



13 July 2016

**ON BEHALF OF ALL EQUITY MEMBERS  
NOTICE TO AGENTS**

Dear Agents,

I am pleased to advise that the overwhelming majority of Equity members have endorsed the new television/digital residuals agreement - ATRRA 2016 – which came into effect yesterday. Please find **enclosed** with this correspondence the terms of agreement.

I'd encourage you to familiarise yourself with the agreement and I draw your attention to the following matters.

**Which programs are ATRRA 2016 or ATRRA 2004?**

ATRRA 2016 will apply only to new programs. See page 6 for a list of excluded programs (which will be covered by ATRRA 2004), in short these are:

- i. Programs now in development with already fixed budgets (for a 12 months transition period), unless otherwise agreed in writing.
- ii. Subsequent seasons for an existing program contracted on ATRRA 2004, unless otherwise agreed in writing.
- iii. Serials (Neighbours; also Home & Away because it is covered by the Channel 7 ASTRRA agreement).
- iv. New programs commissioned for Foxtel until the deferred start date of 31 December 2016.
- v. Channel 7 commissioned programs (on ASTRRA).

**What are the changes for television?**

On page 10 you will find the new 2016 ATRRA standard employee **television programs** contract. New standard contracts are currently being drafted for SVOD made programs, web productions and lender engagements. These will be circulated as soon as possible.

The key changes for television are the increased number of TV plays (8/12 plays in a shorter licence period), new relicensing arrangements and the new 10% of BNF streaming loading.

**10% of BNF streaming loading**

We have made very clear to producers, and the industry is on notice, that Equity members expect that there will be a *real increase* in the fee received by performers because of this streaming loading - and that the 10% of BNF streaming loading *will not simply be absorbed* into the market rate.

We have included a number of mechanisms in the agreement to ensure this.

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Firstly, you will note the 10% loading is not included in the contract Schedule A rights table (see p.13). This is to ensure that the 10% is not factored into the negotiated fee which potentially would have a downward compacting effect on the BNF. On behalf of all Equity members, agents are requested to continue to expect and negotiate no less than the same upfront market fee for an ATRRA 2016 program as an ATRRA 2004 television program (the upfront fee under ATRRA 2016 will only pay for the old 102.5% rights).

*After* the fee has been agreed upon, and *after* engagement (see clause F of the contract), the producer will pay the performer directly (via the agent) an additional amount of 10% of BNF. We have deliberately disentangled the streaming fee to ensure it is a real increase. We would be very interested in your feedback as to whether this mechanism is an effective means to increase performers' fees. Under clause 5.3 of the ATRRA 2016, we have reserved our rights to alter this deferred pay arrangement if it is not effective. Please let us know.

I note also a further safeguard to ensure that ATRRA 2016 provides an actual wage increase. Producers must report to MEAA the monetary amount paid to the cast for streaming (see p.18 – new 12(b)). We will be able to check that the amount paid is in fact equal to 10% of cast BNFs.

Although formally, the producer has the discretion to purchase (or not) free streaming rights (in the same way as producers could formally purchase less than 4 plays under ATRRA 2004), all Equity members are asked to ensure they receive this loading or seek union advice.

### **Back-end residuals**

We have agreed to continue discussions with SPA to move to a simpler back end residuals formula (for Australian ancillary and rest of world usage - eg DVDs, overseas TV sales, subsequent licensing to a streaming service etc). See clause 7. Until agreement is reached, ATRRA 2004 will continue to apply for performer residuals on revenue derived from sales of a ATRRA 2016 program.

### **Reporting and residuals disbursement**

I refer you to the new Reporting Requirements (pp.18-21). In summary, producers will now provide an annual statement to MEAA on all programs made under ATRRA 2016 itemising importantly –the amount the producer claims can legitimately be recouped prior to having to pay residuals (that is, two things – sales covered by the initial buy and sales to pay off the distributor's investment) as well as the actual amount made in sales (Australian and ROW) and information about licence terms. Put simply, this means we will now be in a position to know:





- if residuals have not been paid, why not (eg how much initial recoupment remains); and
- if residuals have been paid, what they are for.

We will also have general information about the amount of sales on each program (and discretionary information about sales by platform/territory). This information can be made available to agents and performers on a confidential basis.

MEAA will disburse residuals for all programs made under ATRRA 2016. The new reporting requirements together with our expanded capacity to check and scrutinise, will enhance compliance and bring transparency to residual payments. This part of the agreement was considered particularly important by our National Performers' Committee.

In full disclosure, I note that as authorised by the 2004 ballot of Equity members, MEAA charges a 5% administrative fee for residuals disbursement to members and a 15% administrative fee for non-members. The members' administrative fee goes entirely towards the administrative cost of running our residuals department. Any moneys from the non-member administrative fee not spent on administrative costs, goes entirely to our Equity Foundation to fund professional development for actors. Should you have any non-member clients on your books, we would encourage them to become financial members of MEAA and thus take advantage of the more beneficial rate.

Finally, thank you for your ideas and input into the negotiations for ATRRA 2016. There will inevitable be questions and issues as we transition forward. Please let myself or screen Industrial Officer, Sharon Johal on [sharon.johal@meaa.org](mailto:sharon.johal@meaa.org) know if you identify issues of concern. We genuinely appreciate your feedback.

I will send further information shortly about the contracts for SVOD and online productions.

After several hundred hours of negotiation, ATRRA 2016 is upon us. Good luck. Keep us informed.

In unity,

Zoe Angus  
Director of Equity