

A TOBACCO MAP OF FILM AND TV







We've been asked by several Smokefree Movies partners to explain who owns whom in the TV and film industries. At first, it seems confusing because the same names keep popping up all over the media landscape. But if you think about it, that actually makes it easier. In the end, we're talking about a dozen large companies who dominate the scene. Here's who decides if smoking shows up on screen.

The US film industry

MAJOR STUDIOS | The US film industry is dominated by six “major studio” distributors. In 2017, their films accounted for 83 percent of all youth-rated tobacco impressions delivered to theater audiences. The studios develop, finance, and market film projects domestically and worldwide. Almost all films with production budgets greater than \$50 million are major-studio films. Studios may not break even on theatrical showings of a film, but a film’s box office, split roughly 50-50 with the theaters, strongly predicts the revenue the studio keeps to itself when the film is later released on DVD and licensed to on-demand, cable, and broadcast services. Most studio revenue comes from those “long tail” after-markets. And 70 percent of US studios’ total film revenue now comes from outside the United States.

The six major studios are represented by the Motion Picture Association of America (MPAA) and comprise its board of directors. The MPAA, together with the National Association of Theatre Owners (NATO), owns and manages the film ratings. The major studios are the jewels in the filmed entertainment divisions of larger, vertically-integrated media conglomerates. These conglomerates also own domestic and foreign broadcast, cable, and OTT (over-the-top; that is, streaming) services, theme parks, and other entertainment brands. Wall Street refers to these media conglomerates as the studios’ *parent* companies. As the media industry consolidates, companies strong in distribution “channels” are seeking companies strong in making entertainment “product” to fill those channels—and vice versa. View the [tobacco track records of major media companies](#).

Parent company	Studio distributor	Film marketing labels	Other media brands
 COMCAST	Universal Studios	Universal, Focus, Illumination, Working Title; distributes DreamWorks	NBC, Telemundo, USA Networks, MSNBC, CNBC, Bravo, Oxygen, Universal TV (production)
 The WALT DISNEY Company	Walt Disney Studios	Disney, Lucasfilm, Marvel, Pixar, Touchstone, Buena Vista, Hollywood	ABC, ESPN, A&E, Disney TV (production), Hulu (share). Aims to acquire many Fox assets by summer 2019.
 21ST CENTURY FOX	20 th Century Fox	20 th Century Fox, Fox Searchlight, Fox 2000, Blue Sky; distributes DreamWorks Animation	Fox TV, News, Sports; Star TV, Sky (39%), Nat. Geographic Channels, Hulu (share). Target of Disney acquisition.
 SONY	Sony Pictures	Sony Pictures, Sony Classics, Columbia, TriStar, Screen Gems	Sony electronics, PlayStation, Xperia, Sony Music, Sony TV (production)
 TimeWarner	Warner Bros.	Warner Bros., New Line	Warner Bros. TV, CNN, TBS, TNT, Cartoon Network, Adult Swim, Turner Classic Movies, HBO, Cinemax, Time Inc. (publications). Sale of TW film and TV assets to AT&T stalled in 2018.
 VIACOM	Paramount Pictures	Paramount Pictures, Paramount Vantage, Paramount Classics, Insurge, MTV Films, Nickelodeon Movies	MTV, VH1, Logo, BET, Nickelodeon, Comedy Central, Paramount TV (production)

INDEPENDENT PRODUCER-DISTRIBUTORS | Smaller film companies use OPM (“other people’s money”) to produce and distribute smaller-budget “specialty” films that don’t require costly national TV advertising campaigns to fill the theaters. Like major studios, independents can also charge substantial producer and distribution fees against a film production. This ensures the distributor a flow of revenue even if the film never makes a profit and before the film’s investors see a return. Independents often “pre-sell” film rights in non-US markets before the cameras start to roll—unlike the major studios, which distribute their films themselves through their global marketing divisions. Like the major studios’ specialty labels, however, indies may buy finished (or nearly finished) films from their original producers.

The independents are not MPAA members but adhere to its rating and advertising rules. Only a few large independent producer-distributors (Amazon, CBS, Lionsgate) are publicly-traded companies. Others seek a mosaic of inputs from individuals (“executive producers”), hedge funds, sovereign wealth funds, tax shelters, public film subsidies, and other sources to launch a handful of films each year.

Together, the independents release more top-grossing films than any single major studio. They also release nearly as many films with smoking as all the major studios combined. That’s because the independents, as a group, have not reduced the number of their films with smoking or the amount of smoking in their films in recent years. However, their smaller budgets and typically smaller audiences mean their films expose relatively fewer moviegoers to onscreen smoking. [View independents’ tobacco track records.](#)

The fifteen independent producer-distributors that released top-grossing films in 2017

A24	CBS (NYSE: CBS)	Open Road (Tang Media)
Amazon (NASDAQ: AMZN)	Entertainment Studios	Pantelion (Lionsgate/Grupo Televisa)
Bleecker Street	High Top	Pure Flix
Blumhouse	Lionsgate (NYSE: LGF.A)	STX
Broad Green	MGM	Weinstein (bankrupt May 2018)

PRODUCTION COMPANIES | Production companies are persistent corporate entities usually led by experienced film producers, producer-directors or film financiers, as opposed to the temporary companies set up for a single film to receive tax breaks and for other business reasons. While large talent agencies are now also pitching films, usually it's a producer who originates or packages an idea for a film and sells it to a major studio. If the studio "greenlights" the project, the production company and the studio hammer out the budget and production schedule, finalize the screenplay, hire the director, attach the lead actors, select the location (guided by the public subsidies available), and start to promote the film to domestic and overseas film bookers.

The studio will execute an exhaustive contract with the production company for delivery of the finished film at a specified cost. The studio has the deal leverage to oversee budget and personnel decisions, and can order edits and re-shoots. The agreement will stipulate who retains what rights to the film (including merchandising) and how the film's theatrical and post-theatrical income will be distributed at different revenue points. Significantly, these production agreements often specify the MPAA rating for which the delivered film must qualify, because the film's rating is key to the project's business plan.

An independent producer eager to secure financing may seek product placement deals. But with larger budget films, the studio itself masterminds these deals. Its strategic interests may include maintaining the studio's relationships with several competing advertisers and sweetening advertising buys for a parent company's TV networks. Studios used to have "overhead deals" with money-making producers—essentially covering their rent in exchange for the right to see new projects first. But in the last decade, many of these arrangements have ended. Today, producers have an edge in studio negotiations if they can bring some third-party money to the table, defray costs, and lower the studio's own exposure.

Tobacco company documents are full of examples of tobacco deals made directly with production companies, not studio distributors.* Because of this history and because, today, Producer Guild standards require anyone with a "producer" credit for a film to have verified, executive responsibility for vital aspects of a film's production (financial, creative, etc.), Smokefree Movies partners want producers to sign binding affidavits that no-one associated with their production (including the talents' loan-out companies) entered into any agreement or received any consideration for tobacco depictions.

If a major studio's financial well-being is on the line for a very large film, the studio may produce the film in-house, where oversight can be seamless. Disney usually works on this model. At the other extreme, Sony contracts out or acquires almost all of its films. In the middle, Time Warner repeatedly partners with a trusted set of outside producers and production companies, while Universal has bought productive companies to run at arm's length. No matter the pattern, in the end the major studios are the most powerful gatekeepers, financiers, and marketers, and commonly retain copyright to the finished work, so Smokefree Movies has concentrated on changing the studios' tobacco depiction practices. But producers and production companies have a documented history of tobacco deals and may still be engaged in side deals—leaving the studios in a position of deniability.

It's worth noticing that, as of May 2018, no major studio's tobacco depiction policy holds contractors in its production chain accountable for tobacco placement. Studios could easily do so by stipulating "no payoffs" affidavits in their production agreements. Anything less is like a sneaker company announcing that it employs no child labor at its US headquarters but remaining mute about its overseas suppliers. View a [tobacco ranking of film producers](#).

* See, for example, Mekemson and Glantz (2002); Lambert, Sargent et al. (2004); Lum, Polansky et al. (2008).

The fifteen smokiest producers since 2002, for films of all MPAA ratings

Eric Fellner (Working Title > Universal)	Scott Rudin (Scott Rudin)	Clint Eastwood (Malpaso)
Grant Heslov (Smokehouse)	George Clooney (Smokehouse)	Robert Lorenz (Stonehouse)
Megan Ellison (Annapurna)	Stephen Spielberg (Amblin)	Joel Silver (Silver)
Tim Bevan (Working Title > Universal)	Brian Grazer (Imagine)	Lorenzo di Bonaventura (Di Bonaventura)
Graham King (GK Films)	Ridley Scott (Scott Free)	Avi Arad (Marvel)

The US TV industry — the same and different

The TV industry is now split into a few distinct sectors:

1 | BROADCAST (aka “terrestrial”) — This includes over-the-air, ad-supported networks including ABC (Disney), CBS (CBS), NBC (Comcast), Fox (Fox), The WB (Time Warner), and Univision (Univision).

2 | CABLE, in two flavors:

2.1 | Ad-supported cable — Cable channels supported by advertising include Fox News (Fox), ESPN (Disney), USA Network (Comcast), MSNBC (Comcast), The CW (CBS and Time Warner), HGTV (Discovery) — as well as AMC (AMC Networks) and FX (Fox).

2.2 | Paid cable (aka “premium cable”) — Subscribed through cable/satellite packages, these channels include HBO (Time Warner), Showtime (CBS), Starz (Lionsgate), Cinemax (Time Warner).

3 | OTT (streaming, called “over-the-top” because it rides on the Internet signal but pays nothing to the cable carrier) — Rapidly expanding OTT channels with billions of dollars in original programming include Netflix, Amazon, and Hulu (Disney 30%, Fox 30%, Comcast’s NBCUniversal 30%, Time Warner’s TBS 10%). Apple is next.

ADS OR NO ADS? | The key difference between broadcast, cable, and OTT is that broadcast and many cable channels are ad-supported while premium cable and streaming channels use a subscriber model.

Ad-supported media must either deliver large audiences to advertisers, as free broadcasts do, or else deliver narrower but high-valued demographic slices (income, locale, age), as cable channels can do. Subscription channels either split the revenue with cable companies, as HBO does, or keep it all and also harvest hundreds of millions of eyeballs to monetize in other ways, as Netflix and Amazon do.

As a consequence of their different business models, a quick program survey finds, the different sectors have different age-rating profiles, too. Broadcast shows are almost all rated TV-14 or TV-PG to attract family viewers and older adults. Cable shows blend TV-14 and TV-MA shows to attract teens and younger adults. OTT (streaming) shows overwhelmingly skew TV-MA.

A TV-14 rating is analogous to PG-13 for movies: fewer than half of scripted TV-14 shows appear to include smoking. TV-MA is analogous to an R-rating: initial surveys suggest that a majority of scripted TV-MA shows include smoking. Of course, just as adolescents watch R-rated films—but fewer of them—teens also watch TV-MA shows. For an accurate picture of how much tobacco exposure teens are now

getting from TV, how many teens watch how much TV-MA, including streaming shows, needs urgent analysis. View [Truth Report's 2018 report](#) on smoking in the top shows most watched by teens.

CONTENT REGULATION | Broadcast TV and cable programming in the United States are regulated by the Federal Communications Commission (FCC). No FCC-regulated medium is allowed to advertise cigarettes, little cigars or smokeless tobacco. This no-ad law has criminal penalties and is administered by the US Department of Justice, not the FCC. In addition, the FCC has [assorted policies](#) regarding indecency, obscenity, and sexually explicit programming, mandated by federal law and hedged by the courts.

No FCC policies currently exist related to tobacco promotion in program *content*. However, broadcast and cable networks have traditionally had “[Standards and Practices](#)” departments to review scripts before they air and satisfy both FCC standards and potential advertiser concerns. However, as long ago as 1988, [The New York Times](#) reported, NBC disbanded its standards and practices office and replaced it with an operation to seek out cross-promotion and product tie-in opportunities for NBC shows. It’s possible, but not confirmed, that broadcast and cable networks, including those owned by the parent companies of major studios with tobacco depiction policies, may have *internal* standards in regard to smoking in programs rated TV-14 or below.

OTT—exemplified by streaming giant Netflix—seems hardly to be regulated by anyone. For example, Netflix has argued that [Canada has no regulatory power](#) over it because the company has no property there. In Europe, Netflix is [resisting European Union](#) calls for 20 percent of its content to originate from Europe. And according to one long-time Hollywood producer, Netflix has said it’s “[not worried](#)” about [smoking](#) in its shows—even shows such as “[A Series of Unfortunate Events](#)” tailored to kids.

MASTER SETTLEMENT AGREEMENT | While film and all TV productions are covered by the [1998 Master Settlement Agreement](#) (MSA)—a binding legal agreement between state Attorneys General and domestic tobacco companies that prohibits paid tobacco product placement in entertainment accessible by children and teens—the MSA only limits the tobacco companies’ actions to *place* tobacco use. Media companies, studios, production companies, and loan-out companies remain free to *accept* the money or other consideration.

Also, tobacco companies outside the US are not bound by the MSA. For example, Japan Tobacco licenses several leading Reynolds (British American Tobacco) brands in non-US markets that are thoroughly penetrated by US films and TV productions. In fact, both the media industry and tobacco industry are multi-national, with many potential touch points outside US (and MSA) jurisdiction. Imperial Tobacco, which only recently became active in the US after consolidations in the global tobacco industry, may be less cognizant of the MSA than Philip Morris USA and Reynolds American, who were original parties to it. Before Imperial acquired Gauloises, that brand was implicated in product placement in France, documented by [investigative journalists](#) up to at least 2013.

Finally, the WHO Framework Convention on Tobacco Control (FCTC), to which 181 nations and territories are signatories, in [Article 13](#) bars tobacco promotion in entertainment media as part of comprehensive advertising bans. The United States has not ratified the FCTC, but US media companies own interests and operate widely in nations that are FCTC signatories, and these companies uniformly regard non-US markets as their greatest growth opportunities. Britain, Canada, China, France, and India are among countries that now regulate onscreen tobacco or are discussing policies to do so.

THE SAME COMPANIES ARE ON TV | A survey of popular TV shows finds many familiar names. Onbeyond LLC surveyed recent shows with audiences over 500,000 whose online comment traffic associates them with smoking:*

Broadcast | *Fox* had the highest concentration of shows associated with smoking and also accounted for the largest share of all the shows with smoking (30%). *Time Warner* accounted for 23 percent, *Universal* for 18 percent, *Disney* for 15 percent and *CBS* for 13 percent. More than 40 percent of shows produced by *Time Warner* and by *Comcast (Universal)* were associated with smoking.

Cable | *Fox*, *Time Warner* and *Viacom* produced and/or distributed some cable series associated with online mentions of smoking.

OTT | Major media companies that have produced AMAZON streaming shows associated with smoking include *Fox* and *Sony*. Large media companies producing NETFLIX series associated with smoking comments include *CBS*, *Comcast (Universal)*, *Fox*, *Lionsgate*, *Sony*, *Time Warner* and *Viacom (Paramount)*. Large media companies producing HULU series associated with smoking comments include *Sony* and *MGM*; Hulu series produced by the service's part-owners *Comcast* and *Fox* were *not* associated with smoking on Hulu.

Besides the TV production divisions of large media companies (see above), independent production companies are also active in making shows for OTT. Many of these have made series for television before, but a growing number of veteran film producers are now also making TV deals because “that’s where the money is.”

Meanwhile, both Netflix’ and Amazon’s original programming operations are led by TV veterans from large media companies, not by film studio executives.† If the leading OTT companies (along with Apple, expected start producing original content for iTunes) are still forming their habits around tobacco, right now would be a good time to educate them on the public health aspects and widely-backed policy solutions. Few streaming execs will have ever dealt with the on-screen smoking issue at a film studio.

— Jono Polansky
Onbeyond LLC, San Francisco
7 May 2018

* Online comments included parental content reviews, fan sites, and social media. Limitations of this survey method include (1) online tobacco mentions for a show may be inaccurate or unspecific as to the season of the show; (2) mentions of smoking may be biased toward more popular shows generating more online commentary; (3) a series with no online mentions of smoking is unconfirmed to be smokefree; and (4) online mentions do not enable a count of incidents in any series, but merely suggest some tobacco presence.

† AMAZON: In January 2018, Amazon Studios hired Jennifer Salke to replace Roy Price, who resigned over misconduct allegations. Salke had been president of entertainment at NBC. Price led Disney TV Animation before 2000 and then was at McKinsey before joining Amazon in 2004.

NETFLIX: Ted Sarandos is content chief at Netflix. He was marketing VP of a video chain before joining Netflix in 2000. Other Netflix content execs include Bela Bejaria (formerly president, Universal Television and at CBS-TV before that); Melissa Cobb, formerly of DreamWorks Animation; Scott Stuber, formerly co-president of production at Universal Pictures; and Cindy Holland, another long-time Netflix exec. Of these, only Mr. Stuber might have encountered a film company tobacco depictions policy, at Universal. In 2017, despite this policy, nearly 60 percent of all Universal’s top-grossing films featured tobacco imagery, including 56 percent of its PG-13 films.