

CONCISE REVIEW OF RELIEF MEASURES ACCESSIBLE TO PERFORMERS IN THE AUDIOVISUAL SECTOR DURING THE COVID-19 CRISIS (BASED ON A FIA MEMBERSHIP SURVEY)

With many countries investing billions to rescue their struggling economies in the midst of the Covid-19 lockout, FIA has surveyed its membership to get a better understanding of the extent to which responsive measures targeting our sector, existing employment regulations and/or adaptations of the same, have also proven beneficial to performers.

The compilation below is a first indicative outline of the situation, based on the responses received from a limited number of FIA affiliates. It is by no means exhaustive and it is also necessarily limited by the fact that some questions could not fully encompass the diversity of national systems and legal frameworks. In addition, some of the responses, or lack thereof, may have been superseded in a rapidly changing environment. It is worth mentioning that in a number of countries where collective management organizations are entrusted with the collection and distribution of IP revenues, these have generally undertaken to pay performers an advance, deducted from future remunerations to which they may be entitled, or else speed up the distribution of those revenues in order to provide them with immediate liquidities. As these measures tend to be similar in nature, they have not been expressly included each time in our outline below. Also worth noting is the fact that, with respect to member countries of the Council of Europe, the European Audiovisual Observatory provides an [extensive and updated track list of all measures in support of the audiovisual industry](#), some of which are also of immediate relevance to performers.

Where new measures are taken as the crisis unravels around the world, additional information could be warranted, as could amendments to the information gathered up until now. However, FIA has decided to start focusing on post Covid-19 strategies instead, i.e. for when confinement measures will be gradually lifted and work will resume, rather than seek to undertake a more exhaustive and time-consuming compilation.

There is growing awareness, in fact, that as deconfinement nears, special measures – tailored to the needs and specificities of each industrial sector - will be necessary to guarantee the safety of all workers, including all those in the arts and entertainment sector. Until a vaccine is found and made globally available, our societies will have to learn to live with Covid-19, but special risk-prevention protocols and guidelines will be essential to avoid another outbreak and shield those working in a collective environment from any potential exposure to the virus.

Despite its shortcomings, the summary below clearly shows that performers have, overall, derived limited, although not always negligible, support to help them make it through the crisis and overcome a temporary lack of income. Unsurprisingly, this support has often been more substantial for performers in employment than for those working as independent contractors. The recovery of the arts and entertainment sector will be a lengthy process. Accordingly, it will be essential to make sure that these measures, and all those that may follow, are phased out progressively and in a

balanced way over an agreed period of time while the sector recovers, once the peak of the pandemic is finally behind us.

Measuring the magnitude of the Covid-19 impact among the performer community

Not surprisingly, with countries preventing small to large gatherings of people and temporarily suspending all economic activities, with few exceptions, the entire arts and entertainment sector has come to an abrupt stop. This has affected, among others, theatrical and live shows of all kinds including circus, festivals, audiovisual production and cinema exhibitions, dance and drama schools, arts educational programs, etc.

As a result, all performers professionally engaged at the outbreak of the crisis have had to stop working. Those who were cast for a next project have suddenly lost the perspective of an additional and much needed source of income.

It is hard to quantify how many have been affected and numbers, depending on the size of the industry in each country, range from a few thousand (e.g. South Africa or New Zealand) to numbers in excess of 100.000 (e.g. in the USA or in Mexico). Although the information received is very limited, it is legitimate to extrapolate from these figures to claim, conservatively, that at least half to one million performers around the world (not including musicians) may have lost their jobs, at least temporarily, and suffered revenue losses directly due to the Covid-19 crisis and the confinement measures taken by most countries to contain the spread of this global pandemic.

Benefits from public/private relief mechanisms

In **France**, AUDIENS (the social welfare group for media, entertainment and news workers) administers two special funds: one, pre-existing the crisis but recently endowed with an extra 800.000 Euros, delivers grants up to 500 euros per capita. Since the beginning of the crisis, it has received more than 3.000 individual applications, more than half of which were filed by performers. The other fund sponsored by Netflix (1 million Euros) is exclusively intended for performers and technicians in the audiovisual sector. Additional grants are administered by ADAMI, the audiovisual performer CMO, through a previously existing fund, recently increased by 300.000 Euros. This fund provides financial assistance to the neediest performers. ADAMI has also decided to distribute 8,5 million Euros to performers, as an exceptional assistance measure. The French Ministry of Culture has promised 8 million Euros to help the performing arts private sector and pledged to honor all agreed grants to the public arts sector. Although these grants are meant for employers, the understanding is that the latter must not lay workers off (including performers).

In **Germany**, there appear to be several support mechanisms that performers can benefit from, which vary to a large extent depending on the public entity administering them (state, federal state or municipality). Some include payments for

living expenses, others only for operating costs which are however of little benefit for self-employed performers. Financial support can either take the form of a grant or a loan and it is sometimes possible to combine mechanisms at different levels. Several benevolent funds are administered by civil society organizations and financed through donations (e.g. FIA affiliate GDBA managed to collect 50.000 Euro for performers in need).

The **South African** government has pledged 150 million Rand for relief grants to performers who have submitted claims for cancelled work. FIA's affiliate in the country, however, fears that the funding may ultimately be handed out by the Minister of Sports, Arts and Culture exclusively to his "network" of performers (i.e. performers with political ties) and be diverted from its original intentions. BASA (Business Arts South Africa) has reportedly a fund to assist individuals who have had work cancelled due to the Covid-19 lockdown measures.

The **New Zealand** government has provided a 12-week wage subsidy of \$585.80 per week for employees and for independent contractors who work over 20 hours per week. For workers who work less than 20 hours a week the subsidy is \$350 per week for 12 weeks. This is paid as a lump sum to businesses or self-employed contractors.

MEAA in **Australia** reports that several Actors' Benevolent Funds run in each state, separately to the union. An Actors' Benevolent Fund also exists in the **UK**. As a charitable organization, it supports actors and stage managers who are experiencing hardship due to injury, illness or old age and is financed through donations. Other benevolent funds in the country include the Royal Theatrical Fund, the Equity Charitable Trust or the Covid-19 Emergency relief Fund, administered by the Film and TV Charity and providing one-off financial support to film and TV workers facing immediate hardship as a result of the pandemic.

The **UK** government has announced a package intended to support the self-employed (including performers) through the Covid-19 shutdown. Support comes in the form of a grant worth 80% of their average monthly profits over the last three years, up to 2.500 GBP/month. Eligible people need to have filed a 2018-2019 tax return. They must have earned less than 50.000 GBP a year and derived at least half of their income from self-employed work.

The **Polish** government has committed extra funds to support the live performance and audiovisual industry. It is not yet clear how much this will ultimately benefit performers individually. At present, actors can apply for scholarships for online activities and social assistance, although it is barely enough for all performers in Poland and hardly sufficient to make ends meet.

In the **USA** there are several private funds granting compensation. The SAG-AFTRA foundation, along with the Motion Picture Players Welfare Fund, has created the Covid-19 Disaster Fund. Members can apply via the foundation if they are in urgent financial distress due to Covid-19. Netflix has also donated money, but it is not yet clear at the moment where and who can apply. The Foundation for Contemporary Arts is providing funds for freelancers that have suffered financial losses. Additional financial assistance comes from the Actor Fund and the TV fund. The Casting Agencies Directory has created a donate page to provide direct payments (via

Paypal) to entertainment industry professionals financially impacted by COVID-19, including actors, models and production crew. SAG-AFTRA has undertaken to send out residual checks to members on a weekly basis during the crisis. SAG-AFTRA members who are in a position to pay their dues in full are urged to do so upon receipt of their May semi-annual dues bill. Members experiencing financial hardship resulting from work stoppages related to COVID-19 are granted a due date extension and an installment plan for those payments. As part of that relief, no late fees are assessed and there is no adverse impact on members' work eligibility during this time.

Also in the USA, the Cares Act provides for state, local and tribal governments navigating the impact of Covid-19. It provides direct cash payments for people who do not usually qualify in the unemployment system if they have been infected with COVID-19 or they take care of somebody in their households infected with COVID-19. It also expands access to unemployment benefits to help arts and entertainment workers who have accepted an offer of employment but had their show postponed, along with those working who had productions shutdown.

In **Ireland**, a special payment of €350 per week goes to any PAYE worker who was employed at March 13th and became unemployed as a consequence of the cessation of production due to Covid-19. Workers in the film and television industry, including those on work permits, can claim these benefits. If a worker has one adult and one or more dependent children, or 4 children, they can claim a Jobseeker's Payment instead of the COVID-19 Pandemic Payment. This is because there is an additional allowance for adult dependent and child dependents, which will bring the weekly payment to in excess of the €350 weekly payment due under the emergency COVID-19 Pandemic Unemployment Payment described above. Self Employed Workers who pay themselves as PAYE workers through their company payroll can apply for the Temporary COVID-19 Wage Subsidy Scheme from the Revenue Commissioners. If they don't pay themselves as a PAYE worker then they can claim the emergency COVID-19 Pandemic Unemployment Payment. A person may, if their trading income has collapsed to the extent that they are available to take up other full-time employment if it was offered to them, receive a payment of €350 per week for so long as they are available to take up other work. This is equal to the standard jobseeker rate for a two-adult household. This payment can increase if a person has a number of child dependents. People required to self-isolate may also apply for a special payment of €350 a week for 2 consecutive weeks.

In English-speaking **Canada**, "Canada Performs" is a \$700,000 short-term relief fund managed by the National Arts Centre that will pay professional Canadian artists for their online performances. The Actors' Fund of Canada (AFC) is providing short-term emergency financial assistance to make sure basic needs are met for 2-3 weeks. Other funds are available (depending on the performer's community) through: Canada Performs (National Arts Centre), Canadian Artist + Musician Relief Fund, COVID-19 Black Emergency Support Fund or the Emergency Survival Fund for LGBTQ artists, performers and tip-based workers.

In **Denmark**, a number of support schemes for theatres and audiovisual producers have been established – all requesting as a precondition that employers must fulfill

the contracts with the artists. Two specific schemes for performers have also been set up, including grants to the benefit of independent contractors.

Protection of performers from redundancy during the crisis

In **France**, performers are protected when employed full-time. However, things are different for all those, a majority, working on a short-term basis and it is often the case that those employing them will seek to terminate their contracts and make them redundant. Seemingly, in **Germany**, workers in public theatres will typically retain their employment status although theatres may opt for short-time work arrangements, i.e. a temporary reduction in working time or a temporary layoff intended to maintain an existing employment relationship. In such cases, compensation is paid by the unemployment office through the employer (60% of the net wages without kids or 67% with kids), who may then decide top it up with a view to minimizing revenue losses for the workers. In other countries, like in **Australia**, employers can easily make employed performers redundant, and have stood many of them down without pay. In **Denmark**, performers are protected against redundancy mostly through the collective bargaining agreements covering their line of work.

No other forms of employment protection have been reported by FIA affiliates filling in the survey, also due to the independent contractor status of performers in many of those countries, which bars them from most employment law protections. This is for instance the case in **Turkey**, where actors are predominantly self-employed and do not benefit from employment protection, or are not entitled to financial assistance from the public theatres hiring them – as opposed to other workers employed by the same.

Mechanisms to help retain performers in employment and facilitate the payment of employers' contributions

In **France**, a short-time work mechanism enables performers (and all other employed workers) to receive 70% of their gross salary (84% of their net) from their employer, who can then be refunded by the State. However, many small companies claim that they cannot activate this mechanism, as they do not have enough liquid assets and cannot afford to wait for State reimbursement, which may take several weeks. An additional problem is the impact of these short-time arrangements on a performer's contribution (hours and money) to the public unemployment insurance. As contributions would inevitably decrease in size, many performers may not be able to build enough entitlements to claim unemployment benefits. Finally, some mechanisms appear to exist to delay or spread out the payment of social contributions by employers.

The **Australian** federal government introduced a support package with a new job-keeper payment to help keep people in work. It pays eligible employees (permanent as of 1 March 2020) a payment of \$1500 per fortnight via their employer (an eligible employer must have suffered a revenue downturn of 30% and turnover of less than \$50 million). However, this measure will in practice exclude the majority of the performer community, on a short-term contract, as these are not eligible. Public

sector employers are also excluded. Independent contractors are eligible, under certain conditions, but this is a minority of the performer community.

A special Covid-19 Wage Subsidy scheme has been developed in **New Zealand** to help businesses and affected workers in the short-term. Although it intends to help businesses keep people employed, only one theater in the country has continued the employment of actors during the Covid-19 lockdown period. Subsidy rates are described above. Eligible businesses must retain employees for at least the duration of the grant (12 weeks) and pay them at least 80% of their normal salary where reasonably possible. Employers must pass the full amount received onto the employee.

In **Poland**, the Guaranteed Employee Benefits Fund enables employers to apply for funding to contribute to the remuneration of employees affected by reduced working time, as a result of Covid-19. The Polish Social Insurance Institution offers a three-month postponement of all social insurance contributions due from February to May 2020 included to all self-employed and microenterprises (those hiring under 10 workers) whose revenues have dropped by more than 50% due to the crisis, upon demand. This is to help them address immediate liquidity problems. However, there is skepticism about this measure, as not all companies may be able to meet their accumulated social insurance liabilities at the end of this postponement.

In the **USA**, the Cares Act includes a Small Business Provision, making small business eligible for emergency grants to maintain payroll, provide sick leave etc.

In **Ireland**, the Temporary Wage Subsidy Scheme is designed to encourage companies to keep PAYE workers on the payroll. To qualify for this the worker concerned must be earning less than €960 net per week and must have been on the payroll on March 13th. The Government support offers a maximum of 85% of weekly net pay up to a maximum payment of €410 per week. The subsidy is applied for and paid through the employer. It is now clarified that Film/TV production companies are covered by this scheme and can apply for it if they so wish. The take up of this scheme in the arts and entertainment industry has been rather limited. In Ireland, the temporary wage subsidy scheme is designed to encourage companies to keep workers on the payroll but employers and employee deductions are not allowed - this will retrospectively be dealt with by an adjustment of tax credits in 2021.

Facilitated access to unemployment benefits

In **France**, freelance performers (i.e. not permanently employed) have to clock in 507 hours of work within a 12 months period (this is referred to as "reference period") to access unemployment benefits. The government has decided to "freeze" the confinement period, which will be excluded from the reference period. A performer might be therefore able in the future to clock in 507 hours in a longer period of time (i.e. the reference period + the length of the confinement). Unemployment benefits will continue to be paid to those whose 12-month entitlement will lapse during the confinement period.

In **Germany**, workers with no entitlement to regular unemployment benefits (e.g. those who have not been hired under a labor contract or those still unemployed when their social benefit entitlement runs out) can still apply for basic financial support if they pass a “poverty test”. This test has however been suspended for the length of the crisis. In **Australia**, Centrelink unemployment benefits have been increased to about \$1200 a fortnight and asset tests have been waived. However, this measure was not extended to liquid assets, meaning that many performers could still be ineligible. In **New Zealand**, the government has agreed to remove the two-week stand down period for beneficiaries seeking support from Work and Income amid the Covid-19 outbreak. This period is where benefit seekers cannot get money from the Government for about one to two weeks after their application has been approved. This means that once the 12 weeks for independent contractors who have accessed the wage subsidy has passed, they will be able to transition to the job-seeker support benefit (unemployment benefit) immediately.

In the **USA**, SAG-AFTRA has and continues to provide webinars about unemployment benefits and tax returns. Members get help to apply for unemployment and deal with the paperwork. In the Cares Act, the unemployment benefits have been increased by \$600/week until end of July, 2020. Eligibility to this compensation has been extended by 13 weeks beyond the current limit during the crisis. The Cares Act also provides individuals who are not eligible for state and federal unemployment programs – such as part-time employees, independent contractors and own account workers - but that would be able to work in the absence of the coronavirus outbreak a set amount of unemployment compensation. Importantly, the provision excludes those employees who are able to telework with pay or receive some form of sick leave or other paid-leave benefits. Most states in the USA have a statutory one-week “waiting period” for people to receive unemployment benefits. Under the CARES Act, states that waive the one-week waiting period will be fully reimbursed by the federal government for that week of benefits paid out to workers plus the administrative expenses necessary for processing those payments.

In **Ireland**, credit stamp contributions will ensure that people do not lose their entitlements to a full pension, due to the pandemic and the ensuing work stoppage, as they reach retirement age.

In **Canada**, the Government has introduced other financial assistance programs aimed at workers not covered by unemployment benefits.

In many other countries, performers simply do not have access to unemployment benefits, as they are not employed under a labor contract and do not work long enough anyway to build enough entitlements. This is the case, for instance, in **Turkey** where actors are self-employed and where unemployment benefits are only available to workers with at least 600 days of employment in three years.

Specific support for independent contractors re: payment of National Insurance (NI) /Social Security contributions

In **Germany**, the artists' social insurance scheme (KSK) for self-employed artists has lowered the contributions they have to pay during the Covid-19 crisis. Performers in **Mexico** are not defined as workers by social security regulations and must therefore contribute voluntarily to get health insurance. No specific measure appears to have been taken to help them pay their premiums during the Covid-19 crisis.

Temporary contractual arrangements to provide minimum pay to the cast in Covid-19 struck productions

No such arrangements in **France** have occurred but the union has closely monitored abusive practices and has taken action whenever possible. One such case was when the Disneyland theme park in Paris laid-off hundreds of employed workers (performers and technicians) claiming “force majeure” in the early days of the Covid-19 lockdown measures. As the company had enough assets, the SFA successfully pressured management to opt for short-time work arrangements and reinstate all workers instead. In **Germany**, GDBA has negotiated salary top-ups for workers with short-time employment arrangements, with a view to guaranteeing 90 to 95% of their net wages. In **South Africa**, producers have been negotiating with broadcasters to ensure minimum financial continuity for TV Series on hold during their shoot. Some producers have however invoked the force majeure clause, which is a no pay-no play provision. Temporary arrangements for performers in **Australia** vary greatly from a few weeks' pay to retainer payments. As to **New Zealand**, in the one case where the theatre performers are continuing their employment during the lock-down period they will be re-deployed to create recorded material of their live performances and will be paid a one-off extra payment for this work. In the **USA**, SAG-AFTRA already had existing language addressing Force Majeure in the collective agreements. The union has ongoing discussions and talks with employers with a view to putting these provisions in the context of the Covid-19 crisis. In English-speaking **Canada**, “Extraordinary circumstances” requests regarding COVID-19 struck productions are reviewed under the appropriate ACTRA collective agreement (e.g. ACTRA's Independent Production or National Commercial Agreements). ACTRA has also provided a COVID-19 Relief Initiative Guideline to cover theatre productions which move into a streaming format. In **Denmark**, collective bargaining agreements provide for minimum pays to all actors, where productions are interrupted or stopped for reasons beyond their control.

Taxation and other facilitating measures

Employers in **France** managed to get a deferral of tax payments and NI contributions during the crisis. Similar postponements have also been reported in South Africa with respect to employed workers. Various forms of tax return deferrals have also been reported in **Germany** and in Poland (as described earlier). In the USA, the federal government has extended tax returns and rolled out tax credits (i.e. a one-time tax credit, in the form of a direct payment of \$1,200 (\$2,400 for those filing jointly) and \$500 per dependent child under 17 to all individuals. This benefit begins to phase out at \$75,000 (\$150,000 for those filing jointly). Those making \$99,000 (\$198,000 for those filing jointly) or more may not receive a rebate, even if they have dependent children. In **Colombia**, the deadline for submitting income statements has been

postponed to June 2020. Tax refunds have been anticipated for all those who have balances in their favour. In **Ireland**, no deduction will be taken from the Covid-19 payments, pension entitlements will be preserved by a credit contribution and tax deductions will be dealt with by tax adjustment throughout 2021. In Canada, the Government has introduced several measures to help with taxation including: - Deferral of filing of tax payments until June 1, 2020, with tax balances (or installments) being deferred until after August 31, 2020 without incurring interest or penalties; a one-time payment through the Goods and Services tax credit began as of April 9, 2020 for low- and modest-income families, with up to \$400 for single individuals and close to \$600 for couples. In the **USA**, tax payments have been extended until July 15, 2020. In **Turkey**, the government has granted deferred tax payments for three months to the film and TV sector.

Other forms of support

In **South Africa**, the general population can apply to their relevant banks for some debt relief to be deferred or some relief to penalties, however this is not specific to performers. In Australia, banks are offering mortgage freezes. In **New Zealand**, banks have announced mortgage holidays and the New Zealand government has enacted legislation with new protections for people who are renting their homes: they cannot be evicted for non-payment of rent for 60 days and a rent freeze is in place preventing landlords from increasing home rental costs. The government has doubled the Winter Energy Payment to \$1400 for couples and \$900 for single households for low-income families and those receiving a welfare benefit. In the **USA**, small businesses will be eligible for loans on a more favorable basis than normal loans. Loan proceeds used to keep employees on payroll and pay mortgage/rent mortgage and utilities will be forgiven. All student loan and interest payments can be deferred through September 30, 2020 without penalty for federally owned student loans only. All of the above is part of the cares Act.

In **Colombia**, banks are offering various forms of short-term, interest free credit and show more leniency towards people who cannot pay back their loan instalments during the crisis. Credit card monthly repayments are often deferred to May or June. In Ireland, banks give 3 months break from mortgages and loans. Rents are also frozen for 3 months. In Ireland, the arts funding bodies will continue to allow funding to be used for wages/fees to the end of the contracts. Also, the Government paid 1 million Euro for the online / remote creation of artistic work and funded theatre (mainly the Abbey) is doing a paid out reach to 50 writers/performers.

In **Canada**, the Government has introduced several measures to help during this time of crisis, including: the Canada Emergency Response Benefit (CERB) which is providing \$500 per week (\$2,000/month) for a maximum of 16 weeks to workers who have stopped working due to COVID-19, and earned a minimum of \$5,000 (before taxes) in income over the last 12 months or in 2019. Eligible workers will be allowed to collect the CERB even if they still have some earnings, as long as their monthly income does not surpass \$1,000. As well, artists receiving royalty payments from prior copyrighted works are also eligible. Canada Child Benefit (CCB) is providing up to an extra \$330 per child and will be delivered in May. - Mortgage deferral through Canadian banks on a case-by-case basis, permits lenders to defer up to six monthly

mortgage payments. \$50 million have been provided to women's shelters and sexual assault centers. \$7.5 million have been provided to Kids Help Phone to provide young people with the mental health support. The Government of Canada launched a new portal dedicated to mental wellness. It will also supply information and help address mental health and substance use issues. Student loan repayments and interests have been suspended until September 30, 2020. Some banks are cutting interest rates on credit cards and deferring minimum payments on a case-by-case basis.