**Questions for Modules**

**Answer Key**

**Module I**

1. Where does your film industry fit into the global structure of the film industry?

This will vary by location, but generally the participants should describe their local industry and connections to the rest of the world either through import, export, participation at international markets or co-productions.

1. How has the digital revolution affected production and distribution in your industry?

There should be a discussion of the status of the VOD market and how producers are using new production technologies.

1. What are the local anti-piracy efforts and how are you involved in those?

There should be someone from the government that can describe these efforts and the industry participants will have a chance to discuss how effective the program is and how they are involved.

1. What government services are available to film makers and distributors?

This is a chance to discuss how the government supports the industry and then let the participants discuss how effective the programs are and how they use them or would change them.

1. What industry trade organizations exist, and are they effective advocates for their respective constituents?

Hopefully representatives from these organization will be in attendance and this will prompt a discussion of their effectiveness and how they can be strengthened.

**Module II**

1. What are the basic copyright terms locally?

This will vary by location.

1. What provisions are there for the protection of Moral Rights?

Again, will vary by location.

1. How are copyright provisions applied?

This is trying to determine the extent to which there is an understanding of copyright principles and provisions in the local industry.

1. Do practitioners use contracts? Lawyers?

Will vary by location.

1. Which government entities are involved and are they effective?

Will vary by location but will usually involve the local copyright authority and those involved in enforcement.

**Module III**

1. What are the main issues a talent agreement addresses?

Nature of the Engagement -for instance, for an actor, role to be played per s script with a specific director

Time-frame – when services of the talent are required and deadlines in the case of directors and composers.

Compensation – both up-front payments and any royalties/residuals

Transfer/Assignment of Copyright – from the producer perspective this is the heart of the agreement

Dispute Resolution

Working Conditions

1. How are author agreements different from other talent agreements?

Authors usually have more rights, particularly moral rights. Also, Authors usually create and often control derivative rights such as the right to use the copyrighted material in a different/new format. In the case of a writer this might be sequel/remake rights and for composers it might be publishing rights or soundtrack rights.

1. What are the different rights that must be licensed to use a recorded musical performance in a film?

Synchronization rights (the right to use the composition itself – usually this is obtained from the music publisher) and Master Use Rights (the right to use the recording of the music). Together, these include the right to synchronize the music with the images in the film.

1. How can deferred compensation be used to help get a film made?

It lowers the up-front cost of production – less money is required to complete the film itself.

1. How do you determine fair remuneration for everyone involved in the film?

This is more of a discussion question with no specific answer. Among the issues are guild minimum payments to various talent (including residuals). It will be interesting to understand how the values of the various production/talent participants are viewed locally.

**Module IV**

1. Which entities are involved in local film distribution?

This could be specific to the location or it could be a broader question. This can include the cinemas, DVD distributors, VOD platforms, TV stations, marketing companies, accountants, lawyers, the government and anyone else in the value chain.

1. What are the main points in local distribution agreements? Are written contracts used?

Whether or not written contracts are used is a local issue – written contracts should be encouraged if they are not used.

Among other things, distribution agreements should include:

Title of the Film

Territory

Term

Rights Granted

Distributor’s Obligations

Producer/Sales Agent Obligations

Minimum Advance Guarantee

Fees and Expenses

Application of Gross Receipts

Delivery

Reporting and Audit Rights

Dispute Resolution

1. What are the standard costs and fees associated with local distribution in various media?

This will vary by location, but should include theatrical release costs (prints and advertising), duplication and marketing costs for DVD, delivery costs for other platforms (what element must be provided to TV stations for instance).

1. How do producers supervise the activities of their distributors?

They should be in constant contact with the distributor and have approval rights over release budgets and audit rights for distribution statements. They should look at their distributor as a business partner and discuss all important decisions with them and get information about revenues as quickly as possible – those will be most accurate. Where they can double-check accuracy they should (visiting cinemas to see how many people are attending, checking with the local DVD duplicator to see how many copies are made or just being aware of when the film is playing on TV or available on VOD).

1. Is there an export market for local films?

Varies by location.

1. What is the process for accessing export markets? Festivals? Sales Agents?

Hopefully there are good local examples of films that have achieved some level of export or festival success and those can be discussed. Other topics to discuss can include choosing the right festivals, applying to those festivals either directly or through systems such as Out of the Box and researching/contacting sales agents.

1. Is self-distribution practical? In which media?

This really depends on the media (VOD is easier for self-distribution in most places than theatrical) and available support systems. Will local cinemas help a producer to market a film they have agreed to play? Do VOD platforms help you harness social media to drive sales? How easy is it to access monies generated?

**Module V**

1. What finance methods are used for local films?

In most cases this will be a combination of private equity and some government support. In some cases there will be potential pre-sales to distribution outlets – in particular TV stations.

1. What are the possible sources for local finance?

Private equity is the main one but do TV stations provide finance? Are banks lending to film projects? What are the government support programs available?

1. Are banks, insurance companies or government entities involved?

Varies by location.

1. What documentation do financiers and distributors require?

The broad answer is chain-of-title and distribution agreements. The more complicated answer would involve individual elements of the COT including license of underlying material, screenplay agreement, director and actor agreements, music clearances/licenses.

1. Are there any non-local sources of finance available? Grants? Development funding?

Are there any European programs or USAID monies?

1. How are non-local funding sources accessed?

Is there a process for applying for grants that the participants are aware of? Does anyone have examples of ways they have received these kinds of support?

**Module VI**

1. How are financiers repaid?

Per the terms of the finance agreements. Usually bank loans are repaid first and then either deferred talent payments are paid or equity investors are repaid with some kind of bonus on their investment (20% might be considered standard). At that point the film is considered to be in recoupment and future monies are profits which are divided per the agreements – often with 50% going to equity investors and the other 50% going to the producers who will share a portion with the talent per the talent agreements.

1. Do creators receive ongoing compensation? By what method?

In many cases they receive ongoing compensation in the form of royalties or if they are members of guilds or unions they may receive residual payments (payments for secondary uses of their material).

1. How would you confirm the reliability of potential partners or business associates?

The first thing to do is to contact people that have worked with those people before – hopefully with the permission and support of the potential partner. If possible, any banking relationships or business history should be confirmed. Any factual statements that can be confirmed should be confirmed and of course, the partner should be researched on the internet and through other public sources.

1. Do distributors issue clear, reliable statements?

This is a local issue that will vary by location but the answer is almost universally “no”.

1. What recourse does a producer have if they don’t receive required statements or if they believe the statements are incorrect?

This depends on the contract terms and the producer’s relationship with the distributor. If the relationship is good then they should ask for the statements and ask any questions they have directly to the distributor. If the relationship is not good or deteriorates when the distributor refuses to provide statements or answer questions then the terms of the contract should provide a means for the producer to demand statements on threat of cancellation of the agreement and to audit the distributor’s records if necessary.

1. Are there reliable industry statistics available, and if so, what sources?

This is a local issue that will vary by location. In most places the government is the only place where these statistics might be available. There might also be international organizations such as WIPO that might provide these statistics.

**Module VII**

1. What methods does the local industry use to resolve disputes?

Local issue but might include mediation, arbitration and litigation but might also include less formal methods or methods related to industry organizations (such as the Producer Guild of America resolving credit disputes amongst producers).

1. Are the courts expert enough to resolve disputes effectively?

The answer is usually “no”, but this should prompt a discussion of the effectiveness of various means of dispute resolution. Just because a contract says that you can sue someone doesn’t mean that you can find a venue that can effectively adjudicate the dispute or interpret the agreements in question.

1. What ADR systems are available to the industry?

This will vary by location but to the extent that WIPO resources are available this might be a good time to discuss those.

1. Does the industry regularly use lawyers? If so, in what way?

This will vary by location.

1. How are judgments enforced?

What happens when someone who loses a court case doesn’t pay a judgment against them? What if they declare bankruptcy? Can people go to jail for business disputes?

1. What happens if the breach occurs outside the country?

Is it practical to bring an action outside of the country? Usually a lawyer has to be engaged in the place that the infraction has occurred or where the contract specifies the venue of the dispute resolution. Understanding of local laws and standard custom and practice related to the breach are important to achieving a positive result.

**Module VIII**

1. Are there local CMOs for the film industry?

Varies by location.

1. Do authors and copyright holders register with CMOs in the country or overseas?

Clearly they should – at the very least they should make sure that their film is registered with an international agency that will collect these monies on their behalf (such as IFTA Collections).

1. Have local CMOs made payments and if so, does the industry consider those payments reliable?

Again, a local issue.