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A sideways view of the film economy in an age of digital piracy

by Ramon Lobato

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Introduction

I want to begin this article by introducing the reader to four people who are each, in different ways, involved in the business of movie distribution:[1]

1. Kim Schmitz (a.k.a. Kim Dotcom), 38, is the founder of Megaupload, once a wildly successful file-hosting site custom-built for easy and anonymous transferring of movie files between users. Currently awaiting extradition from New Zealand to the United States on fraud charges, Schmitz has a penchant for fast cars and multi-million dollar mansions.
2. 'Mr Z', in his 30s, is an unlicensed street vendor in Beijing. Mr Z, a migrant worker, was born in a village in eastern China and now makes a living selling bootleg movies in the capital, where he hopes his infant child will one day receive a good education. He makes about US$120 a month, purchasing discs from a supplier and then on-selling them to passers-by.
3. 'Juan', in his early 20s, is a trader at a large informal market in Mexico City. An avowed cinephile, he runs a stall selling film memorabilia and out-of-print Mexican movies copied without authorisation from copyright holders. His family have been trading at this market for many years. Juan wants to one day turn his business into a legal, licensed DVD store but does not have the funds to do so.
4. 'Lou', 58, an electronics retailer from south-western Sydney runs a side-business in illegal media distribution. His most popular item is an under-the-counter set-top-box which connects to a peer-to-peer network, allowing unauthorised access to rebroadcasts of popular television shows.

What do these four individuals have in common, aside from their status as objects for anti-piracy campaigns? Where do they fit into the models of the film economy that we use within film and media studies? What kind of markets do they cater to and bring into being? These are some of the concerns of the present essay.

My point of departure is the belief that a great deal of research has operated with a fairly narrow view of the nature, boundaries and scale of the film economy. Within this script, film distribution is seen as a set of transactions between formal businesses – major studios, theater chains, broadcasters, sales agents – and changes to distribution process are typically understood through a discourse of crisis and disruption. This definition fails to capture many of the informal circulatory systems, such as those described above, which facilitate movie viewing for hundreds of millions of people every day. If we take such phenomena seriously and move them to the centre of our analytical frame, we are left with a rather different image of what the film business is all about.

In what follows, I provide some tentative suggestions as to how informal systems can be integrated into existing methodological norms of film industry analysis. The ideas below were hatched over several years as I worked on a book about informal distribution circuits.[2] I started out wanting to know more about the diverse ways in which movies circulate, both on and off the books. Intrigued by the enormous range of titles in street markets and on Bit Torrent servers, I was curious as to why such complex and dynamic distribution systems surface in film industry literature only as policy problems or anti-capitalist resistances. It struck me that we lack an appropriate analytical language for talking about informal distribution, so I set about trying to come up with one. The present essay is a reflection on some of the methodological problems that arose from this project. Many questions are posed and relatively few will be answered. I hope nonetheless that the discussion will be of interest to researchers concerned with how to adapt media industry analysis to encompass informal practices.

The problem of piracy

Understanding the dynamics of the movie business has been a priority for film scholars since the earliest days of academic cinema studies, as well as for film-related researchers in other fields like sociology, organisational studies and management. There are many different templates for film industry analysis, including the box office bean-counting that we see in trade papers like *Variety*, the ambivalent fascination with 'the genius of the system'[3] that characterises much work on studio-era Hollywood, and the *dirigiste*[4] policy analysis practiced in Europe, Canada, Australasia and other areas with state-subsidised industries. The terms upon which these inquiries proceed are geared towards industrial and technological contexts that are historically specific rather than universal. Hence, we need to ensure that the lenses through which we approach our objects of analysis are indeed appropriate for said objects.

Marxist political economy tends to see the distribution sector as the 'the key locus of power and profit' in media industries, where most of the money is made

and cultural control exercised.[5] In the United States the distribution process has been founded upon a strategy of 'spatial and temporal separation of markets',[6] first formalised in the Runs-Zones-Clearances system and staggered international releasing patterns and later in the migration of movies across discrete windows (theatrical to premium cable to DVD to broadcast television, etc). Film scholars working in the political economy tradition have been especially concerned with articulating the structuring effects of this system on film culture and audience experience. Thomas Guback, for example, saw the movie distribution system as an architecture of control and exploitation which reproduced Hollywood hegemony on an international scale:

> [I]t would be naïve to believe that [Hollywood's] dominant position, as it exists in the 1980s, is the direct result of decades of free choice exercised by peoples around the world. International trade, involving billions of dollars of investments and receipts, can hardly be left to chance. The market must be controlled as much as possible, and uncertain elements must be reduced or eliminated. This demands tactics and strategy that, when successfully implemented, attenuate risk and skew the market to one's advantage. Consumers, of course, are at liberty to select from what is on the market. But the shape of this market, including its range of alternatives, is the result of conscious efforts to structure it and keep competitors in their place.[7]

How, one might ask, do distributors like Juan, Lou and Mr Z connect with this vision? Do they work against, alongside, within, or parallel to this economy? Such questions are useful because they draw our attention to the economic boundaries of the film industry as constructed in various kinds of research. Piracy surfaces as an epistemological problem here, and we are still struggling to find a place for it within existing conceptual paradigms of cultural analysis.[8] In some accounts, piracy is viewed sympathetically as a constitutive outside to media capital and an obstacle to corporate media hegemony. Sometimes it is framed in political terms, as a natural response to censorship and political repression. Progressive legal scholarship attempts to reclaim appropriative piracy as legitimate creativity. Film theorists are exploring the spectatorial affects produced by pirate media. Beyond these promising lines of enquiry, there are also structural questions that can be posed about the interaction between different parts of the film industry, and between formal and informal media economies.

Thinking about piracy from a materialist rather than ethical or political perspective tends to dissolve the boundaries between the inside and outside of the film industry. Certain types of piracy (street-market bootleg DVD trade, for example) appear to perform many of the economic functions that we expect of legitimate media industries. Jobs are created, distributive networks maintained and

expanded, and livelihoods built – just not in the production sector. Despite the fact that revenues are not returned to rights holders, a lot of this distributive activity appears to be economically generative. In many contexts the state, while paying lip service to copyright enforcement, turns a blind eye to this trade and regards it as a driver of employment and tax revenue.[9]

States may even be active participants in the pirate economy. Take for example the DVD economy of Russia, as described by Olga Sezneva and Joe Karaganis in a recent authoritative report. In Russia, piracy is state business. Corrupt institutions are heavily involved in DVD manufacturing and sale. Pirates are politically protected. Disc production is centralised and organised. As a result, there is no clear line between legal products and pirate copies. The media landscape is characterised by 'a broad interpenetration of licit and illicit markets'.[10] This situation does not lend itself well to an image of global film business which places the formal film industry at its centre and which posits a Manichean battle between producers and pirates. In Russia, we find a much more integrated and inter-dependent set of relations between the state, the pirates, consumers and formal industry. Informal networks are integral to mainstream Russian media and are folded into official infrastructures in diverse ways.

Piracy, as the space outside legal distribution, is therefore best viewed as a product of the regulatory systems operative at particular historical moments. As the legal boundaries around media distribution expand and contract so do pirate markets. Over time activities move in and out of the legal zone. An example can be seen in the current News Corp pay television scandal, which involves certain practices of hacking and reverse engineering that, while unethical, were not illegal at the time.[11] It is also salutary to remember that piracy, far from being something new and unique to the internet age, is a historical feature of most media markets. Early print culture was rife with unauthorised copying. Entire nations became literate on the back of intellectual property 'theft' (the United States did not respect foreign copyrights until 1891). History tells us that legal and pirate trade are co-constitutive and entangled rather than ontologically separate. Hence piracy, while always taking culturally specific forms, has a transnational dimension in that it is a persistent feature of media trade in general.

This entanglement between piracy and legal trade poses an interesting problem for film industry research which, as I mentioned earlier, limits its attention to the formal part of this mutating landscape. What might a shift of focus to the informal zone entail methodologically?

Regimes of knowledge in film industry research

A good place to start might be to re-define the very idea of 'economy' that animates industry research. As we know from fields such as economic anthropology, econo-

mies are not simply bounded and pre-existing phenomena but also products of the particular modes of analysis through which we approach them. Any form of representation, measurement, or description includes assumptions about what counts as economically relevant activity and what does not. In this way, systems of economic knowledge work to shape the social worlds that they appear to objectively measure.[12] So too in film research, where particular technologies of measurement have given rise to widely held conceptions about the nature and shape of the film industry.

Take for example a deceptively simple question such as, 'Which nation has the largest film industry?'[13] The answer to this question depends entirely on the measurement technique we apply and what we define as meaningful cinema business. If our yardstick is formal industry capitalisation, then the answer would undoubtedly be the United States. If we go by the number of feature films produced annually, then Nigeria and India shoot to the top of the rankings.[14] Thinking in terms of consumption and exchange rather than production produces yet more answers. The United States has the largest formal film market, in terms of the revenues generated by box office admissions, DVD sales, and so on. However, if we take into account other indicators, such as the number of screenings across all exhibition channels or the number of DVDs circulating informally, then it is very likely that populous BRIC nations would be at the top of the list.

Now consider the question: 'How many jobs does the film industry generate?' This introduces the issues of economic generativity, multiplier effects and contributions to national/regional economies, which are all of great interest to policymakers. While much research has tried to quantify the generative effects of the film industry, such efforts are primarily concerned with film production – as in the made-to-order estimates about how many below-the-line jobs the movie business generates.[15] The general picture that emerges from these accounts is of a production-driven locomotive pulling the rest of the film industry along behind it, dispersing money like a clown handing out candy at a child's birthday party.[16] If we extend this logic and think about the generativity of distribution, a wider set of transactions and activities come into view. Finally, when we factor in distribution via informal channels it becomes clear that there are many more jobs connected to the circulation and distribution of movies that have never been counted in industry surveys (see table below).

The scale of these invisible networks is not to be underestimated. Informal movie distribution is a very common category of employment in developing nations and provides a possibility of paid work for those excluded from formal labor markets. The work is typically for low wages, subject to police harassment, and dangerous, but it may compare favourably to alternatives such as rural agriculture or factory work.[18]

Indexes	Indexes
Box office revenues, DVD sales, television sales (cable, satellite, pay-per-view, free-to-air), airline sales, licensed public screenings, paid digital downloads, ad-sharing from video streaming, etc.	Bit Torrent traffic, cyberlocker traffic, uploads and views on video hosting sites, pirate disc sales, circulation of DVDs among friends and family, sales of second-hand DVDs, unauthorised screenings in bars, restaurants, nursing homes, etc.
Jobs[17]	Jobs
DIRECT Sales staff, warehousing, delivery drivers, accountants, marketing and PR staff, retailers, copyright enforcement, visual merchandisers, streaming site programming, streaming site design, streaming site marketing, etc.	DIRECT Street vendors, runners, haulers, unregistered retailers, video club attendants, Bit Torrent (BT) site administrators, BT site programmers, BT site advertising, streaming site programming, streaming site design, streaming site marketing, cyberlocker administration, cyberlocker design, cyberlocker marketing, etc.
INDIRECT Disc suppliers, printers, designers, security, lobbyists, etc.	INDIRECT Disc suppliers, printers, security, network technicians, waiters, bar staff, vendor representatives (unions), equipment reconditioners, network traffic analysts, BT site hosting, etc

Commercial piracy is of course not limited to the developing world. A significant number of jobs in the formal economy are also underwritten by revenues generated from unauthorised movie distribution. Google, for example, is regularly accused by the studios of corporate content theft – and a glance at the enormous amount of unauthorised content on YouTube and the commercial value of the eyeballs it attracts provides plenty of evidence for this claim. Consider also the fragmented online distribution ecology of which Megaupload was a part. People who illegally download their movies from cyberlockers (Rapidshare, iFile, Mediafire) often pay a subscription fee (typically around US$10 per month) for increased speeds and search functionality. They may also pay a monthly fee to a proxy/VPN (virtual private network) service which masks their IP address from the prying eyes of copyright holders. Most likely they are also active users of Bit Torrent tracking sites, rogue linking sites, or cyberlocker aggregators, and their page-views generate revenue for advertisers. Demand for cinema is one of the key drivers of this entire storage-and-retrieval infrastructure and the many jobs it creates. For this reason cyberlocker and torrent tracker systems could quite reasonably be considered an informal wing of the film distribution industry.

Of course, this is all cold comfort to producers who rely on income from formal distributors. They have every right to be angry about piracy, which is often deeply

corrosive to the material base for future production. My point, however, is that this should not be the only issue in play for the rest of us, and not least for researchers in film, media and cultural studies. As scholars of the audience, of media technologies, of cultural engagement and access, of textual experience, pleasure, and discovery, of cultural power and privilege, we need to find ways of talking about informal exchange that forestall moral judgement and take seriously its material constitution and effects.[19] A reformulated model of the film economy, or *economies*, could be particularly useful here. In the following section I outline some theoretical coordinates for such a model.

Diverse media economies

What theory of economic organisation (and disorganisation) would be appropriate to the proliferative and diversified distribution environment described above – the world of Kim Dotcom, the Pirate Bay, YouTube, and Russian and Chinese streaming sites? How might this world relate to the conventional film industry, and how can we think holistically about the wider circulatory landscape within which both systems are situated (and the relations between its various parts)? For answers to this question it may be helpful to look to theoretical models of economy in other disciplines, so please allow me a brief detour before returning once more to film industry matters.

A useful set of works to consider here are the critical theorisations of economy that have proliferated in social science after the 'cultural turn', as in the work of economic geographers Katherine Gibson and Julie Graham. Writing collaboratively as J. K. Gibson-Graham, they have developed a suggestive theory of 'diverse economies'. This approach involves seeing economic life as heterogeneous, so that 'the' economy is reimagined as an ecology of differentiated *economies*. The point of this intervention is to denormalise 'the capitalist economy as extradiscursive, as the ultimate real and natural form of economy' in favour of an image of economy as 'a zone of cohabitation and contestation among multiple economic forms'.[20] Gibson-Graham urge us to see in our analysis not only corporations, companies and other institutions of capitalist enterprise but also a much wider array of economic formations, including community and household systems, barter, gift exchange and unpaid domestic labor.

This argument puts a contemporary spin on a longer strand of critical economic thought. Of particular relevance here are the debates about economic plurality emerging from the work of the Hungarian philosopher and political economist Karl Polanyi. In the early postwar period, Polanyi famously argued that 'the economy' is not a singular entity but an assemblage of many co-existing systems and rationalities.[21] He identified three different logics of 'integration': market exchange (associated with capitalist economies), reciprocal exchange (associated with kin-

ship societies), and redistributive exchange (where state or religious institutions play a central role in economic life). Polanyi's substantivist model of economy predates the poststructuralist critique that animates Gibson-Graham's argument. Nonetheless, it asks us in a similar spirit to think economy in the plural rather than the singular and to acknowledge that conventional (neoclassical) economic thinking is one way among many to capture and render the complexities of economic life.

Transplanting these ideas in a fast and loose way into the realm of cinema, it becomes possible to see not just one film economy – understood as a complex of studios, distributors, film festivals, sales agents and so on, divided into discrete sectors (production, distribution, exhibition) and national containers (the United States industry, the Indonesian industry, the Iranian industry) – but a diverse series of overlapping and co-constitutive economies each comprised of different processes, transactions, currencies, materials, norms, values, and forms of labor. We could speak, for example, of *legal* and *illegal* film economies and the various ways in which these things interact and intersect. Alternatively, we could think of *revenue-generating* and *revenue-dispersing* economies, thus distinguishing between systems that return profits to producers/rights-holders and those that scatter funds to an array of informal players in the extra-legal distribution chain. We could speak of *professional* and *amateur* film economies and explore the means by which the former are normalised as the appropriate object of policy and scholarly attention. We could think of *taxed* and *untaxed* economies, *visible* and *invisible* economies, *first-sale* and *second-hand* economies, *commodity* and *experience* economies, *ownership* and *access* economies, and so on. In each case a different set of film-related activities would come into view and the wider cinema distribution environment becomes reconfigured in a way that renders visible the generative features of previously hidden activities.

The point of this thought experiment is that the 'negative space' around the formal film industry becomes knowable as a space of positive action. For Gibson-Graham, the trick is to 'approach economic relationships as something to be contingently rather than deterministically configured, economic value as liberally distributed rather than sequestered in certain activities and denied to others, and economic dynamics as proliferating rather than reducible to a set of governing laws and mechanical logics'.[22] This is not about some glib relativism, as though we could conjure up any kind of image we like about the movie business. On the contrary, the diverse economies model asks to think imaginatively about what constitutes 'industry' and to make sure our ways of thinking about economic activity leave us ready to recognise it when we stumble across it. This imperative is of particular importance to current debates about the economic impact of piracy, which rely on a pseudo-economic discourse of loss and revenue leakage.

Conclusion

This article has traced the outlines of a conceptual model of the film industry that includes not only the formal production and distribution sector but also its off-the-books equivalents. In stressing the economic generativity of distribution channels commonly thought to be threatening to established industry, I have shown how it is possible to see such activities through the lens of positive action as well as harm. The key to this reversal is to adopt a *both/and* kind of thinking, in which film distribution is imagined not as a zero-sum game of revenue capture, where pirates cannibalise producer profits, but as a space of economic plurality in which both formal and informal distribution systems interact – sometimes antagonistically, other times to mutual advantage. Distribution becomes refigured not as the orderly movement of texts through a sequence of channels but as multi-directional trajectories across formal and informal media markets.

To render this vision of the film industry concrete in empirical terms, a number of options present themselves. At the level of industry measurement, we could begin to consult a wider range of indicators to assess the success or otherwise of particular films, attending not only to their performance in the usual channels (box office, festival acceptance, television sales) but also to their diverse afterlives in pirate circuits. One could also take seriously the proposition that cinema is an important driver of demand for, and productive activity within, other communications industries such as broadband internet. A new set of questions thus emerge for film and cultural policy: not only, 'How much did this film make at the box office?' but also, 'How many people will see this film across all distribution channels, licit or otherwise?'; not only 'How many jobs will this runaway Hollywood movie production bring to my city' but also, 'What is cinema's contribution to employment in the IT industry?'; not only, 'Did our latest prestige national cinema film get reviewed in the *New York Times*?' but also, 'What did the international Bit Torrent circulation of this film do for our national cultural policy and tourism objectives?'

Let us return, finally, to the characters we met at the beginning of our journey – Kim Dotcom, Juan, Mr Z and Lou. What can be said about their functions within the wider cinema economies? As well as seeing these characters as pirates, which they undoubtedly are, or as cultural intermediaries located in profoundly different socio-economic contexts, we might also note the diverse ways in which their distributive work feeds back into other kinds of social action: the accrual of cultural capital, direct and indirect employment, forms of technological literacy, new taste formations, social stratification, and so on. When approached from this sideways angle, the film industry becomes reconfigured as an ecology of different distributive systems, each of which redirects (and potentially multiplies) diverse lines of revenue, labor, knowledge, energy, and desire. In turn, the locus of moral judgement shifts from the distributive act itself to the various things that it may or

may not bring into being. A Manichean rendering of industry crisis dissolves, and a different set of ethical problems materialises.

Author

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Notes

1 These are real-life figures whose activities have been documented in various sources. Pseudonyms are used for all except Kim Dotcom. Mr Z's story is taken from S. Wang and J. J. H. Zhu, 'Mapping film piracy in China', *Theory, Culture & Society*, Vol. 20, No. 4: 97-125. Juan's pirate cinephilia is documented in R. Lobato, *Shadow Economies of Cinema: Mapping Informal Film Distribution* (London: British Film Institute/Palgrave, 2012). Lou has been the subject of recent news reports in Australia.

2 See Lobato, *Shadow Economies of Cinema: Mapping Informal Film Distribution.*

3 This term was first coined by Bazin. See T. Schatz, *The genius of the system: Hollywood filmmaking in the studio era* (New York: Pantheon Books, 1988).

4 Miller and Yúdice 2002.

5 Garnham 1990, p. 162.

6 Schatz 200, p. 120.

7 Guback 1985, p. 125.

8 Possible examples of the approaches described here would include, respectively, Bettig 1996, Klinger, Lessig 2004, and Hilderbrand 2009.

9 Ample evidence of this can be found in the Wikileaks cables, for example: http://wikileaks.org/cable/2009/11/09KOLONIA142.html.

10 Karaganis 2011, p. 25.

11 I am referring here to the allegations about News Corp subsidiary NDS and reverse-engineering of smart cards from pay TV competitors. See N. Chenoweth, 'Pay TV piracy hits News', *Australian Financial Review*, 28 Mar 2012: 1 & 16.

12 See for example the work of Stephen Gudeman and Timothy Mitchell.

13 There are many logical problems with a question such as this, including the fact that transnational production, financing and distribution arrangements render the idea of a nationally-bounded industry redundant; but I trust the question performs its illustrative function.

14 According to the latest UNESCO survey, in 2011 India produced around 1200 features and Nigeria produced 987, compared to 694 for the United States (see http://www.uis.unesco.org/culture/Pages/cinema-data-release-2011.aspx). This data is not particularly reliable but it serves to illustrate the widely acknowledged fact that the US is not the world's biggest film producer by output.

15 In the United Kingdom, the UK Film Council has commissioned studies of this nature through Oxford Economics. In Australia, similar work has been done by Access Economics to bolster the local film industry's anti-piracy campaigns. The Motion Picture Association of America is the key driver of such calculations in the United States.

16 A recent wave of critical media production studies provides a much more nuanced vision, and is especially attentive to the informal dimensions of production cultures. For an excellent example, see Mayer and Banks and Caldwell 2009.

17 Double-counting and other methodological problems make calculating multiplier effects a fraught exercise, and this table makes no claim to analytical rigour. Expanding this approach to include the informal realm will necessarily expand these problems as well.

18 Robert Neuwirth provides some vivid examples in his recent book *The Stealth of Nations* (New York: Pantheon, 2011). A more complex account of the dynamics of informal me-

dia circulation can be found in the work of Delhi-based cultural theorist Ravi Sundaram, who describes a 'pirate modernity' made up of minor practices – black and grey-market imports, reconditioned equipment, cheaply copied discs and tapes and flyers – and the labour practices beneath this new technological space. See Sundaram 2009.

19 Sundaram's work is exemplary in this regard.

20 See especially Gibson-Graham 2006, pp. 55, xxi.

21 Polanyi's classic *The Great Transformation* (New York: Rinehart & Co., 1944) is the foundational text here. Polanyi also makes reference to householding economies at various points in his work.

22 *A Postcapitalist Politics*, p. 60. Note that Gibson-Graham locate most of this plurality in the noncapitalist sphere, whereas the kinds of activities I examine here could not reasonably be described as noncapitalist or anticapitalist. In the contemporary film economy, even when understood in the widest possible sense, there is relatively little evidence of noncapitalist logics. Even the putative gift economies of P2P are deeply commodified, thanks to the virulently commercial tracking sites and the advertising and branding found in and around the files – not to mention the product-placement in the movies themselves. So while the substantive content of the circuits described here parts ways ideologically with the systems of most interest to Gibson-Graham, the wider point about economic heterogeneity within the 'negative space' outside formal industry endures.