

NOTES FOR ARTISTS' AGENTS

Commission split between Former and Current Agents

These notes are to be used in conjunction with the appropriate client agreement between the client and the former agent; the contractual terms contained therein shall prevail, subject to such client agreement being consistent with the Code of Conduct and these Notes for Artists' Agents. A guideline copy of a template recommended client agreement can be found on the PMA website.

When a client informs his or her agent (the former agent) of their wish to terminate their representation by that agent, it is the former agent's responsibility to put in writing to the new agent (wherever possible within 5 working days and, in any event, within a maximum of two weeks) the following information:

- the detail of all current/ongoing client contracts (which shall include option, extension and/or renewal provisions); and
- a list of all submissions (including availability checks) made on behalf of the client up to the date of termination, specifically the role(s) the client has been submitted for, and to whom, and whether a meeting has been arranged, or has occurred. Where the submission/availability check cannot be substantiated with documentary or other supporting evidence the former agent must accept that any claim to commission may be unsustainable; and
- and the new agent shall acknowledge receipt of the above and make known any queries within two weeks.

Original copies of contracts held by the former agent are the property of the client and should be released in accordance with the client's reasonable written instructions.

In negotiations undertaken by the new agent in relation to a project where commission is due to the former agent all details must be divulged in writing if requested.

TELEVISION and FILM

- 1 The former agent is entitled to all commission due on contracts concluded by them including Options. (Option: a legally binding agreement whereby a company may exercise a right to engage a client on pre-negotiated terms.)
- 2 The former agent is also entitled in perpetuity to commission due on all repeats, residuals, overseas sales and any other income directly derived from any contract concluded before termination at the level of fees negotiated by the former agent (including where relevant as increased by Equity on their members' behalf).
- 3 In the event such fees are re-negotiated by the new agent then the new agent will be entitled to 100% of all commission on the balance between the original and the newly re-negotiated fee.
- 4 In the event that an offer has been made, but no terms have been negotiated or the client moves mid negotiation then the former agent shall be entitled to all commission due on the engagement even though the terms of the relevant contract may be wholly negotiated by the new agent and the sunset provisions in note 6 below shall apply thereafter.

5 The former agent's commission rate shall apply (plus VAT as appropriate) wherever monies are due to the former agent under these notes.

6 SUNSET PROVISIONS

That is, where a client continues in role beyond the former agent's contracted entitlement:

6.1 Where the former agent has negotiated Option(s) for a Series they would get 100% of the commission on the fees they negotiated for optioned series; the new agent would get commission on any uplift they manage to negotiate.

6.2 For the first role reprisal / series / continuation of franchise ('outing') post options, the former agent shall be entitled to 75% for the first outing, 50% for the next, 25% for the next, and 10% thereafter in perpetuity.

6.3 Where no options had been negotiated the former agent shall be entitled to 75% commission for the first outing negotiated by the new agent, 50% for the next, 25% for the next, and 10% thereafter in perpetuity.

6.4 Where the former agent submitted the client for a role but no meeting has been achieved, the former agent shall receive 100% commission for the first outing, but no commission thereafter.

6.5 Commissions due to the former agent on repeat fees, overseas sales and other residuals in connection with the Series shall remain payable to the former agent pro-rata in perpetuity.

6.6 Long running series: If a client returns to a role within 2 years of having left a long running series (having changed agents in the interim) the sunset provisions shall apply upon returning. Thereafter, the former agent shall receive 10% of their original commission in perpetuity.

THEATRE

8.1 The former agent shall be entitled to all commissions due on existing theatre contracts for the run of the production and on any contract for the same production if an extension or transfer occurs within twelve months of the end of the original term agreed by the former agent.

8.2 If a client returns to a production in the same role after twelve months, the former agent shall receive 10% of their original commission for this production and in perpetuity

8.3 Where the former agent submitted the client for a role and arranged a meeting or where the role was offered without a meeting 100% commission is due to the former agent for the length of the original contract and any extensions/reprisal under 8.1 shall apply.

8.4 Where the former agent submitted the client for a role but no meeting was arranged the former agent is due 100% for the length of the initial contract only.

TV (or CINEMA) COMMERCIALS

- 9.1 The former agent shall be entitled to all commissions due on any commercial arising from his or her duly notified submission together with commission due on any income directly derived, from overseas sales, cinema and stills usage. If fees for such additional usage are negotiated by the new agent, then the former agent shall still be entitled to 100% of the commission due from such negotiations.
- 9.2 The 'life' of a TV commercial is usually limited by contract. If the advertiser wishes to renew the contract and the client wishes the new agent to re-negotiate the contract, then the new agent shall be entitled to commission only on the balance between the original fee and the re-negotiated fee together with commission pro-rata due on any income directly derived therefrom.
- 9.3 In the case of a campaign of commercials, the former agent will continue to receive their commission in perpetuity save for the new agent will receive commission on any uplift they negotiate.

Appendix 1

FORMAL DISPUTE PROCEDURE

These Notes were compiled and updated in consultation with PMA Council and they largely reflect the opinion of the majority and established best practice. It is hoped these notes will assist members having difficulty coming to an amicable agreement.

In the event that agreement cannot be reached there is a formal dispute procedure, adjudicated by the PMA Council. Disputes are considered at quarterly Council meetings. Meeting are quarterly and dates can be found in the PMA Diary, downloadable in the Meetings Section of the PMA website.

We ask that PMA members consider the following before going forward with a formal dispute:

The Council can only offer advice where both agencies are PMA members

Please notify your intention to raise the dispute no later than three weeks in advance of the next Council Meeting. At this stage a Council Member will be willing to offer informal advice, before taking the issue to formal dispute.

If a dispute formal dispute is the only way forward both agencies are required to provide the following (no later than two weeks before the next Council Meeting):

A brief paragraph outlining the key points of dispute, with direct reference to these notes.

Relevant documents supporting your argument, which may include: agency contract with client, protection letter, correspondence regarding dispute and a timeline of relevant events/conversations (e.g. when did the client move agency, when was s/he put forward for the production, when did meetings take place etc)

Based on the information provided and with reference to these notes the PMA Council will recommend a way forward. Both agencies will be notified of this recommendation no later than one week after the Council meeting. It is hoped that both agencies will abide by the Council's recommendation.