

Disney, Theater Operators Battle Over New ‘Avengers’

Owners aren't happy about new conditions imposed by movie maker

A movie-theater trade group says owners aren't happy that Disney imposed new conditions on venues seeking to show "Avengers: Age of Ultron." WSJ's Ben Fritz joins the News Hub. Photo: Claudio Papapietro for The Wall Street Journal

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Behind the scenes of the new blockbuster “Avengers: Age of Ultron,” a fight has been brewing between [Walt Disney](#) Co. and movie-theater operators. The head of the trade group representing the theaters told Walt Disney Studios he had received “an avalanche of complaints, concerns and fears” from members after the movie studio imposed new conditions on theaters that wanted to show the “Avengers” sequel, according to a copy of the letter reviewed by The Wall Street Journal. Among the changes: when cinemas can offer matinee discounts or alternate showings of “Avengers” with other movies on the same screen; and new payment rules that the National Association of Theatre Owners said could over the long term raise prices for everyone.

Following the outcry from theaters, the studio is altering its approach on some issues, including the matinee cutoff and suggested payment limitations. The studio had outlined the requirements in its standard licensing agreement, which says how exhibitors can show a film but can be modified on a theater-by-theater basis.

These days, Disney is wielding a lot of market power, exhibition executives said, given the consistent success it has enjoyed with superhero films from Marvel Studios, animated fare like “Frozen” and live-action fairy-tale adaptations like “Cinderella.” Its dominant position is likely to grow, too, as it releases a new “Star Wars” sequel or spinoff annually starting this December. “Avengers: Age of Ultron” just opened this past weekend to \$191.3 million in ticket sales in the U.S. and Canada, the second biggest opening ever, behind only the first “Avengers.”



ENLARGE

Disney's Dave Hollis talked about the studio's upcoming 'Avengers: Age of Ultron' in Las Vegas last month. *PHOTO: CHRIS PIZZELLO/INVISION/ASSOCIATED PRESS*

"They're not going to be vulnerable for a long time," one film buyer said of Disney. A Disney spokesman said, "Historically we've had strong and mutually beneficial relationships with our exhibitor partners and as issues have arisen from time to time we have worked together to resolve them and we plan on continuing that same approach going forward."

Theater executives said they fear that other studios could follow Disney's lead as they focus on highly anticipated sequels to major franchises like "Fast and Furious" and "X-Men" whose popularity gives them increased leverage.

Historically, studios have been able to command the most favorable terms from theaters on their biggest hit films. Disney is no exception. It is expected to receive about 60% of the domestic box-office receipts on "Avengers," said people familiar with the terms. That is well above the industry average of 50%, but it's typical for a movie from any studio that grosses more than \$500 million in the U.S. and Canada, as the new "Avengers" is sure to do. When studios hit a hot streak like the one Disney is currently enjoying, they can boost rates and terms even on films that aren't mega-blockbusters. Disney's current rates were set two years ago during [another difficult negotiation](#) between the studio and theater owners during which some major chains stopped selling advance tickets for "Iron Man 3."

In his letter to Disney, NATO Chief Executive John Fithian said his group "rarely comments on licensing agreements," but "the additions to the proposed agreement and volume of concerns raised by our members move us to voice our concerns." Disney's executive vice president of distribution, Dave Hollis, responded in an email to Mr. Fithian that the studio would handle any concerns directly with theaters and it wasn't appropriate for the trade group to involve itself, according to people with knowledge of the exchange. Mr. Fithian's biggest concern in the letter was Disney's proposal to use a national-average ticket price, published by NATO, as the minimum price on which Disney will split box-office revenue, even if a given theater charges less. Such minimums are a standard tool used by studios, which cannot dictate the prices theaters charge, to ensure they are not subject to steep discounts. Deep discounting could otherwise be attractive to theater operators looking to get more people in the door and sell them popcorn and soda.

Using NATO's average ticket price as a nationwide standard could affect pricing or undermine trust that the figure is accurate, said Mr. Fithian's letter. Discouraging theaters from offering discounts would in turn lead to higher prices and increase the national average ticket price, setting into motion "a cycle of price increases [that] may constitute illegal vertical price fixing

under state and federal antitrust laws,” the NATO letter said. In response, Disney is considering using data from non-NATO sources to set a minimum ticket price on which it would take its cut of revenue, according to a person familiar with the matter. NATO members were concerned that Disney’s pricing proposal would hurt low-income communities where tickets cost less than the national average. “Big markets [like] New York will not be affected, but smaller markets like Minneapolis where the tickets prices are lower will be,” said Ted Mundorff, the CEO of Landmark Theatres, which operates 55 cinemas in 23 U.S. markets, including Minneapolis.

A person familiar with Disney’s plans said the studio is willing to be flexible with theaters that charge less than the national average because they are in areas with lower prices. The studio has also pulled back from its requirement in the “Avengers” agreement that theaters cease matinee pricing at 5 p.m., the person said. Many theaters offer matinee discounts until 6 p.m. Disney’s disagreement with NATO isn’t its only “Avengers” headache. In Germany, a little more than 150 theaters in rural towns refused to screen the film after Disney sought an increase of more than five percentage points in its cut of ticket sales and cut back contributions on advertising and 3-D glasses, according to the German news outlet Deutsche Welle and a person with knowledge of the situation.

Still, “Age of Ultron” has grossed \$439.8 million during 12 days of international release, including \$19.7 million in Germany, where it is running 25% ahead of the first “Avengers.” With Marvel’s “Ant-Man,” Pixar’s “Inside Out” and “The Good Dinosaur,” and “Star Wars: The Force Awakens” coming later this year, theater owners are counting on Disney to provide more of 2015’s biggest hits, but some are wary that the “Avengers” dispute is a sign of things to come. “There’s not much we can do when they put out this amazing product,” conceded an exhibition executive. “We’ll see what happens with ‘Star Wars,’” he added.