

New Media Credits Procedures



**WRITERS
GUILD OF
AMERICA, WEST**

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New Media Credits Procedures

The following is a ready reference for writers and staff members who propose writing credits, prepare and submit Notices of Tentative Writing Credits (“NTWCs”) to the Guild for Guild signatory production companies, and gather materials for credit arbitrations on New Media projects. It addresses many of the questions and issues which may arise with respect to writing credits in New Media.

For your convenience, we have cross-referenced provisions of the Theatrical and Television Basic Agreement (“MBA”) from Television Schedule A (“TVSA”), which governs episodic television, the Sideletter on Literary Material Written for Programs Made for New Media (“New Media Sideletter” or “NMS”), and the Television Credits Manual.

This is not intended to, and it does not, replace the MBA, the NMS, the TVCM.

A. NOTICES OF TENTATIVE WRITING CREDITS

(NMS, ¶¶2.(3) and 3.(3); TVSA, ¶¶10 – 17)

The NTWC is one of the most important documents a writer will receive. It serves several important functions for the Guild, the writer, and the Company. It is therefore imperative that the NTWC is properly completed and sent to the participating writers and the Guild. A sample of the NTWC is attached.

It is important to understand the purpose of the NTWC. For the Company, the filing of the NTWC sets in motion the mechanism for determination of credits so that the credits can be finalized in a timely fashion. From the writer’s perspective, the NTWC advises of the proposed credit and the deadline to register a protest of such credits or to elect to use a pseudonym.

For the Guild, the NTWC offers an opportunity to ensure that the pro-

posed writing credit and any and all source material credit comply with the mandates of the MBA and Guild policy. The NTWC also advises the Guild of the participating writers and production executives on a given project and sets forth the information needed to determine whether the automatic arbitration provisions of the MBA are triggered by the proposed credits.

1. The NTWC

(Form, TVSA, ¶25.)

The NTWC must be submitted to the Guild and to all participating writers as soon as practicable following completion of principal photography. (NMS, ¶12.(3) and 3.(3); TVSA, ¶11.)

Before submitting the NTWC to the Guild and to the participating writers, check to ensure that you have done the following (the applicable areas are indicated on the attached form):

A. List the names and addresses of all participating writers at the top of the NTWC. (TVSA, ¶10; TVCM, pg. 4-5.) Remember: you must list the names of all participating writers, even if they are not proposed for credit. If there are a large number of participating writers, you may attach additional pages.

A “participating writer” is a writer who has participated in the writing of the teleplay or a writer who has been employed by the Company on the story and/or teleplay or a “professional writer” who has sold or licensed literary material subject to the MBA. (See Article 1.C.1.a. of the MBA for the definition of a “professional writer.”)

Note: The NTWC must be sent to the writer unless s/he has a contract provision directing the Company to send the NTWC to an agent and/or other designated representative(s). Also, the NTWC must be sent via Certified Mail/Return Receipt Requested, messenger, or some other independently verifiable means. E-mail is not considered an independently verifiable means. (TVSA, ¶¶ 12 and 16.)

B. List the name of the series, episode title, and production number. In the case of a pilot or MOW, be sure to list the length of the program and the website on which the New Media program will be exhibited.

C. List the name of the production company and the names of all production executives on the program. Remember: this includes all producers, the director, etc.

D. List the tentative writing credit (e.g. “Written by”, “Teleplay by”, etc.). (TVSA, ¶¶1 - 2; TVCM, pp. 18-24.) As a reminder, residuals will be allocated based on this credit, which may differ from the on-screen writing credit. Indicate if the writing credit will appear on screen.

E. List the proposed on-screen writing credit. Remember that for dramatic programs, including situation comedies, the on-screen credit can read “Written by.” If the Company elects, however, it may put a proposed “Teleplay by” and “Story by” credit on-screen; in that instance, remember that “Teleplay by” credit always precedes “Story by” credit on-screen. For all other types of programs, the on-screen credit should read “Writers.”

Writers may only be credited in the manner set forth in the MBA.

Note: on a program governed by TVSC (e.g. comedy/variety programs), any writer who furnishes literary material is entitled to on-screen writing credit. This is so even if the writer’s material is not used. (TVSC, ¶1.a.)

Note: an ampersand (“&”) is used between the names of writers who worked as a team on the program in question. The word “and” is used between the names of writers who did not work as a team.

F. Indicate if click through credits will be used.

G. Include any source material credit (e.g. “Based on the Novel by”) on the NTWC. (TVSA, ¶¶2, 11.) Indicate whether the source material credit will appear on screen. Note that, generally, the word “Novel” is used to denote a work of fiction and the word “Book” is used to denote a work

of non-fiction.

H. Include any continuing credit (e.g. “Created by”, “Developed by”) on the NTWC. (TVSA, ¶23.) For derivative New Media programs, the continuing credit should be the same as the continuing credit that appears on the traditional media program. Indicate whether the continuing credit will appear on screen.

I. Send a copy of the final shooting script to all participating writers, including those who are not proposed for credit. (Article 13.B.8.f.)

J. Properly calculate the date on which the proposed credits become final absent a protest. (TVSA, ¶13.) Remember: generally, the credits become final seven business days from the date the NTWC is sent to the Guild and the participating writers; this time may be shortened to three business days if a good faith emergency exists requiring an earlier determination and it is requested on the NTWC. If the automatic arbitration provisions apply, “Automatic Arbitration” should be written in place of a final date.

K. Make sure the NTWC is signed by an authorized representative of the Company. Also, legibly print the name of the representative and provide the name, address, and telephone number of the company submitting the NTWC.

L. List the date on which the NTWC is sent to the Guild and the participating writers. Remember: this is the date on which you actually send the NTWC out to the recipients as opposed to the date on which the NTWC is prepared.

2. Team Writing

For team writing, certain forms must be submitted either prior to, or in connection with, the NTWC. These include the following:

a. APPLICATION TO COLLABORATE: This is required when a production executive writes in collaboration as a team with a non-production

executive writer. The Application to Collaborate should be submitted to the Guild before commencement of writing by the team. (TVCM, pg. 2.) A sample of the Application to Collaborate is attached. Remember: “production executive” includes all producers, the director, story editors, etc. Non-production executive writers include staff writers, but do not include story editors.

b. CERTIFICATE OF COMPLIANCE: This is also required when a production executive writes in collaboration as a team with a non-production executive writer. The Certificate of Compliance should be submitted to the Guild upon completion of writing by the team. A sample of the Certificate of Compliance is attached.

c. TEAM WAIVERS: This is required for a writing team of more than 3 people. (See Article 13.B.1.b defining “team.”) Waivers must be requested and approved in advance of services being performed. Call the Contracts Department at (323)782-4508 to request a team waiver.

B. ARBITRATIONS

Generally, a credit arbitration is triggered by the timely receipt of a protest by a participating writer or the Guild. (TVSA, ¶14; TVCM, pg. 5-6). In the following situations, the MBA provides for automatic credit arbitration:

1. When a production executive is proposed for writing credit and there are other non-production executive participating writers. (TVSA, ¶5; TVCM, pg. 24.) Remember: “production executive” includes all producers, the director, story editors, etc. Non-production executive writers include staff writers, but do not include story editors.

2. When a “Television Story by” credit is proposed. (TVSA, ¶2.c.; TVCM, pg. 19.)

3. When a “Developed by” credit is proposed in addition to a “Created by” credit. (TVSA, ¶23.b.)

4. When three writers are proposed for “Written by” or “Teleplay by” credit. (TVSA, ¶3; TVCM, pp. 18 and 20.) (Remember: a team is considered a single writer.)

In the case of an arbitration, the following must be submitted to the Guild as soon as possible (upon receipt of a protest or concurrently with the NTWC in the case of an automatic arbitration):

1. Three copies of all literary material submitted to, or acquired by, the Company by all of the participating writers and any source material. (TVSA, ¶15.) Remember: literary material includes beat sheets, outlines, stories, treatments, scripts, formats, etc. Source material includes material that has been previously exploited and any material not written under the Guild’s jurisdiction.

2. A transmittal letter which identifies each piece of literary material by author and date. A sample transmittal letter is attached.

For a description of the credit determination process, please refer to pages 4-16 of the TVCM.

C. COVER PAGES ON LITERARY MATERIAL

It is important that the cover pages on all literary material comply with the provisions of the MBA. The provision covering names on literary material is Article 37 of the MBA which provides in relevant part as follows:

Upon commencement of pre-production, Company shall place the name of the initial writer on literary material written hereunder, following which the word “revisions” shall precede the names of all subsequent writers.

A sample of the proper form for cover pages is attached.

D. WAIVERS

In the following situations, a waiver is required from the Guild before a particular credit can be accorded:

1. For the following credits which may be given in lieu of “Story Editor” credit: “Creative Consultant”, “Script Consultant”, “Executive Story Editor”, “Executive Story Consultant”, “Executive Story Supervisor”, and “Executive Script Consultant.” (TVSA, ¶30.) (Note: “Story Consultant” and “Story Supervisor” may be given in lieu of “Story Editor” without a waiver.)

2. On an episodic series, for a “Staff Writer” credit. A waiver for the “Staff Writer” credit will only be granted if the writer(s) proposed for such credit are employed in a subsequent season under Article 14 of the MBA (“writer in additional capacity”).

3. On Television Schedule C (e.g. comedy-variety) shows only, for “Writing Supervised by” or “Special Material [written] by” credits. (TVSC, ¶2.a.(4).)

If you require a credit waiver, please contact the Credits Department at (323)783-4528 to request one. As set forth above, a waiver must be requested from the Contracts Department at (323)782-4508 for a writing team of more than 3 persons.

E. ON-SCREEN PLACEMENT OF WRITING CREDITS

The New Media credits provisions require that the credited writer(s) receive on-screen credit if any other person receives credit on-screen on the project. (NMS, ¶¶2.(3) and 3.(3)). The writing credit must be in the same size and style of type as any other personal credit, and no less than the size of the most prominent credit to any producer or the director.

The writing credit can appear in the corner of the screen or “click through” credits can be used. If the Company elects to have a traditional credit sequence, with credits appearing on individuals cards, the following general rules will govern the on-screen placement of the writing credits:

1. The writing credit, in general, must appear on a separate card contigu-

ous to the credit to the director. (TVSA, ¶7.c.) Alternatively, the writing credit may appear on the same card as, or a separate card immediately contiguous to, the card with the title of the episode or program. (TVSA, ¶¶7.a. and 7.b.)

2. “Teleplay by” credit always precedes the “Story by” credit. (TVSA, ¶7.) The “Teleplay by” and “Story by” credits may be on either the same card or separate cards.

3. The “Created by” credit must appear on a separate card contiguous to the writing credit. With the writer’s written permission, the “Created by” credit may appear on a separate card immediately following the main cast of actors in the main titles. (TVSA, ¶23.) No other placement of the “Created by” credit is permitted without a Guild waiver.

4. The “Developed by” credit must appear on a separate card contiguous to the “Created by” credit. No other placement of the “Developed by” credit is permitted without a Guild waiver.

5. The writing credit generally appears in the main titles on a separate card preceding (but not necessarily immediately preceding) the source material credit. (TVSA, ¶7.e.) The source material credit generally appears in the end titles. The Guild will also grant a waiver for the source material credit to precede the writing credit in the main titles. Please contact the Credits Department to request such a waiver. (See also TVSA, ¶¶7.e.(1) & 7.e.(2) for exceptions to the rule that the writing credit precedes the source material credit.)

Of course, you should carefully review the applicable MBA provisions, including those set forth in Television Schedules C and D, to ensure proper on-screen placement of all writing credits.

F. CONCLUSION

We hope that the foregoing is helpful. You are encouraged to review and become familiar with MBA provisions set forth above and all of the television credits provisions, which generally can be found in Television

Schedule A for episodic series and MOWs, Television Schedule C for children's and comedy-variety programs, and Television Schedule D for documentary programs. Also, you are welcome to contact the Credits Department at (323)782-4528 if you have any questions or concerns not addressed in this handout.

Sample Forms

NOTICE OF TENTATIVE WRITING CREDITS – TELEVISION – NEW MEDIA

TO: Writers Guild of America, west, Inc., 7000 West Third Street, Los Angeles, CA 90048 (Fax: 323/782-4805) or Writers Guild of America, East, Inc., 250 Hudson St., New York, NY 10016 (Fax: 212/582-1909)

AND

All Participating Writer(s) (or the current agent, if participant so elects)

NAME(S) OF PARTICIPATING WRITER(S)

ADDRESS(ES)

_____	<input type="checkbox"/> A

Title of Episode: _____ B _____ Production #: _____ B
(indicate if pilot)

Series Title: _____ B _____ Original exhibition site: _____ B

Producing Company: _____ C

Executive Producer: _____ C

Producer: _____ C _____ Assoc. Producer: _____ C

Director: _____ C

Other Production Executive(s), if Participating Writer(s): _____ C
_____ C

WRITING CREDITS ON THIS EPISODE ARE TENTATIVELY DETERMINED AS FOLLOWS:

_____ D

Writing credits will / will not appear ON SCREEN. D

If on screen credit is accorded on this episode, it shall appear as follows (check one):

As determined E

Written by _____ E _____ (for dramatic programs only)
(name(s) of writer(s))

Writers _____ E _____ (for all other programs)
(name(s) of writer(s))

"Click Through" credits will / will not be used. (check one) F

Source material credit ON THIS EPISODE, if any:

_____ G _____

The source material credit will / will not appear on screen. (check one) G

Continuing source material or *Created By* credit, if any:

_____ H _____

The continuing source material or *Created by* credit will / will not appear on screen. (check one) H

The final shooting script is being sent to all participating writers with the Notice of Tentative Writing Credits.

The above tentative writing credits will become final unless a protest or a request to read the final script is communicated to the undersigned not later than 6:00 p.m. on

_____ J _____
(date)

_____ K _____
(Company) Signature K

Date: _____ L _____ Name: _____ K
(Please PRINT clearly)

Title: _____ K

Address: _____ K

Telephone: _____ K

Date _____

APPLICATION TO COLLABORATE – New Media

The undersigned are aware that, pursuant to the provisions of the Basic Agreement, the TV Credits Manual precludes a writer-production executive from sharing credit with a writer who is not a production executive where the two writers have written in collaboration.

The undersigned are advised that the Board has agreed on a temporary basis to permit a joint credit to be accorded a writer-production executive and a writer-non-production executive if they so mutually agree and provided that the two writers:

- 1) Apply to the Guild prior to the rendition of the writing services involved.
- 2) Warrant that the collaboration will be bona fide and will be "head-to-head", that is, the two writers will be, in fact, writing together at the same time with the result that there will be no separable material; and
- 3) At the time of the submission of the Notice of Tentative Writing Credits, will sign a Certificate of Compliance with items 2 and 3 above.
 - a) If the Certificate of Compliance is not signed for any reason, the writer-production executive will not be entitled to receive any share of the residuals; and if any statement therein contained is false, he will not be entitled to any residuals or credit and, in addition, will pay as a fine to the Guild a sum equal to the monies he would otherwise have received as residuals for the assignment in question.
 - b) If the Certificate of Compliance contains any false statement, the writer who is not a production executive will forfeit to the Guild any residuals he otherwise would have received for the assignments in question.

Accordingly, the undersigned hereby makes application to collaborate as a bona fide team on _____ episodes of _____ series and (as a condition to receiving a joint credit) agree to comply with items 2 and 3 above.

Episode title(s): _____

Series: _____

We have (never) collaborated before. (If you have collaborated before, indicate number of times: ____.)

Writer (Production Executive)

Writer (Non-Production Executive)

CERTIFICATE OF COMPLIANCE – New Media

On _____, the undersigned writers, one of whom is a production
(date of application)
executive and the other of whom is not, submitted an application to collaborate and receive a
joint credit on _____
(name of episode)
of _____.
(name of series)

We hereby certify that:

1. Our collaboration was a bona fide head-to-head collaboration in which we did our writing together. There is no separable material.
2. The undersigned production-executive-writer understands and agrees that if any statement herein contained is false, he will not be entitled to any residuals or credit on the aforesaid episode and agrees that in addition to losing his right to such residuals he will pay as a fine to the Guild a sum equal to the monies he would otherwise have received as residuals for the aforesaid assignment.
3. The undersigned non-production executive writer understands and agrees that if any statement herein contained is false he will forfeit as a fine to the Guild any monies he would otherwise have received as residuals for the aforesaid assignment.

The foregoing is a true and accurate statement, made of our own free will and volition.

Date: _____

Print Name: _____ Writer: _____
(Production Executive - Signature)

Print Name: _____ Writer: _____
(Non-Production Executive -Signature)

NOTE: This certificate must be filed on or before the submission of the notice of tentative credits for each episode, but after completion of writing services.

January 1, 2010

Credits Department
WRITERS GUILD OF AMERICA, WEST
7000 West Third Street
Los Angeles, CA 90048

Re: *The Web Series: Episode 1 – website.com*

To Whom It May Concern:

Enclosed please find the Notice of Tentative Writing Credits for the above-referenced episode of *The Web Series*. We are submitting the following material for the arbitration in this matter:

1. Outline dated September 1, 2008, revisions by Mary Roe (5 pages);
2. Revised draft dated September 15, 2008, revisions by Mary Roe (35 pages); and
3. Final Shooting Script dated November 15, 2008, revisions by Joe Smith (30 pages).

Please call should you have any questions or comments.

Sincerely,

Representative
Company

Enclosures

(NAME OF PROJECT)
by
(name of first writer)

(BASED ON, IF ANY)

Revisions by
**(names of subsequent writers,
in order of work performed)**

Current revisions by
(current writer, date)