

Off the table: actors, use fees, and the withering away of residual payments

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1. Introduction

This paper is concerned with collective bargaining as practiced in the Irish film industry. I begin with a brief discussion of the relative invisibility in the communications literature of film and television labour issues, and some of the implications of that omission. In the second section, I describe the process by which film labour agreements are negotiated in Ireland, noting some surface similarities with the situation in the USA and the UK, in which territories the bulk of incoming film production work originates. In the third section, by way of a case study, I examine a lengthy negotiation process between Screen Producers Ireland and Irish Equity, as both parties tried to update their standard agreement covering the employment of actors on Irish film and television drama productions. Finally, in the fourth section, I attempt to draw some conclusions from the issues emerging during these negotiations. Although they failed to result in a final, ratified agreement, the negotiations nevertheless highlight aspects of the changing landscape of film and TV drama production in Ireland, the increasing centrality of intellectual property rights, and the implications for film workers. The case also affords some insights into the role of trade unions in the so-called independent sector of the film and TV industry in Ireland.¹

My study is based primarily on the analysis of documents archived by SIPTU, historically the most important union for the organization and representation of Irish film and television workers. These archives offer an extensive, relatively

untapped source of rich data from which to construct a history of film and TV production in Ireland from a labour perspective. This reflects my interest in the labour process at play in the production of film and television texts, a viewpoint largely eschewed in favour of the analysis of the institutions that produce such content, the inherent meaning of the texts themselves, and the processes by which such meanings are created, subverted and otherwise negotiated by audiences. The research thus addresses what Mosco (2011: 358) calls the “labour blind spot” of western communications studies. Despite the large body of theoretical work begun by Braverman, looking at the labour process and its commodification at the point of production, communications studies has tended to view individuals as consumers rather than producers. Media *consumption* is privileged, with little attention paid to labour aspects of the production process.²

1a. The creative blind spot?

Added to this error of academic omission has been the distortion of media labour realities by administrative researchers and government policy makers in recent decades. Creative labour and creative industries have been central to 21st century “knowledge economy” policy that seeks to reimagine cultural activity – unjustifiably, according to Garnham (2005) – as a key element of post-industrial economic growth. Relatedly, creative activity has been promoted as a solution to US urban decay, through the establishment of creative industrial clusters as a means of regenerating the “hollowed out” American city (Florida 2002; see also Markusen et al. 2008). The attending discourse articulates “a highly neoliberal approach to creativity and creative work, aligned to economic productivity and regional development” (Lee 2011: 3). Pro-creative policy, including measures to ensure a steady supply of creative workers, is seen as a key source of competitive advantage for post-industrial economies, and is central to quasi-progressive development concepts like “smart economy”, “knowledge work” and so on. In this scenario, creative activity is big business; and creative work is intrinsically progressive and rewarding. Creative labour therefore claims to be a model of work that is valued in modern societies: “good work” that is “self-expressive, autonomous and individualised” in contrast to the dull, alienating employment

(“bad work”) of the previous era. Creative work is seen as self-actualising pleasure, a leisure-like activity promising personal freedom, as opposed to a sense of imprisonment implied by material necessity and survival (Banks and Hesmondhalgh 2009: 417).

This utopic portrait of creative labour has activated a considerable backlash in recent years, as a number of critical investigations have exposed the precarity, insecurity and exploitation at the heart of much creative work (e.g. Ursell 2000; McRobbie 1998, 2002, 2002a; Ross 2008; Hesmondhalgh and Baker 2011; Grugulis and Stoyanova 2012; Perlin 2012). These studies support David Harvey’s contention that freelancing, the *modus operandi* of many creative occupations, is a form of labour control under, rather than liberation from, the domination of capital. Indeed post-Fordist *flexible specialisation*, at the heart of the freelance model of work organization, becomes an inherently oppressive facet of *flexible accumulation* (Harvey 2005: 76). Flexible specialisation is thus central to capitalism’s neoliberal turn, which aims, *inter alia*, to dismantle the “embedded liberalism” of post-war social democracy (ibid: 11). The result is an upwards redistribution of wealth, a “restoration or formation of class power”, achieved “as always, at the expense of labour” (ibid.: 76).

My interest in production labour, then, places this study clearly at the “industry” apex of the media studies triangle, but at the *meso* level of industrial practice, with an interest in labour relations and the labour process. This framework is drawn from critical media industry studies (CMIS), a distinctive approach located at the intersection of cultural studies and political economy. Although it is aware of “macro” political economy approaches that seek to understand the implications of media ownership, policy and regulation, CMIS takes a “mid-level” focus on individual “organizations, agents and practices”, in the context of global media conglomeration (Havens, Lotz and Tinic 2009: 234). In this approach, the film and television production industry in Ireland is understood in terms of its place within the international division of cultural labour, dominated by the Hollywood-centred entertainment industrial complex, radiating outward into a

globalised production model in order to reduce production costs and increase profits (Miller et al. 2005).

We therefore address Guback's (1991: 134) contention that "the objective character of film is its status as a commodity", a "fundamental reality" that film studies must take into consideration. As commercial film and television content, produced for exchange in the international marketplace, is highly labour intensive, the film commodity serves as an ideal reminder of the vital role of labour in capital accumulation (ibid.). However, as Mosco has noted, there is a tendency to obscure this reality behind a romanticised view of media work, emphasising "the individual creative dimensions of media production that distinguish this sector from the many occupational sectors that share the characteristics of industrial production" (Mosco 2011: 360). Thus the complex production process underlying media content – a process that mirrors industrial production generally - is concealed through the glamorisation of star performers, *auteur* directors, celebrity writers, and so on. This "praising [of] famous men" (Chanan 1976: v) has become a defining feature of the *top down* perspective typically adopted by existing cinema histories, concerned as they are with individual contributors, pioneering techniques, changing definitions of art, etc. Dismissing such approaches as irrelevant for the material analysis of the industry, Nielsen instead calls for a *bottom up* account, claiming for such perspective a greater relevance to the understanding of film as a collaborative industrial process (Nielsen 1983: 47). That is one goal of the research presented here.

1b. A "proto neoliberal" Irish film policy?

Filmmaking in Ireland has been outward-looking since the earliest days of the medium. It is generally accepted that Ireland hosted the first overseas Hollywood productions: the Kalem Company body of films that commenced with *The Lad from Old Ireland* in 1910 (Flynn and Brereton 2007: xxiv). It would be the late 1950s, however, before Irish economic and employment policy became properly oriented towards inward investment as the state sought to redress the failed economic development policies of earlier decades. Under the liberalising

influence of Taoiseach Sean Lemass and his economic advisor T. K. Whitaker, foreign direct investment in the Irish economy was incentivised through capital grants, employment subsidies, and tax concessions (O'Connor 2010).

Filmmaking in Ireland would become a small but perhaps disproportionately visible element of this strategy, as the state bankrolled the Ardmore Studios complex in 1958, hoping to kick-start an indigenous film production industry through the capture of “runaway” international production (Monahan 2009: 201-2; Rockett 1988: 98-100).

Hollywood filmmaking, then, presents as an early example of a globalised industry, while the film industry in Ireland presents as a test case for the foreign direct investment model of economic development, coinciding with an arguably proto-neoliberal industrial development policy from the 1950s (Evans 2011: 4) mobilised to solve the perennial Irish problem of unemployment (O'Connor 2010). What kind of film employment, though, might be generated under such conditions? Would the work be well paid and personally fulfilling or poorly paid and alienating – would it, to employ Hesmondhalgh and Baker's (2011) deceptively simple distinction, be “good work” or “bad work”? Would the Irish film industry feature autonomous, self-actualised workers, well organised by strong unions as in the UK and the USA, or would there be evidence for what David Harvey (among others) has identified as a major precondition for global capital flow: the “use [of] state power to crush organised labour” (Harvey 2010: 14)? I have argued elsewhere that this is precisely what happened when the industry experienced its first and only significant industrial disputes in 1963 and 1964 – ultimately precipitating the temporary dissolution of Ardmore Studios when it was placed into receivership in order to negate a labour agreement with the “troublesome” Electrical Trades Union Ireland (Murphy 2013). This paper, however, is concerned with some of the more subtle implications for labour relations under a regime of neoliberal accumulation, characterised by the commercialisation of previously uncharted areas, including the intellectual property rights underlying a film worker's contribution to the film commodity.

2. Collective Bargaining in the Irish Film Industry

Pay and working conditions in Irish film and TV drama production are governed, in principle at least, by a number of separate labour agreements between employers and workers. Employer interests are represented by Screen Producers Ireland (SPI), whose membership extends to 130 or so production firms. SPI represents these firms in dealings with the various broadcasting companies, the Irish Film Board, various government departments, state and international organizations, and also, of course, the relevant trade unions and guilds.

Film workers are represented by a number of trade unions. The “below the line” unions are SIPTU³ (representing production technicians and some craft grades); BATU (construction-related grades); TEEU (electricians); and OPATSI (plasterers).⁴ “Above the line” workers are represented in the main by Irish Equity (IE)⁵, the Writers Guild of Ireland, and the Screen Directors Guild of Ireland.

Over the years, SPI and its predecessors have negotiated a number of separate, collectively bargained labour agreements with SIPTU and the various craft unions. SPI has also negotiated agreements with IE. The Writer and Director Guilds, however, have not signed any agreements, although initial approaches have been made in recent years. Indeed there is a fundamental conflict between SPI and these above-the-line organizations, all of which are interested in the retention, to one degree or another, of intellectual property rights. Such rights, a cornerstone of neoliberal accumulation strategies, have proven to be a major point of contention between SPI and Equity in recent years, as we shall see below.

On the surface, the Irish collective bargaining process looks similar to the UK and USA. In Britain, the producers body PACT negotiates agreements below the line with BECTU and above the line with Equity, the Writers Guild of Great Britain

(WGGB) and the Directors Guilds of Great Britain (DGGB). In the US, the equivalent organizations are the Alliance of Motion Picture and Television Producers (AMPTP) which negotiates 80 industry-wide agreements with the International Alliance of Theatrical and Stage Employees (IATSE), the International Brotherhood of Electrical Workers (IBEW), Teamsters local 399, the American Federation of Musicians (AFM), the performers guild SAG-AFTRA, the Writers Guild of America, and the Directors Guild of America (AMPTP 2014) (Appendix I).

Despite this surface similarity, there are some important differences in how collective bargaining is practiced in these various jurisdictions. As we shall see below, the Irish unions and guilds have not been able to update their labour agreements – if they have one at all – with SPI. This has implications for both sides, but would appear to favour Producers, for reasons we shall see below.

2a. The question of residuals

The various Irish, British and US agreements differ from each other not so much in terms of pay and working conditions per se, but rather in the treatment of secondary or “residual” payments – defined as

additional payments to workers for the exhibition of an entertainment product in media other than the one for which it was originally created, or for its reuse within the same medium subsequent to the initial exhibition (Paul & Kleingartner 1994: 668-9)

Essentially, residuals constitute an additional annuity as a performance is reused and/or repurposed over its commercial lifetime. These payments are an important constituent of the three-tier compensation system enjoyed by US screen actors (along with directors and writers). That system comprises:

1. A *minimum pay* regime, sometimes known as “union scale” (typically applied only to the least experienced individual who has little or no bargaining influence or “clout”).

1. The *personal services contract*, whereby more well known or “marketable” workers may be able to negotiate a higher daily rate, a percentage of box office receipts or net profits (points), a cut of merchandise sales, as well as non-monetary perks such as “above the line” accreditation, better location facilities, personal assistants, and so on.
2. *Residual payments*, which tend to accrue in dribs and drabs over the lifetime of the performance in all media. These are usually payable to all actors, and have proved especially valuable to those at the lower end of the pay scale. In other words, the lower the actor’s total annual income, the greater the proportion of that income that stems from residuals.⁶

The residual system has further benefits: the steady stream of small monthly payments reduces the effect of underemployment, a perennial problem in the acting profession. But perhaps more importantly, they allow workers to “relate the control of creative resources to their ownership” – by retaining ownership of their own performances, actors are compensated for the potentially income-damaging consequences of overexposure as producers understandably try to maximise their return of investment through “exploitation” (in the telling industry argot) through as many channels as possible, as often as possible (Paul and Kleingartner 1994: 672)

While these additional compensation systems tend to be of most benefit to actors and directors whose box-office marketability gives them considerable negotiating power, benefits also accrue “below the line”, although on a more collective, egalitarian basis. Instead of individual residual payments, secondary contributions are made directly by employers to the Motion Picture Industry Pension Plan and the Motion Picture Industry Health and Welfare fund, benefitting the IATSE union membership as a whole (Kleingartner 2001: 118-9).

2b. SPI, Equity and residuals

In Ireland, secondary payments have traditionally been treated in a different way. Rather than a residual system, the practice, at least since the 1990s, has

been the payment of “use fees”, in which actors are paid, in advance, for the anticipated reuse of the performance in different media and different markets (see Appendix 2). Typically, the payment of a use fee category assigns the related performance rights to the producer, removing any future claim on the part of the performer. There were, and continue to be, different fee schedules for theatrical and TV drama production. Under the 1994 Equity agreement, the payment of a film actor’s standard fee of £100 per day, or £400 per week, did not include any usage rights. The producer had to top up this performance fee by at least another 50 percent, to purchase one of two release “territories” (USA/Canada or Rest of World). Additional uses could be “bought out” with further amounts, payable in advance. These payments ranged from 20 percent (for Ireland and UK TV rights) to 273 percent (for worldwide rights to all media – including future media – “in perpetuity”).⁷ A different scale applied for TV drama production. So in contrast to the US system of trailing “pay per play” residuals, the Irish system was based on upfront payments. Effectively, this use-fee structure allowed producers to *avoid* making residual payments, and the payment of the maximum use fee obviated any potential actor claim for further compensation.

Apart from the timing of payments, on the surface both systems appear relatively similar. If anything, the use fee system would appear to benefit actors, who don’t have to wait for small residual payments down the line. For producers, however, the option of the full buyout offers the administrative simplicity of the single upfront payment, with no need to worry about a complex system of small future residual payments. Furthermore, as the full buyout effectively removes an actor’s claim to further compensation, producers don’t have to think about profit sharing if and when new revenues are generated through new media.⁸

3. The SPI-Equity Negotiations

Towards the end of 2000, IE commenced negotiations with Film Makers Ireland (the predecessor of today’s SPI), to update their 1994 labour agreement.⁹ In its opening move, the union compiled a set of draft proposals based almost entirely

on the 1998 UK cinema films agreement between Equity's UK counterpart and the producers body, PACT.¹⁰ In comparison to the existing nine-page agreement, the new draft document ran to 74 pages, reflecting, perhaps, the complexity of UK actor-producer labour relations in comparison to the Irish situation.

The producers' initial response outlined a number of areas of concern.

In relation to pay and working conditions, they were concerned about proposed increases in minimum pay rates and changes to working hours that would also impact on overtime rates.¹¹ They seemed more concerned, however, about proposals impacting on intellectual property rights – i.e. the ownership of the filmed performance, and the extent to which such ownership rested with the production company or with the original actor.¹² A union proposal to increase the maximum use fee¹³ through the addition of a new “secondary TV” rights category was “not acceptable to producers”, who insisted “the whole issue of minimum fees and residuals needs to be addressed again”.¹⁴ The employer position was that production companies *must* retain its option, under the old agreement, to buy out these rights. If a distribution category was not specifically mentioned in the agreement, it must be deemed “included and bought out”.¹⁵ IE's attempt to introduce additional payments to cover exploitation channels not specifically covered elsewhere in the agreement was therefore unacceptable:

... the basic salary and use payments buy out all media now known or to be invented worldwide in perpetuity ... and rights of communication to the public by cable satellite and otherwise. Any other arrangement is unacceptable.¹⁶

It is clear that Irish producers wanted to prevent the creation of any new use fee categories, including those that might stem from distribution channels not yet invented or popularised, such as VOD or any other distribution method emerging from new technology.

Despite the uncertainties of these new channels, some Irish actors seemed confident that residual payments, which were available to actors in the UK, might be a more favourable form of compensation than use fees. The salience of this

issue to working actors is strongly reflected in a letter one actor wrote to Equity president Gerry Browne, as the FMI-Equity negotiations continued:

Residuals/secondary payments are only fair at this point. Exploitation of image needs to be reimbursed. The producers or the crew do not have to deal with this issue – only the actors. Now that British Equity has resolved this issue in order to have parity with our sister Union we must have residuals. No more buy outs. I have always believed that Irish Actors have been sold down the river on this one.¹⁷

3a. TV Agreement

As negotiations continued, producers pushed for a separate agreement to cover television production. At these deliberations, commenced in September 2003, a number of issues emerged. At the outset, SPI claimed to be under pressure from RTÉ to reduce production costs. The broadcaster was suggesting its in-house production *Fair City* as an example of how to “demonstrate value for money”.¹⁸ SPI pointed out that all contracts (including actor contracts) were subject to RTÉ approval, implying that the matter was partly out of its hands. SPI therefore objected to any attempt to base pay rates and use fees on the equivalent UK rates. (This was consistent with their position on film acting rates, where SPI felt Ireland needed to be *more* “competitive” than the UK to secure inward investment.)¹⁹

Some six weeks later, SPI presented its own draft of the mooted TV agreement, proposing a basic pay increase,²⁰ coupled with a sizeable reduction in use fees. SPI wanted to reduce the cost of full buyout from 257.5 to 167.5 percent of base (see Appendix IIb). SPI claimed the new figure was more realistic, as the old schedule contained categories that were never used. Aware, of course, that any reduction in the nominal “full buyout” rate would reduce the cost to producers of buying out media not specifically mentioned in the agreement, Equity deemed this unacceptable, along with SPI proposals to increase the number of Ireland/UK transmissions in the standard buyout from two to three. The union

countered with a proposal to limit the lifetime of the buyout to seven years. The haggling over use fees continued with SPI noting that pay rates on “flagship” television drama productions often featured a discounted use fee – implying that producer-friendly deviations from currently agreed rates were the norm.²¹

In addition to the discussion over use fees and basic pay rates, there was also discussion about maximum overtime rates and even the buyout of overtime payments for more highly paid actors. SPI also proposed to roll back time and a half payments for night and holiday work for actors being paid more than €250 per day.²² While discussion of these issues and rates continued, the main focus of the negotiations continued to be on use fees.

After the end of 2003, negotiations appear to have slowed, the parties not meeting again for over a year. When they eventually did, SPI characterised the union position on residuals (i.e. any attempt to introduce new use fee categories, or to resist a reduction in the full buyout rate) as “stone age” and out of step with an era of “modern digital broadcasting [that] will change the way of broadcasting and selling”.²³ After a brief re-engagement, negotiations stalled again. To this day, 14 years after deliberations commenced, no new agreement has yet been implemented.²⁴ On the contrary, the record suggests that in 2005, SPI went cold on finalising the Equity agreements, as it turned its attention to devising a general screen production agreement covering all film unions,²⁵ a process that eventually resulted in a 2010 “shooting crew” agreement with SIPTU, but not with any of the other unions. Indeed the implementation of that 2010 agreement has been problematic, owing to legal questions over a “closed shop” clause therein (Prendergast 2014).

SPI-Equity talks have continued, with the union continuing to press for substantial changes to the buyout system, including new residuals payments and/or a share of producer profits. For its part, SPI has been trying to unpick the whole use-fee/residual structure from agreements and contracts. The result, unsurprisingly perhaps, is that negotiations have broken down. For some time,

the Labour Relations Commission has been attempting to facilitate a return to the bargaining table.²⁶ The continuing impasse has placed a question mark under Irish Actors' Equity's continued affiliation with SIPTU. In 2012, the actors voted to remain with SIPTU until late 2014, retaining the option to disaffiliate and join instead with British Equity.²⁷ While this has not yet happened, to some extent, it reflects a more general turn towards the adoption of British standards. In the absence of a new agreement, arrangements for some productions are negotiated on a case-by-case basis. Incoming British productions, however, are generally made under the PACT-Equity UK labour agreement.

4. Conclusions and discussion

It is clear, then, that secondary payments, whether classified as use fees or residuals, represent a significant point of contention between Irish producers and actors in recent decades. One of the reasons for the current impasse appears to be Equity's clear preference for the ongoing residual over the buyout. This begs the question as to why, if actors had conceded to a buyout system in the early 1990s, are they pushing for a pay-per-play system now? What is so objectionable about a system that compensates actors in advance for additional sales that, arguably, might never be achieved?

Internationalisation of Irish production

It seems likely that part of the answer lies in the continued growth of the Irish production sector. Between 1993 and 2001, when the SPI-Equity negotiations commenced, spending in the Irish economy on film, major TV drama and animation more than tripled from 39m to 142m, fuelled mainly by a liberalisation of the Section 481 tax incentive making it more attractive to both investors and overseas producers.²⁸ Despite some setbacks in the past decade, the continued modification of state incentives appears to have restored levels of international investment in recent years. Under such growth conditions, arguably, actors might begin to trade off the security of the upfront payment for

the less certain, but potentially more lucrative, “pay per play” system, with its long tail of small residual payments – especially in relation to international productions that might be expected to have a longer and more profitable shelf life than domestic film and television productions.

The 2000 SAG-AFTRA strike

Another part of the answer might lie in the lesson from America. The FMI-Equity negotiations began very shortly after the end of the longest strike in Hollywood history, when members of the Screen Actors Guild (SAG) and the American Federation of Television and Radio Artists (AFTRA) withdrew their services for 175 days following the breakdown of collective bargaining over residual payments for TV commercials, especially in regard to commercials on cable television and new Internet-based platforms (Ackerman 2001). American producers clearly favoured a buyout system, trying to implement one where it did not exist (network TV commercials) and protect one where it did (cable TV ads). This, of course, suggests that the buyout system is not particularly labour-friendly compared to residual payments. As the Irish negotiations commenced, both SPI and Equity would have been highly aware of this US precedent, which placed fresh emphasis on the relative merits of use fees, buyouts and residuals, as well as the potential value of new distribution channels enabled by technological change.

The implications for labour

So far, however, the Irish film unions have failed to institutionalise a residual payments system, unlike those US (and UK) unions with enough clout to be included within such a system’s lucrative embrace. IE, which used to enjoy a symbiotic relationship with producers through its administration of casting and payment processes in relation to screen extras (*crowd artists*), thus missed an important opportunity to achieve a similarly “embedded” position in relation to principal actors. In this matter, IE differs from its US counterpart: the

administration of the Hollywood residuals system, which involves the identification, payment, and tracking of over 1.5 million cheques per year (SAG-AFTRA 2014) is so complex that the major corporations rely heavily on the unions for its successful operation (Kleingartner 2001: 118). Similarly in the UK, the above-the-line body Directors UK is heavily involved in monitoring, collecting and distributing royalties due to British directors under agreements with UK producers and broadcasters.²⁹ Unlike their Irish counterparts, these unions and guilds have therefore managed to retain a vital role in managing the employment relationship, despite the industry's vertical disintegration and transition towards flexible labour, with concomitant difficulties for organised labour (Christopherson and Storper 1989).

Most of the other Irish film unions have fared no better. For example, a commitment in the 2010 SIPTU-SPI general shooting crew agreement to work towards the establishment of a pension plan for film workers has so far come to nothing.³⁰ These disappointments reflect a general decline of trade union power in the Irish industry. The continued domination by SPI of the other above the line organizations, representing Irish directors, writers, and musicians, is in marked contrast to their US and UK counterparts.³¹

Equity's recent overtures towards its British counterpart, however, reflects a heightened awareness of the need for international labour cooperation in order to counteract the globalisation of production. The union is also an active member of the International Federation of Actors, whose cooperative activities include the monitoring of production arrangements across international borders and the operation of an "early warning system" that alerts international unions to producer attempts to undermine or stall local labour agreements.³²

Implications for Producers

For its part, Screen Producers Ireland has been highly successful in protecting employer interests, with an eye to the bigger picture beyond the "bread and

butter” issues of pay, conditions and buyout/residual rates. Firstly, as we have seen, while Equity initially resisted the buyout of “uses and platforms not yet invented”, for producers this was a “deal-breaker”.³³ That no new deal was ever made is in itself a victory for producers, who managed to successfully defend the status quo despite being in nominal negotiation for decades. SPI’s main tactic, as evident from the prolonged Equity negotiations, appears to have been the *avoidance* of new binding agreements. Its refusal in 2001 to budge on new use fee categories was highly prescient, given the emergence within a few short years of Internet television and VOD services like Netflix, Hulu, and iTunes, as well as the rollout of Internet streaming, catch-up players, and other services by traditional broadcasters. Such platforms have been important for the international distribution of Irish content, whether initially produced for television or theatrical release. For example, two of the most prominent Irish TV drama productions of recent years, *Love/Hate* and *Amber*, made their US debuts on Hulu and Netflix. The latter platform also hosts a reasonable number of recent Irish films.³⁴

Secondly, SPI’s early insistence on separate agreements for theatrical and television drama production reflected an astute judgement of the future development of screen production in Ireland.³⁵ The field is currently dominated by international television productions from *Ripper Street* to *Penny Dreadful* to *Vikings*. The ongoing capture of these international productions, however, cannot be taken for granted, as it is arguably dependent on continual “competitive” tweaking of tax incentives. Since 2013, changes to UK tax incentives, offering a rebate of up to 25% of expenditure on “high end” television drama, has arguably reduced the relative attraction of Ireland as a shooting location for such projects. The response has been a further modification of Section 481 to increase the producer benefit to 32 percent. The new legislation has yet to be approved by the EU, but even if such ratification is imminent, the policy’s long- or even medium-term success cannot be guaranteed, given the availability of competing incentives and the highly mobile nature of film and TV investment capital.

To date, however, Screen Producers Ireland has successfully avoided any major concessions to screen labour, despite the industry's robust growth over the past two decades. As the IE case demonstrates, the producers have managed to resist the institutionalisation of new compensation categories in the face of radical changes to television and film distribution, and a proliferation of online entertainment sources that remain beyond the scope of the old labour agreements. Indeed the one labour agreement that SPI has signed, the 2010 SIPTU shooting crew agreement, has been effectively sidelined in the Labour Court over its "closed shop" clause. Screen Producers Ireland, in representing producer employers during a time of intense technological and regulatory change, has clearly demonstrated a notable sensitivity to the implications of that change, at the same time exercising considerable power over screen acting and production labour.

Appendix I

Film Employer and Labour organizations in Ireland, UK and USA

	Producer Bodies	Unions and Guilds
IRL	Screen Producers Ireland (SPI)	<ul style="list-style-type: none"> • Services Industrial Professional and Technical Union (SIPTU) • Building and Allied Trades Union (BATU) • Operative Plasterers and Allied Trades Society of Ireland (OPATSI) • Irish Actors' Equity • Screen Directors Guild of Ireland (SDGI) • Writers Guild of Ireland (WGI)
UK	Producers Alliance for Cinema and Television (PACT)	<ul style="list-style-type: none"> • Broadcasting, Entertainment, Cinematograph and Theatre Union (BECTU) • Equity • Directors Guild of Great Britain (DGGB) • Writers Guild of Great Britain (WGGB).
USA	Alliance of Motion Picture and Television Producers (AMPTP)	<ul style="list-style-type: none"> • International Alliance of Theatrical and Stage Employees (IATSE) • International Brotherhood of Electrical Workers (IBEW) • Teamsters Local 399 • Screen Actors Guild - American Federation of Television and Radio Artists (SAG-AFTRA) • Writers Guild of America (WGA) • Directors Guild of America (DGA)

Appendix IIa

Use Fees (Theatrical)

Theatrical films		1994	2000 (IE proposal)*	2006**
Theatrical	USA/ Canada	50%	50%	50%
	Rest of world	50%	50%	50%
Terrestrial TV	USA major network	45%	45%	45%
	USA network other	20%	20%	20%
	Rest of world (excl. UK)	15%	17%	17%
	UK/Irl (3 tx in 5 years)	20%	20%	n/a
	UK/Irl additional txs	10%	10%	
	UK secondary TV	n/a	13%	
	UK/Irl (all tx)	n/a	n/a	35%
	Pay TV	USA	30%	30%
Rest of world (inc. UK)		8%	8%	8%
Videograms	World Video/DVD:	25%	25%	25%
	Total (full buyout)	273%	288%	280%

* SPI proposes basic fee increase to £120/day (£480/week)

** 2006 Min salary: €153 per day (€612 per / week)

(source: SIPTU archives)

Appendix IIb

Use Fees (TV)

Television Drama		1994	2003 (SPI proposal)*	2006**
RoI/UK TV	1 st ROI and 1 st UK tx	Included	Included	Included
	2 nd UK/ROI tx	35%	Included	35%
	3 rd UK/ROI tx	35%	35% (UK only)	35%
	Complete RoI buyout	n/a	25%	n/a
Theatrical	Theatrical UK/ROI	10%	10%	10%
USA Free TV	Prime time : 1 st tx	75%	50% (all US commercial terrestrial TV)	75%
	Prime time: 2 nd tx	25%		25%
	Prime time (per additional)	5%		5%
	Non prime: 1 st tx	25%		25%
	Non-prime: (per additional)	5%		5%
	Syndication	15%		15%
	PBS	10%		10%
USA/UK Cable	Basic cable (UK/US)	10%	10%	10%
Pay TV	World	20%	20%	20%
Video	World	7.5%	7.5%	7.5%
Total (Full buyout)		277.5%	167.5%	277.5%

* Basic rate of €230/day (€920/week) to include:

- 2 UK and 3 Irish tx (incl. repeats within 7 days)
- All world TV including basic cable and theatric (except UK and USA) and all world non-theatric

** 2006 Min rates €200 per day (€800 per week)

(source: SIPTU archives)

NOTES

¹ Despite labelling itself “independent”, this sector enjoys substantial state aid from the Irish Film Board, the Broadcasting Authority of Ireland, the Section 481 tax incentive scheme, and the Creative Europe programme. Thanks to these and other initiatives, Ireland supports a mature indigenous production industry while also capturing a significant amount of international “runaway” production.

² Mosco acknowledges that the field of audience studies is aware of the labour of media consumers. The term “blind spot” is drawn from Smythe’s audience commodification thesis, which proposed that the most important “product” of the mass media is not ideological messages, but rather the mass audience that does the mental “work” of processing these messages (Smythe 1981).

³ SIPTU was formed in 1990 with the merger of Ireland’s two largest trade unions, the Irish Transport and General Workers Union (ITGWU) and the Federated Workers Union of Ireland (FWUI).

⁴ Collectively, these below-the-line unions, along with Irish Actors Equity, are sometimes referred to the Film Production Group of Unions (FPGU).

⁵ IE is affiliated to SIPTU, having merged with the ITGWU in 1979 (Devine 1997: 21). IE forms part of SIPTU’s Arts and Culture division.

⁶ For US TV commercial actors, 80 percent of income is from residuals. For TV drama actors, the figure is 66 percent. For US actors in general, residuals make up about 50 percent of income (Paul and Kleingartner 1994: 672).

⁷ Letter, Hickey to Barrington, 11/6/01. Box SA002. SIPTU Archive.

⁸ Interview with trade union executive, 28/4/14.

⁹ Film Makers Ireland became Screen Producers Ireland in 2003.

¹⁰ Letter, Hickey to Barrington, 11/6/01. Box SA002. SIPTU Archive.

¹¹ SIPTU was proposing a 20 percent basic pay increase to £120/day (£480/wk).

¹² EU legislation giving basis to intellectual property rights had been adopted in Ireland in 2000 with the Copyright and Related Rights Act.

¹³ The proposed maximum buyout would rise from 273 to 288 percent of base pay. See also Appendix II.

¹⁴ Letter, Hickey to Barrington, 11/6/01. Box SA002. SIPTU Archive.

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- ¹⁵ Letter, Banotti to Brown, 5/12/00. Box SA002. SIPTU Archive.
- ¹⁶ Letter, FMI to Equity, 11/6/01, p4. Box SA002. SIPTU Archive.
- ¹⁷ Letter, Ryan to Browne, 1/7/01. Box SA002. SIPTU Archive.
- ¹⁸ Meeting notes, 30/9/2003. Box SA002. SIPTU Archive.
- ¹⁹ Meeting notes, 18/2/03. Box SA002. SIPTU Archive.
- ²⁰ SPI appears to have been offering €230 per day/€920 per week, while Equity was seeking €250/€1000. (Meeting notes 25/11/03. Box SA002. SIPTU Archive).
- ²¹ Meeting notes, 12/11/03. Box SA002. SIPTU Archive.
- ²² Meeting notes, contracts sub-committee, 25/11/03. Box SA002. SIPTU Archive.
- ²³ Meeting notes, 4/12/04. Box SA002. SIPTU Archive.
- ²⁴ Interview with trade union official, 16/4/14.
- ²⁵ Letter, Byrne to Boushell, 1/11/04; Letter, Lowe to film unions, 29/4/05. Box SA002. SIPTU Archive.
- ²⁶ Interviews with trade union official, 16/4/14 and SPI representative 8/5/14.
- ²⁷ Interview with trade union official, 16/4/14. See also Dowling 2012, 2013.
- ²⁸ Extrapolated from IBEC AV Production Reports 2000-2002.
- ²⁹ Directors UK originated within, but is now separate from, the Directors Guild of Great Britain.
- ³⁰ Interview with trade union official, 23/9/14.
- ³¹ A detailed analysis of UK residuals is beyond the scope of this paper, but a brief perusal of UK writer and director guild websites reveals many agreements with broadcasters and producers (Writers Guild GB 2014, Directors UK 2014).
- ³² Interview with trade union official 16/4/04.
- ³³ Letter, Banotti to Browne and Barrington, 23/7/01. Box SA002. SIPTU Archive.
- ³⁴ including *Sensation*, *Parked*, *Life's A Breeze*, *Mea Maxima Culpa*, among others.
- ³⁵ Letter, Banotti to Browne and Barrington, 23/7/01. Box SA002. SIPTU Archive.

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