

# Film Finance Overview

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## Summary

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- **Film finance – why the gloom?**
- **Film finance – reasons to be positive**
- **Sources of production finance**
- **Different types of production finance**
- **Financial closings – a few tips**
- **Final thoughts**
- **A bit about Harbottle & Lewis**



# Film Finance – why the recent gloom?

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- **2006/2007: end of Sale and Leaseback**
- **March 2007: end of GAAP schemes**
- **March 2008: restrictions imposed on Sole Trader schemes**
- **The credit crunch**
- **Falling DVD sales and uncertainty about digital models**
- **Reduction in UK Film Council Budget**



# Film Finance – reasons to be positive (1)

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- **UK Tax Credit**

- A stable and reliable source of finance
- Both Labour and Conservatives support tax credit
- How much is it worth?
  - 20% of amount “used and consumed” in the UK on making the film (for a budget of under £20m) BUT...
- Financing the UK Tax Credit



## Film Finance – reasons to be positive (2)

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- **Films can be made for less. In 2009, of the British productions/co-pros shot in the UK, approximately:**
  - 24% of films (12 films) made for £1m or less,
  - 27% made for £1-3m
  - 19.5% made for £3-6m
  - 19.5% made for £6-12m
  - 10% made for over £12m (mainly studio financed)
- **EIS funding**
- **Tax funds are resilient**
- **Funds have filled the gap that banks left**

## Film Finance - reasons to be positive (3)

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- **Box office is booming:**
  - Avatar is the highest grossing film in history and the first to pass the \$2billion mark
  - 2009 - UK box office rose 11% to £944m and cinema admissions were at their highest levels since 2002
  - Australian box office rose 15% to US\$910m in 2009, its best year on record
  - 2009 - Spanish box office grew by 6%, HK box office by 6.5% and Chinese box office by 44%
- **New means of accessing film: VOD, online, mobile**



## Film Finance – reasons to be positive (4)

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- **UK Film Council Single Fund – to focus on first and second time filmmakers**
- **House of Lords Select Committee Report on Communications – January 2010**

## Sources of Finance

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- **Banks:** Barclays, Coutts, pre-sales and tax credit only
- **Funds:** Aegis, Silver Reel, BMS, Ingenus provide gap, pre-sales and UK tax credit finance (often as a package)
- **Equity Investors:** Prescience, EIS funds, BBC Films, Film4, UK Film Council, screen agencies (see below)
- **National/regional screen agencies:** EM Media, Scottish Screen, Wales Creative IP Fund, Northern Ireland Screen
- **Post-production houses:** Ascent Media, Molinare, LipSync
- **Distributors:** Pre-sales; minimum guarantee
- **Government subsidies:** UK Production Tax Credit



UK FILM COUNCIL  
LOTTERY FUNDED



## Types of Production Finance (1)

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- **Debt**
  - Loan is repaid in first position, ahead of equity financiers
  - Bears interest and/or fees
  - No share in net profits (except in the case of certain funds)
  - No ownership of film but will take security

## Types of Production Finance (2)

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- **Equity**
  - Recoup in last position on an equal basis with other equity investors
  - Generally no interest but a premium is recouped (e.g. 10%)
  - Share in upside (50% of net profits shared amongst equity investors as a group)

## Types of Production Finance (1)

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- **Pre-sales**
  - Distributor/broadcaster acquires distribution rights in a certain territory – normally arranged by the sales agent
  - The minimum guarantee and prints and advertising costs are recoupable out of receipts from the distributor's territory only
  - Minimum guarantee (or most of it) is paid on 'delivery', so pre-sale will need to be cashflowed by a bank or a fund

## Types of Production Finance (4)

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- **Co-production finance**
  - Steep drop in international co-productions since introduction of UK tax credit
  - House of Lords communications select committee report watch this space...
  - Co-productions within the UK



## Types of Production Finance (5)

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- **Innovative Finance**
  - Crowd funding (The Age of Stupid)
  - Product placement
  - The internet – the future?



## Financial Closings – a few tips

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- **The fewer financiers there are, the easier the financial closing process will be**
- **Ensure financiers' terms are fair and in line with the market**
- **Main finance agreements:**
  - Interparty Agreement
  - Collection Agreement
  - Loan/finance agreements and related charges
  - Completion Guarantee
- **Bridging finance**

## Final thoughts

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- **Development Finance**
- **Maintain and create new financier contacts**
- **Keep your eye on the trade papers for new finance**

# Harbottle & Lewis – Film Clients (1)

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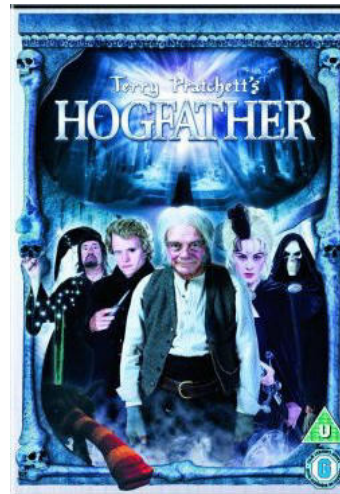
- Independent film production companies
- Banks
- EIS and other tax-related financiers
- Regional subsidy funds
- Sales agents
- Distributors
- US and UK studios
- Completion guarantors
- Talent agents
- Broadcasters
- Writers, directors, actors and other film industry participants



# Harbottle & Lewis - Film Clients (2)

- **Producers:**

- Fragile Films/Ealing Studios (Easy Virtue)
- MARV Films (Kick Ass)
- The Mob Film Company (Hogfather/Terry Pratchett franchise)
- Norma Heyman (Mrs Henderson Presents)
- Wandering Star (Solomon Kane)
- F&ME (numerous European co-productions)
- Formosa Films (Clubbed)
- Forward Films (Tormented)



# Harbottle & Lewis – Film Clients (3)

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- **Financiers:**
  - Prescience (Dorian Gray, Mr Nice, St. Trinian's II, Burke & Hare)
  - Quickfire Films (Glorious 1939, Burke & Hare)
  - Scion Films (The Women, Hachiko, Rogues Gallery)
  - The Royal Bank of Scotland
  - National Bank of Canada
  - EM Media (Bunny & The Bull, Bronson)
  - Screen West Midlands (Souled Out, Confetti)
  - Screen Yorkshire



# Harbottle & Lewis – Film Clients (4)

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- **Completion Guarantors:**
  - Film Finances
- **Sales agents and distributors:**
  - Revolver Films
  - Lionsgate
  - Ealing Studios
- **Post-production houses:**
  - Ascent Media (Fish Tank)
- **Talent Agencies:**
  - United Artists



## Harbottle & Lewis

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- We also have specialist TV, digital media, games, theatre, music and publishing groups.
- We provide litigation, tax, corporate, regulatory, employment and property advice for film clients.

## Harbottle & Lewis - Contact

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