

Actors and Hollywood studios, networks far apart in negotiations

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Some 500 Los Angeles-based actors attended a meeting called by the Screen Actors Guild (SAG) leadership May 19 to discuss the issues facing its members after representatives of the Association of Motion Picture and Television Producers (AMPTP) walked out of negotiations May 6, four weeks after they began. Talks are supposed to resume May 28.

The SAG contract expires June 30 and covers both film and television. Given that the actors' union and the media conglomerates are as far apart as ever on a variety of issues, a strike July 1 remains a real possibility.

The studios and networks are demanding a series of rollbacks, most important among them the elimination of contract provisions that for over 50 years have prohibited the unauthorized use of actors' voices and images. The AMPTP now demands the right to sell clips from their extensive library of films and television programs on the Internet and, according to the union, "other new media formats."

The big producers are demanding the right to use these clips without the actors' consent. Furthermore, they have demonstrated no willingness to bargain over the issue. Although they have offered to pay nominal, nonnegotiable payments for the clips, they would, in effect, eliminate the actors' right to consent and negotiate.

"Never, never, never will I give up this right," one SAG member told the WSW. "They can't use my work to fatten their wallets without fair compensation to us. Maybe that's what they mean by the free market. Who knows what they are going to use my image for? They can integrate it into any material they think will make money for them. Can't they see how immoral that is? What they are asking is that I work for free. How can they even have the chutzpah to ask for this? But I guess these are the times."

A related issue, equally important to many actors in the audience, was described in a SAG handout distributed at the meeting: "Actors are being forced to incorporate silly and even dumb dialogue and action in order to pitch products in television series and motion pictures more and more each year." For example, a producer or director may approach an actor during rehearsal and tell him or her to add a line or two about, say, McDonald's hamburgers or Coca-Cola. This is not the same as product placement, where the camera shot includes a certain product, framed casually or, in some cases, quite deliberately.

As the flyer points out, "This is not the soda on the table any more. It's scripted and is an integral part of the story and plot development." When confronted with this situation on a set, actors would have no option to decline.

"I was recently on a TV show that shall remain nameless," the same actor told the WSW. "I, like every actor with a good role, spent

hours memorizing lines and working on my character. Then suddenly this little pipsqueak comes over to me and says, 'Hey, so and so wants you to say this and this about [a product].' What could I do? Refuse? After all the hard work to get this one good role? Was I supposed to get fired if I said 'No'? I wasn't about to take a chance. I don't work that much. And what's worse, I didn't even believe in the stupid product. And do you think I was compensated for work that's best suited to commercial actors? No way. Nothing. Zilch. Nada."

Another proposal by the producers that amounts to union-busting elicited a chorus of boos from the audience May 19. The producers are demanding that they be given a free hand to produce nonunion programs in new media that are below certain budget thresholds based on the number of minutes. A statement from SAG asserts that the proposed "thresholds are so high that more than 9 out of 10 of the new media programs SAG ALREADY covers would fall below the union-covered mark. We want every production, no matter how low the budget is, to be covered by SAG contracts" (emphasis in the original).

Another sore point in the negotiations involves residuals from the sale of DVDs, an issue that the Writers Guild of America (WGA) leadership raised and then abandoned in last winter's bitter conflict with the AMPTP. The DVD market keeps burgeoning; the projected growth of the Blu-ray segment will ensure the viability of this market for years. Presently, cast members of a film share 1 percent of the distributor's gross, which is based on 20 percent of the overall gross; the producers take the rest—80 percent—for marketing. The producers have adamantly refused to consider the union's proposal that the pension and health contributions be paid above that shared 1 percent. SAG's original demand for DVD residuals was for a share based on 40 percent of the overall gross.

Also, under the *force majeure* provisions of the current film and television contract, the employers have the right to shut down an entire production, and sometimes even terminate an actor's contract, if an uncontrollable force (natural disasters, strikes by other unions, or any other "Act of God") occurs. But actors also currently have the right to certain compensation if an employer retains them exclusively during the *force majeure* event. What the studios and networks now want is the elimination of these protections; they want each actor to negotiate this issue as an individual, in effect rendering the union and collective bargaining meaningless.

Compounding the problem is the fact that the AMPTP isn't even abiding by the present contract with SAG. Though the union has filed for arbitration involving millions of dollars in *force majeure* payments, the big producers have turned a deaf ear, refusing to consider these appeals and demanding that the union abandon the claims.

In a particularly mean-spirited demand, the producers also want to eliminate actors' lunch breaks.

Despite the anger expressed by many of those present May 19 at the arrogance of the AMPTP and the flagrant assault on their living standards and working conditions, the tenor of the guild's leadership position was summed up by SAG president Alan Rosenberg when he stated, "We're going back to make a deal." In fact, when he finished introducing the members of the negotiating committee to the membership at large, he stated, "I am proud of the negotiating committee. They have done a phenomenal job. We are all rational and reasonable." This seemed to be the chief theme of the meeting, repeated in various forms throughout the evening.

This should come as no surprise since the negotiating team has already scaled back many of its initial demands. For example, the \$700 million package it had originally proposed in wages and benefits has now been reduced to \$250 million. And the producers still refuse to consider it, despite a 60 percent reduction.

In fact, when the AMPTP unilaterally suspended negotiations with the union, just as it did with the Writers Guild, Rosenberg went out of his way to portray his team in the most conciliatory terms:

"It is unfortunate and deeply troubling that the AMPTP would suspend our negotiations at this critical juncture. We have modified our proposals over the last three weeks in an effort to bargain a fair contract for our members. We are committed to preserving rights that have been in place for decades and not giving the studios the right to use excerpts of our work in new media without consent and negotiation. Our negotiating team is prepared to work around the clock for as long as it takes to get a fair deal. We want to keep the town working."

Chief union negotiator Doug Allen chimed in, "Our objective is to keep the town working and get a fair contract, so we are gravely disappointed that we will now have to delay the process."

In other words, the word "strike" is almost prohibited. When the issue was raised by a militant member of the union, the answer from the front table was that this wasn't the proper time to talk about such matters. This is a recipe for disaster.

Contrast this with AMPTP chief negotiator Nick Counter's arrogant dare on the very first day of negotiations: "These proposals are unreasonable. Well, I guess you'd better prepare for a strike." Or Counter's fear-mongering statement upon walking out of the negotiations: "This round of SAG negotiations ended without an agreement because SAG simply refused to recognize the fundamental business and labor principles that have already been accepted by the directors, writers, and producers."

A few times during the evening May 19, Rosenberg alluded to helping the middle-class actor. The definition of this category was never made clear. Just five years ago, the median annual earnings of salaried actors were \$23,470 (that is, half made less than \$23,470 and half made more). The middle 50 percent earned between \$15,320 and \$53,320. The lowest 10 percent earned less than \$13,330, and the highest 10 percent earned more than \$106,360.

According to a blogger from Los Angeles, "The overwhelming majority of people I've known never even book ONE paying job. I've known very few who didn't have a second job. Even if it was teaching acting. The chances of becoming a famous actor are about the same as winning the lottery while being struck by lightning on your birthday between the hours of 1 and 1:12 PM while suffering a hairline fracture to your left clavicle from being run over by a baby zebra. SAG says 85%? It's probably more. Most of that is nonsense extra work. There

are tens of thousands of actors who are not even in SAG. It's a pipe dream."

In a related development that has made the contract situation more complicated, last month SAG and its sister union, the American Federation of Television and Radio Artists (AFTRA), which for decades had negotiated together, went their separate ways after AFTRA accused SAG of trying to invade its territory. While SAG represents all actors in film, primetime television, commercials and educational and industrial films, AFTRA represents news anchors, daytime dramas, most cable, and reality shows. AFTRA has approximately 70,000 members to SAG's 120,000; approximately 44,000 performers belong to both organizations.

This divorce, which has no principled basis, has undoubtedly weakened the actors' position. The AMPTP has already exploited the split to further divide the membership of the two unions. When the AMPTP walked out of the negotiations with SAG May 6, it claimed that it had to turn much-needed attention to its negotiations with AFTRA.

Within SAG itself, a split has taken place. Numerous top-tier actors, such as George Clooney, Brad Pitt, Robert de Niro, Sally Field and a host of others, have approached the SAG leadership from the point of view of avoiding a strike at all costs.

But as one blogger put it, "Don't they realize that their ads and publicized meetings send a very important message to the AMPTP, even as they unwittingly (I'm sure) castrate the guild?"

The writers strike ended in February with a rotten compromise engineered by the WGA leadership. The studios and networks have gone ahead with their plans to cut costs at the expense of writers. The claims about 'historic' gains made by the WGA are proving illusory, in the face of an unraveling economy and the pressures of globalized capitalism. The conglomerates have every intention of relentlessly pushing ahead with their plans to 'rationalize' the industry at the expense of artists, technicians and other staff. The SAG leadership is no more prepared to lead a political struggle, which would necessarily raise the need to break the corporate stranglehold over film and television, than the WGA officialdom.



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