

# CHAIRMAN'S REPORT - SAGA AGM 2024

Friends, welcome to SAGA's Annual General Meeting for the year from June 2023 to May 2024. This is an election year for SAGA, which means all your Executive Committee members have served their two-year term since receiving your mandate in 2022. While we are encouraged by the willingness of our team of volunteers to continue to serve on EXCO, we are saddened by the decision of our colleague, Kim Cloete to step down.

Kim, we thank you for your generosity, sacrifice, and willingness to share your wealth of industry expertise. I truly appreciate the dedicated efforts of all our EXCO members, and I extend a special note of thanks to Diakanyo our administrator, for her tireless and exemplary work in carrying our guild's administrative burden.

Over the past year, SAGA has solidified its presence as a leading voice at industry events, with national and provincial government stakeholders, and in the news media. We have earned our place as the country's most consistent and uncompromising advocate for actors' rights.

In the past year, SAGA has initiated new projects and conversations, and we have made steady progress in on-going conversations that can only yield results with persistent activism over time. We are here today to report to you, our members on all these activities.

## **SAGA MEMBERSHIP SYSTEM**

We are delighted to report that SAGA has developed its own membership database management system and debit order collections. We had previously entrusted these administrative tasks to UASA, and we found that cloud-based technology made it far more cost effective to develop our own system that could be tailor-made to suit our unique requirements and budget.

The termination of our UASA membership became effective on 31 October 2023, and we are pleased to report that with only a handful of glitches which were speedily resolved, our debit order collections have had a smooth transition over to the new system.

SAGA embarked on a massive communications drive to direct our members to the new payment system, and to explain why this was necessary. We are aware that there are members who have not yet signed on to the new system, so the communications drive is an ongoing task.

## **COMPETITION COMMISSION**

In October 2022, SAGA and The PMA made a joint application to the Competition Commission for an exemption from prosecution for the setting of minimum rate guidelines for performers. This was necessary, because any organisation that unilaterally sets rates of pay or contract conditions can be in violation of Competition Laws and can be held liable on statutory charges of price-fixing and collusion.

Creative industries around the world are technically exempt from such charges because the process by which they establish these minimum rates is through collective bargaining. In South Africa, freelancers are currently denied collective bargaining rights, so any organisation that attempts to benchmark earning rates or contract terms can be reported to the CompCom.

As is required by law, once we had made our application for exemption, the CompCom invited industry stakeholders' comments on our submission. Based on these inputs, SAGA and The PMA were invited to the Competition Commission to clarify certain questions that arose. Our meeting was held on 13 February 2024, and we again impressed upon them the urgent need for an exemption, and why it was necessary in our unregulated sector.

## **CAB/PPAB**

After all SAGA's activism regarding actors' royalty rights and the importance of the Copyright Amendment Bill (CAB) and Performers' Protection Amendment Bill (PPAB), we were delighted that the National Assembly signed the bills on 29 February 2024. This means that the bills can be sent to the President for his signature, thereby granting actors a statutory right to earn a residual income for our work in audio-visual media.

However, on 16 March 2024 the opponents to the bills, organised under the banner of the Copyright Coalition, met with the ANC's Secretary General and demanded that the bills not be signed. The Secretary General gave them the assurance that he would persuade the President not to sign the bills.

It is apparent that the ANC members serving on the committees that passed the bills have been vetoed by the very party that deployed them. Moreover, President Ramaphosa's mandate as State President, which is bestowed by Parliament, could be in direct conflict with his mandate as President of the ANC.

As things stand, we see no prospect of success for the bills. For seven years, SAGA applied itself to every stakeholder engagement, made written and oral submissions at enormous expense and sacrifice, essentially for nothing. The Parliamentary process has been subverted, stakeholder engagements have proven to be a farce, and we will probably never see a statutory royalty right in our lifetimes. (SIDE NOTE).

## **SECTORAL DETERMINATION**

Since February 2020, the Department of Employment and Labour (DEL) has been engaging directly with industry organisations in investigating a viable mechanism for industry regulation. The DEL has ensured that every meeting since 2020 has been transparent, accurately minuted, and inclusive of all viewpoints, even entertaining views that reject industry regulation altogether.

Based on all the inputs received, the DEL has indicated that the most favourable mechanism for regulation lies with a Sectoral Determination that permits collective bargaining rights for freelancers. The last industry engagement with DEL was on 1 March 2024, and again the Dept. invited all industry organisations to participate in drafting a Sectoral Determination that speaks to their unique needs and challenges.

SAGA was the first organisation to submit a draft, and our document included provisions for, amongst other things, safe and healthy working conditions, protection from sexual harassment, an accessible dispute resolution mechanism, and a process for inclusive collective bargaining

that allows us to periodically negotiate minimum contract terms and rates of pay.

One of the foundational aspects of our submission is that actors maintain our status as freelancers, and it is only for the purposes of certain provisions of Labour Laws that we will be deemed to be employees. For example, we will need to be deemed 'employees' under the Labour Relations Act in order for us to exercise collective bargaining rights.

### **INSURER MEETING: PROTECTING INDUSTRY STANDARDS**

SAGA has received numerous reports that producers are cutting costs on production budgets by subverting standard industry practices and engaging unqualified personnel in key areas that demand professional expertise. These key areas include pyrotechnicians, Special Effects crew, Health and Safety Officers, Armourers, and Stunt professionals.

As a consequence of hiring personnel who are unqualified, inexperienced, unregistered or unaccredited in these key areas, productions are putting lives at risk, and SAGA has received reports of actors, background actors, and crew being injured on set under circumstances that could have been foreseen and avoided altogether.

Working in an unregulated industry means that producers are not compelled under any law to comply with professional standards. It means that nobody has a right to question the producer's hiring policies, and producers have no obligation to reveal whether or not the personnel they engage have the competence to handle prop firearms, explosives or to coordinate dangerous stunts or fight scenes.

With this as context, SAGA convened a meeting on 25 March 2024 with Special Effects crew, Armourers, Stunt professionals, Health and Safety consultants, the JMPD, SAPS, and production insurers. SAGA may not have a right to question a producer on who they hire, but insurers do have that right as a condition of underwriting the production insurance.

Insurers were advised that many of the key areas in question are regulated by statute. So it is the insurer's obligation to be more proactive in their due diligence and to ensure that producers have acquired the correct permits, risk assessments, and duly accredited professionals to mitigate risks in the production environment.

SAGA wants to ensure that insurers are asking the right questions before policies are signed off. Our meeting has generated keen interest among underwriters, and SAGA was invited to present our views at a meeting of production insurance brokers in KZN on 30 April 2024.

## **WIPO – DISCUSSION ON AI**

The World Intellectual Property Organization (WIPO) is an agency of the United Nations with 193 member states. It is a global forum for intellectual property policy, information and international cooperation. WIPO's Standing Committee on Copyright and Related Rights (SCCR) convened a discussion on Generative Artificial Intelligence, and its impact on producers, performers, and content creators. As a member of FIA, SAGA was invited to participate in the panel discussion held at WIPO offices in Geneva on 18 April 2024, and to present our views on behalf of actors around the world.

SAGA was the only actors' organisation representing FIA on this panel, so this was a tremendous honour. Our presentation focused on the potential loss of income to actors, and the erosion of our moral and economic rights as generative AI becomes more adept at substituting real actors with their synthetic clones, and even worse, with entirely synthetic performers.

South African performers are at greater risk of losing our economic and moral rights to generative AI, as we remain an unregulated sector. We have no mechanism to implement the regulatory policies proposed by SAG-Aftra, the US actors' union, and other unions, which would mitigate potential losses to their members.

It came as something of a surprise when it was recently reported that our Department of Communications wishes to introduce regulations on the adoption of AI. South Africa is one of the 193 member states of WIPO, but our government failed to attend the meeting of the SCCR in Geneva last month.

SAGA will be reaching out to the Dept. to insist that we are represented on the advisory board being constituted by the Minister of Communications. We have posted our full WIPO presentation on our website.

Thank you.

SAGA Chairman – 7 May 2024