



Writers' Guild of Great Britain

Report on activities 2011-12

**for the Fédération des Scénaristes d'Europe
and International Affiliation of Writers Guilds
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Introduction

The chilly winds of global economic crisis, coupled with the “austerity” programme of a Conservative-led government, are making life a lot tougher in the UK – not least for writers and the Writers' Guild of Great Britain. The signs are that things will get worse before they get better. But in the midst of the gloom, the WGGB has lit some bright lights: an important new system to pay TV writers for the use of their programmes online; a new charitable foundation; successful political lobbying in the UK and the European Union; and more ...

Background

In May 2010 – partly in response to the banking crisis of 2008, but also for a panoply of other reasons – the UK Labour government was thrown out in a general election and replaced by a coalition between the right-of-centre Conservatives and the centre-of-centre Liberal Democrats. Virtually the only policy of this government has been the rapid reduction of structural deficit in the UK economy, to be achieved almost entirely by contraction of the public sector. One of the first acts was to freeze the BBC TV licence fee until 2017 while at the same time imposing additional duties on the BBC – this has led to major cuts that are filtering through to writers in two ways: fewer commissions, and lower pay. Another was the sudden abolition of the UK Film Council, although most of its functions have subsequently been passed to other government agencies. There are swingeing cuts to public subsidies for the arts, including live theatre and niche literary publishing. These cuts have not yet fully worked through the system, but they are certain to reduce opportunities for writers significantly over the next few years.

Meanwhile in the European Union we have one of the most ineffectual European Parliaments on record, coupled with an increasingly sclerotic Commission (civil service). There have been a number of initiatives affecting writers but these take an inordinate amount of time and tend to fizzle out into weak and pointless measures.

TELEVISION

BBC

As stated above “Aunty” is feeling extreme financial pressure, and if that wasn’t bad enough, she is now embroiled in a huge scandal: a recently-deceased BBC disc-jockey and kids’-show host turns out to have been a galloping serial paedophile for over 30 years. Assistant heads will roll, as they say. The long-serving Director-General Mark Thompson finally left in September 2012, unmourned (the BBC’s loss is the New York Times’s gain – or is it the other way around?) No one is taking any bets on how long his successor, the previously unknown George Entwistle, will last in the hot seat.

May 2012 saw the culmination of a four-year negotiation leading to new TV drama commissioning agreements. The Guild has agreed to cut network repeat-fee residuals from 100% to 50% (peak) and from 50% to 20% (offpeak) on the understanding that many more shows will get a network repeat, particularly in daytime, in preference to imported foreign shows. There is a big improvement in repeat fees for “secondary” and kids’ channels. The WGGB agreements now extend to several areas not previously covered: scripts less than 15 minutes, peaktime animations, drama within documentaries, online-only commissions.

But the main change is in payment for online viewing. The BBC runs a catch-up service, iPlayer, and from August 2012 it will pay £500,000 per year (€623,000; US \$808,000) as a lump sum to be distributed to writers in proportion to the number of people who have clicked to view each individual show. This distribution will be carried out by a new company, Writers Digital Payments (WDP), that has been set up jointly by the WGGB and the PMA (the trade organisation of professional writers’ agents). Preliminary work suggests that writers will receive something like one penny for every 10 clicks. A moderately successful show might receive 500,000 clicks, which could translate into a payment to the writer of £500 (€623; US \$808).

BBC iPlayer is a “public service” paid for out of the BBC licence fee – currently £145.50 per household per year (€181; US \$235). It is free to the viewer, providing a stream, not a permanent download. TV shows are available for seven days after transmission. The BBC intends to introduce a pay-per-view service to kick in after the seventh day, and which will also feature archive material. It is expected these uses will also be paid for via WDP, but in these cases the amount available for distribution will be 5.6% of the BBC’s income from relevant programmes. The BBC has also launched an international iPlayer. This could also pay writers via WDP, but at present this service is available only in certain countries on the iPad platform, and has a low level of use.

ITV

This is the UK’s main free-to-air commercial broadcaster, with five channels and a catch-up service similar to the BBC’s iPlayer. For a number of years this company was in decline but since a corporate shake-up in 2010 its fortunes have improved – notably with the hit series *Downton Abbey*, written by the distinctly upper-crust Julian Fellowes (who is a member of the House of Lords but not of the WGGB). The WGGB has a separate agreement with this company which has been significantly improved over the past three years and now features our best minimum rate in UK TV – £12,625 for a one-hour time-slot original drama (€15,740; US \$20,373; plus for high-end drama and comedy a 100% upfront advance on further uses).

For online uses we have a similar arrangement to that described above for the BBC, except that the lump-sum payment is much lower at £65,000 per year (€81,038; US \$104,878). This partly reflects the service's comparative lack of popularity, and also ITV's inability to attract serious advertising revenue. ITV and the WGGB have agreed in principle to renegotiate the payment. ITV has also announced that it will launch a pay-per-view version of the ITV Player before the end of 2012, although this has yet to appear. It is not clear yet whether this new service will pay writers via WDP.

Channel 4

This is a smaller-scale publisher-broadcaster – i.e. it does not produce any of its own programmes, but commissions all of its output from independent producers. For this reason the WGGB has hitherto not had any minimum terms agreement with Channel 4, however the channel is now operating a successful free-to-view online archive service. It currently pays writers an annual royalty of 5.6% on a notional programme price of £300 per hour (€374; US \$484), i.e. a rotten £8.40 per half-hour sitcom episode (€9.97; US \$13.55). We intend to renegotiate this arrangement and there have been preliminary discussions about channelling these payments via WDP in order to relate payments to the popularity of each programme.

Independent producers

There is a thriving independent TV production industry in the UK making a little less than half the drama/comedy output of the BBC, more than half for ITV, and 100% for Channel 4. The WGGB has a minimum terms agreement with the trade organisation Producers' Alliance for Cinema & Television (PACT), but this agreement, dating from 2003, is unsatisfactory and out-of-date. It covers only the main network channels and only scripts based on a producer-supplied format. We are well advanced in negotiating a comprehensive replacement, which we hope will be implemented early in 2013. A further problem is that PACT claims it is unable to enforce observance of the agreement by its members, which leads to some producers "cherry-picking" the sections of the agreement that suit them and removing other parts. We hope to minimise this practice by issuing a standard form of contract that will be easy and cheap for companies to use.

Online subscription services

Netflix and LoveFilm are both gaining popularity in the UK and both have significant catalogues of archive TV programming. Unfortunately these are low-price subscription services and writers receive only a 5.6% royalty of the programme licence price. It is unclear how we can improve this situation.

Technology changes

Analogue signals have now been switched off and all UK TV is digital. Pay TV suppliers such as Sky, Virgin and BT have all introduced sophisticated set-top boxes/PVRs that give access to online services such as iPlayer, Netflix, etc. Until recently there was no equivalent available to users of the free-to-air terrestrial digital service Freeview. But this year has seen the launch of Smart TVs that can make a wireless connection to the internet, and a new set-top box called YouView, which can do the same as well as acting as a PVR. These new bits of kit enable viewers a wide range of access without the need for a regular subscription. As

they gain popularity it is possible that online viewing will increase significantly at the expense of watching live scheduled transmissions or recording off-air.

Government policy

The BBC's licence fee and Royal Charter (really!) are secure until 2017, which means there will be a general election and possibly a change of government before the fundamental status and funding of the BBC comes under political scrutiny.

ITV currently has a government-awarded Public Service Broadcasting franchise which it inherited from the various regional companies that originally made up UK commercial television, and which entitles it to be carried on all platforms and to have a privileged position on the EPG. This expires in 2014 but it is expected that it will be renewed.

The Government is proposing to introduce tax breaks similar to those offered to film producers to encourage high-end long-series production. The hope is to attract international co-productions to the UK for series (presumably drama) costing at least £1,000,000 per hour (€1,250,000; US \$1,700,000) and with at least 13 episodes per series. Under European Union legislation such subsidies must be subject to a cultural test to ensure the production is genuinely "European" (or in this case British). The test requires a production to score at least 16 out of 32 possible points for such factors as location, characters, crew, etc. Unfortunately the screenwriter, and also the director, composer, and other creatives, count for only a single point each, so we fear that creative work on these high-end productions may be imported, principally from the US, leaving UK writers only crumbs. We (and other creators' unions) have raised this fear with the government, but it is not sympathetic.

FILM

Minimum terms agreement

An agreement between the WGGB and PACT dating from 1992 is still technically in force but it is little used because it is so out of date. We have put detailed proposals to PACT for a new agreement but no substantive negotiations have yet taken place. In the meantime we continue to promote our detailed guidelines (http://www.writersguild.org.uk/images/stories/wggb-docs/WG_film_Oct09_LR.pdf). In the UK currently, a handful of big-budget films are made each year (largely internationally financed) and the remainder are very low budget – below £5,000,000 (€6,250,000; US \$8,000,000) (some very far below). Because of the growth of micro-budget projects we continue to advise screenwriters to consider entering joint venture partnerships with producers and directors instead of entering very low value standard writing contracts.

Government policy

The present government has not interfered with the tax breaks available to the film industry, which now appear to be operating satisfactorily following disruption a few years ago when many investors were found to be "double-dipping". However there has been considerable disruption following the decision to abolish the UK Film Council, which controlled all subsidies to the industry. This responsibility has now passed mainly to the British Film Institute, previously a heritage and archiving body. To inform this changeover the government commissioned a full review of the film industry, which came up with rather

woolly but generally well-received conclusions – which some people hope will result in a more distinctly British output. This would suit the WGGB as currently fewer than half of “British” films are scripted by UK writers. As part of this review the WGGB formed an alliance with PACT and Directors UK (a successful collecting society and unsuccessful guild) to seek a change in the way in which future BFI investment in films is recouped. This would mean that instead of the producer having to repay all subsidy in full at the earliest moment, a significant proportion would instead be put into a “locked box” and would be available to the writer, director and producer (together or separately) to invest in their next project. Somewhat surprisingly this suggestion was taken up by the review and has been endorsed by the BFI, and we are now engaged in a negotiation with PACT and DUK to flesh out the details of the scheme.

Credit arbitrations

These are still the exception rather than the rule in the UK, with no more than two or three taking place each year. The WGGB has sharpened up its guidelines to arbitrators. We will now arbitrate only in cases involving at least one WGGB member, and we make a charge to the producer to cover arbitrators’ fees and administrative costs. PACT has asked us to renegotiate the Screenwriting Credits Agreement, which underpins the arbitration system, because it dates from 1974 and its terminology is now dated.

Videogames

This industry has declined in the UK in recent years because of the lack of any tax breaks or other government assistance. However a well-organised industry campaign, supported by the WGGB, has finally persuaded the government to propose a tax regime similar to that in the film industry. It remains to be seen whether this will make the UK industry more competitive globally, or be too little too late. Many leading UK videogame writers get a lot of their work in other countries. The WGGB has updated its guidelines for videogames writers, but there is little prospect of a formal agreement at this stage.

OTHER WGGB ACTIVITIES

Writers’ Foundation (UK)

We have established this charitable foundation, which is principally funded by payments received by the WGGB in respect of the use of television programmes written by our members in special broadcasts to UK military forces in Afghanistan, nuclear submarines, and other far-flung places. The name reflects the need for the charity not to be too much associated with a trade union in the public mind, and to the same end we have recruited some of the great and the good of the media/entertainment industry as advisers. The Foundation’s first project (a development weekend for theatre writers) took place recently and was successful.

BAFTA

We have had a long-running dispute with the UK academy BAFTA over its insistence that writers are included in its television technical awards along with costumes, sound effects, etc., rather than with the glamorous awards to performers and musicians. We are still working on this, but we have had a partial success as there will now be separate drama and comedy

writing awards – previously writers of totally different genres had to compete for a single award.

Animation

The lobbying for tax breaks referred to above also included a campaign to introduce breaks for animation productions, and this too has been successful.

European Union lobbying

The Guild has been active over the past two years on three important pieces of proposed EU legislation:

- New copyright laws covering orphan works. In the UK it is impossible to make legal use of an “orphan work” – i.e. a work where one or more of the rights owners is unknown or untraceable. This could be a considerable problem in opening up film and television archives online. The EU proposed a limited new law to confirm the right of museums and public archives to copy and produce works for preservation and academic purposes (something they do anyway), but we argued for a much wider right to license works for public exploitation, subject to a proper payment to be held by a collecting society and if unclaimed to be used for the good of the relevant creative community. Unfortunately the EU has stuck with its limited proposal. Meanwhile the UK government wishes to go further, but to do so by introducing a general system of “extended collective licensing” – i.e. allowing collecting societies to licence works without the permission of h rights holder. This approach introduces risks to our members and the copyright lobby in the UK is attempting, with our support, to engage the government in the implications of its policy.
- New law to regulate the operation of collecting societies. The WGGB, on the basis of its long experience of working with collecting societies in the UK, strongly supported proposals to require such societies to operate more democratically and transparently, and to use the cash mountains they have built up for the benefit of writers individually and collectively. Our lobbying seems to have been successful, and the UK government has already announced proposed legislation dealing with most of our concerns.
- Proposals on the distribution of audiovisual works online. The European Commission issued a weak and muddled policy document proposing a Europe-wide market in audiovisual works, to be operated exclusively through collecting societies. The WGGB argued strongly that because of the multitude of different languages and cultures within the EU there was no real prospect of a single European market, and to impose one by prohibiting single-territory licences would have the effect of depressing all prices to the minimum, threatening writers’ livelihoods as well as the general viability of the industry. In addition we were anxious that the collecting societies should only be a backstop for payments, so that better arrangements such as our WDP could remain in place or be established in individual member states. It appears that our arguments have been taken on board, but the document was only a preliminary green paper so it is unclear if or when legislation will be proposed, and we will need to remain vigilant.

Miscellaneous

The Guild continues its negotiations and activities in other fields such as theatre, radio and book publishing. We are getting ever-increasing calls from members (and non-members!) for advice and individual representation. Unfortunately the atmosphere of cost-cutting has led to some of our members being unable to get work, and others earning significantly less money. This in turn depresses the WGGB's subscription income, which means we cannot employ as many staff as we would like to handle the workload. We have had to make some staff changes, but we expect to appoint a new Assistant General Secretary in the New Year.

We have been dissatisfied with the service provided by our outsourced membership administration company and this function will shortly be returned to our own office. We have abolished our low-subscription Student Membership because it was uneconomic and generated very few converts into Candidate or Full Membership when students finished their courses.

We continue to put resources into communicating with our members in as many ways as possible: website, glossy magazine, weekly email bulletin, podcasts, Twitter, Facebook. We are maintaining our annual awards night, which is gradually receiving more public attention. We organise events for members as often as possible in different parts of the country and we maintain a Welfare Fund to give emergency help to members if they get into serious financial trouble for whatever reason.

This year the WGGB welcomed a new set of officers:

Chair: Roger Williams

Deputy Chairs: Ming Ho and Antony Pickthall

Treasurer: Andrew S. Walsh

So we have an enthusiastic and accomplished team to steer the WGGB through the troubled waters that undoubtedly lie ahead for us in the next few years.

Bernie Corbett
General Secretary
Writers' Guild of Great Britain
November 2012