

Interview with Patric M. Verrone

Carsey-Wolf Center at UC Santa Barbara

13-17 minutes

In April 2012, Patric M. Verrone sat down with MIP for an interview. In the excerpts below, Verrone looks back at the struggle for residual pay in the context of home video technologies, from VHS to the Internet, and discusses the challenges he faced as President of WGAW.

Patric M. Verrone served as the president of the Writers Guild of America, West from 2005-2009. During his tenure, he led the group through a strike from Nov. 5, 2007, to Feb. 12, 2008. Verrone has been a television writer and producer for 20 years. His writing career began in the late 1980s as monologue writer for *The Tonight Show Starring Johnny Carson*. Other credits include *The Larry Sanders Show*, *The Critic*, *Pinky and the Brain*, *Rugrats*, *Muppets Tonight*, *Futurama*, and *The Simpsons*. He has won two Emmys and won the 2002 Writers Guild Animation Caucus Lifetime Achievement Award.

Technology

Thursday, April 12, 2011

Back in 1988 when the issues of cable and video of residuals were first boiling over, why did the unions get such a bad deal?

Short of boring you with the whole history, I will bore you with just some sort of anecdotal recollections of my own. The DVD formula, which was the VHS formula, was really the creature of a series of bumbles on the part of the unions in 1984 by the Directors Guild and in 1985 by the Writers Guild. We had language in a previous contract that said that this kind of ancillary marketplace would be covered at 2 percent of the [revenue] take, so that 2 percent would go to the writers, 2 percent would go to the directors, 6 percent would go to the actors, and then another 10 percent would be divided among the below-the-line unions. That added up to 20 percent, which was supposed to be the overall residual pie that the industry had been paying. It was the formula that was being used in cable.

In home video, however, there was a difference between the producer's fee and the distributor's fee. In those days if you were Disney, for example, you didn't own the entity that made the VHS box or the tape itself. There was another separate entity that would handle it and studios were allowed to offset these costs, which they claimed were 80% of the total revenue collected. They argued that they should be entitled to offset the upfront costs of production because they were not the distributors, they were the producers. There was a short strike by the writers in 1985 and ultimately the guilds agreed to let the studios cover their costs before the residuals were calculated. Now, in time, all of that exterior production became internalized

and the studio distributors put together everything: content, videotape, and packaging. That meant they could play with the cost structure to favor them and reduce the residuals they paid to the talent.

By 2007, it was no longer a VHS box and a cumbersome tape; it was this silver disk that was very cheap to produce. It was almost cost-free to make the physical medium. At the same time the market shifted from rentals to ownership and people began to buy DVDs and collect them. And it was no longer just movies, it was television series as well. In 1985 TV writers, who are a large part of the WGAs' membership, didn't see the advantage of VHS residuals because they didn't think it was the way they were going to make any kind of money. And remember that TV writers immediately feel the brunt of a strike because they are the ones who have to stop working, since they tend to work on a salaried staff basis. So TV writers weren't especially supportive of that strike and they were much more willing to settle in order to get the strike over with. That's the reason that strike fell apart after two weeks.

As VHS moved to DVD and as the marketplace expanded to include television shows, TV writers realized that they were getting screwed just as readily as motion picture writers. So one of the issues that repeatedly surfaced in our negotiations in 1988, '92, '95, '98, and 2001 was that we needed to up the VHS and DVD residual base, but it never happened. We were never able to get that number increased and the reason was pattern bargaining. You could never convince the Directors Guild to fight against the original deal and neither SAG nor the Writers Guilds

were ever organized well enough to be able to stand on that issue.

Now, along comes digital and with it, the ability to not only distribute media without the physical costs, but also to create new media with very low cost structures. That really got the writers' attention because now the companies were basically saying, "This is just like DVD. We are going to apply those same formulas. We are going to offset that 80 percent of cost that didn't exist for DVD, much less for digital, but we are going to offset all that. On top of that, we are going to ask you to do additional digital content for existing shows that is derivative of those shows, things like *The Office* or *Lost*, or other hot commodities on television. We're asking you to do additional material for the Internet for free as part of your initial compensation, as part of your day-to-day duties on that show. You do a 22-minute half-hour show, you do 44 minutes for an hour-long show, and do an additional two or three minutes and we'll put that up on the Web to get people to watch the show itself."

So they asked writers and showrunners to do that, and they also began rerunning the shows on the Internet, calling it "promotion" and refusing to pay any residuals on this digital streaming at all. They called it "promotion" because they told viewers, "You missed last week's episode. Now you can catch up. You can watch the episode of *Lost* that you missed and you can then watch it again on broadcast TV, which is where we are making all our money on advertising." Writers in particular, but I think the industry in general, sensed that this was an unfair and

inequitable approach to how residuals had historically been treated.

When we went to negotiations in 2007, the companies proposed a complete change to the way residuals worked so that they were based on neither the fixed formulas that we had nor the percentage of revenue but rather a percentage of profit.

Anybody who knows anything about Hollywood or has been in this business for any length of time knows that one of the great oxymorons alongside “jumbo shrimp” is “Hollywood accounting.” It’s pandemic how many profit participants have had to sue to get their share of actual profits. So their proposal was no residuals in new media and also profit-base residuals everywhere else. And I think that, more than anything, was a galvanizing issue for writers in 2007 with the dawn of digital.

Do you see new technologies as being the impetus behind these labor conflicts?

Yeah, looking back, technology tends to be the provocateur. And each time the technology changed, our residual shares got smaller. The broadcast TV residual was more than the cable residual, which was more than the DVD residual. Other than the negotiations over digital in 2007, the only time we were able to raise the percentage for a residual was in 1977 when we got residuals in perpetuity. Up until then there was a limit on the number of times that a show would run. If it ran more than 13 times there was no residual pay.

In 1977 we got it into the contract that residuals would be paid in perpetuity, and that was the result of having struck during every

single negotiation going back to 1960. It was a case of the companies saying, “Okay, fine, we’ll give you what you want, just don’t strike.” That was the last time the companies negotiated without an umbrella entity. The creation of the Alliance of Motion Picture and Television Producers (or AMPTP), which came about after the 1977 negotiation, allowed for genuine consolidated strategic planning on the part of what was then several dozen companies and is now the big six or seven. Technology is, I think, the driving element of when any kind of change in the residual structure takes place, but that doesn’t mean the media companies are driving the innovation. Technological innovation happens independently of these big companies for the most part. They tend to see technological changes happen, wait for them to evolve, and then buy them up or buy the company that’s developed them or merge with that company so they can take advantage of their business models.

On the other hand, content innovation tends to happen from the bottom up; it comes from the likes of Joss Whedon who creates a “Dr. Horrible’s Sing-along Blog.” There hasn’t been a successful new media property that I can think of offhand that started as an executive idea coming out of News Corp, say, that trickles down and goes to the creatives with the directive “Go out and do this.” There have been examples, such as *Battlestar Galactica*, when they wanted the writing staff to do extra webisodes and put that on between the seasons of the cable show. The writers went along with it, but it was a case of making them do it for free. It wasn’t the writers’ inspiration to do it and I don’t think it was ultimately successful. It had several problems,

including the fact that when NBC/Universal made them do the webisodes, Ron Moore (the showrunner) and the actors wanted to be paid for them, so they kept them on their editing machines. The NBC/Universal executives had to break in under cover of darkness to steal the webisodes away so they could actually use them. It was an unpleasant state of affairs.

There are real innovators out there trying to do direct-to-the-Internet digital series but the business model isn't there. And when something does reach a sort of critical mass or does get an audience, then a conglomerate gets wind of it and buys it up.

WGAw

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What were your biggest challenges as president of the Writers Guild? Were they the most obvious ones that everybody would think about, such as the guild versus the conglomerates, or were there other challenges that the average industry observer might not know about?

You know, the very first thing that happened when I took office in 2005 – and I ran with a slate of candidates for the guild board and we ran the table – was we immediately removed our former executive director who had been a CBS labor relations executive for years and with whom I served when I was secretary-treasurer. He was someone whose genuine belief was that the best the union could do was survive by building a relationship with the companies and being able to get whatever the best deal that was being offered. Whereas, we ran for office

because we were seeing the guild's jurisdiction in film and television eroding and we needed to develop an organizing model that would allow us to bring in writers who weren't being covered, we needed to get them into the tent, but we also had to get the people who were already in the tent prepared for collective action and to develop an understanding of what was actually going on. The third thing we needed to do was to make sure that our alliances with the Writers Guild East, the Screen Actors Guild, AFTRA, the Directors Guild, the below-the-line unions, and the American labor movement in general were put back together.

What was impressive was that there was an editorial in the *Los Angeles Times* the weekend when I was elected that said my challenge would be like wrangling cats because the writers are a diverse group. It was more fun than work, though, because it gave me personally and the team we built a chance to work together in a collaborative way, the way we are typically used to working in TV. We would have meetings where we brought in all the showrunners on ABC. Now these people, they are all writers. Many of them knew each other from way back. They served on school committees together or they worked together years ago when they were entry-level writers but they had not been in a room together to talk about what was going on.

Steven Bochco was among them. He was running a show at the time and one of the showrunners said, "ABC was trying to get me to do some web content for free and they told me that you, Steven Bochco, were being asked to do it for your show, so why shouldn't I?" We turned to Bochco and asked if it was true. He

said, “Oh, yes, absolutely. They asked me.” “And what did you tell them?” “Fuck you” he said [*Laughter*]

So it was a case of writers getting together and being able to commingle and commiserate and then coordinate. Because we tend to be somewhat competitive for jobs and for ratings when shows get to go on the air, and we tend to be critical of each other’s craft and art, it was actually refreshing to get people together in a room where they could agree.

Once the negotiation started, we got 3,000 writers at the L.A. convention center downtown. There were some meetings that I wouldn’t call a love fest, but there was some pretty free and frank discussion of ideas that led to a uniform assessment of how to proceed. I said at the time that the companies didn’t think we would strike, but we did, and then they didn’t think we would hold out, but we did, and then they didn’t think we would win, but we did. It was really a case of a lot very intelligent people pulling together because everyone understood what was at stake.

Management was saying, “Look, we’re not making any money on the Internet. There are no residuals here, there is no money.”

And so we came back and said, “That’s why what we are asking for is a percentage, so if you make nothing, we make nothing.” How much more fair could that be? Their response: “No, no, you don’t understand, we are not making any money. And that’s why we can’t pay you.” You know, it was a complicated thing to have to convey to members who would be sacrificing their salaries for who knows how long. It ended up being 100 days in exchange for the prospect of a percentage of something that might develop in the future into this new medium

that no one really understood.

[Read the complete transcript of our conversation with Patric Verrone in *Distribution Revolution: Conversations about the Digital Future of Film and Television.*](#)