

A Guide to Ethical Film Production

for Documentary Fillmmakers





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This toolkit is designed to provide both practical and ethical guidance to emerging documentary filmmakers as they tackle the production of their first films. It also serves as a guide for all Internews communities and partners who are involved or interested in filmmaking. There is great value in telling stories through film, and power in its impact. Emphasizing the importance of an ethical approach to storytelling, this guide offers advice, questions, and considerations for each stage of the filmmaking process. The logistical and legal ramifications of producing and distributing films are outlined, along with ethical considerations as you shape the stories you tell, the subjects you work with and the communities you portray.

This is a living and evolving resource designed to support independent documentary filmmaking regardless of budget, location or experience. Rapid technological, social, cultural, and political changes continue to reshape the stories we tell and how we tell them. This guide is therefore intended to evolve and grow over time. You can help improve this toolkit by contributing additional resources, identifying gaps, and suggesting promising practices and lessons learned from your work. You can also use the comments section at the bottom of each page of the toolkit as a space for questions or discussion with colleagues.

This is the first edition of this toolkit for feedback and validation.

All comments, suggestions and questions will be greatly appreciated!

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INTRODUCTION

There is no formula for making a documentary film. Every film is different and depends on so many things including, but not limited to budget, subject matter, timeline, style, and your own positionality as a filmmaker. This toolkit serves as an introductory guide to practical and ethical considerations along your documentary filmmaking journey.

This toolkit is divided into five main sections that reflect the primary phases of filmmaking: pre-production, production, post-production, distribution, and engagement. Typically, all of these phases bleed into one another, but for the purposes of planning and budgeting, they are categorically distinguished throughout this guide. In a nutshell, the phases are:

Pre-Production - researching and planning your film;

Production - filming and documenting your film;

Post-Production - editing and finishing your film;

Distribution - getting your film out into the world;

Outreach & Engagement - building an audience that can engage with the issue in an impactful way.

While this toolkit is most useful when read as a whole, each chapter can be explored as a stand-alone section. Each chapter includes several text boxes with relevant resources and further reading, as well as deeper dives into key ethical questions and considerations at each step of the filmmaking process.



PRE-PRODUCTION

CORE ELEMENTS

Once you have developed an idea and concept for your film, you will need to arrange the funding, the crew and subjects necessary to produce it. It is often in the pre-production and development phase of a project that these elements come together. Answering the Who, What, Where, When, Why and How is always a good place to start and in doing so; you are putting together all of the pieces of a strong funding application (or proposal) - key to starting your project.

The <u>Nonfiction CORE Application Checklist</u>, is a collaborative field-wide effort to standardize a set of questions that are used in non-fiction funding, fiscal sponsor or artist support opportunities. Although primarily meant to structure funding applications, the CORE checklist contains all the relevant elements you should take into consideration when developing the concept and approach of your film during the pre-production stage:

- Story or Concept Summary
- Topic Summary
- Artistic Approach
- Logline
- Filmmakers' Statement
- Financial Overview
- Project Stage & Timeline
- Visual Materials
- Pitch

STORY OR CONCEPT SUMMARY

This is where you introduce the *who*, *what* and *where* - who are the main protagonists of your film and why it is compelling, what are the probable story arcs for your film including points of potential tension or conflict, and where does it take place in space and time? The treatment should read like a story - you are showing the reader that you know *how* to tell a narrative and that you've done your research, as well as that you know the themes, characters, culture and overarching milieu in which your story exists.

If you have a strong and clear concept, it is understood that you will be able to tell a strong clear story even if you need to pivot from your original ideas. For example, when writing a treatment for a documentary series about immigrants coming to the US, long before any of the films' subjects had been cast, the filmmakers wrote a proposal envisioning the scenarios of five different immigrants and what their stories might look like based on the current trends

of immigration at the time. Though the filmmakers ended up casting the project with subjects from different parts of the world than those that they originally wrote about in their treatment, they received funding based on the strong research-based storytelling skills evident in their original treatment.

TOPIC SUMMARY

This is the *why* of telling your story. Why is this story important to tell now? What is the social context in which the film sits (political, cultural or historical)? It is critical not to confuse Treatment or Story Summary with Topic Summary. All of the non-story elements of your proposal belong in your Topic Summary. Be sure to give as much detail of the relevant themes, challenges, stakes and questions the film will raise. This is also a good place to think about your target audience including how your film will be different from those that have already been made on the same or similar topics.

ARTISTIC APPROACH

This is the *how* of telling your story. What are the visual and auditory elements you will employ? Make sure to paint a picture of what the film will look like. It is important to ask yourself these questions before embarking on the making of your film both to articulate in a proposal and to help inform your budget and crew hires.

- Are you telling a historical film with a lot of archival, using animation or embarking on an observational style of filming? If you are considering multiple stories, articulate how you will weave them together in the final film. Is this a personal film, and, if so, how will you incorporate your voice?
- Will your story play out longitudinally over time or can it/should it be told within a smaller period?
- Do you envision your film needing a narrator to help connect the dots, and if so what kind of a narrator? Describe the tone of the music you will use and how it will enhance your story.
- Will you film on a large format camera or with a phone camera, and why?
- Do you have a well-known Director of Photography, Animator, Composer or Editor on board? If so, describe why you hired them and what they will bring to the project. This would be a good place to describe other team members who you need on your team to reinforce your strengths or shore up your weaknesses? Consider adding a team member that may provide a perspective based on a lived experience that you do not share (someone of a different race/color/gender/sexual orientation).
- Finally, think about other films you like for their various stylistic elements. It is useful to reference other films you want to emulate in this section of your proposal.

LOGLINE

Loglines are often best to arrive at one after doing all of your other writing, thinking and planning. Once you have the treatment and artistic approach thought through, you are in a much better position to determine your strongest 1-3 sentences to sell your film. Consider using enticing, visual and active language in your logline, which should feature as the first element of any funding applications. Below are just a few examples of effective loglines:

O.J.: Made in America (Documentary, USA, 2016)

The defining cultural tale of modern America - a saga of race, celebrity, media, violence, and the criminal justice system. A chronicle of the rise and fall of O.J. Simpson revealing a fractured and divided nation.

Star Wars: A New Hope (Science Fiction Drama, USA, 1977)

When an optimistic farm boy discovers that he has powers, he teams up with other rebel fighters to liberate the galaxy from the sinister forces of the Empire.

Won't You Be My Neighbor? (Documentary, USA, 2018)

An exploration of the life, lessons, and legacy of iconic children's television host, Fred Rogers.

Parasite (Black Comedy Thriller, South Korea, 2019)

Greed and class discrimination threaten the newly formed symbiotic relationship between the wealthy Park family and the destitute Kim clan.

Waltz with Bashir (Documentary, Israel/Palestine, 2008)

An Israeli film director interviews fellow veterans of the 1982 invasion of Lebanon to reconstruct his own memories of his term of service in that conflict.

FILMMAKERS' STATEMENT

Stakeholders involved in the filmmaking process, including funders, will want to know who is telling this story and why. This is not only where you should describe who you are as a filmmaker, but also how the trajectory of your career has led you to the story you want to tell. If you are NOT following the CORE application guidelines, incorporate your thoughts on power, positionality, accountability, connection and access into this section of your proposal.

POWER, POSITIONALITY, ACCOUNTABILITY,

CONNECTION AND ACCESS





This photo comes from a 2022 FilmAid project in Yemen, showing our filmmaker from Taiz filming an IDP family. Telling other people's stories calls for respect and collaboration between subject and filmmaker.

Think about what your relationship to the protagonist is going to be and how you are going to navigate this throughout the film's life. Do you have a connection to the story or the community in which it is being made, and if not, why are you the best person to tell the story?

Consider your relationship to your film's protagonist and how you will be accountable if harm comes to them or anyone else during or as a result of making this film. Harm can come in the form of psychological or physical. Is

someone re-living a painful experience in their past going to dredge up emotions that they (or you and your crew) may need professional help in dealing with, or is a story they tell going to expose something that has legal ramifications or could put them, you or your crew in danger?

It is also critical to spell out in this section what kind of access you have to your protagonist(s) and/or their story. Access means more than just a willingness on behalf of your subject(s) to be filmed. Make sure your subjects are in a position to give you their **informed consent**:

- Is the release form and/or information given in a language not native to your subject?
- Are they underage and if so, does the parent/guardian giving consent have their best interest in mind?
- Are they under the influence of drugs/alcohol?
- Are they vulnerable in some other way in prison, a gang, an abusive marriage or job?
- Do they have a diagnosed intellectual disability or otherwise appear to not fully understand what they are agreeing to?
- Do they think that their participation in the film will help them gain something financially or otherwise?

FINANCIAL OVERVIEW

Where are you in the financing of your film? What money have you raised thus far and what proposals are outstanding, if any? Describe here how you intend to raise your full budget with as much specificity as possible: listing all of the foundations, financiers, investors and other financial resources you intend to get funding from.

The textbox below is a deep dive into how to structure a budget:

HOW TO DEVELOP A BUDGET

It is said that your budget tells as much of a story as your narrative treatment. Make sure that your budget aligns with the ways in which you describe making this film in all elements of your proposal, pitch and any visuals. There is budget software available online, but a simple Excel spreadsheet does everything you need to build and track your income/expenses.

Do research around the expenses you will incur from start to finish. Do you anticipate sending your film to a bunch of festivals or going straight to streamers? All of these avenues have specific delivery requirements and knowing those upfront and budgeting for them is key. Assemble your key creative collaborators: cinematographer, editor, composer, writer (+ backups), and make sure that the rates you have in your budget align with theirs and/or other industry standards. Decide what equipment you are going to use when filming and know what the rental and/or purchase cost will be. The same goes for editing software and any other large expenses.

Budgets reflect your values as a filmmaker. Established film funders know what it takes to fund a film and will be looking for you to present a realistic picture reflecting industry standard rates and costs. Don't think that coming in with a low budget is going to make you look good; it might look more like you don't know what you're doing. Make sure you have enough time for a creative editing process to unfold and enough days budgeted to cover the story as you describe in your other materials.

At a minimum these are the top categories for a film budget:

ABOVE THE LINE*

Producing Staff

BELOW THE LINE*

- 2. Pre/Production or Research & Development
- 3. Production
- 4. Travel
- 5. Rights/Music/Talent



- 6. Post-Production
- 7. Office Administration (including Fiscal Sponsor Fee)
- 8. Insurance & Legal
- 9. Publicity/Promotion & Distribution**
- 10. Contingency**

*"Above the Line" and "Below the Line" distinguish between those positions that are responsible for the creative development, production and direction of a film, usually on the project from start to finish (Above the Line), and all others (Below the Line). Examples of above the line are: director, producer, executive producer, consultants and writers and for narrative projects (screenwriter and talent). Below the Line costs include all other crew, equipment and travel expenses. When you add a contingency to your budget, it should be based off of the Below the Line expenses only.

**Funders often exclude these costs from the production budgets of a film. Contingency covers any unforeseen expenses that were not budgeted for and can be anywhere from 5-15%. Publicity, Promotion and Distribution are considered outside of the parameters of producing your film.

Above the Line personnel may want to work on a fixed fee. This is something you both should consider carefully as you enter an engagement with them as projects often change in scope as you go along. More about this under "contracting" below.

Finally, consider creating two different budgets: an ideal and a backup. Your financial overview should reflect whichever budget you are sharing. You can use the following <u>Budget</u> <u>Template</u> for this purpose, covering the following sections:

- Budget Topsheet a summary of all phases [to share with funders]
- Budget Detail detail of each line item [to share with funders]
- Actualized Budget a tracking of all expenses spent [internal only, unless funder requires]
- Line-Item Explanations a detailed explanation of this budget's line items [internal use only]

FUNDRAISING TIPS:

- If you sense that your funder will come in for a small amount and you don't want to scare them away with the full budget, you can always consider asking for a discrete amount to fund (a day of filming something specific, pre-production, a trailer edit, etc).
- Have two budgets, one that is your ideal, fully funded film and another estimating what you could make it for if you were not able to raise the full budget. Only you know what you can and can't give up between the two, but it is valuable to initially aim high. You can also decide which funder will be most appropriate to send which budget to.

PROJECT STAGE & TIMELINE

What is the current status of the project? Make sure to outline the projected production timeline from its current state to the anticipated completion date. Your timeline should reflect major project milestones: anticipated production schedule, post-production timeline* and the finishing date.

*Consider incorporating your editing timeline into the production schedule - more on this below.

VISUAL MATERIALS*

There are three common types of visual samples that can be shared with a potential funder or other interested parties (distributors/potential investors/potential collaborators or crew). All of these involve considerable resources, so think carefully about your audience and what is most appropriate for each depending on what stage you are at in production. Consider also whether your visual materials will be accompanied by a proposal, you or another teammember making an in-person pitch or any other supplementary material. No matter what your visual materials are, they should support whatever else is being presented, not repeat. Additionally, make sure they reflect the same visual style described in your proposal.

- 1. **Deck:** [10-20 slides] Think of a deck as a mood-board for your film, but one that engages and tells a story. You want to be able to confidently communicate the visual style and tone, introduce yourself as a filmmaker, key creative collaborators and your cast and/or subject(s). Include your logline and synopsis, but consider brevity, prioritizing images over text. Decks should be attention grabbing and leave the reader wanting more.
- 2. **Sizzle Reel/Trailer:** [30 sec-5 min] Introduce your protagonist(s), the story and why we should fund, watch, distribute, and/or otherwise get involved with your film. Highlight

your best footage whether visually stunning or that which shows your subject(s) in a compelling way. Start by identifying what that is and then build around it. Don't give away your story arc but give enough to entice them to want more. Consider that a sizzle might be the first thing someone watches before looking at your written material, and in some cases may be the determining factor to whether they even look at your written material. Consider hiring an editor who specializes in trailers and sizzle reels. See the below examples for very different kinds of films:

<u>A Woman Captured</u> (Turkey, Documentary, 2017)

A European woman has been kept by a family as a domestic slave for 10 years. Drawing courage from the filmmaker's presence, she decides to escape the unbearable oppression and become a free person.

Okja (South Korea/US, Sci-Fi Drama, 2020)

A young girl risks everything to prevent a powerful, multinational company from kidnapping her best friend - a fascinating beast named Okja.

<u>Joyland</u> (Pakistan, Drama, 2022)

The youngest son in a traditional Pakistani family takes a job as a backup dancer in a Bollywood-style burlesque, and he quickly becomes infatuated with the strong-willed trans woman who runs the show.

Abacus: Small Enough to Jail (USA, Documentary, 2017)

Abacus, a small family-run bank, becomes the only U.S. bank to face criminal charges in the wake of the 2008 financial crisis. The indictment and subsequent trial forces the Sung family to defend itself -- and its bank's legacy in the Chinatown community -- over the course of a five-year legal battle.

Super Size Me (USA, Documentary, 2004)

Documentary filmmaker Morgan Spurlock makes himself a test subject of this documentary about the commercial food industry. Rigorously eating a diet of McDonald's fast food, three times a day for a month straight. Spurlock is out to prove the physical and mental effects of consuming fast food.

3. **Scenes:** [5-15 min] If you are able to share scenes of already shot material, this is the best way of sharing what your film will look and feel like. Choose a scene or two that best encapsulates the tone, character and style of your filmmaking. If it is an observational film, perhaps you don't want to share a sit-down lit interview. If it is historical, give a feel for the kinds of archival material you will use. If it is character-driven, make sure to introduce the characters in the sample. Identifying compelling scenes will demonstrate your ability to identify what makes a compelling story.

* Make sure you have licensed any material you use in any visual materials shared publicly (on a website or funding page) and that you have the necessary consent required from your subjects/protagonists.

PITCH

No matter where you are in your stage of development, you should be developing the language you can use to get others excited about making the film. Start by thinking about what makes you passionate about the subject-matter. Make it relatable, use strong action words, and evoke strong emotions but avoid telling the audience how to feel. Avoid overused words like "universal", "journey", "we embark on", "unique", "verité style".



Pitches should be 5-10 minutes. Know your material (don't read). Also consider including the following elements: the genre and format, the film's length, and again why you are the right voice to tell this story. Consider what kind of tone your film has and make sure the tone of your pitch aligns: if you're pitching a comedy, make them laugh; if

you're pitching a horror film, give them chills, and if you're pitching a social-issue documentary, make them feel the urgency of your message.

Consider throughout your proposal writing that you are giving the reader the *essence* of what your film is, not every detail. Pay attention to word counts; while frustrating to adhere to, these are well thought out parameters provided for you to consider the amount of space it should take you to describe what is being asked. You want to leave your audience wanting more, not less.

ETHICAL FILMMAKING: QUESTIONS TO ASK YOURSELF DURING PRE-PRODUCTION



Why am I telling this story? And what do I want to say?

Is my subject a willing participant with agency and endorsement?

How can I establish trust with my subjects?

What goals do I have for this film? Am I a curious storyteller or a social change agent?

Am I the right person to tell this story? Am I a member of the community about which I am producing a film? If not, how do I forge partnerships and co-creators who can help shape the story and speak for the community?

How do I gain access to this story?



PRODUCTION

RELATIONSHIPS WITH YOUR SUBJECTS

It is an awesome privilege to be entrusted with access to the lives of your film's subject(s)/protagonist(s) whether in the past or present. That privilege comes with a lot of responsibility and ethical considerations that start on day one and need to be an ongoing conversation through the distribution and outreach of your film.

There will be moments when your subjects put up boundaries. Consider when it is appropriate, for the good of the story, to push them and when it makes sense to back off. Too much pushing for the sake of pushing can lead them to shut down entirely. Make sure at the outset that they fully understand the time and resources that go into making a documentary as well as the commitment that you will need from them to fully explore the story you are telling. Open and honest conversations throughout the making of a film is key to a strong and sustainable mutually respectful filmmaker/subject relationship. See more below under Legal Considerations and Informed Consent.

Though documentary films are distinct from traditional works of journalism, when it comes to paying your subjects, following the same hard line as journalists about not paying your subjects offers the audience a level of trust. If you are paying your subjects, it becomes questionable what their motives for participation in your film are. However, this argument raises ethical questions for documentary filmmakers who in recent years have considerably profited from their documentary works. Rather than paying your subject(s) upfront, consider including them in the back-end or waterfall of your film's finances. This ensures that if there is profit to be made, they will be included as a percentage of that profit. For more, see the below article from the International Documentary Association (IDA).

Money Changes Everything--or Does It?: Considering Whether Documentaries Should Pay for Play, 2004

LEGAL CONSIDERATIONS

Due diligence throughout pre-production and production will save you time and costs down the road. Consider the following while making your film:

 Subject Waivers or Personal Releases: This is a form of gaining written informed consent from your subjects (see above under Power and Positionality and below under informed consent).

- You may also consider a "Life Rights Agreement" which may further ensure exclusive access to someone's "story".
- Location Release or Permit: If filming on private property, obtain a location release; if filming on public property, find out whether you will need a permit.
- Crew contracts: Create an agreement with all of your creative collaborators that includes the following basic information:
 - Crew job title or description (ie, Director of Photography)
 - Who owns and has creative control of the film and any work the crew was hired for (ie, the Director, Producer and/or a Production Company)
 - Crew rate/fee (per day/hour/week)
 - Time frame crew will work on project
 - Final credit crew will receive
 - Whether they are using their own equipment or yours
 - The terms under which you would terminate the agreement

These can always be amended as time goes on, but it is important to establish the parameters of these professional relationships early on.

- Artistic works: If there is ambient music or other artistic performance captured in the
 background while making your film, you will either have to pay for the rights or claim Fair
 Use. Consider having the music turned off if it is not a part of the scene or filming around
 other artistic works. If there is live music and/or a performance and you have access to the
 artists, do not wait to get their permission. If all you have is a personal release form, that
 will work in the moment, but following up immediately with a materials release will save
 you time/headache later.
- Safety: Do not do anything that will compromise the safety of your crew and/or your subject(s). There is no story worth a major injury or lost life. That said, make sure you meet all the local insurance requirements to protect your film, equipment and crew.

FINANCIAL CONSIDERATIONS WHILE FILMING

It is rare that a film gets made before full funding is in place. Consider the following ways in which you can start with what you have and expand later:

Crew: Is it possible for you as a director/producer to also film, record sound and/or edit? Can you work out deals with your crew to pay them later and/or barter for their labor in some way. Films are hard to make, and if it's your idea, you are passionate about getting it done no matter what, but don't expect everyone on your team to have the same passion. Make sure that whatever arrangements you make include compensation in some form at some point.

Equipment: Research ways in which you can use affordable technology by using the tools you have - can you film on your phone until you can afford a higher end camera? If so, consider learning all the best practices around filming on your phone (ie, hold it horizontal,

set your camera to record highest quality, consider recording audio separately etc). Can you edit on your personal computer with affordable software until you can afford an editor with higher end software?

Budget: Again, find ways to fundraise in steps. A full budget can be very daunting to financiers, but when presenting them with the prospect of financing development, or a very specific day of filming that may be critical to your story, or enough seed money for you to film enough to create a compelling trailer, the amount will seem achievable and take you one step further in your process. As important as early stages of filmmaking are to your story, you should be simultaneously looking at them as ways to leverage more funding. What are the scenes you can film early on that you know will grab the attention of a funder? This might be happenstance, but you could also consider planning for it.

Producers' Cash: It is a common practice for filmmakers to go into credit card debt in the process of making their passion projects. While this is not advisable and may never be recouped, document all resources that you incur in the making of your film. If you are using your own money, keep all receipts; if you are working for free, track your time. If you end up making a sale, you will want to make sure that those expenses are recouped off the top.

CHOOSING YOUR CREW

Putting together a strong team may be one of the most important steps in making your film. It is a truly collaborative craft and important to not only have professionals who know what they are doing technically, but also those who can support you and your vision as a filmmaker. For example, if you are making a verité-style film where you and your crew act as "fly-on-the-wall" observers, make sure they know how to be flexible, fast-paced and adaptable. As the protector of the subject/filmmaker relationship, make sure that each crew member on set will contribute in a positive way to those relationships. If you are not from the community in which your story takes place, consider hiring crew members that represent members of that community (this can mean many things including but not limited to race, religion, ethnicity, gender identity, culture and economic background).

EQUIPMENT CONSIDERATIONS

What equipment you choose to work with depends not only on your budget, but on the vision, style and story. For example, if the story is most important and the timeline does not match your fundraising schedule, you may start small (as described above by employing a smaller crew and a cell phone or less robust/costly camera). If you are making a nature documentary and every shot needs to be beautiful, you will probably want to wait until you've secured enough funding for high end gear and experienced cinematographer. If you are interviewing a celebrity, again, you may want to show up with the most high-end gear you

can afford and a highly qualified crew - chances are they will not give you a second interview if the first one doesn't look or sound good.

A note about sound: It is said in filmmaking, "the eye forgives; the ears do not." Especially in documentaries, bad footage is acceptable. Bad sound can ruin your film. This is not the department to scrimp and save. Make sure your sound recordist has good equipment, experience working on set and is good at troubleshooting.

HOW TO COVER A STORY

There are many ways to tell a story in a documentary and much is written about the different styles that are most commonly used. As the field is constantly evolving in all ways including creative and stylistic, we will not attempt to list them here. However, it is helpful for you to deeply consider what your film will look like stylistically as you are in the early pre-production stage and to be consistent in how you are making the film. For example, if you want it to be a personal film but do not decide to include your voice until part way through filming, it may be complicated to add yourself into the parts of the film that you've already documented. If you want to make a Verite (or observational) film and you start with a lot of nicely lit interviews, it may be hard to know how to incorporate those into your final film. Research and know your approach early on, and it will make editing the film that much more seamless.

POST-PRODUCTION DURING PRODUCTION

In an ideal world and pending available funds, you are editing while you are in production. This ensures the following:

- 1. You are covering the story as fully as you need to there's nothing worse than getting to the editing phase and realizing you're missing key elements. This could be anything from needing your subject(s) to say something critical to the story to needing an exterior image of a building. Obviously, you don't have complete control over anything that happens while making a documentary film, but knowing what you have and don't have while still in production is incredibly useful.
- 2. Your film is in alignment with the tone and style you set out with (or not) you may have clear stylistic intentions going into production, but it is only once you start editing your film that you know whether they are working. You start out making a personal film, but once you start editing, you realize your voice does not add anything or even takes away from the overall narrative, or vice versa.
- 3. When you are able to start crafting scenes and even possibly a trailer or sizzle reel, and you are not fully funded and/or do not have any distribution, this will help "sell" your project in advance of finishing it. Many traditional film funders will not give funds unless you do have some visual materials to share.

- 4. Your tech is working you are consistently filming with the same parameters and settings, your sound is working, your DP or Cinematographer is capturing things the way you want, the editing system is appropriate for what you're trying to do, etc.
- 5. You are entering into a new phase of collaboration with an editor. If you have the resources to hire an editor, in documentary film, they are very close creative collaborators and can bring a lot to your storytelling. Documenting a story through production makes you very close to the subject-matter. Working with an editor will help you gain some distance and perspective that is often much needed when crafting a story.

If you do not have the funds/resources or time to edit while in production, consider instead making sure that all of your material is logged, transcribed and translated if needed. There is a lot of value to logging your own material while in production. It will, at the very least, help to guide what you may need in the production phase.

FINANCIALS DURING PRODUCTION

As soon as you start raising and/or spending against your budget, create an Actualized Budget that documents all your income and expenses and what's left in the budget. This will not only help you track where your expenses are but is often required documentation from funders at the end of a project.

WHEN PRODUCTION ENDS

Only you know when you have completed telling your story. Often there is a natural ending that takes place in time or space; other times the ending is arrived at in the edit room, and your budget may very well dictate when you need to wrap up filming. As stated above, if you are able to edit while you are in production, you will likely have more clarity around when you have arrived at the end of your story. That said, consider the possibility of capturing some footage to better help you arrive at an ending even while you are in the editing phase. Those final production days that fill in the gaps are referred to an 'pick-up' shooting.

ETHICAL FILMMAKING: QUESTIONS TO ASK YOURSELF DURING PRODUCTION



How do I maintain journalistic integrity during the production of this film? For example, how do I avoid interviews with leading questions? How do I avoid fabricating situations or storylines by manipulating the production?

How do I compensate or clearly articulate my intentions with all subjects and participants, as well as wider communities?

How do I keep my subjects in the loop on the progress of the film, continue to build trust and keep their concerns aligned with the project?

How do I tell a story I continue to believe in and will be able to defend?

POST-PRODUCTION

EDITING

Having a good director/editor relationship is key. Just as you did when hiring other crew members, make sure your editor aligns with your values as a filmmaker, the ethical considerations you brought to bear on your production, how you approach the overall story and, most importantly, your stylistic and creative vision.

Never underestimate the time it takes to shape a story. The best editing process is one in which there is time allotted for both you and your editor to fully explore all the footage and all angles of the story. Make sure you and your editor watch everything at least once; even when you think it did not yield anything interesting in the field, you never know what it may bring to light in the edit room. As you review the footage, have a system in place to log where strong moments occur, how they fit into your storyline and where you'd like to include them. People use different methods to get to know their footage - from tagging printed logs and transcripts to creating a system in their edit bins. It really depends on how you organize, but it should be understood that as you go through the footage you have to have a system to recall the moments that will make up your film.

This can also be one of the most exciting phases of your filmmaking when new ideas may reveal themselves in the footage that you didn't foresee when filming and you are able to creatively collaborate with the editor who will bring a new set of ears and eyes to your story.

WORKING WITH ARCHIVAL

Great care should be taken when working with archival stills and footage. The subjects of archival film should be treated with the same ethical considerations that you use to treat your own subject(s). Just as you would never want your subject(s) misrepresented or shown out of context, if you are using previously shot footage or stills to illustrate an idea from a different place and time, make sure you are using it in such a way that no harm would come to the subject(s) (whether living or not).

Properly sourcing and licensing your archival footage: If you can afford to, use a professional archival producer or researcher to source your archival footage or stills. They have relationships with archival sources, rights holders, news outlets, etc. and are in a good position to negotiate the licensing rights you need. The terms depend on what your distribution outlet requires. The most economical thing to do if you can't afford to license the footage for the widest set of terms is to license material for a festival run in the hopes that you can negotiate a step-up deal, expanding the terms at a later date for a higher fee. Here are the terms that need negotiating:

Duration: the length in which you want to license. Depending on what you can afford, this can be anywhere from 1 year to "in perpetuity" (forever).

Media: the specific outlets for which you want to license the material (festival, television, theatrical, streaming). Ideally, you want "all media" (covering any potential outlet).

Geographic: the area of the world in which you want to license the material. Ideally, you want "worldwide".

Exclusivity: meaning you, and only you have access to the footage/stills. Ideally, you want "exclusivity" but depending on what the footage is, this may be hard to accomplish.

If you are using footage with a known celebrity, you will most likely need their separate permission to use their image, just as you would with your film's subject(s).

Budgetary concerns: Make sure that your archival budget includes the costs of converting formats, making high resolution scans and a fair use lawyer, if necessary.

Making a Fair Use claim: This is a legal claim that can be made for using archival stills or images that cannot or need not be licensed. The Fair Use laws have changed considerably in the last few years making it much easier for documentaries to make a Fair Use claim. The following is a guide that you should use to determine whether you can claim Fair Use, but you

will need to engage an attorney specializing in Fair Use to write a statement about your specific case in order to get Errors and Omissions Insurance (a policy required by most festivals and distributors). Make sure this is considered and planned for throughout post-production.

The four primary classes of making a Fair Use claim as described in the Documentary Filmmakers' Statement of Best Practices in Fair Use from the Center for Media and Social impact are the following:

You are employing copyrighted material as the object of social, political or cultural critique. This class of uses involves situations in which documentarians engage in media critique, whether of text, image, or sound works. In these cases, documentarians hold the specific copyrighted work up for critical analysis.

You are quoting copyrighted works of popular culture to illustrate an argument or a point. Here the concern is with material (of whatever kind) that is quoted not because it is, in itself, the object of critique but because it aptly illustrates some argument or point that a filmmaker is developing—as clips from fiction films might be used (for example) to demonstrate changing American attitudes toward race.

Capturing copyrighted media content in the process of filming something else. Documentarians often record copyrighted sounds and images when they are filming sequences in real-life settings. Common examples are the text of a poster on a wall, music playing on a radio, and television programming heard (perhaps seen) in the background. In the context of the documentary, the incidentally captured material is an integral part of the ordinary reality being documented. Only by altering and thus falsifying the reality they film—such as telling subjects to turn off the radio, take down a poster, or turn off the TV–could documentarians avoid this.

Using copyrighted material in a historical sequence. In many cases the best (or even the only) effective way to tell a particular historical story or make a historical point is to make selective use of words that were spoken during the events in question, music that was associated with the events, or photographs and films that were taken at that time. In many cases, such material is available, on reasonable terms, under license. On occasion, however, the licensing system breaks down.

Final note on Fair Use: Even if you can make a Fair Use claim, it doesn't mean you should. If you are using works from an independent artist, photographer and/or filmmaker, consider offering them a fee that you can afford and honors the work that they created.

WORKING WITH MUSIC

Music is as important as any other creative element in your storytelling and should be thought about early on. If music is a priority in developing the tone of the film, consider budgeting for and hiring a composer who can score the music unique to your film. If you want to license copyrighted music, you will need to go through a similar license negotiating process as you did to obtain an archival license. Again, you can get a Festivals Use License to start small and step-up once you have a distribution deal.

When negotiating fees, make sure to include how the music will be used, the duration and number of times and where the film will screen. If you have the budget for it, hire a Music Supervisor who knows how to work with the various copyright holders and, in some cases, the artists themselves to license pre-existing songs and recordings.

Synchronization (Sync) Rights: This is the right to synchronize a song or a piece of music with your visual image. It must be obtained from the copyright owner of the music, which is usually the publisher.

Master Use Rights: This is the right to reproduce a specific recording of a song in your film. You clear this right with the record label who owns the specific recording you would like to use; see the liner notes of the recording to find out which company this is.

You can find out who the publisher is by using ASCAP's Clearance Express (ACE) at. Songs that are not represented by ASCAP might be found at HFA. You will be provided with a contact at the publisher's Business Affairs or Licensing Department.

If hiring a composer or licensing copyrighted music is out of reach, you can find and license music from a number of online stock music sources.

SCREENING YOUR ROUGH CUTS

Watching your film with an audience, even while in a rough-cut stage, can be intimidating but ultimately very valuable. When deciding to hold a rough-cut screening of your film, consider what you want to get out of it. Are you still shaping the story and wrestling with some editing and narrative challenges? If so, you may want to bring in respected peers: filmmakers and editors whose



opinions you trust. Are you wanting to make sure you're addressing a subject-matter appropriately? If so, invite experts in that subject area to watch with an eye towards accuracy and balance. Finally, you will want to watch the film with those that represent your intended audience so you can gauge when your film might drag and/or when your film is most engaging.

For any of the above, make sure you establish parameters and guidelines at the outset to elicit the most constructive feedback. When you introduce the film, let your audience know exactly what you are looking for. For example, if you are 90% done and want to know whether the opening works, make sure that you are not getting feedback that offers an extreme rethink of your film. A conversation post-screening is most valuable, and it is often also useful to create a questionnaire that addresses specific concerns you have. Within the questionnaire, list the subject(s) and/or characters as well as a scene list to help them orient themselves post-screening.

When you solicit feedback through a discussion it is important to not be defensive or justify your choices. If an audience member is expressing confusion or dislike, there really is no way to argue against their feelings. Thank them for their feedback, ask for clarity if necessary and process it later with your team.

RELATIONSHIPS WITH SUBJECTS IN POST-PRODUCTION

Whether and how you involve your subjects in the rough-cut editing feedback sessions is a decision you need to make by considering carefully how it may affect the integrity of your project. In recent years there has been a call for the subject to have more rights with their portrayal in the film. Many ethical issues have come up that have harmed subjects, their families, their livelihoods, etc. It is important to be clear of your intentions before, during and after production. It is important for your subject to be a willing and open participant in your project. It is important to maintain honest communication throughout production. Recent studies have called for additional decision-making power to be in the hands of subjects, but each situation is singular and has its complications. The most important components of your relationship with your subjects are open, honest communication; mutual respect; agreement on why you are making the film and participating in the film and shared goals for its reach and distribution.

FINISHING

How you finish your project will depend on your budget and next steps. Festivals, theaters and television outlets typically require delivery on a DCP (Digital Cinema Package) which should be budgeted for from the beginning. If you have the funds, it is highly recommended

to do a color correction or color grading, by a professional color grader that uses more advanced equipment than the typical rough-cut editing software provides. Likewise, doing a professional sound mix, where a sound mixer can add effects, balance the audio levels and "sweeten" the overall audio, is highly recommended. As stated above, bad audio can really offend an audience. This is worth the investment.

Make sure you know of any deliverables due from a financier or other grant giving organization. Many not only require actualized budgets showing what the final totals of what you spent and on which line items, but any legal paper trails in regard to releases, music and archival licensing and crew agreements. Music and archival licensing are documented in separate cue sheets. If you hire an archival producer and/or a music supervisor, these professionals should include these in their deliverables to you. These are not only useful for your funders, but as a way of tracking for your own archiving purposes.

MEDIA PRESERVATION & ARCHIVING

Consider the best format and method to store your media long term near the end of your project. You may also consider donating your material to an established archive. Many are associated with universities, but make sure to research them well, find out if other filmmakers have donated their material and how it's been handled, etc.

ETHICAL FILMMAKING: QUESTIONS TO ASK YOURSELF DURING POST-PRODUCTION



When shaping a story in the edit room, chronology is given a poetic license for the betterment of the story and dramatic arc. That said, how may you be changing the meaning of certain moments, situations or people as a result of this? Consider how you may be compromising the integrity of your film for dramatic effect alone.

Before you share the film with the public, have you offered your subjects a screening? Have you discussed any of their reservations or fears? While there are various ways to conduct subject screenings, it is essential to respect your subjects' perspective and work with them collectively while putting the film out into the world.

Have you secured and cleared all the rights to archival footage, music and people speaking on screen?

Have you secured Errors & Omissions Insurance in case you have any lawsuits or loose ends?

DISTRIBUTION

FESTIVALS: A PATH TOWARDS DISTRIBUTION

As soon as possible during post-production, you should be thinking about a distribution strategy. If your aim is to get your film as widely distributed as possible through a theatrical release or by licensing it to a streaming service, your best hope is to get into a top tier film festival like Cannes, Sundance or the Toronto International Film Festival; These festivals are considered "market" festivals where all distributors go to find films they want to acquire, from Netflix to small mom-and-pop educational distributors.

See a longer list of these Market Festivals here: Film Daily.com List of Top Tier Film Markets to Sell Your Film

Getting into those festivals is just the first (and perhaps hardest) step. However, if you don't get into one of the A-list festivals, there are plenty of others, and you should come up with a good list based on your film's genre, potential audience and other benefits a particular festival might offer. For example, if you've made an environmental themed film, there are over a dozen well-attended environmental film festivals across the world. Some come with financial rewards and/or will pay you for your attendance. If your film was made in Latin America, you may want to premiere it at a Latin American film festival to generate the largest audience possible.

<u>FilmFreeway.com</u> is the most comprehensive list of film festivals around the world. It not only has an easy way of searching for festivals based on subject matter, genre, entry fees, deadlines, regions and festival dates, but it has a built-in function for automatically submitting your film.

Carefully select when and where you premiere your film. Certain festivals only program films with premiere or debut status commonly known as "right of the first night," so it is important to make sure NOT to have a public screening and/or share your film online in advance of festival submissions. An invite-only screening for family/friends, cast/crew does not count as a public screening. This may also be a factor if one film festival offers to program your film, but they don't have much of a distribution market and you're still waiting to hear back from one that does. These are tough but important choices to make when trying to get your film into the world. Venice and Cannes International Film Festivals require world premiere status. There is also country premiere status (ie, China), regional (ie, Asia) and even city (ie, Beijing).

If your goal is to find a distributor, whatever festival route you go, you should consider hiring a Publicist and/or a Sales Agent. A Publicist's job is to generate buzz around your film. They will help create and distribute press kits. Their goal is to get media attention and coverage. They also have well-established relationships with journalists and film critics. A Sales Agent

represents your film at various film markets to distributors and helps negotiate and broker a sale or license distribution deal for your film.

There are three primary areas of negotiation when working with potential distributors: Territory, Type and Term.

- 1. Territory defines where your film will be distributed as described by country or group of countries. There are also language defined territories (ie, Spanish-speaking territories).
- 2. Type defines what platform. As of this writing, the following exist as the primary distribution platforms for independent films:
 - a. Theatrical Screenings at commercial theaters.
 - b. Non-Theatrical Screenings at museums, universities, organizations and film festivals.
 - c. Television Pay, Premium, Basic Cable, Public, Free/Broadcast or Satellite.
 - d. Home Video Includes: TVOD (transactional video on-demand, like iTunes); SVOD (subscription video on-demand, like Netflix, Hulu, Amazon); or DVDs.
 - e. Educational A digital license to distribute in the educational market.
- 3. Term defines the length of time for which they will distribute your film.

Distribution costs are a percentage of gross sales minus (-) the distributor's expenses. Part of your contract with them will be working out at what stage there is a profit considered. Try to negotiate making the film "whole" before the distribution of profits goes into effect. That means that any of your outstanding unrecouped expenses while making the film, are paid off before anybody else - see The Waterfall below.

For more tips on negotiating a distribution deal, see the Distribution Advocates' <u>A Cheat Sheet for Approaching Distribution</u>

THE WATERFALL

As you go along in your filmmaking, it is important to carefully document all the ways in which you have agreed to either pay people (for deferred fees), pay yourself (for unrecouped producer's cash) or pay an investor back (a percentage of their investment against your sale); and who else should participate in the profit sharing, if there is a profit. As discussed above, it is good practice to consider including your subject(s) in sharing a profit of the film, and also for you to be fairly compensated for any time that you were not paid for.

See more from the Documentary Producers Alliance who created a comprehensive set of guidelines and best practices on structuring agreements to create a fair waterfall – Guidelines for the Documentary Waterfall

GETTING THE BEST OUT OF YOUR FESTIVAL EXPERIENCE

Getting your premiere out of the way may be the most exciting and stressful time in your festival experience. If you are lucky enough to have your film acquired by a distributor at a festival, you can try to negotiate a deal to have a longer festival run which can be anywhere from a few months to a couple years before your distributor wants to put it on their platform. If you do not have a distribution deal, it is still beneficial to continue playing as many festivals as you can.

The benefits of having a long festival run are to generate buzz, build an audience and lay the groundwork for an outreach and engagement campaign if that is a path you want to take. You or your distributor can also negotiate screening fees and/or travel stipends to attend festivals.

ETHICAL FILMMAKING: QUESTIONS TO ASK YOURSELF DURING DISTRIBUTION



Do my subjects want to be involved in the screenings? If so, how can I help make that happen?

If my film aims to be a vehicle for social change, how do I build the partnerships and resources needed to truly achieve an impact?

If my film yields revenue, how do I intend and plan to share revenue with my subjects or affiliated organizations?

OUTREACH & ENGAGEMENT

If you've made a film addressing a social issue that you want to bring awareness to (as most documentaries do), designing an outreach and engagement campaign is the best way to ensure that your film can make an impact in the world. The outreach is getting your film seen by the widest possible audience and as many people as possible from your target audience to see your film. It is critical before going into an outreach and engagement campaign to know who that target audience is, how best to reach them and what their goals are.

Running an engagement campaign can be like making a whole other film. Ideally you will need to raise funds, create a budget and hire an experienced and competent team. You can be as fun and creative as you want in your outreach and engagement campaign. There is truly no blueprint for this, and the tools are endless. There are many organizations and individuals

that have vast experience in designing and running engagement campaigns. But if you are going at it alone, below are some suggestions and tips for things to think about:

- > Build partnerships with advocates and organizations working around issues addressed in your film. Ideally, you are forming these relationships throughout production.
- Build a social media following and use it as a platform to keep your audience updated and informed on all your campaign events.
- Consider working with someone to write a discussion guide for viewers and hosting facilitated screenings.
- Consider working with a curriculum writer to bring your film into an educational setting.
- Consider creating smaller clips of your film to accompany the curriculum and/or discussion guide.
- Consider creating change-making "schwag" (products representing an element of your film that are given away for free). For example, political buttons, bumper stickers, etc.
- > Think about a postcard campaign to power brokers in a position of enacting change.

For more, see <u>An Introduction to Film Based Engagement</u> by Active Voice and <u>From Distribution to Audience Engagement</u>: <u>Social Change Through Film</u> by The Fledgling Fund.

For inspiration, below are examples of documentaries and the impact they have made:

- FAHRENHEIT 9/11
- AN INCONVENIENT TRUTH Eleven years ago the groundbreaking film prompted millions to start asking questions about the climate crisis and doing something about it, helping shape the modern climate movement we know today. And in the decade since, a lot has changed as a result. Climate science has made major advances, helping us better understand the challenge we face. Renewable energy, such as solar and wind, is cheaper than fossil fuel-based electricity in many parts of the world. Electric cars are even becoming mainstream (well, for some).
 - o The Climate Reality Project
- BLACKFISH In the year following Blackfish's release, SeaWorld's attendance dropped by one million visitors. In 2014, the company announced a 84% fall in income and saw its share price drop by 33%. Although SeaWorld attributed this to "the seasonal nature of the business", the media largely blamed Blackfish.
 - o The Conversation.com
- THE INVISIBLE WAR Since *The Invisible War* premiered at Sundance, the film has been circulating through the highest levels of the Pentagon and the Obama administration. Two day after Secretary of Defense Leon Panetta watched *The Invisible War*, he directed military commanders to hand over all sexual assault investigations to a higher-ranking colonel. At the same time, Panetta announced that each branch of the armed forces would establish a Special Victims Unit. A congressional panel is set to hold hearings on sexual abuse in the military in early 2013.
 - o PBS Independent Lens

ETHICAL FILMMAKING: QUESTIONS TO ASK YOURSELF DURING OUTREACH & ENGAGEMENT



Is my campaign achieving the change I intended?

Do my subjects and community want to be involved in the outreach? If so, in what capacity?

Am I providing an opportunity to build connections and impact that will last beyond this film?



GLOSSARY

Above-the-line

The portion of a budget listing positions responsible for the creative development, production and direction of a film – usually on the project from start to finish.

Archival Producer

Handles every stage and aspect related to the archival materials needed for a documentary, from the research to sourcing to final license negotiations.

Below-the-line

The portion of a budget listing all positions and line items outside of the "Above the Line" items.

Broadcaster

a local public television outlet (NHK, BBC, PBS) or network station or a streamer (Netflix, Hulu, Amazon, AppleTV, etc)

Contingency

Money included to cover potential unexpected costs during production

Crowdfunding

Funds that can be raised from a mass audience using an internet platform like Indiegogo, Seed & Spark or Kickstarter.

Deck

A short and punchy slideshow to convey the style and tone of a film, including a logline, synopsis, filmmaker and crew bios and a description of your protagonists.

Director

The lead creative behind all visual, audio, editing, music, and narrative decisions. The director is also responsible for building trust with the film's subjects, and is often the initiator of the film.

Discussion Guide

A guide to help generate conversation around the film after a screening.

Distribution

The process of getting a film out into the world.

Distributor

The entity that will sell, license, or rent a film through existing relationships with exhibition platforms for a percentage of sales.

Engagement

The process of engaging your audience in a way that will affect social change.

Executive Producer

A film professional who contributes to the development and production of a film, offering essential value and guidance through editorial input, funds, fundraising, producing issues, legal matters, or distribution strategy.

Fair Use

A legal claim allowing a filmmaker to use copyrighted materials free and without permission based on certain criteria.

Fiscal Sponsor

A 501(c)3 Non-profit organization that will receive and process any funding that requires non-profit status. Usually this is done for a fee on the income of 5-10%.

Fundraiser

Hired to help raise funds either through their connections to funding or their experience with raising funds through their writing/strategizing, etc.

Grant

Donated funds from foundations, government entities or any other business or entity in support of a film.

Informed consent

A process of communication between subject(s) and filmmaker(s) that leads to a full understanding and agreement/permission for involvement in a documentary film.

Location permit

A paid permit obtained prior to filming that grants you permission to film on the property; most frequently needed in cases of public property (town, city, etc.)

Logline

A brief and enticing (one to two sentences) summary of the plot of a film

Master Use Rights

The license for rights to reproduce a specific recording of a song which is typically cleared with the record label who owns the specific recording; see the liner notes of the recording to find out which company this is.

Music Supervisor

The Music Supervisor oversees all aspects of music research, acquisition and licensing.

Producer

Works side-by-side with the Director to realize the artistic vision and overall goals of the film, ensuring that it is not only funded and appropriately staffed, but also completed on time, within budget, and according to the legal and technical standards required by its distribution.

Producers' Cash

Cash contributed out-of-pocket by the producer or director to help pay for expenses or fees in the making of a film.

Promotion

Efforts made by people within the team to garner attention for a film.

Publicist

A Professional hired to create press kits and to help generate media interest around a film.

Publicity

Any material that is written, shown, etc. by someone outside of your project and garners attention toward a film.

Release form

- Location release a contract that you and a location owner sign stating that you have permission to film on the premises.
- Materials Release for obtaining permission to use photographs, video, film or other media or artworks which may be copyrighted or owned by others.
- Talent release or Personal release a contract between you and your subject(s) stating their awareness of the conditions and purposes of their participation in the film.

Sizzle

A 30 sec – 5 min video introducing a film project in an enticing and compelling way.

Story Rights

Agreement drawn up describing exclusive access to an actual living individual's story in exchange for a fee.

Sync Rights

The license for the right to synchronize a song or a piece of music with your visual image. It must be obtained from the copyright owner of the music, which is usually the publisher.

Target Audience

The ideal audience for a film, for whom it will be impactful and engaging; this may determine how you structure some aspects of a film.

Title Report

A comprehensive search for all prior uses of the same or similar titles used in films, television shows or other multimedia.

Treatment

Describes the characters, plot and story arc in a narrative fashion. These are often written in advance of the story and characters being finalized. It is a visionary piece of writing.

Vérité style

Abbreviated version of Cinéma Vérité meant to convey a hyper observational style intended to depict things as they realistically are without the influence of the filmmaker.

Waterfall

The financial structure that contractually sets out the flow of revenues to investors, filmmakers and others with a financial interest in the project.



RESOURCES

- ▶ 6 Tips for Documentary Filmmakers on How to Better Serve Participants with Gender-Based Trauma October, 2021 IDA, by Hansen Bursic
- Documentary Power: A New Manifesto, 2019, IDA, by Chi-Hui Yang
- From Reflection to Release: A Framework for Values, Ethics and Accountability in Non-Fiction Filmmaking, 2022, Documentary Accountability Working Group (DAWG)
- Do No Harm While Photographing, 2020, Authority Collective
- Practical and Ethical Considerations for Working with Film Participants virtual workshop slides,
 2022, Filmmakers Collaborative SF
- Honest Truths: Documentary Filmmakers on Ethical Challenges in Their Work, 2009, Center for Social Media
- https://impactguide.org/impact-in-action/consider-your-subjects/
- ASCAP How To Acquire Music for Films
- Online sources for stock music:
 - o Audio Network
 - o Premium Beat
 - o <u>Epidemic Sound</u>
 - Melody Loops
 - o <u>Music Bed</u>
 - Marmoset Music
 - o First Frame Music
 - o Filmstro
 - o Artlist.io
 - o Pond5
 - o Audio Jungle
 - o Music Vine
 - o Fyre Fly
 - Tunepocket