

Q&A: How Does Final Cut Work, and Should I Get It?

February 2, 2012 by [Matt Galsor](#)



Q: I will be directing a small feature financed by private investors. It's based on my script. I want to ask for final cut, but I know only big time directors get final cut. Anyway, I wonder if it's something I can ask for and how final cut works.

A: In many ways, a director without final cut is like a painter who has no right to determine what his painting looks like. Of course, in many ways, it's not like that — a director needs a lot of other people's money to make a film, and a painter doesn't. If a studio invests tens or hundreds of millions of dollars into a picture, it only makes sense that it wants to control final cut. That's why only well-established directors are able to negotiate final cut on studio films.

The situation is different on small films not financed with studio money. On those films, almost everything is negotiable, including final cut. So you should feel free to ask for it, especially since it's based on your script. After all, depending on the level of creative experience of the investors and producers involved with your film, you may be the person everyone actually prefers to have final cut. Is it really better if some guy who made a small fortune in the car wash business and who decides to "invest" some of it in a small film has final cut?

So here is how final cut generally works.

It covers specific versions of the picture, not all versions. For example, final cut may cover the theatrical version of the picture in the U.S. and in certain "major" foreign territories, "home video" version, and the U.S. pay cable (HBO, Showtime, etc.) version of the picture. The production company has final cut of the other versions (network TV, other territories, etc.), but it's common for a director to have a first opportunity to cut the versions which his final cut doesn't cover (consistently, of course, with the production company's instructions).

Final cut is not absolute. Typical exceptions to final cut include the production company's right to cut for legal or censorship reasons, to cut the picture to bring it in compliance with certain delivery requirements (e.g., length, MPAA rating, adherence to the approved script), etc.

In addition, typically, a director will lose final cut if the picture goes overbudget or overschedule by more than a certain negotiated cushion (e.g., 10%). In determining whether the picture is overbudget or overschedule, certain costs and delays should be excluded, things like costs or delays caused by force majeure (e.g., flood, earthquakes), unanticipated lab delays, etc.

So you should ask for final cut under these circumstances. And what you ask for should be along the lines outlined above to give the production company certain customary protections, which would make it much more likely they go along with this. Of course, there are a lot more bells and whistles involved with final cut, but these are the major points.

This blog was originally published as part of Legal Ease, Film Independent's weekly column on legal matters pertaining to the entertainment industry. To see other LEGAL EASE columns please [click here](#).