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Pre-Release Film Piracy: A Cost-Benefit Analysis

2015 marked one of the most notable years in the history of modern-day cinema. The Hollywood film industry saw respective record domestic and worldwide revenue grosses of $11.3 billion and $38 billion (Van der Sar, 2016) despite a dismal 2014 that saw the worst summer gross since 2006 on its way to a 5.2% decrease in total yearly revenue (Yearly Box Office, 2016). Specifically, summer ticket sales dropped 15% in 2014 (Willens, 2015), setting the summer of 2015 up for a huge rebound—and rebound it did. Jurassic World broke the domestic and worldwide opening weekend box-office gross records, only to have them shattered by Disney’s Star Wars reboot six months later (Biggest Opening Weekends, 2016). Led by a stream of sequels and reboots—including 9 of the year’s top 10 worldwide grosses—2015 produced historically strong total revenue flows, yet PricewaterhouseCoopers director Matthew Lieberman projects an uninspiring 0.6% profit growth in the coming years (Davidson, 2012). The bleak estimate is partly attributable to a wildly fluctuating distribution of studio success; Disney and Universal achieved record highs, yet “20th Century Fox, Sony, Lionsgate and Paramount saw double digit declines between -10% and -36% at the domestic [box office] vs. 2014” (D’Alessandro, 2016). All the revenue in the world can’t help Hollywood film industry if it fails to balance the rapidly ballooning costs of producing, marketing, advertising, and distributing films; in particular, marketing costs have risen to staggering heights, and studios have struggled to curb the losses due to increased advertising and branding (McClintock, 2014). With this in mind, an atypical argument regarding piracy in film has resurfaced; while piracy has long been paraded as the bane of studios’ existences, slashing revenue and discouraging legal consumption, an old theory in support of piracy for its positive marketing effects has been given a fresh face.

Quentin Tarentino’s Western epic *The Hateful Eight* was marketed not just as a film, but as a show, a performance, and a return to the old ways of filmmaking. It was produced on 70mm film, despite nearly all current film projectors utilizing digital technology, and Tarentino refused to allow the release of the film’s digital cut until after a two-week special release in select theaters bearing traditional film projectors (O’Connell, 2015). The special release contained an overture and intermission, and programs were distributed to viewers to commemorate the experience. Tarentino spoke on *Jimmy Kimmel Live* on how he labored passionately for two years on the project, all the while envisioning a grand spectacle unlike anything seen in decades (Tarentino, 2015). He spared no expense, even gathering spare projector parts from across the globe to ensure that outdated projectors would run as smoothly as possible (Fleming Jr, 2016). But nearly a week ahead of its special release, *The Hateful Eight* was leaked across the Internet by a piracy group named Hive-CM8, and the high-quality copy was downloaded over 300,000 times before the film’s initial release. The pre-release leak of *The Hateful Eight*—as well as of director Alejandro González Iñárritu’s hotly anticipated *The Revenant*, starring Leonardo DiCaprio—was met with great disdain by Hollywood and was especially damaging to Tarentino, who could not even bring himself to comment when asked during an interview with Marc Fennell of The Feed (Tarentino, 2016). In the fallout of the leak, Hive-CM8 actually apologized for its actions, appearing to show remorse for its transgression (Child, 2016). But the hackers followed with an unexpected proposal, seen below: that the leak would generate enough media attention and buzz to increase interest and increase revenue generated by the film (Child, 2016.)

“We feel sorry for the trouble we caused by releasing that great movie before cinedate even has begun…We never intended to hurt anyone by doing that, we didnt know it would get that popular that quickly…we dont think the producers will loose any money at cinedate…we actually think this has created a new type of media hype that is more present in the news,radio and in the papers than starwars, and the promotional costs for this were freecause everyone is talking about it and everyone wants to see the movie that created so much noise. this will push the cinema tickets sale for sure.” (Price, 2015)

While the statement’s level of eloquence leaves something to be desired, the prospect of “free publicity” garnered a fair bit of attention. Coupling an apology with such self-promotion may detract from its sincerity, but regardless, many monitored Hive-CM8’s claim as *The Hateful Eight* entered its standard theatrical release. On top of the usual difficulties of measuring piracy’s effect on film—mainly, the inability to measure potential gains and losses with any accuracy—the unique “roadshow” special release date and its timing muddle estimates of the film’s success/failure at the box-office. For one, such a unique cinematic event is rare in this day and age, which may have compelled moviegoers to pass on the early leak. Moreover, as Harvey Weinstein, Tarentino’s longtime financier, noted, “if I’m writing a memo to myself, I would say ‘do not open against ‘Star Wars.’ Do not open against the biggest movie of all time.” (Lang, 2016). Yet one month after *The Hateful Eight*’s digital theatrical release, its numbers represent a lackluster showing at the box-office, albeit not a complete disappointment. *The Hateful Eight* has indeed underperformed some of Tarentino’s recent works (Lang, 2016), prompting Keith Kupferschmid, CEO of the Copyright Alliance, blasted Hive-CM8 for its “patently false and ill-informed” hunch, citing Carnegie Mellon research demonstrating piracy’s harmful effects on film creators to bolster his claim (Kupferschmid, 2016). But nonetheless, a significant amount of media attention was drawn to the film because of the Hive-CM8 leak, warranting further examination; as the saying goes, Succès de scandale—there’s no such thing as bad publicity.

Hive-CM8 contended that its action, while unsanctioned, would aid *The Hateful Eight* in its total gross, as it indisputably drew increased attention to an already popular release. And whether or not significant portions of *The Hateful Eight*’s revenue in particular can be attributed to the leak, the claim that “free advertising” due to piracy-related news and media exposure adds to a film’s market potential will, ipso facto, benefit film studios from a profitability standpoint, as revenue streams will increase over constant production costs. Kupferschmid blasted Hive-CM8 for what he refers to as the “patently absurd,” notion that, “a faceless group of Internet outlaws drives audience buzz more than a creative team’s marketing campaign, advertising, and promotions,” and countered, “Carnegie Mellon University researchers demonstrated that pre-release piracy is particularly damaging, “find[ing] that, on average, pre-release piracy causes a 19.1% decrease in revenue compared to piracy that occurs post-release” (Kupferschmid, 2016). However, the conclusions that the CMU researchers drew from their regression models are highly speculative, as many of their descriptive statistics are estimated using constants and variables defined by other estimates of theirs; especially in the case of pre-release piracy, where effects are significantly more challenging to quantify, the quality of significant data leaves much to be desired. Without any corroborating study to support the credibility of the CMU team’s claims, it is quite a stretch to cite their findings as “well-understood and accepted” (Kupferschmid, 2016). With Hive-CM8’s leak catalyzing media attention focused solely on *The Hateful Eight* and *The Revenant* in the week before their releases, the added publicity very likely contributed to heightened intrigue and a more significant market share of moviegoers.

*The Hateful Eight* leak has reinvigorated the lobbies against piracy and copyright infringement, but the complaints lodged over the past few months appear merely to echo those of just a few years ago. While the Motion Picture Association of America (MPAA) has campaigned vehemently against piracy of all sorts in the film industry for over a decade, citing losses of billions of dollars annually and over one hundred thousand jobs in 2005 alone (Ponte, 2008), they have taken a special interest in condemning pre-release piracy over the years. In 2009, Twentieth Century Fox was preparing for its reboot of the once loved X-Men franchise, with a May 1st release date pinned for *X-Men Origins: Wolverine*. It had been three full years since the conclusion of the X-Men trilogy, and Fox was hoping to capitalize on fans’ nostalgia for the series. But about a month before the film’s release, on April Fools’ Day, to be exact, an unpolished yet completed “rough cut” of the film was leaked online and viewed approximately one million times; the film lacked many special effects and toted a temporary audio soundtrack, but conveyed the entirety of the plot seen in the theatrical release (Drees, 2009). Enthusiastic comic-book fans took advantage of the early-access that the leak provided, only to be disappointed by a film they had very little good to say about—side note: I was one of those excited fans, and I remember watching and hating this rough cut, initially excited to be seeing the movie before release, but inevitably wishing I hadn’t see it at all. Critically, *X-Men Origins: Wolverine* was a flop, and come May 1st, all the negative attention and the illicit viewings was sure to be a dagger to the film’s box-office earnings. But despite the overwhelming consensus the the devastating leak had damaged the film, *Wolverine* opened domestically to an unusually strong $85 million, on its way to an eventual total domestic gross of $180 million; more surprisingly, it had a stronger opening than both *Star Trek* and *Harry Potter and the Half-Blood Prince*, (Hardawar, 2010; IMDb). After multiplying the one million viewers by the May 2009 average North American ticket price of $7.18, estimates of piracy’s impact on *Wolverine*’s performance clock in around $7.18 million, a mere 4% of total gross, which further detracts from the reliability of the CMU research estimates of 19% (Belloni, 2009). Thusly, pre-release piracy certainly does not prohibit a strong box-office performance; in fact, it may very well accompany and contribute to such strong performances.

To unambiguously condemn leaks as purely negative is hasty at best, and justifiably lazy at worst. Over a year before *The Hateful Eight* ever made it to film reels, Tarentino nearly scrapped the entire project altogether (Fleming Jr, 2016). Why? He intended for *The Hateful Eight* to serve as a “guinea pig” for a new, experimental type of writing. On *Jimmy Kimmel Live*, Tarentino explained how he wanted to write three full drafts of the screenplay, each time starting from scratch, and combining the three into a final story (Tarentino, 2015). His first draft, however, was leaked, first within the industry after being shared with a small group of friends and actors, and later online. Tarentino revealed the “completely unfinished” first draft had, “’a’ end, but [it] wasn’t ‘the’ end.” He initially tried to sue Gawker Media for leaking the script on its website, Defamer, but backed off in favor of a much more beloved response. Still reeling from the leak, he organized a private, one-time, live reading of the script by the cast at the Ace Hotel in Las Vegas (Sharkey, 2014). The event received a standing ovation and such incredible praise that Tarentino “unscrapped” his project. Granted, the script leak wasn’t supposed to happen. It shouldn’t have happened. But the collective enthusiasm and passion of everyone involved in production created something beautiful, inspiring, and everlasting in its wake.

The “free advertising” from a film leaked ahead of its release date can be even more compelling than traditional methods of advertisement and promotion; while critics have an important role to fill offering expert opinions of films, people are often greatly influenced by the opinions of their friends, family, and peers. Traditional advertising offers very little personal connection to the consumer, but the motivation to see a film in theaters is exceptionally strong when trusted friends or colleagues suggest you check out a movie they saw and loved in advance of release. Undergraduate filmmaker Matt Collazo echoes this academic sentiment, proposing: “The time is changing from when people relied on a good criticism to view a film, and instead turn to either their own interests, opinions of people they know, or what other publicity has been produced on the film aside from critical reviews” (Collazo, 2014). Twentieth Century Fox’s experience with *Taken*, starring Liam Neeson, exemplifies an analogous case to Tarentino and The Weinstein Company’s *The Hateful Eight*, albeit on a grander and more finite scale. *Taken* was released internationally a full year before its US opening and was available for download for much of that time. Despite most January releases opening to relatively low box-office numbers and tepid industry anticipation, *Taken* became just the second January release to gross over $100 million (Hartigan, 2009). Especially when a film is well-received by audiences, the extra attention and urging of fellow moviegoers to share in the experiences incentivize a trip to the movies, which is undoubtedly helpful to a film’s revenue stream.

In film, the more attention, the better. And piracy, whether pre-release as in the cases of *The Hateful Eight*, *X-Men Origins: Wolverine*, and *Taken*, or post-release, as in a majority of other cases, absolutely draws significant attention to films and studios. Granted, piracy in its traditional form may bear negatively on Hollywood and the global film industry, whether in regards to finances or employment, yet an empirical analysis of notable instances of pre-release piracy lends credence to the theory that “free advertising” can increase revenue. Perhaps film industries stand to gain from publicizing pre-release leaks after all…

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