



Response to BIS consultation on reforming the regulatory framework for the recruitment sector

November 2015

The Broadcasting Entertainment Cinematograph and Theatre Union has almost 26,000 members in the UK working in the media and entertainment sector in a wide range of occupational categories. Amongst these are background artistes in the film, TV, and commercials production sector.

We are deeply disappointed that the current consultation has not addressed the principal problem confronting our members who work as Supporting Artistes in the film and TV industry, namely up-front fees being demanded by agents who often fail to provide work-seekers with opportunities.

This practice is permitted under the exemption, from a general principle of no fees for work-seekers, for specified job roles contained in Schedule 3 to the Conduct Regulations 2003. This issue has long been contentious for our members, and was the centrepiece of BECTU's previous response to BIS when the Conduct Regulations were last considered for review in 2013.

For many years our Film Artistes Association section has been campaigning against the right of agencies and directories catering for background artistes to charge "up-front" fees for their services.

This exemption has led to gross exploitation of tens of thousands of members of the public, who are duped into paying up-front fees to agencies that exist solely for the purpose of collecting those fees, with no realistic chance of those paying to register being given any engagements to work.

In the case of our background artiste members, who have the relevant skills and experience to perform the work competently, agencies will often defer taking the fee up-front, and will deduct it from the first payment from any work in addition to standard commission.

Many of our members find that they have to register with multiple agencies, depending on the genres they seek engagements in, but will often be given only one engagement a year by each agency, the payment for which is wholly or partly wiped out by deduction of the registration fee.

In BECTU's view this practice of allocating each registered work-seeker with just one day per year in order to recover the registration fee is profoundly cynical, and illustrates perfectly why the background artistes' sector should be treated exactly the same as the rest of the economy, where agencies, directories, and employment businesses are not allowed to levy fees on work-seekers.

This problem has grown since 2013, with a number of agencies in our sector charging fees to work-seekers in roles outside the Schedule 3 list, either on the grounds that their job titles are related to those in the Schedule, or that no payment is being made where work experience is being offered (thus denying the workers "employee" status).

There has also been a proliferation of web-based job advertisement sites, again charging up-front

fees to a wide range of workers in many job roles, claiming an exemption from the general no-fee principle on the grounds that they are “publications” and not employment agencies or businesses.

The situation is wholly unsatisfactory, and BECTU is of the view that the inadequacy of the statute and regulations has opened thousands of bona fide Supporting Artistes, as well as unsuspecting members of the public, to gross abuse by unscrupulous agents, costing them hundreds of pounds a year each in unproductive expenditure on up-front fees and associated costs

We call on BIS, when responding to the submissions received in this consultation, to deal with the problems posed by agents in the entertainment sector who are quite plainly exploiting existing workers in the industry, as well as members of the public who are persuaded that payment of an up-front fee is a guarantee of work opportunities, that in practice never materialise. We also hope that the resources and powers of EISA will be increased to deal with this canker in our sector.

Having raised this important issue on behalf of our members, there are two questions in the current consultation that we wish to respond to.

Question 1 - Removal of Regulation 9

We believe that the removal of Regulation 9 would have a severe negative impact on work-seekers in our sector who are covered by Schedule 3 of the Conduct Regulations.

In a situation where many agents in entertainment are already taking full advantage of their exemption from the “no up-front fee” rule, it will be a retrograde step if they are further allowed to deceive both hirers and work-seekers into agreements which result more commission being deducted than either the client or the workers are aware of.

Transparency is critical in the often short-term and hastily-arranged relations between our Schedule 3 members and their agents, and no possibility of “double-dealing” should be allowed. Removal of Regulation 9 would open the doors to unscrupulous operators, who would not be adequately constrained by the continued existence of Regulation 16.

Question 2 - Removal of Regulation 11

This proposed change would impact negatively on the range of work-seekers in our sector who are covered by Schedule 3.

Our members are already confronted with an agency regime where numerous additional payments are demanded, often for photographic services and other costs associated with being listed by a particular agency.

Under the existing Regulations, these at least need to be drawn to the attention of the work-seeker before any engagement is agreed. If Regulation 11 is removed, we predict that our Supporting Artistes members will, from time to time, be unwittingly invited to enter agreements where hidden costs have been negotiated by the agent with the hirer, to the detriment of the work-seeker.

As with Question 1, the issue of transparency is crucial and workseekers should not be in a position where various aspects of the agent’s agreement with a hirer are concealed at the point of agreeing to accept an assignment.

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