Keeping the Score
The impact of recapturing North American film and television sound recording work

December 2014
Table of Contents

Acknowledgments.............................................................................................................................. 2
Executive Summary.............................................................................................................................. 3
Introduction........................................................................................................................................ 5
Precarious work in a shifting industry............................................................................................... 7
  From full-time to freelance ............................................................................................................. 7
  A dignified standard set by decades of organizing ....................................................................... 9
Musicians in a Twenty-First Century studio system................................................................. 12
  What is a “major studio” anyhow? ............................................................................................... 12
  Composers squeezed in the middle: the rise of the “package deal” ........................................ 15
  Chasing tax credits, ...................................................................................................................... 17
  A profitable industry, ..................................................................................................................... 19
The “last actors” feel the pain.......................................................................................................... 21
  Recording employment slipping away, ....................................................................................... 21
  Where has recording gone? ......................................................................................................... 24
  Recording the score as “an afterthought” .................................................................................... 25
  Hollywood provides quality employment – for most ................................................................ 26
  Bringing work back: the debate thus far ...................................................................................... 28
A community weakened by the loss of music .............................................................................. 33
  Case Study: Impact on the Los Angeles regional economy ..................................................... 33
  Impact on the cultural fabric ....................................................................................................... 35
  Breaking the social compact ....................................................................................................... 36
    Federal subsidies ...................................................................................................................... 36
    Local subsidies ......................................................................................................................... 37
    Cheating on employment ......................................................................................................... 38
Lionsgate: a new major roars........................................................................................................... 39
  Reliance on tax incentives ......................................................................................................... 41
  Wealth – and work – not shared ................................................................................................. 41
  Taking the high road: what it could mean .................................................................................. 43
Conclusion and Recommendations................................................................................................. 44
  Recommendations to policy makers .......................................................................................... 44
  Recommendations to the industry .............................................................................................. 46
Endnotes........................................................................................................................................... 47
Acknowledgments

Lead author: Jon Zerolnick

This report owes much to many organizations and individuals who gave generously of their time and insights. Thanks, first and foremost, to the staff and members of the American Federation of Musicians, including especially Local 47 as well as the player conference the Recording Musicians Association. The data provided by Local 47 were essential, and the analyses presented here were greatly informed by the experience and expertise of past and present RMA officials and members. We thank everyone at the AFM, its locals, and its conferences for their patience and generosity.

Thanks also to the many people who helped to provide background factual data or information, or who provided feedback on early drafts: the staff at the Film Musicians Secondary Markets Fund, staff at the other Hollywood unions (WGA, SAG-AFTRA, DGA, IATSE, and IBT), the AFL-CIO, City of Los Angeles staff and officials, staff at Film L.A. and other film offices around the country and around the world, and analysts at policy organizations such as the Milken Institute, the Tax Foundation, and others. Special thanks to Dan Flaming of the Los Angeles Economic Roundtable for his assistance with economic modeling, and to entertainment/technology attorney and journalist Jonathan Handel for his insights and research that informed the discussions of residuals and of changes in studio structure.

Several interns contributed to the calculations in these pages; thanks to Chanelle Yang, Gregory Lewis, and Elizabeth Alcantar. This report was improved dramatically by the review and the contributions of many LAANE staff, including James Elmendorf, Lauren Ahkiam, Gina Palencar, Chad Sells, Erika Thi Patterson, and Laura Joseph, as well as the thoughtful feedback of the entire LAANE research department.

The author takes full responsibility for the contents of this report and is responsible for any errors or omissions it may contain.

This report is dedicated to the thousands of hard-working recording musicians who help to create entertainment magic and whose contributions are too-often unrecognized.
Executive Summary

Governments across the U.S. and around the world are investing billions of dollars in the film and television industry in an effort to create and retain the high-quality jobs attached to the industry. Yet musicians – the highly-trained and highly-talented women and men who record the scores for movies and television shows – are being left behind. This report shines a light on this oft-overlooked segment of the industry by examining the trends and forces contributing to a dramatic decline in domestic employment for recording musicians working at the industry standard.

This report concludes that by increasingly offshoring recording work, Hollywood studios and production companies are saving relatively small amounts of money. These savings, however, have disproportionate costs for musicians, taxpayers, and the broader economy. Hollywood can easily afford to meet the top employment standards for musicians, thereby not only providing ample quality employment, but strengthening domestic economies.

Findings

Historically, recording work for film and television provided quality employment. Despite the precarious and freelance nature of the job, recording musicians established high working standards with good wages – bifurcated between session wages and deferred compensation (i.e., residuals) – and benefits including health care and a pension. North American musicians operating at these standards are the best in the world. Yet employment is in sharp decline, dropping by more than two-thirds over the past fifteen years for Southern California recording musicians. Session wages have dropped from nearly $50 million in 1998 to $15.5 million in 2013. As recently as 2003, 76 percent to 85 percent of films were recorded at the industry standard; in 2013, it was 33 percent to 46 percent.

Increasingly, recording work is being offshored – mostly in Eastern Europe and London – and below the industry standard. Production companies treat recording musicians differently than they treat other creative and technical workers: while hundreds of production companies have committed to quality employment for actors, writers, directors, and technical workers, only twenty production companies have made that commitment to musicians. These Hollywood production companies remain profitable, yet have shifted recording work for a variety of reasons, including changes in studio corporate structure, changes in the role of the composer, the rise of government incentives, and a broader devaluation of music. Long-established studios have created or acquired numerous production companies; by shifting work between companies within the same corporate structure, studios avoid obligations to provide quality employment to recording musicians. Additionally, new entrants to the market generally fail to meet established standards.

The cost to production companies of employing recording musicians at the top industry standard is equivalent to 0.36 percent to 0.52 percent of a typical film’s production budget. By offshoring this work, production companies save less than one-quarter of one percent of the film’s production budget—or $143,000 on a typical $65 million film – yet workers and the community lose $1.2 million. The average movie employs 75 musicians, yet domestic musicians must share the smallest slice of residuals of any union, and participate in residuals at a significantly lower rate than do actors, writers, or directors. Outside of North America, recording musicians typically receive no residuals at all.

Over the past decade, Los Angeles taxpayers have invested millions of dollars in the industry, yet the loss of recording work has cost the region $280 million. By bringing recording work in Southern California back to its year 2000 level, we have the potential to inject $37.5 million into the regional economy every year, and to protect critical infrastructure. Bringing work back to Southern
California would bolster our musical “cluster,” an unusual cultural and economic advantage currently threatened by the loss of recording employment.

Production companies avail themselves of tremendous taxpayer-provided benefits in the name of quality employment, making all Americans de facto film and television producers. Federal subsidies have historically provided over $200 million annually. State subsidies provide $1.7 billion annually. Consumers are paying more at the box office, as ticket prices have outstripped inflation. Yet production companies may skirt the law with their score-recording practices if they are not paying required taxes when they import a score that was recorded with foreign subsidies, or when musicians are misclassified as independent contractors or paid under the table.

We argue that one new entrant to the market, Lionsgate, should now be ranked alongside the so-called traditional “majors.” Lionsgate provides a useful case study of harmful industry practices. Despite its success and profits, and despite a strategy explicitly reliant on tax incentives, Lionsgate treats musicians differently than other workers: an analysis of Lionsgate’s 2013 films shows that actors, writers, directors, and crew members worked at the industry standard on 80 to 100 percent of films, yet musicians only received the industry standard on twelve percent of films. Lionsgate’s CEO’s pay has increased over 4,770 percent since 2001, while session wages for L.A. musicians have declined 43 percent. The change in the CEO’s single-year compensation between 2001 and 2014 is comparable to the aggregate change in session wages of all unionized Southern California recording musicians for all of those years. Were Lionsgate to employ recording musicians at the industry standard, employment opportunities for musicians would increase at least nine to twelve percent. A single year’s slate of movies would cost the company $2 million (in total, not marginal), but would benefit musicians by $5.8 million, and would benefit the regional economy by $8.5 million.
Introduction

Many critics have written that there are no new stories in Hollywood. Those who follow the public debate around the problem of “runaway production” – when film or television intended for U.S. audiences is produced elsewhere – could be forgiven for thinking that there are no new stories about Hollywood either. This report aims to dispel that notion by turning focus from film and television production to an often-overlooked – but critical – element: the recording of the musical score.

Traditional analysis suggests the best scores go unnoticed, and moviegoers likely do spend less time thinking about the impact of a score than that of acting, script, or visual effects. But filmmakers rely on scores to communicate complex emotions. As Oscar-winning director William Friedkin explained, when a script has taken the words as far as they can go, the music must step in to carry the weight.¹ According to director Werner Herzog, it is not that the audio and visual elements of a film talk with each other as much as “they dance with each other... the music in a way steers and motivates and somehow agitates our soul and we are ready for seeing.”²

It only takes a few examples to convey the significance of music to film: “The Godfather;” “Jaws;” “Star Wars;” “The Good, the Bad, and the Ugly;” “Psycho.” On hearing these titles, even the casual fan will recall Nino Rota’s dark, mournful trumpet; John William’s ominous themes (whether for a shark or for Darth Vader); Ennio Morricone’s guitar-and-effects driven theme, replete with whistles, vocalizations, and whips; and Bernard Hermann’s screeching strings as Janet Leigh is murdered in the shower. The composers may not be household names, but whistle a snippet from any of these scores – and countless others – and those around you will immediately recall the films they helped make famous.³
Of course, film and television scores do not spring fully-formed from the minds of the composers. Talented musicians perform the music that makes great films and television great. Currently, there are thousands of people across North America who play the music that breathes life into our favorite movies and television shows. These hard-working women and men toil in relative anonymity; as a rule, recording musicians do not even get recognition in a film’s credits. But with steady work and good pay, recording has been critical to rounding out the freelance gigs that most rely on to get by. Recording work has contributed not only solid income, but also health care, pensions, key workplace protections, and respect and dignity on the job. These key workplace standards were won over the course of decades, as Hollywood’s musicians organized.

This is no longer the story for recording musicians, who have seen a dramatic loss of work over the past fifteen years. For the sake of simplicity, throughout this report we will refer to musicians who record film and television scores as “recording musicians,” though they are also typically engaged in many other kinds of recording and performance work such as commercials, video games, and live symphonic, jazz, popular, and theater performances. More film and television recording work is being done in ways that undercut these long-established standards, and, increasingly, the work is being done overseas. In part, this is a familiar narrative of globalization, hewing closely to the well-known account of runaway production: studios, accountable to corporate parents and to financiers, outsource the work where it can be done more cheaply. But, as with many Hollywood stories, there’s a twist: as studios are sending more recording work overseas, they are also accepting billions of dollars in tax breaks—dollars explicitly intended for job creation and protection.

During the past decade, nearly every U.S. state created a tax credit program to attract entertainment industry jobs. Currently, an estimated $1.7 billion is at stake every year, and large and small studios alike now rely on this money as financing which must be in place before they will green-light a production. As taxpayers, nearly all of us, therefore, are now film and television producers, as studios take maximum advantage of our money in the name of job protection. On the whole, this is not an unreasonable proposition: entertainment industry jobs are generally the sort of high-quality jobs we want more of. And policymakers concerned about runaway production have appropriately placed job quality at the center of the debate. But for all of the discussion of runaway production, there has been virtually no attention paid to recording work, or what we might call “runaway post-production.” Ironically, it is the tax credit race that has in large part driven good recording jobs out of California and North America.

This report aims to shine a light on the significance of the work done by recording musicians as well as outline the factors and conditions that have eroded this work and with it musicians’ jobs, incomes, benefits, and their position in the industry over the past fifteen years. We will tell the story of what Oscar winner Randy Newman has called “an arcane craft... [that] not very many people know much about.” In the first section, we look at the nature of the work, its place in the industry as well as in the filmmaking process, and those who perform it. We also examine the industry-wide choices (including the use of tax credits) driving the loss of work. In the second section, we take a closer look at how these changes have affected musicians with a new analysis of income data from Los Angeles, a major center of North American recording work. In the third section, we focus in on how these trends have broader repercussions not only for recording musicians, but also for our overall economy and cultural fabric. In the fourth section, we present a case study of one company, Lionsgate, to exemplify some of the industry’s worst practices. We conclude this report with recommendations for policy makers and industry leaders.
Precarious work in a shifting industry

From full-time to freelance

In the early days of Hollywood, musicians had regular employment. Each studio hired musicians on salary for the in-house orchestras who would play the scores under the old studio system. With a regular place of employment and regular hours, musicians could count on a degree of stability: they would show up for work and perform a score for one movie on one day, and another movie the next. The projects changed, but the work was steady.

In the middle of the twentieth century, changes in studio structures led to the casualization of the industry, with actors, writers, directors, and musicians all becoming freelancers. “The breakdown of Hollywood’s studio system led to the demise of studio orchestras, in which dozens of brilliant émigré musicians once played.” Studios severed their relationships with musicians, and many shed their music departments altogether. Rather than having a steady job with guaranteed income, recording musicians are now freelancers, paid by the job. Recording musicians therefore spend much of their time waiting for the phone to ring, alerting them to their next gig. While this casualization transformed the entire industry, it hurt musicians perhaps more than most: a single project may provide a typical director or writer with enough income to sustain herself for months, but a single project for a musician may be no more than a day or two of work. As one 30-year veteran of the industry notes, “you are not in control, so you don’t know if you’re going to work every day of the month or only have two days of the month.”

Hollywood continued to churn out films and television shows, creating ample — if precarious — work for thousands of freelance musicians, now left to cobble together income from a variety of sources. Interviews both with working musicians and with industry experts indicate the breadth of work required to forge a family-sustaining income. In addition to recording work, these musicians may play in a regional orchestra, symphony, theater, or opera; they may do other recording sessions (for albums); many teach; many others turn to non-musical work to supplement shrinking musical incomes. As we will see, recording work — even in this freelance model — provides a good wage and important benefits including health care and a pension.

According to data from the American Federation of Musicians (AFM), the union that represents musicians engaged in film and television recording as well as many other musical jobs, there are approximately two thousand musicians in...
A national problem, a focus on Los Angeles

Throughout this report, we will focus on the recording industry in Los Angeles, and the musicians who work there. This should not be construed to mean that runaway post-production is a uniquely Los Angeles problem, or that these issues are particular to Los Angeles. The same trends and forces affect recording musicians throughout North America.

We focus on Southern California for several reasons. First, L.A. is simply where the bulk of the work has historically happened at industry standards, as Figure 1 illustrates. Second, Southern California is the historic home of the entertainment industry, which has special resonance as a signature, flagship sector. Third, Local 47 of the AFM was generous enough to share data.

Figure 1
Geographic Distribution of Unionized North American Recording Work

94.2% Los Angeles
5.7% New York
0.1% Nashville

Source: Film Musicians Secondary Markets Fund

Despite the focus on Los Angeles in this report, a similar story could be told in any of the other regions in North America where significant recording work occurs at the industry standard: New York, Nashville, and (to a lesser extent) San Francisco, Toronto, and Montreal.
Southern California engaged in recording work, and hundreds more across North America. This represents a nearly 50 percent decline in the number of recording musicians over the past 23 years, and at least 62 percent of these musicians report income from sources outside of film and television recording. Not only is the number of musicians in decline, but their income is down as well, with median recording musician income down a dramatic 24 percent in one year alone, from 2012 to 2013.

Opportunities for important, high-quality work are disappearing. This is true for those musicians whose income comes primarily or exclusively from recording work, as well as for those who simply take the occasional scoring session to supplement a broader mix of work. Recording musicians across North America are endangered.

A dignified standard set by decades of organizing

The work of musicians in the entertainment industry long predates the advent of sound recording on film. When films began to appear across the country at the end of the nineteenth century, they were accompanied by live scoring – a typical orchestra would comprise some six to eight musicians – to entertain audiences. Following a wave of movie house construction, musicians were in high demand, and “no other avenue of musical employment matched theaters in terms of employment. By 1927, approximately 25,000, or an estimated one-quarter to one-third of musicians who earned the majority of their income from musical performances, worked in front of the silent screen.” Other musicians appeared on screen in a process called “sidelining”: when a silent film would portray, for instance, a ballroom dancing scene, actual musicians appeared on camera, playing the music for the actors.

Musicians initially saw the advent of “talkies” as a threat, and for good reason: by 1933 (six years after the release of “The Jazz Singer”), approximately 20,000 musicians had lost their jobs. But new opportunities emerged, and studios began to hire musicians for in-house orchestras to record scores for the new sound films—though vastly fewer musicians were hired than those who had lost work, and employment became concentrated around Los Angeles.

The union representing musicians was an active participant throughout this period of rapid change. The American Federation of Musicians was founded in 1896, the same year the first permanent U.S. movie theater opened in New Orleans. Musicians who performed live scores in theaters at the time negotiated with theater owners, not Hollywood studios, and because their skills were in high demand they were able to set strong standards. Sidelining musicians did negotiate with the studios, and AFM contracts for this work date back to the 1920s.

As studios hired musicians in greater numbers to record movie scores, AFM Local 47 in Los Angeles “negotiated for good wages and working conditions in motion picture studios” just as they had in theaters. By the early 1930s, the AFM reports establishing its first industry-wide contract with the “major” studios, and according to one historian, by 1940 Local 47 was the single largest union in any industry in Southern California. In 1952, the union brought “independent” studios under the same industry-wide contract.

There was a fundamental trade-off between the studios and the musicians: “in regard to wages and working conditions, studio musicians enjoyed some of the best in the profession... The work, however, was often stressful. With producers paying for every wasted minute, instrumentalists had to perform with precision and efficiency.” The implicit bargain was a simple one: studios would get the most responsible, talented performers in the field, and the studios would provide employment opportunities at good standards. This period – through the 1950s - was a brief time of shared prosperity; virtually all film recording was done under the auspices of
Keeping the Score

laane: a new economy for all

10

and also profit multiple times in multiple ways off of work that was paid for only once. Residuals allowed both sides to benefit: employers could re-use past performances (whether rebroadcasting a live show for the West Coast, or selling a theatrical film for television broadcast, or releasing a DVD or download of a TV series), and workers receive a subsequent residual payment as retroactive (deferred) compensation. It is critical to note that releasing a product to a secondary market is always the studio’s choice; if the studio opts not to, no residual payment is required. As a practical matter, today most film and television content is reused in a way that generates residuals: movies are released to DVD, on television, and on streaming services such as Netflix, while most television shows are rerun on their original networks, syndicated to other networks, and released on streaming services such as Hulu.

By 1960, musicians (along with the other major unions representing actors, directors, and writers) had also achieved a key goal: residuals, which are union-negotiated payments made to creative workers and to the pension and health plans of crew members when audiovisual products are reused in specified ways. To understand the significance of residuals, it is valuable to examine the history of the practice dating back to the late 1930s:

Residuals in the United States began in the early days of live radio, when actors and musicians had to perform twice: once for the Eastern time zone and again three hours later for the Pacific time zone. With the advent of recording technology, the networks would record the first performance and simply replay it later. The talent guilds successfully demanded that their members receive compensation for those rebroadcasts.

When workers create a film intended for theatrical screening, and that film is later aired on television, the studio has forced these workers to “compet[e] against themselves by creating recorded product that deprives them of work they might otherwise have had.” Residuals also allow workers to share in a project’s success, aligning their incentives with their employer’s (akin to stock options). Fundamentally, changes in technology allowed studios to simultaneously reduce available work and the union, guaranteeing a minimum standard.

With television in ascendance, musicians began to see some recording work shifted to Mexico, but following a five-month strike in 1958 musicians received additional guarantees about work levels and standards in recording for television. “Within the next two years, the ‘canned music’ plague of cut-rate, foreign-made TV soundtracks was virtually eliminated.” Two years later, a new contract built upon these victories, making improvements on guaranteed levels of work, wage levels, and a pension.

By 1960, musicians (along with the other major unions representing actors, directors, and writers) had also achieved a key goal: residuals, which are union-negotiated payments made to creative workers and to the pension and health plans of crew members when audiovisual products are reused in specified ways. To understand the significance of residuals, it is valuable to examine the history of the practice dating back to the late 1930s:

Residuals in the United States began in the early days of live radio, when actors and musicians had to perform twice: once for the Eastern time zone and again three hours later for the Pacific time zone. With the advent of recording technology, the networks would record the first performance and simply replay it later. The talent guilds successfully demanded that their members receive compensation for those rebroadcasts.

When workers create a film intended for theatrical screening, and that film is later aired on television, the studio has forced these workers to “compet[e] against themselves by creating recorded product that deprives them of work they might otherwise have had.” Residuals also allow workers to share in a project’s success, aligning their incentives with their employer’s (akin to stock options). Fundamentally, changes in technology allowed studios to simultaneously reduce available work and the union, guaranteeing a minimum standard.

With television in ascendance, musicians began to see some recording work shifted to Mexico, but following a five-month strike in 1958 musicians received additional guarantees about work levels and standards in recording for television. “Within the next two years, the ‘canned music’ plague of cut-rate, foreign-made TV soundtracks was virtually eliminated.” Two years later, a new contract built upon these victories, making improvements on guaranteed levels of work, wage levels, and a pension.

By 1960, musicians (along with the other major unions representing actors, directors, and writers) had also achieved a key goal: residuals, which are union-negotiated payments made to creative workers and to the pension and health plans of crew members when audiovisual products are reused in specified ways. To understand the significance of residuals, it is valuable to examine the history of the practice dating back to the late 1930s:

Residuals in the United States began in the early days of live radio, when actors and musicians had to perform twice: once for the Eastern time zone and again three hours later for the Pacific time zone. With the advent of recording technology, the networks would record the first performance and simply replay it later. The talent guilds successfully demanded that their members receive compensation for those rebroadcasts.

When workers create a film intended for theatrical screening, and that film is later aired on television, the studio has forced these workers to “compet[e] against themselves by creating recorded product that deprives them of work they might otherwise have had.” Residuals also allow workers to share in a project’s success, aligning their incentives with their employer’s (akin to stock options). Fundamentally, changes in technology allowed studios to simultaneously reduce available work and the union, guaranteeing a minimum standard.

With television in ascendance, musicians began to see some recording work shifted to Mexico, but following a five-month strike in 1958 musicians received additional guarantees about work levels and standards in recording for television. “Within the next two years, the ‘canned music’ plague of cut-rate, foreign-made TV soundtracks was virtually eliminated.” Two years later, a new contract built upon these victories, making improvements on guaranteed levels of work, wage levels, and a pension.
Neil Samples, Recording Musician

Originally from Pennsylvania, Neil Samples got his start in music at the age of four when his father first brought home a violin. Neil stuck with the instrument, eventually becoming a freelance musician in New York after finishing school. He then spent thirteen years in Missouri with the Kansas City Symphony before moving to Los Angeles with his wife in 2006.

Neil now makes most of his income working on film and television scores. When he is not doing recording sessions he plays with the Pasadena Symphony and Pasadena Pops.

Neil has worked on everything from television pilots to mega-blockbusters to independent documentaries, and has found recording work to have its own unique challenges compared to symphony work: “When you’re a member of the orchestra, your schedule is set six months to a year in advance: you know what you’re going to play and when you’re going to play it. Whereas in the recording business, you may not know what you’re doing six days ahead of time, you might get called for something the day before. You don’t know when it’s going to be, you don’t know when you’re going to work, you certainly don’t have access to the music ahead of time.”

Although Neil has been able to make a living mainly doing film and television recording work, it has been getting harder: “I wish I had a dollar for every time people told me I came to L.A. at a bad time. When I got here work had already started to leave town, but it seems that right about the time I came was when we saw yet another dramatic drop in work. It wasn’t long after I started that one of the major scoring stages closed. It just seems there are fewer jobs to go around for more musicians than ever.”

Neil points to the corporate culture of prioritizing profit at the expense of the average worker as one of the main forces behind the decrease in good jobs for musicians working in the industry: “You know, what the studios are doing is no different from what Caterpillar, GE, AT&T or Wal-Mart are doing.”

Neil sees music as “the soul of the movies,” and says the best part of working on a film score is knowing what you’re doing contributes something essential to the project as a whole. “You’re part of this movie-making process. What you’re doing that day goes into the film and remains part of that film forever. You’re playing music that adds this emotional impact that really is critical. It will be there ten years from now, 50 years from now and it will be just as vital as that very moment you recorded it.”
over the next decade. This is an average and is highly variable, of course: some titles will yield a higher ratio, while other titles will yield very little. The greatest difference is between film – where the ratio of session wage to residual wage is 1:2.5 – and television – where the ratio is 1:0.5. We will explore the economics of residuals more fully, but it is worth observing that as technology changes at an increasingly rapid clip, an early focus on re-use payments seems prescient.

By the 1960s, therefore, studios and musicians had established a grand bargain: work would be freelance and contingent, based on individual projects, requiring no long-term commitment of any given studio or employer. But virtually all studios agreed to provide all available recording work to North American musicians at a wage and benefit standard that would allow musicians to support themselves and their families. Through decades of organizing, occasional labor disputes, and the flexibility and good faith bargaining of both parties, studios and musicians found a way both for companies to profit and for freelancing work to be sustainable. It is the organizing and struggle, however, that stands out for one musician who lived through this period: “People today don’t understand. We would never have had pensions, residuals, anything like that.”

Musicians in a Twenty-First Century studio system

By the 1950s, the studio system was breaking apart and the industry was facing new challenges. In 1948, the U.S. Supreme Court’s Paramount decision ruled against the studios’ vertical integration and forced them to divest themselves of most movie theater holdings. This followed on the heels of the 1944 de Havilland decision by a California court, limiting studio control over performers. During the same time, film studios faced a new competitor in television, and the increasing suburbanization of America placed people’s homes farther away from movie theaters; movie attendance dropped dramatically from the wartime peak. Studios began to shift emphasis from production of their own films to distribution of independently produced films; over time, the era of the so-called mogul waned as studios began to be acquired by multi-national conglomerates. This is also when studios began to divest themselves of in-house orchestras, leaving so-called studio “contractors” to hire musicians as freelancers (though union-negotiated compensation and work-rule standards were still operative). These 60-year-old shifts planted the seeds for the more dramatic industry changes of the past fifteen years.

What is a “major studio” anyhow?

The corporate structure of Hollywood studios has led to a loss of work for recording musicians. While the “major studios” remain under contract with the American Federation of Musicians and record their scores with union musicians working at the industry standard, it is far from clear what the term “major studio” refers to. Until this point, we have used the term “studio” following the common parlance: an entity that produces and distributes movies and television. To understand today’s industry structure, however, we must seek a more precise definition, isolating the different functions of production and distribution.
In the early days of Hollywood, there was tremendous industry concentration: in 1929 the so-called “big five” studios produced and distributed in excess of 90 percent of all U.S. films. This led to the widespread use of the terminology “major studios” (and occasionally “mini-major studios”). Up until the 1960s, the blanket term “studio” could be used sensibly, as “the production company and the distribution company were one and the same.”

Starting in the 1960s, however, the model shifted “to a new Hollywood characterized by much more vertically disintegrated production processes and significant externalization of many of the detailed tasks of film-making.” Studios, in other words, began to outsource the actual production of movies. We thus use the terms “production company” and “distribution company” to refer, respectively, to the entity responsible for making the product (and employing workers), and the entity responsible for marketing and distributing (and often financing) the product.

We still speak of “majors” – and, indeed, there is widespread agreement on which companies compose the “majors”: Fox, Warner Bros., Paramount, Universal, Disney, and Sony. (We will argue that Lionsgate must now be added to this roster.) But these are not major production companies; rather, they are major distribution companies. In 2013, the six generally-accepted majors accounted for the distribution of approximately 78 percent of all U.S. films as measured by domestic box office revenue. They produced significantly fewer.

This shift has its roots in the 1950s, but the final transformation has been recent, as seen in this December 2012 observation from Hollywood Reporter: “Hollywood film studios have evolved so dramatically during the past decade that it feels as though some are making movies almost reluctantly. As one producer puts it, ‘Studios are becoming marketing and distribution service companies.’”

Trade publication Variety gets it partially right in noting that today the “majors... make fewer films themselves, and look to outside producers to keep their distribution pipelines full.” In reality, the major distributors do look to outside producers, but they also look to their own “independent” subsidiaries. Starting in the 1980s and 1990s, major distributors began to both acquire independent production companies and also create their own: “Consequently, the ‘studio independents’ have been born.”

Once-independent production companies (e.g., Dreamworks, Pixar, New Line, Lucasfilm, Working Title, Miramax, Marvel, DC, etc.) were acquired by major distributors. At the same time, the distributors created their own “independent” specialty studios (e.g., Focus Features, Sony Pictures Classics, Fox Searchlight, Paramount Vantage, Warner Independent Pictures, etc.) for niche markets.

These relations between and within Hollywood production and distribution companies are mostly unintelligible to the movie-going public. When one sits down in a movie theater, a series of title cards flash by before the movie starts; there may be a half-dozen or more logos of production and/or distribution companies and it is rarely clear which company played which role(s). Most of the movies distributed by Disney, for instance, are not actually produced by Walt Disney Pictures; most of the movies distributed by Fox are not actually produced by Twentieth Century Fox Film Corporation; and so on down the line.

For musicians, however, unraveling this “crazy quilt” of studio corporate identities (in the words of one industry expert) is essential. As noted above, the “majors” have contracted with musicians to provide quality employment— but a corporate parent will often argue that a given film was not made by the major production company (i.e., the entity contractually obligated to record at the industry standard), but rather by a sibling studio within the same corporate structure. Figure 2 illustrates the proliferation of...
Figure 2
Fragmentation of Production within a “Major” Studio

Once Upon a Time...

The 
Walt Disney Company

meant

Walt Disney Pictures

But over time it has come to also include...

Sources: The Walt Disney Company, Disney.wikia.com, Wikipedia
production companies within a single corporate structure: The Walt Disney Company owns production company Walt Disney Pictures, which is the “major” and which has a contract with the AFM. Yet The Walt Disney Company also owns numerous other production companies and brands, which may or may not provide employment to North American musicians, and may or may not do so at the industry standard.45 (Despite this fragmentation of production, the “major production companies” still produce a disproportionate share of the major big-budget films which are likely to provide significant employment opportunities for musicians.46)

At the same time that the major distributors are pulling back from production, truly independent production companies – those unconnected to the major distribution companies in any way – are growing. Lionsgate – the largest “indie” – now has more market share than two of the major distributors.47 After selling Miramax, the Weinstein brothers created the Weinstein Company, now also a major player. Specialty and independent production companies have cropped up in the past 20 years, formed by financiers (Ryan Kavanaugh’s Relativity Media, Avi Lerner’s Nu Image and Millennium Films, Arnon Milchan’s New Regency), industry executives (Nina Jacobson’s Color Force, Joel Silver’s Silver Pictures and Dark Castle, Peter Chernin’s Chernin Entertainment), the wealthy (Megan Ellison’s Annapurna, Steve Bing’s Shangri-La), directors and producers (Steven Spielberg’s Amblin Entertainment, the Kennedy/ Marshall Company), and movie stars themselves (George Clooney’s Smokehouse Productions, Brad Pitt’s Plan B Entertainment).

These crucial shifts in the industry – the rise of independent production companies, and changes in the corporate structures of the “majors” – have contributed to the reduction in work for North American musicians, as musicians’ traditional employers are simply making less content.

Composers squeezed in the middle: the rise of the “package deal”

Before it is music synched to the screen, before there are even notes on a page, the score begins as a composer’s idea. When studios had in-house music departments, composers (like recording musicians) were studio employees. According to Music and Entertainment Industry Studies Professor David Bondelevitch, “it was a system that worked amazingly well.”48 Later, composers (like recording musicians) were hired by the studios as freelancers and they hustled to cobble together work. A composer was paid a flat fee for his work, and when he handed in his composition his work was largely done. The studios would then shoulder the production costs of recording the score: through so-called “contractors” they would coordinate the “music prep” (specialized musicians known as orchestrators and copyists turn the composer’s artistic vision into detailed, fleshed out individual instrumental parts that get handed to recording musicians literally as they show up for the recording session), hire the recording musicians and engineers and mixers, and rent the recording soundstage.

Today, most composers operate under a so-called “package deal.” Rather than being paid a fee for their service, composers are given a single pot of
The rise of the package deal has coincided with a shrinking music budget overall: in 2010, one composer provided estimates for the amount paid by production companies for an hour of television scoring, indicating rates to composers had dropped by 87 percent over the previous 30 years. When composers follow the clear financial incentives, it can lead to a loss of recording work for U.S. musicians if the composer uses synthesized music or records out of the country, and can lead to a loss of musician wages if the composer records domestically below-standards or pays musicians under the table. Given the rise of the package model and the squeeze on composers’ music budgets, it is hard to know what to make of the studio executive who bemoaned the impact on musicians: “We’re forced to do union scores in nonunion locations because that’s what you can afford. The musicians are the ones that suffer. The orchestras are the ones that suffer because we can’t afford them.”

Composers are thus in an untenable position: are they to prioritize musical integrity or their own pocketbooks? (One well-known agent to composers, Richard Kraft, is vocal about his answer: “If I was a young composer, I would much rather hang out with [filmmakers] than other musicians.”) Adding to the tension is the irony that many composers also perform music, and as such are union members themselves. The overwhelming majority of composers (78 percent of those surveyed in 2010) would eliminate the package deal and establish pay for their work separate from the costs of production. If the production company contracting for the score has a contract with the AFM, the composer will use union musicians at the industry standard; otherwise, the composer is largely free to use any musicians anywhere in the world, or no musicians at all. This places tremendous power in the hands of the composer. Many composers take a broad view, with allegiance to a quality score which will act as a calling card for future projects. One composer noted that a director urged him to use synthesized music rather than actual musicians so the composer would make more money, but the composer insisted on quality. Another said that he’d “spend everything to make it sound good: All the money went to the orchestra, and you can even lose money doing that. But you hope it can lead to bigger things—and then you get paid a [creative] fee” [as opposed to the package deal]. “The sad thing about the concept of packages,” explained another composer, “is you’re being punished for trying to do a perfect job.”

Part of the problem stems from the fact that composers are “the only key creative contributors to films and TV whose rights are not protected by a union or guild.” The Composers and Lyricists Guild of America had represented composers until 1982, when it “was crushed by the studios after a protracted lawsuit.” There have been efforts to organize since then, in 1984 and again in 2010, but composers remain unprotected. If any composer
does not need union protection, it’s Randy Newman, who has composed scores for dozens of movies with box office in the billions of dollars; yet Newman has advocated for organizing, specifically citing the perniciousness of the package deal.63

Chasing tax credits

Government tax incentives are economic development tools, to support an ailing industry (e.g., manufacturing), to encourage a nascent industry (e.g., alternative energy), or simply to lure operations from one locale to another (e.g., Texas’ “Open for Business” campaign). In the film and television industry, the tax credit race began in 1997, when Canada launched its incentive program.64 Almost immediately, production work shifted north of the border. Other countries noticed the effectiveness of Canada’s program, as did dozens of U.S. states. Today, approximately 40 states offer a total of about $1.7 billion to production companies under various incentive programs.65 Canada, the United Kingdom, Australia, and dozens of other countries also offer generous rebates and incentives to lure both production and post-production work.66 Each program is structured differently, but most provide either a cash rebate or a tax credit (often transferrable) for a percentage of a production company’s expenditures. Louisiana, for instance, started its program in 2002 and offers production companies a 30 to 35 percent tax credit on all money spent in that state; the tax credit is transferrable, so if the production company has no tax liability in Louisiana it can sell its credit.67 A company spending $10 million in Louisiana would likely get back approximately $3.5 million, either in upfront cash, in forgiven taxes, or by selling the credits to a third party.

Following the inception of these programs, “feature film production in Los Angeles County has fallen by half since 1996, and the region’s share of TV pilot production has fallen 73 percent since its peak in 2007.”68 Work has followed the money: New York (which offers $420 million annually in tax incentives) has seen a 25 percent increase in entertainment industry employment from 2004 to 2012; during the same period, California (which had been offering $100 million a year but recently increased its incentives to $330 million annually) has lost more than 16,000 jobs—an eleven percent decline.69 Louisiana was home to more movies last year than California.70

The effect of these various policies on musician employment has not been addressed as thoroughly by analysts or policy-makers as the effect on production work. A recent Film L.A. study analyzed 108 2013-released films, finding only 43 (40 percent) were recorded in California, and at least 26 (24 percent) were recorded in London.71 Of the remaining 39, not much is known: some may have used entirely synthesized music, and many were likely recorded in the most common low-road recording locales, including Eastern Europe. We will examine in more detail the effect these incentive policies have had on musicians in California, as well as where the recording work has gone.

This report will not attempt to rehash the extensive debate surrounding incentive programs beyond noting that it does not benefit U.S. employment when foreign countries offer incentives, nor does it benefit one state when other states offer incentives.72 Still, a few broad lessons are worth noting:

• Public costs, public and private benefits. Many reports purporting to evaluate these incentive
Keeping the Score

programs are too narrow and ignore the explicit goal of spurring private sector spending. As an Ernst & Young analysis concluded, “a comprehensive benefit-cost analysis of film credits should compare tax credit costs to both private sector benefits (additional in-state jobs and income) and public sector benefits (higher state and local taxes from a stronger economy), not just the net change in state tax collections.”73

• Creating a sustainable, long-term industry. The goal is not to subsidize one-off productions in perpetuity, but rather to attract infrastructure investment; such investments have occurred in several states providing generous incentives (e.g., Georgia, New York, Connecticut, New Mexico, and Michigan).74 As Ernst & Young conclude, “a state must reach a critical mass of productions to attract a studio investment, and not every state will be able to do so.”75 With recording work, the key factor will be the presence of a critical mass of top-flight musicians.

• Race to the bottom. The state versus state, country versus country incentive battle is an arms race with no clear end game. As a researcher now at Film L.A. noted, “if production incentives are the primary factor causing... production to run away... then enacting a more attractive incentive would be sufficient in redirecting it from a competing location. As more and more locations attempt to do the same, the classic race to the bottom ensues.”76

• Shifting rather than creating jobs. From the perspective of an individual U.S. state, a program may achieve its stated goals, while from a broader perspective these programs do not create any new jobs; they merely move existing jobs around the map at a cost of $1.7 billion in annual state incentives.77

• Playing defense has advantages. States like California that play a defensive game rather than an offensive one could in fact “win” the incentive race. Existing infrastructure and the desire of decision-makers to work close to home are factors in their own right, and also help to avoid the “leakage” problem, where public funds spent on a one-off production in another state may not be spent in that state after the out-of-town production worker returns home. Defensive states “[do] not need to offer incentives above those (or even equal to those) offered by other states. Instead, smaller incentives... can be sufficient.”78

Whatever the analysis, after seventeen years the industry has come to rely on these funds: according to the Los Angeles Times, “studios factor them into budgets; producers use the promise of credits to secure bank loans or private investment capital to hire crews and build sets.”79 On occasion, this reality becomes ugly, as with a tussle earlier this year between the state of Maryland and the Netflix show “House of Cards.” After filming its first two seasons in the state – and receiving $26.6 million in state tax incentives80 – the production company expected a continuation of the public largesse, and hosted a cocktail reception where star Kevin Spacey wooed state legislators.81 When Maryland initially offered less than the company hoped for, the company delayed the start of the third season and announced it would “break down our stage, sets and offices and set up in another state.”82 Lawmakers complained of extortion, and threatened to use eminent domain to seize studio property.83 A legislative deal fell apart minutes before a midnight deadline;84 a subsequent deal was brokered by the Governor, and the company got much more than what the state initially offered.85

The bottom line is that U.S. taxpayers (at least those in the overwhelming majority of states) are now entertainment industry financiers. We are all film and television producers.

We are all film and television producers.
are all film and television producers. And when it comes to production jobs, we may be getting a good return on our investment or a bad return on our investment, depending on our respective geographies. But when it comes to post-production jobs, like recording, we are largely getting no return on our investment. As we will show, with our $1.7 billion annual investment in the entertainment industry, Americans are paying to ship musicians’ work overseas.

A profitable industry

It is worth briefly noting that throughout all of these changes, the film and television industry remains fundamentally healthy, profitable, and growing. As seen in Figure 3, global box office revenue in 2013 was $35.9 billion, up 30 percent in five years, and setting a new record. Even limited to the North American box office, 2013 was the highest-grossing year on record with $10.9 billion in box office. Partially, this is because moviegoers are paying more: the average U.S. movie ticket in 2013 was $8.13, up nearly 35 percent from a decade earlier, outstripping inflation. It is perhaps not surprising that California leads the nation in support for films: 80 percent of Californians go to the movies (12 percentage points above the national average), and 20 percent of Californians are frequent moviegoers—nearly twice the national average.

Figure 3

Global Box Office (Billions)
Film box office is but one metric: home entertainment (primarily DVDs, premium TV, and new media) now makes up the majority of studio income. Cable television contributes more to the profit of media companies than even films. And a studio’s older holdings are continually monetized, as one analyst noted in the *Wall Street Journal*:

Regardless of box office receipts, Hollywood’s major studios have a sure-fire engine for making money from viewers who don’t regularly go to the movies. It’s what the studio calls its “library,” which contains the rights to all the movies and television series that it has ever produced or acquired. By relentlessly licensing and selling the rights to these titles, studios harvest money from home audiences decades after a film plays in theaters.

In the aggregate, according to an analysis done by the trade publication *Hollywood Reporter*, “the six major film studios combined to generate more than $4.3 billion in operating profit in 2013, up from $3.5 billion in 2012, as digital streaming offset declining DVD sales and franchise films remained strong.” These companies produce and distribute both theatrical films and television programming directly and through various subsidiaries. Figure 4 shows the operating profits at each of the major conglomerates—the traditional six majors, as well as new major Lionsgate.

**Figure 4**
*Operating Profits of Major Studios, 2013*

<table>
<thead>
<tr>
<th>Studio</th>
<th>Operating Profit</th>
</tr>
</thead>
<tbody>
<tr>
<td>21st Century Fox</td>
<td>$1.12 billion</td>
</tr>
<tr>
<td>Sony</td>
<td>$295 million</td>
</tr>
<tr>
<td>Disney</td>
<td>$836 million</td>
</tr>
<tr>
<td>Time Warner</td>
<td>$1.33 billion</td>
</tr>
<tr>
<td>NBC Universal</td>
<td>$483 million</td>
</tr>
<tr>
<td>Viacom</td>
<td>$299 million</td>
</tr>
<tr>
<td>Lionsgate</td>
<td>$485 million</td>
</tr>
</tbody>
</table>

*Source: Press, Securities and Exchange Commission*
The “last actors” feel the pain

Recording employment slipping away

Within all corners of the industry, Southern California musicians – “the last actors on a movie” according to composer Hans Zimmer – are renowned for their talent. Author and journalist Jon Burlingame explains that “the best musicians to play [film and television scoring] music are here in L.A. No matter what you put in front of them, whether it’s big-band jazz or the most complex aleatoric thing, they can do it.” Another industry journalist notes how L.A. musicians’ “formidable sight-reading and performing capabilities… allow them to kick out elaborate motion picture scores to perfection in only a few days of recording time,” a tremendous cost savings for production companies. But it is not just “an astonishing level of talent, combining virtuoso musicianship with almost supernatural sight-reading prowess,” but also “an ability to work under tremendous pressure” that allows Southern California musicians to succeed at recording excellent scores. As the quotes highlighted in Figure 5 illustrate, composers and studio executives agree with the sentiment, including those who choose to record overseas. Even a recent textbook on scoring discusses the L.A. members of the AFM, advising composers, “If you use union musicians you are recording with the finest, most experienced musicians in the world.”

Many of these musicians are transplants, having moved to Southern California to be with their top-ranking peers, and in search of employment in the world’s home of recording work. But over the past two decades, the amount of available work has plummeted. As seen in Figure 6, work climbed modestly through the 1990s, and then began a protracted slide from which it has not recovered. The modern high-water mark was 1998, when recording work brought local musicians just shy of $50 million in session wages. In fifteen years, aggregate musician session wages have dropped by more than two-thirds: in 2013, L.A. recording musicians made only $15.5 million.

Figure 5

Los Angeles is Home to the Industry’s Best Players

“Los Angeles musicians are the absolute world’s best for film scoring.” -Then-President of Fox Music Robert Kraft

“Their ability to get the job done and to accurately realize the emotional context of a piece of music is unsurpassed.” -Composer James Newton Howard

“If we score in town, we’re going to have a great-sounding score done quickly and flawlessly—while you can find other great musicians around the world, nobody can sit down and sight read and play any style of music with feeling the way Los Angeles players can.” -Then-President of Warner Bros. Music Doug Frank

“I walk onto an L.A. scoring stage, I see a lot of familiar faces in those chairs and I think, ‘We are in good hands, because they are the best players in the world.’” -A “high-placed studio exec”

“L.A.… will give you the best players in the industry.” -Composer Richard Gibbs

Source: Press accounts
There are several reasons for this loss of work. Aesthetic tastes can dictate the amount of work available for recording musicians. In the 1960s, for instance, directors and producers courted youthful audiences by jettisoning composed scores in favor of au-courant pop, along the lines of the Simon & Garfunkel montages in “The Graduate.” In the seventies, the Korngold style had an unexpected renaissance: the young moguls Steven Spielberg and George Lucas both had a craving for full-on symphonic sound, and John Williams sated them with his dazzling Technicolor scores for “Star Wars,” “Close Encounters of the Third Kind,” and “Raiders of the Lost Ark.” In the eighties, the advent of high-tech synthesizers and sampling, not to mention the ineradicable spectre of the pop-song montage, again endangered the live orchestral score.104

Technological changes that came to prominence in the early 1990s have also reduced available work for musicians: dramatically fewer copyists are needed for music prep work, as computer software has made the work less time-consuming.105 More significant is the synthesizer, which allows composers to “perform” the scores themselves, obviating the need for recording musicians. Most acknowledge that the sound is not as rich or full as the live orchestra that many composers would opt for, but composers are making budgetary decisions and often follow their own financial incentives. One composer who is adamant about using live musicians bemoans the practice, noting that “many (talented musicians) are not able to find work because almost everything is synthesized now.”106

Figure 6
L.A. Musician Session Wages, 1991-2013

Source: LAANE analysis of AFM Local 47 data107
A more recent technological shift dates to the early 2000s and involves the use of so-called Integrated Services for Digital Networks (ISDN) telephone lines to conduct a recording session remotely. ISDN lines allow for the high-fidelity transmission of both voice and data, and a composer can oversee an orchestra from halfway across the world. As a text on composing explains:

> There are times when traveling to another locale to score or rescore simply isn’t practical. At those times, an ISDN session might be the answer. The music is sent ahead and a conductor hired to work with the orchestra. Once you are connected via an ISDN line to the studio in London, for example, you are able to hear the scoring session there in real time. The mix from the booth comes through very well, CD quality, and is patched into the monitoring system at the studio where you are. There is video of the session as well.108

One film that used this technology was Lionsgate’s 2014 release “Draft Day,” which was shot in Ohio (with a $4.9 million tax credit) but recorded in Macedonia while composer John Debney remained in Los Angeles.109 According to Debney, he was negotiating with the studio over a package deal versus a creative fee (he preferred the latter). Lionsgate reportedly agreed to a creative fee for the score only if the recording work would take place in low-cost Macedonia. Debney agreed, though he was reportedly unhappy with the process.

Filming location also plays a role. When production moves overseas, even those production companies with an AFM agreement are released from the obligation to hire AFM musicians.110 There have always been some films shot abroad, but in the pre-tax incentive era these decisions were made for creative reasons—and there was ample recording work left, so this was not a contentious point. Today, production location decisions are largely made for financial reasons. The UK (with a generous incentive program) has become a major site for Hollywood film production in recent years, in particular attracting big-budget blockbusters.111 These blockbusters tend to also have larger scoring needs, and have historically provided more musician employment than the average film.112 Even films whose U.S. setting is central to the story are often filmed overseas, including the forthcoming “San Andreas” (set in California, filmed in Australia),113 2006’s “Black Dahlia” (set in L.A., filmed in Bulgaria),114 and 2003’s “Cold Mountain” (set in North Carolina, filmed in Romania),115 to name a few examples. Given that some portion of musician employment is for sidelining (i.e., appearing on camera), when a film is shot overseas this may also reduce domestic musician employment.116

Changes in aesthetic tastes, technology, and production location only go so far in explaining the drop in musician employment of the magnitude seen here. Most movies and television shows, after all, are still made in the U.S.; most still have full scores performed by live musicians. Now, much of the work is simply happening at significantly lower standards, often overseas. Figure 6 shows two precipitous drops in employment: one shortly following the introduction of the world’s first tax incentives (in Canada), and one shortly following...
the introduction of the first U.S. tax incentives (in New Mexico and Louisiana). Unmooring production from its historical home in Hollywood likely showed studios that many elements – not just production, but recording as well – could move around the globe.\textsuperscript{117}

Where has recording gone?

For decades, Southern California was the undisputed locus of recording for film and television. Occasionally, a score would be recorded elsewhere in the U.S., but even then it would generally be for creative or logistical reasons, not financial reasons; highly-trained and -skilled musicians in New York, Nashville, and most other North American cities were (and are) covered by the same AFM contract. Outside of the U.S., for many decades, the only true alternative to L.A. was London, which also houses world-class musicians and some of the best recording facilities.

Today, however, composers and production companies have many alternatives in order to save money.\textsuperscript{118} There are no reliable, publicly-available figures comparing the costs of employing recording musicians in different markets, and currency fluctuations can also play a significant role in moving work around the globe.\textsuperscript{119} Interviews with industry experts and a review of press accounts indicate that recording work is primarily shifting to two locations: London and Eastern Europe.\textsuperscript{120}

Historically, musician costs between London and L.A. have generally been seen as comparable, particularly once travel costs are factored in.\textsuperscript{121} As one studio executive noted in 2000, “The fantasy is, let’s go to London and save $150,000. Then somebody does the math on eight people flying first-class and staying in the Dorchester for a week, and it comes to $149,900.”\textsuperscript{122} The roughly comparable talent and roughly comparable session wages between the two markets are slightly misleading, however, as production companies do not contribute towards musicians’ health care or pension in the UK, where those are public costs, unlike in the U.S.—a significant and immediate savings to employers. The alleged savings of recording in London, historically, come from the so-called “buyout,” an additional payment made to musicians in exchange for their waiving of rights to residuals. While this actually saves nothing out of the production budget – residuals are not factored into a production budget – a project unencumbered by musicians’ residual rights may be perceived as marginally more attractive to potential distributors.

The primary reason for the more recent shift in recording work to London is the generous UK incentive program, which was increased earlier this year. The UK offers a tax credit of 20 percent to 25 percent of money spent in the country; this credit is refundable, so that even if the production company owes no taxes they will get a refund check from the government.\textsuperscript{123} The British program is uncommon in requiring only ten percent of production costs to be spent in-country, and in covering not only production work but also post-production (i.e., recording) work.

In Bulgaria, the Czech Republic, Slovakia, and Macedonia, a production company may pay as little as one-quarter of the hourly cost for musician session wages compared to North American musicians.

Eastern Europe is an increasingly common choice for recording work, not due to government subsidies, but because the hourly cost of musicians is dramatically lower.\textsuperscript{124} In Bulgaria, the Czech Republic, Slovakia, and Macedonia, a production company may pay as little as one-quarter of the hourly cost for musician session wages compared
Keeping the Score

The musicians, however, may not see even this meager amount, as the production company will often pay an intermediary who will keep a portion—and often a significant portion—for himself. In addition, no payments are made for musician health care or pension, and musicians do not retain residual rights.

While the low hourly rate of Eastern Europe may initially appear attractive, this is not an apples-to-apples comparison, because of “the overall proficiency and relative ability of different orchestras to produce finished music.” As John Powell, the composer of “Mr. and Mrs. Smith,” told Variety: “I was told that I had to record it in Bratislava. So I asked for two-and-a-half weeks of recording. That’s how long it was going to take to get it right.” Given that reality, the production company “relented and Powell recorded the entire score in L.A. in four-and-a-half days.”

One Macedonian facility that has come under scrutiny recently is called F.A.M.E.’S and is run by a musician named Laurent Koppitz. (The 2014 Lionsgate release “Draft Day” was recorded there.) Koppitz provides a low-cost option, and his intent is to create an alternative to the use of synthesized or sampled music, thus creating new work for musicians. According to a press account, he was “surprised” to find that rather than creating new work opportunities, his operation was “taking jobs from American musicians,” noting that his musicians do not compare to those in L.A.:

> “If large studios hire him simply because he’s cheaper, then he says they are coming to Macedonia for the wrong reason.”

“Recording the score as “an afterthought”

Production companies look for cheaper recording alternatives because over the past decade or so film and television music budgets have shrunk. “[M]usic comes at the end of the pipeline, during the post-production phase. By this time, the picture can be over budget, and producers are looking to trim costs wherever they can.” Despite its importance to the overall product, the score therefore becomes, as some observers have noted, “an afterthought,” or “a stepchild.” One studio executive lamented that “there are commercials that have a bigger music budget than I do for whole films.”

A new analysis of data bears out these observations. We examined 323 films over the past 25 years, and compared the total production budget (as reported in The Numbers) to the studio’s costs related to all musicians on the film. Table 1 shows that on average, the cost to studios for the best musicians operating at the best standards was approximately one-half of one percent of the film’s budget. We also found that this percentage has decreased over time, and stands today at 0.36 percent of a film’s production budget. This is perhaps why one composer has regretfully noted how “ultimately music is cheap—compared to catering, for instance.”
Keeping the Score

This is a conservative calculation: it only refers to a film’s production budget, and is exclusive of a film’s marketing, which typically adds an additional 51 percent to 58 percent of the production budget; in 2009, the average marketing cost for a major release was $37 million, and some large budget, blockbuster films can spend more than twice that amount.138

Delving deeper into the calculation, Table 2 shows that the percentage holds relatively steady across different types of movies, as assessed by their production budgets. Musician costs range from 0.5 percent to 0.6 percent for the overwhelming majority of films, with exceptions at the two ends of the spectrum. It is likely the case that for the smallest-budget films (0.34 percent), where money is truly tight, music does feel the pinch, and there is probably a greater reliance on synthesized music. For the largest films (0.42 percent), it is likely a different story: there may be a sort of “natural ceiling” on a score, and with production budgets reaching well into the hundreds of millions of dollars, the share attributable to musicians will necessarily be smaller. For instance, with nearly $1.5 million in musician wages ($1.9 million in total recording-related employment costs), it would be difficult to accuse director James Cameron or composer Jacob Horner of cutting corners with the score to “Avatar.” Yet out of a production budget of $425 million, musician costs come out at a below-average 0.45 percent. (As with “Pirates of the Caribbean,” “Battleship,” “2012,” and other films at the top of the budget spectrum.)

This latter insight helps to inform why the share of a film’s production budget attributable to musician costs is declining: studios are simply making fewer – but larger – films.139 In the 1990-1994 period, for instance, 40 percent of films in our sample had budgets under $15 million, and only three percent had budgets in excess of $70 million. By the 2010-2014 period, the figures were reversed: only six percent of analyzed films had budgets under $15 million, yet 43 percent had budgets over $70 million.

It would be presumptuous to try to determine what an “appropriate” percentage would be. These are creative decisions as well as budgetary decisions. Yet it is useful to keep in mind that as production companies race around the world to find ever-cheaper musicians, we are talking about differences in production budgets that amount to a fraction of a percent. Yet this fraction of a percent supports not only quality employment for musicians, but also the foundation of musical heritage and culture across North America.

### Table 1
Musician Costs as a Percentage of Production Budget, by Time

<table>
<thead>
<tr>
<th>Years</th>
<th>Number</th>
<th>Musician Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990 – 1994</td>
<td>33</td>
<td>0.54%</td>
</tr>
<tr>
<td>1995 – 1999</td>
<td>68</td>
<td>0.67%</td>
</tr>
<tr>
<td>2000 – 2004</td>
<td>104</td>
<td>0.54%</td>
</tr>
<tr>
<td>2005 – 2009</td>
<td>71</td>
<td>0.43%</td>
</tr>
<tr>
<td>2010 – 2014</td>
<td>47</td>
<td>0.36%</td>
</tr>
<tr>
<td>Total</td>
<td>323</td>
<td>0.52%</td>
</tr>
</tbody>
</table>

Source: LAANE analysis of AFM Local 47 data

Hollywood provides quality employment – for most

A key reason that governments across the U.S., North America, and the world provide film and television incentives is that Hollywood productions traditionally provide good jobs. A 2014 report from the California Legislative Analyst’s Office examined government statistics and found that the U.S. average annual wage income for film and television
**Table 2**

*Musician Costs as a Percentage of Production Budget, by Movie Budget*

<table>
<thead>
<tr>
<th>Production Budget (in millions)</th>
<th>Number</th>
<th>Musician Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; $10</td>
<td>23</td>
<td>0.34%</td>
</tr>
<tr>
<td>$10 – 14.9</td>
<td>26</td>
<td>0.57%</td>
</tr>
<tr>
<td>$15 – 24.9</td>
<td>43</td>
<td>0.57%</td>
</tr>
<tr>
<td>$25 – 39.9</td>
<td>65</td>
<td>0.58%</td>
</tr>
<tr>
<td>$40 – 69.9</td>
<td>89</td>
<td>0.52%</td>
</tr>
<tr>
<td>$70 – 99.9</td>
<td>42</td>
<td>0.51%</td>
</tr>
<tr>
<td>$100 +</td>
<td>35</td>
<td>0.42%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>323</strong></td>
<td><strong>0.52%</strong></td>
</tr>
</tbody>
</table>

*Source: LAANE analysis of AFM Local 47 data*

With regard to the employment of recording musicians, however, Hollywood does not meet the same standard. While most production companies – both “major” and “independent” – provide work at a minimum standard for most other entertainment industry workers, only a small minority make that commitment to recording musicians. Figure 7 illustrates the dramatic difference in how recording musicians are treated relative to other film and television workers; the musicians’ contract has fewer than one-tenth the number of signatory employers as the next-smallest national agreement, and less than five percent relative to the Writers Guild.142

This has not always been the case. As noted earlier, 60 years ago approximately 95 percent of recording work was done in North America at the industry standard. As recently as 2003, 85 percent of domestic box office (76 percent of the number of films) was recorded at the industry standard. Figure 8 shows the declining share over the past twenty years: the figure currently stands at 46 percent by domestic box office, and 33 percent by number of films, with most of the drop occurring in the past decade. Figure 9 illustrates part of the explanation for this decline: a significant reduction in the number of production company signatories with the musicians’ union. Non-signatory production companies include not just the so-called “indies” (led primarily by Lionsgate, along with the Weinstein Company and Relativity Media), but also many sibling and affiliate production companies of the signatories, owned by the same corporate parents.143 These companies are free to record anywhere – in North America or overseas – and at any wage, benefit, or working standard. Many non-signatory production companies still employ North American musicians at the industry standard because of a commitment to quality, but too many have shifted recording work overseas or otherwise reduced quality employment opportunities for musicians.

production workers to be 82 percent higher than for the average of all private-sector U.S. jobs.140 This is neither an accident nor a function of Hollywood’s generosity; it is a result of the industry being overwhelmingly unionized.

Most production companies are so-called “signatories” to the major industry-wide contracts with film and television workers. As such, they are obligated to meet minimum standards for workers with regard to wages, health care, and pension; the union contract seeks to guarantee a basic level of respect, dignity, and fairness on the job. This applies to actors, writers, directors, and a wide range of skilled technical workers as well as service workers.141
Production companies offshore recording work and record below industry standards “because they can,” according to one industry expert. In other words, and for all of the reasons explored throughout this report – shrinking music budgets, the perceived invisibility of musicians, and especially the fact that recording work happens well after the production process has wrapped – musicians have less relative power than other workers, a fact that allows studios to reap greater profits from the labor of musicians.

Bringing work back: the debate thus far

Entire books could be written about how to encourage more production companies to commit to providing work and upholding standards for North American musicians – just as those companies do for most other film and television employees – but that would be beyond the scope of this report. It is worth briefly addressing two suggestions that have been part of the recent debate.

First is the notion – promulgated by a well-known agent to composers – of allowing composers (and not just production or distribution companies) to sign so-called “assumption agreements.” An assumption agreement is a contract between the union and another party (typically a distributor) obligating that other party for potential future payments (i.e., residuals) to musicians. Because composers have a significant degree of control over recording decisions, the argument goes, if you allow them to enter into agreements with the union they will record locally. Yet this suggestion belies a fundamental misunderstanding of the nature of a responsible entity. Residual payments can only be made by the legal owner or licensee of distribution.
rights in the work product (that is, the film or television show). As one text for composers warns (with emphasis in original):

It is extremely inadvisable for any composer to sign as the signatory on an Assumption Agreement because the composer is in no position to control the future distribution and usage of the film and its music, yet would be responsible for all future payments to the musicians.\footnote{148}

Another common suggestion is that North American musicians should lower their wage rates to be more competitive with musicians in Prague, Bratislava, and Macedonia.\footnote{149} As it turns out, recording musicians have already done so—twice. In 1994, in partnership with the employers, the AFM inked a new deal that “cuts regular studio musician rates nearly in half” for films and television shows with budgets under a certain threshold.\footnote{150}

Subsequently, the union and employers created the “ultra-low budget” category, with even lower rates for projects with even lower overall production budgets.

But when critics argue for musicians to lower their standards, what they mostly mean is that musicians should abandon residuals, which compose a majority of a recording musician’s income.\footnote{151} Once more, agent Richard Kraft has led the charge, claiming that recording musicians’ residuals have “been chasing away business to places like London that do not require those residuals.”\footnote{152} Yet residuals are hardly unique to recording musicians: many workers operating in film and television have some form of residual payment, either directly (as with writers, directors, and actors) or as a payment to a pension and health fund (as with crew members in California and other Western states). In fact, when it comes to residuals, musicians generally get the smallest share, and qualify for the fewest categories.

### Figure 8

**Films Recorded at Industry Standard**

![Graph showing percentage of films recorded at industry standard from 1993 to 2013.](image)

- **Number of Films**
- **Domestic Box Office**

Source: Box Office Mojo, Film Musicians Secondary Markets Fund\footnote{153}
Formulas for determining residuals can be incredibly varied and complex, depending on a multitude of factors, including (but not limited to): the original intended use of the work, the secondary use of the work, the union involved, and the dates the work was created and subsequently reused. While actors, writers, and directors receive residuals under 72 different scenarios, musicians receive residuals under only 43 scenarios, and fourteen of those scenarios contain additional limitations. Out of approximately $2 to $2.5 billion of residuals paid to or on behalf of film and television workers annually, musicians receive approximately $80 - $90 million, or less than four percent.

For ease of illustration, assume a common, if shrinking, example: a theatrically-released movie is later sold on DVD/Blu-ray, triggering residual obligations. The amount of that obligation is determined by a formula based on twenty percent of the gross DVD/Blu-ray receipts. Of that twenty percent, the various unions collect different amounts for their workers, as illustrated in Figure 10. IATSE gets 6.75 percent (of twenty percent), SAG-AFTRA gets 4.5 percent, DGA and WGA get 1.5 percent each, and AFM gets one percent. Across all categories, workers receive approximately three percent of the DVD/Blu-ray sales, including the two-tenths of one percent musicians receive.

Musicians receive the smallest share of residual payments yet must share that payment among a large group of workers. There are, for instance, typically large numbers of SAG-AFTRA members involved in film production, accounting for that union’s larger share. But while most films have only one director and perhaps one to five writers, the average movie employs 75 musicians.

As a concrete example, take one of the most successful films in recent memory, 2010’s “Toy Story.

**Figure 9**
Signatories to AFM-AMPTP Contract

![Graph showing signatories to AFM-AMPTP Contract](image-url)
“Toy Story 3,” which won Oscars for Best Animated Feature and Best Song, brought in over $1 billion at the box office, and nearly $250 million in U.S. DVD and Blu-ray sales. Musicians’ share of that $250 million is $495,918, and will be divided among the 189 musicians who worked on the film, so the average residual payment (in the aggregate over many years) is $2,624. Note that this illustration only addresses one category of residuals (DVD/Blu-ray sales), and only from U.S. consumers; total residuals related to “Toy Story 3” will be significantly higher. Most films, of course, are not nearly this successful, and musicians generally receive significantly less.

Given the foregoing description of the economics of residuals and the musicians’ place in the landscape of residuals, would eliminating residuals bring recording work back to North America? According to attorney and journalist Jonathan Handel, one of Hollywood’s foremost experts on residuals, “I have trouble believing” that residuals are the real obstacle. The economic literature also suggests that in the context of cultural production, “cost cutting... may be advantageous to producers in the immediate present, [but] it is ultimately self-defeating, for there are always... other parts of the world that can cut their costs more deeply.”

Figure 10
Distribution of DVD Revenue

Source: Jonathan Handel’s “2014 Residuals Summary Chart”
John Lofton, Recording Musician

John Lofton hails from Philadelphia and now works as a symphonic musician playing the bass trombone for the Los Angeles Philharmonic Orchestra. Over the course of his thirty-six years as a professional musician, his career has taken him across the country and into Mexico for jobs playing with various orchestras in Honolulu, Phoenix, Cleveland, Mexico City and San Francisco. Although his job with the L.A. Phil makes up the majority of his working hours, John has enjoyed the few television and film scoring projects he has been able to work on.

“We get the music weeks in advance at the Philharmonic. With the recording sessions you walk in not knowing what you’re going to play. It’s just a much more spontaneous kind of experience… There are different parts of your brain that need attention at all times, so it’s nice to have the steady situation at the Philharmonic, but it’s also nice to do other things that are very different so you can keep those creative juices flowing too.”

John acknowledges that it has always taken a lot of hard work to find stable work as a professional musician. In addition to talent, tenacity is required to endure the grueling audition process and numerous rejections. “To land a job is not only difficult, it’s just about miraculous… It’s incredibly involved. It’s a labor of love, but with an emphasis on labor. It is very hard work and very arduous.” He has seen the odds for securing jobs go down as companies push cost-cutting in pursuit of profits.

“I think people are really concerned about the future, not just people my age but also people who are younger who feel like they don’t know whether or not there will be the same amount of opportunities [in the future]… In the film industry, people are concerned that there are fewer and fewer movies being done here… There is this concern about the viable future [of their careers] down the road.”

John credits being in a union as a source of stability and wants all musicians to have a voice the studios will actually listen to so that everyone can work together with an eye toward making the future better – “driving forward while looking through the windshield rather than the rearview mirror.”

For all the difficulties and sacrifice that go into finding and securing steady work, as well as uncertainties about the future, John says he has had many positive experiences over the course of his career as a musician: “One of the things I really enjoy is when you perform and an audience really responds… At the Hollywood Bowl we have a John Williams night, there’s 17,000-plus people there and many of them—I would say well over 1,000—will bring a lightsaber and when we play the Star Wars theme they all go nuts…That kind of thing, when you see people derive so much pleasure from what you do, that’s really a highlight.”
A community weakened by the loss of music

Case Study: Impact on the Los Angeles regional economy

Bringing recording work back to Southern California would benefit all segments of the local economy. Wages paid to musicians have an important multiplier effect: money is spent and re-spent locally, as musicians fill their gas tanks, buy groceries, pay rent, and go to the movies and pay their cable bills. The loss of this work causes a drag on the overall regional economy.

As seen in Figure 6, aggregate Los Angeles recording musician income has declined by approximately two-thirds in the past 22 years, from $42.6 million in 1991 to $15.6 million in 2013. Were recording to return to its 2000 level – well shy of its 1998 peak of $49.5 million in wages – that would translate to $33.6 million in annual musician wages, or an additional $18 million (above the 2013 figure) in the pockets of local musicians each year. Adding in residuals would bring another $3.6 million annually.\textsuperscript{164} Table 3 illustrates the benefits to the Los Angeles economy under this scenario, which would generate an additional $19.5 million annually in new sales and economic activity throughout Los Angeles County.\textsuperscript{165}

Loss of recording work also reduces contributions towards musicians’ health care and pensions. These are pooled accounts across all sectors of musical work, and their health and solvency therefore affect not only recording musicians, but all musicians across North America. As of 2010, “the actuary for the [joint labor-management pension fund] certified the Fund to be in ‘critical status’ (also known as the ‘red zone’) for the Fund’s plan year beginning April 1, 2010. The significance of entering

<table>
<thead>
<tr>
<th>Category</th>
<th>Benefit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Additional L.A. musician wages</td>
<td>$21,600,000</td>
</tr>
<tr>
<td>Additional income, other L.A. workers</td>
<td>$7,100,000</td>
</tr>
<tr>
<td>Additional L.A. business profit</td>
<td>$1,100,000</td>
</tr>
<tr>
<td>Additional corporate and stockholder profit</td>
<td>$4,800,000</td>
</tr>
<tr>
<td>Additional tax revenue (state and local)</td>
<td>$1,300,000</td>
</tr>
<tr>
<td>Additional tax revenue (federal)</td>
<td>$1,600,000</td>
</tr>
<tr>
<td>Total annual economic impact</td>
<td>$37,500,000</td>
</tr>
</tbody>
</table>

Source: AFM Local 47, FMSMF, Census, IMPLAN
critical status is that the Fund’s Board of Trustees is required by law to adopt a ‘rehabilitation plan’ designed to improve the Fund’s financial health and to allow it to emerge from critical status. 166 As part of this “rehabilitation plan,” the pension fund has since cut future benefits for musicians across North America. A return of work would help stabilize the fund and secure the retirement of current and future retirees.

Other workers who rely on local recording sessions are also impacted. Engineers, music editors, scoring mixers, and various technicians – including many union members – staff the facilities where musicians record. In just the past ten years, two renowned scoring stages have closed: Paramount’s Stage M closed in 2006 and the Todd AO scoring stage closed in 2007.167 Many fear that the three remaining premiere scoring stages (Warner Bros.’ Eastwood Scoring Stage, Sony’s Streisand Scoring Stage, and Fox’s Newman Scoring Stage) are similarly endangered.168 This threat comes from the loss of recording work, but also results from the composer’s package deal.169 Under the package deal, and aided by technological advances, composers are now widely expected to have their own home recording studios. To hold down costs, composers often use these small spaces for recording sessions rather than pay rental fees to use the larger studio spaces that production companies previously provided.170 These scoring stages and the infrastructure they provide are a key part of L.A.’s competitive advantage.

The imbalance of costs and benefits may be the most striking element of the offshoring of recording work. By shifting work overseas, production companies save a small amount of money at a cost to the regional economy of nearly an order of magnitude greater. Figure 11 shows the impacts – on the L.A. regional economy as well as on the production company – depending on whether the score to the average movie is recorded domestically or overseas. On an average movie with a $65

---

**Figure 11**

*Domestic v. Overseas Recording (Average Film)*

![Bar chart showing domestic and overseas recording costs](image)
million production budget, a production company may save approximately $143,000 by recording overseas (two-tenths of one percent of the production budget), but at a cost of approximately $1.2 million to the regional economy.

Impact on the Cultural Fabric

Southern California is one of the world capitals of live music, and film and television recording is a significant part of that story. The importance of the “cluster” effect means the loss of this recording work threatens the entire regional music industry. A cluster “is a group of firms, and related economic actors and institutions, that are located near one another and that draw productive advantage from their mutual proximity and connections.” Clusters are much-prized (e.g., Silicon Valley with technology or Wall Street with finance), and policymakers build economic development strategies around trying to foster, develop, and retain them.

One key benefit of an industry cluster is a shared labor pool, where workers – particularly specialized workers such as musicians – can find many possible employers; this leads to both higher worker productivity and higher wages.

Los Angeles is home to one of the United States’ great music clusters, along with New York and Nashville; musicians are twice as likely as non-musicians to be located in Los Angeles. The historical presence of film and television recording work contributes to the strength of the cluster. In 2011 the non-profit Future of Music Coalition surveyed 5,300 musicians nationally, and found “again and again how the concentration of [specialized] opportunities – especially in Los Angeles and Nashville – attracts musicians.”

Musicians’ income data from this survey also showed that L.A. musicians (along with those from New York and Nashville) “have higher gross incomes, higher hourly wages, and access to more income streams – part of the reason why many creators gravitate to these cities.”

Music lovers benefit from this cluster through the presence of strong cultural institutions such as the L.A. Philharmonic, Opera, Master Chorale, numerous symphonies, orchestras and theaters, as well as music festivals and live clubs. All residents benefit from the robust economic activity this cluster generates.

When studios move recording work out of Southern California and reduce employment opportunities for musicians, the entire cluster is weakened. The freelance nature of musician employment requires a diverse set of potential employers to continue to
attract the best talent as musicians cobbled together work. This loss thus “diminish[es] the talent pool that was initially attracted here by lucrative studio work... if that happens... then all of L.A. will suffer.”

Recording musicians are also integral to training the next generation of musicians and music lovers. Music education – at the Colburn School, USC, and throughout the UC and Cal State systems – is a key piece of this cluster. Many recording musicians are involved in charitable music education work. For instance, the Harmony Project provides free music lessons to thousands of low-income youth throughout Los Angeles. It is physically housed in the local musicians’ union hall and is staffed by union musicians, many of whom donate their time. As more and more film and television recording work leaves Southern California, the future of such programs could well be jeopardized. Indeed, some students have already lost opportunities as scoring stages – which also donate time to students – have closed.

Breaking the social compact

The billions of dollars in taxpayer money that Americans have provided to the film and television industry is part of an implicit bargain: in exchange, we expect the industry to continue to provide the good jobs that support our local economies. With regard to most sectors of the industry, the deal may be win-win, but when it comes to recording musicians the industry is not upholding its end of the bargain. The contributions of some 40 states and the total investment of U.S. taxpayers (solely at the state level) stand at approximately $1.7 billion annually. Film and television production companies take advantage of far more government action (or inaction) than just these state tax credits, however.

Federal Subsidies

In 2004, Congress passed the American Jobs Creation Act (AJCA) to strengthen businesses and, as the name indicates, to create jobs. Included in AJCA was a provision – “section 181” – to provide tax relief to film and television production companies in order “to make domestic production more attractive.” In addition to allowing investors to write off expenses at an accelerated rate, some investors devised a way to use this provision as a way of financing projects. According to the Congressional Budget Office, section 181 costs the U.S. government approximately $215 million annually. The program has been extended several times since its initial passage. Although the program ended at the end of 2013, it has been re-enacted retroactively in the past. A bill is currently pending in the U.S. House of Representatives to revive section 181.

Also at the federal level, the outsourcing of musician jobs overseas may be costing the federal government even more money, if – as appears to be the case – production companies are shirking paying required taxes. So-called countervailing duty (CVD) law exists explicitly to combat the negative effects of foreign subsidies on American workers. If imported goods are found to have been subsidized, the importer must pay taxes in an amount that negates the effect of the subsidies. When a score is recorded in the UK, in Canada, or in numerous other countries, the production company often receives generous subsidies covering a significant portion of musician wages. The company then imports the work product (generally little more than a set of recordings – electronic files – on a computer or a flash drive) into the U.S. without paying CVDs. Although CVD law has not yet been applied to digital products (it has traditionally applied to goods such as lumber and steel), a legal analysis has been put forward arguing for such application. Ironically, the argument comes from the Motion Picture Association of America itself! Although it has been visual effects workers who have taken up this fight, visual effects workers and recording musicians face many of the same challenges. One observer wrote that “if, as the MPAA insists, movies should be recognized
Keeping the Score

Local Subsidies

Many municipalities across the U.S. supplement federal and state subsidies with their own generosity in an effort to attract film and television work. In many cases this includes “things like free police, free office space, free property to build a backlot set” as well as free rental cars and discounted hotel rooms. The City of Los Angeles offers a classic case study in local incentives. There may be no city in the world more associated with film and television work, nor any city more reliant on it to keep the economy humming. As runaway production has cost jobs and hurt the regional economy, City leaders have acted to provide additional incentives and subsidies to the industry, yet recording musicians are left behind.

Los Angeles has provided direct financial relief to production companies. Changes in business tax formulas enacted in 2004 and 2010 cost the City approximately $3.6 million in annual revenue from production companies. In 2006, the City began to waive filming fees at many City-owned facilities at an annual cost of approximately $350,000. In 2009, L.A. implemented an off-hours free parking program for the film and television industry at City-owned lots, and installed power nodes at City facilities for industry use. In 2013, the City exempted television pilots from standard permitting fees. The L.A. City Attorney’s office is currently preparing an ordinance that would refund 100 percent of the City’s share of sales tax for production-related purchases.

Through three successive administrations, Los Angeles has also attempted to streamline processes, proclaiming that “City policy encourages local film production and expeditious permitting.” In 2004, each City department appointed a film liaison; some departments have multiple staff serving the needs of the industry, and one department (Recreation and Parks) has not only two full-time and five part-time film coordinators, but 136 film monitors with staff on call “24/7.” Each Council office must also have an industry liaison. In 2006, the City created the position of Citywide Filming Coordinator, and in the next few years City task forces came together with industry to “address industry needs and concerns” broadly, to find additional parking opportunities, to develop online databases for industry use, and to address “the hardest to film locations” in the City. In 2009, L.A. passed an ordinance making it easier for police to prevent people from interfering with a film shoot. The newly-created City Council Ad Hoc Committee on Film and Television Production Jobs is currently preparing a report on further streamlining.

The City has also made extensive use of the bully pulpit to boost the film and television industry. From 2005 through 2014, Council has voted at least five
times to support either the creation or the expansion of a statewide tax incentive program. In 2013, Mayor Garcetti created the City of L.A. Entertainment Industry and Production Office, led by the City’s first-ever “Film Czar.” This office is responsible for providing “a heavy-hitter voice in Sacramento” on behalf of the industry, as well as helping studios traverse “the thicket of City Hall red tape.” Mayor Garcetti has himself been a strong leader fighting runaway production, declaring a “state of emergency,” and personally travelling to Sacramento to lobby the Governor for the recently-passed expansion of the California incentive program.

This is not a comprehensive accounting, but gives a sense of the City’s investment in the film and television industry. This worthwhile investment is likely a net positive for L.A. residents who benefit from the good jobs and tremendous economic activity the industry generates, yet as the City invests millions of dollars and countless staff hours annually, it is leaving significant money on the table as the industry shifts more and more recording work out of the region and overseas. During the same ten-year period that L.A. made these investments, the region’s recording musicians lost over $191 million in aggregate income, other workers throughout the region lost $63 million in related income, and $26 million in tax revenue was lost, for a total impact on the regional economy of $280 million.

As the City invests millions of dollars and countless staff hours annually, it is leaving significant money on the table as the industry shifts more and more recording work out of the region and overseas.

Cheating on Employment

Most of our analysis of runaway recording work has focused on offshoring, yet some percentage of this work is still done domestically, far below the industry standard. When production companies or composers do not meet the standard, they not only undercut wages, deprive musicians of residuals, and fail to make health care or pension contributions, but they too-often misclassify musicians as independent contractors. This is an increasingly common practice across all industries that saves the employer money but, according to the U.S. Department of Labor, this practice presents a serious problem for affected employees, employers, and to the entire economy. Misclassified employees are often denied access to critical benefits and protections – such as family and medical leave, overtime, minimum wage and unemployment insurance – to which they are entitled. Employee misclassification also generates substantial losses to the Treasury and the Social Security and Medicare funds, as well as to state unemployment insurance and workers compensation funds.

There are no publicly-available figures on how many recording musicians have either been misclassified or been paid under the table (another practice that deprives workers of protections and deprives the government of funds). According to the IRS, freelance workers are particularly prone to misclassification. When film and television recording work happens below the industry standard in the U.S., Seattle is the most common locale. According to a Seattle musicians union official with knowledge of the local work, a majority of Seattle musicians engaged in this work are misclassified as independent contractors.
Lionsgate: A new “major” roars

In 1997, Canada birthed two things that would go on to dramatically shape how film and television get made (including score recording): the first (as discussed above) was a tax incentive program that would be copied by much of the rest of the world. The second was the founding of Lionsgate, a then-small and scrappy upstart studio. In the seventeen years since its founding, Lionsgate has gone on to become not only wildly profitable, but a trendsetter and an industry leader.

Following a familiar industry pattern, much of the company’s growth was through acquisitions, “first nabbing Artisan Entertainment in 2003, then a piece of the indie distributor Roadside Attractions, a TV distribution business in Debmar-Mercury and finally the $412.5 million purchase of Summit” in 2012. Once called an “indie” studio, more recently Lionsgate ascended into the category of so-called “mini-majors” (along with companies such as the Weinstein Company, Relativity, and arguably the one-time major – that other lion – MGM). Most observers believe that the company has “shed the ‘minimajor’ label” and is now a full-fledged major.

Perhaps the company’s graduating moment was in March 2012, when CEO Jon Feltheimer rang the opening bell of the New York Stock Exchange. That year, Lionsgate would go on to take in $1.2 billion in domestic box office—grabbing a larger segment of the market than majors Fox and Paramount. In 2013, it repeated the feat, once more ranking fifth in U.S. box office receipts with 9.8 percent market share. The $1 billion mark is a significant psychological threshold in the industry, and Lionsgate is the only company (other than the traditional majors) to have achieved this, “a feat it has now accomplished two years in a row.”

Lionsgate’s holdings are extensive. It owns two of the most successful movie franchises of the past decade: the “Twilight” and “Hunger Games” series. “The Hunger Games: Catching Fire” was the biggest movie of 2013, bringing in $425 million in U.S. box office and $865 million worldwide. “The Twilight Saga: Breaking Dawn, Part 2” was the top-selling DVD in the U.S. in 2013: nearly five million copies brought in over $72 million. The company has several more franchises in the works, including, among others, this year’s first installment of the “Divergent” series, which has garnered $289 million worldwide and the upcoming “Power Rangers” franchise.
Lionsgate also produces some of the most successful television shows:

- Anger Management (FX)
- Best Daym Takeout (Travel Channel)
- Chasing Life (ABC Family)
- Deadbeat (Hulu)
- Deal With It (TBS)
- Deion’s Family Playbook (OWN)
- Flea Market Flip (HGTV)
- I Brake for Yard Sales (HGTV)
- Mad Men (AMC)
- Manhattan (WGN America)
- Nashville (ABC)
- Nurse Jackie (Showtime)
- Orange is the New Black (Netflix)
- Saint George (FX)
- Tequila Sisters (TVGN)
- The Partnership (FX)
- The Royals (E!)
- The Wendy William Show (syndication)

Lionsgate also owns a significant stake in several other companies:

- Celestial Tiger Entertainment (16 percent)
- Defy Media (20 percent)
- Epix premium television network (31.2 percent)
- Pantelion Films (49 percent)
- Roadside Attractions (43 percent)
- POP (formerly TVGN) television network (50 percent)

Feltheimer trendily describes Lionsgate as a “disruptive, opportunistic company,” continuing to expand into new areas. In July, they announced

---

**Figure 12**

*Lionsgate Stock Performance (as of August 31 of each year)*

![Lionsgate Stock Performance Chart](chart.png)

*Source: NASDAQ*
a major deal with Alibaba, the Chinese internet behemoth, to provide content to Chinese homes.\footnote{232} That same month, the company announced a deal with Finnish company Next Games, as Lionsgate moves aggressively into video games.\footnote{233} Lionsgate is leading the industry in developing new models of partnership with so-called “new media,” including launching their own on-demand streaming service.\footnote{234} And they are investing in ways to further monetize “movie franchises into new business lines” such as theme park attractions and other “new revenue streams.”\footnote{235}

**Reliance on tax incentives**

The company’s success stems in large part from its extensive use of both domestic and foreign tax incentives. In fact, Lionsgate has specialized in financing its projects “through co-production agreements and offset with tax incentive rebates and upfront international pre-sales” to such an extent that it puts a relatively small amount of its own money at risk when producing a project.\footnote{236} The company accepted $82 million in tax credits in its most recent fiscal year, and took a total of $331 million in public money over the past four years.\footnote{237} In its most recent fiscal year, the company only paid a total $12.1 million in taxes in the U.S. despite having a tax liability in the U.S. of $36.3 million.\footnote{238} On a subsequent conference call with investors, CEO Jon Feltheimer boasted that “we don’t expect to pay U.S. federal taxes before we’re well into [fiscal year] 2017.”\footnote{239}

This strategy has proved profitable. In its most recent fiscal year, the company saw $260 million in operating profits on total revenue in excess of $2.6 billion.\footnote{240} Figure 12 shows how in the past five years the stock price has increased 400 percent, outperforming the broader market by a wide margin, and currently in the top three percent of stocks listed on the NYSE.\footnote{241} Lionsgate’s financial performance has been so strong – one analyst gushed about their “off-the-charts free cash flow”\footnote{242} – that in late 2013 the company announced a $300 million plan to buy back its own shares, as well as its first-ever cash dividend payments to stockholders; the dividend payments have recently been increased.\footnote{243}

**Wealth – and work – not shared**

Lionsgate has rewarded its management handsomely for this string of successes. In 2013, the company nearly doubled CEO Jon Feltheimer’s compensation, which went from $6.4 million to $12.6 million.\footnote{244} In 2014, Feltheimer received $66.3 million, a 427 percent single-year increase, more than ten times what he had made only two years earlier, and a 4,770 percent increase over his first full year as CEO in 2001.\footnote{245} If other CEO salaries hold constant for 2014, this would make Feltheimer the second-highest paid CEO in any company in any industry across the entire country.\footnote{246,247} In fact, the change in Feltheimer’s single-year compensation between 2001 and 2014 (an additional $65 million) is comparable to the aggregate change in session wages of all unionized Southern California recording musicians for all of those years (a loss of $83 million).\footnote{248}

Most people who work on Lionsgate’s films and television shows receive good compensation, in line with the industry standard. As seen in Table 4, the overwhelming majority of the company’s productions occur in the context of a union agreement with actors, writers, directors, and technical workers.\footnote{249} But U.S. recording musicians are largely left out, excluded from work opportunities and prevented from sharing in the company’s success and profits.\footnote{250} Only two of Lionsgate’s television shows are recorded domestically at the industry standard; the previously-below-standard “Mad Men” went union after musicians held an action at the production site, bringing the then-in-production “Nashville” along with it.\footnote{251} Lionsgate is not a signatory to the musicians’ master contract. This is notable as Lionsgate has historically professed a strong commitment to music. It not only launched Lions
Gate Records in 2001 to release soundtracks from its own films, but has expanded its music department and stated an interest in “building a music publishing company and signing acts.” In 2013, Lionsgate announced a partnership with Warner-Chappell Music.

In recent months, musicians across North America have focused on the discrepancy between how Lionsgate treats them and how the company treats its other workers. Musicians and their community, clergy, and political supporters have held rallies, leafleted at movie theaters, and delivered over 12,000 petition signatures to the company, calling on Lionsgate to enter into dialogue about how to best meet standards for recording musicians. Musicians’ ire has been especially focused on the company’s practice of recording overseas in low-wage countries: 2014’s “Draft Day,” for instance, reportedly received millions of dollars from Ohio taxpayers, but recorded in Macedonia. So far, musicians report that Lionsgate has been unresponsive to their outreach. It is not yet clear how this will play out, but one journalist has noted how “a young studio can keep costs lean in the beginning, but when it hits a high, it becomes harder to plead poverty.”

Table 4
Lionsgate 2013 Releases and Union Status

<table>
<thead>
<tr>
<th>Title</th>
<th>Release Date</th>
<th>Production Location</th>
<th>AFM</th>
<th>SAG-AFTRA</th>
<th>DGA</th>
<th>WGA</th>
<th>IATSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas Chainsaw 3D</td>
<td>1/4/13</td>
<td>USA</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Stand Up Guys</td>
<td>2/1/13</td>
<td>USA</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Warm Bodies</td>
<td>2/1/13</td>
<td>Canada</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Tyler Perry’s Temptation: Confessions of a Marriage Counselor</td>
<td>3/29/13</td>
<td>USA</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Mud</td>
<td>4/26/13</td>
<td>USA</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Now You See Me</td>
<td>5/23/13</td>
<td>USA</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Rapture-Palooza</td>
<td>6/7/13</td>
<td>Canada</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>This is the End</td>
<td>6/12/13</td>
<td>USA</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Kevin Hart: Let Me Explain</td>
<td>6/22/13</td>
<td>USA</td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>Redemption</td>
<td>6/28/13</td>
<td>UK</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>Red 2</td>
<td>7/19/13</td>
<td>UK</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>The Frozen Ground</td>
<td>8/23/13</td>
<td>USA</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Empire State</td>
<td>9/3/13</td>
<td>USA</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Escape Plan</td>
<td>10/15/13</td>
<td>USA</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Paradise</td>
<td>10/18/13</td>
<td>USA</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Ender’s Game</td>
<td>10/28/13</td>
<td>USA</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>The Hunger Games: Catching Fire</td>
<td>11/22/13</td>
<td>USA</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Percent Union (by number of films)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.8%</td>
<td>94.1%</td>
<td>94.1%</td>
<td>82.4%</td>
<td>100.0%</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: IMDBPro, Individual Unions
Taking the high road: what it could mean

It is impossible to speculate on the reasons for Lionsgate’s reluctance to meet the industry standard for musicians or to commit to recording domestically, as the company has consistently refused comment to the press. Nevertheless, Table 5 provides an estimate of the costs – and benefits – were the company to hire North American recording musicians at the industry standard. An analysis of the company’s 2013 productions shows that, were Lionsgate to commit to this, twelve of the company’s nineteen 2013 releases would likely have been affected.260 This one year’s worth of one company’s films could have increased overall employment for Southern California musicians by nine to thirteen percent.261 Put another way, Lionsgate alone is responsible for approximately one-sixth (seventeen percent) of the loss of recording musician employment.262 Assuming Southern California recording, this would have put $5.8 million into the pockets of recording musicians, yielded $1.9 million in additional labor income for other workers throughout L.A. County, and increased tax revenue by $794,000. The total economic benefit to the region would have been $8.5 million, at a total cost (not an additional cost) to Lionsgate of $2.1 million—smaller than the recent accounting error in underreporting CEO Feltheimer’s compensation.263

Table 5

<table>
<thead>
<tr>
<th>Title</th>
<th>Production Budget</th>
<th>Company Cost of Musicians</th>
<th>Musician Income</th>
<th>Other L.A. Worker Income</th>
<th>Tax Income</th>
<th>Total Regional Benefit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas Chainsaw 3D</td>
<td>$10,000,000</td>
<td>$44,000</td>
<td>$120,120</td>
<td>$39,279</td>
<td>$16,336</td>
<td>$175,736</td>
</tr>
<tr>
<td>Stand Up Guys</td>
<td>$15,000,000</td>
<td>$66,000</td>
<td>$180,180</td>
<td>$58,919</td>
<td>$24,504</td>
<td>$263,603</td>
</tr>
<tr>
<td>Warm Bodies</td>
<td>$35,000,000</td>
<td>$154,000</td>
<td>$420,420</td>
<td>$137,477</td>
<td>$57,177</td>
<td>$615,074</td>
</tr>
<tr>
<td>Mud</td>
<td>$12,000,000</td>
<td>$52,800</td>
<td>$144,144</td>
<td>$47,135</td>
<td>$19,604</td>
<td>$210,883</td>
</tr>
<tr>
<td>Now You See Me</td>
<td>$75,000,000</td>
<td>$330,000</td>
<td>$911,196</td>
<td>$297,961</td>
<td>$123,923</td>
<td>$1,333,080</td>
</tr>
<tr>
<td>Rapture-Palooza</td>
<td>$2,000,000</td>
<td>$8,800</td>
<td>$24,024</td>
<td>$7,856</td>
<td>$3,267</td>
<td>$35,147</td>
</tr>
<tr>
<td>The Frozen Ground</td>
<td>$27,000,000</td>
<td>$118,800</td>
<td>$324,324</td>
<td>$106,054</td>
<td>$44,108</td>
<td>$474,486</td>
</tr>
<tr>
<td>Empire State</td>
<td>$11,000,000</td>
<td>$48,400</td>
<td>$132,132</td>
<td>$43,207</td>
<td>$17,970</td>
<td>$193,309</td>
</tr>
<tr>
<td>Escape Plan</td>
<td>$50,000,000</td>
<td>$220,000</td>
<td>$607,464</td>
<td>$198,641</td>
<td>$82,615</td>
<td>$888,720</td>
</tr>
<tr>
<td>Paradise</td>
<td>$5,000,000</td>
<td>$22,000</td>
<td>$60,060</td>
<td>$19,640</td>
<td>$8,168</td>
<td>$87,868</td>
</tr>
<tr>
<td>Ender’s Game</td>
<td>$110,000,000</td>
<td>$484,000</td>
<td>$1,336,421</td>
<td>$437,010</td>
<td>$181,753</td>
<td>$1,955,184</td>
</tr>
<tr>
<td>The Hunger Games: Catching Fire</td>
<td>$130,000,000</td>
<td>$572,000</td>
<td>$1,579,406</td>
<td>$516,466</td>
<td>$214,799</td>
<td>$2,310,672</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$2,120,800</td>
<td>$5,839,891</td>
<td>$1,909,644</td>
<td>$794,225</td>
<td>$8,543,761</td>
<td></td>
</tr>
</tbody>
</table>

Source: IMDBPro, web, LAANE analysis264
Conclusion and Recommendations

This report has told an unfortunate story of work lost—lost to other countries and lower standards. As film and television score recording work flees North America, extensive damage is left in the wake. Musicians’ lives are overturned as they are unable to find sufficient employment to make ends meet; local economies suffer the loss of tens of millions of dollars each year; government at all levels is deprived of millions more in tax revenue; the cultural fabric is threatened. While all of this is happening, those companies and individuals offshoring this work are accepting billions of dollars in taxpayer incentives—dollars explicitly intended to bolster employment.

While this is an unfortunate story, it is also an unnecessary one. We have shown the dramatic imbalance between the fiscal savings of a production company and the cost to the community when that company chooses to offshore recording work. We have illustrated the significant potential benefits – to workers, the economy, business, and government – that would accrue by adding employment for recording musicians. At a time when Hollywood continues to break records and to post profits in the billions, at a time when CEO compensation rises exponentially, at a time when cash-starved municipalities bend over backwards to accommodate a single industry, we ought not be having this debate. Following are a handful of recommendations to begin to address this problem.

Recommendations to policy makers

1. State tax credits should require domestic score recording.

With so many states offering billions of dollars in tax credits, it would be easy for policy makers to attach recording conditions to the incentive money (just as they attach conditions related to production spending). It might be tempting for each state to require that recording happen in that particular state, but the nature of the industry makes this impossible. There are simply not enough recording hubs in the U.S.—places both with a sufficient pool of talented musicians and with the right physical infrastructure. Indeed, even those states whose incentive programs cover post-production work report that companies do not avail themselves of the incentive due to a lack of infrastructure.

A simple solution would be for every state with a production incentive to require U.S. recording. If that state has sufficient infrastructure, it is likely to capture the work. If the state lacks the infrastructure, then it loses nothing (the work would happen elsewhere anyhow), but the U.S. economy benefits, as do U.S. musicians. There is ample precedent for such a policy, as much federal procurement requires domestic production. In practical terms, a requirement of domestic recording is likely to benefit those locales with high-quality orchestras and state-of-the-art recording facilities – at zero cost to anyone else domestically.

2. The U.S. should shift from state tax incentives to a single federal tax incentive

Many policy analysts have bemoaned the race to the bottom that ensues when states compete against other states. Even supporters of tax incentives have expressed concern about the effects of the competing programs, noting how “federal legislation could end the race to
the bottom by replacing the competing state incentives with a single national incentive.267 Studios would still get the funding they claim to require, but without the ability to play states against one another. If the U.S. is serious about keeping entertainment jobs in the U.S., we need to deal with this as the national problem it is.

One tax attorney who specializes in the entertainment industry has been making this case for years:

It is time for the federal government to replace section 181 with tax credits for U.S. production costs. The credit should be assignable in order to provide actual financing for production. As part of implementing this tax credit, the federal government should use its power under the Commerce Clause to pre-empt all state laws (and don’t let Puerto Rico sneak away) that give tax credits for production. That way, the states could go back to competing for production based on services, infrastructure and locations — just like in the good ol’ days. Ads should tout states because of their sweeping vistas rather than sweeping tax credits.268

A national approach should be combined with a requirement for domestic recording. A bill was recently introduced in the U.S. House to amend section 181 along these lines.269

Time is of the essence. The U.S. can recover this work, but doing so becomes increasingly difficult as other locales establish the infrastructure necessary to permanently support recording work. As Eastern Europe increasingly becomes a hub for low-cost recording, and as other countries build physical infrastructure the threat becomes more real.270 The U.S. is still playing a defensive game, which is one it can win. At some time, however, a tipping point is reached. We must act before that happens.

3. The Federal government should enforce countervailing duties on imported scores.

A recent legal analysis demonstrated that film and television companies are trying to have it both ways: after recording overseas they reimport extensively-subsidized scores with no payment of additional duties, but they want the Federal government to use the very same “countervailing duty” law they are allegedly violating to simultaneously protect them against subsidized imports. The Federal government should study the offshoring of recording work and – when that offshoring is aided by foreign subsidies – should levy the appropriate duties in order to level the playing field.

4. State and Federal governments should enforce all applicable employment laws.

Some of the degradation of standards in film and television recording work is because work is happening “under the table,” often involving the misclassification of employees as independent contractors. Misclassification is a problem that cost the federal government over $2.7 billion in lost revenues in 2006.271 State and federal governments should better monitor recording work to ensure employers comply with all relevant employment laws—not only that workers are properly classified and protected, but that all appropriate taxes are paid.

5. Governments should ensure public incentives provide a sufficient return to the community.

Some states and municipalities rush into various incentive programs without the proper due diligence. Whenever governments are spending taxpayer money on private business, there is an obligation to ensure the funds do in fact provide a public benefit.272 This need not mean the governmental entity needs to see a dollar-for-dollar return to its own coffers; public benefits can accrue to private actors. Policy
makers – along with watchdog groups – must carefully monitor public investments, must build in mechanisms for accountability, and must complete a rigorous analysis to ensure the investments are wise ones. For instance, the recent expansion of California’s incentive funding also enhanced accountability tools around job creation projections.273

**Recommendations to the industry**

6. Hollywood should take the high road.

The film and television industry provides excellent employment to many, but continues to leave some groups – including recording musicians – out in the cold simply “because they can.” This is not responsible corporate behavior, it is not behavior that citizens can be proud to support, and it is the height of hypocrisy to do this while accepting billions in taxpayer benefits in the name of employment. We have seen how recording work is a fraction of a percent of a film’s budget, and that a production company’s marginal cost increase to meet industry standards is offset by a nearly tenfold benefit to workers and government. Production companies should simply commit to partnering with musicians in the same way they have partnered with actors, writers, directors, and countless craft, technical, and service workers.

7. Hollywood should end the composer “package deal.”

The composer package deal reduces employment for recording musicians, financially squeezes composers, and leads to corner-cutting, reducing the quality of the finished score. Composers overwhelmingly oppose the structure, yet their lack of an organized collective voice makes it difficult to resist this studio cost-savings technique. Production companies should end the practice of turning composers into de facto producers. They should pay composers to do their jobs – composing – and as production companies they should shoulder the cost of the subsequent recording work.

We must work together and choose to make this long-term investment. Acclaimed director of films and television J.J. Abrams recently addressed the importance of hiring a top-caliber orchestra for recording. He was presumably speaking artistically, but he could just as easily have been speaking from an economic perspective: “You could argue that it costs more. But I would argue it costs a lot more not to use one.”274
Endnotes


2. Werner Herzog, “The Transformative Role of Music in Film,” lecture at Indiana University, September 13, 2012.

3. These happen to be the top five scores of all time (in ascending order), as ranked by Hollywood Reporter. It is no coincidence that four of these titles also appear on AFI’s 2007 list of the 100 Greatest American Films of All Time (as a foreign film, “The Good, the Bad, and the Ugly” was ineligible). See “The Top 100: our industry poll of the best scores in 100 years of film music,” Hollywood Reporter, April 29, 2009; “100 Greatest American Films of All Time,” American Film Institute, http://www.afi.com/100years/movies10.aspx, accessed August 20, 2014.

4. “Hollywood’s new financiers make deals with state tax credits,” Los Angeles Times, December 26, 2013. As this report was being prepared, hundreds of millions of additional dollars have been put on the table. In August, California more than tripled its incentive program from $100 million annually to $350 million annually. At around the same time, North Carolina ended its program, which provided $61 million in 2013. The $1.7 billion figure is net of these two changes. See “California to hike film tax credits,” Los Angeles Times, August 28, 2014; “North Carolina film industry hoping for ‘last-minute Hail Mary rescue’ of tax incentives,” Washington Post, August 27, 2014.

5. A cursory survey of the Westlaw press database as of September 27, 2014 finds 288 articles from California news sources in calendar 2014 alone that mention “runaway production” – more than one story a day on average.


8. Andy Malloy, oral communication, August 1, 2014.

9. “FMSMF White Paper,” Film Musicians Secondary Markets Fund, 2009. Based on income data from 2006-7. This necessarily excludes recording work that happens below the industry standard and outside of the purview of the union; the primary domestic locale for such work is Seattle.

10. Local 47 of the AFM shared its vast historical database containing data on members, income, and projects. Personal identifying information was withheld. Unless otherwise noted, all references to AFM data in this report refer to LAANE’s own calculations and analysis on this dataset, which covers the Los Angeles region only. Estimate on number of musicians outside of L.A. comes from AFM leadership.

11. 3,748 L.A. recording musicians in 1991; 1,912 in 2013. Local 47 data only capture musical work, and the 62% figure refers to recording musicians with other AFM-related income. The true percentage of recording musicians with income from other sources is therefore almost certainly significantly higher, as many recording musicians likely take non-musical work impossible to capture in this dataset.

12. The freelance, project-based nature of recording work makes any discussion of income at the level of individual musicians meaningless. The focus throughout this report will be on aggregate amounts of work and income. Increasing the amount of available work will not only increase the incomes of existing recording musicians, but also create additional work opportunities for those currently unable to find work.


15. Kraft, 257.


18. Kraft, 257.


22. “History of the AFM.”

23. Kraft, 259.

24. 95% of recording work was done by AFM musicians; Ayling, July 23, 2014.


27. Technically called “secondary markets payments” by the AFM, a residual is a form of deferred compensation, which is how it is classified by the IRS. It is worth noting that actors, writers, directors, and musicians receive residuals as cash compensation, while IATSE members receive residuals as payments to their health and pension plans.


30. Technically the FMSMF is a 501(c)(6) nonprofit organization that operates under the supervision of an Oversight Committee appointed by the Alliance of Motion Picture and Television Producers (AMPTP) with AFM liaisons appointed by the AFM President. The AMPTP is the trade association responsible for negotiating most industry-wide union contracts; it is controlled by the major studios.

31. Kim Roberts Hedgpeth, FMSMF Fund Administrator, oral communication, August 22, 2014. According to Ms. Roberts Hedgpeth, the Fund examined data for titles released in 2002 (289 titles) and 2003 (284 titles), including both theatrically-released movies (232 titles) and television (301 titles), and compared the wages to the residual payments over a ten year period. (The breakdown by movie/television excludes direct-to-video productions, which are included in the larger calculation.) For the entire universe, after 3 years, $1 in session wages led to $1 in residuals. After 10 years, $1 in session wages led to $2 in residuals. In most cases, residual payments after 10 years are de minimus. It is worth noting that the time period in question saw heavy DVD sales; this market has since declined and is being replaced by streaming video.

32. Burlingame, 29 (quoting Vincent De Rosa).


35. The industry-wide contract with the AFM is limited to films produced in the U.S. and Canada.


40. Parsing who actually made the movies is much more difficult: the standard industry data sources all refer to distribution. Box Office Mojo, The Numbers, Variety Insight, IMDBPro, and others all continue to use the term “studio” in a way that serves to obfuscate the distinction between a production company and a distribution company, and the popular press follows the lead of the industry press.


45. It is worth noting that a production company will often hire AFM musicians even if not obligated to. Disney’s Pixar is one such company, presumably because high-quality music is important to the Pixar brand.


49. In his autobiography, composer Earle Hagen claims to have invented the package deal (or “flat package” as he called it) around 1960 for “The Andy Griffith Show.” See Earle Hagen, *Memoirs of a Famous Composer Nobody Ever Heard Of*, Xlibris, 2000, 177.


68. “California poised to hike film tax credits to stem runaway production,” Los Angeles Times, August 15, 2014 (citing numbers from Film L.A.).


76. McDonald, 2011.


80. “’House of Cards’ producers reach deal on tax incentives with Maryland, will remain there,” Washington Post, April 26, 2014.


82. “’House of Cards’ producers reach deal on tax incentives with Maryland, will remain there,” Washington Post, April 26, 2014.


86. A complete analysis of industry profitability would address the changing role of new media such as Netflix, Amazon, and Hulu, and the ways these distribution streams are changing the consumption habits of Americans and the revenue streams of production and distribution companies.


89. “Theatrical market statistics 2013,” “Theatrical market statistics 2012,” Motion Picture Association of America reports. 2003 ticket price was $6.03; adjusted for inflation (per BLS), the 2013 value would be $7.63.

90. “Theatrical market statistics 2013.” (Frequent moviegoers go at least once a month on average.)


on operating profits in the motion pictures and television segments. Calendar 2013 includes parts of Lionsgate fiscal years 2013 and 2014. (Patrick O’Meara, AFL-CIO Office of Investment, email communication, October 8, 2014.)

102. Karlin and Wright, 92.
105. Ayling, e-mail communication, July 24, 2014.
107. Data from records compiled by AFM Local 47 for all work under the Theatrical Motion Picture and Television Film contracts with the AMPTP. Straight scale wages only. All dollars in 2014 dollars, using the Bureau of Labor Statistics Inflation Calculator.
110. The contract between the AFM and the AMPTP covers work for films produced in the U.S. and Canada. Recording work must then employ AFM members, although the production company can still choose where in the U.S. or Canada the recording will take place.
112. See “Recording the score as ‘an afterthought’” below.
116. Ayling, e-mail communication, July 24, 2014.
117. Visual effects are another element of post-production work that has been increasingly outsourced and offshored, at the expense of domestic workers.
118. Even if a composer is operating under a package deal, he may not have the final say on the recording locale. The production company will often direct a composer where to record. In cases involving tax incentives, it is the production company that reaps the financial benefit, not the composer.
119. Film Music Magazine published a “2011-2012 Film & TV Music Salary and Rate Survey,” yet methodological flaws in the survey undermine the legitimacy of the figures as comparatives: they are not apples-to-apples.
120. In “A community weakened by the loss of music” we will examine the practice of recording in the U.S. below the industry standard.
125. “Film Music Magazine 2011-2012 Film & TV Music Salary and Rate Survey” notes hourly costs of $18 in Bulgaria and $24 in Prague, as compared to approximately $80 in North America.
126. Ayling, oral communication to intern Chanelle Yang, August 4, 2014.
127. “Film Music Magazine 2011-2012 Film & TV Music Salary and Rate Survey.”
129. “Musicians protest movie studios recording
Keeping the Score


136. The Numbers provides a dataset of the production budgets of 4,388 films. AFM Local 47 provides a dataset of 3,944 titles with musician employment costs. Of the overlap – where a match could be established – we have randomly selected 323 titles. This calculation includes all major employment costs related to musicians: scale wages, overtime pay, vacation pay, health and welfare and pension payments, and the employer’s portion of payroll taxes. (Under the AFM-AMPTP contract, vacation pay does not apply to low-budget films, but out of an abundance of caution we applied the vacation pay premium to all 323 films in the sample.) Residuals are not included as they are not part of a production budget, and are not necessarily paid by the production company. Excluded are de minimus costs such as cartage, mileage, costuming, and makeup, as well as any overscale payments. Also excluded are any costs related to a production company’s use of a third-party payroll service, should they use one. Wages (including all music prep), health and welfare payments, and pension costs provided by AFM Local 47; vacation pay costs calculated as an additional 4% of wages; payroll costs calculated as an additional 7.65% of the sum of wages and vacation pay. By necessity, this analysis is limited to those films covered by the AFM agreement and recorded in Los Angeles. Note that this does not attempt to capture all costs related to a film’s music budget; we have attempted to isolate costs related to the actual employment of North American musicians. This calculation does not include, for instance, costs related to the rental of a soundstage, any licensing of pre-existing songs for a soundtrack, any engineering costs, or fees paid to the composer (except to the extent that the composer also performs on the recording).

137. Mark Mothersbaugh quoted in “Orchestrating success,” Hollywood Reporter, January 7, 2007. Film production budgets are closely-held, but litigation over the 2005 film “Sahara” made possible a 2007 Los Angeles Times budget analysis. With a $160 million production budget, and assuming 0.52% spent on recording musician costs, musicians cost $832,000. According to the Times, the catering budget for “Sahara” was $1.4 million. See “$78 million of red ink,” Los Angeles Times, April 15, 2007.


141. Actors are represented by the Screen Actors Guild / American Federation of Television and Radio Artists (SAG-AFTRA); writers are represented by the Writers Guild of America (WGA); directors are represented by the Directors Guild of America (DGA); technical and service workers are represented by the International Brotherhood of Teamsters (IBT) and International Alliance of Theatrical Stage Employees (IATSE).

142. Current AFM signatories include ABC Studios, CBS Studios, Columbia Pictures, CPT Holdings, Metro Goldwyn Mayer Pictures, Paramount Pictures, Twentieth Century Fox, Twentieth Century Fox Film Corp., Universal City Studios, Universal Network Television, Walt Disney Picture and TV, Walt Disney Pictures, Warner Bros. Pictures, and Warner Bros. Television, as well as payroll companies Cast & Crew, EPSG, Film Payment Services, FPS Payroll Services, and Monarch Consulting.

143. This is described in greater detail in “Precarious work in a shifting industry.”

144. Writers Guild of America-Alliance of Motion Picture and Television Producers Theatrical and Television Basic Agreement (2011); Producer-Screen Actors Guild Codified Basic Agreement (2005); Directors Guild of America Basic Agreement (2011); IATSE Basic Agreement Signatory List (2012). At the time of this writing, the newly-combined SAG-AFTRA had ratified a new contract with the AMPTP, but the list of signatories was not publicly available; the most recently-available data were from 2005. This does not include workers covered by the International Brotherhood of Teamsters, where agreements are not national but local; in Southern California alone, the Agreement Between Producer and Studio Transportation Drivers, Local 399 of the International Brotherhood of Teamsters (2012) lists...
76 unionized employers.

145. Marc Sazer, President, Recording Musicians Association, oral communication, August 2, 2014.

146. Visual effects workers – the other main category of post-production workers – have similarly been decimated in recent years, and have seen their work sent out of the country as well. See, e.g., “Group protests foreign film subsidies,” Los Angeles Times, December 21, 2012; “Oscar protest,” Variety, March 2, 2014.

147. See, e.g., Richard Kraft, “Dark dates: potentially light the way for the future,” post in Facebook group Hollywood Film, Television, and Interactive Scoring Community, December 11, 2013. For the sake of the argument, we will take Kraft at his word that he is sincere, despite the financial conflict of interest.


149. See, e.g., Richard Kraft, “Must read,” post in Facebook group Hollywood Film, Television, and Interactive Scoring Community, April 2, 2014.

150. “Meet the independents!,” Hollywood Reporter, November 11, 2003. See also “History of the AFM.” Low-budget applies to films with budgets under $45 million, television films with budgets under $5 million per program hour, or the first 25 episodes of a new TV show (assuming a minimum number of musicians); ultra-low-budget was introduced in 2005 and applies to films with budgets under either $15 million or $2 million (assuming a minimum number of musicians). (Matt Allen, AFM, oral communication, August 27, 2014.)


152. Richard Kraft, “Finally something new and positive to post about,” post in Facebook group Hollywood Film, Television, and Interactive Scoring Community, September 14, 2014. This report has attempted to demonstrate there is no one single factor responsible for the loss of work, and that claiming otherwise is either overly reductive or disingenuous.

153. Limited to wide-release movies, which in 2013 composed over 97% of total box office revenue. (In 2013, an additional 540 movies came out in limited release.) Union status of each film was checked through the “constructive notice” resource of the FMSMF, https://www.fmsmf.org/

154. For a comprehensive analysis, see Jonathan Handel’s stunning “Residuals Summary Chart 2014,” accessed at http://www.jhandel.com/residuals/ on September 27, 2014. We are indebted to Handel’s analysis for an explanation of this complicated formula.

155. Based on Handel’s Entertainment Residuals: A Full Color Guide, forthcoming, 40; “Residuals Summary Chart 2014.” A “scenario” is any time a product made for one form of release is reused. If the reuse is in a different form of release (a different “market” in residuals terminology), a residual is generally owed, e.g.: theatrical-to-network TV; network TV-to-DVD; home video-to-new media; pay TV-to-foreign markets; etc. Reuse can also occur within the same medium, e.g., a network TV show rerun on the same network, a theatrical film re-released theatrically; reuse within the same medium may or may not generate a residual depending on medium-specific and union-specific rules.

156. Handel, oral communication, August 29, 2014.

157. The difference between musicians and other unions is even starker, as the percentage other unions receive actually increases when gross receipts cross a $5 million threshold; this is not true for musicians. 0.2% is actually a ceiling, as the obligated entity (whether a production company, a distributor, or another rights holder) is entitled to deduct certain additional amounts. After the FMSMF receives the residual payment, it deducts approximately 11% both for administrative fees and to pay the employer’s share of payroll taxes. (The musician’s share of taxes is withheld from the paycheck as with normal wages.) See 2013 FMSMF Annual Report.

158. Based on analysis of 3,944 titles from 1989 to 2014. 75 refers to the mean; the median is 53. Titles include wide-release, as well as arthouse and festival films. Limiting the sample to wide-release, studio films would likely raise the median significantly closer to the mean.

159. Includes all (non-overlapping) signatories to the Theatrical Motion Picture and TV Film contracts.


161. Residuals are not, of course, divided equally in this way. Rather, a formula ensures that they are allocated in proportion to each musician’s share of wage income for that project. AFM Local 47 data indicate session wages for “Toy Story 3” at approximately $768,000.


315.

164. For the sake of the calculation, this assumes ten years of residuals (2 x $18 million) are distributed equally each year. (This is rarely how residuals actually flow.) Out of an abundance of caution, we have not factored in vacation pay, which would likely add a further $720,000.

165. Based on median L.A. County musician household income of $77,107.70 (5-year (2008-2012) data from the American Community Survey’s Public Use Microdata Sample published by the Census Department). Multiplier calculation based on the IMPLAN Model as calculated for L.A. County in the $75,000 - $100,000 household income bracket.


169. The composer’s package deal is discussed in “Composers squeezed in the middle.”

170. Alying, email communication, September 14, 2014.

171. Assumes $65 million production budget based on 2007 average (see Annie Mueller, “Why movies cost so much to make,” Investopedia, June 23, 2011); the average production budget has likely increased since 2007, but we will take a cautious approach. Based on our analysis in “The last actors’ feel the pain,” we assume the cost of employing musicians at the industry standard (including wages, benefits, and taxes) is between $234,000 and $338,000 (0.36% to 0.52%). Based on the dataset of 323 movies, musicians’ session wages are 78% of this total cost: $183,000 - $264,000. Vacation pay adds 4%, or $7,000 - $11,000. Residuals (over a ten year period at a 2.5x multiplier) add another $456,000 - $659,000. Musicians’ total take-home (exclusive of taxes) is thus $646,000 - $933,000. Based on IMPLAN modeling, this leads to additional labor income of $75,000 - $100,000 household income bracket.

172. See also Figure 5 for testimonies as to the superlative quality of Los Angeles musicians.


176. 6% of the population in a 2011 survey of 5,371 U.S. musicians was located in L.A. Only 3% of the U.S. population is in L.A. County. See “Money from Music: Where We Live,” Artist Revenue Streams, a project of the Future of Music Coalition, August 2013, money.futureofmusic.org/location/, accessed October 17, 2014; U.S. Census Bureau.


180. Sarah Wassner, Harmony Project Program Director, oral communication to Emmelle Israel, August 5, 2014.


182. See “Chasing tax credits” for more information on tax incentives.


188. Law film Picard Kentz & Rowe, “Feasibility Study on Subsidies to Film Production and Visual Effects,” memo to VFX Soldier, July 2, 2013.

189. MPAA letter to U.S. International Trade
Keeping the Score

laane: a new economy for all


203. Support for AB 777 (2005-6), Council File 05-0002-S49; Support for AB 1069 (2011-12), Council File 11-0002-S20; Support for AB 2026 (2012-13), Council File 12-0002-S27; Support for AB 1839 (2013-14), Council Files 14-0002-S17 and 14-0002-S18.


208. These actions reflect only those taken in the past decade, and do not tally additional costs the City has long incurred. For instance, the City has long granted fee and permit waivers to entertainment industry awards shows (e.g., Oscars, Emmys) at an estimated annual cost of $9 million. (“L.A. eyes end to fee waivers,” *Hollywood Reporter,* November 21, 2003.) The City also foregoes revenue from parking meters when filming closes down a public street. (Jodi Strong, Film L.A., oral communication, June 27, 2014.) Also excluded from this tally are those actions the City has contemplated but not moved forward on, such as a local rebate/incentive (to complement the State program), or the recently-proposed idea to waive police fees on location shoots. (See, e.g., “Richman backs Villaraigosa challenger,” *Los Angeles Daily News,* March 18, 2003; Council File 10-1473; “Mayor Garcetti signs law nixing fees on TV pilots filmed in Los Angeles,” *Los Angeles Daily News,* October 26, 2013.)

209. Using 2004 as a baseline (see Figure 6), we aggregate the difference in musician session income for each of the next 9 years ($62.9 million), add vacation pay ($2.5 million) and 10 years of residuals ($125.8 million) for a total of $191.2 million. Based on this figure, IMPLAN modeling (as described in endnote 165) yields the figures on lost revenue to other workers and lost tax revenue. All dollars in 2013 dollars; see also notes to Figure 6.


213. AFM Local 76-493 President Motter Snell, email communication to Paul Frank, October 3, 2014.


228. Lionsgate 10-K filing with the U.S. Securities and Exchange Commission, 2014; IMDBPro.


239. “Q1 2015 Lions Gate Entertainment Corp earnings call,” Fair Disclosure Wire, August 8, 2014. Presumably, Feltheimer was speaking on a forward-looking basis.


245. Lionsgate 14A filings (and revised) with the U.S. Securities and Exchange Commission, 2001, 2014. Feltheimer 2001 compensation was $1,361,798 which consisted of salary, bonus and other compensation totaling US$818,676 (converted from Canadian dollars using 1.504 C$/US$) and stock options with a potential realizable value of US$543,122. Note that different methods were employed in calculating the reported value of the stock option component of compensation: the 2001 value was based on potential realizable value assuming 10% stock price appreciation over five years while the 2014 value was based on the grant date fair value of the award.


247. Lionsgate actually had to amend its filing with the U.S. Securities and Exchange Commission because it had initially underreported Feltheimer’s income by $2.7 million. (“Lions Gate amends proxy after underreporting CEO’s pay,” Bloomberg, August 1, 2014.)

248. Lost session wages for musicians based on Local 47 data and calculated using 2001 as a baseline, aggregating each annual change. Assumes musicians’ 2014 income drops at the average annualized 2001-2013 decline (-3.41%). All dollars nominal.

249. Excludes two non-feature products “Wings: Giving the Characters a Voice,” and “Snowflake, the White Gorilla: Giving the Characters a Voice,” which appear to be made as DVD extras. “Kevin Hart: Let Me Explain” was a stand-up comedy concert film with no actors or writers. “Redemption” was made entirely in the UK and the British writer-director (Steven Knight) is likely covered by a British union agreement.

250. “This is the End” was a co-production with Columbia, which is an AFM signatory. “Temptation” was a co-production with The Tyler Perry Company, and musicians believe Perry to be personally committed to providing quality employment. (Sazer, oral communication, October 3, 2014.)

251. Musicians report reaching out to Lionsgate prior to leafleting, but reportedly got no response. The support of “Mad Men” creator Matt Weiner was reportedly a factor. Sazer, oral communication, September 26, 2014; Acosta, oral communication, September 26, 2014.


254. This is not the only controversy to hit Lionsgate in recent months. In March of this year, the Securities and Exchange Commission fined the company $7.5 million for failing to disclose to investors its role in a complex series of stock transactions designed to thwart a 2010 takeover attempt by Carl Icahn; the company also admitted wrongdoing. (“Lionsgate pays $7.5 million to settle with SEC,” Hollywood Reporter, March 13, 2014.) In the wake of this disclosure, shareholders have filed various class action lawsuits against the company. (“Lionsgate hit with shareholder lawsuit,” New York Post, July 11, 2014. See, e.g., Laborers Pension Trust Fund v. Lions Gate Entertainment, U.S. District Court, Southern District of New York (1:14-CV-05197), filed July 11, 2014; Barger v. Lions Gate Entertainment, U.S. District Court, Southern District of New York (1:14-CV-05477), filed July 21, 2014.) The Los Angeles Times recently speculated that the company could soon face yet another lawsuit – this time over its practice of not paying interns. (Following a 2011 lawsuit related to Fox Searchlight and the film “Black Swan,” all of the other majors changed their policies and began to pay interns.) (“Interns remain unpaid at Lionsgate despite lawsuits elsewhere,” Los Angeles Times, June 13, 2014.) Taken together, a picture begins to emerge of a company taking advantage of those most vulnerable – individual stockholders, unpaid interns, recording musicians (not to mention taxpayers) – to maximize profit.

255. Sazer, oral communication, August 29, 2014.


257. Sazer, oral communication, August 29, 2014.


259. Lionsgate 2013 productions determined by a search of IMDBPro for movies produced by Lionsgate or its subsidiaries Summit, Mandate, Codeblack, or Grindstone. Release date and production location also from IMDBPro, except “Rapture-Palooza” production location from Variety Insight. Union status for each film determined by searching (on September 19, 2014) the respective databases of the FMSMF (www.fmsmf.org/producerresources/constructivenotice.html), SAG-AFTRA (www.sagaftra.org/search-signatory-database), DGA (www.dga.org/Employers/SignatoryDatabase.aspx), and WGA (www.wga.org/coveredprojects/Search.aspx). IATSE information provided by Dan Mahoney, Assistant Department Director, Motion Picture and Television Production, IATSE, email communication, September 26, 2014 and October 22, 2014. Note that the percentages provided at the bottom of the table refer to the percent of the number of films, rather than the percent of box office revenue (the latter calculation would be significantly more stark).

260. Excluded from this analysis are two AFM-recorded films (“Tyler Perry’s Temptation: Confessions of a Marriage Counselor” and “This Is the End”), two...
Keeping the Score

261. 0.36% - 0.52% of production budgets yields the cost to Lionsgate; 78% of that figure is musician session wages. An increase in session wages of $1.4 - $2 million is an increase of 8.7% - 12.6% over 2013’s $15.6 million in aggregate session wages. Actual employment growth would likely be significantly higher, as this calculation excludes the company’s significant work in television.

262. 2013 Lionsgate session wages to musicians (in this hypothetical) would be $5.8 million, which is 17.1% of the difference between 2000 wages ($49.5 million) and 2013 wages ($15.5 million). All figures in 2014 dollars. This is a conservative figure, as it excludes additional wages from the company’s television productions.

263. $2.7 million (out of a total $66.3 million) was originally omitted from disclosure of Feltheimer’s compensation in SEC filings. The company explained this as an accounting error. (“Lions Gate amends proxy after underreporting CEO’s pay,” Bloomberg, August 1, 2014.)

264. Lionsgate 2013 productions determined by a search of IMDBPro for movies produced by Lionsgate or its subsidiaries Summit, Mandate, Codeblack, or Grindstone. Budget figures taken from IMDBPro, with the exceptions of “Stand Up Guys” (http://www.darkhorizons.com/films/1580/Stand-Up-Guys), “Mud” (http://www.nytimes.com/2013/04/21/movies/jeff-nichols-spins-another-southern-tale-with-mud.html), and “Rapture-Palooza” (http://www.slashfilm.com/anna-kendrick-craig-robinson-rapturepalooza/). Lionsgate’s cost of employing musicians at the industry standard, musicians’ income, other labor income, and tax income calculated consistent with the approach taken throughout this report; see endnote 136 for further information. Figures presented are the midpoint of each range. In keeping with this report’s conservative approach, this calculation slightly overstates the cost to Lionsgate, as it assumes vacation pay will be paid on all films; the benefit to musicians, however, only includes vacation pay for films with a production budget of $45 million or more.

265. Tom Clarke, South Carolina Film Commission, oral communication to Marcela Barrientos, June 2, 2014.


