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## Doron F. Eghbali Entertainment Law

### [What Does TV Production Encompass?](#)

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Film and TV production are rather largely dissimilar. Let us explore such esoteric variations in some detail.

#### **SOME BACKGROUND ON TV PRODUCTION**

Film production, arguably and relatively, embraces a larger number of independent producers compared with Network Television, often dominated with large studios and a limited number of large independent producers. Even, those few independent producers supplying programming to Network Television have production-financing deals with larger studios or larger independents. In fact, unfortunately, industry demands such symbiosis because of the costs involved in producing original/new programming. Such costs surpass first-run license fees and such producers MUST accomplish long runs spanning at least 22-episode seasons to provide enough programming to run in a 5-episode week and become profitable through foreign sales and reruns.

#### **SOME ESOTERIC MECHANISMS IN TV PRODUCTIONS**

##### **DEFICIT FINANCING**

Deficit financing is probably the most salient aspect of Network TV production since it determines if someone can or cannot produce. To understand deficit financing, it is useful to understand how prime-time series are financed and created.

The Federal Communications Commission (the "FCC") has severely restricted the ability of TV Networks in the Network's control of and financial interest in Network Programming, to foster a relatively more competitive environment. This FCC restriction has culminated in the fact that



Most prime-time series are not owned by TV Networks, but licensed from rather large independent producers.

Now, the way TV Networks pay for prime-time series to such independent producers is fascinating and daunting:

1. TV Networks, to make their programs more attractive, require independent producers to budget each hour of a new series more than \$1.1 to 1.3 million.
2. TV Networks pay a starting license fee of around \$800,000 to \$900,000.
3. TV Networks payment arrangement, thus, creates anywhere between \$300,000 to \$500,000 or more budget deficit per episode for TV producers.

### **HOW COULD INDEPENDENT PRODUCERS RECOUP THE BUDGET DIFFERENCE, IF ANY?**

Now, the question arises how could relatively large independent producers recoup their money if it costs them to produce each episode around \$1.3 million and receive only \$900,000? The answer is as elusive as the money since most producers could recoup by having a repository of at least 50 to 70 episodes (22 episodes per season for three to four years of syndication). Nonetheless such recoupment strategy is fraught with perils since:

1. Possibly, TV Networks do not renew prime-time series beyond pilot let alone the second season.
2. Possibly, even if successful on TV Networks, the series are not necessarily successful upon syndication.
3. Possibly, even if successful on TV Network and syndication, it takes at least several years after the series were created for it to become profitable.

### **CAVEATS**

Hence, given this rather daunting TV Production economics already delineated, the following caveats are worth considering:

- It is incumbent on TV producers to be large, well heeled and diversified. Such TV producers must be able to front the whole money required for production in the hopes of recouping the deficit with some reasonable yields in foreseeable future.
- It is incumbent on TV producers to have a balanced portfolio of programming. In other words, such portfolio diversification should encompass one or more prime-time series. It is ideal, not always feasible or foreseeable, to have a mix of programs some in syndication yielding profits, others in renewals on Network TV, and some in development and pilot stages.



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- It is incumbent on TV producers to take note of two evolving trends. First, the ever increasing number of new programming channels COMBINED with new media to broadcast and monetize TV programming, is revolutionizing TV production market and economics. Second, Reality TV (unscripted TV) often involves different economics as there are no reruns, but other evolving opportunities for its monetization.

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