

Association of National Advertisers, Inc.

708 Third Avenue
New York, NY 10017
Phone: 212-697-5950
Fax: 212-867-6689



American Association of Advertising Agencies

1065 Avenue of the Americas
New York, NY 10018
Phone: 212-682-2500
Fax: 212-682-8391

c/o Douglas J. Wood, Esq.
Reed Smith LLP
599 Lexington Avenue
New York, NY 10022

To: All JPC Authorizers and 2013 SAG-AFTRA Commercials Contract Signatories

From: Douglas J. Wood and Stacy K. Marcus

Re: **JPC & SAG-AFTRA INTERPRETIVE DISAGREEMENTS
2013 SAG-AFTRA COMMERCIALS CONTRACTS**

Date: August 6, 2013

As you may be aware, SAG-AFTRA (the "Union") recently conducted a webinar directed to 2013 Commercials Contracts signatories, casting directors and payroll companies. Based upon the JPC's review of the PowerPoint presented during the webinar and feedback received from industry participants there are several areas where the JPC disagrees with the Union's interpretation of the 2013 Commercials Contracts. The issues are outlined below. The JPC and the Union are working together to resolve these issues.

Please notify the JPC in the event that you receive a claim from the Union on any of the issues outlined below by emailing Stacy Marcus at smarcus@reedsmith.com.

1. Crediting of Session Fee for Made Fors – It is the JPC's position that producers may credit the session fee for Made Fors in the *initial use cycle*. A prior bulletin issued jointly by the Union and the JPC supports the JPC's position, as well draft contract language that has been in place since 2011 and upon which the Union and the JPC agreed to base the 2013 negotiations. Notwithstanding the foregoing, the Union has taken the position that the session fee may only be credited, "provided that first use occurs and is paid within the first 13-weeks from the date of the session."
2. 2nd Mechanical Lift – It is the JPC's position that the revision to Section 26.A. now permits a producer to use mechanical lifts to create two shorter or longer versions of an original commercial, and that both of these newly created versions may be the same length. The JPC's position is supported by prior conversations between Union representatives and the JPC, as well as the 2013 memorandum of agreement ("MOA"). Notwithstanding the foregoing, the Union has taken the position that a producer "cannot have two versions of the same length" (e.g., two :15's are not allowed under Section 26.A.).
3. Experimental Made For Waiver – Retroactive Payments – It is our understanding that the Union provided the following information during the webinar:
 - Once any Made-Fors produced under this waiver are exhibited anywhere other than Internet or New Media, you must then pay Principals the applicable Move-

Over/use payments, but also make a retroactive Internet payment for the time it was on the Internet under the Waiver.

The concepts put forth by the Union with respect to retroactive payments are not supported by any of the bargaining history. Further, the language of the waiver contained in the MOA is very clear, very thorough, and requires only that if a commercial produced under the waiver is moved back to television a producer must pay the principals appearing in the moved over commercial for such use on television.

4. Experimental Made For Waiver – Live Events – It is our understanding that the Union presentation mistakenly states that live events cannot be staged. The correct and agreed upon contract language is that the live events “may not be staged for the purpose of producing a commercial.”

In addition to the foregoing issues, it has come to our attention that the Union may have issued erroneous advice with respect to industrial/theatrical use of Made Fors. The JPC originally informed the industry that if a Made For was moved back for Industrial Use only, a signatory would first negotiate with the performer for the right to do so and that the minimum payment to the performer would be the Industrial payment plus the difference between the Made For rate and the Move Over rate. We have confirmed with the Union that the JPC’s approach is correct.

Signatories with questions regarding this bulletin should contact Stacy Marcus at smarcus@reedsmith.com. In addition, 4A’s members should contact Kathleen Quinn at kathleen@aaaa.org.