

In a land where no one knows anything, we've gotta stop these zany b.o. futures!

THE PARTIES LINED UP against the proposed boxoffice futures exchanges are legion: the MPAA, the Hollywood studios, IFTA, the guilds, Sens. Boxer and Feinstein, Mother Teresa and Save the Whales. Who possibly could dare to support it? Certainly not me. So, in an effort to support this holy war, let me offer reasons why the blasphemous idea of "the Exchange" must be squelched in its infancy:

► Only studios should be allowed to gamble on films. We need to save the public from themselves. And if the public wants to lose money betting on films, they should be forced to do it indirectly by buying stock in film companies or investing in slate deals. There is just something un-American about the public being able to cut out the middleman.

► We also need to save the studios from themselves, because a studio might be tempted to manipulate the Exchange by going short on it then tanking its own film. Never mind that the studio likely would lose more on the film (and on its stock price) than it made on the Exchange. This ploy, as with suicide, should be illegal.

► If a film is tracking badly on the Exchange, it will destroy the public's appetite for that film. Yes, the Hollywood Stock Exchange (HSX.com) has been operating the identical exchange with play money for years with no untoward effect on attendance, and Intrade.com has been doing it with real money, again with no discernible consequence, but we must do what we can to protect the public from gossip and rumor mongering before a film is released. Indeed, we should go a step further and outlaw Ain't It Cool News and Rotten Tomatoes, just in case one or two people get prerelease buzz from those online sources. Yes, we know a film tracking well on the Exchange might increase attendance, but ...

► In the interest of preserving lawyers and legal fees, studios should be required to hedge film risk inefficiently, as they always have done, rather than doing it efficiently on the Exchange. Why change a good thing? For years, studios have hedged film risk with complex strategies, including (a) co-productions between studios; (b) split-rights transactions, where all foreign rights are sold to a consortium of foreign distributors; (c) presales, where film rights are sold for upfront fixed payments (and less on the backend); and (d) slate financing transactions, where

EXCHANGES DON'T RATE

Plenty of people are lined up against proposed boxoffice-based commodity trading



Bob Pisano, MPA
"We have a market in search of a product that the people in the industry don't want."



Sen. Blanche Lincoln, D-Ark.
"My bill will prohibit movie futures because these are purely speculative contracts."



Sens. Barbara Boxer, left, and Dianne Feinstein, D-Calif.
"The film industry has raised serious questions about whether these proposed markets are consistent with the public interest ..."



Scott Harbinson, IATSE and DGA spokesman
"Unlike other business ventures, the commercial success of a motion picture defies quantification or reduction to a formula."

investors co-finance 50% of the cost of a slate of films for 50% of the profit. Never mind that some of these strategies are somewhat like selling off the family jewels as a hedge against volatility in the gold market; what matters is the legal fees, and they certainly accomplish that goal.

► Heck, the studios couldn't hedge on the Exchange anyway because that would be like betting against their own films, which would trigger all kinds of anti-disparagement clauses in their contracts and other nasty things. (Uh, though I am not sure exactly why this argument doesn't apply to all the other methods of the hedging they do.)

► There would be wild, rampant "insider" trading because everyone at the studios is able to accurately predict boxoffice results. Yes, I recognize that there is actually no legal concept of "insider" trading on a futures exchange, just as farmers aren't prohibited from trading corn futures as "insiders," and oil companies aren't prohibited from trading oil futures. I also recognize that "no one knows anything" in Hollywood, but still, there is just something evil and bad about letting Hollywood insiders actually set prices in a freely traded market; it smacks of capitalism.

► The Exchange creates an incentive for Doctor Evil to short a film, then destroy film attendance by pirating a copy before release somehow and distributing it to everyone for free online. They might even set off smoke bombs in theaters that play that film in order to derail it.

► We must preserve Hollywood account-

ing. Film investors should be forced to suffer through trying to figure out film-participation statements, just as talent does, dammit. If investors were able to see their financial results through a transparent and efficient system tied to boxoffice results, talent might begin clamoring for the same thing. Can you imagine the consequences?

► This financial wizardry is the type of derivative house of cards that brought down our banking system and the beginning of a slippery slope. The promoters of this scheme have intimated that there is more of this tomfoolery to come, including possible exchanges on DVD results, TV ratings and who-knows-what. If not stopped now, at some point there could even be an exchange for pork bellies.

So get out your pitchforks, join the mob, and let's march on Washington to stop this madness.

Schuyler M. Moore, a regular commentator for The Hollywood Reporter, testified last week before a House agriculture subcommittee in favor of box-office exchanges. A lawyer at Stroock, he also is the author of "The Biz: Taxation of the Entertainment Industry, and What They Don't Teach You in Law School." He is an adjunct professor at the UCLA Law School and Anderson School of Management. He can be reached at smoore@stroock.com.

