"Independence," Industrial Authorship, and Professional Entrepreneurship: Representing and Reorganizing Television Writing in the FCC Media Ownership Reviews

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Abstract: In recent Federal Communications Commission reviews of media ownership rules, television writers unsuccessfully campaigned for a prime-time set-aside for "independent" programs. This article approaches the campaign as a structured negotiation of writers' industrial authorship, which exploited institutional contradictions across the field while also betraying limitations in the concept of independence itself.

"When I use a word," Humpty Dumpty said to Alice after she had gone through the looking glass, "it means just what I choose it to mean—neither more nor less." Her reply was to ask, "whether you can make words mean so many different things." Alice's desire for words to mean what they mean is our desire.

—Writers Guild of America, West

In their submissions to the Federal Communication Commission's (FCC) periodic reviews of its media ownership rules, the Writers Guild and its allies appealed to the commission to redress a perceived crisis in independent television production. They argued, ultimately without success, that vertical (re)integration had raised insurmountable barriers against independent producers' entry to prime-time network schedules and called for a mandate that networks reserve a quarter of those schedules for valuable independently produced programs. In presenting the problem of independent production and the solution of the independent set-aside, they constructed a narrow understanding of "independence" in the television industry. Against network's and studio's more expansive constructions that included co-productions in which they owned part or all of program copyrights, set-aside supporters argued for full program ownership by production companies and for their thorough financial and creative separation from networks and studios. Industry forms hold no obvious meaning or value, however, talk of a "desire for words to mean what they mean" obscures how words are made to mean. Notwithstanding their considerable merits, arguments for a set-aside raise larger questions about how "independence" becomes malleable, meaningful, or consequential.

In playing on presumed sympathies with Alice in Wonderland, the guild creates such questions; Pierre Bourdieu raises them indirectly but pointedly: "Certain notions which have become as hard and as obvious as the notion of artist or of 'creating' as well as the words which designate and constitute them are the product of a slow and long historical process." This article approaches the 2002-2010 set-aside campaign as a brief episode within this process, reading arguments in FCC ownership proceedings as competing discourses about the new, vertically integrated organization of television production and the writer's place within it. My interest in the campaign develops within a broader project concerned with writers' professional entrepreneurship in the arenas of contracts, organizations, and law and policy, in which they try to advance and enact particular constructions of writing and its industrial context—and in particular, how they claim different forms of ownership over their works. Within that framework, I emphasize two themes: the complex, formal organization of the field in which writers' industrial authorship is structured and practiced; and the problem of independence, as the key term for negotiating their role within that field. First, I hope to contribute to a more developed understanding of the organizational context and relations in which industrial authorships are formed and transformed. Despite the intimacy of Bourdieu's investigations in the fields of art and letters, he acknowledges their relative lack of formal organization—at least obliquely marking the salience of the dense relations and contexts in which industrial authorships are structured and practiced. Television is produced, distributed, and exhibited within much more elaborate supply chains than art or literature, within a complex industry organized by formal corporate and regulatory structures. Borrowing from institutionalist sociologies of culture, work, and organization, I hope to pursue closer conversations between authorship studies and industry studies. I conceptualize authorship very loosely as a multifaceted relation of authority between creative workers and "their" creative works and work—from economic and creative rights to control over working conditions. Conversely, I understand industrial authorship as an often-problematic corporate arrogation of such authority. Although Catherine Fink and Mark Stahl have rightly emphasized the salience of proprietary dimensions of authorship in industrial contexts (like attribution and the experience of autonomy), the

1. NEW 1993-377, 2. Examples for initial comments in FCC proceedings refer to author and docket number, with any supplementary comments in the same docket further identified by fn.


set-aside campaign reached for a stronger connection between writers and their work. While seldom explicit (set-aside supporters understandably avoided any appearance of self-interest), independent referred most directly to the writer-producer-creator's ownership of program copyright. Indirectly, however, it also promised privileges linked with the authority of ownership, like creative freedoms. Here, then, I approach the set-aside campaign as part of much broader institutional negotiations of authorship, compensating not only copyright but also other stakes of ownership, creative rights, and working conditions.

In contextualizing authorship within the industry, this approach shifts focus from the work and works of individual auteurs toward collective projects of professional entrepreneurship, like the set-aside campaign. Collective entrepreneurship by groups like the Writers Guild traces important but also fraught connections with problems of cultural labor. First, while acknowledging the specificity of media work, Stahl emphasizes its continuity with other kinds of work. The case of "art" fails not only writers' work but also their struggles for control over it as specific (but not exceptional) labor-management relations. As a kind of labor policy mediating among state, management, and labor, the FCC ownership proceeding problematicate the governance of writers' work and allow writers a voice in that governance. But second, the campaign also complicates figures of cultural labor. In line with Bernstein's revisionism that talent organizations best serve the interests of occupational elites, the campaign's primary ambition for copyright ownership benefits only the small strata of writer-producer-creators (notably, such managed managers have long troubled labor-management delineations, from the Producers Guild's decertification as a collective bargaining unit to writers-producer's uneasy straddle across the 2007-2008 strike picket lines). Indeed, one ingenuity of "independence" lies in smoothing over professional stratifications and in connecting with the aspirations and anxieties of increasingly or remunerating writers. Its more critical formulations, labor carries a normative edge that risks presuming the worker's authority just as art presuming the artist's. Arguments over the set-aside raised questions of whether writers should capture the surplus value of their labor but also of the extent to which the gap between their remuneration and network profit reflects value surplus to their labor or value added by the network. Without asking down the first question, I want to see the second more open than labor-centered models might allow. Thus, while the campaign implicates intricate entanglements of art and commerce, I approach such entanglements as problems of professional legitimacy and authority over supply-chain organization rather than as problems of artistic (or labor) autonomy. I understand the organization of television supply chains as profoundly contingent and contested, underdetermined by efficiency and art or labor alike. The set-aside campaign suggests the contingency not only of relatively static terms like independence but also of seemingly more solid terms like serial integration and the role of the writer itself. Ultimately, I hope to arrive at a more contextualized and symmetric view of how writers negotiate their role within supply-chain relations, and especially of how their negotiations follow patterns of institutional contradiction across the television industry.

The set-aside campaign exploited such contradictions through various mobilizations of independence. Even while independence allowed points of entry into such contradictions, however, its own meaning and value betrayed instabilities. In broad characterizations, independent production is financed and distributed independently of majors, guided by professional or craft rather than commercial or bureaucratic strategies, and achieved in products valued as oppositional, diverse, or innovative. But as Michael Newman notes, "[d]ifferent times in film history [independence] has described varied and heterogeneous industrial and textual practices," not always neatly aligned; independent production might not deliver innovative product. If too bright lines delineate independence, the prominence of the independent question in film studies and popular music studies has carved deep and well-recognized economic ambitions for copyright ownership benefits only the small strata of writer-producer-creators (notably, such managed managers have long troubled labor-management delineations, from the Producers Guild's decertification as a collective bargaining unit to writers-producer's uneasy straddle across the 2007-2008 strike picket lines). Indeed, one ingenuity of "independence" lies in smoothing over professional stratifications and in connecting with the aspirations and anxieties of increasingly or remunerating writers. Its more critical formulations, labor carries a normative edge that risks presuming the worker's authority just as art presuming the artist's. Arguments over the set-aside raised questions of whether writers should capture the surplus value of their labor but also of the extent to which the gap between their remuneration and network profit reflects value surplus to their labor or value added by the network. Without asking down the first question, I want to see the second more open than labor-centered models might allow. Thus, while the campaign implicates intricate entanglements of art and commerce, I approach such entanglements as problems of professional

7 "Thematic in Context" suggests reasonable boundaries for their rationales and cogent formations of these parts.
and antecedents to some of its insufficiencies. The main section explores these mobilizations more closely, across a range of cultural, public-interest, and even economic values in contradiction with a devolved vertical integration. Finally, a conclusion follows new conceptions of independence mobilized in FCC proceedings on the Comcast-NBC Universal (KUGB) merger and network neutrality.

Organizing Authors and Industries. For Janet Staiger, poststructuralist theories of authorship lack viable models of agency, and humanist theories lack viable models of structure. In approaching television writing as a continually reorganized institutional role, this article looks for an alternative to structuralist narratives of a submission of authentic creativity in industrial production and humanist counter-narratives of authentic creativity's presence or even resurgence. 1 If work within both narratives has advanced understandings of television writing as institutional authorship, those understandings hold similar limitations. Whether industrialization overcomes authentic forms of authorship or is overcome by authentic authors, industries and authors are settled as self-evident terms, figured in relationships of exteriority most often ones in which industries constrain authors. Here I want to emphasize their constant contingency and plasticity, their mutual constitution, and how industrial contexts enable as well as constrain practices of authorship.

Economically, sociological logics of economy challenge the apparent obduracy of economic forms. For Neil Fligstein, "the constitution of property rights is a continuous and contestable political process, not the outcome of an efficient process"; notably close to my interest here, Fligstein notes intellectual property as an exemplary formation of property rights (as well as profit sharing without ownership, as in larger relations between creative workers and works like residuals and profit participation). 2 This process is fundamental to supply-chain organization in any industry; property rights and supply-chain organizations become even more indeterminate in cultural industries, where distinctive demand uncertainties pose special difficulties for valuing inputs and outputs. 3 Industry forms like independence and vertical integration hold no fixed meaning or value; the history and political of the case-study campaign shows how economic and cultural frameworks give no non-contingent resolution to problems of whether producers or distributors should own programs. Even allowing for real efficiency gains in vertical integration, Fligstein demonstrates that firm strategy and structure are not simple expressions of some organic economic rationality but are, instead, only ever constituted within a regulatory environment. 4 Adding another layer of contingency to industry forms, then, Rudolph Petti's history of US competition policy reveals regulating "visions of the free market" as contestable social and political choice rather than as reflections of any objective freedom. 5

Within the industry, writers are not self-evident economic or artistic actors; they act within and upon often heteronomous "institutional logics" patterns of convention within fields of action that shape "not only the ends to which . . . behavior should be directed, but the means by which those ends should be achieved. They provide individuals with vocabularies of virtue and with a sense of self. They generate not only what is valued, but the rules by which it is calibrated and distributed." 6 A notion of institutional logic insists first on the contingency of "institutional rules," like the television writer's. In the love of Steven Bochco, for example, run-ins with regulators reflect struggles for artistic freedom in a constraining industry. 7 But undermining models of external control, those struggles go to perform a persona of the insurrectionary artist, in a kind of transaction enabled by television's regulatory structure. Similarly, Joe Wedhon's artistic authority derives partly from a kind of contract with his cult audience, following structuring conventions for claiming authorship through claims against the industry. This structural performance of authorship is most visible in writers' intersections with audiences. 8 It is also plays across industry careers. In his masterful history of anti-authority writers' struggles for control in the developing television industry, Jon Kranzowski suggests how their careers negotiated a palliative of institutional logics, so that their claims to property rights in their work rested on rigid structures given in logics from the theater. 9

Like Bochco and Wedhon, Kranzowski's analogy writers demonstrate how roles are not only structured by institutional logics but also negotiated within and especially across them. Countering structuralist tendencies in institutional analysis, Paul DiMaggio's concept of institutional entrepreneurship emphasizes how individual or collective action reinforces as well as reflects institutionalized conventions. 10 In recuperating agency, interests, and politics in institutional life, the concept gives a view to writers' own leadership in the reconception of role work. This recovery also clarifies structure. If institutional entrepreneurship comprises an apparent "paradox of embedded agency" one resolution locates entrepreneurial agency in fixations

13 Richard Call, "Geographic Industries: Geographies between Art and Commerce" (Cambridge, MA: Harvard University Press, 2009), 1-3.