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FROM THE EDITOR

Roger Gimbel

...the only thing certain is change...

We urge you to look at this issue of the Caucus Journal very carefully. There's a lot to hang on to, a lot of pieces to reference at a future date. We bring this up because so much of this Journal is devoted to a new generation of producers, writers and directors and the way they're making television in the new world of internet broadcasting. The 'Television Preview of 2006–2007' is especially revealing.

My thanks to Sally Hampton and Holly Harter for their skillful editing help.

Happy New Year!

CHAIRMAN'S REPORT – WINTER 2007

by Vin Di Bona

The state of the state is upbeat and hopeful. During the past six months, we have seen success both in Caucus events and in governmental affairs.

This past August (2006), the Caucus held its first, and I might add, hugely successful Texas Hold 'Em and Fold 'Em event. Under the expert guidance of Chuck Fries and his army of Steering Committee members, we produced one of the most fun events in recent Caucus history.

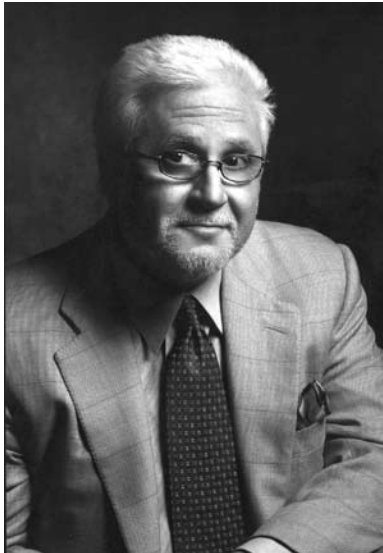
More than 200 people attended, including celebrities Jennifer Tilly, Jean Smart, Dick Van Patten, Kato Kaelin, and Jo Anne Worley. It was held at the Renaissance Hotel at Hollywood Boulevard and Highland Avenue, which is considered the hotspot of the new downtown Hollywood.

Because it was our first event of its kind, the goal of the evening was to break even. We beat our goal – and garnered well

over \$50,000. A large portion of the proceeds will be used to support the Caucus Foundation.

Everyone who attended agreed it was a wonderful social event, and new and old friends vowed to come back next year.

Special thanks must be given to Liz Lang, Holly Harter, Randall Dark, Sally Hampton, John Berzner, Dale Olsen and the incomparable Penny Rieger.



October was a very busy month. Two major events took place within the same week. Greg Strangis and Bonny Dore produced a panel called Television: A Preview of 2006-2007. It was moderated by Tom Gilbert of TV Week with panelists including: Kevin Beggs (President, Television Programming/Production, Lionsgate), Susanne Daniels

(President, Entertainment, Lifetime), Fern Field (Executive Producer of *Monk*), John Ferriter (Senior Vice President and Worldwide Head of Non-Scripted Television, William Morris Agency), and Angela

Shapiro-Mathes (President, Fox Television Studios). We had the largest turnout of this annual prognostication ever.

From there, we participated in one of the most important television policy-making events of the decade. On October 3, 2006, all four commissioners and the Chairman of the FCC came to Los Angeles to hold the first in a series of national hearings regarding loosening the rules and requirements of the 1996 Telecom Act.

I'm very proud to say the Caucus had the assistance of our D.C. representative, Peter Loge. He played a major role in helping to shape our Caucus testimonies, which were coordinated with ALL the Guilds, including DGA, WGA, SAG, AFTRA, the PGA and Recording Artists' Coalition.

We at the Caucus, thanks to Len Hill's astute suggestion, chose former Caucus member Stephen J. Cannell to represent our position. Other panelists included Taylor Hackford (DGA), Patric Verrone (WGA), Ann Marie Johnson (SAG), John Connelly (AFTRA), Marshall Herskovitz (PGA), and Mike Mills (Recording Artists' Coalition).

The commissioners got an earful from

both Guild panelists and the public at large. After the panelists and commissioners spoke, an open microphone was offered to the public at large. For well over an hour, the voice of the people was heard, including Caucus members Len Hill, Sally Hampton, Robb Weller and myself.

We also had a delegation of Steering

Committee members who were there in support, including Bonny Dore, Dorothea Petrie, Roger Gimbel and his wife Jennifer Warren, Maura Dunbar, Anne Hopkins, Fay Kanin and Chuck

“Time and time again, (Steering Committee members) have proven to be the backbone of this organization.”

Fries.

Other hearings will be held throughout the country so that Commissioners Kopps, Adelstein, Taylor-Tate, and McDowell, along with Chairman Martin will hopefully better understand how our issues affect both national and local television.

I'm very proud to be associated with such wonderful, hard-working, bright and thoughtful Steering Committee members. Time and time again, they have proven to be the backbone of this organization. It has been most rewarding to see us work together and join with the other creative guilds to make an impact on the future of our industry.

A MESSAGE FROM THE PRESIDENT OF THE CAUCUS FOUNDATION

by Chuck Fries

The Foundation Student Film Grants are aimed at helping students complete their films. Accordingly the Caucus Foundation student grant program does not provide funds to commit films to production only to complete them. Another goal of the program is to counteract the lack of diversity in content and creative people in the entertainment industry. We have an astonishing number of excellent filmmakers who have received benefits from our program. By the end of 2006, we will have given 58 grants and awards in the amount of \$398,500.

In addition to providing financial resources the Caucus has designed a mentoring program where our members, who are all producers, writers and directors, work with the students on their films and on their hopes and dreams of becoming members of the entertainment industry and any number of other requirements that the grant recipients have need for.

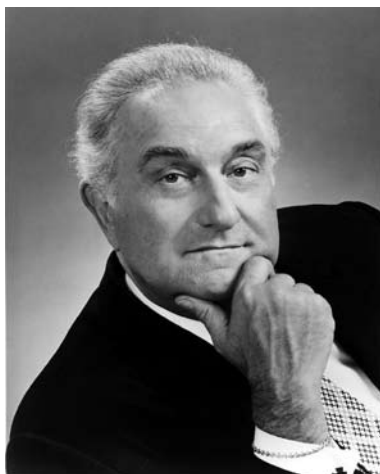
On August 19, 2006, we held our First Annual Entertainment Night with a Texas

Hold 'em Fold 'em Tournament, including casino-style games and a live and silent auction. It was an exciting and fun-filled evening and contributed to the Foundation's operating fund.

I'm also delighted that the Caucus will honor Jean Picker Firstenberg, president and CEO of the American Film Institute.

I've been proud to be on the AFI Board through her tenure and the Caucus is proud to recognize Firstenberg for her accomplishments over the last years and her commitment to training new filmmakers at the Institute.

At our awards dinner on December 8, 2006, we presented our second annual Gold Circle, first and second runner-up film awards. They are chosen from the winter 2005 and spring 2006 recipients. A jury of five Caucus Foundation board members selected three films. Those films are streamed on the Foundation Website for all Caucus members to vote on in the final selections. The award winners receive recognition and an in-kind camera package from



Panavision, a high-definition postproduction package from HD Vision Studios, and a cash grant. We believe this is a great way to recognize the excellence in our student

grant program and motivate our filmmakers to create and produce great films and television programs.

Chuck Fries' combined service to the Caucus as Chairman, Co-Chairman, and Secretary exceeds two decades. In addition to President of the Caucus Foundation, he serves as a member on the Board of the American Film Institute.

"The support of the Caucus Foundation is a true honor and has been critical to the completion of my film. Simply put, the Caucus provides award recognition coupled with substantial financial support. A rare combination, indeed!"

James Darling (NYU), Student Grant Winner, spring 2006

BACK TO BASICS: A LIGHT IN THE SOUTH CHURCH WINDOW

by Holly Harter

Remember the story of the light in the South Church window sending Paul Revere hard and fast on his great ride? The words of a local journalist (a television critic actually) sparked that image to mind recently when he wrote: “... *In a time when willful eccentricity, self-conscious style and pop-cultural knowingness dominate (television), it is refreshingly straight forward and unaffected, radical by virtue of being old-fashioned. ... It reminds me of movies from the pre-Spielberg '70s and is in so many ways what I want from television that I feel almost like phoning each of you personally to deliver the news. ...*”

These words inspired me to write hard and fast telling others that the storytellers are coming! The storytellers are coming! This is a happy call to arms for everyone, the public as well as to our fellow collective of producers, writers and directors: a return to traditional storytelling tenets within the matrix of contemporary television programming.

It is unfortunate that great, traditional storytelling has fallen by the wayside, yet no one can discount appreciation for traditional, classic and basic storytelling for what it really and truly is. A spectrum of factors is responsible for traditional storytelling

becoming an out-of-fashion commodity in recent years. But a primary reason has been because traditional storytelling has not had economic value in the commercial marketplace of television.

But because of bold milestones laid by a few recent shows (*Monk*, *Brotherhood*, *The Nine*, *House*, just to name a few), traditional storytelling in television writing, directing and producing has been subtly building a platform for its “big” comeback. Yet, it still feels as though there is no flickering light of hope for contemporary programming. Grumblings and mutterings abound regarding how storytelling’s quality has fallen into a bottomless pit of depravity. Hundreds of channels of plot-heavy procedural dramas, pretty shows full of pretty people and pretty empty plots, gut wrenching reality shows, glib contest/game shows, and topical special interest docs have been dominating the airwaves for much of the last decade. So much so, that we feel that these shows will continue to be the panorama of the television landscape.

But despite the drive of this evolution of television...remember, some traditional shows reflecting strong storytelling attributes have kept on going like the energizer bunny: *ER* and *7th HEAVEN* come to mind. Clearly audiences, hungry for what these

'hangers-on' deliver in both plot and character, have kept these very traditional shows on the air for over a decade.

Popular discourse describes great storytelling as derived only from great characters. But how often do we see programming chocked full of hyper-interesting, over-the-top eccentric and quirky-for-the-sake-of-quirky characters? Characters that have no where to go other than to bump into each other upon amazingly designed sets? Great characters are wholly dependent upon strong plotting as their pathway on which to race along the road of traditional storytelling.

It is this traditional combination of plot and character that makes traditional storytelling great as well as illuminating and magical. And that mindset, echoed by the words of that same television journalist remarking about traditional storytelling, is like *"... a cool drink on a hot day. ..."*

Of course, if it was less expensive to create the worlds necessary for scripted shows, then perhaps greater storytelling would have the opportunity to populate the airwaves instead of their less expensive, non-scripted second cousins. The solution of niche-produced, non-narrative shows creating hours of inexpensive programming easily filling up blocks of time – while an ingenious path through murky economic times – has created a backlash. A backlash in the form of

storytelling's creative expression being relegated to our culture's sidelines. As a result, creative expression, by and for all of us as an American culture, has been marginalized and minimized. More hours in the day have been devoted to cheaper, internally devised programming solely because a particular demographic group has been targeted.

A niche-produced show is programming created for a specific demographic group simply because that target group exists to turn on the show. In television programming of this current decade, the airwaves are filled with quickly produced niche shows for dance lovers, extreme sports addicts, game show junkies, home repair gurus, and daydreaming super models. This is programming for "the one." Wherein, the multitude of programming hours available each day, these airwaves should be devoted to telling stories that unite us as a culture – an even mightier economic group connected together because of an element of commonality found in television. Like a folk tale, nursery rhyme or bedtime story that we all share within the collective unconscious, that connection joins us all, and as the saying goes: There is force in numbers.

However, when you really think about it, the beauty of niche programming is an ingenious and simple business precept: programming for one demographic group – a

**"...programming for
'all' is the hallmark of
what television can
accomplish..."**

guaranteed block of viewers.

But programming for “all” is the hallmark of what television can accomplish; and in fact, what television has done so well with since its inception. I suspect that it is television’s legacy in its programming for “all,” is the mitigating factor for why television is still the force it remains to be this day.

The harmonic supporting this line of thinking, of course, is that traditional storytelling has historically comprised television. Television has been, and will remain to be, whenever it touches that “sweet note.” It is that colorful bard seated in the square sur-

rounded by villagers eager to forget their problems and be taken to another place together through the vehicle of traditional storytelling.

Regardless, it is deliciously refreshing to see the tenor of the television programming universe metamorphosis into programming that touches back to storytelling’s roots as possibly indicated by this “light placed in the proverbial South Church window.” If it is, clearly many will welcome it – not just those storytellers in the television and cable industries – but all of us as an American culture.

Holly Harter, a television producer, is an Associate Member of the Caucus as well as a board member/mentor with the Caucus Foundation.

(Quotes in italics are from the July 8, 2006, LOS ANGELES TIMES article by Robert Lloyd titled This Mob Story Works the Old Fashioned Way.)

TELEVISION: A PREVIEW OF 2006-2007

On September 27, 2006, The Caucus organized a panel discussion called Television: A Preview of 2006/2007 rather than our usual annual panel, The Year in Review. Moderated by TOM GILBERT, executive editor of TV WEEK, our terrific guest panelists included:

- PANELISTS:
- KEVIN BEGGS, PRESIDENT, TELEVISION PROGRAMMING/PRODUCTION – LIONSGATE
 - SUSANNE DANIELS, PRESIDENT, ENTERTAINMENT LIFETIME NETWORKS
 - JOHN FERRITER, SENIOR VICE PRESIDENT & WORLDWIDE HEAD OF NON-SCRIPTED TELEVISION-WMA
 - FERN FIELD, EXECUTIVE PRODUCER – *MONK*
 - ANGELA SHAPIRO-MATHES, PRESIDENT, FOX TELEVISION STUDIOS

This “season in preview” panel not only touched upon the upcoming new television season of shows and relevant aspects of the new season’s programming and content, but also delved into related matters of technology and regulatory issues. Below, in quotes, are the highlights of the discussions shared by our panelists:

...as we end the month of September 2006, we’ve already begun the new 2006-2007 television season, to date, how is it shaping up and are there surprises or disappointments?

- “The good news today was that viewership this season is up from last season. More people are sampling more programs.”
- “(What) is a good sign is there was such

competition between all of the networks for those Thursday night advertising dollars that Americans really got the benefit from great programming (during the) Thursday night (line up). And what you saw is that the numbers went up. It brought more people actually watching broadcast network television than I think anyone expected. And that is a win for everybody.”

- “One thing, which is a little bit of a sur-

prise, is that between the scripted and the non-scripted, some of the (shows) really performed well against tough competition. You had *America's Next Top Model*, which did really well for the CW ... *Biggest Loser* for NBC did really well against very tough competition. *Deal No Deal* is proving to be a monster entertainment show. But yet, you've got some pretty good scripted shows. Most of the returning scripted shows did really well. ... The people at ABC have to be very happy with the performance of *Grey's Anatomy* and *Desperate Housewives*."

● "The sleeper is going to be *Ugly Betty*. It's getting big. I think it's going to be a huge hit, right in the sweet spot of what ABC is doing in all of their other dramas. (And as this *Journal* edition goes to press, this show is performing very well and a whole season has been ordered.)"

● "Things that performed were going to perform and the things that didn't were kind of big bets. Maybe if there was one (surprise, it was)...because it's well done and the pilot was so good was *Kidnapped*. (As this *Journal* issue goes to press this show will wrap after 13 episodes.)"

MyNetworkTV.com, is this going to work?

● "Interactive is going to be a key word in entertainment ... because people in a lot

of ways are much more interested in their stories rather than in the stories that we're telling them."

● "The reason why ... MyNetworkTV.com will work whether or not they keep it as two back-to-back dramas or they keep one serialized drama running and then do something else afterwards, you've got some good stations that are there."

"It's also a very different kind of a viewer that you're looking for."

● "It's also a very different kind of a viewer that you're looking for. You need for somebody to tune in five days a week, and that's the problem that you have in daytime (whereas the) most ardent fan only tuned in for one-and-a-half times a week. So, you might have to get those numbers in another way. Once they can build that loyal viewership ... you'll see a different kind of an audience coming to that network."

● "Once you get a viewer like that committed, you really have the loyalty that you don't have in traditional primetime TV. So ... that's what they're counting on, the kind of viewers that will stick. And then they can build out from there. And they have a great Web site, so ... interactivity is going to mean a lot to them."

Is this the watershed year for the Internet, mobile or broadband component of television?

● “We are starting to turn a corner in terms of finally developing deal templates between studios and networks so they can agree on some major elements of the deal and who shares what and who gets (what) because that’s really been in play for the last couple of seasons. (It’s not) a watershed year in terms of really actively making a difference in the programming or the ratings. (The net) will start to have an impact slowly. ...”

● “It’s going to be both (entire episodes and short content that audiences will watch). You’ve got a really young audience out there. And they will find their entertainment however they can. And if it means watching it on a phone, if it means watching it on an iPod, if it means a Gizmodo, or whatever these devices are they’re going to find it.”

● “They don’t care whether the screen’s 2 inches big or 200 inches wide. They don’t care. It’s about stories.... It’s about what story is appealing to them. And as long as the story is interesting, they’re going to watch it on whatever device they’ve got.”

● “They want to be entertained and informed. It’s interesting. There was a big article in the LA Times business section this weekend. Tom Green is doing a five-night-a-week talk show, that he does from his living room on two different Websites. He does it on his own Website and on ManiaTV! It’s not a download. It’s live streaming. He walks over. He flips a switch. He has eight cameras. ... and after all of his experiences with MTV and some other buyers. ... He literally came in and he said, ‘You know what? There’s something I want to convey,

but I don’t want to have to go through layers and layers of executives to do that. Is there a way to do that?’ And he’s doing it on the Website. And what’s happened now is as of end of last week, he has like 75,000 viewers between the two different Websites that are watching and emailing.”

● “But also ... the problem is, not the problem, but a lot of people look at it as your competition. And it’s not your competition. If you’re a content provider and as a studio that’s what you do; it’s the most exciting time that we’ve had for a very long time because it’s an opportunity, not only to find talent. ... We look at the Internet to see who is the next great writer and the next great producer. But, you’re producing shows for a different screen. It’s not that big plasma that you’re producing for. If you produce original programming for either mobile or the Internet, you’re able to produce things that are interactive. You have a dialogue with your audience. It’s something that you can’t do on television. And I think that for us all to embrace that and figure out ways to learn and to take what you know from television and bring it over. Sort of the best of both worlds. You have to get this huge audience and the 12 to 24 year olds grew up on computers and mobile phones. So, that’s where they find their entertainment. For you not to give it to them there doesn’t make sense.”

● “A perfect example of that ... is a band called OK Go. And they did a video where the four band members do this dancing choreographed routine on treadmills. If you haven’t seen it, log on. It’s one of the most incredible things you’ll see. And you can

watch it on YouTube. They sent the video to MTV. This is a band that's on Capitol Records. They're on a major label. They sent it to MTV and MTV wouldn't play it. So, they put it on YouTube and eBomb and a couple of these Websites. It became so huge, not only did MTV have to play it, but then they actually did the whole routine live on the MTV VMAs. The audience will always tell you, We want this."

- "It's great to hear that (buyers) look to the Internet to find your talent because as a producer and a writer, it's great to be able to put something on that's really your vision and not have to second guess and go through the layers of executives and sink or swim on whatever the merits of your ideas. It's fabulous."

Scripted versus non-scripted: Is scripted the way? Or is non-scripted the way of the future?

- "They're both the way. ... If you put together an entertaining show, the audience

wants to be entertained and they want to be informed. And it's really interesting. Two weeks ago, 16 of the top 25 broadcast network shows were non-scripted. Of the nine that were scripted, four were animated. So, think about those numbers. ... (Yes) it's kind of the crossover of the end of the season and the beginning of the season, but if you look at it, between a couple of those were sports. One of the top rated network shows was a non-scripted show; it was *Monday Night Football*."

- "At the end of the day you are going to continue to see everybody trying everything. From an economic point of view, from a cost point of view, they have to do some non-scripted stuff, and this will either be popular or unpopular in this room, but the studios have to change. ... If they're paying \$650,000 to do a sitcom, the sitcom doesn't have to cost \$1.3 million. And that's why the sitcom business is in the toilet. And you can go to a lot of these younger producers and people like (Lionsgate), and there



(L-R) Panelists Fern Field, Kevin Beggs, moderator Tom Gilbert, panelists Angela Shapiro-Mathes, John Ferriter and Susanne Daniels participated on the *Television: A Preview of 2006/2007* panel organized by The Caucus for Television Producers, Writers & Directors on September 27, 2006.

Photo Credit: © 2006 Steve Cohn Photography

are different people out there who know how to do it. It's not that expensive to do it. There's just so much waste because people have gotten complacent and they realize: Well, this is how we've always done it. And it has to change. It has to change on the non-scripted side, and it's got to change on the scripted side."

- "CBS took the point of view early on in reality to go really big so that their reality would look every bit as big and bold and with the production values that their scripted dramas had. And that changed the reality business. And it changed everything. It changed the way you looked at it. It changed the way advertisers looked at it."

Are the writers on *America's Next Top Model* writers?

- "Yes. You know, scripted and non-scripted doesn't mean unwritten."

- "Most of those types of shows that have a highly directed reality to them, fall into storytelling. And how you define that and where that line is drawn between the producer, the show runner, and the writers, or story editors, or film producers is hard. Everyone's going to take a point of view. But, what I can assure you about any show like that is it didn't just come out the way it was shot."

- "Here's another way to look at that though: If you take someone who's in that capacity from the show and you then go into a network and say they're going to be the writer or show runner, the network will

not accept them as a writer or show runner. They will say they are not a writer or show runner. Try that on."

With the resurgence of drama ...will there be a similar resurgence with comedy too? Is that too, cyclical?

- "It's inevitable. Comedy was dead, and *The Cosby Show* reinvented comedy and (then the industry) had an unbelievable golden era. And these shows, they just have to be really good, funny, different, and reach a different audience. ..."

- "Networks have to take chances. People have to take chances. You can't plug into same old format anymore. People don't want it."

- "The same things that were happening in drama, a kind of fallow period if you will, was just a lot of safe choices, a lot of safe bets. ... But, a bold comedy like *South Park*, or *The Office* ... those are really pretty extraordinary, and the risks that they're taking at those prospective networks. ... It is going to be those kind of shows that will redefine comedy again on the broadcast sector."

- "They are also performers who come along and don't fit into a standard sitcom mold. They just don't. That's not what they do. And you can put them in these other shows and they're really funny. So, if you're going to bring a new comedy into the marketplace and you're going to try and hit the 12 to 24 demo or 18 to 49 demo it better be funny, and it better have a different look or a different feel to it. And with a lot

of these actors who are there, we're finding really good talent that doesn't want to do a traditional sitcom because it's not them."

Looking forward five years - with the Internet, and Broadband, and mobile, and everything so splintered. Are we going to look back on the first 50 years of television as the golden era of making money?

● "It will depend on what job you're in. And who owns your product. Because there are some people making a lot of money out there."

● "It's really hard to make deals because you've got these great creative producers, writers, people coming up with stuff. They go and they pitch it. ... And then you fight over rights that nobody knows what they are going to do with. And it drags on, and on, and on."

● "Now, it's just layer upon layer of people you've never met saying: We need the download rights, or we need these rights, or you can't have foreign. And the greatest thing is when you ask: So, what are you going to do with those rights? And they say: I don't know. A lot of times they say: I don't know. But, I have to have them. So ... people will look back and say: Yeah, we could make more money. We don't know what is going to happen in the next five years. We don't know how things are going to change."

● "It's the only way you can move forward with these deals right now. You have to freeze (the rights) and then we can figure it out as we go along. Figure out what they mean."

● "The bottom line though is that the big hits are still always going to make money and you don't know where those are going to come from."

● "We have to start doing these deals differently. And we do. And the producers who can come in and make something for \$200,000, we're going to take a shot with those people faster than we're going to take the shot with probably the 13 times 1.5 million. You can only take those shots few and far between."

The regulatory realm of television: What is up with indecency? Why is this such an issue? And is this going to lead to regulation of cable?

● "(There are 120 people in this room, thus) you'll probably get 120 different answers as to what is indecent. And that's the problem. And you go to certain parts of this country and you're going to get very different answers. And it's the same thing when you are trying to measure who a star is and who a star isn't. What plays in L.A. and New York is very different from what plays at (an) Army base in Ft. Bragg."

● "And the problem is when you look at how the government is run and you look at how the lobbyists get into it and everything else, who knows where that can go. That is why the one thing you want producers to do is to produce and produce the best quality shows they can."

● "Well ... cable content affected the break out of all the (current) shows ... on the ca-

ble networks, and obviously what they can do in their levels of acceptance of what is indecent or decent versus what the broadcast can do. The broadcast networks felt the need to push what their standards were to compete with some of the things that people were seeing and accepting readily, or it seemed so, on cable.”

- “And with a broadcast network, the local communities determine what is decent or indecent for them because they’ve got local affiliates and they can make those decisions and say: For our community that is indecent. ... At least that was the argument when *N.Y.P.D. Blue* came out and they were showing “partial nudity.” There were communities who said: We can’t show that. That’s indecent in our community.”

- “(Regarding whether or not cable should be regulated, surely,) ... Why wouldn’t it be? Those are edgy, provocative shows that kind of question the system that we all live in. And that is a prime target for anyone of the more conservative kind of watch dog groups that live out in the fringes looking to make TV a little more homogenous. If you can’t identify *Nip/Tuck* or *The Shield* as a show that most right wing people wouldn’t be comfortable with – imagine living in a different place.”

- “The lines completely blur (to) the younger generation as to channel four ver-

sus channel 66 (as to) (network) television, cable, broadcast cable. My kids don’t know the difference. (To them,) the Cartoon Network is the same as or better than ABC, CBS, NBC. So, then what is television? And what should be regulated and what shouldn’t?”

As far as media ownership goes, (in media) consolidation, obviously independent (producers) have suffered through consolidation. Although it’s a great time for people to be discovered on the Internet, right? Do you think (media consolidation) is a bad thing or do you think it is something we will adapt to?

- “Yes, consolidation is a bad thing. It’s a very bad thing.”

- “(Before media consolidation started, 90 talk shows a year sold.) There were all these distributors (out there). If somebody

was really good (they sold). ... Right now (today), *The Montel Williams Show*, *Ricki Lake*, *Sally Jessy Raphael*, *The Maury Povich Show*, none

of those things would get on the air. Not a shot. These are things that have made millions and millions of dollars for the companies. ... But because of consolidation, they wouldn’t get on the air these days.”

- “When you consider all the talent in this business, (yes, including) Rachael Ray, a

“Yes, consolidation is a bad thing. It’s a very bad thing.”

hit in syndication. ... She's great. Basically they put the "Oprah" brand on it, and it's wonderful. So the best we can do coming after that is Greg Behrendt, Keith Ablow and *The Megan Mullally Show*. Those are the talk shows that were launched. Think of all the people out there, the personalities who want to do talk, who have always wanted to do this sort of stuff. You can't sell it. You walk into a buyer's office and say: We have the next great show, here it is. They're scared to death of taking it out because it's like a \$30-million commitment to launch a show. And if it doesn't work, you're gone as the buyer. That's the fear. And I believe that is all through consolidation. That stuff is all through consolidation. And it's really, really hurting the independent producer. And it's hurting talent. And it's hurting our business."

- "Up until the last two seasons ... content was suffering too. But the success of all the reality series has actually pushed people to perform better in terms of the dramas and to get stronger voices out there. But, consolidation has (hurt). There are fewer voices in the mix at the end of the day in terms of

who is buying, who is choosing, and who is selling. And it is guesswork at the end of the day. It is educated guesswork. It is taking your best shot. And when you have more players in the business then you have more variety reflected on air at the end of the day. So ... it hurts the business."

- "And the passageways are clogged ... like *The Sally Jessy Raphael Show* came from local television, (came) up through the system. The consolidation of station ownership has caused a lot of (clogging) too. Would Megan have a show on NBC if she weren't an NBC property?"

- "Imagine trying to break *The Oprah Winfrey Show* (today). ... Think about it, the most successful, the most profitable person. ... The A-plus-list star in Hollywood. Imagine trying to take an unknown Oprah Winfrey out right now. They wouldn't clear it. They wouldn't clear it. And then all the naysayer's would go: Oh, it won't work. She's this local person. That is the view that they would take on it. And that is wrong. That is the thing we have to fight against."

THE DOWNSIDE OF DIGITAL

Or Why I Don't Have an iPod

by David Metzler

I am a pretty techie kind of guy. I have a Treo™, a nüvi, and a traffic gauge with me anywhere I drive (and if you have to Google any of those products, you'll see what a gadget geek I am). But I don't have an iPod. And I know that tells the world I'm not cool and maybe too old, but I've resisted the temptation for one reason: DRM.

DRM or Digital Rights Management is an ugly name for "securing" digital content. It is a technology scheme designed to protect owners of copyrighted material by curbing illegal copying and legally enforcing license restrictions. There are various DRM systems. Windows Media Player has one. DVDs have one. iTunes has one. A good DRM system should ensure owners get the maximum return on their content sales. Sounds good, right? Well, not to this consumer.

Imagine for a moment that DRM existed back in the analog days of LP Records. You walk into Tower Records, pick up the groovy new Bob Dylan record and at check-out are told: 1) Your record will only play on Pioneer brand record players and no others, 2) If Tower Records ever goes out of business, your record will likely self destruct 3) You could be sued or sent to jail if you copy that LP on your reel-to-reel, and 4) If Bob Dylan or his record company feels like it, they can come into your house, take your al-

bum and break it. I can imagine where you would tell the man to stick his record. Yet, this absurd reality of rules has been created today by various DRM systems and the DMCA (Digital Millennium Copyright Act of 1996).

The real tragedy is that even with these draconian measures DRM does not accomplish the goals it sets out for itself. It tries to slow piracy but does not. And it tries to maximize revenue for copyright owners but fails at that as well. Here's why:

Copy Protection versus Convenience

iTunes doesn't sell music as much as it sells convenience. One click and you've got instant gratification for any song or video you want to add to your library. Unfortunately for me, that convenience is offset by its copy protection, which restricts content to only Apple devices (see scenarios 1 and 2 above – that's the Apple DRM system). As a paying customer, I don't want to end up with a Betamax – I want a library of content that outlives any one manufacturer or fad. Besides, it took all of eight hours for the Apple's protection scheme to be cracked in its latest release. It's widely acknowledged that DRM can't stop copying; it can only make it less convenient to do it. Of course, it makes it less convenient only for paying customers. People who steal content swap

files with DRM copy protections already removed. So ironically those who steal content end up with more freedom to enjoy the content than those who pay. Let's call it an "honesty tax."

So how much does this honesty tax cost paying customers? Let's say you spend \$100 at the iTunes store, and you want to copy that music to your new Microsoft Zune player. You can't do it. iTunes will copy your music to an iPod with one click, but with your Zune you'll spend two to three hours or more burning CDs, and then re-importing them into the computer to Microsoft's DRM system. DRM costs two to three hours of conversion time compared with spending \$100 on traditional CDs – that will play in any brand of computer, car stereo, home stereo, and will quickly convert to other formats since there is no DRM.

That's why I have my entire music collection on CDs – with copies on my computer in DRM-free format, so I can quickly move them into whatever portable device I eventually get. ... with no honesty tax of two to three hours.

I used to think I was an anomaly since I've recently exited the coveted 18-34 age bracket and my habits don't seem to carry much weight with marketers. But consider this: A recent study of iPod owners shows that only **5 percent** of their music comes from online music stores – the rest is from

DRM-free sources like their CDs and files downloaded from the Internet. Only 17 percent of iPod owners buy music from the iTunes store on any regular basis. There are a lot of people who don't like DRM, and they are not all content thieves.

So how much money is being left on the table by DRM? It's hard to say. The best survey to conduct is a survey of one – yourself. I know I would buy more DVDs if I could easily copy them to my laptop hard drive and travel with them. Media without copy protection is more valuable to me; it makes my media library more flexible, transportable and extends its useful life. I

would suspect the same is true for you. How many restrictions would you accept in addition to the purchase price?

It's time to separate the fight against piracy from the quest to meet the needs

of the audience. The biggest question is how to make content delivery more attractive to consumers. Unfortunately the coming months will bring more closed DRM systems to market and it's going to lead to more isolation of content, more compatibility problems between systems, more restrictions on consumers and potentially infinite cycle of Betamaxes that completely alienate the market. I'm reminded of the beginning of the PC software market in the '80s – at that time every manufacturer was so concerned with piracy that there were

**The biggest question
is how to make
content delivery
more attractive
to consumers.**

hundreds of schemes to prevent the duplication of software disks. It ended up costing the industry so much time troubleshooting incompatible systems and serving unhappy customers that they dropped it all. To this day the vast majority of software CDs and DVDs can be easily duplicated, converted, stored on a hard drive, etc. The media is free to move between systems of varying manufactures, even if the license is valid only on a single install.

For a moment, stop listening to the lawyers, accountants and that side of your

brain that fears that new technology will destroy the content industry (as was predicted at the introduction of the cassette tape, the VCR, the CD) and start listening to those content collectors who matter – consumers. They want content. They want it fast, convenient and they want to be assured that what they buy today is not going to be taken away tomorrow, or have to be repurchased with each new gadget they buy six months from now. I'll buy the new Bob Dylan CD, but only if it's DRM free.



David Metzler is a consultant and owner of computer firm Metzler Consulting, Inc. in Culver City. For more than 10 years, he has helped producers, writers, directors and production companies make the most out of their media and technology. He is the webmaster of The Caucus' Website: www.caucus.org.

“PIRACY” AND WHAT CAN BE DONE ABOUT IT!

From Caucus Chair Vin Di Bona, Tammy Treglia and Dawn Friedman

April 18, 2006

Vin Di Bona:

There was a time most television producers viewed piracy of content as a problem affecting only the motion picture studios. But, that time has passed. Today, with the proliferation of TV on DVD's, cross platforming, and Internet downloading, piracy now rears its ugly head directly at television content holders.

Many in the Internet industry say that content downloaded and shared with friends creates better promotion for the original product. I don't agree. **Protection of our content should never take a backseat to promotion.**

For the past 17 years I have closely guarded the usage of my clip library, and with Tammy Treglia, formed Hollywood Licensing as the sole conduit for all sales of *America's Funniest Home Video* clips worldwide. At the end of our 15th season last year, we were stunned to discover our “Clip of the Year” had been pirated all over the Internet just one day after it had aired on the ABC network. We knew then it was time to take action and created a “policing agency”, dedicating a good portion of our in-house legal counsel and staff's work to

policing first-time and repeat offenders worldwide.

The flagrant and repeated violations we have since discovered are a wake-up

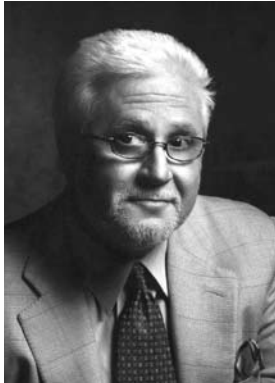
call to us all that something must be done. If piracy and infringement can be enforced and contained, the ability to monetize program content from our television libraries could potentially be a lucrative frontier for independent television producers. My advice to content holders, worldwide, is to protect the precious little we have left of our labor and creativity.

Below, Tammy explains what is at stake and offers potential solutions to this growing problem.

Tammy Treglia, Co-Chairman, Hollywood Licensing, LLC:

The battle began with software and music piracy but has now become a challenging problem for all people and companies who own or control copyright-protected content.

Owners of content are now being forced



to allocate their own resources to police and protect their content due to advancements of the technology and the Internet. The question isn't how do we stop it, but really what



can we do to protect ourselves. There is no stopping it; the floodgates are open. Content owners are on the legal defensive, and you

must either protect your content or have it usurped by any unknowing or unscrupulous Website. The heart of the problem lies with a lack of education in the world of "cyber ethics." Many simply do not understand it is not ethical or legal to take content that they haven't created and then profit from it. There are those who do understand the legal ramifications yet they knowingly choose to violate the law for profit. While those people cannot be stopped, many others can be stopped through education of proper cyber ethics. We recommend to educators and business people alike, teach and educate others about proper conduct on the Internet. Not only is it an ethical issue, it is a legal one as well.

Those who are the gatekeepers of technology, new media and the Internet have an obligation to the public, if not a legal one, to provide proper and complete education to the public about what is correct usage of content on the Internet. Many companies, Websites, ISPs and venture capitalists have once again failed to correctly analyze their roles and fi-

duciary responsibilities as they are blinded by the same greed, which catapulted the stock market in 1999. Although the climate is more sensible now in 2006, than it was in 1999, there are now proven business models that truly allow the content owner to finally monetize their content on the Internet. **The problem now exists that others may now be monetizing your content.**

While we cannot stop the growth of the Internet, nor would we desire to do so, we must protect our intellectual property assets by continually evaluating the situation as the digital landscape is always changing. By understanding the evolution of Internet piracy, we can better evaluate what we need to do to protect ourselves.

Simply, the gatekeepers of the Internet have one real obligation, to comply with the DMCA, otherwise known as the Digital Millennium Copyright Act. This Act serves as the sole means to protect content owners from unauthorized use of their content. If you find your content in an unauthorized usage on the Internet, most responsible Website operators and all ISPs have a form for you to complete that is called a DMCA complaint request. In this form, you identify yourself as the copyright owner, and the party should remove your content.

While our experience with the *America's Funniest Home Videos* clips has shown that mostly everyone has complied with DMCA complaints, it still does not solve the issue that we have to allocate our own resources to police and protect our content from being usurped on the Internet. We have had to hire additional staffing and obtain additional legal counsel many times to deal with online piracy. Companies such as Google have

been fair in responding to DMCA complaints in an expeditious manner; however, we still require additional staffing to police many Websites, which have been repeat offenders. We have seen many cases that are not merely a lack of cyber ethics, but are flagrant offenders who are hiding behind the DMCA and using the argument: tell us and we will take it down. Many are of the opinion that the DMCA protects content owners and this is all we need. In one sense, it is true as long as Websites comply with it

and honor takedown requests. On the other hand, content owners face a new cost of doing business because they have to protect the content as no one else is going to do it for them. Thus, the reality is that it cannot be stopped and we need to create new vehicles for monetization of our content to minimize the abuses. On the positive side, many believe that even though the music industry has come a long way from its Napster days, the end result was more people are buying music online than ever before. The music piracy leads to greater revenue opportunities by promoting an interest in downloading from the Internet. This is a growth area and entertainment content will continue to be consumed in mass quantities over the Internet.

As a content owner, it is prudent to evaluate the DMCA in full detail. From this, you can better understand the methods the Websites and ISPs are using to create their

own policies on submission of content from the general public.

A proactive approach is necessary to gauge how you prefer to distribute your content on the Internet. There is no one size fits all solution. Piracy is one thing and you must utilize all the resources within the DMCA to protect yourself and create your

company policies. However, the bigger issue that remains is how to pay for all your increased costs from policing piracy. The main avenue is to license your con-

“...new creative hybrid business models are developing faster than imaginable.”

tent through reputable sources. In a more interesting recent situation that truly illustrates the need for content owners to seriously evaluate how they do business on the Internet, ABC announced they are putting several shows on their Website “for free.” Of course, nothing is ever for free, but it’s free to the consumer as it’s the same advertising supported model as television. It is interesting because they are selling episodes for \$1.99 for downloading to iPods yet offering them for free on their Website.

Again, there is no model that works for everyone as a whole, and new creative hybrid business models are developing faster than imaginable. These models consist of pay for content, free content, subscription-based content, ad supported content and variations thereof. The best approach is to be open-minded and creative in all that you endeavor on the Internet, and the end result will be positive. We believe that like

anything, being creative and open minded will take you to places you never dreamed of and hopefully that will lead to ancillary revenues from content that may otherwise be collecting dust.

Below, Dawn Friedman, in-house counsel and former executive vice president of Business and Legal Affairs for Vin Di Bona Productions, explains the procedures they have adopted and found to be the most effective in waging war against Internet pirates.

VDBP Website Infringement Procedures

- We have hired a dedicated individual on a part-time basis to search the Internet for Websites that are illegally using our *America's Funniest Home Videos* (AFV) clips. We are currently focusing our efforts on those Websites that are generating money through advertising revenues, membership fees, etc.

- When AFV clips are found on the Internet, we gather all of the relevant info (printouts of each Website page showing the AFV clips along with back-up releases demonstrating our ownership in the clips) and forward the info to Disney for handling. Disney then sends out the cease and desist letters.

- Most Website owners comply fairly quickly by taking down the clips and providing us with information about the amount of money, if any, they have collected from the use of our clips (including any advertising

revenues).

- Then, we continue to monitor all Websites that have used our clips in the past. For those Websites that repeatedly use our clips without permission, and are continually making money off of our clips, we are taking stronger action. For example, with one Website in the United Kingdom, we are trying to negotiate a settlement for the licensing revenues we have lost as a result of their repeated misuse of our clips. If we are unable to reach a settlement, then we will proceed to litigation in the UK.

- In order to track the massive amount of information on the infringing Websites, we maintain the status of all of the Websites in an Excel spreadsheet that lists the date the clips were found, the date the cease and desist letter was sent, the last date the site was checked for clips, etc.

- Many of the Websites using AFV clips are “file sharing” Websites where individual users can post clips of their own for viewing by others on the file sharing site. However, many users are illegally posting AFV clips. When we contact these file sharing Websites, most of them have been cooperative in requiring the individual users to take the infringing materials down; however, they deny vicarious liability for the individual user’s actions and claim to be a message board posting site under the safe harbor provisions of the DMCA. This law will need to be changed in order for us to be able to proceed directly against the owners of these file sharing sites.

- Unfortunately, Website infringement of

AFV clips is so widespread that even with everything we are doing, it seems we are only “hitting the tip of the iceberg” per se. With search engines such as Google and Yahoo now having their own video search engines, video Websites such as YouTube.com, and the numerous file sharing Websites that are popping up every day, it is very hard to stay on top of all of these sites. Additionally, many individuals are forwarding

AFV clips in emails to their friends who forward it on to their friends, then to their friends’ friends, etc. These e-mail chains are impossible to track. However, we are hopeful that our “take no prisoners” enforcement measures will soon become known to Website owners, individuals posting clips on the web, and individuals forwarding clips via e-mail, and that these measures will become a deterrent to all.

“The generosity of the Caucus Foundation has made it possible for me to finish my film in the professional manner it deserves. The grant is a marvelous validation for the hard work my crew and I have put into the film, and I look forward to a long-term relationship with the Caucus.”

Preston DeFrancis (University of Southern California)

THE RELEVANCE OF ANTITRUST LAW TO DIRECTORS, PRODUCERS AND WRITERS

by Parul P. Desai

Introduction

Directors, producers, and writers (collectively referred to as “creators”) have begun to find it difficult to maintain careers or even a sense of independence over their creativity in their respective fields. On the other hand, independent and budding creators do not even attempt to try to market their works, or worse, are discouraged from even bringing their ideas to fruition. This article highlights and briefly explains the problem of media consolidation that creators face, the devastating impacts of consolidation on creators, and laws that once existed that favored creators.

While consolidation poses problems for creators, it is important to note that creators are not completely helpless. There still exist laws that may potentially help creators retain some of their independence. The article concludes with the potential significance of antitrust law to attack consolidation, especially state antitrust laws, such as those found in California.

The Problem of Media Consolidation

Creators in recent years have been victims of increased consolidation among entertainment giants; six corporations now control the majority of entertainment media. Consolidation comes in two forms: vertical and horizontal.

Vertical consolidation involves the combination of separate companies under the control of one entity that owns different aspects of making, selling and delivering a product or service, such as a movie or television show. For example, Time Warner produces television shows through one of its production companies, Warner Brothers Television Production. Time Warner then delivers the programming through its various owned outlets, such as CW.

Horizontal consolidation means the combination of entities producing essentially the same product or service, such as cable programming. For example, the 1996 merger between Walt Disney Company and Capital Cities/ABC Inc. resulted in one company, Disney, owning Walt Disney’s Disney Channel and ABC’s cable channels, which included ownership in ESPN, A&E Television Network, and Lifetime Television.

What this means is that media moguls now own content, conduit rights, and production rights. Thus, the same firms that own the programming also have the means by which to produce and distribute it.

While both horizontal and vertical integration pose problems, vertical integration is especially problematic for creators. Vertical integration dissolves competition and opportunities for creativity in the marketplace. It enables industry owners to

conspire within their empires and reduce creators' bargaining power and minimize creators' independence.

Even worse, this integration has been nurtured by the federal government and its deregulatory policies and lax enforcement of existing laws. The Federal Trade Commission (FTC) and the Department of Justice (DOJ), which are responsible for enforcing antitrust laws, have not always undertaken sufficient scrutiny when approving mergers among entertainment giants.

On the other hand, the Federal Communications Commission (FCC), which reviews whether mergers are in the "public interest," once had ownership rules that tried to restrict concentrated ownership among and between media and newspapers. However, these rules have been under constant attack, leading to policies favoring deregulation. In fact, the FCC is currently in a rule-making that could result in further deregulation, and quite possibly lead to even more mergers of entertainment companies and further vertical integration.

Why it Matters: Effects of Vertical Integration

Before looking at the relevance of antitrust laws and integration, it is important to realize the detrimental effects of vertical integration to creators: 1) lack of marketability opportunities, 2) lack of compensation, and 3) loss of creative independence.

Marketability

When single entities own both production and distribution units, independent content providers are unable to freely market their creations because most content production

is taking place in-house. That is, the media conglomerates are so concentrated that they virtually own the creators that develop the content they produce. Since all media conglomerates are now allowed to produce and distribute content, they no longer have to rely on creators outside their empires for content. As a result, creators have limited marketing options.

Compensation

Another negative effect of vertical media consolidation is that major networks get away with price fixing because of their increased bargaining power. Since very few media sources now exist, those sources are easily able to collude to fix the prices they will pay creators, and creators are forced to accept these lower prices otherwise their content will go unaired. The "going price" for content is consequently lessened as media conglomerates build their media machines and pad their (and advertisers') pocket books.

As a result, even high-profile and well-known creators cannot make a living through their creative efforts. Consequently, some creators are forced to give up their true passion by either finding other careers to supplement their income or completely abandon their careers and find new careers. Even worse, unknown and independent creators are so discouraged by the lack of a true market for their work that they do not even bother to get involved in the business. In the end, audiences are deprived of untapped and creative talent.

Independence

Finally, creators are forced to tailor their prod-

uct to the liking of the large conglomerates, which often have incentives to block certain content for personal or political reasons. For instance, Disney-owned ABC is unlikely to air content critical of the Disney empire, General Electric-owned NBC will avoid shows that paint General Electric in a bad manner, News Corporation-owned Fox will most assuredly sidestep pieces contrary to Rupert Murdoch, and the list goes on and on.

This sort of content blocking and control diminishes creators' independence and obliterates their creative voices.

When network executives pick and choose what they want to show, they can change the context so much that the intended message grows diluted or completely convoluted.

Moreover, it is possible that the creators' work will not air at all if they rub the right people in the wrong way. In fact, recent rumors suggest one episode of a popular cable television show was pulled because its content offended an actor associated with a sister company who had enough clout to threaten the episode away.

History Once Favored Creators

There was a time when the interests of creators were protected. Previously, the anti-competitive behavior of the networks was recognized and curtailed. In the 1970s, the threat of the networks' monopoly power over programming rights caused the FCC to take action. The FCC adopted the Financial

Interest and Syndication Rules (Fin Syn) to foster more diversity and competition in television programming.

At that time, the networks were displaying unusual amount of power over creators by seeking syndication rights and creative control from the creators, and in exchange, creators were able to broadcast their programs. The FCC acknowledged the bargain-

ing inequalities by adopting the Fin Syn Rules, which prevented networks from entering program production and syndication markets.

Specifically, the Fin Syn Rules prohibited networks from: 1) seeking a financial interest in programs that were broadcast by the network, but not produced by the network, and 2) participating at all in the domestic syndication business. This essentially forced networks to bargain for outside content. However, the Fin Syn Rules were repealed in 1995, based on the theory that the rules were no longer necessary due to changes and more competition in the marketplace.

Consequently, the repeal of the Fin Syn Rules now allows networks to produce their own content and have much more power over programming and creative decisions. Media consolidation exacerbates the inequality of bargaining power. Thus antitrust law can be used to combat media integration and stand up to these giant media families that are stepping on the creativity and independence of creators.

“There was a time when the interests of creators were protected.”

Antitrust Law as a Shield Against Consolidation

Federal antitrust law is one method to stifle the further expansion of media conglomerates. Antitrust laws were created to promote competition and protect against monopolies. These laws, the Sherman Antitrust Act and Clayton Act, deal with the misuse of monopoly power and the anti-competitive effects of mergers. The FTC and the DOJ are responsible for examining abusive behavior and for reviewing mergers to make sure that merging parties adhere to these laws. (In addition, the FCC also has some power to review media mergers to ensure that they are in the public interest).

Arguably, media consolidation has resulted in practices that violate antitrust laws. However, the government's antitrust analysis focuses only on the economic effects and efficiency concerns, and not on social or creative implications. As long as the parties in question can show that economic effects are not detrimental to the public, it can be difficult to gain effective antitrust enforcement.

Moreover, the current trend is to take antitrust enforcement lightly. Indeed, recent media mergers have slipped by with very soft FTC and DOJ scrutiny. This often occurs because media moguls have a greater presence at these agencies than their opponents, who often have fewer resources to combat adverse proceedings. Additionally, political views influence decision making during antitrust reviews.

While enforcement by the government can be both slow and political, individual citizens can also bring action against anti-competitive behavior. However, enforce-

ment actions brought by individuals are expensive and require a great deal of individual time and resources.

Yet, this does not mean that antitrust laws are completely useless. In addition to the federal antitrust laws, each state has its own antitrust statute, though they are not all identical or uniform.

Enforcement at the state level is often the better way to proceed. In fact, state attorney generals have often become active participants in the enforcement of both the state and federal antitrust laws. Additionally, individuals have also begun to seek enforcement of state laws, which, in states like California, are stronger in protecting residents against antitrust violations. Indeed, California's antitrust law goes beyond the limited considerations of anti-competitive behavior under the Sherman and Clayton Acts, prohibiting behavior and considerations that federal antitrust laws do not address.

Joining the Fight Against Integration

Antitrust implications still exist in this world of rapidly integrating media firms. Lax antitrust enforcement stifles the ambitions of creative and innovative creators because the negative impacts of media consolidation leave them with little incentive to create. Even successful creators are more likely to abandon their production of creative works because they have no bargaining power to enable them to ensure adequate payment for their works, they have lost creative control over their product, and are now forced to part with their legal rights to productions.

The effect on lesser-known and independent creators is even harsher. They have

no clout to bargain for higher-priced contracts because they cannot use their names as selling points. This means someone who could be the next big thing, is unlikely to expend much time or energy into a product that will render insufficient returns.

Thus, neither the successful nor the lesser known creators have a good formula for success – selling out for less money than one deserves, or bargaining for a lopsided deal – are the two choices content providers have. Sadly, success does not necessarily bring less censorship or more control.

As a group, the Caucus can consider

whether the use of antitrust laws is viable to regain some bargaining power. Additionally, even though the FCC ownership rules may continue to change, favoring deregulation, the Caucus and its members can work to make sure the FTC and DOJ understand the economic and anti-competitive effects to its members of further integration.

I would also like to acknowledge the invaluable work and help on this article by Jessica Gonzalez, a third-year law student at Southwestern University School of Law in Los Angeles.



Parul P. Desai, Assistant Director of Media Access Project (MAP), joined the organization in October 2005. Prior to joining MAP, Desai served as in-house counsel to MicroStrategy, Inc. in McLean, Virginia. From 2001-2004, she was an associate in the Telecommunication, Media, and Technology and Litigation Groups of the Crowell & Moring LLP. She is a magna cum laude graduate of New York Law School.

THE LOST, WEAKENED

by Bill Blinn

The speaker is tall, strikingly handsome and undeniably intelligent and insightful. The speaker is me. “Hello. My name is Bill.”

And they reply, “*Hello, Bill.*”

The next words come hard. I take in a deep breath. It doesn’t help. I can feel the emotions swell, know that my voice is on the edge of shredding, that sobs are within reach. The others told me it would be like this. “I am addicted to ‘Dancing with the Stars.’”

“*Oh, Bill.*”

“*We’re here for you, man.*”

There. It was out. I had said it. The flaw was on the record, part of the elements that go into the making of Bill. No more role playing, and no more smug smartass comments about reality programming. J. Edgar Hoover had his tasteful little cocktail frocks; I had “Dancing with the Stars.”

How had it all started? What microscopic parasitical fluke had infiltrated my creative defenses and rendered me helpless? What gap had they seen in my character, what pathetic anti-paradigm had they exploited? I

had once been a crab apple of crap monitoring, a man firmly and resolutely celebrating the past, saluting the solidity of Susskind, and the sterling of Sterling.

The perfectly curved tanned and toned female thigh.

That was the weapon they used, the lever that tilted me past the tipping point. A flash out in a network promo that was on when I walked through the room, nearly causing an orthopedic whiplash as I spun about, intent on learning where one might next expect to see that perfect gam in action and on display. Then came the splashy crawl for “Dancing with the Stars” and I sighed with relief, knowing I was out of range of that particular bullet. Like most men, save Tommy Tune, I am somewhat of a drooling gibbon when confronted with stunning female physicality, but when it is combined with that thing called reality programming, I felt myself to be immune. (I felt this to be the case as there was once a time when I chanced upon a “Fear Factor” clip. The girl was gorgeous. Her shorts were brief and snug, as was the flimsy top she almost wore. I was impressed. The fact that she was biting the head off a cricket when I saw her, might very well have had something to do with that. Quien sabe?)

So, I sailed on in my little dinghy, heading for a perfect storm, the size of which I could not comprehend.

It started in the gym a few days later, treadmill Annies, debating the level of ‘hotness’ of the various couples, referencing the grace and style of Jerry Rice. Surely I could not have heard that correctly. Not Jerry Rice the football legend. That can’t be. He always seemed so grounded, so real. Maybe there was a different Jerry Rice – a bongo player; a creation of Vince McMahon. I go from the gym to the supermarket line and then to the chatter at the barbershop. (Yes, I go to a barber shop. Deal with it.) It was everywhere, on the covers of magazines and threaded into Leno’s monologue. There was something happening in this world and for me it was around the corner and over the horizon line. I was acting like a coward. Actually, I was a coward, no acting required. So I made the decision: I would look at “Dancing with the Stars.” Once. Just for a little while. One sip, no more.

“Hello Bill.”

The only sip turned into a flagon once I discovered that the pushers of this offering were on the air not one night, but two, two deep gouges out of the weekly schedule, not to mention a day of mindless maundering over who deserved to stay, who was due to be kicked off by the trio of judges, all of whom could transfer instantly to the trial sequence of “The Crucible.” It’s not bad enough that the day was taken up with the wandering wondering, there was also the cruel reality that each instant spent in this

head banging brutality brought with it an avalanche of shame all based upon the sure and certain knowledge that the brain cells being burned off during this activity were gone forever, wasted, toilet tissue trophies, nothing more.

And there I was in the living room whooping like a chimp when a selection I favored was sent into everlasting darkness. But, and this does have value, at least I was now on the same page with the rest of my fellow knuckle draggers, discussing important matters, like Mario’s trashing of the “sacred rules of the dance,” and not frittering away time and concentration on meaningless matters like Iraq and the delights of Spa Gitmo.

Hello Bill.

I’m going to get better, I am. Those here in the group with me are holding out their hands to help. Their understanding “pass-eth” all understanding, which is no small feat. And as far as I have fallen, there are those here who are in greater need. There are those here addicted to “The Maury Povich Show” – God help them. There are levels to Hell – levels, levels.

But I’m getting better and will escape – possibly, not instantly, but possibly. And not “cold turkey.” Slowly, in a process. First a thoughtful moment, and then a little sip, just a little sip.

For the moment, recall the film “The Blue Angel.” Allow yourself to recreate the image of Marlene Dietrich. Now recall the

hollow shell of the Emil Jannings character, eviscerated and helpless in the clutches of the situation. Know it well – I have become the Emil Jannings character.

And why does this brand of programming have such a magnetic pull on us? Why do otherwise bright and mature human beings actually find themselves rooting for Jerry Springer to prevail? I have a thought, and it has to do with what has become of the

nature of our reality. We have become so comforted and protected, having the sharp edges rubbed away, sanded off by the need for “nice” that we respond to this manufactured reality with a sign of recognition, knowing that this was once the way things were for all of us, a little dangerous, impolite, and not at all politically correct. It’s just a thought.

Have another sip.



Bill Blinn has worked in the television industry as a Writer and Producer for more than four decades. He has often worked on the West Side and always lived in the Valley.

MEMORIES IN THE SIDEWALK

by Norman S. Powell

Probably because I feel good, and am up on my game most of the time, I occasionally indulge in a fantasy that time has given me a slight advantage over everybody and everything. Not a big one, 10 or 15 years at the most. But that delusion vanishes the moment I look up, at the ever changing skyline, out at the gridlocked traffic or down at the street. Embedded in the sidewalks of Studio City are plaques memorializing 75 years of movies and television produced at Republic Studio/CBS Studio Center.

Walking these streets and treading on the titles of dozens of television programs I have worked on is a sobering reminder of how long I've been making films. And of how many good people I've left behind.

I returned to Los Angeles in the summer of 1957 with a degree from an Ivy League college but without the vaguest idea of what I would do for a living. Luckily for me, television was a growth business and nepotism was in full bloom. As the son of a film director, I was eligible for membership in the Directors Guild. Never mind that I didn't know which end of a camera you pointed at actors. There were no film schools in those days and anyway, although my major was political science, my real focus in college was on taking risks and getting away safely.

Revue Productions was filling the Republic lot wall-to-wall, and I was hired along with four other young guys, as a newly minted second assistant director. Like the Marine Corps, Revue was looking for a few good candidates with endurance and a high pain tolerance. Fourteen-hour days were routine, and 16-hour days were not uncommon. And, there were no forced calls for 2nd AD's in those years. Sometimes they even called us in on Saturday, not to work but just to prove they could. There were no 2nd assistant directors. There were no PAs. Fifty extras on location tomorrow? Cope with it, pal. And you know what? I loved it. It was a year long crash course in filmmaking and it worked. I learned the business.

Wagon Train, M Squad, The Restless Gun, Bachelor Father, Tales of Wells Fargo, Leave it to Beaver, Alfred Hitchcock Presents, The Fireside Theater.

These were a few of my shows. Memories in the sidewalk.

Revue moved to Universal and Four Star filled the vacuum at Republic. Like Revue, Four Star was growing rapidly and needing people to produce a spate of new series. The culture of the business was very different in those years and I worked my way up at Four Star in a collegial environ-

ment on some classy television shows:

Wanted, Dead or Alive, The Zane Grey Theater, The Rifleman, The Detectives, Ensign O'Toole, The Dick Powell Show, Honey West, Johnny Ringo, Richard Diamond, The Rogues, Burkes Law, The Big Valley.

Remembrance floods my mind.

But some of the shows I did at Four Star are not in the concrete. I can't find *Trackdown, Tales of the Plainsman*, or Sam Peckinpah's *The Westerner*. I did however, find some interesting titles: *The Sheik Steps Out, Zombies of the Stratosphere*, and *Who's Who in the Zoo*. Strange they would remember *Who's Who in The Zoo*, and forget *The Westerner*.

Those were great years, and I loved going to work and being in the company of people I both respected and liked. I'm cer-

tain some of my fellow Caucus members share similar memories of those good times. I also know a significant portion of today's industry workforce was not yet born. And so it goes.

After a decade away on location and at other studios, I went back to work for CBS in a corner office at Studio Center. We made hundreds of hours of television in those years but, apart from *Bagdad Cafe* and *Evening Shade*, all of the series I did at Studio Center in the '80s and '90s are missing from the sidewalk. Where are *City, Blue Skies, Foley Square, Wolf*, and the new *Twilight Zone*?

Maybe a second phase is planned to include the more recent Studio Center series. After all, I only put recent work on my resume. But who do I think I'm fooling? I can't hide my past. A good deal of it is set in concrete.

Norman S. Powell has had a versatile and distinguished television and film career. Beginning as an assistant director after graduating from Cornell University, he quickly moved from unit production manager to production executive, producer, director, network executive and executive producer. Powell produced many impressive movies for television, including Convict Cowboy, Gunsmoke: One Man's Justice, Gunsmoke: The Long Ride, and More Than Friends. In addition, Powell produced the critically acclaimed 12-hour miniseries Washington: Behind Closed Doors starring Jason Robards, Cliff Robertson and Robert Vaughn.

TESTIMONY OF CAUCUS MEMBER SALLY HAMPTON

FCC Hearing, Los Angeles – October 3, 2006

On October 3, 2006, the first of six FCC public hearings scheduled across the country took place at the University of Southern California Davidson Conference Center in Los Angeles. Focused exclusively on the effects of media concentration on the programming Americans see and hear, all five FCC Commissioners listened to a panel of independent media producers and creative artists, including Caucus member Sally Hampton.

“My name is Sally Hampton and I represent a very large and growing group of lesser-known creators – those who have come AFTER the abolition of Fin Syn Rules and deregulation of ownership rules. Unlike our admired predecessors whose footsteps we tried to follow, we can’t build libraries of our work, and our names don’t resonate with network buyers as a selling point to bargain for top-of-the-line contracts to offset the pain of losing our creations. We are instead compensated with fees amounting to nothing more than slave wages. Many of us have become so disheartened that we have just quit trying. After all, what’s the point of spending time and energy on a creation you know will be FOREVER taken from you and will render meager returns? And think of all the untapped talent, those who will never even try to realize their dreams, and that is tragic.

I had the bittersweet experience of seeing piles of videos of my movie for sale at Costco. For over 10 years I had put my heart and soul into its creation and it paid off big, but not for me. ABC/Disney got the

accolades and made millions. I got \$60,000 for my producing and \$20,000 for the story I wrote and script I developed. I wasn’t rewarded with any participation in its profits, NOR did its success translate into more work with better pay. Because these conglomerates don’t have an incentive to buy content from true independents no matter how talented or hard working they are. Their incentive is to hire us, if at all, to work on “in-house” projects they own and control.

I still remember arriving in Los Angeles in my old, battered Ford with a rooftop U-Haul carrying everything I owned. And although the granddaughter of a mixed blood Native American sharecropper on my father’s side and poor European immigrants on my mother’s, I came filled with great hope, convinced that with hard work, perseverance and talent, I might become part of a community of thriving artists. After all, this is the land of opportunity. Instead, I find myself in circumstances much like my grandfather’s. I can work the land, but I’ll never be able to own the crops I grow.”



Born in St. Louis, Mo., writer/producer, Sally Hampton is the principal of her own company, KMA Productions. Her credits include The Wonderful World of Disney/ABC Movie, A Sainly Switch, directed by Peter Bogdanovich and starring Vivica A. Fox and David Alan Grier, and a TV presentation pilot Living Straight. Both were inspired by her real-life experiences and comedic point of view. Sally is currently a member of the Caucus for Television Producers, Writers and Directors and serving her third term as a member of both the Steering Committee and Government Affairs Committee.

“The support granted by the Caucus Foundation is deeply encouraging to me as a filmmaker. It’s really gratifying to know that a group of people who don’t know me or my work connected enough with my film when they watched it and felt compelled to extend resources to help me complete the film. I am incredibly grateful.”

Michelle Hung (UCLA)

SOME THOUGHTS ABOUT DEALING WITH RAPID CHANGE

by Bob Fisher

“How to Deal With Rapid Change” is the mantra of the day as well as the theme of this issue. Self-appointed experts are predicting the demise of the cinema. They point to the proliferation of home theaters with plasma screens and high-definition DVD players. The experts say that people prefer watching movies in the sanctity of their homes.

The studios added fuel to that fire by accelerating distribution of DVDs close to cinema release dates. However, some of the same soothsayers are now predicting a dire future for narrative television programming because the teenage audience favored by advertisers prefers “new media,” including the Internet, iPods and cell phones.

NBC stoked that flame when the network announced it was retreating from programming dramas and situation comedies in the 8 p.m. time slot. They cited the need to trim costs because advertisers are turning to new media.

Change is the nature of the industry, but it isn't always for the better, and the self-anointed futurists, a.k.a. fortune tellers, aren't always correct. In July 1930, RCA successfully transmitted electronic images and live sound of a vaudeville show in New York City to a movie theater in Schenectady, New York. The Theater Guild Magazine proclaimed that movies were history and “radio vision” would be in all cinemas by

the end of the year. A few years later, RCA's Robert Sarnoff wrote an opinion article published by the New York Times informing readers that radio vision would soon bring operas, Broadway plays and great art into every American home.

You can credit those and similar predictions to an insatiable appetite for the lure of new technologies. It runs in our veins. When Ampex introduced the first videotape system in 1956, a front page headline in *Daily Variety* screamed “Film Is Dead!”

In 1971, when Norman Lear produced *All in the Family* with multiple video cameras, he leveraged advances in non-linear video editing in the control booth, which trimmed below-the-line costs. The show had a kind of real-time, stage-y look, but it was a hit and became a model for other situation comedies. There was a technical director in the control booth who dictated the ratio of fill to key light because network engineers believed audiences wanted brightly lit TV shows. That formula became the model for success.

In 1982, a coalition of powerful consumer electronics companies proposed a worldwide analog standard for high-definition (HD) television with no letterboxing of widescreen movies allowed. They came within a hair's breadth of convincing the FCC to embrace their proposed analog stan-

dard. Opposition came from the American Society of Cinematographers (ASC), which allied with the MIT Media Laboratory in advocating digital transmission with flexible aspect ratios that preserved the intentions of the filmmakers.

They miraculously convinced a congressional oversight committee, which ordered the FCC to pull the plug on the proposal for an analog HDTV standard.

In 1987, the government announced plans to auction off unused bandwidth that had been reserved for television to the highest bidders. They anticipated a bidding war by telephone companies. The National Association of Broadcasters (NAB) called an emergency meeting, which resulted in the resurfacing of the old analog HDTV proposal, spiced with the claim that it would revive the American consumer electronics industry.

The Caucus joined in a broad coalition representing the creative community. They advocated digital transmission, which multiplied the number of channels with enhanced picture quality and the option of letterboxing. The coalition prevailed, resulting in the current gradual transition to a digital transmission standard, resulting in a proliferation of new cable channels offering audiences a much larger menu of programs

Who can forget former Vice President Al Gore enthusiastically proclaiming that “the digital highway” was going to bring art galleries into every classroom and to all American households? I also remember George Stevens Jr. speaking at a 1995 symposium, titled *Television: Its Impact on Society*, sponsored by the Caucus. He opened by quoting Edward R. Murrow at the 1958

NAB Conference.

Murrow cautioned: “Unless we get up off our fat surpluses and recognize that television in the main is being used to distract, delude, amuse and insulate us, then television and those who finance it, those who look at it, and those who work at it, may see a totally different picture too late.”

Stevens went on to say that his father, the venerable George Stevens, taught him to respect the audience. He observed that “conventional wisdom is that the audience has the intelligence of a 12 year old. I’m convinced that is wrong. The problem is that the current environment values profits over quality and diversity.” Does that sound familiar?

The so-called “digital revolution” is headline news today. Supposedly, there is a “transition” from film to digital production because it is allegedly “cheaper and faster.” My first city editor taught me to be a skeptic, so I rarely accept anything that I read on face value. I did a little fact check, and this is what I found: There are four dramatic episodic series produced in HD format airing in primetime on the five major broadcast channels. In contrast, there are five dramatic series produced in Super 16 film format. Everything else is produced in 35 mm format. And, that doesn’t count all of the network telefilms and episodic series that are produced on film for cable channels.

James Glennon, ASC, an extraordinarily talented, second-generation cinematographer, put technology into perspective when he used his father’s 1920s hand-cranked Bell and Howell camera to shoot scenes for the HBO series *Deadwood*. Glennon said that he liked the tactile sense of controlling

frame rate in tempo with the story by hand. The cinematographer had a wicked sense of humor. When innocent bystanders asked him about the camera, he told them that it was the latest technology.

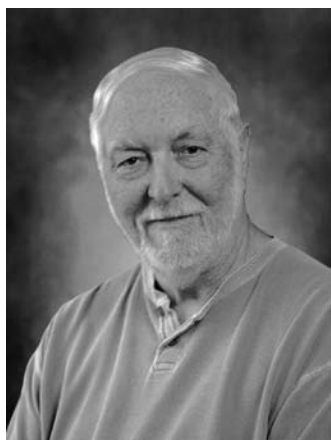
Glennon began his career as a mail boy at Warner Bros. after graduating from UCLA. He delivered mail to Jack Warner because everyone else was afraid of the mogul. When Glennon asked Warner for advice about the future, the mogul responded, "Don't ask me or our scientists for advice about the future. Ask the artists who make our films. We're an art gallery, and if we ever forget that, we are out of business."

I followed up by asking Glennon if he was optimistic or pessimistic about the future. He replied, "That's like asking whether I'm pessimistic about the future of art. Our ancestors told stories thousands of years ago by painting images on the sides of pyramid tunnels. When photography was invented there was a big fear that it was

going to replace sketching and painting with watercolors, which was very popular during the 19th century. It didn't happen because we need art like we need water and food."

Postscript: In 1927, author-philosopher J.B. Priestley was asked to predict the future. He replied, "Solemn prophecy is obviously a futile proceeding, except so far as it makes our descendants laugh." I'll take that advice and offer no prophecies about the future, except to observe that it hopefully belongs to the filmmakers who take the advice that Warner gave to Glennon some 40 years ago to heart.

Author's note: I wrote this commentary with a heavy heart because Glennon died on October 19 at the tragically young age of 64. He left an indelible impression on all the people he touched during his journey, and on the countless generations of future fans who will enjoy and be enlightened by the art he created.



Bob Fisher has authored thousands of magazine articles about cinematographers and filmmakers during the past 30-plus years. Fisher has also moderated many panel discussions at film festivals, conferences and Internet chats for both the American Society of Cinematographers (ASC) and the International Cinematographers Guild (ICG). He is an honorary member of the ASC.

CAUCUS MISSION STATEMENT

- Our mission is to protect and actively promote the artistic rights of producers, writers and directors. We actively oppose any interference with these creative rights whether they originate from government, studios, networks, or special interest pressure groups.

- We are opposed to the growing concentration of ownership of development and television production in fewer and fewer hands. When a small number of mega-corporations control the vast majority of the process, diversity of voice is threatened, and our creative rights and our ability to compete as entrepreneurs are gravely endangered.

- We are aware of the powerful impact of television and we will strive to elevate program quality and encourage responsible programming for the public.

- Our continuing task is to increase communication among Caucus members about creative and business issues in the television industry and communicate our concerns to those outside our organization.

- From time to time we will lend our support to other groups and causes that support our mission.

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