

PRESIDENT'S MESSAGE: Buyouts – Friend or Foe?

One of the questions I'm most often asked, particularly by young or inexperienced members, is "why don't composers have a union?" Virtually every other craft in the film making process has a representative organization empowered to collectively bargain for wages and working conditions on their members' behalf. The reality is that in days gone by, composers DID have a union - the Composers and Lyricists Guild of America (CLGA) - the forerunner to the SCL. For those who don't know the story of the CLGA's demise, I urge you to read our resident music historian, Jon Burlingame's account of the chronology on the SCL's website (<http://thescl.com/about>). While it can't set minimums or conditions, I believe the SCL remains a media composer's best resource to remain apprised of the prevailing state of the business, through its advocacy, education and exchange of pertinent information by its members.

With the advent of the many new delivery platforms, digital service providers and production companies there comes new business models to which we have to adapt, without the shelter of a trade organization, if we want to remain relevant. But unfortunately the practices some new players are attempting to implement are far from new. Rather, they've been around since time immemorial. I'm talking about '**buyouts**' - the practice of paying the writer an upfront fee to forgo any future royalties. Many composers consider buyouts to be insidious and to be avoided at all times but like any negotiation for services, acceptance should be a business decision best made at the time by the individual concerned.

Because the proposal of buyouts appears to be coming commonplace among the newer content providers it's imperative that music creators are informed of the ramifications before they commit. So let's explore the pros and cons of buyouts.

For those of us who have had long careers writing music for film and TV, we recognize the importance of an ongoing royalty stream and continue to appreciate it more and more as we grow older. Unlike the other crafts people with guild or union representation, composers have no pensions being generated when we work, outside of our royalties - performance or otherwise. Over the course of a career, an established composer will work on numerous projects but just as the songwriter has no idea which song will be a hit, so too the media composer, who can only hope that some of the projects that include their music strike a chord with the public and enjoy continued popularity for years to come.

During a recent conversation with a colleague whose 20-plus years in the business have afforded him a very healthy royalty stream, he reminded me that only a handful of the projects he'd done over those years paid the seriously big bucks. The others were just filler. Of course this is the problem with buyouts. It's a lottery and you may be giving up the winning ticket.

We all know how hard it can be when you're starting out, and I'm not just talking about getting gigs. You might want to marry, buy a house, raise a family and so on. The cost of just living. Then of course there's the gear you need to stay up with the technological demands of the occupation. It all costs money. So when you finally get a show and you're offered an additional chunk of change to

buy you out of future royalties, it may look like a great deal. Hey, you're getting your money now rather than having to wait for it. Right? The problem is, until your show hits the market you have no idea whether it has long term earning potential. Your decision could mean the difference between a payday of \$30,000 now and \$3million over time...no I'm not kidding. Are you willing to play the odds?

So far we've only considered the effect your decision will have on you, personally. But there are wider ramifications that an increase in buyouts could have for the entire profession if they become the norm rather than the exception.

Let's create a fictitious content provider/streaming service. We'll call them Faceflix.

Faceflix starts out by licensing existing content to stream from traditional sources and in so doing, acquires the appropriate performance licenses from the PROs. Since Faceflix is introducing a new means of delivering content, a reduced license fee is negotiated to help the startup find its feet, in much the same way as the cable industry began. Faceflix begins to gain favor, its popularity grows and soon it's producing its own original content.

In the guise of this 'new' business model, the genius minds at Faceflix determine that they could reduce the license fees they pay to the performing rights organizations as they increase the amount of original content, so long as they own all rights in the music. For example, if the proportion of original content increases from 5% to 30% and Faceflix has bought the music rights from all the composers on those shows, Faceflix will most likely seek a reduction in license fees it pays the PROs citing the fact that 30% of their content is not included in the PROs repertoire. Additionally, the cue sheets Faceflix files with the PROs now require more scrutiny as licensed and unlicensed works maybe co-mingled in the one show. More man-hours, means more administrative overhead for the PRO and ultimately less money to distribute to its members.

Time stands still for no one. Likewise technology, and I dare say that five years from now terrestrial broadcasting of entertainment will have taken a back seat to streaming, if it hasn't disappeared altogether. There will be new business models and we will have to learn to embrace them if we want to remain in the game. But we must always remain mindful of what benefits our profession or it could simply become a hobby. Whether or not to take a buyout is a personal decision and currently you still have your PRO to represent your others works. But imagine if the day came when there was no PRO to keep those checks coming, in your old age, for shows you did decades earlier.

Discount the lottery at your peril.