IS THE VERY NOTION OF "REPRESENTATION" RELEVANT FOR THE
REGULATION GAME OF VIDEO GAME DEVELOPERS?

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Introduction

Videogame developers are the graphic artists, animators, computer programmers, game designers and producers who create video games. They are emblematic of the rising actors on the contemporary labour scene as they are highly skilled, mobile, non-unionized knowledge workers who are members of a project team. The industry has maintained the non-conformist feel of the dotcom era and created an image of a hip, fun, and free culture where you can get paid to play games (dePeuter & Dyer-Witheford, 2005; Ross, 2003).

The reality is somewhat different. The industry is highly secretive, competitive and largely risk-averse. Top tier console games can cost over $30 million to produce, yet due to extreme competition during the prime Christmas selling season, less than 10% of video games shipped break even (IGDA, 2004: 42).The industry is dominated by a few major publishing studios such as Nintendo, Activision Blizzard, Electronic Arts, and Ubisoft (Sheffield, 2010) with smaller third party studios (who take contracts from publishers) and independent development studios.

Work is organized under the project management regime where the *iron triangle* of constraints (budget, schedule and scope), are paramount drivers in the lives of project team members (Chasserio & Legault, 2009; Legault & Bellemare, 2008). Each game must be completed on time, within budget, and have sufficient attributes to be popular among customers, because pre-release marketing and the date of product release are decisive factors of success (Deuze, Chase Bowen & Allen, 2007; Kline, Dyer-Witheford & dePeuter, 2003).

As a result, our field studies reveal a host of risks coming from these

constraints and from the industry itself: sustained long working hours ('crunch'),
unlimited and unpaid overtime, poor work-life balance, scarcity of women, high
incidence of musculoskeletal disorders and burnout, unacknowledged intellectual
property rights, limited crediting standards, non-compete and non-disclosure
agreements, and limited or unsupported training opportunities (see Batt,
Christopherson, Rightor, & van Jaarsveld, 2001; Deuze, 2007; Deuze, Chase Bowen &
Allen, 2007, Dyer-Witheford & dePeuter, 2006a & b, Legault & Weststar, 2010; Ross,
2003, 2009). Despite these considerable issues, workers in the videogame industry,
like most high-tech knowledge workers, remain unorganized by trade unions.
However, that is not to say that negotiation and resistance are not occurring. Indeed, as
Haiven (2006: 87) notes, "deployers [of labour] and their workers are negotiating all of
the time, even in the absence of trade unions."

In this paper we question whether videogame developers face a representation
gap due to the lack of unionization or whether their current means of action are
appropriate and sufficient protections against employment risk. To answer this
question we will first sketch the working conditions of videogame developers and then
describe their individual and collective means of action to face employment
challenges. We will then discuss the strengths and failings of these approaches vis a
vis unionization and propose potential alternatives that would be a better fit than the
traditional Wagnerian model of union representation. Three sets of data inform this
discussion:

1. 53 interviews of salaried videogame developers working in various studios
   in Montreal conducted in the summer of 2008 with roughly equal numbers
   of men and women.

2. Data from the 2009 Quality of Life survey created and administered by the International Game Developers Association (IGDA) Quality of Life Committee. The total sample size is 3362 and includes game developers in all sub-specialties in a variety of employment relationships.
3. Overview of content of the social web (articles, blogs, comments, open forums) that directly or indirectly discussed game developer working conditions and that accumulated from 2004-2010. This is a review of the online sites and e-zines where gamers, game developers and game industry journalists post articles and blogs regarding the state of the industry and interact on open forums (i.e., Gamasutra, IGDA, GameWatch).

Working Conditions in the Videogame Industry

Though often full time, employment in game production is seldom long term and permanent. Inasmuch as employees are moving from project to project and studio to studio, their *portfolio* careers are boundaryless (Arthur & Rousseau, 1996; Hyde, 2000). There is high mobility in the trade, itself a direct consequence of high demand for workers, shortage of qualified workers and industry churn due to studio start-ups, shut-downs, buy-outs and mergers. Employers who want to retain their highly skilled and otherwise mobile talent often do so by offering high salaries, stock options, a creative basket of perks, and challenging meaningful work (Milton, 2003).

Jobs in videogame developing require a significant level of skills that are not studio-specific, but are rooted in changing software, hardware, and game engines that are mastered through experience, not just formal training. Thus, mentorship and apprenticeship opportunities and a great deal of self-study are an important part of becoming proficient in the field. Technology-driven industry environments are fast-paced, turbulent, and complex. Studios and workers need to be competent, flexible, and fast:

> Ultimately, the ability of mid-level workers in information technology industries to attain and retain their high status in the labor market requires dealing with rapid change. It requires the ability to stay on top of industry trends and changing skill demands, to find access to multiple employment opportunities when needed, and to build career mobility over time across multiple organizational contexts. Workers in these occupations solve these problems of maintaining the market relevance of their skills by taking advantage of networks of information exchange in communities of workers who share similar types of expertise. Groups of users become resources for each other in maintaining knowledge about skills that are in demand (Benner, 2003:199-200).

Work assignments are performance focused. As with IT specialists, high-tech and new media workers, videogame developers are told how wonderful, lucrative, autonomous and creative a job they have, but this autonomy comes out as a constant test or trial that can end up in firing if they fail to exert it in making the project a success. In reputation systems, bold successes come with violent crashes. The considerable room for autonomy and decision-making allowed actors makes them responsible for reaching goals that haven't been imposed on them, but that are perceived as a common contract among free actors, or a commitment the actor is bound to honour. As a result, individuals bear more responsibility towards risk (Legault & Bellemare, 2008; Neff, Wissinger & Zukin, 2005).

Long working hours and unlimited and unpaid overtime are a paramount problem in the trade (IGDA, 2004). In Québec, where our interviews took place, the *Act respecting labour standards* (RSQ, ch. N-1.1, sec. 52-55) clearly states that an employer who explicitly asks an employee to work overtime must pay for the overtime hours at premium rate; conversely, if the employer does not want to pay for the overtime, he cannot require an employee to work it. Still, studios' practices are legally

ambiguous because managers and supervisors do not actually ask designers to work overtime. They claim that overtime is never compulsory, but that developers do it on their own initiative. Some of our interview respondents did refuse to work overtime; however, they usually end up having to limit their career ambitions as a result. While some developers are compensated for these 'willingly worked' overtime hours based on a bonus system and compensatory free time, compensation is never guaranteed. Moreover, when they are compensated, it is only in part, and its level is uncertain and discretionary. According to data from the 2009 Quality of Life survey, almost half of the sample (N=1943) receive no compensation for crunch. Nine percent receive overtime pay, 20% get time off, 15% receive perks during crunch and 13% receive a bonus. The way overtime is managed is a source of significant dissatisfaction.

The resulting portrait immediately raises the question: how do companies get these unhappy developers to work so many hours of unpaid overtime? We put forward an explanation that is based on the existence of an informal, albeit highly effective system of rewards and punishments that relies on the importance of reputation. Developers need a strong portfolio and good name to increase or maintain their mobility and work on high-profile games in an industry resolutely focused on creation, innovation and drive (Legault & Ouellet, 2011). Neither purely voluntary and freely agreed to, nor required and forced, overtime comes under the broad category of "voluntary but expected" working hours (Campbell, 2002:141). This is at the heart of the quality of life movement and data pointing to high turnover, burn-out and work-life conflict (IGDA, 2004).

A second problem in the industry is the reach of non-compete agreements.

Agreements not to compete during the period of employment are common in skilled jobs and considered reasonable. On the contrary, non-compete agreements which extend beyond the employment period lower developer quality of life by reducing future employment opportunities. In practice, case law does not provide a high probability of enforcing such agreements with rank and file developers, but more often with managers. Though in practice studios do not often take proceedings against developers, still, the idea of being sued is a powerful threat. In the worst cases, employees are unable to change jobs without relocating from the area, or are even forced to leave the industry entirely.

The industry is non-union and it is no secret that studios are eager to avoid unionization. It is common knowledge among developers that it is dangerous to make jokes like distributing union cards to sign. One of our respondents learned this quite quickly from colleagues when he proposed this prank for April Fool's Day. Usually quite strict about attribution on their forums, Gamastura seems to allow anonymous comments when the issue is working conditions or unionization. When asked about management's response to a theoretical unionization attempt at their studio, half of the respondents to the 2009 IGDA QoL survey said management would oppose the drive; 15% said the drive would be opposed with threats and harassment.

In summary, in spite of better wages and conditions than many workers, developers need tools to promote mobility, protection against firing or being contracted out, relief from unlimited and unpaid overtime, legal help with employment-related contract negotiation and claims, training opportunities, and a means of protectionist demarcation from other groups of skilled workers (Haiven, 2006; Ross, 2003). As we

will discuss below, videogame developers currently cope with these employment issues through a variety of recourses towards representing their interests and sometimes make inroads into regulating power.

Individual Recourses

Threat or Real Exit - Mobility

The threat of leaving the studio is the bargaining device most readily at hand. Studio managers often head hunt good developers and are willing to pay a high price to hire them away from competitors. Often specialized head-hunting firms and brokers negotiate for developers. Particularly for those operating in regional hot spots for game development, it is relatively easy to leave a job for another and these decisions are often made light-heartedly. This doesn't jeopardize in any way the chance to return to the same studio in the future.

Dropping an Easter Egg

During the eighties, developers began to claim property rights in the original content they were creating. As acknowledgement of these rights was unregulated, each developer had to bargain from scratch, and the result depended on individual skills and context. Rather than leaving when dissatisfied, they began to drop a so-called *Easter Egg* at a strategic point in the actual gameplay. This was often an object bearing their name, a coded signature to underline their contribution. These devices were popular among game players and upgraded game design because the coding strategies used to insert such objects were later incorporated into mainstream production techniques.

Leaking

Dissatisfied developers can also practice risky underground activities such as leaking confidential information about a game-in-the-making, an important feature, or a technological breakthrough. This is of course radically forbidden and developers are tied by precise *non-disclosure agreements*. If discovered, they can be sued and severely punished. Moreover, they damage their own local and international reputations. Despite this, leaking remains a latent threat feared by managers.

Individual Employee Voice

According to some of our interviewees, there are official policies that managers must allow 30% of their time to answer employee's queries and discuss their problems. Interviewees indicate that many senior and HR managers are open to such one-to-one discussions. Some women in particular report gratitude for specific arrangements they received regarding work-family balance.

Legal Action

In the case of an arbitrary sanction, developers also have the option of complaining under the Labour Standards or hiring a lawyer. Given the huge dissymmetry between management and developers in terms of the resources to launch legal action, this is not a common option. Even if the dissatisfaction is great, consequences of filling a complaint seem greater (Legault & Ouellet, 2011).

<center>**Collective Recourse**</center>

Professional Associations

The *International Game Developers Association* (IGDA) is a professional association first aimed at updating and sharing knowledge, resources, skills and

portfolio, maintaining employability, networking, and job placement. IGDA membership fees are often reimbursed by the studios which shows how cooperative the association can appear to employers.

That said, in recent years the role of the IGDA has expanded toward collective action. They offer a health and benefits plan for developers who do not have coverage from their employer. As well, a series of volunteer committees target the main problem areas of the industry. For example, a grievance committee acts as a watchdog for compliance with the policies and recommendations put forward by other committees. Members of the IGDA can submit grievances on issues that contravene IGDA standards. The committee appoints an investigator who confirms or denies the grievance. If the grievance is confirmed, the IGDA informs the studio that they will be written up in the next Quarterly Report on Confirmed Grievances, should the practice continue. Examples of committees that set standards are: crediting and intellectual property committee, anti-exclusive clauses committee, and quality of life committee.

The crediting and intellectual property committee proposes voluntary game industry crediting practices that properly recognize those responsible for the creation of games. The anti-exclusive clauses committee advocates best practices and tries to limit non-compete agreements by rewarding employers who offer less onerous provisions in this area. The IGDA is betting on the fact that studios dislike bad publicity in the context of highly competitive head hunting.

The quality of life committee has conducted two surveys of their membership (2004 and 2009) to canvass the state of 'Quality of Life' (QoL) in the industry. These surveys are particularly concerned with burnout, turnover, crunch time and the length of working hours, vacation and sick time. The report following the 2004 survey is now a benchmark for the industry and received considerable attention (IGDA, 2004). It indicated that the industry may be at a point of crisis due to high burn-out rates and retention issues. They conclude that the industry cannot grow or mature if it consistently loses its experienced talent at mid-life. *A taskforce is currently* working on a QoL Certification in employment contracts. Based on a comprehensive set of core elements that reflect best employment practices, they provide employment contract provisions that can be used by studios as the gold standard. Compliant studios will be publically IGDA QoL certified, on the model of the ISO standards.

General Meetings

In larger studios, there is an annual general meeting. Some employees jump at the opportunity to ask the "killer question". They use this sort of action for potentially "political" collective issues rather than personal ones.

Going Public in the Social Web

The threat of seeing developers using the social web to publicize their claims and grievances always lies in the background. It adds a powerful layer of bargaining power to developers who, though loosely organised, share that claim. In 1999 an anonymous group ironically described working conditions at Ubisoft on a website called Ubifree. They claimed to be the virtual union of Ubisoft employees and sent an

invitation to join to all employees around the world. The small initiative harvested a wealth of supportive messages, many of them denouncing the working conditions. After only a few months management of Ubisoft announced many improvements and the anonymous group closed down the website-union. One improvement was the addition of an employee representative in a few committees; however, this representative was never granted any decision-making power.

A more successful episode was the "EA Spouse" affair. In November 2004 the fiancé of a developer (later revealed to be Erin Hoffman) used her *LiveJournal blog* to denounce an abusive situation of constant crunch time in Los Angeles' Electronic Arts (EA) studio. Similar to the Ubifree movement her post received thousands of comments from gaming fans and beleaguered developers at EA and other studios. They rallied a huge movement against EA in particular and crunch time in general, and triggered three class-action suits (EA, Vivendi and Sony) that alleged studios denied employees overtime pay (Schumacher, 2006). EA later banned work on Sundays and adopted a policy favouring five working days a week. In addition, EA reclassified nearly 200 positions as eligible for overtime pay; however, they were no longer given stock options. The event was also the catalyst for the IGDA QoL movement and Hoffman now sits as a IGDA board member.

Self-Regulation

Inspired by fans' support, Hoffman launched *GameWatch* in April 2006, a watchdog website dedicated to policing employment practices in studios by using whistle-blowing. Electronic Arts' spokeswoman Tammy Schachter would not comment directly on GameWatch or the original EA Spouse post, but she admitted that

the studio keeps an ear tuned to blog chatter."'We take it seriously any time someone is talking about the company,'" Schachter said. "'Electronic Arts is sensitive to blogs, and a lot of the changes we have implemented have been in response to that type of feedback.'" (Boscia, 2007)

Discussion

Effectiveness of Current Means of Individual and Collective Recourse

As knowledge workers, videogame developers can't easily be ignored because there is a shortage of manpower and a high demand for labour, they own rare, complex and hermetic knowledge (though to differing degrees), they have direct access to strategic information, and a ready platform to 'go public'. Arguably, this places them in a position to use means that are not as available to industrial or rank-and-file workers (i.e., leaking industrial secrets or having a more persuasive voice). As Haiven (2006: 87) notes:

> Even where the deployer has great coercive power, work order
> is not guaranteed regardless of how much power the deployer
> can wield because workers can refuse to cooperate. Imagine,
> then, how much greater the consent required in situations where
> the workers have some degree of skill and collective cohesion
> and where they can damage expensive machinery, or where they
> interact crucially with the public, or where the product or service
> they produce must be delivered 'just-in-time.'

However, with respect to real and lasting representation and protection in an employment relationship, there are flaws to each of the abovementioned means of individual and collective recourse.

With respect to leaking and dropping Easter eggs, the former is too rare and too disassociated from specific grievances to be of influence and the later is concerned

with only one specific area of grievance. However, dropping Easter eggs is a very good way to make a name in the tightly-knit community of gamers and developers which then leads to more individual power. Moreover, it has been quite efficient in negotiating new means of crediting developers for their original contributions (Kline, Dyer-Witheford & dePeuter, 2003).

Real or threatened exit.

Though mobility might seem attractive and desired under the individualized rhetoric so pervasive in the modern risk society (Beck, 1992) and among high-tech workers in particular, this flexibility is not universally beneficial (Allen & Henry, 1997). For the those remaining at the organization, there is no lasting benefit accrued from the exit of dissatisfied developers unless turnover is substantial and the reasons for leaving can be clearly discerned or addressed by management. It is, in Hirshman's (1970) terms, an *exit* solution instead of a *voice* solution. It allows workers a certain leverage to find a way out of a conflict without having to surrender and become a victim. However, this only works as long as the demand for developers is high; any change in this context can cause perceived mobility power to collapse. Therefore risks of outsourcing, the recent economic downturn and the rise in degree programs in game development are of concern. Mobility power in the threat of leaving is also highly dependent on the demand for the developer at stake with the most sought-after having more leverage than the easy-to-replace.

Employee voice.

In the broad industrial relations literature, it is accepted that contemporary

managers tend to set forth formalised mechanisms of voice with the aim of non-union

employee representation and union avoidance (Taras & Kaufman, 2006: 519). These

systems fail to promote the organizational democracy that would ensure employees have

some say in their working lives and allow for the advancement of worker interests

(Butler, 2005; Findlay, 1992; Lloyd, 2001; Watling & Snook, 2001). But there are other

managerial objectives to non-union employee representation: securing consent to

managerial plans, promoting employee involvement and empowerment, mobilizing the

workforce into extra contractual performance, fostering cooperation and knowledge-

sharing, enhancing production efficiency, and providing a forum for workers to construct

mutual-gain outcomes (Taras & Kaufman, 2006). However, Butler (2009) concluded

that managers fail to attain these goals, and his explanation sheds light on the failure of

the organizational democratic process as well. His study showed built-in 'rival logics of

action' that prompt objectives that are both defensive (union avoidance) and proactive in

nature (eliciting commitment) which threatens the end result:

> There is an evident tension in management's quest for goals
> relating to the stout defence of [management] prerogative on the
> one hand, and the generation of employee engagement and
> commitment through the structured involvement of the
> workforce, on the other. [...] the interplay between external
> factors (a regulatory shock necessitating enhanced employee
> buy in and commitment) and internal micro influences (a unitary
> culture and a belief in the sanctity of prerogative) were giving
> rise to a 'contradictory canvas' with respect to voice outcomes.
> (Butler, 2009: 211)

Similarly, Upchurch et al. (2006) conclude there is 'a paradox of intention'.

Their thesis is that while management claims non-union employee representation gives

rise to employee involvement and influence, the reality is that of a consolidation of existing power discrepancies. In the same way, our respondents' account of general meetings and "open door" policies shows contradiction between the goal of union avoidance and real employee involvement required to reach a convergence of interests. The conditions of the latter are compromised by the former goal, that is limiting objects of consultation and employees consulted as well (Bulter, 2009; Heery, 2009). That said, employee voice mechanisms seem under-developed in the videogame industry and show less overt managerial motivation to avoid unions as would employer-sponsored representation in decision-making bodies or statutory work councils, for instance.

Indeed, open door policies and other mechanisms of employee voice are not a universal norm in the industry and, like other workplaces, success often depends on the manager or team lead involved. In an article that was widely and favourably received on the web, video game producer Mike Acton (2010) shared his tips on how to be a good manager. He advocates for "one-on-ones" as the most important part of his job. He goes on to say that the formal one-on-ones are not enough and he suggests that it is part of the producer's job to constantly be seeking feedback. The content and reception of Acton's post denote it as a call to do better and indicate that there are barriers to the act of talking to one's manager about employment issues.

For one, the experience and ability of the manager impacts the exercise of employee voice. Due to high turnover in the industry many producers and team leads lack experience in managerial roles. As with other technical fields, most are promoted to these roles because of technical proficiency or past participation on a successful

project rather than managerial aptitude per se. Another barrier is that the content of the claim, as much as the way to voice it, has to be suitable and appropriate, "reasonable" or "constructive". In these high commitment environments, there's a shared understanding that people who "grumble and moan" about working conditions without making their voice appropriately heard are part of a denounced "culture" of uselessness, withdrawal or cynicism. Game developers carry a shared identity as gamers themselves that results in a passion for the work. The industry further inculcates this passion and reinforces themes such as drive, perfectionism, fun, spontaneity, and the bonding achieved through extreme circumstances like meeting a tight deadline (Weststar, 2010). This culture then undermines anything considered whining, slacking or defection and may support managerial perspectives. Even weak alignment of the perspectives of game developers with management further complicates Butler's contradictory canvas of voice outcomes and dilutes the voice function.

As with the exit function, a final barrier to successful exercise of voice is the bargaining power of the individual developer. This increases with reputation and experience. Senior employees are proud to hold the knowledge of who to talk to and they can help younger employees find their way into the organizational and social labyrinth. But this then remains a somewhat arbitrary means to access power still held by management and maintains the privilege of certain groups. Some of our interviewees did say that changes don't come easily and swiftly, but they do come if the issue is supported by a mass of employees or is particularly sensitive.

In all, many employees seem satisfied with the gains obtained. A reasonable

number of claims would be addressed at least in part to successfully act as a union

avoidance strategy. Though discretionary, the process is accepted because developers

feel their managers and team leads appeal to their intelligence instead of their

obedience or docility. According to those of our interview respondents who had voiced

grievances, the workplace is an ongoing discussion.

Public voice – The social web.

Social media is now the hot tool for advocacy and change and campaigns for

various causes are commonplace on Facebook, Twitter, and blogs. Some of these

campaigns are highly successful as was the blog campaign launched in support of the

2007-2008 Writers' Guild of America strike (O'Brien, 2010). Some involve the

sharing of stories and job related information such as the lawyers who use Findlaw's

Greedy Associates boards (Taras, 2001) or involve online lobbying as in the

unsuccessful bid to defeat bill IR35 (which concerns contractor versus wage earner tax

status in the United Kingdom). With their skills, resources, communication channels

and connectivity, high-tech workers are able to form issue-based networks and be very

effective (Milton, 2003:45). On the face, the EA spouse affair is just such a case:

> One essay written months ago set off a powder keg of response,
> not just from the game industry but from the entire software
> development community. Truly, the power of the Internet is
> astounding, and all other things aside, we live in a positive age
> when so much information can be shared so easily and quickly.
> The thing that lifted this up into public view, though, was not
> my essay so much as the response to it. (Hoffman, 2004)

Capacity to instantly and internationally share strategic information and to

coordinate collective action by the same means allows for quickly constituting a

redoubtable stock of evidence in cases of media or legal action[1]. Social networks

remove two important obstacles to collective action: limits to circulation of

information and the constraint of physical gathering to deploy collective expression

(Shirky, 2008:143-160). Closer to a democracy of the multitude model and emblematic

of the alter-globalization movement, many developers reject any transcendental

hierarchy of command in collective action. They prefer to collectively *produce social*

organization in temporary coalitions under an immanent model where the various

social actors collaborate instead of being imposed an order by an external authority

(Hardt & Negri, 2004:336-40; Milton, 2003). This ethos is strengthened among

developers. They have been socialized in gamer communities where players

collaborate in massively multi-player online games (MMOs) and 'mod' the source

code of games to create new variations of gameplay that are then shared. They are also

influenced by the collaborative open source movement in general where the source

code is open for anyone to see and improve or modify.

In this way EA spouse mobilization empowered developers and provided them

with the feeling that `another kind of job action' is possible -- one that is emerging,

spontaneous, non-permanent, non-hierarchical, controlled by actors themselves. This

is quite contrary to their views of traditional collective action vis a vis unions.

However, though the response to EA Spouse promoted successful law suits for

a handful of developers, some positive change to EA's overtime policies, and raised

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[1]   We can estimate the destructive potential of such technological means for an organisation, even a robust one,
       with the story of the spectacular success of sexual abuse victims who used the social web to denounce priests
       in Survivors Network of those Abused by Priests (SNAP) or Voice of the Faithful (VOTF) in the US (See Shirky,
       2008:143-160).

consciousness in the industry overall, real change has been slow to come. An article

titled "Quality of Life? Does Anyone Still Give a Damn?" appeared on the popular

industry site Gamasutra (Hyman, 2008) and a recent outcry against crunch and unpaid

overtime at Rockstar San Diego by the "Wives of Rockstar" (Rockstar Spouse, 2010)

received comparatively less attention than EA Spouse. A comment by a Rockstar

employee posted 20 days after the Wives' original post is illustrative of the fragility of

the movement:

> ...R* management have informed its San Diego employees that everyone will be given a generous and extended break after the product conclusion. Maybe I feel a bit guilty about venting in a public place about any negative aspect of a job I still adore, especially now that I've read a few press snippets that have taken quotes of my writings slightly out of context. I don't think anything I ever said was "damning". Since no one else has, I'll say that I feel our concerns have been responded to one way or another, and it has been favorable. I think it should also be said that the long mandatory working hours for this project, at least for my own tenure, are unprecedented at San Diego in particular. They've told us that it certainly wasn't their intention to extend working hours in such a manner, and I believe them. I think we'll all pull through just fine, we'll get our time off, and I don't see this situation happening again anytime soon. My apologies go to Rockstar for not anticipating that anything I said here could possibly have a negative impact of some kind. (Code Monkey, 2010)

In this case management apologized, gave a one-time reward, and deflected

blame. It is unknown whether lasting changes were made to the problems in

development process and decision-making hierarchy that were credited with creating

the 'death march' by these developers. The Ubifree movement was also quickly

silenced with only cursory appeasements from management. As for lasting change in

the industry, one year after Rockstar San Diego complaints of crunch time at THQ

Kaos Studios received limited response outside of a disapproving letter posted by the IGDA (IGDA, 2011). Developers themselves comment on the fleeting nature of these web-based movements and there is growing popular critique of the ability of social media to promote real engagement and lasting change. Developers easily post a supportive comment on a blog, but seem reluctant to engage more fully to push for real changes to the working conditions in their industry.

Similar to the threat of exit or more traditional employee voice mechanisms, social media strategies rely on the existence of a so-called "supplier market". So, employers are likely to respond to the publicized concerns to preserve their recruitment and retention in a tight labour market. As well, many game studios are heavily state-funded and can do without bad publicity. Regardless, the response may be limited as noted above, or it may have a perverse effect. Following the class actions wave in California, EA transferred hundreds of developers to Florida and Canada, wishing to avoid its new liability to pay them overtime (Feldman & Thorsen, 2004). Such a retort can chill a movement and stall would-be union organizers in a context where the threat of outsourcing always lies in the background. Developers show fear as well and many maintain anonymity in online posts that are critical of their employer or the industry in general.

Professional associations.

High-tech labour markets such as new media and videogame development have high mobility and limited employer investment in training (Amman, 2002), therefore, professional associations play an important role in improving their members' opportunities for finding employment in the regional labour market, helping them to

improve their skills, and improving their individual negotiating positions (Benner, 2003:190-2). In high-tech sectors, professional associations or guilds are seeing a resurgence (i.e., System Administrators' Guild, HTML Writers' Guild, Silicon Valley Web Guild) (Benner, 2003). Though this information diffusion and skills upgrading, Benner (2003) argues that guilds increase the economic vibrancy of regional labour markets; improved markets can then be leveraged back to improve conditions for the members of the guild. Also modern guilds have the capacity to account for two important features of the trade: the artistic acumen and the knowledge sharing mindset typical of the net generation. The term 'guild' resonates with workers who think of their work as a craft and who prioritize the notion of information sharing to increase the success of all (Benner, 2003: 186).

However, these American contemporary guilds cannot reach the same leverage unions do. Most importantly they lack the ability to exercise monopoly control over access to skilled labour, or to enforce restrictions on production standards. These monopoly powers are nearly impossible to achieve in the contemporary economy, given the rapidly changing skill requirements associated with the technological change and volatility of the information economy (Benner, 2003:182). High-tech workers derive considerable status from being associated with cutting-edge technological and economic change, but at the same time, and unlike state certified professions, they are constantly being market-tested for the relevance of their skills and the organizational problems they claim to be able to solve. As the best ways to update your skills revolve around networking and knowledge sharing, the communities of practice, guilds and associations that have emerged in these occupations tend to be more decentralized and

democratic, placing less emphasis on the certification of their members and more emphasis on actively intervening in the labour market. These associations rarely focus on forms of occupational closure (Witz, 1990) and instead provide various services to their members, help their membership anticipate and capitalize on changing industry trends, build closer ties with employers, and provide placement services.

As such, an organization like the IGDA has little real power to improve the labour process of videogame developers. They can engage in research and advocacy, their voice of displeasure carries more weight in the bad publicity that rogue studios receive, and their grievance committee could place them in a role of a third party mediator of conflict if both sides agree to this. But, without legal backing, their true representational power is limited.

Are Unions a Viable Alternative?

Given the flaws in each of the individual and collective recourse currently used by videogame developers, one must ask whether unionization is a viable solution to their employment challenges. Throughout Canada and most of the US there is no representation gap (Heery, 2009) in that workers who desire unionization would have legal access to it. However the industry has a high anti-union animus. The IGDA 2009 Quality of Life survey data provides a rare account of developer perspectives (Table 1) which seem to be quasi-equal for and against and a striking number of no response.

Table 1: Responses to Questions on Unionization, 2009 QoL Survey

Question	N	Response Option	%
Some developers believe the	2362	For	34.0

only way to improve the quality of life in the industry is to unionize. If a vote were held today, how would you vote?		Against No opinion/prefer not to say	31.5 35.5
How do you think people in your company would vote?	1607	More than ½ For More than ½ Against 50/50 No opinion/prefer not to say	19.8 26.2 16.4 37.5
If a group of employees tried to start a union at your company, how would you react?	1607	Welcome the union Oppose the union with information Don't care/prefer not to say	34.2 24.3 41.6
Do you feel the labour laws offer sufficient protection should a grievance arise between an employer and an employee?	2362	Yes No Don't Know	37.0 21.8 41.2

The general literature on union propensity among high-tech workers as well as our interviews with developers and discussions on the social web point to several key obstacles to unionization in its traditional form.

Mobility and enterprise-based certification.

High mobility among videogame developers is a powerful deterrent to unionisation as long as the North American certification and bargaining model is enterprise-based. In such a system, all the negotiated advantages held in a collective agreement are linked to the ongoing employment relationship. High-tech workers who are in demand are very committed to their work and professional groups but see their employers as fungible; though issues at stake are important to them, they do not find any interest in local battles they would have to support before leaving for another project. Low continuance commitment and attractive employment alternatives

predispose them to change studios rather than lobby for change, while jobs are abundant (Milton, 2003). Moreover, analysing union instrumental value among high-tech workers, Milton stresses that they may accept sub-optimal working conditions if they are reasonably compensated and perceive a high payoff in terms of skills and reputation in the long run.

This is mostly what we found among videogame developers facing unlimited unpaid overtime. Trapped in an informal reward and punishment system linked to building a desired reputation, they are promised future benefits and rewards if they consent to it, and conversely promised professional stalling if not. Given the limited scope of the information they have, after a cost-benefit analysis, a majority of them consent (Legault & Ouellet, 2011). Such is evidenced by the above quote by Rockstar employee 'CodeMonkey'. According to him, the employer offered a long period of time-off following the massive crunch and promised to avoid such situations in the future. This appeased many of the developers who were now just proud to have completed and shipped what they considered was a great game. Several comments in the online thread about crunch at Rockstar consoled the beleaguered team, saying that the boost to their reputations from delivering an amazing game under extreme conditions would be worth it in the end. One called it a 'golden ticket' on their future resumes.

Meritocracy.

High tech workers focus on three issues when expressing concerns about how "typical" union initiatives compromise workers and organizational performance: seniority, remuneration and hours of work, and equality (Milton, 2003: 43). Milton's

interviewees argued that seniority-based systems and the rigid job descriptions associated with them lead to poor results in learning-oriented meritocracies that rely on the most competent people doing the most advanced work. Institutionalizing these systems is also seen as incompatible with self perceptions as high achievers who advance based on accomplishment, continually learn and enjoy challenging assignments.

Predetermined salary scales are as undesirable. High-tech placement is allegedly based on discerning those going above and beyond the norm in pursuit of excellence. Expecting to be compensated according to their input, high tech workers see unionized pay schemes as divorced from individual performance (Milton, 2003). There is some evidence that multi-layered compensation systems are becoming more widespread among North American unionized knowledge workers, be they artists, high-tech workers or others, who wish to see merit acknowledged (Legault & D'Amours, 201*). This is naturally a bold step for a labour union, but whole areas of our economy no longer play by the rules set forth in the Wagner Act and new union responses must emerge.

Threat of outsourcing.

What is more complex is that videogame developers have claims pertaining to working conditions at the international level, as the industry is world-wide. Many respondents and actors in the field keep a watchful eye on the emergent countries as the coming source of a competing workforce that could rapidly overpower the present developers' bargaining power. The constant - though latent - threat of outsourcing is a relatively efficient *union avoidance strategy*. Evidence of this notion abounds in online

discussions among developers and industry analysts. What is not articulated among developers is that protection against outsourcing could be a reason to organize or that unionization of the industry internationally could help to raise standards overall. An example is the movie industry (Mosco, 2006) where Indian union leaders are looking for joint initiatives with American unions to prevent *social dumping* in working conditions.

Strong professional identity.

According to Milton (2003), viewing unionization simply as a response to dissatisfaction and adversity masks the effect of identity on the propensity of workers to unionize (see also Deuze, 2007). This is also largely neglected by labour researchers who concentrate on equity and the conflict of interest between labour and management. According to image theory, upon deciding whether to unionize, developers will try to determine whether being and acting as a union member is compatible with their self-image as high tech workers (Milton, 2003), and in line with the norms and values embedded in the games community (Weststar, 2010). Early in the unionization process, they will compare their self-definition to their image of unions, union members and activity, and measure how unionizing and behaving as a union member will affect the way in which valued others perceive them (Milton, 2003:34). Following a symbolic interactionist perspective, they consider whether, as union members, they would be able to maintain their reputation as credible high-tech professionals, and via this reputation access to coveted work and social environments (Milton, 2003:36).

Many of the Montreal developers we interviewed and much of the online

narrative see unions as anti-creative and antithetical to the meritocracy system that anchors excellence in technology-based industries. In their view, high achievers do not want to be averaged down to the common level that unionizing involves. They perceive unions as fighting causes irrelevant or not central to technology-based industries and that may even prove detrimental to the skilled, technical professionals therein.

Viable Alternatives in New Union Forms

All of this is an important, deeply-rooted critique of the contemporary union movement and its rules. Not only do new media workers question the use unions make of information technology and the social web (Lucio, Walker & Trevorrow, 2009) in their daily routine, but the deeper model of collective action they carry. However, an industry-wide, multi-employer certification and negotiation process can address many of the above obstacles to unionization. The *Act respecting the professional status and conditions of engagement of performing, recording and film artists* (RSQ c. S-32.1) in Québec is an example. This system for the performing trades allows for social insurance plans that follow you throughout your multiple employers and is an early adopter of the portable rights principle (Legault & D'Amours, 201*; Remo, 2008) as in the US film industry (Amman, 2002).

Under this system artists can also benefit from the State's health and security plan, and co-regulate the sharing out of incomes drawn royalties and residuals (Lefebvre & Merrigan, 2007). Intellectual property rights are very important to developers too and they are in need of an overarching protection system not limited to the employment contract duration (Legault & D'Amours, 201*). Moreover, the *Act*

respecting the professional status can capture the appreciation for merit. This system promotes a minimum standard hiring contract, but allows for better conditions should the artist be more in demand or more prestigious. Similarly, individual negotiations or "above-scale deals" are a long-time industry practice in the motion picture and television unions (Amman, 2002; Batt, Christopherson, Rightor & van Jaarsveld, 2001).

Conclusion

Through a variety of individual and collective means of action, videogame developers play a role in regulating their work conditions; they're not deprived of power, individually or collectively, due to the high demand for their specialized skills and strategic use of social networks. However, the scope of their action is currently limited by the structural realities of the videogame industry, by the project management regimes that specifically control the labour process and by the ideological norms associated with the *injunction of autonomy* (Chasserio & Legault, 2009; Legault & Bellemare, 2008). Whereas the subjected worker is issued a set of specific rules and directives to accomplish a task, the responsible, creative and autonomous knowledge worker is ordered to produce outcomes rather than procedures. They are trusted to find their way, take the right initiative, put forth the required effort, stick to the right practices, and so forth until the job is done.

This seemingly free and organic process, however, collides with project management's *iron triangle* and pre-determines a limited set of options. Since the main sources of uncertainty and risk are failure to ship a game in time and on budget, and

labour being the utmost cost, developers have to work unlimited unpaid overtime. The passion for the game and the immense desire to see it shipped and loved by fans is co-opted by management such that the 'necessity of overtime' is internalized by the team. Through the injunction of autonomy and the downloading of risk to the team, developers do what they have to do to see a game completed at their high standards.

Moreover, although the highly skilled employees are employed and receive fairly good pay, the products they produce may have far greater value than their upfront compensation. They do not capture the proceeds from the intellectual goods they produce. As employees, they are often bound into competition with their employer for proceeds from those rights (Haiven, 2006) and this competition is not brought to balance by their current professional association or individual developer actions (i.e., Easter eggs).

So, in materialist terms, developers are not void of motives for collective action and their current individual and collective means seem unable to fix systemic problems in the industry. However, under likewise materialist criteria, there are a host of deterrents keeping them from unionization. The very structure of the industry is one. A project based, regionally and internationally mobile workforce is meant for a blend of sector-related and international forms of unionism still to be born. Social aspects of the trade, no less important, are serious issues to address; developers are organized into a star-system with a somewhat hermetic professional culture and they are not fit for unions' traditional approaches. They face human resource and managerial policies that chill unionization attempts because they can be used to resolve some workplace problems and therefore reinforce developers' belief in the ability of individual assets to

influence decisions. More, and lastly, developers have alternatives forms of collectivism such as the issue-based coalitions noted by Milton (2003) that disband when no longer needed (i.e., EA spouse-like mobilization). Though these are much frailer than collective bargaining, they fit the paramount ideological current and robust social identity of videogame developers. The notion of representation remains a complicated issue for this group of workers and their high-tech peers where a complex web of interactions both push towards stronger forms and pull away from apparently outmoded options.

In closing we must acknowledge a limitation of our discussion. As Haiven (2006) notes, an account of a unionization project requires the study of three interdependent actors: workers, management and the would-be union. We have briefly accounted for the first two, but the blind spot of our work is the unions' voice. Given the lack of organizing activity in this and other high-tech sectors, further research needs to address the degree to which unions need and want to organize the workers.

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