# Fed-up agencies quit punching the clock

## Following in Crispin's footsteps, shops charge for ideas instead of time

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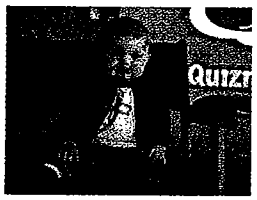
CRISPIN PORTER & BOGUSKY'S bold deal with Haggar, struck last year, in which the agency took an equity stake as part of its compensation, stood out as a rare exception from the sad status quo of agencies selling ideas as if they were pork bellies to be traded by the ton. "We're in the intellectual-property business," Crispin's Jeff Hicks said at the time. "We don't sell time."



**BABY BOB:** Siltanen owns the rights to the wee wisecracker

Agencies have long rued compensation arrangements that see them sized up by the number of man-hours they commit to solving a marketer's problems rather than by the success of their solutions. And, as consumer-empowering technologies such as DVRs put a premium on agencies' ability to produce engaging content, they've created an increasing number of entertainment properties, but they very rarely get to own them. Now, finally, that is starting to change, and others are adopting a Crispin approach, according to experts involved in crafting agency-advertiser compensation contracts.

"The discussion is beginning to shift from 'What does it cost to generate work and services a client wants?' to 'What is the value of the services and materials the agency is creating for the client?'" said Ronald Urbach, partner, Davis & Gilbert. "Innovation is reaching a critical mass."

Like Crispin, Anomaly, the New York-based boutique started by ex-TBWA executive Carl Johnson, eschews time sheets and instead gets paid for a variety of activities. "We price ourselves on the subjective theory of value," said partner Jason Deland. "That allows us to structure more varied, entrepreneurial compensation agreements." With client Virgin America, for instance, Anomaly is helping design an in-flight entertainment system that will contain

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content and be commerce-enabled. The company will get a percentage of the revenue from the system's sales.

One of the sorrier catalysts, from the perspective of older general-market agencies, is a long list of missed revenue opportunities. Goodby, Silverstein & Partners, San Francisco, which developed the "Got Milk?" campaign in 1993, reaped no extra benefits from the millions of dollars in licensing fees and royalties generated after the campaign's launch. McCann Erickson created the concept for client Staples' plastic Easy Button, a $4.99 gadget that's sold more than 1 million units since its launch in January 2005, but received no financial reward beyond its original fees.

"We certainly hope the agency will develop alternative revenue sources for our clients," said Harold Sogard, partner and general manager at Goodby. However, he said, when creative produced for a marketer goes beyond its original intention of selling a product or service, new language in some of the agency's contracts calls for "some sort of royalty" to be paid.

Rob Siltanen, chairman-chief creative officer, Siltanen & Partners, is well-known as the inventor of Baby Bob, a talking baby with the mouth of a wisecracking old man, for client Freeinternet.com. When the dot-com went out of business, Mr. Siltanen exchanged rights to the character for the money owed the agency. He then took Baby Bob to CBS, which used the character for a short time; later, Quizno's used Baby Bob to hawk its sandwiches. Mr. Siltanen won't reveal how much he's made by hanging onto character rights but said, "It's been very lucrative."

Agencies' moves into content creation—such as Bartle Bogle Hegarty New York's co-production last year of an MTV special that's set to become a TV show—is another factor for rethinking traditional labor-based compensation models. Agencies might share syndication revenue or retain rights to creative content. When Crispin created a video game for Burger King, it was paid a fee in addition to what it is paid to create advertising, one executive said, although the agency does not receive a percentage of sales. A Crispin spokeswoman declined to comment.

### Pay pals

For more information, visit:

- AAAA.org/eweb/upload/6606_guide.pdf for an American Association of Advertising Agencies guide to compensation arrangements.
- IgnitionGroup.com: The consultancy founded by former agency CEO Tim Williams helps agencies create and capture value.

Even agencies that remain focused on old-media advertising are benefiting from the move away from cost-plus or labor-based agreements.

Brad Brinegar, chairman-CEO of McKinney, Raleigh, N.C., is a big believer that agencies should be paid for the value they create and has been developing new compensation forms for several years. With one client, in addition to a base fee, McKinney took 50,000 stock options in the company. "They were growing sales and profits regularly; our assumption is that we could increase their price-to-earnings ratio," he said. With another, McKinney aligned its financial objectives with those of the client's chief marketing officer so the agency's bonus was "based on the same criteria as his," Mr. Brinegar said.

Consider the value to a client of a campaign that's run over a decade, such as MasterCard's "Priceless," created by McCann. "We're pushing more and more" for contract provisions that entitle agencies to additional payment if creative is used beyond a certain amount of time, said Rick Kurnit, attorney, Frankfurt Kurnit Klein & Selz. Another area under discussion: If an account leaves an agency but the campaign created by the shop continues, should the agency continue to be paid? "Perhaps the work can be used in one geographic territory, such as the U.S., but if it goes global, a new agreement is necessary," said Mr. Urbach, who advocates approaching client-agency compensation agreements like prenuptial agreements: "Instead of deciding it later, decide it now."