 per cent in the case of MGM Cinemas. The addition of cinemas in central London, where a form of alignment exists, would increase these proportions to 45 per cent for Odeon and 21 per cent for MGM Cinemas. The box office takings of the aligned cinemas in the 20 locations represented 11 per cent of total box office receipts in the UK market in 1992, a figure which rises to 14.5 per cent if the central London cinemas are added.

TABLE 4.13 **Alignment and rental payments**

Distributor	Aligned circuit	*Percentage of the aligned circuit's total annual rental payments which arise from its cinemas in the aligned locations* 1991	1992	1993
UIP	MGM Cinemas	21.0	21.6	20.9
Warner Distributors*	MGM Cinemas	17.7	20.0	27.8
Columbia	Odeon	55.6	48.2	55.6
Fox	Odeon	N/A	N/A	42.4
RFD	Odeon	19.6	19.6	13.6

Source: MMC.

*Excluding Walt Disney films.

4.163. Certain distributors argued that alignment helped to minimize uncertainty in this high-risk industry, thus reducing costs. Outside the aligned locations they supplied films to both the main circuits. They also said that since the practice did not affect the supply of films to multiplexes or to independent cinemas, the significance of alignment had been substantially reduced since the MMC's 1983 report (which reached an adverse public interest finding on the issue). The leading distributors and Odeon maintained that the benefits of alignment extended to independent distributors, but this view was not shared by one of the latter, Entertainment (see paragraph 9.11).

4.164. MGM Cinemas told us that it considered alignment was being wrongly applied to two of its cinemas, both in London (see paragraph 7.19). Warner Theatres told us that it was disappointed to find distributors unwilling to use its refurbished Warner West End as a prestigious cinema for the platform release of any of their main films. This reflected their traditional preferences for certain other West End cinemas.

4.165. Although alignment directly affects only 20 locations, plus those in the West End, its indirect influence may be more widespread, for two reasons:

(a) there are many MGM Cinemas sites which have fewer than four screens (99 of its 127 cinemas are of this size, compared with 24 out of 72 in the case of Odeon) so reducing choice of screens for distributors other than those aligned to MGM Cinemas; and

(b) distributors place their product in the aligned circuit first and only later in the non-aligned circuit.

4.166. In order to measure the extent to which alignment has an impact outside the 20 localities, we made a comparison between each distributor's shares of box office in the smaller cinemas (defined as cinemas with one, two or three screens) of the two circuit exhibitors and its shares in the UK exhibition market as a whole (the total market) in 1992 and 1993 (see Appendix 4.9). In the case of MGM Cinemas, we found that UIP and Warner Distributors took a higher share of both box office and rentals in its 86 smaller cinemas outside the aligned locations than they did in the total market in both 1992 and 1993. The shares of UIP and Warner Distributors of box office and rentals were also higher in these smaller cinemas than in MGM Cinemas' 22 cinemas, outside the aligned locations, with four or more screens. Those distributors not aligned to MGM Cinemas, except Buena Vista, had a lower share of box office and rentals in MGM Cinemas' smaller cinemas than its larger ones, and lower than in the total market. In the case of Buena Vista the reverse was the case, but only marginally so. These findings indicated that even outside the 20 localities, alignment had effects during 1992 and 1993 in MGM Cinemas' smaller cinemas where screen space is at a premium. MGM Cinemas argued that distributors' shares in its small cinemas varied from year to year depending on the relative popularity of films from both its aligned and non-aligned distributors, since only the most popular films would be shown in its smaller cinemas. For example, in the first half of 1994 the relevant box office shares of three non-aligned distributors, Buena Vista, Fox and RFD, had risen sharply in these cinemas due to the popularity of certain individual films, whereas Warner Distributors' share had fallen considerably.

4.167. We also found that both Fox and Columbia took a higher share of box office in Odeon's 13 smaller cinemas than they did in the total market in both 1992 and 1993, and the same was true for Buena Vista in its first full year, 1993. Fox and Columbia also had a higher share of rentals from the Odeon circuit as a whole compared with the total market. UIP and Warner Distributors, which are aligned to MGM Cinemas, both had notably lower shares of box office in Odeon's 13 smaller cinemas than in the total market. They also had lower shares of the Odeon circuit's total box office receipts and rental payments than their shares of the total market. These findings are apparently in line with those relating to MGM Cinemas, indicating that there is an effect of alignment even outside the 20 localities where alignment is acknowledged to bite. However, in Odeon's view the limited sample size and the lack of any clear pattern meant that these findings were inconclusive.

Barring

4.168. The 1989 Order, which came into force (in respect of Great Britain only) on 4 April 1989, made it unlawful for distributors or exhibitors to make or carry out an agreement for the exhibition of a film at a cinema if that agreement contained exclusivity terms relating to more than one film (except if they were shown as a single programme). This put an end to the system of barring, a long-standing arrangement which determined the order in which competing cinemas systematically received films (see the MMC's 1983 report, paragraphs 2.36 to 2.39, where barring is described more fully). We have been told that the barring of named cinemas no longer occurs, even in Northern Ireland where the Order does not apply, though as noted below contractual exclusivity is sometimes negotiated on a film-by-film basis.

Exclusivity

4.169. Exclusivity exists, in the sense in which we use the term, where a particular cinema has the exclusive right, conferred by contract, to show a film within a specified area and for a specified period (it is one of the matters covered by the *Standard Conditions*-see Clause 13). This is different, though the practical effects may be similar, from cases where the distributor confers *de facto* exclusivity on a particular cinema by not supplying prints concurrently to competing cinemas.

4.170. We were told by most distributors that, outside the West End, the only leading exhibitor which now requested contractual exclusivity was Odeon. RFD, however, claimed that other exhibitors, including MGM Cinemas, also requested contractual exclusivity (see paragraph 7.56). While some distributors (UIP, Warner Distributors and First Independent) said that they never granted contractual exclusivity outside the West End, others said that they did so if it fitted in with their own commercial objectives (ie if they would in any case have chosen not to supply the competing cinemas against which an exhibitor sought exclusivity). No distributor told us that it had been coerced by Odeon into granting contractual exclusivity to the detriment of its own commercial interests.

4.171. The four leading exhibitors other than Odeon said that they did not seek contractual exclusivity. MGM Cinemas further said that it considered the negotiation of exclusivity arrangements to be against the spirit of the 1989 Order on barring (see paragraph 7.50). Odeon believed that all distributors granted contractual exclusivity in some circumstances, and it was not aware of any differences between them in their attitudes to exclusivity. Odeon also said that it sought exclusivity for many of the films it exhibited, and that it usually succeeded in negotiating some exclusivity against neighbouring cinemas, although not against multiplexes. It listed 30, out of its (then) total of 72 cinemas, where it regularly sought exclusivity and named the competing cinemas against which it did so. Twenty of these cinemas are in locations subject to alignment, and in most of these locations there are other competing cinemas as well as an MGM Cinemas site. See also the comments of some of the distributors, eg in paragraphs 8.93, 8.100, 9.18, 9.19, 9.21 and 9.22.

4.172. Distributors argued that the substantial new entry into and investment in the exhibition market since 1983 demonstrated that exclusivity (and refusal to supply-see below) had neither deterred entry and investment, nor resulted in undue restrictions on consumer choice.

Refusal to supply a film

4.173. Complaints about non-availability of prints were one of the principal reasons for this inquiry being mounted. We received complaints from 15 independent exhibitors and these are summarized in Chapter 6.

4.174. We have taken refusal to supply to mean a decision taken by a supplier, without reference to the views of any other exhibitor, that it will not supply a film on a particular date to a cinema which requested it. (Decisions to refuse to supply which arise from agreements or understandings with other exhibitors, eg alignment or exclusivity deals with individual exhibitors, are considered elsewhere in this chapter under their respective headings.) It is at the local level that competition between cinemas takes place. Where first-run films are available to one cinema in an area but not to others, this will affect competition in that local market. It was alleged that there were examples of where otherwise viable cinemas had closed because they could no longer obtain first-run films as they had previously.

4.175. Distributors were asked about their policies on refusal to supply. It was clear, from the answers we received, that while both the distributors and the exhibitors had a common interest in maximizing admissions, there are circumstances when exhibitors are refused a print of a particular film at a particular time. Although the distributors' policies on this point were variously described, their main arguments for refusing to supply films to particular cinemas were:

(a) that prints were not available; or

(b) that it was not commercially viable to supply.

One reason why prints were not made available was that, for whatever reason, the distributor had decided not to make more prints available than had already been issued. This might be because the cost of additional prints was considered to be too high in relation to the rental income it was expected to generate. We were told that new prints normally cost between £700 and £1,000, but it could be up to £2,000 for very long films or films requiring subtitles. But in any case, distributors told us that to supply all cinemas which could be expected even to cover the cost of a print and associated costs was not the way to maximize distributors' profits, since it meant that the larger number of prints would simply spread the audience over a larger number of cinemas (the dilution effect-see para-graph 4.139).

4.176. Refusal to supply (apart from to cinemas which are considered to be credit risks) is thus related to patterns of release and the distributor's decision as to how many prints to make. For example, we noted in the case study material that we asked the leading distributors together with Guild and RFD to provide (see Appendix 4.10) that the leading distributors seemed to make a large number of prints in relation to the number of screens in which their films were shown, resulting in each print being shown in only one or two screens. In contrast, both RFD's and Guild's figures show that individual prints of their films were usually shown at two or more screens (eg each print of RFD's *Silence of the Lambs* was shown at, on average, 4.6 screens, while each print of Guild's *Basic Instinct* was shown at, on average, 2.5 screens). See Appendix 4.11 for one example of a release pattern for a major new film.

4.177. One leading distributor listed some 170 cinemas which it did not usually supply with a print until after initial release. Another referred to what it termed `second-run theatres', which it said were cinemas which showed a particular film after it had been shown in other cinemas in the area. In general, while distributors denied that there were certain cinemas which they only supplied by way of delayed releases, it is apparent that distributors have a view of the order of priority in which they would allocate prints depending on the film, the cinemas' previous record for attracting audiences and the number of prints the distributor has decided should be made available.

4.178. The leading exhibitors supported the distributors' right to determine the optimal number of prints for each release and their allocations to cinemas. In our survey of independent exhibitors (see paragraph 4.85) between 42 and 55 per cent of respondents said that each of the leading distributors provided prints of popular films only after they had been on release for more than a certain number of weeks. Between 40 and 52 per cent also said that this was true of each of the four independent distributors listed. Films have a short `shelf-life' in cinemas. They are not mass-produced, and sales generally peak within the first few weeks, and thereafter decline. Refusals to supply films on first-run release therefore affect particular cinemas very much more than would an equivalent refusal (which is in any event rare) in respect of films that have already been on release for some weeks. We asked the leading distributors to keep records, over the period November 1993 to February 1994, of all requests from exhibitors for particular films on particular dates which were refused. We analysed the resulting information, as reported in Appendix 4.12, and found no examples where distributors had been clearly unreasonable when dealing with exhibitors' requests for films.

4.179. In their 1970 general report on refusal to supply,[1] the Monopolies Commission said that the practice of refusing to supply was not *per se* against the public interest, and that its effects on the public interest depended on the circumstances of particular cases. First-run releases are now generally wider (ie involve a greater number of prints) than they were at the time of the MMC's 1983 report. A mass release in the early 1980s, for example, usually involved around 200 prints, whereas ten years later a mass release would normally require 250 to 400 prints: UIP's *Jurassic Park* had 412 prints. Nevertheless there are still a large number of cinemas which usually do not receive first-run films.

Conditional booking

4.180. All the distributors responding to the MMC's main questionnaire to distributors denied that they ever required an exhibitor to take one film as a condition of being given another. None of the leading exhibitors said that they had experienced such a practice, but some independent exhibitors said that they had, although usually in an informal way.

4.181. Our survey of independent cinemas (see paragraph 4.85) showed that only a very few (about 2 or 3 per cent in relation to any particular distributor) believed that when booking a film they were obliged to accept other, specified films. But about one-quarter said that, in the case of one leading distributor, they believed they were expected to take other films it released, and between 13 and 18 per cent believed this to be the case with other distributors (the proportion depending on the distributor concerned). The proportion of respondents saying that they were expected to take other films was above average in the case of Columbia and, to a lesser extent, Warner Distributors. We put these results from the survey to these two distributors for their comments, and their comments are reported in paragraphs 8.235 and 8.241.

4.182. We contacted most of the exhibitors who had identified Columbia in this connection and asked for further particulars. Some told us that they had not intended to identify Columbia, while others said that Columbia was no worse in this respect than other distributors, but several maintained that Columbia was worse than all or most of the others. Most were unwilling for their identity to be revealed to Columbia, which was therefore unable to comment on the cases concerned; it commented in detail on the cases which were identified. Columbia also listed 18 cinemas which had refused one of its films, all of which had been offered prints of another, popular film, in the early stages of its release, a few months later.

Minimum exhibition periods

4.183. Distributors generally license films for at least seven days, and often require longer minimum exhibition periods. For example:

(a) Warner Distributors said that it formally requested minimum playing time commitments from cinemas with fewer than four screens, and the period did not exceed four weeks, but there had been exceptions for major films.

(b) UIP said that it usually sought two-week minimum periods on first release, and up to four weeks for films considered likely to be particularly successful. Over the period 29 November 1993 to 28 February 1994, UIP sought two-week minimums for six of the eight main films released in or near to the period and four weeks for the other two. For one of the former, *In the Name of the Father*, UIP sought four-week minimums in Northern Ireland but two weeks in Great Britain. For most of its films there was a fair amount of variation around the main pattern of booking periods on first

[1] *Refusal to Supply: a report on the general effect on the public interest of the practices of refusing to supply goods required for business purposes and of entering into certain exclusive supply agreements*, Cmnd 4372, July 1970, HMSO.

release. Thus for *Schindler's List*, for example, seven of the eleven first-release bookings were for four-week minimums plus holdover, one for four weeks, one for three weeks and two for two weeks. Bookings for dates after first release were usually for shorter periods (for example, in the case of *Schindler's List* 18 of 21 such bookings were for two weeks plus holdover or two weeks only).

(c) Columbia listed the running times which it required for all films released since the beginning of 1993. Of 17 films, Columbia set a playing time of one week for eight films, two weeks for seven, three weeks for one and four weeks for one.

(d) Fox said that it decided on a film-by-film basis whether to negotiate for a minimum run of more than one week, and that it did press for longer minimum periods in special circumstances (eg for films on which it had committed itself to a large advertising and promotional campaign). Its preferred playing time for *Mrs Doubtfire* (a 350-print release in January 1994), for example, was for a minimum of three weeks plus holdover, though it had agreed to bookings of two weeks in 22 cases.

(e) Buena Vista said that it was particularly likely that it would seek a minimum exhibition period on releases with a large number of prints that it had supported with a substantial advertising campaign. For children's or family films it would want to see the film held over school holiday periods. It required a minimum of four weeks (though some leading exhibitors told us that the minimum period had been five weeks) for *Aladdin*, covering the period before and after Christmas 1993.

4.184. The leading distributors argued that the question of minimum exhibition periods was one of the key elements in their negotiations with exhibitors concerning the supply of prints. It should not be seen in isolation from the other elements, in particular from the decisions on whether to supply a print on first run and the rental terms. Distributors all claimed that they were prepared to shorten the minimum exhibition period after the first week if box office returns were poor (bearing in mind, it was argued, that the purpose was not to force exhibitors to keep on relatively unsuccessful films, but to ensure that relatively successful films were not taken off prematurely).

4.185. The specialist multiplex exhibitors said that they regarded the negotiation of minimum exhibition periods as part of a normal commercial relationship. They found that distributors were flexible in exercising their contractual rights (though Natl Amusements implied that there was room for improvement), and they had enough screens to be able to show those films from independent distributors which had commercial potential. Odeon said that while it normally booked films for seven days plus holdover, it rarely had difficulties when distributors sought longer periods. On the occasions when distributors had sought minimum exhibition periods of four or five weeks these had generally been for popular films which Odeon had no difficulty in keeping on anyway. MGM Cinemas on the other hand said that two weeks was the norm; it considered that distributors made commercial judgments regarding the amount of money to be spent on promoting a film and should be happy to let the market decide whether their judgment was correct and, therefore, how long their films should continue to play.

4.186. While the leading exhibitors said that distributors were prepared to shorten the exhibition period if a film performed below expectations, some smaller exhibitors complained that distributors were inflexible in this respect. The CEA told us that minimum exhibition periods were the principal difficulty for the majority of operators. The length had increased and was now rarely less than two weeks, often more. Long minimum exhibition periods carried problems, especially for cinemas with fewer than four screens, as distributors did not distinguish between cinemas according to the number of screens.

4.187. In reply to our survey of independent exhibitors, several respondents said that minimum exhibition periods of three to four weeks did not make commercial sense, particularly for one-screen cinemas in small towns or country areas. About 47 per cent of respondents said that the distributor always or usually refused permission for a film to be taken off early, while 36 per cent said that such permission was given (see Appendix 4.4, paragraph 18, Statement 2).

Restrictions on screen use

4.188. Distributors normally require exhibitors, during the licence period, to show a particular film at all the times at which films are normally shown at the cinema in question (except for children's matinées and late night shows). The relevant provisions of the *Standard Conditions* are Clauses 5(b) and 6 (see Appendix 4.3).

4.189. The leading distributors told us that these restrictions on screen use were part of the mechanism by which rental payments were assessed, since the house nut or break figures were set on the assumption that all performances at a particular screen during the week were of the same film. In practice, the question of sharing screens rose particularly in connection with children's films. Distributors told us that they might want to see if such films could attract an adult audience as well (eg as *Aladdin* had done), and if not, distributors were flexible, for example in agreeing that the film could be shown in a smaller screen in the evening, or have a reduced number of showings (subject to an amendment to the rental terms).

4.190. Two of the leading exhibitors said that most distributors (but not Buena Vista) were prepared to negotiate variations in screen usage. MGM Cinemas said, however, that while films appealing principally to children often did not perform well as the main evening show, distributors only rarely permitted the film to be moved to a smaller screen or the screen to be shared with another film, despite the fact that this was demonstrably more efficient to both the distributor and exhibitor. Buena Vista said that it was prepared to be flexible with regard to the showing of other films on the same screen at different times (see paragraph 8.119). It said that it distributed more films classified `U' and `PG'[1] than all the other leading distributors put together. It was therefore not surprising that Buena Vista was the subject of more complaints than other distributors on this topic (see paragraph 8.120).

4.191. The CEA said that distributor permission for screen sharing was given sparingly, though more often than it was in the past. This caused particular problems for cinemas with fewer than four screens, and for those situated in small towns or suburbs. In our survey of independent exhibitors, about one-half of respondents said that the leading distributors specified no screen-sharing (55 per cent for Buena Vista); between 34 and 44 per cent said that this was also true of the four independent distributors listed. Several respondents said that providing programmes for all sections of the community demanded a variety of films and timings through the week. About 22 per cent said that distributors always or usually refused them permission to show other films if asked, while 65 per cent said that permission was not refused.

Competition and the balance of power between distributors and exhibitors

4.192. The market in this inquiry is that of the supply of films for exhibition in cinemas in the UK, and the basic unit of supply is the feature film. Competition takes place at three different levels:

(a) at the production level for scripts, finance, actors, etc;

(b) at the distribution level for screens; and

(c) at the exhibition level for films. At all three levels, there is competition for audiences.

As distribution is the channel through which all films must pass from producer to exhibitor, its organization strongly influences the availability of films for exhibition.

4.193. While distributors compete with each other in various ways (eg in securing release dates, in acquiring screen-time, in attempting to maximize the periods for which their films are screened in cinemas, and in advertising and promotion), the leading distributors largely acquire distribution rights automatically from their US parents, whose films are not available for other distributors to bid for. To a small extent, the leading distributors compete to pick up rights to independent films. Independent distributors compete to establish relationships, such as output deals, with independent production companies, and in bidding for rights to other independent films on a one-off basis. Their principal activities are therefore much riskier

[1]A `U' film is for `Universal' viewing, ie films suitable for all cinema-goers. A `PG' (`Parental Guidance') film is also considered suitable for general viewing, but some scenes may be unsuitable for young children.

than those of the leading distributors, which for the most part, as indicated, do not have to bid for film rights and whose distribution costs are wholly or mainly met by their parent companies.

4.194. Exhibitors compete largely through the location of their cinemas, the facilities offered, the films exhibited and the admission prices. As regards sites, both MGM Cinemas and Odeon have long-standing sites and have to decide which of these they should retain as well as whether to build new cinemas, whereas the three recent multiplex entrants only have to decide which cinemas to build. The facilities offered (eg the standard of projection and sound equipment, seating, spaciousness and lay-out, car parking and, perhaps above all, choice of films) are the principal means by which cinemas have been able to compete successfully against each other, and attract new audiences. Exhibitors also compete for films, eg by investing in their cinemas and by the terms they offer distributors.

4.195. The high-risk nature of the film business has been emphasized to us many times during the inquiry. At the production level much uncertainty exists as to when, even whether, the production company will receive a return on its investment. At the distribution level, substantial budgets for prints and advertising may be necessary, but are not sufficient conditions for a film to become a box office hit. The exhibitor then takes the risk of committing its screens, usually for at least seven days, to show the films which may or may not attract audiences and hence generate the revenue needed to cover the high costs of owning and operating cinemas.

4.196. Many of the arrangements and practices we looked at during the course of this inquiry were explained to us as being part of the industry's efforts to manage these risks. This was true in particular of the systems for deciding how much exhibitors pay to distributors for the rights to show films. These systems, which appear to exist in one form or another in most parts of the world, are all based on the sharing of box office takings according to certain agreed formulae rather than the fixing of a price in advance. Distributors depend on exhibitors to show their films and benefit directly, via rentals, from the exhibitors' success in attracting audiences to their cinemas, and exhibitors depend on a supply of popular films to attract audiences and benefit from distributors' success in promoting them.

4.197. Distributors told us that average percentage rentals paid by exhibitors in the UK were very low by international standards (they argued, for example, that a shortage of cinema screens in the UK put exhibitors in a strong bargaining position and enabled them to resist pressure for higher rentals). Leading exhibitors, on the other hand, emphasized that the Hollywood studios operated widely throughout the world and that the UK was but a small part of the global market. Their UK distribution subsidiaries could therefore afford to take a tough line on any issue which they perceived as threatening their wider interests. Exhibitors told us, however, that when UIP was negotiating special terms for *Jurassic Park*, the most successful film ever released, it was not able to dictate terms to the leading exhibitors but had to compromise.

4.198. The two previous inquiries into the supply of films observed the strong market position of the two main circuit exhibitors, ie the predecessors of MGM Cinemas and Odeon. Since the late 1980s their position has been radically changed by the successful entry of new exhibitors on a national scale, which not only offer significant competition in the market for exhibiting films, but have also contributed directly to a growth in the number of screens on which the films can be shown. These developments may well have weakened the bargaining power of the exhibitors as opposed to the distributors, but it is unclear how far this shift in bargaining power will go.