

Working in Commercials



EQUITY

THE IPA/EQUITY AGREED DOCUMENT

What kind of agreement is it?

The current document was agreed between the IPA, (Institute of Practitioners in Advertising), Equity, ISBAR (Incorporated Society of British Advertisers) and the APA (Association of Producers Association) in 2011. The terms and conditions in the document are recommended best practice. The fees recommended are minimum fees. Whilst in itself, it is not legally enforceable, the document does state:

“The Associations, Producer and Advertiser agree that best practice governing the employment of Featured Artists in this field is: that the engagement of all (Featured) Artists for commercials shall be subject to the provisions of this Document and shall be made upon the Form of Engagement.

Please download the Forms of Engagement here under Artist/Commercials <https://www.equity.org.uk/at-work/rates-agreements>

Your Contract

The “Form of Engagement” is effectively the contract between the Advertiser/Producer and the Artist. We recommend that Artists and Agents ask for their contract to be based on the Form of Engagement. In this way, the terms of the document can be enforced under the terms of your contract. The current template can be used as a base and can be updated.

It is stated: “that the spirit and intention of this Document is to create, maintain and further good relations between the Associations, Producers, Advertisers and Equity and that it is therefore recognised that Equity represents experienced professional performers.

ARTISTS: FEATURED, WALK-ON & BACKGROUND

What is the difference?

Featured Artist

A Featured Artist is someone who is seen or heard (excluding background speech or noise) in a commercial and whose individual role plays an essential part in the telling of the commercial story. Any role in a commercial which prevents an Artist from obtaining further work in any other commercial campaign because of the prominence of the Artist in the original shall be considered to be ‘Featured’.

Walk On Artist

A ‘Walk-on’ is an identifiable non-speaking artist (Background speech or noise is not deemed as speaking in this context) who is required to act individually in medium shot, or more closely, a special function peculiar only to the role, trade or calling that the character is supposed to portray, for example, a shop keeper, and their movements are individually directed and they have a direct relationship with the Featured Artist performing their role.

Supporting artist

The main purpose of a Supporting Artist is to be an individual or member of a group required to enhance or contribute to the

overall authenticity and atmosphere of a scene. They would not be required to give an individual characterisation nor speak any word of dialogue. They may be directed by the Director to move and/or react as required on set. Background speech or noise is not considered to be speaking in this context.

MINIMUM PAYMENTS:

How much do I get paid?

For commercials, you are paid a fee for your shooting day or session fee for audio. This is called the Basic Studio or Session Fee – the BSF. You are due payment for attending a recall before you are cast and when you are cast, you are paid for attending a wardrobe/wig/costume fitting. You are paid for rehearsal days and if you are required to be on standby between shooting days, a fee is payable. Certain transport costs should be payable and you can ask for some meals to be paid.

Then there is payment for how the advertiser intends to use the commercial, where it will be shown, how long for. All fees in the document are agreed guideline minimums and you and or your agent can and probably should go back to the Advertiser/Producer to negotiate higher fees.

Featured Artists are eligible for Usage Fees. Walk On and Background Artists are not. This is in view of the contribution to the overall value of the commercial and due to the fact that Featured Artists who are recognizable, will be limited from other commercial work for up to three years, whereas Walk Ons and Background do not need to declare these commercials.

Basic Studio/Session Fees (BSF)

- The BSF or Shoot Fee is negotiated, taking into account the Artist’s contribution to the commercial, his/her professional status, earning power in other areas and his/her value to the commercial. **However, the BSF currently should be no less than £300 and currently is more likely to be £350.**
- The BSF is payment for one commercial only.
- Voice-Over Artists, Singers, Dancers and Stunt Performers & Co-ordinators are regarded as Featured Artists for all payment purposes.

Holiday pay

- By law, you are entitled to holiday pay for each paid for engagement. This should be listed separately to the BSF on your contract/agreement and should be added on to the BSF.
- Holiday pay is not eligible for Use Fees.
- Currently, the calculation for holiday pay is 12.07% X BSF.

Recalls

- A recall fee is payable for in person or online recall from a first audition.
- Recall fee should be negotiated but “should be no less than £50 per day”
- Reasonable travel and out-of-pocket expenses to be negotiated by Artist or Agent.

Wardrobe/Wig Fittings; providing Costumes

- **Wardrobe and Wig Fittings.** Attendance for wig/wardrobe fittings or similar can be negotiated. Up to 2 hours the negotiated fee should be **no less** than £50. If you are required to attend for over 2 hours this should be dealt with

under the terms of rehearsals.

- **Reasonable travel and out-of-pocket expenses can be negotiated for wardrobe, wig and similar fittings by yourself or your agent.**
- Costumes. If you are required to provide an item of your own clothing (other than shoes or underwear) a fee is to be negotiated.

Rehearsal and Stand-by days

- **Standby days.** These are paid at 50% of the BSF on which days you are on stand-by as required by the Producer.
- **Rehearsal days.** A half day rehearsal (up to 4½ hours) where no recording takes place, you should receive a negotiated fee of no less than 50% of the BSF. For a rehearsal day of over 4½ hours, full BSF is due plus Meal Allowance.

WORKING HOURS AND CONDITIONS:

What is my working day?

Working Hours

- A Working Day, Night or Dawn Call is 10 hours, including 1 hour for a meal.
- Time spent in make-up, hairdressing and wardrobe is included in working hours.

Start time

- This begins when you are called or attend to start work (whichever is the later) at the studio or location.

Overtime

- You can be required to work overtime.
- Payment: One-fifth of the BSF/Shoot Fee for each hour or part of an hour worked. (You can be required to work an extra 15 minutes for no extra pay.)
- Overtime after midnight is paid at one-third of the BSF/Shoot Fee for each such hour or part of an hour.
- Sundays/Bank holidays; an additional night fee or premium payment, which is 50% of the BSF.

Day Call

- Day calls are between 7.30am and 12 noon.
- The main meal break of 1 hour should be between 12 midday and 2.00pm.
- If work carries on beyond 5 hours calculated from the end of the midday meal break you should have a further break of 1 hour.

Dawn Calls

- A Dawn Call is between 4.00am and 7.30am. Payment: In addition to the BSF, a premium payment of one-fifth of the BSF/Shoot Fee for each hour or part of an hour worked up to 7.30am.
- You should be provided with a hot drink before starting work and adequate refreshments during the period of call.

Night Calls

- A Night Call is where your work is extended beyond midnight or scheduled to start between midnight and 4.00am.
- Any call to attend on or after 4.00pm is deemed to be for night work and shall be paid as such; unless it is agreed that the call is not for night work.
- A meal break of 1 hour is due. It should start not later than 5

hours from the starting time.

- Payment: in addition to the BSF, you are due a fee of 50% of BSF for each session of night work. (This does not count for Use Fees.)

Sundays and Public Holidays

If you are required to work on a Sunday or public holiday, you should be paid an additional premium of not less than 50% of the BSF.

Travelling

- Travel times as regards working hours are based on the distance from the location to Charing Cross for London, or the main mainline train station elsewhere. Charing Cross is used as a marker for historical reasons in relation to the main film studios outside London.
- Please consult the full document for details. Generally your working time may be included in working hours if the distance is over 20 or 30 hours from Charing Cross or regional station, minus the first half hour.
- **On location.** Your working hours shall be calculated from the time of call at the hotel or accommodation until you are returned to the same.

Payment for travel

- If you are required to travel to a location over 20 miles from Charing Cross or regional station, the Advertiser/Producer must pay you reasonable travel expenses. If public transport is not available, the Advertiser/Producer must provide or pay for transport.
- If it is impractical or unsafe for you to return home, you will be provided with reasonable accommodation.
- If you are taken ill in the UK or abroad, the Advertiser/Producer will be responsible for transporting you home.

Meals and Rest Breaks

- You must be given a break for rest and refreshment if you work up to 5 consecutive hours. The break shouldn't be less than 1 hour. If the main meal break is shortened or delayed by more than 30 minutes, you should be paid one-fifth of the BSF/Shoot Fee for each curtailment or delay.
- Where it is impracticable or impossible to supply meals and refreshments, you should receive an allowance to purchase adequate meals or refreshments.

THE CASTING PROCESS

What can I expect?

Initial information you should be given

- When you attend a first casting session, the Casting Director should give you the following information: the name of the advertising agency, the production company and the product details and the purpose of the casting, for example whether the Advertiser is looking for Featured Artists or Walk-On Artists; the intended audience.
- The Casting Director can indicate the approximate level of basic studio/session fee but only the employer can

finally agree the pay, detailing the holiday pay/ shoot fee breakdown and confirm the booking.

Can I be asked my age or ethnicity or other personal info?

- You should not be asked for detailed personal information at this stage unless this is absolutely essential to the role. This is to protect you and the Casting Director from information which potentially could be used to discriminate against you.
- You should be selected for the job on your suitability for the role and not on specific personal characteristics.
- Therefore, you should not be asked for your real age, ethnicity, whether you are pregnant or other such details, certainly before you are engaged.
- You will be asked to confirm to give general information on clothes size in Art Dec Form 1. It can be important to know a general size for wardrobe purposes.
- You are asked if you are over 74 on Art Dec Form 2. This is for the purposes of insurance. Premiums for those over 74 are higher, although Equity's policy is that this should not be the case.

The Artist's Declaration Forms (ADFs)

- There are two ADFs, Stage 1 and Stage 2. Stage 1 should be filled in at the earlier stages of casting and Stage 2 when you have been engaged.
- You can download these here: https://www.equity.org.uk/media/2522/ipa_artists_declaration_form_part_1_final_18_may_2018.pdf AND https://www.equity.org.uk/media/2523/ipa_artists_declaration_form_part_2_final_18_may_2018.pdf
- Equity and the IPA have evolved these forms to comply with GDPR laws on protecting your personal data, but to enable the Artist to give essential information which can help you to get the job.
- On Form 1, Artists should give contact details, and an up-to-date and accurate record of advertising and promotional appearances, covering the last 3 years, and declaring the known territories and medium of usage.
- In turn, the Producer/Advertiser undertakes to give the artist all available details of the extent of the usage of any commercial when issuing the breakdown, and to provide a complete record of usage when making a payment. This is necessary in order that the Artist is able to make full disclosures when required to do so at any future commercial casting.
- **Please check that you are filling in the correct Equity IPA ADF and if not, ask for this to be provided, or contact Equity.**

Are Employers Allowed to make Media and Criminal Record Searches?

- Employers sometimes feel the need to make intrusive media searches on several potential candidates before engagement. We feel that the declarations on the ADF meet their need to protect their campaign, without resorting to intrusive searches, many of which are against GDPR laws. Please seek our advice if intrusive requests are made to you or about you.
- In signing the ADF, you are confirming your professional, medical and personal eligibility to represent the product concerned.

Data Protection

- Be aware of the protections surrounding your data. Your

data is **any** personal information that you share, this covers written information and also video and Self Tapes or recorded Zooms.

- See here for your rights on protecting your data <https://www.equity.org.uk/media/1445/gdpr-intro-for-members-may-18.pdf>
- If you are asked to provide data, you should also be provided with information such as; how the data will be used, who will see it, how long it will be kept, how it will be destroyed, your rights to access your own data.
- The ADF contains personal and sensitive information and should be destroyed as soon as it is no longer needed/at the time of transmission.
- It shall be the joint responsibility of the Producer and the Casting Director to ensure that the recording and any photograph(s) taken during the casting session are destroyed after first transmission of the commercial.

Auditions/Casting

Equity has produced, along with industry leaders, a guide to best practice on Self-Tape and Zoom auditions. Please see guidance here. <https://www.equity.org.uk/at-work/guides/code-of-best-practice-for-self-tape-and-zoom-auditions/>

First audition

This can be either in person or a self tape/Zoom audition. We encourage a wide use of self-tape or Zoom first auditions. This widens the pool of artists who can attend, as it can be costly and time-consuming to attend auditions in person.

- **Pay for first audition.** Artists are not paid to attend a first audition.
- **Travelling costs.** The IPA Equity documents says that Walk Ons and Background Artists **MUST** be paid for travelling expenses for a first audition. Ask your agent to flag this and invoice for travelling costs. Any artist can negotiate reasonable travel costs.

Recall audition

- All artists are due a recall fee for attending, to be negotiated but not less than £50.
- **Travelling costs.** All artists can negotiate reasonable travelling costs.

Safeguarding and Safe Spaces

- You should always feel safe, not at risk and comfortable with what you are being asked to do, at any stage of casting or shooting process.
- Please read all of Equity's guidance on vetting casting notices, safe spaces and other guidance on safeguarding. Please let us know if you feel uncomfortable or unsafe at any point, speak to your agent and the casting director.
- <https://www.equity.org.uk/at-work/guides/guidance-on-vetting-casting-notices/>
- <https://www.equity.org.uk/getting-involved/campaigns/safe-spaces/>
- You should not be asked to audition nude or semi nude at any stage of the casting process.
- You can complain anonymously or in name about a casting professional to the Casting Directors' Guild at: <https://www.thecdg.co.uk/complaints/>

PENCILS

- A 'pencil' (and hence 'pencilling-in') indicates the Featured Artist is one of a small number of candidates in the running for the engagement and can be placed on a Featured Artist at any stage during the casting process.
- This system can be misused or overused by a large number of artists being on a pencil, a pencil being cancelled with very short notice, so that the artist loses other work, and artists not being informed that they have been released from a pencil.
- **We advise artists to be fully aware of the Equity IPA clauses on Pencils below and to bring these to the attention of Agents/Casting Directors/Producers if they are not being implemented correctly.**

Full Pencil clauses from Equity IPA document below:

- 1.2. It is recognised that pencilling-in does not constitute a contractual obligation and does not bind either side. A pencil, therefore, does not prevent a Featured Artist from attending another casting session, and a Casting Director may not refuse an audition to a Featured Artist already pencilled-in by any Advertiser for any product.
- 1.3 In any event, pencilling-in shall not be used as a method of retaining a broad spectrum of potential candidates.
- 1.4 When pencilling-in a Featured Artist the Casting Director must be clear about the specific reason for the pencil.
- 1.5 The Advertiser, or the Casting Director on its behalf, shall at the outset endeavour to notify the pencilled Featured Artist how long it is anticipated that he/she will be on a pencil.
- 1.6 The Featured Artist, Agent or other representative shall notify the Advertiser in the event that the pencilled Featured Artist receives an offer for another engagement. Then, should the Advertiser wish to engage the Featured Artist (and the Featured Artist's dates allow) the Advertiser shall then either:
 - confirm whether or not the Advertiser would like to engage the Featured Artist, or:
 - agree with the Featured Artist, the Agent or other representative a minimum time within which the Advertiser will be able either to confirm the booking or release the Featured Artist to take the other job, or:
 - negotiate with the Featured Artist, the Agent or other representative to enable the Featured Artist to fulfil both/all engagements wherever practically possible.
- 1.7 In any event, should the Featured Artist decide to cancel a pencil, the Featured Artist, the Agent or other representative shall undertake to notify the Advertiser or its Casting Director immediately.
- 1.8 When the Advertiser has taken the decision not to confirm a pencil, they shall notify the Featured Artist, the Agent or other representative within 24 hours, so that the Featured Artist is free to take other work.
- 1.9 It is recognised as best practice that when a Featured Artist is required to attend a casting for a different product whilst pencilled-in by an Advertiser or Casting Director, the Featured Artist, the Agent or other representative shall inform them of this audition. However, attending this additional casting ses-

sion shall not prevent the Featured Artist from being available for, or securing the former, or any other, pencilled engagement.

Equality Commitment

- The parties to the IPA Equity document "will actively operate a policy of equal employment opportunities for Artists regardless of age, belief, caring responsibilities, class, colour, disability, ethnic or national origin, marital status, race, religion, sex, sexuality or other status or personal characteristic."
- The parties are committed to casting policies that are based on ability and the requirements of each particular role rather than on stereotypical views of suitability and to this end support non-traditional and integrated casting strategies.
- In order to enable the casting of Artists with disabilities, whether or not the part specifically calls for an Artist with a disability, the Advertiser will ensure that where disabled access is outside the Advertiser's control and is inadequate, the Advertiser shall use every practicable effort to facilitate an accessible venue.

THE ENGAGER AND YOUR CONTRACT

- You should ask for the IPA Equity Forms of Engagement to be used as a basis for your contract. At the very least, you should ask for the insertion of a paragraph at the start of the Form of Engagement to state that your contract is subject to the terms of the IPA Equity agreed document. This can then be legally enforceable and guarantees good minimum terms. You can find the Forms of Engagement here. Click Artist/Commercials <https://www.equity.org.uk/at-work/rates-agreements>
- The document states that Employer will be the Advertiser, unless stated to the contrary. The employer will engage the Artist and negotiate their fee. You should be told by the Casting Director who is the Employer.
- Equity is aware that many contracts are made with the Production Company, however, production companies may come and go and they receive their budget for a job from the Advertiser/client. Where possible we recommend that your contract is with the Advertiser rather than the Producer.
- Ensure that the contract is between you and the Employer and not your agent and the Employer.

Cancellation

- Once both parties have agreed terms, including fee, date and shooting arrangements, the contract should be valid and if the employer cancels after this point, you should be due your BSF. Contact Equity for further help on this.
- If the production is prevented by reason of any cause beyond the control of the Producer (Force Majeure) then the Advertiser/Producer may either cancel the engagement (in which event they shall pay to the Featured Artist all monies accrued to the date of such cancellation) or make other arrangements to fulfil the engagement.

Exclusivity clauses

- If you are required to restrict your employment in commercials, such requirement shall be the subject of a special stipulation in the Form of Engagement which shall specify:
- The period during which you are required to restrict his/her employment (the 'Exclusivity Period'), the extent to which you

are required to restrict your employment and the fee payable for the restriction.

- The Fee is negotiable and is in addition to BSF and Use Fees. The Fee should be paid within one month of the start of the exclusivity period. The Fee is not repayable.

Non Disclosure Agreements (NDAs)

These should be treated with caution. You should be careful to ensure you are only agreeing to a reasonable request to not disclose information on the brand and details of the campaign, and not signing away other rights. Read the full Equity guidance on this here: <https://www.equity.org.uk/media/6277/equity-nda-guidance.pdf>

USE FEES

- Use fees are due for the performance of a Featured Artist in a commercial. This is based on the principles: of recognizing their essential contribution to the importance and success of the commercial, and also in recognition of the fact that they will be recognizable and identifiable with the product, which will bar them from other work for up to 3 years from when the commercial is shown.
- Featured Artists include voice-over artists and stunt artists and they can include singers and dancers, depending on their role in the commercial.
- Walk on and Background Artists are not eligible for use fees, as they are not considered recognizable and will not lose other work as a consequence.

Types of Use fees

- Use fees can be as a licence for a specific period of time and/or under designated terms of transmission
- As a Transmission fee plus repeat fees based on TVRs.

Calculation of Use fee

- For TV broadcast, the Use Fees should be calculated based on the number of UK individuals (aged 4 and over) reported to have viewed the commercial transmission by the audience measurement service operated by the Broadcasters' Audience Research Board (BARB). Ultimately, these are measured as TVRs (TV Ratings).
- Usefee.tv is a website run by the PMA (Personal Managers' Association) and you should use the guidance and calculator on Usefee.tv to calculate your minimum rates. You can negotiate upwards as appropriate. <https://www.usefee.tv/>
- Therefore, you should receive the TVRs from the CD, Producer and you should input these into the Usefee calculator with your BSF to calculate minimum use fees. recommended in the IPA/Equity document.

Internet

- When the IPA/Equity document was first agreed in 2011, advertising on the internet was not as extensive or valuable as it has now become.
- To calculate minimum rates for internet usage for UK and internationally, use Usefee.tv. Currently, the internet minimum rate for the UK is based on 400% X BSF for one year for one website.
- Please see the summary of recommended fees here. <https://www.equity.org.uk/media/6036/equity-guide-to-tv-commercials-2019.pdf>

TIME OF PAYMENT

- **BSF or Shoot/Session Fee should be paid within 30 days.** The exact wording is that invoices received by the 15th of the month, be paid not later than the end of the same month and invoices received between the 15th and the end of the month, paid not later than the 15th of the month following.
- **Use Fees.** The Advertiser shall pay to the Featured Artist the appropriate Use Fees not later than the end of the second month following that in which a transmission of the commercial occurs, e.g. transmissions occurring in the month of January shall be payable by the 31st March. Use Fees shall be paid without an invoice necessarily being required.

Late payment

- You or your agent can start to levy late payment fees as soon as the payment becomes overdue.
- The IPA Equity document states that: "the Advertiser/Producer shall make an additional payment to the Featured Artist of 1 ½% compound of the sum outstanding for each month or part of a month by which payments of fees are delayed."
- You can also levy late payments under The Late Payment of Commercial Debts (Interest) Act 1998, you can read about this here. <https://lovetts.co.uk/debt-recovery-information/late-payment-law/>
- You may find this calculator helpful in reckoning payments under this legislation. https://www.contractorcalculator.co.uk/late_payment_calculator.aspx

WHEN THE COMMERCIAL IS BROADCAST

- When your first Use Fees are paid, the Advertiser/Producer should inform you of the date of the first use of the commercial.
- They should also let you know what the audience is, expressed as TVRs and/or equivalent counting mechanisms, the period of use covered, and all area(s)/channel(s) and other media platforms concerned when making use fee payments to the Featured Artist.
- The Advertiser should let you know (excluding Voice-Overs and Singers) in writing no later than 6 months from the date of the shoot whether or not the commercial will be used and also if your performance is cut entirely.

Continued airing of the commercial

- **No advertiser shall require either an automatic extension or an option to extend at the time of the original engagement.** If this is in your contract, inform the Employer of this clause in Equity/IPA document.
- If the Advertiser wishes to continue to transmit the commercial after the expiry of 3 years from first use, then a new BSF must be negotiated and a new contract issued to cover additional use.
- If it is intended to re-launch a commercial in any territory or on any platform, the Advertiser should write to you or your agent, your consent should be obtained where possible before the transmission date and any negotiations on conditions of usage agreed.

Secondary usage: editorial and PR, Artist's own use

- The commercial, frames (stills) taken from that commercial, or stills taken during the shooting of such commercials may be used for editorial and PR use; for Client, Agency or Production Company promotion; awards entries; and Agency and Production Company websites and showreels in perpetuity without any additional fees being due to the Featured Artist.
- Such use is expressly for promotional purposes only and shall exclude any transmission on any media platform, which shall be paid for as laid out in this Document. Both the Featured Artist's agreement and the restriction on this promotional use shall be in perpetuity.
- Once the commercial has begun transmission on any media platform, the Featured Artist has the right to use the commercial (and any images taken therefrom) on his/her showreel, website and/or Agent's website for promotional purposes only in perpetuity.

Unauthorised use

- All parties recognise the negative impact of unauthorised use of advertising material on any platform and therefore agree to share responsibility when such unauthorised use can be identified and to use their best endeavours to ensure that the material is removed as soon as possible.
- As soon as you become aware that the commercial is being used outside of the agreed contract and terms of use, you should obtain evidence of the usage, your agent or yourself should initially inform the Producer/Advertiser of this and request immediate negotiation on terms. If you have problems with this, please contact Equity Commercials.

STILLS

- You should receive your shooting fee and usage fees for stills, these can be as a standalone photographic shoot, as part of a mixed media campaign or a photograph used within a commercial.
- **Using a still photograph taken from a frame within the commercial.** The Producer/Advertiser has no right to use in paid-for advertising space, any still photographs from the commercial(s) without the specific consent and a negotiated fee of the Featured Artist.

INSURANCE

The Advertiser/Producer shall at its own expense insure Artists.

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