

The Future of Hollywood: Creators, Conglomerates and Culture

Panel Discussion with Frank Pierson, Jonathan Rintels, and Janet Graham Borba; Moderated by Pat Aufderheide

At the September 2003 Virginia Film Festival, the Center for Social Media organized a panel on the economic conditions that threaten creativity in mainstream filmmaking. Below is a transcript of the discussion, which touched on the cost of vertical integration on independent production houses, the unique role and business model of HBO, changes brought by digitalization, and the marginalization of public TV. Panelists also discussed policy recommendations, such as limits on content control by distributors, and emerging business models that permit digital distribution. Prahba Mohan transcribed the panelists' remarks.

Patricia Aufderheide: I am very pleased to be here, and thank you to the Virginia Film Festival for supporting this panel on the future of Hollywood. I would like to tell you a little bit about each of our guests here tonight and also why I thought this is going to be such an interesting topic.

Frank Pierson is a screen writer and director. He is the President of the Academy Of Motion Pictures Arts And Sciences. He knows the people who give the Oscars away and he knows the experience very well. He won the Oscar for writing Dog Day Afternoon. He was nominated for Cat Ballou and Cool Hand Luke.

He and Janet, whom I am going to introduce as well, worked together on the film Conspiracy. He also has a film this festival called A Soldier's Girl. The film deals with the tragic failure of the US army's policies regarding homosexuality.

He has been an activist his entire life in Hollywood. He has twice been the President of The Writer's Guild Of America West and he has a noted voice for the rights of creators. We welcome him here on this panel.

Jonathan Rintels is the Executive Director for the Centre For Creative Voices in Media. It is a new organization and a really important one for you to know about. This is non-profit and it does research, education and policy advocacy on behalf of creators who work in Hollywood and other places.

Jonathan Rintels has been a particularly important voice for independent creators in Hollywood and he has done policy analysis of the changing situation in Hollywood. You might have seen his docu-drama in CBS called Snowbound: The Jim and Jennifer Stolpa Story, one of the most highly rated TV shows in the last decade. He is a member as well of the Writer's Guild Of America West. He spent a long time in Los Angeles and came here. He is also a former member of the Film Office Advisory Board.

Janet Graham Borba is from Los Angeles. She is the Vice President of production for HBO. I am sure you are all subscribers of HBO. She is the person who is responsible for making sure those HBO feature films actually get made. The films she has worked on include Angels In America, Gathering Storm and as I mentioned before, Conspiracy.

The subject that we are going to be talking about today is the economic and policy terms of doing business in Hollywood. Hollywood is such an enormous force in world culture. Those of us who

are not up-close and personal with it, tend to think, "Oh! That is a gigantic wealthy machine that is just rolling on." But in fact, the economic conditions in Hollywood are highly volatile and they are affected not only by the economic organization of the large businesses and how quickly they change, but also the policies in the State and the Federal level that permit those businesses to be what they are.

In the last two decades there have been enormous changes in the policy and economic context within which people who make Hollywood work. And one of them comes from deregulation from the Reagan era forward. These changes in turn stem from the attempt by the federal government to streamline and remove federal regulations from the way that creative businesses work.

And another big change in the industry is the other "D" word - "Digital".

That is, the way in which digitalization and the internet have so profoundly changed and continue to change both the terms of production and distribution.

What we wanted to do in this panel was, to take some of those big roiling changes that are affecting Hollywood and ask people who are actually in the heart of creating films, how that affects the creative process. What exactly are the places where push comes to shove in the business these days? So we would like to launch that discussion with Frank.

Frank: The basic thing that has been happening economically to the structure of business in Hollywood extends all across the entire economy from the way groceries are bought and sold and distributed and marketed to everything else. In that sense what is happening to Hollywood affects us all.

During the 1930s and 40s the antitrust laws were very strictly interpreted and enforced in the country and embodied in a number of government regulations and regulatory bodies that separated the means of distribution from the production of food (for example), and that held true for movies. For example, a movie studio could not own movie theatres and in the 1950s the same thing came to be applied in television. This was largely as a result of the Writers Guild Strike, which had the net affect of separating the three big networks (As there were only three, at that time). They could not own the shows that they put on the air.

So the result was that they contracted with a very large number of small independent companies who manufactured these films, owned them and leased them for showing on the networks and in syndication. These rules came to be called the financial interest and syndication, or "fin-syn" regulations that separated production from distribution. The net result was that there was an enormous amount of explosion of creativity that really explained what happened in the early phases of television.

Progressively these regulations were being eliminated from the Carter era, through the Reagan era, and very quietly even during the Clinton years. Finally these rules were eliminated and as a result of all of these, little independent companies that were thinking of new fresh ideas came to be eliminated. They could not afford to operate on their own. They could not afford to finance their films and they were not even allowed to make a profit by the people to whom they were now being absorbed.

Now what is happening is that, CBS owns almost all of the CBS shows that are produced, ABC owns the ABC shows, NBC and so on, and as far as this is concerned, this includes HBO.

So there is a narrowing of the base of the population from which we draw for fresh and new ideas. They are only a few network executives and these few executives own blocks of the show time and the rest. They are the ones who are now essentially creating and bringing forth the new ideas. We see this impoverishment of what is happening particularly in the field of network shows, much less so in HBO. HBO is a refuge that we now run to. It is like coming home. It has those few people who are alert and looking for some fresh ideas.

The same thing is true in the motion picture business. The net result of this kind of vertical integration is that the major studios are solely in the business now of making big blockbuster pictures that could make half a billion or 3 quarters of a billion dollars of money that appeal to a very narrow base of customers, i.e. boys with disposable incomes, that is those between 16 to 24. And anybody with a brain, education and experience or a desire to be enriched by their entertainment experience is simply not being served.

It has had an extremely destructive effect on the creative community and a very depressing one for those of us who remember that making movies on television was once fun.

Jonathan: Frank's was a brilliant recitation. Playing off some of the things that Frank said: It has been such a fundamental principle in this country from its founding that the more ideas we hear in the freest expression that we give to them, the better. That is of course embodied in our first amendment which we hold to be sacred.

That has been true not only in terms of news information or the press- as in newspapers, but it has also been true in terms of arts and culture.

My view is that, this is now under attack. In terms of the media, I really believe that the term deregulation is a total misnomer in this situation. When the Government regulated the media, it did not concern the regulation of the content of the media other than that they did not want excessive sex and violence and profanity.

They wanted to give independent voices, and lots of voices to have access to public property, which are the public airways through which they are transmitted over. In this regard, I particularly focus on TV. We gave the public's background to several broadcasts like CBC, ABC, Fox and there are couple of others now at no charge. And the bargain was that they would operate those airways for the public convenience and necessity, and therefore in public interest.

There is always going to be regulation of voices. Question is whether it is going to be regulated by private profit-making interests or whether it is going to be done by the government, which is alleged to represent the public interest.

The government has abdicated this role to private interests, and we do not believe that it is in public interest. As Frank has said so well, this has led to a total diminution of the number of voices that we hear on TV. So many talented people have just walked away from creating TV. If they remain in the business, they are now rather than owning their own company, or being in the level of an

independent company that can go and fight for their idea, fight for their show, and fight for their vision, they are in the 33rd rung in the corporate structure in the GE Company. So there is really not any kind of force that they can bring to a castrating executive who does not seem to think that their ideas are as good as they feel passionate about. And why did this happen?

A thing came along called cable and cable provided the opportunity for more networks and so with more networks the government said “Well, we don’t have to allow these independent voices to create films on the broadcast networks because they are going to compete with all these independent networks.”

Then cable networks were bought out by the broadcast networks. So, the concentration of the audience today is that, the top 5 networks control just as much of the TV audience broadcasting cable as they did before the cable came on scene. And we do not have any safeguards that allow independent voices access to the airways. Let me put it this way: you don’t know what you are missing. You are missing a lot and that’s a shame. We are getting the government to recognize that and to change its policy. I think it is not healthy for our culture, for our television, for our arts; for our news and I think that we can point to a number of examples just over the last few years where it is really impactful.

Patricia Aufderheide: Do you want to just name one example?

Johnathan: Well, I would say a couple of things. One is the war in Iraq, which the major networks essentially uncritically covered. I don’t think it is any coincidence that they were in Washington at that time asking for the government to grant them a number of rule changes that would be highly profitable to them.

Another example would be the end of the love affair with the corporation that ended with the stock market crash and the revelations of stealing by the Government executives. I know that I sound anti-capitalist but I am really not. However, I think it is important to take a look at these things, like these incredible pay packages. When the Chairman of GE, Jack Welch retired his pay check was not revealed by our media news house, but by his ex-wife in her divorce filing.

There’s even a question whether Watergate would have been revealed today if it had been uncovered by CBS news which is owned by Viacom, it has great interest or Fox news, to throw out the worst.

And this also translates into entertainment because studies have shown that so much American public gets its values, its news, its information, its culture, its intelligence not from watching news but from watching entertainment shows, all in the family, Cosby show, law and order, ER etc.

Patricia Aufderheide: Janet?

Janet: I couldn’t possibly. I have the great fortune for working for a company that values enormously a lot of the things that Jonathan has talked about. As our financial model is very different from networks or from feature film studios, we have a lot more latitude. The projects are not subject to death if they are not making our advertisers happy, because we do not have

advertisers. Projects are not subject to death if they cannot make 20 million dollars during the 1st weekend because we do not sell tickets to individual shows. So we live in a world where all we have to do is to make a wide variety of high quality creative work. That is all we have to do and then a wide variety of subscribers will pay a certain amount of money each month and fund that work and its ongoing ness.

Jonathan: I am wondering if you think that the success of HBO is in anyway a result of the things that we are talking about, the networks and even your slogan that says, "It is not TV, it is HBO."

Janet: I do. We have definitely created a niche for some of the most interesting film making and TV making that there is. This is because we do not have the same constraints that we have in the other markets. Frank and I made Conspiracy which makes an incredible dialogue about the banality of evil and has a history lesson as well. Allan Ball can make historic shows. It is just that a lot more is possible.

Frank: I would like to point out that a part of HBO's success is that HBO has turned out to be the most profitable section of the Warner brothers, America online. But the minute your profits begin to slip you become terribly vulnerable and your biggest enemy is your owner AOL. I think it is a very fragile niche that you occupy. I defend it and I applaud it but I worry about it.

Janet: Fair enough. We have been lucky in our merger with AOL and the time that has passed since, other than the normal containment conserve over side. This is because we are profitable and therefore we are left largely alone. There is non-interference in the larger corporate sense, which we are certainly willing to buy. It is a huge corporation.

Frank: Well there is a difference between working for HBO and working for any other entity. In all other corporate entities, you are only looking at Warner Bros, Fox Studios, Columbia Studios and so on as a profit making enterprise and not thinking anything about what the actual product is.

It is just that the people who make the creative decisions and who are going to say to a writer or director, "Yes, go ahead. This is probably a good idea for a movie or theatre. Let's take a chance and do it", can't think about it in a simple and straight forward way anymore. They have got to think, "Will this make money?", "How do I prove to my boss that it will make money? And in the event that it does not make money how do I explain to him in a way that will let him keep on employing me year after year in a business which is extremely risky?"

For instance, in baseball a winning average is, a great batter strikes out two thirds of the time. In the movie business a break will be made if it strikes out 90% of the time. It makes the position of not only the creator but also the person who employs him particularly vulnerable in that kind of economic pressure. He is going to think "I've got kids in college. What am I going to do about it?" It is no damn fun to be in that big fat chair of making those decisions to run these companies and that is very destructive to the creative process and that is what we are talking about.

Patricia Aufderheide: Could you explain how this situation differs from the situation before that you might have liked better. Because as far as I can tell, you can look all the way back and even then people were really desperately concerned with making money.

Frank: Harry Cohn was the legendary monster who ran Columbia Pictures. When I was a reporter, he once said to me, "I love movies. I like a certain kind of movies. And those are the kind of movies that I make. When the public stops liking the movies that I like, that is when I will get out of the business." He owned a studio and his family owned a studio. He can make that position on his own. There is nobody who runs these studios now who is free to make a simple and straightforward open decision. Jeffrey Katzenberg, while he was still at Disney, once said, "You know this business is not fun anymore". I said "Why is that Jeffrey?", and he said, "Because there used to be a time when somebody would come into my office and be absolutely passionate about his movie and I would think, "God damn! I don't think this movie would make much money but it shouldn't lose money because it is a bright idea for a movie. I want to make it." and with that passion, every once in a while I would say, "You know we are having a pretty good year and so let us take a chance and make that movie. Now we cannot do that anymore. Disney certainly does not do it!"

Patricia Aufderheide: Is it because they are public companies? Is it because now it is share holders instead of private?

Frank: I don't know how to answer that directly. It is because they are answerable to another level of management, which is totally concerned with whether or not at the end of the year, a review of the Katzenberg's record or whoseever's record says he is not making money for the company or not. And if he is not, he is not.

Patricia Aufderheide: They are no longer film making companies. They are units in a money making company.

Frank: Yeah! Exactly.

Janet: I have a different question. How much of that is also a knock on the fact that making a movie now costs so much more than it used to? So that the sections of the pie are bigger somehow and you can make fewer of them and so you are gambling on each one of them. And the amount of money it takes even once made to market a movie effectively given how many competing draws there are for all of our attention. It is a huge amount of money it takes to market a film. There is a bigger role to dice now. That's a factor as well.

Frank: That is true as well, but again I think that, that grows from the fact of what the business has become.

Janet: Which is that we have global markets.

Frank: So what you see out there is a monolithic audience of 16 to 24 years old, who have a great sex drive and a need for action in order to distract them from anything else that might make sense. That is the audience that we are racing towards in order to make big money. That is why we are seeing these wonderful little independent movies that come along and tend to win Oscars and go on to making 6 million dollars. "Monster's Ball" was a tremendously successful movie that won the

Academy Award for Halle Berry. That movie made the makers about 6 million dollars. In Hollywood today that is chump change.

Jonathan: In TV we have had profit-making companies for decades and they were publicly on. It is not that that is necessarily the issue. I think it is that, at one point, the TV network was the company. Now it is six levels down the conglomerate ladder. So whereas we used to have a showman like William Paley at the top or just below the top of the network, even those guys are so far down the ladder that they cannot go in and say, "I just had a gut feeling that this thing was going to go" or that, "this guy had so much passion about this show that I was not going to let it go." That is too much of a risk. What we do have in TV are the safeguards in which the government actually looked at the licenses that the networks had through their ownership of local stations and said "Have you put on any good programming this year?" And they would have to point to something by Frank Pierson or something like that. That is gone. They don't have to do that anymore. That whole licensing process is a joke. The whole public interest standard was taken very seriously and it no longer is.

Patricia Aufderheide: I wanted to ask Janet a question because one of the issues that I think you both are raising is what happens to the nurturing of creativity, where people are encouraged to have these ideas? Where is that passion going to come from and when did that passion come from for people who landed at HBO as their home? Where are they getting their energy from?

Janet: It is very different from what you are describing. My world and I realize it is a tiny piece in the world of film and TV, is populated by enormously intelligent, enormously talented producers, directors and writers who come in and by sheer intent of will and passion for a particular idea or a particular project are persuasive to the people I work for, who get to decide.

Jonathan: I think that the HBO model or example is good evidence that refutes what is going on in TV. Why aren't the others following the HBO model? It has been unusually successful. I do not think it is that they are just successfully mining a niche.

Janet: It is a little bit of everything. I also believe that success begets success. No where is it more true than in Hollywood, where everybody is near where something good just happened. As a result we are lucky in that, if you have a really interesting edgy TV idea, you are going to come to us first. This is because, it is marketed well, it is seen by a lot of people and it is talked about a lot. Perhaps that won't always be the case but it is the case now.

Jonathan: The anti-TV is in danger of swallowing up the TV and that is the success of HBO. At awards time and financially, it is just stunning. It is amazing that the broadcast networks do not follow that model.

Janet: Well, some of it they cannot. Some of our programming cannot survive in a world where you cannot say bad words on TV and those kind of things. But, a lot of it could, so I hope it gets contagious.

Patricia Aufderheide: I am sure you all notice the link between the changes in the larger structure and the way it has paradoxically benefited HBO. I guess I would like to talk here a little bit about what could make things better from your various view points than it is now.

Some people say that the arrival of personal video recorders or digital video recorders will create a new business model which caters to highly tailored choices and creates more potential, successful niche markets which could then leave you with a successful blockbuster strategy and many other strategies as people move away from a time based network model. Is that a possibility? Shall we just not put our faith in technology?

Janet: Right now, for us a bigger fear is that what happened to the music business might happen to us. You wind up spending a lot of money on a product and try to control the way it goes in the air waves and then it is co-opted and distributed for free. In which case, we would no longer be able to afford these products. That is a big fear for us.

Pat: Is it just a fear? Or is it a partial reality now.

Janet: Well it is a partial reality now, but there is certainly lost income due to piracy and that is really bad because trying to create a widget and sell a widget for less than we are selling a similar widget.

Yet, there is a destruction of the integrity of an artist's intention. For example, Frank goes through a lot of work for the color or the quality of sound, for the finishing of the picture or what he wants to communicate. A pirated version is usually degraded and badly duplicated. So there is loss of income from video and DVD and lots of that stuff. But the bigger fear is something that goes out through the internet where they can be mass produced.

Patricia Aufderheide: Do you think that the possibility of personal video recorders then magnifies the concern? As it is easy to just download those digital files.

Janet: Once you are in the digital universe, you can go near a computer and spit out a film print if you want to. You can do anything with it.

Frank: Within three or four years, going by the way that technology is advancing, it is going to be feasible for an ordinary person to download movies. Right now it takes a long time even with DSL or fast access or broadband line. but the time is going to come when it is easy to give away movies from somebody who has gotten hold of one, as it has become in the music industry, which has been really devastated by this whole thing.

At the same time, there are those who argue that the movie industry brought about their own demise in this respect. This is because, they were already so overcharging by the way in which they were marketing their music. Now they are getting smart. Universal is offering downloads at 99 cents a piece for a particular song and they are having quite a bit of success with it because a lot of people for whatever reason will pay 99 cents but are damn sick and tired of paying 12 dollars or 15 bucks to buy it over the counter.

The same thing is maybe true in the movie business. It costs to take an average family to a first run movie in a major city about 40 to 50 \$. It would cost over 60\$ by the time they get their car there, they park, they eat all the stuff in the counter and then pay 10 bucks a piece for the ticket. Maybe that is ridiculous. Maybe we should go back to the days when it cost 99 cents to go to the movies. In which case, who is going to take the hit? I think it is going to be the companies that are going to take the hit, because the one thing they cannot do is, they cannot do it without talented actors, writers and directors and they are going to have to continue to pay them something that will draw them into the business and can bring in a new generation of people who are not necessarily going to get as rich as they have in the past but will do very well for doing something that they love doing, and have a greater feeling of expressing that which is necessary, that comes from the soul and that maybe what Hollywood is going to become in the long run. I would REALLY welcome that.

Jonathan: I think the technology advances are extremely important and I think that will ultimately be the death of the bland. First of all, people are becoming so much savvier about their entertainment. They do not just turn the TV on and turn to the least objectionable program. They now want to watch a program. They want to watch something with edge. They want to watch something with passion. If they get this technology that allows them to do that at the push of a button, the bland will be forced out. Yet, at the same time, what we are talking about is that, the model of the networks and so on has gone for the bland. I do not think there is any question in that they have looked at the rating and they are wondering where the audience were. It is quite a remarkable statistic as to how they've gone HBO. They have gone to the internet. They found something else to do. But there are other things to do in life besides watching bad TV.

Janet: Unless you are really tired.

Patricia Aufderheide: We have people in the audience who are dying to leap into this conversation. Does anybody here want to make a comment?

Audience: I sit here as a frustrated listener and more importantly a very frustrated viewer. What do you do about a system where our creativity is fundamentally driven by this business and their profit making motive? I do not know why you are so apologetic about sounding anti-capitalist because that is the theme that is running through at least with you and Frank Pierson. I am not going to make a speech here and let me come to the question. I am not at all convinced that HBO is the great landing place for all the creative art. I mean, if you watch HBO during the day, you are out of your mind with junk. TV, and especially commercial TV is an absolute wasteland with rare exceptions. It is about where you get the biggest audience. And news programming? My god. Give me a break. We do not have to debate about what CNN is like and what the network coverage is like and so on and so forth. So among all of these things, I want to get to Frank Pierson about the issue. It is a minor question, given all of my complaints. I wish to hell that the three of you consider this question, with the exception of Frank who is hitting with you know what we call a spade and spade. We are in a bind, both as viewers and as creative artists. I am not sure what can be done about it, and this is an innocent question. Within this context of film and Hollywood, where will we be without the Sundance film festival?

Frank: I think that the solutions to the problems that we are raising, and the issues that we are pointing to, essentially are political in nature. You can say that capitalism has got into our creative

community and our cultural lives in such a terrible state, that we might as well junk it a try a Marxist model. But that does not work at all, because we have all seen what Russia produced during the communist years. Most of that was junk with a very few exceptions and those were politicized propaganda pieces thinly disguised, and I include Eisenstein into that complaint. So that does not get us anywhere. But, what we do have here is an absolute refusal of the political conservative side of our establishment to accept the idea of an economic policy or anything resembling a policy. By that I mean the idea that the government should not be in business at all. Of course, that also means that the government should not be in the religion business either. But they do not see any hypocrisy in holding those two opposite ideas. I think that is the sign of intelligence on their part.

Are we going to say that the government representing the people has a right to institute certain policies that encourage creativity in very specific ways or do we say, all we are going to do is set business free? Basically, we will absolutely have a totally free market and see the way that that sorts out.

Patricia Aufderheide: Frank, if you could write three laws or rules, with which the Government would really establish a cultural policy. Where would you go?

Frank: I would separate distribution from production. I would include in that, every aspect of the society so that the Halliburton that drills the oil can't have any interest in the gas stations that sell them. The same thing should be true as far as food production is concerned. So that you would not have supermarkets that actually lease their shelves by the foot to Pepsi Cola, who then stock the shelves. That then really makes the idea of free market really a farce. So I believe that, to that extent, they really follow the rationality of a free market philosophy, and then we could get ourselves out of this fight.

Jonathan: To respond to your comment. I am a capitalist. I believe in capitalism. But, I think what we are witnessing is very stupid capitalism at work. It is really the triumph of the stupid. What we are witnessing is the great success of people with vision and passion, who let their artists alone, to exhibit their own vision and passion and take risks and so on. In that way, coincidentally those people, that is HBO, is making a lot of money. We even have documentation that the networks will not put on what they consider to be the best program, but rather the one that they will make the most money on.

A fellow member of the advisory board of Centre for Creative Community had this example happen to her. Her program was developed by Fox TV. They said it was wonderful and that it was the best thing that they have developed that year, and said that they wanted to put it on the fall schedule and distribute it. If Fox does not distribute it, which meant forgoing a part of her share, then they will put on their own show. So here they have admitted that they have got the best show, but it is by an independent person. They are not going to make quite as much money on it, so they are not going to put it on.

Janet: What did she decided to do? Did she decide to sell it to them?

Jonathan: She decided to go with the bad deal. She could have gotten a much better deal else where. But hats off to her for this. It was brought to her by another writer who interested her in it passionately. She thought she owed it to the writer to get in the air.

Frank: Well, so she had succumbed to the mafia attack. If you don't give us 10% of your gross, we are going to push you out of business.

Patricia Aufderheide: What are your top three changes to be made?

Jonathan: I would also separate production from distribution of TV. I would do that in cable as well. I also do not want that cable operators to own cable networks. This is because, they favor coincidentally those networks on their stations and drive out independent networks and independent stations.

Patricia Aufderheide: Just as a historical footnote, when cable started out, the cable companies said "We agree that linking programming and delivery is a bad idea. We only want to have that in order only to be able to get us to some position where we can compete with these huge businesses. Once we become a viable emerging business, the government can split us up again." Of course once cable got big, that was impossible.

Jonathan: The strongest people who favored independent production in the late 80's and 90's were Bob of NBC and Robert Eiger of ABC who became Disney. They were doing business with a lot of movies studios, which then were financing as lot of television productions. They wanted to do it themselves. And then the rules changed. Suddenly Disney buys ABC and Robert Eiger thinks it is the best thing in the world that Disney makes all the ABC shows.

Patricia Aufderheide: We have a lot of people who are trying to get in but I want to give Janet a chance to tell me what she would do if she could wave the magic wand.

Janet: I have to think about what laws I would have. I do not have any answers for you. I think there definitely needs to be a different financial model. I am afraid that is not my area of expertise to propose what it should be.

Jonathan: I think we have the law in place. If we follow the First Amendment through to its logical implications, we will solve all of our issues.

Patricia Aufderheide: What I understand is that both you and Frank are saying that it should be interpreted affirmatively and not by default.

Jonathan: In order to make a functioning market.

Audience: So where does the writer, who is not appealing to the international blockbuster market turn now, if he is going to require some budget. Say it is a period piece and you've got 16 year old boys purchasing it. Where do you go and what do you do?

Patricia Aufderheide: Meet Janet.

Frank: The first call I would make is to Paul (Janet's boss). That is part of the answer and then you look around for the few people who do respond to those ideas and see what you could do. Every once in a while, you would get one through. But in case of a movie, you would be better off getting it done through the independent film market. There is no one here who represents that and I do not know much about it.

Audience: How does PBS function in these concerns that these people are raising?

Jonathan: They have almost gotten out of original programming, other than documentaries, programming business. Their bureaucracy is so tough that they are almost everyone's last stop.

Patricia Aufderheide: I would like to take the moderator's prerogative. I see one of the representatives from one of the major strands for documentary work in public TV. I would like to know if Cara Mertes of POV has any comments.

Cara: I was actually pointing for you to say something because you know the exact history of PBS. It is as if the panel has been paid not to mention public media in this country. It is the alternative that we turn to, both historically and as of today in documentary and I know that we are speaking a lot about narrative and the feature world. I would like to hear a little bit about the role that public media has played in not dismissing creative ideas. We know that the bureaucracy is tough but I would like to hear something little more in-depth than that. We do not have just a commercial media system in the country, but nobody has talked about it at all.

Patricia Aufderheide: So the challenge has been put?

Jonathan: I stand by my answer.

Frank: i just do not have any experience with public broadcasting at all. Except that I listen to NPR and occasionally watch a special. I really do not know how to answer it except as a consumer, and frankly it does not look to me as a place where I could bring anything of interest to them.

Patricia Aufderheide: What is that? How is it that we lose the creativity and the expertise and the ability to draw other creative people like Frank Pierson for the media perspective?

Frank: I find it bland. All the drama tends to be out of the BBC shop, out of cities that I do not know anything about.

Jonathan: It is not a market. They are not asking for people. They do not have the money. It is not a knock on them. It is just that they are not in the original business very well, other than documentaries.

Patricia Aufderheide: I heard many things and one of them from the three of you is that, the content that is there is not inspiring for creative producers who are trying to reach broad audiences with compelling drama.

Frank: I do not make documentaries. I do know that a lot of their other documentaries are terrific. I am just not in the business.

Patricia Aufderheide: What I hear is that there is not much money, given the level in which you guys are working. The other thing I hear is that, people cannot figure out the bureaucracy. One of the reasons why it is a frustrating thing why people do not want to deal with public broadcasting is because it sounds like public broadcasting or public TV. In fact, it is not. It is a whole bunch of independent stations which are served by a variety of organizations, some of which are national. If you think it is frustrating, just imagine what it is like being in that network of nowhere.

Frank: It is interesting how you bring out the issue of production energies. The most representative of which are WGBH in Boston and couple of others. KCET in LA produces nothing that I have never heard of and KCET sits in the middle of the richest creative community in nation as far as entertainment and culture affairs is concerned and it has nothing of any importance coming out of there. I do not know the explanation for that. It is just an observation.

Audience: My confession is that I am a graduate student in Computer Science. I work in creating technologies that are used to distribute content, figuring out how to use technology in just interesting ways. I just came back from an international conference in Operating Systems and Networks. There are a few quick observations about the media consolidation and the push for that to be systematic or symptomatic. A larger problem with that is short term. My observation is that a lot of these companies do not have a vision for where they want to be 10 years down the line. They want to keep it that way and that reflects in the push for the SECs, the push for extensions of copyright laws, a push for inventory protection. I am certain, and these are my technologist view, that these things aren't really needed.

I think iTunes music store has made millions of dollars in a short amount of time because they are more open to online visual distribution, burning stuff on a CD and making it available even after the distribution ends and I think that the movie industry is not willing or just have not seen that yet or are still in a mode where we think that we must protect everything absolutely. My view is that, this is actually a cause for a lot of negative consequences. I guess at the conference that I just came back from, they will see that after two years. Because there are restrictions on the copyright laws, restrictions on especially free speech in my field. Corporations need to take a deep breath and dialogue split in, and we must be willing to trust that at the bottom there is a safety net and viewers that want content and want to pay for it. It do not want a bottomless pit. Do you think this is correct view? do you think that they just need to take the plunge?

Janet: The technology aspects of what we do are certainly not my area of expertise. My answer is going to be less than perfectly articulate and probably not representative fully of what HBO handles or believes. I do know that there are a lot of people at HBO, all the way up the ladder who are incredibly visionary about what the future looks like. They are incredibly fearless about it and incredibly intrigued about the future and drawn towards it. There is a reason why HBO is the first one to use all kinds of new technology in the way we satellite to ours subscribers and so on. It is a company which is very inspired in many ways by what technology makes possible and it is said that it takes a lot of money to make film entertainment and we end up finally with what is an archaic product which you do have to protect, or the companies that create it will not continue to

resist. So whether there is a new model out there that we should embrace? I hope so. It is coming but I do not know what it is. Do you? So how for example would we sell our movies? Protect what an artist has created and make sure that it goes out to the world.

Audience: I think iTunes has a very good model. It imports with a minimal amount of protection, just something basically to deter the usual pirate. We need protection and we cannot compete with free. We cannot compete with something that is given away but there are people who want to buy pure water and are willing pay two bucks, so I think if you provide a steady stream or faster service or say that this is good content, you know what you are getting and you will have to pay a reasonable price for it. People would go to that and they have gone to that for music.

Jonathan: You prefaced your question by saying that you were the enemy. I do not see it that way at all. As part of our work, our organization is about trying to look at new technology and explaining them or trying to encouraging an approach towards it. It may very well be that technology is the light preserver to new creativity. They may very well be the end to run around these media conglomerates that is choke hole. The only problem I have with new technology is the line between fair use and piracy.

Patricia Aufderheide: Is what Jonathan is referring to clear to people? About fair use and piracy?

Frank: I agree and I do not see you as an enemy in any sense. The charge that you are leveling at this industry is that, they tend to try to fight to preserve things. The money and the effort goes in and creativity, trying to extend copyright to a second generation and so on. If the Supreme Court really did its business, it would throw the goddamn copyright laws that are written now out. It is a disgrace, including the work-for-hire provisions. So, I agree with you on that. All the effort and creativity goes into holding onto what they have done and trying to grab just a little bit more or as a little creativity in thinking about how to make use of what you guys are doing and go a long way to resolve most of the problems that we have addressed.

Audience: Hollywood represents the power to control the financing and the distribution of intellectual property. We have seen the wholesale rape of the music industry by Clear Channel Communication. There used to be, back in my day a very vital and relevant music scene, but that has since gone in the way side and now we are treated to girls who want to show their midriff and want to appear on television. More to the point, the digital or the other D word has not been mentioned here much except by this gentleman, and it not only effects distribution, but it affects the way that films are produced. I know as a producer that the films I will be making, will be marked on HDTV and they can be viewed with a \$1500 laptop and a \$1000 projector on that screen and will look fantastic. Secondly, they can be shown on TV. The HBO business model is a great business model if I could just get HBO out of the hands of the people who want to package it to me from the cable company and sell. I think the fundamental thing I am hearing is that we need to separate the distribution from creation and production, and get those two things split.

As wonderful as the work HBO is doing, the products they are making, there are some things that I would like to point out. I am a total Sunday night junkie. I mean I am there, I am hooked to it as heroin, take it off the air, it is too good. But I do not see much on other nights. I am not seeing as much from that and I want to see that business model and what the heck are you doing selling out

to the big, to the suits? Why did that happen? I was there at the beginning of HBO and I thought it was fantastic and you can now sit at home and view movies that you missed.

Janet: I am sorry what do you mean by selling out to the suits?

Audience: I mean, now you are owned by AOL, Time Warner?

Janet: Well, we have always been part of time Warner, from the very beginning. time Warner merged with AOL three years ago.

Audience: I would like to ask just one question. How do you guys think that the digital revolution is going to free us? Secondly, where can we get the money to produce our projects? We do not want to make big money. I mean you quoted 6 million dollars, but you know that a lot of people were hired to make that picture and there were fees paid out. Will we make money doing something that we really love? I have got some fellow writers here in the group and producers and directors in Virginia. Why do we need you people?

Frank: There are two questions you are asking us. One is, what is digital going to do to us? It is going to fundamentally change everything. It has already destroyed the music business and a new music business has to be created in order to replace the old one. That is the good thing. I hope that the movie business and by extension the TV business learn from what the music business is going through. There is a way to learn things, although we do not seem to be very good at that. That is one question and in the long run it is not even whether it is a good thing or a bad thing, it is simply going to happen and we'd better learn to deal with it.

The second question is where the money is going to come from. When the new business begins to look rational to those bankers and the big companies, the money will come. Money will come if you create it. That may seem like a general answer but that is the only one I know.

This is not a brilliant insight. Digitalization is going to revolutionize the business in a fundamentally terrific way. It is going to lower the cost of production and I think it already has tremendously. The Blair Witch Project was produced in high-definition 8 mm, and they returned the equipment to Circuit City soon enough to get a refund. Digitalization is also going to make distribution so much easier. Except for movies and TV, if the speed of the internet continues to increase, cable will become obsolete. So will digital be our way? I hope so.

Patricia Aufderheide: Janet, are you seeing those changes in the work that has been presented to you?

Janet: We actually have made a few of our films now in hi-definition and I will tell you that I am not a huge fan of the look. It is not for the size of the picture that we make, with the level of cast that we have and so on. It is not any cheaper. Digital has however put the means of telling a film available to everyone. You can now cut it at home, the tools are accessible to everybody and I know that everyone of you who wants to be writing and directing features is going and doing that. I know that the tools are there to learn the craft. The possibility as far as being a training ground to people is enormous. If you are making the kind of movies that we make, where we have a certain

expectation about the level of production value and what you can see on a big screen and the quality of that image, I am still personally hugely in favor of 35mm film. It is a richer and more interesting image that you can do more with. But what is destroyed is the immediacy of telling a story that the digital film has to offer. Therefore, we have done it a couple of times.

Audience: Even after Once Upon A Time In Mexico? It is a beautiful picture.

Janet: I have actually not seen it, but I have heard of that.

Audience: You need to see it. It is fabulous. I mean it convinced me.

Jonathan: What is happening in Kodak? Essentially, they are getting out of the film business. They are going to service your film but they are basically going digital because it is going to replace film completely. There is no escaping it and there is going to be positives and negatives and to me it is very positive as it democratizes film making.

Audience: From a consumer point of you, I guess, even though you have hold outs and they may say that even as you turn on the TV at night there is nothing on and everything sucks, there are more videos (I am video store manager), and TV programs are released every year now than ever before. So what I am really asking you is, What is the root of the idea that there is not a lot out there for the person. For you guys who are on the creative end, why do you see the amount of creative material that is being produced now as less than in the past?

Frank: I think, just going by the employment statistics of the Director's Guild and Writer's Guild and Actor's Guild employment, we see that fewer and fewer movies of the kind that we have enjoyed making are being made. There are very good directors who have had very successful careers for years and years, who cannot get a job anymore because nobody wants to employ them to make a picture. They are some of our great people. I mean that is seeing it from the production end. So something obviously is breaking down from the production out here.

Audience: I am very intrigued by the man on the end here who said that we do not know what we are missing. I would like to know if you can give us some specific examples of the kind of ideas that are being looked at cautiously and being rejected by executives.

Jonathan: There are a number of people who have created some of the best television in history who will no longer work in television. Dianne English would be one who created Murphy Brown, Gary David Goldberg who created Family Ties, Norman Lear is out of TV. So you are missing something with those people out of TV, given the working condition.

Audience: In the turn of the century in England, when lithography process came out, it caused the same turmoil that we are facing today. This is because the music publishers had established a foot hole. The high prices that they were charging seriously needed to be cut by what they called pirates. The same activities that are going on today went on then and the important thing is the result. The result was what Pierson pointed out. The cost came up dramatically for the product, allowing people to get in, probably the same way as the itunes model. That is what happened back then. The second thing that we forgot in any of this discussion is the whole issue of marketing. It is not about

getting something wonderfully produced than getting it known by the people out there. You do not need to do that because there is a presence which allows them access to the media and so on. I think that is something that has to be a part of any of the future of creative media. Somebody out there or groups out there need to be able to identify with what they are watching, telling people where that is and help these so called undiscovered products to emerge. I think a part of that will come out through this process.

Audience: Since I am a friend of Jon's and a fan of Frank's and pay Janet her pay check in HBO...

Janet: And my children thank you for their shoes on their tiny feet.

Audience: I am going to take the role of the devil's advocate here. You are in charge here and of course everyone is sitting here agreeing with you guys. I am only pointing out what may be the flaws. It is a deeper analysis of this complicated situation. We are basically talking about the issue of government policy and Jon plugged into this seriously. Call me Republican if you will, but what do you say to the idea that the economic market place should take care of these things? Of course, we are down a few media conglomerates. But they want to make money. Warner is happy to receive checks from HBO and to have seen the success of HBO programs. Disney is happy to receive checks from Miramax. It is 600 million dollars, but it is part of the income stream, and wouldn't they think, "Gee, if there was enough money to make a film for the HBO division, if there was enough money to be made from Academy Award winning films, which have limited audiences and maybe they want to promote those films, wouldn't the money do fair service?"

Frank: Well, the answer is yes. If economics were a rational process, which I think increasingly the economists are willing to agree is almost as irrational as any other pursuit, what you are saying and your argument would work out. However, what we are saying is that, it is not working out and certainly ought to, given the situation, but for some reason or the other, it is not. Most of us here and even everywhere else that I go to, are not happy with what is happening in the movie theatres and what is happening on TV.

I want to remind the Republicans that a really truly unhappy population gets rid of politicians and gets rid of its businessmen in a god damn violent way and we do not want a revolution. We almost had one here in the 1930s and I think we ought to go back and take a look at some of the Government and economic policies that we put in place at that time to resolve issues which progressively had been cut away and nibbled away until they are almost totally and utterly lost today. Over the past several years, all the work had been undone and we find ourselves in this unhappy situation.

Patricia Aufderheide: I thought you were going to tell him that you want a healthy capitalism, and that unless you have government regulation that breaks up vertical integration, the kind of economic power to fund creativity that he is talking about won't be liberated.

Frank: The idea that the free market liberates both ideas and money and everything else is dealt in a rational kind of way just does not work anymore than Marxism works. Marxism cannot possibly work. Human beings are not going to be able to manage the system. The free market economy

failed in 1929 and we learn some lessons from it which we have unlearned over the past 40 or 50 years. I am saying we ought to take a second look at that and restore some sought of integrity and morality to the market.

Audience: I realize that I asked the question but frankly, putting a dichotomy between a Marxist model and extremely free market model, isn't there something in between?

Frank: That is what I am calling for. Aren't there models in Europe and Canada in which there is governmental funding available for the making of films, where people's screenplays are viewed by their peers and so on and so forth?

Janet: There is subsidized art everywhere.

Jonathan: Paul your argument is a terrific one for most of the American economy. For example, the cereal aisle in the grocery store. But ideas, creativity, art, culture, information, free expression are held to a higher standard and we recognize that standard. We as citizens want and expect our Government to allow the widest range of opinions, the freest market of ideas. It is not an answer to say that there are 100 different boxes of cereal in the cereal aisle and that they have 100 opinions. They are only made by 3 companies and that is what our TV is like today. I think you do not have to go as far as talking about the whole American economy to say that what we are talking about here, that is entertainment, news ideas, information has to be treated differently.

Audience: As a camera man, I shouldn't be getting my voice on camera but I feel strongly about this. I am a digital creator and I can sympathize with the computer gentleman there because, the music companies are losing so much money because the technology exists whereby one can copy DVDs, copy CDs. They are trying to encrypt digital cable like HBO and for the record and I think for POV, HBO has been very bold just recently. I think PBS has had great programming. The Hollywood industry just does not get it and I think they are going to shoot themselves in the foot because of the technology and also the ability to make high quality copies.

Audience: I would like to know if you have any exposure to the way that films are financed and distributed in France and how that example would relate to possible government involvement in filmmaking in the United States.

Frank: I am not sure if I completely understand the question but I will still try to answer that, because that is what I like. I am against government involvement. Talking about the subsidized film industries in Australia and even in England which we consider pretty enlightening about one thing or the other, if you ever had to spend a whole night in a London hotel, you will notice something and that is that they are not better at doing stuff than we are. So I am entirely against Government intervention in that sense and am against Government subsidies and their going through the content. Is that what you are talking about?

Audience: Yeah. I basically used to work for independent films in Charlottesville. We got a grant from the French government to show French films here. That went all the way through to funding production, and television was also involved in that. For me at least, the French film example is very distinct from the BBC and from some of the films that are being made in England, in so far as

that there is a lot of diversity in what gets channeled through Government funded programs in France.

Patricia Aufderheide: I would love to see you in the panel tomorrow as it are a perfect subject for this panel for public funding and cultural policy. The cards to play cultural policy in other countries are not available to us. The key card is cultural nationalism. This kind of cultural nationalism exists, because they are overwhelmed by Hollywood product. It is a different situation here. I welcome you to the panel tomorrow.