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The Pact-Bectu Agreement in 2021

Dear Spencer,

Thank you for your letter. I was planning to write to you in any event, as I mentioned in our *Outlander* discussion. We are at a crisis point with the Pact-Bectu Agreement and it is incumbent on both of our respective organisations to urgently review the current state of working terms in scripted TV and have a frank and constructive dialogue to resolve the issues we face.

Firstly, Pact and the producers would like to acknowledge that it has indeed been a difficult time for your members. The pandemic has brought uncertainty, as well as loss of income in many cases, as production was forced to more or less shut down for several months last year. The producers do understand this and acknowledge the impact it has had.

I think in the interests of balance, it should equally be acknowledged that many producers have worked very hard to furlough crew, even crew not working for them at the time of the first lockdown, soaking up additional and considerable administration costs in order to do so, as well as latterly incurring employer national insurance contributions and topping up holiday pay.

The pandemic has also created huge amounts of extra work, and extra risk for producers. And they are compensated for neither. In some cases, producers are being asked to put up 50% of production fee as risk money in case production is impacted by Covid. Not only are producers being asked to share in risk, they also have to spend a huge amount of time and money co-ordinating H&S protocols and procedures, and they are also struggling to get production insurance. The restart scheme comes with high premiums and does not cover all shutdown eventualities.

In short, these are tough times for everyone – producers and crew alike.

We do not expect the crew to be mindful of the financial impact of Covid on producers. But we would expect Bectu to acknowledge it and factor it into its thinking before sending a list of renegotiation terms that will have a further high financial impact on producers.

The current state of the agreement

So, where are we right now with the agreement we put in place in 2017. Four years on, are the terms we agreed working?

Firstly, a reality check. The majority of productions are still Band 1 and Band 2 – and they simply can no longer afford to operate under the terms of the 2017 agreement. Or can do so only where the agreement, and the spirit of the agreement, is properly adhered to. There are two reasons for this:

1. Rates inflation
2. Massive increases in overtime payments incurred as standard on a normal working day due to some crew consistently using the overtime provisions in a way they were not designed for

First, rates – these have been driven by the huge rise in power of the US streamers, in particular Netflix, in a way that had not been envisaged by either of us in 2017. This issue has been exacerbated because agreement on mutually agreed rate cards has not happened. We tried hard to negotiate rates, collating data and sharing it with you. The producers feel Bectu failed completely to engage with this process. As such, we now have no agreed rates, other than with lighting technicians. However, crew are now asking for rates at an increase of more than 30% on the rates paid 4 years ago. So, while PSB licence fees have remained static, for a crew of say, 120, this amounts to a weekly increase to producers of about £30,000 a week, or £120,000 a month.

And this is just assuming a standard working day is done. However, many departments now will only do less than the customary or standard amount of prep/wrap time and then do overtime on a daily basis to complete a standard day's work.

Let's step back to the original agreement. Your letter overlooks that the 2017 agreement was driven by a large number of 'gives' by independent producers. 'Gives' they were happy to make, even those producers specialising in Band 1 low budget comedies, even though they knew they would come at a cost. They wanted the crew to work shorter days and less days. They wanted to promote a better working atmosphere on set and happier crew.

So, a significant cap on 11 day fortnights was introduced which has now led to a 5 day week becoming the norm. And quite right too. Significant penalties for night work have been introduced. Camera overtime – overtime driven by the producer – is now paid at 1.5T. Penalties for extended travel and broken meal breaks were formalised. Penalties for broken turnaround are paid at 1.5T. Again, quite rightly.

All of those provisions – brought in to improve working terms and conditions – were based upon the idea that a standard working day should not incur overtime. It was agreed that each crew member's daily fee covered customary prep and wrap for each department, bespoke to the needs of that production. The whole agreement was based on this principle.

The agreement is also based on producers and HoDs talking to each other to ensure crew do not work excessively long hours. This means prep and wrap times are realistically estimated to cover the customary requirements of the production and if necessary crew can be staggered, or extra crew brought in on busier days.

Three issues have come out of how the agreement operates in practice.

Lower Band Productions

Band 1 and 2 shows make up the majority of UK indie TV production and are the backbone of our industry, providing a vital training ground across all departments. There is huge concern from the producers that these shows are increasingly becoming unsustainable due to rates inflation and being unable to compete with the high fees and enlarged departments that come with big-scale SVOD shows.

HoDs

HoDs benefit from the terms of the agreement but are meant to ensure it works to optimal effect. How is this possible when there is a clear conflict of interests? In practice many HoDs are not scheduling their departments in a way that will ensure work is done within contracted hours.

Time's Up/Prep and Wrap

Bectu's recent Time's Up campaign has both contradicted the basis on which the agreement was founded – undermining the significant concessions made by producers. It has also made it more likely that crew will work longer hours, not less.

You suggest crew working in Costume, Make-up, as ADs or in Locations should do prep and wrap of 30+30 regardless of the requirements of the production. It may be that 30+30 works perfectly well on some productions. But what if it takes say 45 minutes to get the actors through the chair and 15 minutes to clean up at the end of the day? It is normal is it not for make-up and costume to take longer in application and fitting than removal?

Your campaign promotes the following scenario:

Actor A takes 45 minutes to make up. Crew are paid 30 minutes overtime to do this.

Actor A takes 15 minutes to have make-up removed. Crew should stay for 30 minutes to perform this 15 minute task.

So, you are asking crew to come in earlier than their agreed time and stay longer than they need to. How does this reduce working hours?

Or perhaps you would expect crew to spend only 15 minutes in wrap in the above scenario. In which case they would have done exactly the contracted number of hours but would still be claiming overtime? Clearly this is an absurd position to be in, and is most certainly not what the agreement is meant to achieve.

The producers' preference would be for crew to work no more than their agreed hours – if someone has to come in early, they should leave early.

Solutions

There are possible solutions to both the main issues.

Rates – we need to urgently revisit the bands – and yes producers are willing to consider a fourth rates band, but this will need to go hand-in-hand with revised Bands 1, 2 and 3.

It will also need to co-exist with agreed rate cards with all departments, as there are with the lighting technicians.

Overtime/prep and wrap – producers are happy to look at this but if we are going to depart from customary prep and wrap then we need to revisit the agreement and look at each department individually, starting perhaps with those to whom Time's Up is aimed, given their working hours are most in danger of extending too long. We would like to see an end to the constant arguing over prep/wrap and all ideas are welcome.

We would also like to see HoDs fully embrace their contracted role and take responsibility for managing their departments to avoid working long hours. This needs urgent improvement.

Renegotiation/the Pact Guidance

The producers are absolutely clear that as things currently stand the guidance note needs to stay. We acknowledge that it is not ideal for Pact or Bectu to be issuing separate guidance on the agreement and producers would much rather the agreement was clear and followed fairly. But the Pact guidance on prep and wrap is necessary to ensure the spirit of the agreement is adhered to. The agreement is not there so someone can choose to stay 5 minutes late and charge an hour's overtime. That was not the point of the agreement and it is contributing to a fractious and unpleasant working atmosphere that benefits no-one. So, while Pact would be delighted to withdraw the guidance note, we cannot do so when the overtime provisions are abused by some crew in the way they are currently. In fact, without the guidance note we think the agreement would struggle to remain viable.

The producers also feel strongly that the language used by Bectu in recent communications – both on individual productions (*Outlander* was accused of "pulling a stunt") and generally – where producers are accused of exploiting crew, is offensive and totally unhelpful to producer-crew relations. There have been reports of crew behaving aggressively towards accounts and production staff. This is not acceptable under any circumstances, no matter how aggrieved an individual may feel.

There have also been numerous reports of crew who are perfectly happy to sign their deal memos or contracts, telling producers they have been instructed by Bectu not to sign contracts. Camera and sound departments are telling producers they have been told by Bectu they do not do prep and wrap anymore. Even if that prep and wrap is only being ready

to start work at unit call and packing up/making good at the end of a standard day, it is still part of the customary working day. It needs to be recorded as such in the contract, however it is described.

This background of concerted undermining of the agreement, inflammatory language and the stoking of crew unrest is not a platform from which to renegotiate terms.

Next steps

Looking forward, the producers would like to meet as soon as possible with Costume, Make-up, Locations and ADs individually to find a way to do away with the guidance note, to limit working hours and agree rates. This would then be followed by meeting, at a second stage, with reps of all departments to discuss a revising of bands and the other renegotiation terms.

We hope that the appropriate conditions can exist in order for this to happen.

Finally, we want to make clear that many crew are working happily and fairly under the terms of the agreement. It is not all crew by any means that use the agreement as a way to charge overtime on a daily basis. But it is a sizeable number and, coupled with the campaign to reduce customary prep and wrap, and the atmosphere of confrontation that now accompanies so many deal memo negotiations, it is threatening the existence of the agreement. We do not want to see the agreement fail.

Yours sincerely

Conrad Mewton