

# Product Placement

GETTING NAME BRANDS ON THE SET

By Innes Smolansky

**E**ver since the first James Bond film featured Sean Connery driving an Aston Martin, companies have been actively looking to get their products into films. E.T.'s love of Reese's Pieces candy is credited with increasing the candy's sales by sixty-five percent. Ray-Ban's sales jumped fifty-five percent after Tom Cruise donned their sunglasses in *Risky Business*. And in the latest Bond film,

young, sophisticated, hip, and discriminating. Even if they are not the primary consumers of the product, winning them over can be very important for the product makers in the long term. The Chrysler Million Dollar Film Festival, which is produced by Hypnotic—a TV, film, and commercial production company—is a good example of a large company trying to connect with young, hard-to-find consumers. Other large com-

bility of the film. By using familiar brands or brands that have become cultural icons, the audience can have a shared experience and identify with the characters of the film.

Brand holders also derive many benefits from product placement. The company exposes their product and associates it with a certain lifestyle and positive image. As more households subscribe to TiVo and similar services, product placement is becoming even more important as a method of advertising. Placement of products in feature films is now becoming the most direct way for product makers to promote the product and the brand directly to an essentially captive audience.



**If a scene with the product appears in the trailer—will that affect the price? If the product maker is providing cash up-front, what happens if, in the editing room, you decide to cut out the scenes with the product?**

*Die Another Day*, seventy million dollars worth of product placement from twenty companies earned it the marketing industry nickname, *Buy Another Day*.

For independent filmmakers, the trick is to translate this benefit into product placement deals with the brand owners of the products. Of course, low-budget independent films rarely generate the audience numbers or celebrity opportunities that studio films do, but independent films have other attractive things to offer brand owners, even if the film doesn't turn out to be a big, fat *Blair Witch*. Independent films reach niche audiences that are often attractive to brand holders, even though these audiences are not usually attracted to studio films. This audience is often

panies such as Ford Motors, Coca-Cola, and BMW recently financed slates of short films produced by young filmmakers.

Filmmakers can benefit from product placement in different ways. In some cases, there may be direct payments for featuring products. The contribution may also be in the form of donations or loans of the product—cars, computers, or designer clothing. Locations such as bars, restaurants, or stores might be provided free of charge. Food or beverages to feed the cast and crew may be part of a deal with companies that produce these products. Films may also receive free exposure through product tie-ins. And, besides financial benefits, real products used in the film strengthen the reality and credi-

Television programming does not offer the same opportunities for product placement that films do, because while programs can be sponsored, there are strict laws regulating the relationship between brand owners and television producers. In the 1940s and early 1950s, product appearance on television was so scandalous, including under-the-table payments in exchange for on-air displays, that in the late 1950s, the Federal Communications Commission enacted the "payola laws." Today, payment for product placement on television is not permitted unless the featured brand is disclosed as a sponsor. Most television contracts expressly require producers and crew to verify that they have not accepted anything of value in



exchange for a promise to place certain products in the program. Brands may appear, however, if they are donated or if they are used for realistic effect.

The strictest rules concerning product placement apply to public television production. PBS specifically instructs producers to "scrupulously avoid product placement arrangements, i.e. deliberate or gratuitous appearance in the program of an underwriter's product or service in a way that draws attention to or features that product or service in any way whatsoever." In determining whether a certain underwriter is acceptable, PBS uses a set of rules and regulations, most notably the Editorial Control Test, the Perception Test, and the Commercialism Test. These tests help determine if the public will perceive that the underwriter has exercised editorial control; and if the placement of products suggests that the program is on public television principally because it promotes the underwriter's products, services, or other business interests. These rules are intended to protect and preserve the journalistic integrity of public television, and reinforce the accurate public perception that PBS is a free, non-commercial, and independent institution.

But theatrical releases of all sizes, even if they are later shown on TV (except PBS) are permitted to make deals for product placement. And it is not only brands with major name recognition that find product placement attractive. Small or new companies may also be evaluating the potential for bringing out a new line of products, but may not yet be in a position to spend large amounts of money for advertising or the large-scale product placement deals often required for studio film. These companies may consider a smaller product placement deal right for an independent film, especially if it has the same target audience as the placed product.

There are many other reasons why a smaller deal may be attractive for a company. Companies may be looking to reposition themselves in the market or improve their image. Foreign companies may be trying to break into the U.S. market. Some may only be looking to sell their products in metropolitan centers where the film will be shown—New York, San Francisco, and LA. Some films, especially international co-productions, may be looking for a way to re-introduce brands (French wines, chocolate and perfumes) that have lost their U.S. market appeal.

Once you find a company interested in a product placement arrangement with your production, it is important to define, in writing, all the terms of such arrangement. Disclose all the relevant information about the script and every scene in which the product will appear. Be specific about your obligations in relation to profiling the product, and what the brand will provide in return. If a scene with the product appears in the trailer—will that affect the price? If the product maker is providing cash up-front, what happens if, in the editing room, you decide to cut out the scenes with the product? If free products are being provided, who delivers them? Do they have to be returned? How many will be available? Can company representatives be present during the shoot? Can they watch the rough-cut of the film, or dailies of the scenes, or use other methods of verification of product exposure? All provisions regarding credits, logo, company name, size and placement should be covered in the agreement. It's also important to address which party is responsible for insuring the products. If you do not negotiate these issues before the shoot, it may be too late afterwards. ■

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