

Our discussion will center upon *generative AI*, not *expert systems* such as are used in video games to enhance the gamer's experience.

## **WGA**

The strike is an important test of whether—and how—workers can get fairly paid as technology, including artificial intelligence, alters their jobs.

- Median weekly pay for screenwriters has, adjusting for inflation, declined by 14 percent over the past 5 years and for writer-producers declined by 23 percent over the past decade, even as entertainment firms have been quite profitable, according to the Writers Guild. Writers worry that AI will be used to shift their jobs towards low-paid editing of computer-generated material.
- AI has also become a central issue in the writers strike. Writers on the picket lines fear that movie studios will use AI to write scripts—either in whole or in part—diminishing the role of writers or even making the job obsolete.
- They did not seek to outlaw it. Instead, they focused on protecting screenwriters from economic harm, while allowing them the freedom to use AI if they want to.

There are also legal hurdles. AI models train on massive troves of published material, much of which is protected by copyright. These AI systems are referred to as "plagiarism machines." The developers of these models argue that the output is "fair use." But many in the creative world are starting to raise alarms and file lawsuits about the misuse of protected material.

The AI working group ultimately developed three basic proposals.

- First, AI-generated material would not be considered "literary material" or "source material" under the union's contract. That would prevent studios from paying writers less, or depriving them of credit, if they rely on AI material.
- Second, they said that AI should not be allowed to write on its own. Studios would be forbidden from having AI programs create scripts independently, or having them rewrite scripts submitted by a human writer.
- Third, a studio's AI program would be barred from training on WGA members' work. If the studios rejected that, guild members might agree to allow it in exchange for a license fee.

## SAG-AFTRA

As background, there are four major issues that the AMPTP has refused to bargain and that have forced us into a strike:

- **Money:** SAG wants the AMPTP to provide better compensation and benefits for its members. (The AMPTP's proposal would pay a person less in inflation-adjusted dollars than they earned in 2020, and this would be locked in through 2026.)
- **Residuals:** Current residual payments don't reflect the value of member contributions. According to the union, they "undercut by inflation and by a streaming ecosystem through which producers pay less residual income than traditional exhibition models."
- **Generative AI:** The union is requesting that the AMPTP provide protections for members against misuse of artificial intelligence, as well as a definition of acceptable use of the technology.
- **Self-tapes:** Without regulation regarding self-taped auditions, SAG alleges that performers currently face an unfairly arduous casting process. "The shift to burdensome and unreasonably demanding self-taped auditions means that our members are working harder than ever, forced to take on audition costs that have always been the responsibility of casting and production," the union's statement reads.

There are more issues, but our focus today is on *generative AI*.

- **Generative AI** has the ability to create certain types of content, and the idea that we're going to have these sorts of computer programs, computer algorithms creating content in place of writers, actors, producers, directors, other creative talent is a new phenomenon, and it's something that we're all really concerned about.
- There are also positive implications to this technology. Where is this taking us, and how do we make sure that, as this technology gets implemented within the industry, that it's done in a way . . .
  - that is respectful of people,
  - that understands the unique contribution that humans make to the creative process, rather than looking to replace people.
- SAG-AFTRA's position is that any use of AI must be done under a union contract so that generative AI will not eliminate jobs or lock actors out of the creative process. Also, Global Rule One covers the licensing of your digital double to an employer. Those are the two most important aspects of the union's position. *It is something that has to be negotiated and regulated, but we are not going to prevent people from*

using it.

- Actors must retain the right to control their likenesses and voices and to monetize their likenesses and voices to earn a living.
  - **Note on the potential effect on (particularly) Background Performers:** In contract negotiations with the AMPTP, one of their representatives proposed scanning background performers and then being able to use their images *in perpetuity* while only paying them for *one day's work!*
  - Another concern is the creation of "**synthetic performers**" **who are not based on any one identifiable performer that exists in the real world today**, but where for example, new voices or new images or likenesses are created, perhaps as an amalgam of existing actors.
    - Probably **the number one area where there's the potential for job losses and replacement of performers.**
    - There is a huge consensus that **ethical guidelines and implementational guidelines have to be adopted by the industry.**
    - Pre-members-people who do not have the protection of union contracts-who sign off on these perpetual use contracts without knowing what they're getting into and who will then be locked into these, even if and when they become union members.
- AI-generated material does not come from whole cloth.
  - Built upon billions of novels, of images, of myriad things that were created by humans and then sort of made a "mish-mash" according to algorithms to create something that looks original, artistic, new.
  - By the very fact that it is all based upon *human* creation, that again brings up the problem of "consent and compensation" for usage.
  - Technically, copyright can only be awarded to a human; therefore, computer generated content should not be eligible for copyright.

In the final analysis, we want to see implementation of AI as **augmentation and assistance** to human creators **rather than replacement** of humans in the creativity process.

**Legislative Ask:** *There needs to be a statutory limitation on the consent that performers can grant up front that can follow them for the rest of their lives.*