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## THE OUTCOME OF THE WRITERS STRIKE

by Alice Burton

The five-month strike by 9,000 movie and television writers was the longest Writers Guild strike in Hollywood history. The Guild's strong internal solidarity during the strike was matched by the production companies' successful coalition with the networks which allowed them to take a tougher attitude in negotiating with the writers. What initially appeared to be a minor dispute between writers and producers over foreign residuals became a challenge to the Guild's strength and unity.

Strike issues were finally resolved on August 7, 1988, when the Writers' Guild and the Alliance of Motion Picture and Television Producers (AMPTP) signed a new four-year contract. Both parties were damaged: the Guild faced internal factions; and the producers anticipated increased losses in television viewers and advertising revenues. In a recent interview, Frank Tarloff, a long-time Guild member and negotiator, assessed the implications of the long strike and the settlement for the Guild.

### Negotiations

The Guild began negotiating in January for what their executive director, Brian Walton, considered a "mature contract." There were only two issues of great concern and of economic importance to Guild members: foreign residuals and creative rights. The Guild's lengthy negotiations and the strike revolved largely around these two contested issues.

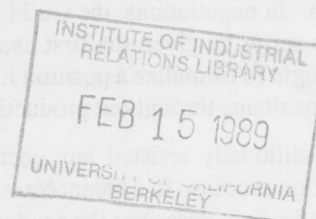
### Foreign Residuals

Entertainment is now the second largest export item in the U.S. The overseas market for one-hour television episodes has grown, and has become increasingly lucrative for producers who own the rights to television shows. *The New York Times* (8/4/88) reports that foreign rights to the reruns of an hour-long drama that once brought \$50,000 now demand \$300,000 and more.

Until the August contract was signed, writers were bound by a foreign residuals agreement made 18 years ago. Under its terms, writers received a flat fee for their work regardless of the revenues earned for the producer. Guild members, largely freelance writers, are dependent on residual income received from long-running syndicated shows. The Guild negotiating team demanded fair compensation to the writers' for their contribution to television's booming foreign success and profits.

Countering the Guild's demand, the AMPTP argued that large revenues from foreign markets offset their losses in the domestic syndication market, which has gotten soft for hour-long dramas. According to a sales formula the producers devised, there were over 130 unprofitable shows that necessitated rollbacks or reductions in residual payments to the writers. The AMPTP claimed that the Guild would have to accept rollbacks in their domestic residuals if they wanted a percentage of the producers' foreign profits.

Though there is evidence that some hour-long television dramas have lost money in the domestic market, the Guild questioned the extent of the loss. An industry analyst hired by the Guild demonstrated that only 9 or 10 shows actually had experienced the loss in revenues that the producers claimed. The analyst's report confirmed the Guild's suspicion that the producers' formula misrepresented actual domestic revenues. The Guild was not willing to accept the producers' formula in the contract without some audit of the production companies' profit disclosures.



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## Creative Rights

Creative rights are economically as well as artistically important to the Guild's feature film writers. It is a common practice for film directors and producers to rewrite or hire another writer to rework an original script. Guild writers lose income when their original script is appropriated by producers and contracted out to another writer.

Under the Guild's past contract the writer, as the original creator of a script, had no right to participate in rewrites and/or production of the film. In negotiations, the Guild asked that the original author of the script be given the first chance to do the rewrite. They also sought to formalize a position for feature film writers as creative consultants throughout production of a film.

Producers have traditionally resisted any encroachment by writers on the production process. In a recent *New Yorker* article a Guild member, Joan Didion, describes the producers' belief in their absolute right to ownership and control of the writers' scripts. By limiting and devaluing the writer's impact on the film's production, producers legitimize their ownership and high profits from a successful film.

The producers were backed up during negotiations by the Directors Guild, which failed to support the writers on the key demand of creative rights. In fact, the directors threatened work stoppages to any independent production company that made concessions on creative rights in interim contracts with the Guild.

## The Alliance Between the Producers and the Networks

The unconditional support the networks gave to the producers was more strategically important than that given by the directors. When the Guild offered to negotiate interim contracts with independent production companies Brandon Tardakoff, the NBC president, made a statement that NBC would refuse to buy any television show made under interim contracts. ABC and CBS quickly followed suit with similar statements. Only a handful of television shows made by independent companies, such as *The Bill Cosby Show*, were strong enough to defy the network order and make interim agreements with the Guild.

The producers' coalition with the networks is notable because finances make them natural opponents. Networks lease new television programming from production companies for less than production costs. The production companies are expected to make up for their loss, and possibly earn profits, through the syndication of successful shows. The producers' complaint of losses in the domestic market, for example, could be logically addressed to the networks who fail to pay enough for productions costs. Instead, writers were asked to take a cut in their domestic residuals.

The producers' alliance with the networks during the writers' strike was further complicated by the networks' loss of viewers and advertising revenues. It has been estimated in the *Los An-*

*geles Times* (8/5/88) that networks have lost 10% or more viewers this fall because of the writers' strike. Particularly damaging to the networks is the permanent loss of viewers to cable television. Though the long-term effect of the network's lost viewers on advertising revenues cannot be accurately assessed, the writers' strike certainly damaged the networks financially. Such potential financial damage might have prompted the networks to pressure the producers to settle with the writers much earlier. The networks' unconditional support of the producers suggests that these corporate interests were united largely for the purpose of busting the Writers' Guild.

The producers' reluctance to settle the five-month strike was part of a strategy to out-last the Guild. The narrow gains made by the Guild in the August contract, in part, reflect the success of the producers' strategy.

## Results of Negotiation

In concrete terms, the Guild made genuine but limited strides in foreign residuals. Writers now have the option between a new, higher fixed residual and a percentage of the show's revenues if it yields more. Increased foreign residuals, however, currently apply only to a handful of hour-long big sellers, such as *Dallas* and *Dynasty*. Furthermore, the percentage option is fairly modest: writers will earn 1.2% of producers' revenues from foreign sales. An industry analyst employed by the Guild, Charles Slocum, does expect other shows to move into the more profitable range over the next several years, according to the *Los Angeles Times* (8/5/88).

Though the Guild was forced to accept the producers' formula for domestic residuals, they won the right to have an arbitrator order a return to the old residual system if the market recovers. Also, the old residual system still applies to all television programming other than one hour shows.

The Guild made inroads were made toward securing a more autonomous creative role for feature film writers. Under limited conditions, the writer has the option to do the first rewrite of a script, and the right to be on the set during production. There are now easier procedures for writers to reacquire scripts that studios have bought but not yet produced. Writers will also now be included in pre-production meetings with directors and producers as creative consultants. An expanded role in production means greater economic benefits for writers. Though the gains made in securing creative rights are only a beginning, the Guild is confident that they have set an important precedent for future negotiations.

## An Assessment

Many guild members feel that the short-term economic gains made in negotiations were not worth the five-month strike. Though the Guild had foreseen the long strike and raised a strike fund of 3 million dollars, writers suffered great financial hardship. While movie and television writers are sometimes portrayed in the media as being extravagantly wealthy, the reality

is that there are at most only 2,500 jobs per year on the West Coast for the Guild's 6,500 members. Most writers earn only a marginal living. One writer, who planned to have a baby with his wife and put a down payment on a house, spent his life savings during the course of the strike.

### **Long-Term Gains**

Despite the writers' narrow economic gains, the Guild's success at negotiating foreign residuals may pay off more dramatically over the long-term. A past example proves instructive: In 1955, Guild writers were devastated by a long strike, which led to a contract that gave writers their first "residual" right to a percentage of the revenues earned by their product. In the year following the strike, writers earned a total of \$155,000 in residuals, which did not begin to compensate them for the income lost during the strike. However, in 1987 writers' annual residuals totaled \$36 million. The precedent set by the Guild in negotiating foreign residuals may provide comparable future benefits.

### **Solidarity**

The producers, even with the help of the networks, did not succeed in breaking the Guild. Frank Tarloff reports that in all twen-

ty-two weeks of the recent strike, there was never less than a 3 to 1 vote in favor of the Guild's leadership. The Screen Actor's Guild, the Teamsters and IATSE also provided valuable support to the writers throughout the strike. Guild negotiators believed from the beginning that the producers' reluctance to negotiate was an attempt to bust the union. The Guild's unity during the strike sends a strong message to the producers and networks.

The union's solidarity was especially important during negotiations because of a failed strike in 1985 that revealed the Guild's internal dissension. By the end of the recent strike, the Guild's unity was once again threatened by the same small group of highly-paid writers who wanted to settle with the producers. Frank Tarloff underplays the importance of this faction in the current strike, however. Furthermore, he notes, there was only one defection from the Guild during the entire strike. Though the problem of factionalism in the Guild has not been solved, it has diminished since 1985. It will be necessary for the Guild to maintain the same level of unity and strength shown during the strike if they are to combat the increasingly aggressive producers in future negotiations..

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