

## EDITOR'S CORNER

Welcome to our special National Association of Television Program Executives (NATPE) 2005 issue of *INSIGHTS*.

In this issue you will read about the FCC and the future of decency standards from Lord, Bissell & Brook's Neil Dickson. PricewaterhouseCoopers' Peter Winkler brings you "Big Bets" for the cable industry, while Korn/Ferry International's William Simon provides us with a preview of changing leadership at the studios. Lord, Bissell & Brook's Sandeep Motwani gives us a heads-up on liability avoidance for television and movie creators.

And of course, this issue wouldn't be complete without a special interview with Rick Feldman, President and CEO of NATPE.

Thank you for your continued interest and feedback. We look forward to keeping you informed of developin trends in the entertainment industry in the coming year.

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# The Future Of Decency Standards

by NEIL DICKSON of LORD, BISSELL & BROOK LLP

A hot topic in the United States has been decency issues for television and radio. It all seemed to start with Janet Jackson's Super Bowl breast and has snowballed from there. The fines keep coming and Americans keep complaining. CBS was fined \$550,000 for the Super Bowl, Fox affiliates which aired a specific "Married by America" episode were fined \$7,000 each after the FCC received 159 complaints (you have to wonder why these people were watching such a show if they were going to be offended) and Viacom contributed \$3.5 million to the U.S. treasury and agreed to adopt a rigid company-wide compliance plan relating to certain violations by Viacom-owned radio and TV stations. This is all in 2004 alone. Seems like a pretty busy year.

In addition to these incidents which instigated FCC fines and action, we have other controversies in 2004, such as the decision by a network and its affiliates to pull "Saving Private Ryan" even though it had aired in prior years without incident, the Terrell Owens/Nicolette Sheridan Monday Night Football skit and the University of Pittsburgh quarterback using the "F" word in a post game interview on network television at 6:30 p.m. Due to the University of Pittsburgh interview, fines will be levied by the FCC. The FCC has made it clear that they will not tolerate the "F" word on over-the-air prime time television.

The University of Pittsburgh incident exemplifies the unfairness in the FCC decency rules. I watched that interview flipping back and forth with another game on ESPN. If that young man had said what he said on ESPN; no problem, it is cable television. But because this interview occurred on over-the-air network television,



there are many issues, and fines will be levied. There are calls for delayed broadcasts, termination of all post-game interviews and the suspension of the 20-year-old kid. Many television operators who own over-the-air network affiliates or independents feel that there is not a level playing field, which creates a competitive disadvantage for their programming.

Over-the-air local television broadcasters have faced and overcome many challenges over the decades: cable television, TiVo, DVD's, VCR's, On-Demand Television, pay-per-view, expensive mandatory technological upgrades and many more. For years many people have predicted the demise of the local broadcaster. In the growing conservative environment in America, decency issues and the disparity in programming standards for over-the-air broadcasters and cable networks has created another challenge.

I have heard local broadcasters sarcastically threaten to turn in their FCC license, become a cable broadcaster and attempt to obtain a retransmission consent on the cable system. This would dramatically loosen the standards and prohibitions on their programming. Today more than 80 percent of Americans have cable or satel-

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# PwC Defines “Big Bets” For U.S. Cable TV Industry

## At NATPE

by PETER WINKLER of PRICEWATERHOUSECOOPERS

PricewaterhouseCoopers (PwC) is pleased to be teaming up with our colleagues at the law firm Lord, Bissell & Brook LLP to sponsor the NATPE 2005 Conference, January 25-27 in Las Vegas. PwC's Entertainment & Media Practice has enjoyed a fruitful association with NATPE, whose annual conference provides one of the entertainment and media industry's top platforms for exploring market-shaping technologies and trends. NATPE 2005 will be the launchpad for our new white paper, *Big Bets for the U.S. Cable Industry - Key Opportunities for Future Revenue Growth*. The paper, authored by PwC's Entertainment & Media Practice and our Global Technology Centre, a think-tank based in San Jose, CA, will be released on Monday, January 24th. All NATPE participants will receive a complimentary copy of the paper in their delegate bags. On Tuesday, January 25th, from 10:30 to 11:30 am, we will host a panel session, “The Road Ahead for the Cable Industry,” where senior executives will discuss the white paper's findings and their views on the future of the industry. For further details on this panel, visit [www.natpe.org](http://www.natpe.org).

Below are highlights from the cable white paper.

As we enter 2005, the U.S. cable television industry is facing significant challenges to revenue growth. Cable operators are faced with fewer new subscribers, rising cost of content from programmers, increasing competition from satellite operators and telecommunications carriers, and mounting resistance to fees by consumers of existing program services. On the cable network side, development costs continue to rise, digital video recorders (DVRs) are threatening the advertising market, and consumer audiences are increasingly fragmented due to the proliferating number of content choices available. Given all these challenges, how will the cable industry boost revenues over the next five years?

PricewaterhouseCoopers' new white paper examines these issues within the context of the cable industry's changing competitive landscape. It incorporates analyses and viewpoints based in part on interviews with senior executives from some of the leading cable operator, cable network and satellite TV companies. It defines the big strategic bets that the industry will and should be making to

ensure that it remains a vibrant and competitive force.

Among our key recommendations for cable operators:

**Manage complexity by focusing on customer service.** Cable operators need to continue to improve and consistently deliver high-quality customer service. This initiative is necessary in order to fully realize the benefits of their investments in an upgraded infrastructure capable of delivering a triple-play bundle (digital video, high-speed data and telephony).

**Focus management and financial resources on the most promising opportunities.** Cable operators should avoid being distracted by new, non-fundamental services that promise less in returns than the solid execution of a sound triple-play strategy. They should focus on the most lucrative prospects and the best differentiators—and deliver on what they promise. For the near term, the focus should be on maintaining their lead in high-speed data and growing telephony businesses. Over the longer term, operators should develop the on-demand platform.

**Develop and communicate the value proposition of on-demand platform.** With deep relationships with both cable networks and consumers, cable operators have a critical and unique role in making the on-demand platform a compelling offering and a success. Operators must develop and communicate the value proposition of the on-demand platform to both consumers and cable networks.

**Anticipate a true telecommunications carrier video threat.** Faced with significant threats to their core voice businesses, incumbent local exchange carriers (ILECs) such as Verizon and SBC are serious about modernizing their networks and entering the video market. Cable operators should anticipate a true video threat from these service providers and, having already made significant investments in network modernization, should aggressively market their broadband access and voice-over-IP (VoIP) services before the ILECs catch up.

**Pursue wireless service to add to the bundle.** The ILECs will use their wireless assets to provide subscribers with

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# Protecting Yourself From Ideas

## Liability Avoidance For Television And Movie Creators

by SANDEEP MOTWANI of LORD, BISSELL & BROOK LLP

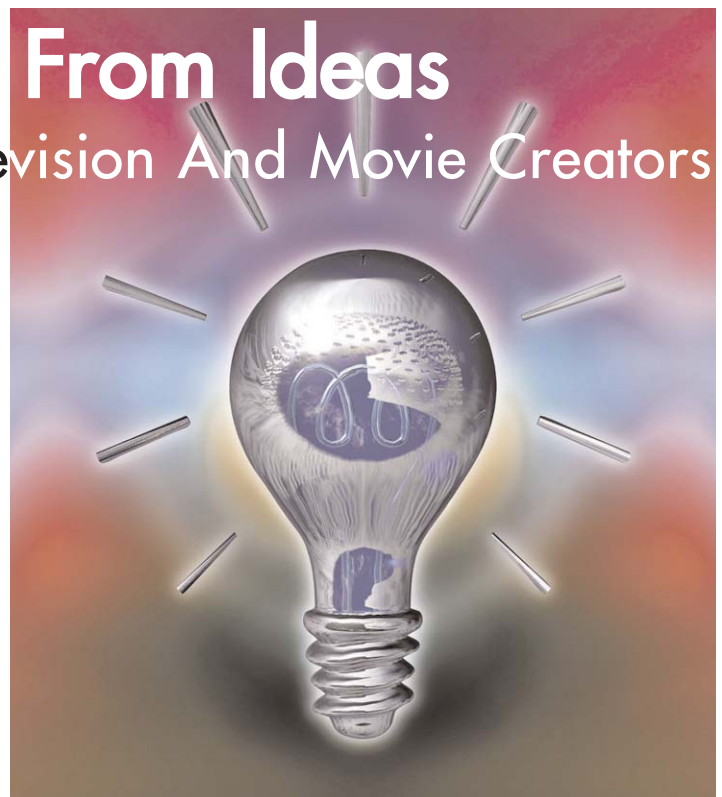
**Y**ou are talking with a little known acquaintance over the phone at work. She is friends with your sister-in-law who suggested giving you a call. She has a great idea for a script and she proceeds to sketch out a very generic plot.

Fast forward six months. The trades have just announced your new television show. It is unique and a sure-fire hit—truly never been done. The acquaintance calls you irate charging you with having stolen her idea. Does she have a leg to stand on? Given the state of the law, she just might.

On September 8, 2004, the United States Court of Appeals for the Ninth Circuit issued a decision in the matter of *Grosso v. Miramax*, 383 F.3d 965 (9th Cir. 2004) that has enormous ramifications for companies and individuals that handle both unsolicited and solicited submissions for television programs or movies. The *Grosso* decision creates a specific subclass of “script theft” cases that exist outside of the traditional idea-expression dichotomy under federal copyright law. It cements in the law a relatively undefined area of potential liability for anyone involved in the process of reviewing submitted materials for television or movies—potential implied in fact contract liability.

### TRADITIONAL COPYRIGHT CLAIMS

Federal copyright law contains a large and well-defined body of case law relating to allegations by plaintiffs of “script theft” that focus on the distinction between ideas and specific expressions. In order for a writer to succeed on a copyright claim that his script was taken under copyright law, the writer must demonstrate two things: First, that the offending party had access to the “stolen” material; Second, that comparison of the allegedly offending work with the “stolen” material demonstrates a substantial similarity in the specific expression of the two works. Depending on the strength of the access allegations, the hurdle that a writer must overcome shifts, i.e., where there is a strong case for access, the court will accept a lesser showing of substantial similarity. Where there is a relatively weak showing of access, courts require a greater showing of substantial similarity, sometimes even skipping the substantial similarity analysis altogether if there is not enough evidence of access. Legal analysis of substantial similarity of expression in television and movies has two generations of case law defining it, and traditionally focuses on a detailed analysis of eight



factors—plot, themes, dialogue, mood, sequence of events, characters, setting and pace, the “extrinsic test,” and a second “intrinsic,” or “overall concept and feel” test. There have been numerous cases where scripts sound somewhat alike to lay people, but writers claims were defeated because the hurdle of substantial similarity of specific expression proved too steep.

### THE GROSSO DECISION - A DIFFERENT THEORY THAT CAN LAND YOU IN STATE COURT

Through *Grosso*, the Ninth Circuit enhanced protection for writers with an additional layer of California state law protection for scripts, treatments and pitches based on an implied in fact contract theory. Without considering the traditional access and substantial similarity factors that exist in the well-defined federal copyright law, the Ninth Circuit held that an idea submission breach of contract cause of action may be brought in state courts. Remarkably, the *Grosso* decision stands as a reinvigoration of a line of California state court cases that date back to the seminal 1956 decision of *Desny v. Wilder* (1956) 46 Cal.2d 715. The *Grosso* court stated that a writer could maintain a case for breach of implied contract by showing that he had prepared a work, disclosed the work to the offending party for sale and had done so under circumstances from which it could be concluded that the offending party voluntarily accepted the disclosure on the conditions that it was to be kept confidential and that the writer would be compensated for use of any of his submitted ideas. This series of actions can be deemed to create an implied in fact contract. Notably, this standard does not

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# SIMON SAYS...



## The Changing Leadership At The Studios

by BILL SIMON of KORN/FERRY INTERNATIONAL

It is a unique time in the history of the motion picture studios and the major entertainment companies. Their businesses are continuing to change almost daily: DVD is the biggest growth/profit area for the companies. Broadcast network audiences are eroding; cable continues to make gains. DVR's/Tivo type devices are challenging the traditional advertising model. VOD and SVOD appear to be on "the very BEGINNING of starting to show evidence of becoming a potentially real business." The international markets are growing generally, but US product is getting more difficult to license whereas local product is growing in regional markets. Cartridge games from Sony PlayStation and others with titles like EA's "Madden NFL" and Take Two's "Grand Theft Auto" series are generating more revenue than most movies. Consolidation of the major U.S. companies seems destined to continue.

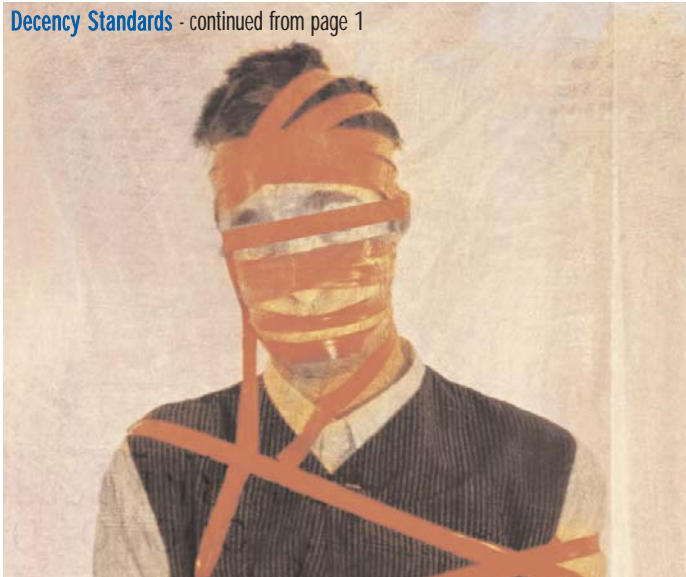
At this moment, it seems as though the transaction to sell MGM will take place with two leading private equity firms, Texas Pacific Group and Providence Equity, in partnership with Sony Pictures and Comcast. In addition, the senior management team at Paramount Pictures is changing with the departure of both Sherry Lansing and Jonathan Dolgen. And Disney...seems as though they may have a change sometime soon, too. And depending on what happens at one company or another, such changes may also cascade to others as well.

But given the heightened level of challenges in the industry and the changing guard at a number of the major companies, it is an interesting time to examine what these companies will look to do when bringing in their new management. While I DON'T presume to know who, if anyone, is on or off the list at any of these companies beyond what is written about, I do believe that each of these situations requires LEADERSHIP and a LEADERSHIP TEAM. The issues facing any major company in the entertainment space requires multiple disciplines of expertise. Today, it's most difficult to find more than

a few great executives who combine both the creative and business operations skills. As such, it takes a TEAM. In recent years we have seen a number of very successful teams that combined business and creative: Eisner and Wells at Disney; Dolgen and Lansing at Paramount. But it is getting increasingly complex and competitive out there and it will require the highest level of ability, leadership and teaming in order to bring these companies forward. While many people in the entertainment industry believe that ONLY entertainment industry executives can run an entertainment company, what it really requires is an understanding of the issues, the ability to attract, and then retain, an outstanding team to execute across each of the business units. At the top it really is "the vision thing," i.e. LEADERSHIP.

How do we define leadership? Most of us define it a bit differently. But I do believe that it encompasses a number of different qualities and characteristics. Certainly, a fundamental understanding of the business, the issues, the "customer" are all at the top. In addition, understanding how to articulate to multiple constituencies—Wall Street, employees, shareholders, et. al.—what it is that you (the company) are trying to do. How will you really make your numbers; what business units in your company will and will not perform and why; how/what changes you will make to accomplish these goals; how will changing technologies impact the business; and much more. Bringing in the best and right people is always key to achieving such successes. As it takes so many people to accomplish these goals in the highly competitive environment, each of the senior people on the team become "symphony conductors" of their own sections, but they must also perform in alignment with the rest of the company. Managing all of these different people is the single biggest challenge to the CEOs of today's diversified entertainment and media companies. And given the breadth of these issues and challenges, all of "these people" cannot, and should not, be cut from the same mold. Diversity of experience, orientation, perspective, skills, and of course background, allow your team to be as close to your customers as possible. That being said, such richness of background also makes for more challenges on the leadership side of things, but that's OK, as it should make for greater success over the long term.

But what will be the biggest changes in the entertainment sector in this New Year? We can all guess, but we will certainly all be anxiously waiting to see. And just like the entertainment business of the past, we will also be looking to see how each of us will fit given the new players leading the game whether it is in television syndication, network television, cable TV, home entertainment, theatrical, content to mobile devices, games, technology to move our content, music, location-based entertainment, publishing, and the many more forms for enjoying PROGRAMMING.



lite television. The local broadcaster may have his station carried on channels 2-13, while channels 30-50 may carry cable networks such as Bravo, F/X, Spike and Oxygen, and of course channels somewhere in the hundreds will carry HBO, Showtime, Cinimax, Starz, etc. On channel 3, *Desperate Housewives* pushes the edge of prime time network broadcasting, of course on channel 40 you can watch *Nip/Tuck*, and channel 300 will get you *The Sopranos* or *Sex in the City*. These channel location variations are not enough to justify the different programming standards for stations airing on the same cable system.

Under the relevant laws an over-the-air broadcaster is subject to ever tightening decency standards, except for the safe harbor hours of 10 p.m. to 6 a.m. A cable network is not subject to decency standards. Of course, obscenity or pornography is never permitted, unless you are a pay-per-view channel, or something close.

In the early years of cable television, the over-the-air television broadcasters challenged the different decency standards on constitutional and other grounds. They lost. However, at that point in time cable television was in its infancy and the courts could justify the distinction. Today the distinctions between cable television and over-the-air television are much less. A viewer watching cable or satellite cannot tell whether they are watching an over the air station or a cable station. Why should the content standards be different? Today less than 20 percent of the viewers do not have cable or a satellite dish. One could further hypothesis that those individuals who have neither are probably not heavy television viewers.

It is possible that one of the big media groups will challenge the difference in decency standards in the courts. These

unevenly applied decency rules would be challenged on constitutional and governmental authority grounds. Some believe that the FCC would like to see the decency rules abolished; that they are awaiting a challenge.

As television evolves, the uneven application of decency standards becomes more complicated and the stakes get higher. With the excess bandwidth from digital signals, over-the-air broadcasters can create bundles of programming packages or additional stations. This extra programming does not receive must carry rights and the broadcaster will be forced to get retransmission consents from the cable operators. Do the decency rules apply to this extra programming on the excess bandwidth? That is yet to be determined. In connection with this excess bandwidth, if the decency rules continue to be unevenly applied, one possible benefit that can be awarded to the over-the-air broadcaster is to give them must carry rights on an additional station and allow them to air programming free from the decency standards applicable to their over-the-air signal. This may even promote the networks to create more edgy programming and air it on these extra channels. Obviously, the cable operators may object to this imposition.

As television evolves, the uneven application of decency standards becomes more complicated and the stakes get higher.

The application of the decency standards to only the over-the-air local broadcasters is a clear impediment to the success of their business. Is this fair? Is it a law that has seen its day? Whether through legal action, congressional action or FCC action, many believe this standard will be challenged. Whether or not this challenge will be successful is yet to be seen.

*Neil Dickson is a top entertainment attorney with a focus on the television and radio industry and is a partner in the Atlanta office of Lord, Bissell & Brook LLP.*



### "Big Bets" - continued from page 2

wireless service as part of the bundle, and they will also create differentiation with deep integration between the wireline and wireless services. Cable operators will need a competitive response. They too should consider collaborating with mobile operators not tied to an ILEC to offer a bundle that incorporates wireline and wireless service.

Among our key recommendations for cable networks:

**Continue to invest in the highest-quality programming content.** Cable networks have the opportunity to establish a distinctive and valuable brand and market reputation by developing and airing high-quality programming appealing to a desirable demographic. In addition to its positive impact on a cable network's brand and market value, the development and popularization of a small number of hit original programs can also have significant downstream benefit in the form of syndication revenues.

**Diversify the advertising stream through unique marketing and sponsorship opportunities associated with programming.** While the rise of DVR technology will not cause irreparable damage to the television advertising marketplace, it has served as a wake-up call to both the networks and the advertising industry. The traditional 30-second TV ad format needs to be refreshed and supplemented by new, more innovative forms of sponsorship and marketing. Broadcast and cable networks, advertising and media buying shops, talent agencies, and corporate marketers have already begun to innovate in this area.

*The on-demand platform offers the promise of making advertising more effective, similar to Web-based advertising.*

**Develop strategies for taking advantage of the increasing number of video outlets.** The emergence of the on-demand platform, broadband Internet, mobile Internet, and DVRs has increased the outlets over which consumers consume video content. Networks should understand the unique characteristics of these outlets and develop strategies for capturing the synergies across them.

**Leverage the unique characteristics of the high-speed Internet.** The high-speed Internet has unique characteristics that make it suitable for highly interactive applications such as games. Networks should develop a richer stable of original broadband content that takes full advantage of the high-speed Internet, adding to its appeal as an outlet for exclusive content as well as increased throughput.

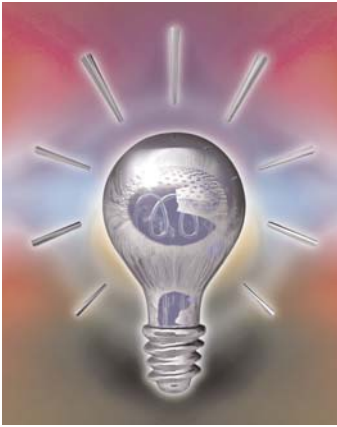
**Engage advertisers in the value of targeted advertising via the on-demand platform.** The on-demand platform offers the promise of making advertising more effective, similar to Web-based advertising. Networks and advertisers will have access to more accurate and detailed data on consumer usage that can be leveraged for targeted and effective advertising. Networks need to engage advertisers in developing appropriate advertising mechanisms for the on-demand platform.

For an electronic copy of the complete white paper, *Big Bets for the U.S. Cable Industry - Key Opportunities for Future Revenue Growth*, go to [www.pwc.com/e&m](http://www.pwc.com/e&m).

*Peter Winkler is the Global Marketing Director for PricewaterhouseCoopers' Entertainment and Media Practice.*

## NEWS NOTES

- ♦ Jody Simon and Eileen Horta, co-chairs of the Academy of Television Arts & Sciences' runaway production committee, were recently featured in an article by Libby Slate, "Into The Fray," published in *emmy Magazine's* December 2004 Special Issue: The Global Challenge.  
  
Jody, an entertainment attorney with Lord, Bissell & Brook LLP's Los Angeles office, has more than 20 years of experience working on virtually every type of deal in the entertainment industry. Eileen, a two-time Emmy winner for *Hill Street Blues*, is the supervising sound editor for WB's *Gilmore Girls*. Together, Jody and Eileen are leading the Academy's 13,000 members in an effort to "curb runaway production."
- ♦ The recently enacted American Jobs Creation Act of 2004 (P.L. 108-357) included a benefit that the entertainment industry had long sought to encourage production to stay in the United States. The Act amended the Internal Revenue Code to permit a 100 percent write-off for the cost of certain audio visual works in the year in which the costs are incurred, rather than to be amortized over the expected life of the work. In order to qualify, 75 percent of the total compensation relating to the audio-visual work must be paid for services performed in the United States. The provision applies to productions with budgets up to \$15 million, and only the first 44 episodes of a television series.



**Ideas** - continued from page 3

employ the well-defined copyright law idea-expression distinction, but instead specifically provides protection for bare ideas that can be incorporated in scripts, as well as less defined information transmissions such as written treatments, pitches and arguably even oral discussions.

## KEEPING OUT OF TROUBLE

While the *Grosso* decision did not create new law, it does provide binding federal authority that clearly differentiates copyright law from California's state law of breach of implied contract relating to ideas. While plaintiffs attorneys must still carefully craft complaints to avoid federal pre-emption, writers now have not only precedent, but also binding authority to bring claims in state court that their ideas were taken and used without remuneration, without the need to show substantial similarity of specific expression and without the relative certainty of the well-defined body of case law that exists under federal copyright law. Rather, writers arguably can claim that they disclosed a single idea that was incorporated into another work by an alleged offender and potentially establish liability and receive compensation for use of that single idea. (The value of potential idea usage must also be considered, but is a thorny issue for a separate article. Suffice it to say, however, that perhaps no seven words strike more fear into the holder of the legal expense pocketbook as much as "we will need to hire an expert.") At this point, the precedent surrounding such causes of action is simply too thin to rule any potential cause of action out as a matter of law, and the potential for liability for use of even one idea should be daunting to content producers.

Perhaps the best protection lies in the "access" issue. Although federal law relating to access is not binding in state court, it provides a useful rough approximation for purposes of evaluating how to protect your interests. While it is true that an implied in fact contract cannot actually be created if the receiver never reads or hears the submitted idea, for purposes of legal certainty, it is best to follow procedures that ensure that even the specter of impropriety cannot be raised—that means establishing a policy that unsolicited material receives no consideration. If it is in writing, don't read it, don't open it, and return it promptly with an explanation of your policy regarding unsolicited material. When it comes to electronic transmissions, the

same rules apply, but make sure that you delete the submission (don't just put it in your e-mail program's trash folder, make sure to delete it from your system) and follow the same procedures as with any other written submission. Finally, you should avoid listening to unsolicited ideas and make your policies on the issue known as soon as you begin a conversation with a person that is trying to provide you with any. While there is precedent that a writer's mere blurting out of an idea does not create an implied in fact contract, it is again best to avoid even the appearance of potential impropriety.

The truth is that even the best lawyers in the world have to play the hands that are dealt, and the best way to provide counsel with the tools to avoid liability is to follow the USC Trojan football team mantra: "Leave No Doubt." Establish a policy regarding unsolicited submissions and stick to it. If you want to consider unsolicited submissions, the best, although admittedly cumbersome, way to avoid the implied in fact contract issue is to simply enter into an express agreement that covers the same territory, allowing the parties to come to a negotiated

agreement on the terms of disclosure of ideas. This is also a wise policy for solicited submissions. In any case, it is best to seek the advice of counsel that are familiar with not only the letter of the law, but with these peculiar perils and pitfalls that accompany the television and movie arenas. If you still run into problems, make certain you and your employees retain all records and contact competent counsel as soon as possible. In the current legal climate, idea submission claims must be taken very seriously.



*Sandeep Motwani is a member of Lord, Bissell & Brook's entertainment and media practice group in the Los Angeles office. He has represented producers, distributors, television and film studios and manufacturers, among others. Sandeep authored this article with the generous help of partners Jeffrey S. Kravitz and Keith G. Wileman, also in the Los Angeles office.*

*With more than 25 years of experience, Jeff practices in the areas of business and intellectual property litigation, with experience in copyright, trademark, unfair competition, and trade secret law.*

*Keith's practice is intellectual property and business litigation, including extensive defense work in copyright, trademark and patent cases. His clients include studios, distributors, producers, writers, agents and photographers, as well as Internet companies and traditional broadcasters, and manufacturers accused of patent infringement.*

Bill Simon offers the inside scoop on this month's hottest executive placement search...

A major record label is looking for a senior vice president to oversee its "content for mobile devices" business. They are looking for an executive with experience and relationships with BOTH the music industry and mobile carriers in order to maximize the growth of their business. This position is located in Los Angeles.

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# Executive Profile Featuring

## Rick Feldman

### President & CEO, *NATPE*



In this issue of *Insights*, Lord, Bissell & Brook's Arnold Peter brings you a special interview with Rick Feldman, President and CEO of the National Association of Television Program Executives (NATPE), a global, non-profit organization dedicated to the creation, development and distribution of televised programming in all forms, across all platforms. Prior to joining NATPE, Rick was the executive vice president and chief operating officer for USA Broadcasting in Los Angeles, where he supervised a group of four stations throughout the United States. And before that, Rick spent 16 years at KCOP-TV/Los Angeles, where, during his direction, KCOP earned more than 30 Emmy Awards for its locally produced programming.

**INSIGHTS:** In your opinion, what are the most significant challenges for the television industry?

**FELDMAN:** Certainly the FCC presents a major challenge. Questions regarding ownership rules affecting consolidation and questions related to indecency and its effect on content are huge issues. Also, costs need to come down to allow for new business models to support greater distribution.

**INSIGHTS:** How has the industry responded to major new technologies such as the Internet and digital video recorders? How could its response improve?

**FELDMAN:** The industry is only now beginning to appreciate the scope of future DVR presentation. Figuring out how to enhance the viewer's experience and provide quality value to the advertiser is a challenge. Certainly integration of the advertiser into the content is one way and new business models built around SVOD is another.

**INSIGHTS:** What impact has vertical integration had on the industry?

**FELDMAN:** Vertical integration is a blessing and a curse. It has made the life of the independent producer much more difficult, but it allows for greater monetization of content by the big compa-

nies. It has also had a negative effect in the first run syndication arena.

**INSIGHTS:** Is fragmentation of the television viewing market a good or bad thing? What impact has it had on the type and quality of TV programming available?

**FELDMAN:** Fragmentation offers viewers more choices. But, as the ratings go down due to the fragmentation, the challenge is how to sell those numbers to advertisers and how to produce the shows in a way that money can be made.

**INSIGHTS:** There seems to be an uneven playing field when it comes to cable and broadcast network television. Should broadcast television be deregulated, or should cable come under the control of the FCC?

**FELDMAN:** This is a sticky one. My opinion is that there is too much fear resulting from the fines and possible loss of license to broadcast networks and too much of a free ride for cable which is to the detriment of the broadcasters. The broadcasters do have an obligation to the viewers as the airwaves belong to the public. I think that the FCC needs to better define indecency and then apply the rule evenly.

**INSIGHTS:** How has globalization impacted the television market and NATPE? How do you see NATPE—the organization and the annual conference—evolving over the next few years?

**FELDMAN:** I see the NATPE Conference adapting to the changing marketplace. We act as a mirror reflecting the significant changes taking place. Globalization is tearing down walls between countries and allowing for greater business opportunities. And, of course, technology is the driver that will cause all content makers to stay current and to pay close attention to how best to monetize their product.