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Home ▶ Issues ▶ December 31, 2007 (web) ▶ Permalancers, Unite!

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## Permalancers, Unite!

ANYA KAMENETZ

Gawker.com is a gossip blog best known for mocking Lindsay Lohan and generally lowering the level of discourse in the New York media world. But starting on December 4 the website put snark aside and helped instigate one of the most unlikely and successful labor campaigns of recent years. The sight of young, educated workers in the seismically unstable media industry using spontaneous online organizing to cope with innovative forms of corporate exploitation and disrespect throws a challenge to the labor establishment. Some see a new social movement being born.

Viacom, a Fortune 500 media company, had \$11.5 billion in revenue last year. It includes the hip, youth-oriented cable networks MTV, VH1, Comedy Central and Nickelodeon. But the cachet of these names on a young college graduate's résumé is not matched by the way the company treats its workers.

Like scores of companies in the media industry and elsewhere, Viacom has increasingly shifted to workers who are not regular, salaried employees--both true freelancers and "permalancers." The term refers to those who may work full-time for several years--with

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duties, hours, and responsibilities very similar to regular employees--yet who are classified as temporary employees or independent contractors and do not receive the same recognition as regular employees. Someone like Alex Blagg. The 27-year-old comedian was hired two years ago to run VH1's Best Week Ever blog, the online version of the popular show. "I work pretty much forty to fifty hours a week," he says. "Sometimes on weekends. I'm responsible for maintaining and producing the BWE.tv site as well as collaborating with the staff of the BWE show, and I oversee about ten people--the other writers on the website as well as the production and interns."

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By some accounts, permalancers and freelancers make up half the creative and production staff at Viacom networks--writers, animators, producers, editors, web designers. And they enjoyed unusually generous benefits for workers in these categories. But on December 4, as first reported in a post categorized "rumors" on Gawker, Viacom handed them some bad news.

Caroline O'Hare, a "freelancer" who has worked full-time in online promotions at MTV for two and a half years, said, "When they first told us about this, they called us in to pick up our holiday-party invites and then told us to pick up the paperwork for Cast & Crew," a company to which Viacom plans to start outsourcing the payroll and benefits administration for its nonregular employees. "I was looking through the packet and I was like, 'I'm sorry, where's my 401(k)?' They said, 'Oh yeah, you don't have that anymore.'"

The reliance on freelancers and independent contractors, in fact or in name only, is a prevalent business strategy to retain flexibility and cut labor costs, especially on expensive healthcare benefits. Another such strategy is the use of payroll companies, also known as "professional employment organizations" like Cast & Crew--a *k a* internal outsourcing (another oxymoron). In the case of Viacom, both strategies were at work. According to reports on Gawker and

elsewhere, the rollback for freelance and contract employees initially included not only 401(k)s but paid vacation, holiday pay, tuition reimbursement, commuter pretax deductions, vision and dental benefits and, most important, a severely scaled-back healthcare plan. A typical story of life in the new economy? Sure. "I'm actually one of those people who fall into the 'go have a beer and bitch about it' camp," says Blagg. "When I took a job with Viacom I knew I was falling into bed with the enemy, and things like this are not out of the realm of what I would expect from them." And yet something was different this time. Maybe it was the Christmas timing. Or perhaps it was all the blogging, YouTube videos, newspaper and TV coverage of the television writers' strike--positive images of a sympathetic, educated, creative, unionized workforce, which aren't exactly common in today's mainstream media. "I think there's a general unrest in the media industry, with the writers' strike and the Broadway stagehand strike," Blagg, who wrote a post in support of the permalancers on his official Viacom-sponsored [blog](#), says. "People are getting sick of feeling irrelevant and undervalued by these giant multinational corporations that are trying to increase their stockholder profits at the expense of the workforce that they rely on."

And new media was helping to keep this story alive, too. In twenty-six posts, photos and videos over the week, Gawker chronicled the company's action and the workers' response in its trademark snarky style, with posts tagged "evil corporations in action" and "permapoors." Maggie Shnayerson, a 26-year-old writer who joined Gawker in September, provided most of the coverage, which was quickly taken over by readers. "We were reporting pieces of information as people sent them to us," Shnayerson says. "Gawker provided a place where Viacom employees could come and find out what was going on with their colleagues." Viacom workers were commenting on each post and getting increasingly pissed off.

What fed the comment threads even more was the tin-eared way that Viacom delivered the news, even initially asking the employees to sign the new paperwork before attending the meeting to explain it--what one protester called an "HR clusterfuck."

But the responses weren't just online. Starting on December 10, about 200 Viacom permalancers walked out at 3 p.m. for an hour a day, picketing in Times Square. Many also showed up at the annual holiday party--an extravaganza at the Hammerstein Ballroom--wearing homemade T-shirts with the slogan "Permalancers Get Cancer Too." The protests seemed to be spontaneously self-organizing, as no one stood up to be identified as a troublemaker.

The combination of online assault by one of the city's most widely read blogs and direct action won concessions amazingly quickly. On December 6 Viacom announced that those whose 401(k)s had been frozen would get the chance to open new ones in 2008, though matching would still end and rollovers would not be allowed. On December 12, just before the daily walkout, management sent out an e-mail outlining further concessions--the reinstatement of the previous healthcare plan (exact requirements and deductibles unknown) and delaying of the switch to the Cast and Crew payroll organization from this month to February. Also on

offer: vague promises to "review" the option to change employees' status from freelancer to staff.

Temporary--in both senses of the word--victory was sweet, and the strikers exulted in their power to be heard. "I can't believe they caved so quickly. Good work, rabble-rousers!" wrote a Gawker commenter dubbed PimpMyCouch. Yet the quest for proper treatment by members of the self-dubbed "creative underclass" has only just begun.

After all, companies created these newfangled categories of workers to get around existing labor laws. As first reported by Shnayerson, one factor that may have instigated Viacom's benefit cuts is an attempt by Governor Eliot Spitzer to enforce New York State's existing labor laws. In September he issued Executive Order 17, creating a joint task force on employee misclassification, defined as improperly calling an employee an independent contractor. This practice, Spitzer said, is often "an attempt to avoid the employers' legal obligations under the federal and state labor, employment, and tax laws, including...minimum wage, overtime...unemployment insurance, workers compensation...and income tax."

Calling someone who works full-time, on-site, for several years and who collects benefits a contractor or temp can get a corporation in all kinds of trouble. Just ask Microsoft, which famously paid almost \$100 million plus millions in payroll taxes to settle a lawsuit by its own permatemps. Viacom may have rolled back benefits and outsourced the administration of its nonstandard employees in order to create a bright line for the governor's task force. Or it may just have been a move to preserve the company's stock price.

The "MTV strike" has a resonance far beyond one company. *The Warhol Economy*, a new book by Elizabeth Currid, a professor of urban planning at USC, demonstrates that creative industries like art, fashion, design and media are New York City's true economic engine. Compared with white-collar workers from other industries, these workers are even more likely to cope with unpaid internships in order to break in and nonstandard employee status even as they get more established in their industries. In January New York City's comptroller released a study showing that self-employment has accounted for nearly two-thirds of the increase in the city's job base since 1997. Yet self-employed or misclassified workers by definition still live without access to health insurance or other benefits.

The question is where to take this energy. Exactly which labor organization, if any, is best positioned to take up the cause of permalancers citywide remains to be seen. Striking Writer's Guild members stood in solidarity with the Viacom workers for a joint picket on December 13, but the WGA can't offer them representation. Jesus Sanchez is an organizer for Local 1212, the New York Radio and Television Broadcast Engineers Union, representing technical workers at CBS and Univision. He showed up to support each day of the Viacom walkout. "I've been on the phone all day drumming up more support from the institutions I've worked with over the years," he said on Wednesday. "I spoke to the state AFL-CIO yesterday." He argues that given the right organizing, Local 1212 could potentially get Viacom permalancers a

collective bargaining agreement--though they'd first have to establish that they were misclassified. "You can call them what you want--they're employees," he says.

Sara Horowitz of the Freelancers' Union has a different take. "I've never seen people in this part of the workforce walk off their jobs like this," she says. "I think they're ready to start articulating their needs in a real way, and our role is to help provide structure and coherence and infrastructure and ways we can be supportive and go where it goes."

Her organization has more than 50,000 members nationwide, 15,000 of whom are independent workers in New York City who get health insurance at group rates through the union. She first heard of the walkout on Gawker, and then through Viacom workers who began contacting the Freelancers Union about getting health coverage. They started a Meetup group on the [Freelancers Union](#) site, which has drawn about thirty members.

Horowitz sees the need for a much broader response than negotiation with one company to fight misclassification while preserving true flexibility by providing all workers with portable benefits. "This is the beginning of a social movement," she says, "and it's not always going to be linear and coherent."

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