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Los Angeles. They were considering allowing the trailer to be used in the television exhibition at the 1939 World's Fair and had supplied a few shorts – all carefully controlled – but that was all.

The next seventeen years would see a running battle between the major studios and their primary customers – exhibitors – over the release of feature films to television. The theatre owners recognised that they would eventually lose the fight, but they were determined to put off the inevitable for as long as possible.

In the past, the refusal of the major studios to offer their film libraries to broadcasters has been viewed as part of the larger story of the motion picture industry's apparently late and ineffectual response to competition from the growth of television. By this view, the divestment of the studios from their theatre chains and their inability to react to a changing environment and new competition led to a long decline of power and profitability for Hollywood.

On the contrary, the record shows that the studios were continually reviewing the market for their product on television and were waiting for the time that would provide the greatest additional income while causing the least impact on the theatrical business on which their prosperity was based. In the meantime, they were quietly selling or licensing a number of their least important films for television use.

For the first time it is possible to tell much of this story through internal memos and letters from major studios and exhibitor organisations. Many of the documents were acquired by the Anti-Trust Division of the Justice Department during the discovery process for *United States of America vs Twentieth Century-Fox Film Corporation, et al.* (1955), known at the time as the '16 mm case'.<sup>3</sup> The contents of the 40 boxes of documents available for examination focused on the 16 mm distribution activities of five of the eight major studios and one minor studio to non-theatrical and television markets.<sup>4</sup> The record was incomplete and has been filled in from other sources, especially United Artists corporate records, the trade press, and documents filed with the United States Copyright Office.<sup>5</sup> Background details were provided by interviews with several executives active in television distribution in the 1950s.<sup>6</sup>

This study reviews the relationship of the eight major studios and theatre owners in the release of major studio-owned product to television prior to 1956. Independent producers and the smaller studios such as PRC, Eagle-Lion, Monogram and Republic chose a different approach to television, and are outside the scope of this study. This analysis concludes with a brief outline of the 1956 release of the major studio libraries to television.<sup>7</sup>

\* \* \*

After World War II, the television industry grew with amazing speed. The number of homes with a television increased at a greater pace than even its boosters anticipated. In 1951, the United States had 10 million television homes, a three-fold increase from the previous year. It took only four years for that number to triple again. The industry as a whole reported its first profit in 1951 and thereafter the amount of money available for programming soared. By 1954, the cumulative pre-tax profits of the television industry's 410 stations were greater than radio's nearly 2600 stations.<sup>8</sup>

The television networks provided a substantial amount of live and kinescope programming to their affiliates. The remainder of each station's broadcast time was filled, not with reruns of past network shows, but by locally produced live programs, movies, and a thriving first-run syndication business. The networks did not offer movies for several reasons, including their desire to produce all of their programming. Virtually all stations, including those owned by the networks, ran feature films in their off hours.

Feature films were seldom broadcast on network television, nor did the networks want them. In 1954, Pat Weaver, President of NBC, called old movies 'senile celluloid'. Weaver noted that the network's affiliates told him that they would prefer live programming from the network to the continuous replaying of old films. In an often-repeated quote, Weaver quipped that 'old pictures never die, their audience slowly fades away'.<sup>9</sup> Actually, feature films were filling local programming time that the networks wished to take back, including the late night berth for NBC's upcoming *Tonight Show*.

Theatrical exhibitors did not stand aside as the number and quality of films available to their competition increased. The Theater Owners of America (TOA) published lists of films released to television

'that our members may correctly assay the damage', and (narrowly skirting the conspiracy laws) 'that they may take such action as is legally permissible to protect their business'.<sup>10</sup> Their April 1949 list included 433 titles, originally released to theatres from 1931 to 1947. The largest group of titles were British films, including the Alexander Korda and Herbert Wilcox libraries. The American films included numerous Hal Roach, Monogram, Mascot and PRC titles. Most of the remainder were independently produced Westerns.

A later list, prepared by the *Independent Film Journal*, based on New York City broadcasts from 1949 to July 1952, included an amazing 2100 titles. The additions included even more British pictures, and films from Eagle-Lion Classics and Walter Wanger Productions.<sup>11</sup>

**The position of the studios**

Where were the major motion picture studios? They had the most popular movies, but they steadfastly refused to sell or license their libraries for use on television. The hesitation of the studios was understandable, as virtually all of their income came from rentals to exhibitors.

While Universal, Columbia and United Artists were not in the theatre business, the other five majors traditionally received a healthy percentage of their income from their theatre affiliates. A previous Justice Department suit had resulted in consent decrees that required them to divorce production and distribution from their theatre activities. While complete divestiture took years, the studios were increasingly dependent on the goodwill of the nation's theatre owners.

In the late 1940s and early 1950s, business for theatres was uniformly bad.<sup>12</sup> 'The impact of television was so violent that the box office declined to such an extent that almost 6500 theaters closed

their doors within three years' time', recalled Spyros Skouras, President of Twentieth Century-Fox, and a former exhibitor. 'During this period', he continued, 'I received letters from the Middle West, from many old friends who lost their theaters. Their families and their children, that was their life, that was their career, and their theaters closed'.<sup>13</sup>

In the face of this, small-town exhibitors were terrified by the prospect that recent Hollywood films would be released to television. After all, 'theaters cannot sell something that others give away', pointed out an exhibitor in David City, Nebraska. In 1951 the *Motion Picture Herald* surveyed independent exhibitors. These people, characterised by the *Herald* as 'suburban, small town and last run exhibitors', almost uniformly agreed that the effect

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**Argyle Television Films, inc.**

Fig. 1. *Film Daily Yearbook of Motion Pictures* (1954), 694.

of television feature film competition would be ruinous.

W.L. Bendsley of the Community Playhouse in Wellesley Hills, Massachusetts, did not think much of television, but he pointed out that 'today's mediocre TV programs have been responsible for our inability to operate at a profit. Improvement of these TV programs would be even more disastrous to us'. J.K. Jameson of the Jay Theater in Bald Knob, Arkansas, summarised the cataclysmic view of many other theatre owners: major studio films on television 'would close our doors'.<sup>14</sup>

The mood of exhibitors was mixed. They could sympathise with producers who now relied on television income to finance their new productions. 'I would not blame producers who do not get their print costs out of the American motion picture theaters for selling their features to television or any other medium', wrote the Executive Director of the Theater Owners of America to an associate in 1948. He explained that 'exhibitors generally feel that where fine productions have been made possible only through theater showings, that the same productions should not return to plague them in 16 mm or television. If these mediums [sic] were to stand on their own feet they would still be competitive but it would be fair competition and outside of criticism'.<sup>15</sup>

In December 1948 the Independent Theater Owners Association tried to fight back against the inroads of television. They decided that the organisation should have a 'rubber stamp for its membership with an imprint of adequate legal language that would guarantee that films contracted for are not to be televised'. Their legal counsel was horrified and quickly pointed out that such a conspiracy to restrain trade would be 'in contravention of law'.<sup>16</sup>

Nonetheless, realising that their survival was at stake, exhibitors still threatened to refuse to book the new films of studios that allowed their old films on TV. 'I've ordered my buyers and bookers to keep hands off the product of companies that have been selling to television', one exhibitor told *Variety* in 1952. For major pictures, this was an empty threat. The theatres needed the popular films as much as the studios needed playdates. The real problem for both parties was that the bottom had dropped out of the market and minor films that had been the

backbone of the industry were not doing well. 'Present figures indicate that our "A" houses, playing the top product, are not being seriously hurt by television', the exhibitor continued. 'A big picture does more now than it ever did. On the other hand our "B" and "C" houses are being murdered. Business is way off, and I'm sure it is the fault of TV.'<sup>17</sup>

The studios recognised that their fate was intrinsically linked with the theatres. As the assistant to the president of RKO noted in response to the 1939 complaint about *Gunga Din*, 'the interest of the exhibitors is our own interest and our efforts to understand and keep abreast of developments in the field of television are toward the end of protecting and coordinating our joint interests'.<sup>18</sup>

When considering licensing their films to any market other than commercial theatres, the primary concern of the studios was the reaction of the larger owners of independent theatres. Columbia's Harry Cohn showed his company's position in 1950 when he inquired about a rumour of a Universal agreement to sell a few old titles to a television distributor. 'The whole point is the question as to whether or not there will be exhibitor resentment against Universal when these pictures appear on television', Cohn noted. 'If certain major companies are breaking away from the established policy, let's certainly not be the last.'<sup>19</sup>

'As long as the major studios are not in the red ink they won't sell to TV', noted one television distributor in 1953.<sup>20</sup> The studios definitely recognised the conundrum. As Abe Montague, Columbia's General Sales Manager, noted in 1950, 'we are primarily in business because we are selling direct to some 14,000 theaters in the United States and until something is done by either a major company or exhibitors I question the good business to move ahead [with television sales] at this time'.<sup>21</sup>

### Why the studios would not sell

While the studios shared a common interest with the fate of the theatres they supplied, there were other, more practical reasons why they would not license or sell their films for television use. While additional income would be welcome, the films had a residual value greater than what television distributors could offer. Also, if they saturated the market with old product, the producers could be worse off than they

began. In addition, several long-standing agreements with industry unions provided penalties against broadcast of old films on television.

### Low offers

There were solid economic reasons to hold back on sales to television. A plain and simple reason for holding out was that no one had offered enough money. Y. Frank Freeman, production chief at Paramount, told the FCC in 1952 that Paramount would sell films for television immediately 'if the price is in the best interests of Paramount'.<sup>22</sup> Spyros Skouras of Twentieth Century-Fox also offered to sell, 'if the price is right'. He said that all of the proposals had been 'so ridiculous that we couldn't sell our films'.<sup>23</sup>

The license fees offered for television use were minuscule in the early days of television, but grew with the advertising market. A review of sales or licenses made by non-major companies shows the small size of the early television market. A five-year license by Pathé Industries to a television distributor in July 1951 of eleven 'B' titles from the late 1940s justified modest advances from \$1000 per title up to a high of \$5000 for two of the better titles, *Heading For Heaven* (1948) with Stuart Erwin and Glenda Farrell and the colour *Enchanted Valley* (1947) with Alan Curtis and Anne Gwynne.<sup>24</sup>

The only way to get a significant payment was to sell a film outright. In 1950, Eliot Hyman's TV Pic, Inc. purchased all rights to two Benedict Bogeous films from numerous investors and debtors. *Dark Waters* (1944) starred Merle Oberon and Franchot Tone, and went for \$25,000. *Mr. Ace* (1946), with George Raft and Sylvia Sydney, cost its new owners \$35,000.<sup>25</sup>

What kind of license fees could television distributors expect from the stations? Not much in the beginning. Eagle Lion was handling its own television sales in the late 1940s and one of its salesmen reported to his sales manager in early 1949 that it

Fig. 2. NTA TV Film promotional flyer for *The Miracle of the Bells* (Lasky-RKO, 1948) originally released to television by General Teleradio.

was a buyer's market. He found that prices were not related to the number of stations or viewers in a given area:

Prices depend on the policy of each station and its demand for movies, rather than the number of sets in the area. Take Atlanta for example. Although they have only  $\frac{1}{3}$  the number of sets of Cincinnati and  $\frac{1}{2}$  the number of Minneapolis, they are willing to pay double the price for features. Toledo paid twice as much as Cincinnati offered, with  $\frac{1}{2}$  as many sets.

If we want to do business with these newer stations we will have to drop the price for features to around \$50. They can buy features for that figure, although heaven knows what they are like. The trouble is that they would rather show a poor movie than pay more for a good

one. We received a letter from Miami saying the station will begin operation very soon and quoting us \$25 for features and \$17.50 for Westerns!<sup>26</sup>

Despite optimistic reports in the press, Ralph Cohn, manager of Columbia's television subsidiary Screen Gems, reported in 1951 that the reported television grosses of quality feature films were 'tremendously overstated'. He did see promise in the future: 'In 1949 these films grossed five or six thousand dollars apiece; in 1950 about six or seven; and this year almost eight or nine. This applies to pictures like the old Selznicks, the Kordas, the Wangers and the Roaches.'<sup>27</sup>

Better product definitely brought substantial returns. One major source of quality films was the Bank of America. When production had boomed after World War II, the Bank of America had bankrolled many independent producers. In those cases where a film didn't return enough to cover the loans, the bank seized the picture in satisfaction of the mortgage. Among the films controlled by the Bank of America were *A Double Life* (1947), with Ronald Colman, and *Miracle of the Bells* (1948) with Frank Sinatra. Their library also included the entire output of the short-lived Enterprise studio.<sup>28</sup>

In the spring of 1954, station owner and syndicator General Teleradio paid \$1,250,000 for an eighteenth-month license to thirty of the best Bank of America titles from 1945–48. At \$42,000 per title, this was the most that any distributor had paid for films up to that time. The General Teleradio stations called the program 'Million Dollar Movie'. The films were programmed at the rate of one a week. By playing each picture sixteen times, New York was able to guarantee advertisers a cumulative 70 rating. Then, by licensing the films to other markets, the gross reached \$3,000,000 by the end of the license.

A review of contemporary trade papers shows that the management of the major studios believed that television represented only a limited market for feature films which would quickly reach saturation. *Variety* noted that each distributor 'is aware that he who gets there first is apt to reap the benefits, while the rest may suffer the consequences of having to compete in a market swamped with product'.<sup>29</sup>

No one wanted to be the first to sell, but every

studio recognised that once the wall was breached, everyone would have to make their libraries available. The counter-argument that the value of these libraries would only increase was made in 1950 by Abe Montague to Harry Cohn:

If we decide we want to release film for television – such film as we have the rights to release – we can do it much better for a much better price at a later date than we can now. More television stations are being continuously built, and the more television stations that are built the bigger your market become for any given picture or pictures, that is obvious ... I would think, and I believe it is the general thinking of all of us here, that our inventory becomes more valuable as far as television is concerned instead of less valuable.<sup>30</sup>

Still there was concern that it could be possible to wait too long. The anticipated introduction of colour television might have made black-and-white features obsolete for broadcast before they ever hit the air. However, the expected changes to the industry from 3D and then CinemaScope led some studio executives to believe that a change of projection standards would eliminate the value of these films to theatres and allow their release to television.<sup>31</sup>

## Reissues

All of the studios had slashed their production schedules as box office returns began to fall in the late 1940s, and they were filling out their release schedules with reissues. Costs related to reissues were usually minimal. Preparing new prints and publicity material would usually cost in the range of \$1000 to \$10,000. This meant that virtually all of the income went to the bottom line. One of the most successful reissues of the early fifties was *King Kong* (1933), which played in 130 theatres simultaneously in the New York City area in its 1952 re-release. Despite extremely high marketing costs due to saturation television advertising (\$400,000 in New York City alone), the reissue resulted in a profit of \$565,000 for RKO.<sup>32</sup>

Another consideration was that the studios were continually remaking films that had been successful in the past. Production executives felt that

release of a picture to television would end its re-issue value and its remake value also. Jack L. Warner testified to the value of a proven story property:

It is a showmanship feeling whether you can or cannot remake a story. For example, I will give you the name of a story, 'Saratoga Trunk' by Edna Ferber. We made that into a film that was highly successful. We have the right to make that picture as a musical version. That has been time and time again where you use a book or a play and you make it first as a dramatic or comedy film, and then one, two, three, four, five years, ten years, sometimes 15 years later you may make it as a musical version, which is a common practice in the theatre, as well as in film.

Therefore, you have a ready property in a manuscript form which would probably sometimes cost you two, three, four hundred thousand dollars, in the market of today as high as a million, to buy the proper story or a play... If we would get rid of this film at a very early date, we would find that we couldn't use that again, because the complete value would be lost. I feel I am speaking from experience and the tenor of the public.<sup>33</sup>

Spyros Skouras agreed with Warner. Skouras's example was *The Rains Came* (1939), which was remade in colour and CinemaScope in 1955. Why would he want to give up the original film? 'If you sell that to television, you dissipate the value of that wonderful property', he explained. How valuable is that story to Twentieth Century-Fox? 'We would pay at the present value of the market, for a property of that type, as high as half a million dollars.'<sup>34</sup>

## The unions

In addition to economic considerations, there were contractual obligations that restricted the flexibility of the studios. In two cases, unions threatened to strike unless they were cut in on the proceeds. The most restrictive agreements were with the American Federation of Musicians (AFM).

The musician's union, under the leadership of James Petrillo, was a powerful presence in the film

industry. Petrillo ensured that the union's agreements with the studios stated that all recording work the Federation members had performed in the past was for theatrical release, and that all music scores should be re-recorded for television release. In addition to providing additional employment for member musicians, he required a payment of 5 per cent of gross revenues to the union. More importantly, the musicians had the clout to back up their claim, by threatening to strike any studio that released union-scored films to television.<sup>35</sup> Independent producers could evade these provisions by releasing films that were not originally scored under union agreements, or replacing the original scores with stock music or music newly recorded in Mexico. The studios did not have these options.

If this were not enough, the Screen Actor's Guild (SAG) wanted a piece of the action. Since previous agreements had been silent on television, the 1948 SAG agreement allowed the studios to broadcast films produced prior to 1 August 1948, if SAG was notified. For motion pictures that went into production after that date, an agreement for residual payments to the guild was required. Otherwise, SAG reserved the right to cancel their contract with that studio, which would prohibit any Guild member for working for that company.<sup>36</sup>

## The policies of the studios

Despite all of the reasons that it was not in their best interest, the studios were making their films available to their competition. While repeatedly denying their actions to the trade press and exhibitors, Columbia, Paramount, Twentieth Century-Fox, United Artists and Universal did sell or license some of their features, Westerns, cartoons and serials to television distributors.

To disguise their involvement, the studios went through various machinations to gain the economic windfall of a television sale or license, and hopefully avoid a reaction from exhibitors. These agreements often involved sales through third parties and newly created studio subsidiaries, and repurchase agreements. While these sales and licenses represented a small portion of the films the studios controlled, and seldom represented their better films, they were prevalent and continuous, and were a significant source of additional income. In virtually all cases,



the contracts required that the studio identification and logos be removed from all prints.<sup>37</sup>

While they did not conspire to deny their films to the competition, all of the studios exhibited similar patterns of behavior. Paramount and Columbia were involved in television, but they did not offer their theatrical films as programming. All of the studios investigated the television industry, and researched the rights situation of their films, but held off on making them available. Once the situation had progressed so that this new line of business would not threaten their existing sources of income, they would be ready to jump in.<sup>38</sup>

This following analysis reviews the companies in rough chronological order of their involvement in television.

## Universal Pictures

With the October 1946 merger of Universal Pictures and International Pictures, the new Universal-International upgraded its production schedule, dropping serials and B westerns and adding more distribution agreements with outside producers. With declining business and a number of unsuccessful releases, the new management was facing a \$3,000,000 loss for the fiscal year ending 31 August 1947.

Into this situation stepped Matthew 'Matty' Fox, who would become the principal catalyst in the distribution of feature films to television. Fox worked his way through exhibition to a top job at Skouras Theatres. He moved to the production side as a vice president at Universal, where his uncle Nate Blumberg was president. After the war, Fox returned as a board member and executive vice president and set to work to erase the studio's pending loss. As Fox later told the story, he looked around for a separate company to make a sizable downpayment for the right to reissue the Universal library.

Matty Fox helped to line up financing for Joseph Harris and Paul Broder, whose new distribution company was called Realart Pictures. The agreement advanced to Universal an impressive \$3,250,000 against 35 per cent of the gross for ten-year 35 mm reissue rights to most Universal pictures from the 1933/34 season through 1945/46.<sup>39</sup> This approach was so successful that

by the end of the license in 1956, Universal's share was \$8,000,000.<sup>40</sup>

The Realart agreement was the first real proof that the studio backlogs of old pictures were a valuable corporate asset. While presumably Universal could have made more money if they had handled the distribution themselves, an outside company meant a hefty upfront advance while Realart and its subdistributors were more aggressive in their sales than Universal would have been.

Universal was investigating the television clearances of its Westerns, serials and cartoons as early as 1947. United World Films had been established in late 1945 as a subsidiary of Universal to co-ordinate its non-theatrical and television activities.

In 1947 and 1948, the United World staff was a flurry of activity as the East Coast and West Coast legal departments checked story licenses, player clearances and music rights. The impetus for the review came from the New York office. The extensive review of the files on Universal's Western pictures proved that virtually all of the players were hired under a standard contract that permitted exhibition by 'radio devices', which was interpreted to include television.<sup>41</sup> Some titles were rejected due to expiration of story rights, but for the remainder, the only limitation was the music on the soundtrack.

The studio investigated a variety of approaches to get around the music restrictions. M.R. Davis in California responded to a New York inquiry:

Very clearly we would be unable to use a composite print because the music track cannot be televised ... Televising these photoplays without any sound track, employing studio musicians for the television broadcast, and using other talent to speak the dialogue while the photoplay was running would present a problem as far as the Screen Actors' Guild is concerned. The dialogue track would have to be run if the dialogue, other than a commentary, accompanied the broadcast.<sup>42</sup>

Some Universal titles were licensed by United World to other distributors. For example, *40,000 Horsemen* (1940), an Australian picture that Universal controlled for the United States, was licensed in 1952 to Loureed Television Corporation for a five-year term for a guarantee of \$10,000.<sup>43</sup>

With the birth of Universal-International, the new company was no longer distributing serials to theatres, so it did not have to worry about destroying their reissue value, as did Columbia and Republic. However, Universal had licensed a few titles to Commonwealth Pictures, a theatrical reissue and 16 mm non-theatrical distributor, and to Lippert Pictures.

In 1950, there was gossip around the industry that Universal had unloaded some of its serials to television, but few details were forthcoming. These serials had been produced under story licenses that had since expired, and Universal could no longer distribute the titles to theatres. Abe Montague investigated the situation at the request of Harry Cohn. Montague found that for *Flash Gordon* (1936):

Sam Krolberg [sic] and a group who were interested in the film in the first place bought the actual film from Universal and they sold it to National Comics who made the deal to televise the film.<sup>44</sup>

Two weeks later, he provided more details:

Universal sold their negative and film, on which their rights had expired, to Krolberg and his group for \$60,000. Universal in turn paid to Krolberg and his group \$100,000 for seven years foreign rights on the serial *Flash Gordon* and also the feature that was made from the serial ...

Universal at the same time sold five other serials to this group, on which their rights had expired, and they did not buy the foreign rights on these serials because apparently they did not think they had any value in foreign. For the five serials on which they did not acquire foreign rights Universal was paid \$62,500 or \$12,500 for the negative and film of each serial.<sup>45</sup>

In all, Universal sold their rights and materials in ten serials based on popular comic strips to television in 1950–51. To avoid conflict with a newly produced television series, the 'Flash Gordon' in the titles of *Flash Gordon* (1936), *Flash Gordon's Trip to Mars* (1938), *Flash Gordon Conquers the Universe* (1940), was changed to 'Space Soldiers' for television distribution.<sup>46</sup>

In the summer of 1954, Universal started selling films outright. James Mulvey was President of Samuel Goldwyn, Inc., and ran Goldwyn's New York office. On the side, he used his industry contacts to acquire films for television distribution. Universal sold him five additional serials which had been based on limited story licenses. *Jungle Jim* (1936), and two versions of *Secret Agent X-9* (1937 and 1945) were from comic strips owned by King Features Syndicate. *The Lost Special* (1932) was based on a story by Arthur Conan Doyle, while *The Adventures of Smilin' Jack* (1942) also originated in a comic strip.<sup>47</sup>

Mulvey also collected Universal's Sherlock Holmes series starring Basil Rathbone and Nigel Bruce. Each picture had been produced under a seven-year license from the Sir Arthur Conan Doyle estate. While fondly remembered by audiences, unlike the first two in the series made at another studio, these were program pictures with running times as short as 60 minutes.<sup>48</sup>

The final group was a series of films produced by independent producer Walter Wanger for Universal release. Mulvey acquired Wanger's half interest in the profits, and he went to Universal and they split ownership of the films. All of the films were major productions. Mulvey's titles included *A Night in Paradise* (1946), a Technicolor fantasy with Merle Oberon, *Smash-up – The Story of a Woman* (1947), starring Susan Hayward, and two World War II pictures, *We've Never Been Licked* (1943) and *Ladies Courageous* (1944) with Loretta Young. Universal kept ownership of *Scarlet Street* (1945) with Edward G. Robinson and Joan Bennett, and two Technicolor titles starring Susan Hayward, *Canyon Passage* (1946) and *Tap Roots* (1948).<sup>49</sup>

In late 1955, Universal licensed eight features to National Telefilm Associates. The distribution of these films was limited by music and story rights clearances. The films had originally been offered to Associated Artists Productions, but the distributor could not clear the music rights. The package included: four Olsen and Johnson pictures, *Hellzapoppin* (1941), *Crazy House* (1943), *Ghost Catchers* (1944), *See My Lawyer* (1945); two films based on Damon Runyon stories, *Tight Shoes* (1941) and *Butch Minds the Baby* (1942); the Abbott and Costello *Pardon My Sarong* (1942); and

the Rodgers and Hart musical *The Boys From Syracuse* (1940).

In July 1956, Universal sold its 31 remaining theatrical serials produced between 1934 to 1946 to Jerry Hyams' Serials, Incorporated.

### United Artists

While all of the studios could claim that they did not want to sell films to television, only United Artists had no films to sell. Since it did not produce any films, UA only acted as a distributor. Television rights were held by the producers, and United Artists was powerless to keep their films from appearing on television after the expiration of the 30-month theatrical window provided in their distribution contracts.

This put the studio in the worst of all possible situations, being blamed for having their releases appear on television, while receiving none of the income. United Artists was constantly preparing press releases to combat articles like *The Film Daily's* 'Bagnall Closes Television Rights to 18 UA Releases.' United Artists was trying to assure theatres that they were not in the television business, and had nothing to do with these releases but, as they wrote Bagnall, they found that these stories cause 'serious difficulties for us in our relations with exhibitors and others'.<sup>50</sup>

While this was true, United Artists was also the source of the first package of high-quality American features available for television. The studio had financed films for producer Walter Wanger and others in the 1930s and early 1940s and it still owned rights to those titles.

In 1951, United Artists was managed by Arthur Krim and Robert Benjamin, who until recently had run the independent Eagle-Lion Films, Inc., owned by Pathé Industries. With a large overhead, and in desperate need of films to distribute, United Artists was losing over \$100,000 per week.

Enter again Matty Fox. He had left Universal in 1950 to start an Indonesian trading company which made him a quick fortune. Fox had made the introductions that led to Krim and Benjamin's opportunity to run United Artists, and would later serve on UA's board. He was consolidating several small television distributors into a new combine, Motion Pic-

tures For Television, and Fox needed films for broadcast.

Eagle-Lion had been weakened by the departure of Krim and Benjamin. The parent company, Pathé, was eager to get out of the theatrical business, and to sell off their library. In April 1951, Fox negotiated a three-way deal. United Artists purchased Eagle-Lion Classics for \$500,000 due in 1954, and a ten-year obligation to make their release prints at Pathe Laboratories (owned by Pathe Industries). In a side agreement, Fox bought or licensed television rights to the films. In return, and because they needed the money, United Artists sold Fox all rights to the films UA had financed and owned for \$500,000, payable immediately.

What Matty Fox acquired were sixteen films produced by Walter Wanger, 21 titles that the studio had bought outright from Paramount when UA faced a product shortage in 1942, Alexander Korda's production of Ernst Lubitsch's black comedy *To Be or Not To Be* (1942) and residual rights to thirteen Hopalong Cassidy Westerns. The films in this package have gained in prestige with the passage of time, but they included a number of potent box office titles, with two John Ford–John Wayne collaborations, *Stagecoach* (1939) and *The Long Voyage Home* (1940), Fritz Lang's *You Only Live Once* (1938) with Henry Fonda and Sylvia Sydney, Alfred Hitchcock's *Foreign Correspondent* (1940) and Rene Clair's *I Married A Witch* (1942) with Fredric March and Veronica Lake.<sup>51</sup>

### Twentieth Century-Fox Film Corporation

Twentieth Century-Fox Film Corporation was greatly interested in television. In 1948, Twentieth Century-Fox nearly bought the American Broadcasting Company television network, and it filed applications for television stations in several major markets.

It was no secret in the trade that Twentieth Century-Fox was willing to make their films available to television – for the right price. In September, 1950, Peter Levathes, the Short Subject and 16 mm Sales manager for Fox, told a meeting of the National Television Film Council in New York that the studio would be willing to license its films for broadcast. Jacques Kopfstein of Atlantic Television immediately spoke up, offering \$100,000. However, it

would take larger offers to convince the company to take the plunge.<sup>52</sup>

In early 1950, producer Sol Wurtzel inquired about the television rights to a group of eighteen program pictures that he had produced for Twentieth Century-Fox release. These films, made from 1945 to 1949, were bottom-of-the-barrel program pictures.<sup>53</sup> An average example would be *Second Chance* (1947), starring Kent Taylor, filmed on a production schedule of twelve days, with a running time of 65 minutes.<sup>54</sup> Sol Wurtzel's low-production standards were so notorious that after the Ritz Brothers were assigned to work for him in the 1930s, Harry Ritz quipped that 'things have gone from bad to Wurtzel'.<sup>55</sup>

Al Lichtman, Fox's director of distribution, responded to Wurtzel that the matter had been discussed with the company's executive committee, and that they agreed that 'the television people are not in a position to pay sufficient monies to justify selling them the rights at this time'.<sup>56</sup> In addition, there were several issues related to the production of the films on which Wurtzel and the studio were in disagreement. Harry J. McIntyre of Twentieth Century-Fox investigated the situation:

As you know, we advanced the producer various sums as production advances or personal loans in connection with these pictures and we have not recouped \$428,863.64 or more. As security for these advances we took assignments of the copyrights and the pictures, but I do not think we would have any right under these assignments to claim television rights without going through a foreclosure proceeding.<sup>57</sup>

Recognising that neither party could act unilaterally, McIntyre concluded that:

I believe the best procedure would be to enter into an agreement with the producer that the producer make the television deal direct with the third party and that the third party pay us all of the proceeds until full liquidation of our advances.<sup>58</sup>

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Fig. 3. *Film Daily Yearbook of Motion Pictures* (1953), 702.

To make the deal, both sides compromised. In October 1952, the studio agreed that Wurtzel held the television rights, assigned the copyrights on the pictures to Wurtzel and reduced Wurtzel's obligation to Twentieth Century-Fox to \$325,000. The television contract between Wurtzel and Major Attractions, Inc. called for a \$250,000 advance versus 50 per cent. Wurtzel paid the \$250,000 to Twentieth Century-Fox and would only share in revenues after the studio had been repaid in full.

The following spring Twentieth Century-Fox quietly released three more packages to television distributors. The studio first transferred Western Hemisphere television rights to the films to a newly created subsidiary, Savoy Productions, Inc. All of the television licenses were then made in the name of Savoy.

In April 1951, Wilbur Snaper, President of the Allied Theatre Owners of New Jersey and Truman

Rembusch, President of Allied States Association of Motion Picture Exhibitors met with Twentieth Century-Fox's Spyros Skouras. Snaper wrote to Skouras to reinforce his concern: 'It was with regret that I read of a tentative deal Twentieth Century-Fox has in the offing to handle television pictures, although the pictures referred to are not new and are British.'<sup>59</sup>

Snaper was more direct in his report on the meeting to the head of the Allied States Association:

If this comes to pass and Fox does set up this library of pictures, it will be the first major company to sell film to television. There is little doubt that this will break down the flimsy barriers exhibitors have forced distributors to erect and TV will then have available some of our best old time productions which so far have been denied to them.<sup>60</sup>

In February 1953, for an advance of \$120,000, Twentieth Century-Fox licensed a 28-title package of their major and minor British productions to Jerry Hyams' Gail Pictures International Corporation. Stars of these pictures included Gracie Fields, Jessie Matthews, James Mason and Robert Donat. Five of the films were directed by Carol Reed, including the classic *Night Train to Munich* (1940), starring Margaret Lockwood and Rex Harrison.<sup>61</sup>

In April, Twentieth Century-Fox closed a new deal for two more packages. For an advance of \$180,000, the studio licensed their Charlie Chan pictures to Major Attractions, Inc. The agreement listed 26 titles although they could only find negatives or prints on 21 pictures.<sup>62</sup> Finally, for an advance of \$100,000, Major Attractions received eighteen Fox-owned British quota pictures from the 1930s, with running times as short as 46 minutes. Twentieth Century-Fox added seven post-war major British productions to make the package more desirable, including Alexander Korda's productions of *Anna Karenina* (1948) and *An Ideal Husband* (1947).<sup>63</sup>

Like the Wurtzel deal, these were five-year agreements which would be extended for an additional three years if royalty payments by the television distributor exceeded the advance. All four agreements required the distributors to order their

prints from Deluxe Laboratories (owned by Fox), and to remove the name and trademark of Twentieth Century-Fox from the prints, except in the copyright notice. Clearing music rights was the responsibility of the television distributor.

These packages were an instant hit upon their availability. Major Attractions transferred distribution rights to their three Twentieth Century-Fox packages to Unity Television Corp. Unity President Archie Mayers told *Variety* that demand for fresh features was so great that the packages were sold to twelve television stations in the first ten days alone.<sup>64</sup>

Exhibitors were irate and afraid that if they did not speak up more films would follow. Robert Wile, executive secretary of the Independent Theatre Owners of Ohio, asked in a bulletin to his fellow exhibitors: 'What exhibitor would be foolish enough to buy Fox's current product and charge people for it, when the same company's pictures, with the same stars, can be seen on TV for nothing?'<sup>65</sup>

Spyros Skouras disagreed completely. Responding to Wile, he wrote that CinemaScope changed the equation: 'Once CinemaScope and other new systems for improved theater entertainment are installed in all of the theaters and the old type of motion pictures become obsolete, then these films could be made available to television without injury to anyone.'<sup>66</sup>

There was another reason, which Skouras only explained later. 'Before the introduction of CinemaScope, [we] needed some income to improve our profit and loss statement, [so] we sold some of our pictures [to television].'<sup>67</sup>

## Paramount Pictures

Of all the major studios, Paramount was the first to understand the potential of television and through their investment in the DuMont network, they intended to be in a position to participate in the industry's growth. Although Paramount owned KTLA-TV in Los Angeles and a minority, but possibly controlling interest in the DuMont television network, they resisted any tendency to offer their films as programming.

The first films to be a hit on television had once belonged to Paramount. The studio had released the first 41 of the 66 Hopalong Cassidy features starring William Boyd. After the last theatrical release in 1947, Boyd invested his life savings in buying rights to the films.<sup>68</sup> From their initial broadcast, the movies caught on and became a national sensation. Los Angeles station KTTV paid \$250 a title for the initial run of the films. A year later, it was paying \$1000 each for the fifth run.<sup>69</sup> Paramount had sold their interest in the Boyd pictures, so they had not participated in the television success of Hopalong Cassidy. However, they made some other films available.

William Pine and William Thomas were staff producers at Paramount, charged with the making Paramount's B action pictures. With well-known, second-rank stars such as Richard Arlen and Preston Foster, the films were efficiently produced on small budgets. As a result of their cost effectiveness, the producers were dubbed the 'Dollar Bills'. In 1950, the first three Pine-Thomas productions were sold to the Picture Corporation of America. In 1951, Paramount sold another ten titles to the William Pine Corporation for distribution to television stations by the syndication division of the Music Corporation of America (MCA).<sup>70</sup>

In 1953 Paramount was approached about their Zane Grey series of Westerns. Paramount had produced a loose series of films based on Grey's stories, filmed from the silent period through 1940. There were no continuing characters and stock footage from earlier versions was used liberally in later versions of the stories. The stars of the sound films included Gary Cooper, Randolph Scott and Buster Crabbe. In 1953, through an intermediary, Paramount licensed seven-year rights to 20 films from the series to Moe Kerman's Favorite Films'.<sup>71</sup> Since all of the story rights had expired, Favorite licensed the story rights from Romer Grey, who was handling his late father's literary estate.<sup>72</sup> All of the credits were changed to reflect Favorite Films' distribution instead of Paramount, and just in case anyone got too inquisitive, the title of each film was changed.

In April 1954, Paramount sold eight Bulldog Drummond pictures to Congress Films, Inc. for distribution by Governor Television. These were program pictures, produced from 1937 to 1939, with Ray Milland or John Howard as Drummond, and

John Barrymore was featured in three of the titles.<sup>73</sup> These films were based on stories that Paramount had licensed for a limited term. The trade paper *Harrison's Reports* heard of the sale, and noted in an editorial:

The reluctance of Paramount's officials to discuss the deal makes it quite obvious that they cannot offer any explanation that will lift from their company the dubious distinction of having become the first of the big major companies to sell its old pictures to TV.

The exhibitor organisations nailed Monogram and Republic to the cross when they sold their old pictures to TV. Are they going to do the same thing to Paramount?<sup>74</sup>

In November 1955, Paramount unloaded its library of some 1600 live action short subjects and cartoons produced from 1927 to 1950. These were purchased by UM&M TV for a reported \$2.5 million.<sup>75</sup> UM&M had been established in 1954 as a syndicator of 30-minute television programs for national advertisers.<sup>76</sup>

In addition, in June 1956, Paramount sold their library of 191 Popeye cartoons produced from 1933 to 1951 for a reported \$2,250,000 payment to Paramount and King Features Syndicate.<sup>77</sup> The purchaser was Eliot Hyman's Associated Artists Productions Corp.<sup>78</sup>

In 1956, Paramount sold four features that were owned by some companies the studio had acquired. In 1942, Paramount had foreclosed on the Fleischer Studios. While the company continued production as a Paramount subsidiary, the Fleischer library included two Technicolor features, *Gulliver's Travels* (1939) and *Mr Bug Goes to Town* (1941). To acquire Leo McCarey's services, Paramount had bought the director's Rainbow Productions, which had produced the hit *The Bells of Saint Mary's* (1945), starring Bing Crosby and Ingrid Bergman and the less successful *Good Sam* (1948), starring Gary Cooper and Ann Sheridan. Both were originally released through RKO Radio Pictures. Rather than sell these films outright, Paramount transferred ownership of the Fleischer films to Rainbow, and in 1956 sold all of Rainbow's stock to National Telefilm Associates.<sup>79</sup>

In December 1956, Paramount sold 35 addi-

tional Pine-Thomas pictures, produced from 1941 to 1949, to Wintree Productions, Inc. The films were distributed for television by Associated Artists Productions.<sup>80</sup>

## Columbia Pictures

Columbia was very active in ancillary markets after World War II. In November 1948, Columbia organised its Screen Gems subsidiary to handle the 16 mm distribution, produce television programs and commercials, and investigate distribution of Columbia films to television. Ralph Cohn, nephew of Harry Cohn, Columbia's president, was recruited to run the operation.

While Ralph Cohn was a real go-getter, the studio was not ready to make just any deal. They investigated different possibilities with the *Phantom*, *Mandrake the Magician*, *Superman* and *Captain Midnight* serials, whose underlying rights had expired. Cohn investigated taking the *Captain Midnight* serial and shooting new footage to turn it into thirteen television half-hours. The client would be the Ovaltine Company, which owned the radio program. This would allow Screen Gems to undercut a competing offer to produce a *Captain Midnight* television series.<sup>81</sup> Apparently nothing ever came of the proposal.

Abe Montague, Columbia's General Sales Manager, was opposed to showing Columbia serials on television because he felt that more income could be made from reissues. He did not believe that Universal's sales of serials were a good example for Columbia, and wrote Harry Cohn:

As far as serials are concerned, Harry, in my opinion it would be foolish for us to release serials for television purposes because we have just reissued a serial to the theaters, *Wild Bill Hickok*, which will gross for us in the United States something between \$250/300,000, and that is much more money than we can get at this time for five or six serials being sold for direct use on television ...

We should from time to time review the entire situation but certainly for the present we would be a considerable sum of money out of pocket if we released to television in lieu of reissuing to theaters.<sup>82</sup>

While serials still had a market, Columbia had ceased production of B Westerns in 1953, and Screen Gems investigated the market for Westerns on television, possibly motivated by a sharp drop in profits for 1952.<sup>83</sup> While Columbia wanted to gain the income, they were concerned about confronting the musician's union.

Leo Jaffe of Columbia's New York office wrote to B.B. Kahane, Harry Cohn's right-hand man:

We are in agreement with you that it would best serve our interest, based on the circumstances involved, to try to affect an outside sale so that we do not become involved under the terms of our agreement with Petrillo. Accordingly, we intend to canvass the field to see what deal can be made for the outright sale of these old Westerns. We intend to set up a group of 26 to 39 such Westerns for sale.<sup>84</sup>

Columbia finally concluded a series of contracts with corporations headed by Jerry Hyams. The main company was Hygo, but Hyams' other companies included Argyle Television Films for British pictures, Gail Pictures International for Westerns, Serials, Inc. for a package of Universal serials, and Samba Pictures for cartoons. In addition, independent distributor Unity was allied with Hygo. Apparently some of these companies were set up as tax shelters for private investors, who would provide the necessary upfront capital and benefit from the depreciation of the assets.

The first three Columbia/Jerry Hyams agreements provided for an easy \$863,600 for Columbia as an advance against a percentage of the distributor's gross. The contract of 24 November 1954 with Gail Pictures International covered television rights to sixteen Bill Elliott Westerns for an advance of \$128,000.<sup>85</sup> Reissue rights to these titles had been licensed in the late 1940s to Astor Pictures. A contract made a month later with Samba Pictures, Inc. covered television rights to between 156 to 184 Scrapy and Crazy Kat cartoons for an advance of \$2500 per title. This would mean a minimum payment of \$390,000 to Columbia. The number of cartoons included in the final tally depended on the condition of the physical material, and whether any individual title was 'unsuitable for exhibition to children or is politically offensive or objectionable'.<sup>86</sup> A further contract in August 1955

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Fig. 4. *Film Daily Yearbook of Motion Pictures* (1955), 682-83.

between Columbia and Gail covered 72 Westerns for an advance of \$345,600. These films starred Buck Jones, Tim McCoy, Bob Allen, Ken Maynard, Jack Luden, Russell Hayden and Bob Wills.<sup>87</sup>

As part of these agreements the television distributor was responsible for payments to the musician's union. In an innovative move, these contracts called for the copyrights to be assigned to the TV companies, but Columbia could re-acquire each group of films at the end of a seven-year distribution term for a token payment of \$1000.<sup>88</sup> This allowed for all references to Columbia on the prints, including the copyright notices, to be changed to reflect the television distributor.<sup>89</sup>

Columbia executives thought that they had covered their tracks with these agreements, so they could not have been pleased to see the front page of *Daily Variety* for 27 October 1954, with the banner headline 'Col Sells Oldie Oaters to TV'. The article quoted Jack Cohn emphasising that this 'in no way alters our company's policy of not releasing our features for television showings'. Perhaps trying

to cover the contradiction, Cohn continued that the films had 'long since outlived their theatrical value and have no further potential for reissue'.<sup>90</sup>

B.B. Kahane wrote to Irving Briskin two days later:

We have just made the Hygo deal and unfortunately it received headlines in the trade papers. Already we have had repercussions. Bill Hopkins received a call from Carl Fischer of [Musician's] Local #47 asking whether, in the deal made with Hygo, Columbia obligated Hygo to fulfill Columbia's obligations with respect to the use of the films on television.<sup>91</sup>

There were two subsequent television agreements with Gail Pictures in December 1955. Apparently they followed the same pattern as the earlier agreements. The first covered six Columbia action features starring Tim McCoy and Buck Jones.<sup>92</sup> The second contract covered nine more Westerns, including four starring Buck Jones and three starring Tim McCoy.<sup>93</sup>



## Warner Bros.

There could be no question of the Warner Bros. policy regarding their pictures on television. In early 1948, Jack Warner sent a blistering telegram to the home office in New York:

POLICY WE HAVE ADOPTED HERE AT STUDIO AND YOU DO SAME AT HOME OFFICE RE TELEVISION IS THAT WE WILL NOT AT ANY TIME GIVE ANY OF OUR PRODUCTIONS, SHORTS, CARTOONS OR FEATURES TO BE USED FOR TELEVISION BROADCAST IRRESPECTIVE OF PRICE THEY WILLING TO PAY FOR SAME. PLEASE BE SURE THIS ADHERED TO UNLESS CONTRARY DECISION MADE BY HM OR MYSELF.<sup>94</sup>

Three weeks later the New York office responded, agreeing with the policy. The memorandum to Jack Warner noted that:

Yesterday we discussed with H.M. [Harry Warner], the Major [Abe Warner] and Schneider, the question of televising of any Warner product and it was again agreed that we will make nothing available to television stations at any time, the only exception being the possibility of a newsreel which is still unsettled'.<sup>95</sup>

In April 1955, Warner Bros.' newly formed television subsidiary, Sunset Productions, Inc., acquired the studio's black-and-white 'Looney Tunes' cartoons for distribution to television stations. Originally produced from 1930 to 1945, the characters in these cartoons included Bosko, Buddy and Porky Pig. Each cartoon's main title was changed to reflect the new owner.<sup>96</sup>

## Metro-Goldwyn-Mayer

The management at MGM was very leery of ancillary markets. By 1951, all of the other major studios made their films available in 16 mm for use by schools or shut-ins, leaving MGM as the lone hold-out. The company had tight print control and was very adverse to uncontrolled distribution. Although MGM was under extreme financial pressure, they were willing to forego the income.

Independent producers Hal Roach Studios and Enterprise Studios had released their films theatri-

cally through MGM, and those titles were on television. However, apparently no MGM-controlled product was released for broadcast.

## RKO Radio Pictures

Along with its competitors, RKO held off from releasing its pictures to television. Once Howard Hughes bought the studio in 1948 it was expected by industry observers RKO would become the first studio to sell out to television. Hughes's management led to continued losses, and it was anticipated that any buyer of the studio would have to look for hidden assets in the film library to justify the purchase price.

RKO was negotiating in June 1951 with CBS.<sup>97</sup> The trade press reported in early 1952 that Matty Fox had a standing offer to Hughes for television rights to the RKO library;<sup>98</sup> later in the year a deal with the DuMont television network was rumoured as 'hot',<sup>99</sup> and in 1954 Associated Artists Productions was reported to be negotiating with Hughes.<sup>100</sup>

Finally, in July 1955 Howard Hughes agreed to sell the studio for \$25,200,000 to a division of General Tire. General Teleradio's media holdings included six independent television stations hungry for programming, especially in the competitive markets of New York, Los Angeles and Boston.<sup>101</sup> Rather than distribute the films through their existing television syndication division, Thomas O'Neil, General Teleradio's head, decided to keep television rights for the cities where they owned stations, and to sell most other rights to the film library to Matty Fox for \$15,200,000.<sup>102</sup>

Matty Fox's Motion Pictures For Television (which had bought films from United Artists) had amassed 854 features, shorts and serial chapters from various independent producers and changed its name to Western Television.<sup>103</sup> Fox had structured many of the television licenses as barter agreements, trading films for advertising time, and by 1955 the company's largest asset was \$10,000,000 of accumulated commercial time. Earlier that year Fox had cashed out with a sale to the C&C Super Corporation. C&C, headed by an ex-president of Pepsi-Cola, was a conglomerate which included the C&C canned soft drink business.<sup>104</sup>

There was a large pent-up demand for features for television, but Fox had to act fast. While the RKO features were good, stations knew that the other studios, with better libraries, wouldn't be far behind. Rather than tie up their money in the RKO films, many stations would prefer to wait.

Matty Fox faced the same problem as O'Neil; he wanted to recover his investment as fast as possible. To do that he went to an innovative, scorched earth method of distribution that has never been imitated to this extent. He borrowed the \$15,200,000 for the RKO purchase from the First National Bank of Boston. The loan was guaranteed by the International Latex Corporation. The makers of Playtex bras, International Latex was a subsidiary of the Stanley Warner Corporation, which had purchased the Warner Bros. theatre chain. They knew the power of film and the value of television advertising.<sup>105</sup>

The RKO library would be licensed to stations in exchange for commercial time. C&C's initial proposal to stations in the top 100 markets was an offer to license the entire library of 742 titles in perpetuity in return for running ten 60-second advertisements per day for five years, some radio spots and a license fee. This approach proved to be too aggressive for many stations, and C&C eventually modified it to combinations of cash and commercial spots.<sup>106</sup> The films premiered on 1 July 1956, as 58 stations began running the RKO library.

## The result

With the release of the RKO library to television, the floodgates opened for pre-1948 films. Nearly every month a major studio announced plans to license or sell their films for television use.

In January 1956, Columbia announced the availability of 104 titles from its Screen Gems subsidiary.<sup>107</sup> Twentieth Century-Fox licensed 442 titles to National Telefilm Associates.<sup>108</sup> Warner Bros. sold their backlog of features and shorts for \$21,000,000 to a holding company which had absorbed Associated Artists Productions. MGM set up their own distribution organisation.<sup>109</sup> In July 1957, Universal licensed television rights for their library to Columbia's Screen Gems.<sup>110</sup> Finally, in 1958, the last hold-out, Paramount, sold their re-

maining pre-August 1948 sound features to MCA for \$50,000,000.<sup>111</sup>

In the consolidation that followed, the distributors who did not have major studio product were forced into a marginal role. In February 1957, Screen Gems purchased Jerry Hyams' Hygo, and its affiliated corporations. Hygo's many Columbia titles were now back in Columbia's hands. Independents National Telefilm Associates and MCA became strong with their studio packages. All other distributors faded into the background.

## Conclusion

The independent theatre circuits had continuously expressed their concern over the possibility of the studios providing films to their direct competitors. The studios could not afford to alienate their major customers. However, once RKO had led the way on television, the other studios quickly followed. Exhibitors could only stand on the side and watch as their worst nightmare came true.

Exhibitors had predicted that their business would suffer greatly if good films were shown on television. Theatre attendance plummeted 18 per cent in the fourth quarter of 1957, compared with the previous year. A report prepared for theatre owners by business analysts Sindlinger & Co. showed that for exhibitors, free competition was an immediate, though not long lasting, disaster. In September of 1957, 80 per cent of movie viewing time took place in movie theatres, with 20 per cent spent watching films on television. Four months later, with old movies flooding the airwaves, the percentages were reversed.

While some of this decline was blamed on weak fall attractions in the theatres, the report placed most of the responsibility on television competition. The income from the television sales was not enough to offset this reduction in theatrical income. The Sindlinger report calculated that the 1957 income from these television agreements was \$67.9 million, while 1957 rentals declined by \$73.2 million.<sup>112</sup>

For their part, most studios invested some of this windfall into financing some major productions. The Warner brothers used this as an opportunity to cash in, and in 1956 they sold the studio.<sup>113</sup>

In retrospect, it seems amazing that the studios

were able to hold back from licensing their films to television for as long as they did. They had not spent the preceding years with their heads in the sand. Each studio had approached the situation from a different perspective, but with the common concern of minimising the impact to their existing theatrical business.

While all of the studios were divisions of public companies, few of them had diversified to any appreciable extent. Consistently, 98 per cent of the domestic income from feature film releases came from 35 mm theatres. Song publishing was the only activity that some of the studios had in common. Paramount had tentative involvement in television, although never with much of an impact, while Columbia produced half-hour television programs.

As the television broadcasters became the studios' customers, instead of their competitors, the studios could more actively enter the realm of television production. Production of filmed programs for the networks had some unexpected results. It absorbed some of the idle time in the feature film production cycle, reducing overhead. More significantly, television production and distribution was a different business. Television programs could be produced to order with a calculated, almost certain return on investment.

The result was that television became the bread and butter for many studios, providing the predictable profits that features once offered, while feature film production became the risky venture. Theatrical exhibition changed from the primary source of income to the first window of a release strategy that included television. The studios eventually realised that a wide variety of income sources was a better approach, and they emerged as stronger, more diversified companies.♣

## Acknowledgements

This article is dedicated to my wife Shari, who as always has been wonderful and supportive.

I extend my appreciation to James Bouras, Ed Hulse, Douglas Gomery, Robert Pik and Sam Sherman for reviewing drafts of this article, providing insights and making valuable comments. All errors of fact or interpretation remain mine.

Elaine R. Meistrick and James Kasson of the Antitrust Division of the US Department of Justice were essential

in my gaining access to the immense documentation the Department holds on *US vs Twentieth Century-Fox Film Corporation, et al.* Especially helpful with research assistance at the Library of Congress were the staff of the Copyright Office, and David Parker, Madeline Matz and Rosemary Hanes of the Division of Motion Pictures, Broadcasting and Recorded Sound. At the University of Southern California Cinema-Television Library, their enthusiastic and knowledgeable archivist Ned Comstock guided me through the maze of the Jack L. Warner Collection. Via the mail, Harold Miller at the State Historical Society of Wisconsin helped me navigate the United Artists collection.

## Notes

1. Letter, George Gold, Allied Theatre Owners of New Jersey, Inc. to George Schaefer, RKO Radio Pictures, Inc. (7 June 1939).
2. 'Showmen Pro and Con in Their Reactions to Television; Exhibs Fear Hollywood's Sellout to TV', *Variety* (22 March 1950).
3. *United States of America vs Twentieth Century-Fox Film Corporation, et al.* 137 F. Supp 78, United States District Court, S.D. California, Central Division (5 December 1955). Findings and Judgment (10 January 1956).
4. The defendants were Twentieth Century-Fox Film Corporation, Warner Bros. Pictures, Inc., Warner Bros. Distributing Corporation, Universal Pictures Company, Inc, United World Films, Inc., RKO Radio Pictures, Inc., Columbia Pictures Corporation and Screen Gems, Inc. Charges against Republic Pictures Corp. and its subsidiary Republic Productions, Inc., Films, Inc. and Pictorial Films, Inc. were settled prior to trial. MGM and Paramount were not included in the suit since at the time they did not license their films for 16 mm non-theatrical distribution.
5. I have quoted from the court decision in a few cases where the primary source document was not in the boxes made available for review by the Department of Justice. Cataloging of the collection was only rudimentary, and when I received the copies I requested they were not marked as for their source.
6. My thanks to Richard Gordon, Robert Seidelman, and Samuel Sherman for valuable conversations over the course of many years.
7. The near simultaneous release of several thousand films to the television market, and that event's effect on the box office, the production policies of the studios, and the resurgence of interest in film history is outside the scope of this article.

8. *TV Factbook*, No. 27 (1958 Fall-Winter Edition): 22.
9. 'Old Pix TV Values Fading Away; NBC Prexy Says Studios Have Missed Boat; Demand for "Live" Shows Increases', *Variety* (18 August 1954).
10. *Theater Owners of America Special Bulletin*, vol. 4, no. 19 (25 April 1949): 1.
11. *The Independent Film Journal, Films on Television*. Undated.
12. Of course, television was one of many factors contributing to a decline in admissions. The defendants in the case commissioned an analysis by the Stanford Research Institute. This 144-page report attributed the percentage of the falloff in business attributable to television from a low of 27 per cent in 1948 to a high of 55 per cent for 1954. Stanford Research Institute, 'The Television Market for Feature Films and the Financial Attractiveness of This Market to the Motion Picture Industry 1945-1954, (October 1955). Warner Bros. Corporate Records, William Seymour Theatre Collection at Princeton University Library (since relocated to the University of Southern California Cinema-TV Library) at 12574 (PRI) vol. 1242, 403623.
13. Judgment, *United States of America vs Twentieth Century-Fox Film Corporation, et al.* 110 (hereafter 'Judgment').
14. 'Exhibition Shouts Out as with Single Voice: Sell No Films to TV!', *Motion Picture Herald* (24 November 1951): 19.
15. Letter, Robert W. Coyne, Theatre Owners of America to Francis Harmon, Motion Picture Association (13 May 1948).
16. Letter, illegible signature, Law Offices of Weisman, Celler, Quinn, Allan & Spett, to Morton Sunshine, Independent Theatre Owners Association, Inc. (10 January 1949).
17. 'Exhibs Burn at Pix Sale to TV', *Variety* (5 March 1952): 1.
18. Letter, W.J. Merrill, Assistant to the President, RKO Radio Pictures, Inc., to George Gold, Allied Theatre Owners of New Jersey, Inc. (12 June 1939). This letter was in response to Gold's complaint of 7 June 1939, quoted in footnote 1.
19. Interoffice memo, Columbia Pictures Corporation, Harry Cohn to Abe Montague (21 June 1950).
20. 'TV's 7-Year Feature Pix Itch', *Variety* (1 July 1953).
21. Interoffice memo, Columbia Pictures Corporation, Abe Montague to Harry Cohn (27 June 1950).
22. 'Par Willing to Sell Pix to TV: Video's Inability to Pay Chills Deal on Two Crosby Films, Freeman Tells FCC', *Daily Variety* (19 February 1952): 1.
23. 'Will Sell Any Films to TV For Right Price- Skouras', *Broadcasting-Telecasting* (31 October 1955): 87.
24. Contract dated 30 July 1951, between Pathé Industries, Inc. and Motion Pictures for Television, Inc. United Artists Collection, State Historical Society of Wisconsin. Equity Pictures, Inc. General Pathé Agreement with MPTV, Inc. 1951-1952. Box 1, folder 1. 99AN/1G.
25. Sworn statement of David B. Stillman, attorney for T-V Pic, Inc., dated 15 May 1950. United Artists Collection, State Historical Society of Wisconsin. MSS 99AN, Series 2A, O'Brien Legal File, Box 42, Folder 15, U.A. Corp. and TV Pic.
26. Memo from John S. Palmer to William C. MacMillen, subject: Television Activities, dated 9 March 1949. United Artists Collection, State Historical Society of Wisconsin. MSS 99AN/IG, Box 15, Folder 5, Eagle-Lion Legal Television Data.
27. Ralph Cohn memo quoted in 'Trial Memorandum for Columbia Pictures Corporation, Screen Gems, Inc. and RKO Radio Pictures, Inc.', Guy Knupp and Macklin Fleming of Mitchell, Silberberg & Knupp, *US vs Twentieth Century-Fox*, served 21 September 1955, 4.
28. 'English TV Distributor Buys World Rights to Movie Package', *Broadcasting-Telecasting* (17 March 1958): 82
29. '20th Move Cues Tele Reappraisal', *Variety* (15 April 1953).
30. Interoffice memo, Columbia Pictures Corporation, Abe Montague to Harry Cohn (27 June 1950).
31. These concerns are discussed in 'Changes in TV (Colour) and Films (Size) Up Film Interest in Video Rentals', *Variety* (21 October 1954).
32. 'Department of Justice; Problem Posed by One Phase of Federal Suit to Force Sale of Films to TV', *The New York Times* (17 August 1952).
33. Judgment, 100.
34. Judgment, 110.
35. For example, Universal's agreement of 1 April 1946 with the AFM contained a comprehensive prohibition against broadcast of union-recorded music scores. A Universal internal memo dated 30 July 1947 quoted the provision:  
The producer agrees that he will not, without prior written consent of the Federation, license, lease,

- lend, give, sell, utilise, or in any other way whatsoever, authorise the use, in whole or in part, of the music sound track containing the recorded music made by members of the Federation, or scenes or shots containing pictures of members of the Federation performing on musical instruments or conducting, heretofore made or which will be made prior to the expiration of this agreement, on or in connection with television, during the life of this agreement and thereafter; except only after separate negotiations are entered upon and after a separate written agreement has been reached between the Federation and the producer.'
36. This 1 August 1948 date is the reason that Paramount's 1958 sale of their sound feature library to MCA had a cut-off date of mid-1948. The Warner's sale of their entire library originally only went to the 1948 date, but before the deal was finalised, it was extended to include all features produced through 1 January 1950, and all shorts through 1 August 1948.
37. For example, the contract for the sale of the Popeye cartoons required that 'no reference whatsoever (except as specifically required with the copyright notices) shall be made or permitted by Purchaser to the fact that said Popeye cartoons were Paramount pictures or in any way related to Paramount, its predecessor, subsidiary, affiliated and associated corporations'. Assignment, Paramount Pictures Corp. to P.R.M., Inc., Copyright Office Assignment Documents, vol. 958, 429-453 (27 June 1956).
38. See Timothy R. White, 'Hollywood's Attempt to Appropriate Television: The Case of Paramount Pictures' (Ph.D. diss., University of Wisconsin-Madison, 1990).
39. 'U's \$8,000,000 Via Reissues,' *Variety* (25 January 1956): 3. Contract dated 1 June 1947 between Universal Pictures Company, Inc. and Harris-Broder Pictures Corp. I have the first, second and last (signature) pages of this agreement. There are two problems with Fox's story. He dates the contract as 31 July 1946, when my copy is dated 11 months later. Also, Universal posted a \$4.5 million profit for the fiscal year ending October 1946, a \$3.2 million profit the following year, and a \$3.1 million loss for the fiscal year ending October 1948. If Fox's story was true, they would have only broken even. Profit/loss information: *Film Daily Yearbook* (1956), 1077.
40. According to Judgment, 97, by early 1955 Realart had film rentals of \$20,835,218.17 and Universal's portion came to \$6,816,429.84.
41. An additional concern of Universal management, concerned 'the possibility that no television rights may have been granted under our Recording License Agreement with Western Electric Company Incorporated'. Universal Television Survey (15 June 1948).
42. The worry was that the license refers to 'the use of Western Electric equipment and processes in connection with the taking or projection of motion pictures, but contains no direct reference to television'. Universal File Memo, Subject: Television, 30 July 1947. This holdup was subsequently resolved as not being a concern.
43. Interoffice memo, Universal Pictures, M.R. Davis to Adolph Schimel (3 June 1947). The Westerns which were reviewed and cleared in this exercise included the following series:
- |           |                             |
|-----------|-----------------------------|
| 1929-1930 | 8 Ken Maynard features      |
| 1930-1933 | 9 Tom Mix features          |
| 1933-1934 | 8 Ken Maynard features      |
| 1934-1937 | 22 Buck Jones features      |
| 1937-1939 | 12 Bob Baker features       |
| 1939-1941 | 15 John Mack Brown features |
| 1941-1943 | 13 John Mack Brown features |
| 1945-1946 | 7 Kirby Grant features      |
- Many of these titles were released to television by Flamingo Telefilm Sales, with new main titles hiding their source as Universal.
43. Unsigned amendment to agreement between United World Films, Inc. and Loureed Television Corporation, dated December 1952.
44. Interoffice memo, Columbia Pictures Corporation, Abe Montague to Harry Cohn (27 June 1950). Where Montague refers to 'Sam Krolberg' he is almost certainly referring to veteran distributor Sherman S. Krellberg.
45. Interoffice memo, Columbia Pictures Corporation, Abe Montague to Harry Cohn (18 July 1950).
46. The ten serials were included in a 1955 inventory listing properties mortgaged by Western Television Corporation found in the Copyright Office Assignment Documents records at vol. 947, 42-97. The list of properties noted the expiration of license, and television titles; I have added the original year of release:
- |          |  |
|----------|--|
| 7/12/57  | Space Soldiers (1936)                      |
| 7/12/57  | Space Soldiers Trip to Mars (1938)         |
| 7/12/57  | Space Soldiers Conquer the Universe (1940) |
| 3/10/56  | Ace Drummond (1936)                        |
| 11/15/57 | Don Winslow of the Coast Guard (1942)      |
| 9/21/57  | Radio Patrol (1937)                        |
| 9/10/56  | Red Barry (1938)                           |
| 5/15/57  | Don Winslow of the Navy (1941)             |

- 8/17/57 Tim Tyler['s Luck] (1937)  
10/20/57 Buck Rogers (1939)
47. Agreement, Universal Pictures Company, Inc. an James A. Mulvey, Copyright Office Assignment Documents, vol. 1615, 199–210 (11 June 1954) (attached to an 18 November 1976 agreement between Champion Pictures Corp. and Leo A. Gutman, Inc., vol. 1615, 166–80). According to two reviewers of this article, these serials never were made available to US television.
48. For example, Universal summary story file no. 7309 for *Pursuit to Algiers* (1946) noted under 'rights acquired':
- 'The following rights are granted to Universal for a period of seven years after general release of the photoplay for a period of seven years after general release of the photoplay in the US (26 October 1945), or until and including 25 October 1952. Immediately after said date we shall withdraw the photoplay from distribution and destroy all negatives and prints, excepting one print which may be retained for library purposes.'
- The 11 June 1954 agreement between Universal Pictures Company, Inc. and James A. Mulvey, is referenced in a 14 March 1977 agreement. See Copyright Office Assignment Documents, vol. 1858, 438–439.
49. Agreement, Universal Pictures Company, Inc. and James A. Mulvey, Copyright Office Assignment Documents, vol. 1615, 181–98 (13 August 1954).
- Mulvey's three packages of films were distributed to television for many years by Leo Gutman, Inc., and are now owned by King World Productions.
50. 'Bagnall Closes Television Rights to 18 UA Releases', *Film Daily* (2 April 1952). Also, Seymour M. Peyser, United Artists Corporation, to George Bagnall and Associates, dated 4 April 1952. United Artists Collection, State Historical Society of Wisconsin. 99AN, Series 1G, O'Brien Legal File, Box 21, Folder 5, Schwarz George Bagnall TV Deal, 1952.
51. Contract dated 12 December 1951 between United Artists Corporation and Fox Frankovich Television Co., Inc. This agreement can be found in the Copyright Office Assignment Documents records at vol. 1202, 476–87. The contract notes that United Artists quitclaimed television rights to the 13 Hopalong Cassidy pictures to NBC in 1950.
52. 'High TV Price Can Buy 20th Pix', *TV Magazine* (October 1950), 1. The 21 May 1952 issue of *Variety* reported that Fox was considering a Real-art-type theatrical reissue deal for 600 of its features made from 1933 to 1949. Producer Edward Alper-
- son offered \$3,000,000 against 35 per cent of the gross, but Fox ultimately decided not to proceed with an agreement.
53. The titles and years of release of the 18 Sol Wurtzel Productions were: *Arthur Takes Over* (1948), *Backlash* (1947), *The Crimson Key* (1947), *Dangerous Millions* (1946), *Dangerous Years* (1948), *Deadline For Murder* (1946), *Fighting Back* (1948), *Half Past Midnight* (1948), *The Invisible Wall* (1947), *Jewels of Brandenburg* (1947), *Miss Mink of 1949* (1949), *Night Wind* (1948), *Rendezvous 24* (1946), *Roses Are Red* (1947), *Second Chance* (1947), *Strange Journey* (1946), *Trouble Preferred* (1949) and *Tucson* (1949).
54. In comparison, *Kiss of Death*, an A picture of the same year, was in production for 63 days. *Motion Picture Production Encyclopedia*, 1949 Edition, 472, 462.
55. Don Miller, *B Movies* (New York: Curtis Books, 1973), 56.
56. Letter, Al Litchman, Twentieth Century-Fox, to Sol Wurtzel, Sol M. Wurtzel Productions, Inc. (6 April 1951).
57. Interoffice memo, Twentieth Century-Fox, Harry J. McIntyre to Peter Levathes (15 September 1952).
58. *Ibid.*
59. Letter, Wilbur Snaper, Allied Theatre Owners of New Jersey to Spyros Skouras, President, Twentieth Century-Fox (10 April 1951).
60. Letter, Wilbur Snaper, Allied Theater Owners of New Jersey to Abram Myers, Allied States Association of Motion Picture Exhibitors (10 April 1951).
61. Contract dated 22 April 1953 between Savoy Productions, Inc. and Gail Pictures International Corporation. The films included in the agreement were: *Black Tulip* (1937), *Blind Man's Bluff* (1936), *Catch as Catch Can* (1937), *The Claydon Treasure Mystery* (1938), *The Five Pound Man* (1937), *Girl in the News* (1940), *Girl Must Live* (1939), *Inspector Hornleigh* (1939), *Inspector Hornleigh Goes to It* (1940), *Inspector Hornleigh on Holiday* (1939), *Jennifer Hale* (1937), *Kipps* (1941), *The Last Barricade* (1938), *Late Extra* (1935), *Night Train to Munich* (1940), *Once a Crook* (1941), *Passenger to London* (1937), *Riverside Murder*, *Sailing Along* (1938), *Shipyard Sally* (1939), *Strange Experiment* (1936), *They Came By Night* (1940), *The Third Clue* (1934), *Troubled Waters* (1936), *We're Going to Be Rich* (1938), *Wedding Group* (1936), *Who Goes Next?* (1938) and *Young Mr. Pitt* (1941). I was unable to identify *Riverside Murder*, which is listed as starring Basil Sydney and Alastair Sim.

62. Contract dated 22 April 1953 between Savoy Productions, Inc. and Major Attractions, Inc. The films listed as 'negative not presently available' were *Behind That Curtain* (1929), *Charlie Chan Carries On* (1931), *Charlie Chan's Chance* (1932), *Charlie Chan's Greatest Case* (1933), *Charlie Chan's Courage* (1934), *Charlie Chan in Paris* (1935) and *Charlie Chan in Egypt* (1935).
63. Contract dated 22 April 1953 between Savoy Productions, Inc. and Major Attractions, Inc. The contract listed the titles in two groups. The notes about rights are repeated from the contract. The films included in the agreement were: *Against the Tide* (1937), *The Big Noise* (1936), *Borrow a Million* (1934), *Dark World* (1935), *Double Alibi*, *Dial 999* (1937), *East of Ludgate Hill* (1937), *Father O'Nine* (1938), *Find the Lady* (1936), *Highland Fling* (1936), *Price of a Song* (1935), *Rhythm in the Air* (1936), *Servants All*, *Second Thoughts* (1938), *Under Proof* (1936), *Variety Hour* (1937), *The Villiers Diamond* (1938) and *White Lilac* (1935). I was unable to identify *Double Alibi* and *Servants All*.
- The second group was *Anna Karenina* (1947), *An Ideal Husband* (1947), *Man About the House* (1947) (rights expire 6/1/56), *Meet Me at Dawn* (1946), *Mine Own Executioner* (1947) (rights expire 12/1/57), *This Was A Woman* (1947) (to the extent Producer acquires Western Hemisphere television rights herein), *Wanted For Murder* (1946).
64. 'TV's 7-Year Feature Pix Itch', *Variety* (1 July 1953).
65. 'Sucker' to Sell Pix to Tele: Ohio Exhib', *Variety* (29 April 1953): 13.
66. Letter, Spyros Skouras, Twentieth Century-Fox to Robert A. Wile, Independent Theater Owners of Ohio (15 May 1953).
67. Judgment, 111.
68. 'Manners & Morals: Kiddies in the Old Corral', *Time* (27 November 1950): 18–20.
69. 'KTLA Now Paying 1G Per "Hopalong" Show,' *Variety* (30 November 1949).
70. Picture Corporation of America acquired: *Power Dive* (1941), *Forced Landing* (1941), and *Flying Blind* (1941). See Copyright Office Assignments Documents, Paramount Pictures Corp. to Picture Corporation of America (7 December 1950), vol. 774, 109. William Pine Corp. received: *Caged Fury* (1948), *Dangerous Passage* (1944), *Fear in the Night* (1947), *Follow That Woman* (1945), *Shaggy* (1948), *Swamp Fire* (1946), *Take It Big* (1944), *Tornado* (1943), *Wildcat* (1942) and *Wrecking Crew* (1942).
71. Burt Hanft of Columbia Pictures wrote to Columbia executives: 'Paramount is not dealing directly with this distributor, but has apparently given TV rights to another party which is acting on Paramount's behalf'. Columbia Pictures Inter-Office Communication (15 January 1953).
72. Although there were an additional eight Paramount Zane Grey films which would seem to have qualified for television release, story rights to these titles were tied up by later RKO and Republic remakes. These films were included in the Paramount television sale to MCA in 1958, although they have never been shown on television as MCA/Universal has never cleared the story rights. These titles are: *The Border Legion* (1930), *Wild Horse Mesa* (1932), *Sunset Pass* (1933), *Under the Tonto Rim* (1933), *Home on the Range* (1934), *The Last Round Up* (1934), *Nevada* (1935) and *Wanderer of the Wasteland* (1935).
- The 20 Favorite Zane Grey titles were not included in the television sale to MCA since they were licensed at the time of the sale. They have been out of licensed distribution since 1960. Since the copyright on only one of the 20 Zane Grey titles was renewed by Paramount, the films are available on the public domain market.
73. The titles and years of release of the eight Paramount Bulldog Drummond Pictures were: *Bulldog Drummond Comes Back* (1937), *Bulldog Drummond Escapes* (1937), *Arrest Bulldog Drummond* (1938), *Bulldog Drummond In Africa* (1938), *Bulldog Drummond's Peril* (1938), *Bulldog Drummond's Revenge* (1938), *Bulldog Drummond's Bride* (1939) and *Bulldog Drummond's Secret Police* (1939). Copyright Assignment, Paramount Pictures Corporation to Congress Films, Inc. (1 April 1954), Copyright Office Assignment Documents, vol. 907, 254.
74. 'Condemned by Silence', *Harrison's Reports* (31 July 1954): 124.
75. UM & M was acquired the next year by independent distributor National Telefilm Associates for a reported \$5,000,000. *Broadcasting-Telecasting* (14 May 1956): 40.
76. Matty Fox's Blockbuster, *Variety* (29 September 1954): 41.
77. 'AAP Making Profit in Face of Strife', *Broadcasting-Telecasting* (9 June 1958): 46. The contract, dated 27 June 1956, is on file in the Copyright Office assignment records under vol. 958, 478–507. The actual purchaser on the documents is P.R.M., Inc., which quickly changed its name to Associated Artists Productions Corp. A series of later agreements assigned the subsequent Popeye cartoons to AAP.

78. In June 1958, Paramount President Barney Balaban told stockholders at the company's annual meeting that the studio was selling its remaining library of 200–250 shorts and cartoons for \$1,700,000 to Harvey Publications. 'Balaban Sets Paramount Tack', *Broadcasting-Telecasting* (9 June 1958): 42.
79. National Telefilm Associates statement of ownership, dated 15 November 1956, is on file in the Copyright Office assignment records under vol. 970, 123. These films are now owned by Republic Pictures.
80. The copyright assignment, from Paramount to Win-tree Productions, Inc., dated 28 February 1957, filed at vol. 977, 451–54, refers to the full agreement dated 21 December 1956. The titles of the *Big Town* series were changed to avoid conflict with the 1950s television series. The 35 titles were *Adventure Island* (1947), *Aerial Gunner* (1943), *Alaska Highway* (1943), *Big Town* (1947) (TV title: *Guilty Assignment*), *Big Town After Dark* (1947) (TV title: *Underworld After Dark*), *Big Town Scandal* (1948) (TV title: *Underworld Scandal*), *Danger Street* (1947), *Dark Mountain* (1944), *Disaster* (1948), *Double Exposure* (1944), *Dynamite* (1949), *Gambler's Choice* (1944), *High Explosive* (1943), *High Powered* (1945), *Hot Cargo* (1946), *I Cover Big Town* (1947) (TV title: *I Cover the Underworld*), *I Live on Danger* (1942), *Jungle Flight* (1947), *Midnight Man Hunt* (1945), *Minesweeper* (1943), *Mr. Reckless* (1948), *The Navy Way* (1944), *No Hands on the Clock* (1941), *One Body Too Many* (1944), *People Are Funny* (1946), *Scared Stiff* (1945), *Seven Were Saved* (1947), *Special Agent* (1949), *Speed to Spare* (1948), *Submarine Alert* (1943), *They Made Me a Killer* (1946), *Timber Queen* (1944), *Tokyo Rose* (1945), *Torpedo Boat* (1942) and *Waterfront at Midnight* (1948).
81. Interoffice memo, Columbia Pictures Corporation, Ralph Cohn to Abe Montague (25 October 1951).
82. Interoffice memo, Columbia Pictures Corporation, Abe Montague to Harry Cohn (27 June 1950).
83. Columbia's reported profits tumbled from \$1,497,814 in 1951 to \$802,872 in 1952 and \$942,385 in 1953. They recovered to \$3,594,753 in 1954. All are fiscal years ending in June. *Film Daily Yearbook of Motion Pictures* (1959), 1954.
84. Interoffice memo, Columbia Pictures Corporation, Leo Jaffe to B.B. Kahane (27 July 1954).
85. Contract between Columbia Pictures Corporation and Gail Pictures International (24 November 1954). The Bill Elliott titles involved in this agreement were: *Across the Sierras* (1941), *Beyond the Sacramento* (1940), *Frontier of '49* (1938), *Hands Across the Rockies* (1941), *In Early Arizona* (1938), *King of Dodge City* (1941), *Law Comes to Texas* (1939), *Lone Star Pioneers* (1939), *Man From Tumbleweeds* (1940), *North From the Lone Star* (1941), *Pioneers of the Frontier* (1940), *Prairie Schooners* (1940), *Return of Daniel Boone* (1941), *Son of Davy Crockett* (1941), *Taming of the West* (1939) and *Wildcat of Tucson* (1940).
86. Quote is from contract between Columbia Pictures Corporation and Samba Pictures, Inc., dated 1 December 1954, 1. A list of the cartoons included in this agreement is too long to include here, and can be found in the Copyright Office Assignment Documents records at vol. 928, 288–293, and two additional Scrappy cartoons included at vol. 928, 286.
87. Contract between Columbia Pictures Corporation and Gail Pictures International (17 August 1955). A list of the Westerns included in this agreement is too long to include here, and can be found in the Copyright Office Assignment Documents records at vol. 938, 12–15. These films in summary are:
- |           |  |
|-----------|--|
| 1930–1938 | 26 Buck Jones features                   |
| 1931–1935 | 26 Tim McCoy features                    |
| 1936–1937 | 6 Bob Allen features                     |
| 1938      | 7 Ken Maynard features                   |
| 1935–1936 | 3 Jack Luden features                    |
| 1942–1943 | 4 Russell Hayden and Bob Wills features. |
88. Since the copyrights in the latter two contracts had been assigned to Samba and Gail, respectively, the contract allowed for the renewal copyrights to be filed in the name of the television distributor.
89. 'You shall delete all reference to our name, insignia, tradename and trademark from all positive prints of each picture and you agree that you will under no circumstances advertise, distribute, or otherwise any picture as a "Columbia" picture'. Letter agreement, Columbia Pictures Corporation and Gail Pictures International Corporation (24 November), 1954.
90. 'Col Sells Oldie Oaters to TV', *Daily Variety* (27 October 1954): 1. This article also appeared as 'Col's Oaters Go Thataway (TV)', *Variety* (27 October 1954): 1.
91. Interoffice memo, Columbia Pictures Corporation, B.B. Kahane to Irving Briskin (29 October 1954).
92. The copyright assignment, dated 10 January 1956, filed at vol. 946, 433–34, refers to the full agreement dated 22 December 1955. This assignment is unique since it is from Gail Pictures International Corporation assigning the copyrights back to Columbia. The six films included in this agreement were: *Beyond the Law* (1934), *Hold the Press*



- (1933), *Hell Bent for Love* (1934), *A Man's Game* (1934) and *Police Car 17* (1933) starring Tim McCoy and *High Speed* starring Buck Jones.
93. The copyright assignment, dated 10 January 1956, filed at vol. 947, 179, refers to the full agreement dated 22 December 1955. The Buck Jones titles were *California Frontier* (1938), *Desert Vengeance* (1931), *Shadow Ranch* (1930) and *The Stranger From Arizona* (1938). The Tim McCoy titles were *Rusty Rides Alone* (1933), *Shotgun Pass* (1931) and *Texas Cyclone* (1932). *The Cattle Thief* (1936) starred Ken Maynard, and Jack Luden played the lead in *Phantom Gold* (1938).
  94. Telegram, Jack L. Warner to Schneider (1 March 1945). University of Southern California, Cinema-TV Library, Jack L. Warner Collection, Box 35, Folder 8.
  95. Letter, Moray to Colonel J.L. Warner, Warner Bros. Studios (24 March 1948). Plaintiff's brief, VI-74.
  96. In the late 1960s, with no real TV market left for black-and-white cartoons, Warner Bros.—Seven Arts had the Porky Pig cartoons coloured for television for syndication as *The Porky Pig Show*. These cartoons included all of the black-and-white 'Looney Tunes' (1930–31 to 1944–45) plus the 1933–34 black-and-white 'Merrie Melodies'.
- A list of the cartoons included in this agreement is too long to include here, and can be found in the Copyright Office Assignment Documents records at vol. 931, 95–96 and 107–109. Because of the transfer to Sunset, these cartoons were withheld from the sale of the Warner library the following year.
97. *United States of America vs Twentieth Century-Fox Film Corporation, et al.*, Testimony of C.J. Telvin (Tuesday, 25 October 1955), 2054–2055. Telvin stated that there was a succession of eager purchasers for the RKO library. However, the undercapitalised buyers wanted RKO to be paid from anticipated syndication revenues, while RKO wanted the purchase price in cash.
  98. 'Deal by which RKO would sell 650 pictures to a group eyeing the product for television has been broached by Matty Fox', *Variety* (23 January 1952). Quoted in 'New York Sound Track', *Variety* (18 January 1956). See also: 'MPT Dickers with RKO for 300-Film Pkg', *Billboard* (27 December 1952).
  99. 'See Pix Being Sold to TV Long Before "Monopoly" Snarl Goes Through Court', *Variety* (30 July 1952): 3.
  100. 'Eliot Hyman (This Time) Is Bidder for RKO Old Film Inventory But Grainger Flatly Denies Any Sale', *Variety* (6 October 1954): 4.
  101. 'General Tire Goes Hollywood', *Business Week* (23 July 1955): 32.
  102. 'Tom O'Neil's RKO Pix Sale Neatest \$\$ Trick of Year', *Variety* (28 December 1955): 1. Also, '15,200,000 Sale of RKO Stockpile to C&C Finalised; Set Distrib Deals', *Variety* (28 December 1955): 35.
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