

An Organization for Economic Cooperation and Development (OECD) document explains:

Those distributors that were vertically integrated were required to divest their theater assets, and some (but not all) were prohibited from re-entering the exhibition business. The decrees also contained certain injunctive provisions intended to prevent discrimination against small, independent exhibitors, and to prevent vertical re-integration by contract. The distributors could not engage in "block booking," or conditioning the licensing of a desired film on the simultaneous licensing of other films, or in other specified types of contractual arrangements that effectively bound a theater or chain of theaters to a distributor....Most of the decrees contained a requirement that defendants license their film 'theater by theater, solely upon the merits without discrimination...' <sup>79</sup>

These decrees remain in effect, but in the intervening half century the entertainment market has changed dramatically. Film distribution has remained moderately concentrated, with eight to ten large distributors existing at any given time. Individual market shares are unstable. The *Paramount Decrees* are not relevant to all distributors; however, all of the big distributors today were Paramount defendants, save Disney, which took over distribution of its own product in the 1950s. <sup>80</sup>

After the *Paramount Decrees*, the United States exhibition industry was characterized by small, independent theater operators. Distributors at this time maintained most of the influence. They often required exhibitors to bid against each other for films. Furthermore, this bidding process was often "blind" exhibitors had to bid without having seen the film. This onerous blind bidding process was made illegal in several states. To counteract the influence of the distributors, the exhibitors instituted the practice of splitting, which is a form of horizontal market allocation, in many markets. By the 1950s, the industry began to change and a few big chains emerged. Splitting eventually was considered a violation of the Sherman Antitrust Act. The practice ceased as a result of criminal suits which occurred in the 1970s. <sup>81</sup>

Despite the end of splitting, the exhibition sector in the United States is highly concentrated: there are few independents today. Furthermore, today there is very little bidding for exhibition rights. It is negotiation that constitutes the preferred method for determining exhibition rights. Moreover, "longer term, formal and informal arrangements between

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<sup>79</sup> OECD, Horizontal Concentration and Vertical Integration in Cinema and Television Film (Notes by the United States Delegation) Distribution, 11 October, 1995, 2.

<sup>80</sup> Ibid.

<sup>81</sup> Ibid., 3.