

US writers vote to end 100-day strike

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Striking US film and television writers voted Tuesday to end their 100-day strike against the studios and networks. About 3,800 of the 10,500 Writers Guild (WGA) members voted in New York City and Los Angeles; 3,492, or 91.9 percent, voted for the return to work, while 283 opposed it.

The ratification of the agreement reached between the WGA and the Alliance of Motion Picture and Television Producers (AMPTP) will be conducted by mail ballot and at meetings held February 25.

According to Jack Kyser, chief economist for the Los Angeles Economic Development Corp., writers lost about \$278 million in pay and other unionized workers some \$470 million during the walkout. Kyser estimated that the local economy lost \$3.2 billion in direct and indirect costs.

The AMPTP, run by the handful of conglomerates that dominate the industry, issued a polite statement noting that the writers' vote to end their strike meant "relief and optimism for everyone in the entertainment industry. We can now all get back to work, with the assurance that we have concluded two groundbreaking labor agreements—with our directors and our writers—that establish a partnership through which our business can grow and prosper in the new digital age."

The statement was signed by Peter Chernin, chairman and CEO, the Fox Group; Brad Grey, chairman & CEO, Paramount Pictures Corp.; Robert A. Iger, president & CEO, The Walt Disney Company; Michael Lynton, chairman & CEO, Sony Pictures Entertainment; Barry M. Meyer, chairman & CEO, Warner Bros.; Leslie Moonves, president & CEO, CBS Corp.; Harry Sloan, chairman & CEO, MGM; and Jeff Zucker, president & CEO, NBC Universal.

CBS's Moonves told the *Associated Press* on Tuesday: "At the end of the day, everybody won. It was a fair deal and one that the companies can live with, and it recognizes the large contribution that writers have made to the industry."

Following the vote, WGA West President Patric Verrone commented: "Rather than being shut out of the future of content creation and delivery, writers will lead the way as TV migrates to the Internet and platforms for new media are developed."

The employers are being diplomatic, and the guild leadership continues to congratulate itself. Meanwhile, the media, especially the business press, has begun to take a sober look at the actual results of the strike. Any objective analysis indicates that the companies, while caught unawares by the determination of the writers, were obliged to give up very little. The "historic" gains claimed by the WGA are illusory. In fact, both living standards and working conditions for the average writer will continue to decline.

On the issue of writers' material reused as Internet streaming (free to the viewer), for example, the studios agreed to pay a maximum fee of approximately \$1,300 in each of the first two years of the contract and 2 percent of distributor's gross receipts in the third year.

However, the companies were granted an initial two- to three-week window during which they will not have to pay any residuals to the writers. Moreover, the "2 percent" is actually capped and the companies will pay a maximum fee of \$1,600. When is 2 percent not 2 percent?

The *Economist*, the British business journal, commented on its web site February 12: "The devil, as usual, is in the detail. The residual payments for streaming start only after a 17-24 day window (which is when most people would want to catch up online with shows they missed on telly). The writers asked for a straightforward percentage of gross receipts, but settled for fixed dollar amounts, which limits their earnings compared with the studios."

The *MarketWatch* web site, a day earlier, interviewed entertainment lawyer Jonathan Handel about the 2 percent of distributor's gross. "But it's as if one hand gives what the other takes away," said Handel. "The contract says distributor's gross is fixed at \$40,000 for one-hour shows, \$20,000 for half-hour shows. So that ends up being a fixed residual, again, of \$800 for the hour shows and \$400 for the half-hours. It's like you're a real estate agent, and you get a 6% commission, but no matter how much the house sells for, your commission can never be more than 6% of \$1 million."

The *Los Angeles Times* noted February 13 some of the contract's other loopholes: "For example, writers received guarantees that any guild member hired to create original shows for the Web would be covered under a union contract. But the tentative contract enables studios to hire nonunion writers to work on low-budget Internet shows, giving them the flexibility they sought to compete in the burgeoning world of Web entertainment."

Variety, the industry paper, commented February 11 that while the "principle" of the writers getting paid for their material appearing on the Internet had been established, "the money to be made through the hard-fought new-media residuals is not exactly eye-popping." The article notes that a television writer "will earn about \$1,400-\$1,600 a year for each streamed episode on which he is the credited writer—while some showrunners [executive producers of television series] may have lost as much as six figures from unproduced episodes."

The *Economist* also pointed out that the Writers Guild leaders had "made other concessions too: they for instance dropped their demand for a higher share of money from DVDs. They also gave up trying to get reality television and animation covered by union terms. That is important: being able to fill holes with reality shows protected the media companies financially during the strike."

Various reports indicate that the industry intends to make the strike settlement an occasion for a major restructuring, aimed at lowering costs and rationalizing film and television to suit the corporate bottom line.

Richard Siklos, editor at large of *Fortune*, commented on the

magazine's web site February 11: "On the surface, the Writers Guild strike was a showdown between writers and suits over compensation from new methods of distributing content. But, looking back over the three-month walkout, it also provided handy cover for the powers that be to derail the creative community's gravy train and rethink the way TV shows are made."

Siklos continued: "For years network bosses have talked about trimming development deals for writers and scaling back the annual literary boondoggle known as pilot season. But, until the strike, it was largely talk." The studios, in fact, cancelled dozens of development deals, and NBC's Zucker announced in January that the network would no longer develop television pilots and would "instead put most shows straight on the air to see if they succeed." In one form or another, the other networks are expected to follow suit.

Writing about this general trend, the *New York Times* commented February 12: "The events are likely to bring at least a few lean years to the workaday writers. With less spending on pilots, established writers will be in the hunt because they lost their cushy deals on the lot. With increased incursion from all forms of reality programs, finding work that pays the bills, never mind the residuals, is going to be a slog."

Variety, in a revealing article February 8 ("Studios pose obstacles for writers: Picketers face uphill battle even after strike ends"), documented the deterioration of conditions for writers that has already occurred over the past decade. Feature film writers, the piece explained, "have endured setbacks in virtually every area except new media in the past decade. In terms of respect, money and power, writers of feature films feel exploited in ways that were unthinkable 10 years ago."

Among the writers' complaints: the studios stage "bake-offs"—i.e., call in up to 10 writers for a single rewrite job. "Each writer offers his or her take on the property, meaning extensive fleshing out of the material—for free." Landing a studio writing assignment takes longer than ever. An unwritten rule now exists that writers will provide free rewrites and polishing up of their own material. "That flies in the face of the WGA's 2004 basic agreement, which pegs the rewrite minimum at \$18,538 and the polish minimum at \$9,274." Studios require more and more detailed information about plots, "leaving writers feeling suspicious that their ideas are being stolen."

Screenwriter Bruce Feirstein (*The World Is Not Enough* and *Tomorrow Never Dies*) told *Variety*: "You have to be realistic. If there are only seven places to sell, and if an exec asks you for free rewrites, you're going to do it.... You can't afford to get frozen out by one [of the seven buyers]."

The deterioration of working conditions, not even addressed by the WGA, will accelerate in an atmosphere even more feverishly dominated by the conglomerates' need to cut costs.

The means by which the contract between the WGA leaders and the giant firms was reached is also revealing. The *Los Angeles Times* has run two articles providing some insight into the process: "Studio chiefs act as peacemakers" (February 11) and "Private overtures led to strike breakthrough" (February 12).

The former article details the role played by Fox's Peter Chernin, Rupert Murdoch's right-hand man and possible successor, in tandem with Disney's Robert Iger. It asserts: "Even in early November, he [Chernin] was predicting how the strike would unfold. WGA leaders, he told people around him, would have difficulty keeping their group united because the thousands of individual members would have different philosophies and financial circumstances. The companies

would be able to exploit the natural divisions within the WGA by first coming to an agreement with another union, the Directors Guild of America.

"His prediction was spot on. By late last year, the strike threatened to cripple the industry for much of 2008. Some powerful show runners, who oversee TV's biggest programs, were threatening to go back to work." The Directors Guild contract, proclaimed by the media to be the "template" for any deal with the writers, was then used to intimidate the WGA leaders and force them into giving up key demands.

The second *LA Times* article chronicles the role played by John Bowman, a chief negotiator for the WGA, in establishing friendlier relations with the corporate bosses. On January 10, according to the *Times*, "Bowman found himself in the living room of Peter Chernin's Santa Monica home, sipping Scotch with the News Corp. president and two of his allies—Warner Bros. Chairman Barry Meyer and CBS Corp. Chief Executive Leslie Moonves.

"The men made small talk; Bowman mentioned he had coached Moonves' son in Little League baseball. Then, the conversation turned serious.

"Poor communications, they all agreed, had helped trigger a strike that had shut down TV production, thrown thousands of people out of work and threatened to turn next fall's TV season into chaos.

" 'It was an ice-breaker,' Bowman said."

The article explains that on January 22, five days after the directors contract settlement was announced, the WGA leaders, Chernin and Iger "agreed to meet for breakfast at the Luxe Hotel in Brentwood.... At the breakfast, union leaders agreed not to press for jurisdictional issues [union jurisdiction over reality shows and animation] that had sidetracked earlier talks. That was welcome news for Chernin and Iger, who in return agreed to become personally involved in the negotiations as they had with the directors."

Three days later, the studio bosses and the WGA leaders met at the exclusive Brentwood residence of entertainment lawyer Alan Wertheimer. "Seated at the large Stickley arts and crafts table in the dining room of Wertheimer's Craftsman-style home, munching on deli sandwiches, the group over the next six hours came to a meeting of the minds on some key issues." And so it went.

The *LA Times* article provides another telling detail, which says so much about the WGA leaders. On February 1, according to the newspaper, came a breakthrough. During an eight-hour session, the studio chiefs agreed to give the writers a percentage of revenue during the third year of the contract (the 2 percent that is not 2 percent!).

"By 5:15 p.m.," continues the article, "however, talks had hit a snag. In a hallway outside their meeting room, Young, Bowman and Verrone delivered some bad news to Chernin and Iger. They were unhappy with parts of the overall package and wanted another day at the table.

" 'We're done,' Chernin said, telling his opponents he wasn't a 'professional nitpicker,' according to one person at the meeting." At this point, the union threw in the towel. When the companies cracked the whip, or threatened to crack the whip, the WGA jumped.



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