

**SECTORAL ACTIVITIES PROGRAMME**

**Working Paper**

**Child performers working in the entertainment industry  
around the world: An analysis of the problems faced**

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Working papers are preliminary documents circulated  
to stimulate discussion and obtain comments

**International Labour Office  
Geneva**

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## Preface

The ILO's Sectoral Activities Department commissioned this study as a follow-up to the Symposium on Information Technologies in the Media and Entertainment Industries: Their impact on employment, working conditions and labour-management relations. The Symposium was held in Geneva from 28 February to 3 March 2000, as part of the continuing work of the Department on 22 sectors of economic activity, of which the media, culture and graphical sector is one. The Symposium covered major issues in the media and entertainment sector, such as copyright piracy, employment status, contractual arrangements and social protection, training initiatives and the promotion of social dialogue. Among the Symposium's conclusions on the ILO's future work in the media, culture and graphical sector was the suggestion that "the ILO should undertake research on child performers".

The study, written by Katherine Sand, former General Secretary of the International Federation of Actors, examines the value of children to the entertainment industry, the various international and regional standards relating to protection of children and child labour and their relevance to child performers, considers the regulation and monitoring of children's working conditions in the entertainment industry and the role of performers' organizations. The author identifies several key elements for protecting child performers, including pay, licensing and permit systems, hours worked per day/year, educational provisions and requirements, moral oversight, health and safety, and also discusses what happens to child performers when they grow up.

She concludes by discussing ways to improve the protection of child performers, specifically arguing that child performers need a voice, perhaps through trade unions, child labour organizations, regulators and parents coming together to try and improve conditions at the national level, and that consensus is needed on exactly what kinds of protection are necessary and desirable. An international model code of practice and guidelines for child performers could be developed, perhaps under the auspices of the ILO, in conjunction with other intergovernmental and non-governmental agencies, incorporating specialized advice. It would aim not to stop or frustrate the employment of child performers, but rather to ensure that child performers are treated with respect, that their specialized needs, abilities and development are fully taken account of, that they are not subject to any kind of exploitation, and that they receive proper payment, which is protected for them until they are adults.

In addition, the study provides a bibliography, some examples of laws, regulations and collective agreements on this subject, and an analysis of the responses from performers' trade unions in over 30 countries to the FIA survey on child performers.

It would be useful to undertake further research on child performers in the entertainment industry in developing countries, to identify useful statistical data on the subject from around the world, and to develop methodologies for collecting data on child performers.

It is hoped that this study will lead to action to improve the situation of child performers, develop union training, introduce internationally recognized contracts for use in such productions, agree on international minimum standards for performers' employment, and promote negotiation of effective collective agreements through social dialogue.

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## Contents

|   | <i>Page</i> |
|---|-------------|
| Preface.....  | iii         |
| Introduction.....   | 1           |
| 1. Overview.....  | 2           |
| Why examine the problems of child performers?.....  | 2           |
| The value of children to the entertainment industry.....  | 2           |
| Difficulties inherent in examining the problems of child performers.....  | 4           |
| The remit of this paper.....  | 5           |
| 2. Existing international and regional standards relating to protection of children and child labour and their relevance to child performers..... | 6           |
| The United Nations Declaration on the Rights of the Child, 1959.....  | 6           |
| ILO Minimum Age Convention, 1973 (No. 138).....   | 7           |
| ILO Minimum Age Recommendation, 1973 (No. 146).....   | 7           |
| ILO Worst Forms of Child Labour Convention, 1999 (No. 182).....   | 8           |
| ILO Private Employment Agencies Convention, 1997 (No. 181).....   | 9           |
| European Commission: European Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work.....                           | 9           |
| 3. The child as a performer.....  | 11          |
| Children and their parents.....   | 11          |
| Navigating through the auditioning and casting process.....   | 12          |
| Agents and managers.....  | 14          |
| Children working as models.....   | 15          |
| 4. The regulation and monitoring of children’s working conditions in the entertainment industry.....  | 17          |
| A brief overview of laws and regulations for child performers.....  | 18          |
| A comparison of some different legal approaches and situations.....   | 19          |
| Secondary regulation, licensing, guidelines and codes of conduct.....   | 25          |
| The capacity of minors to sign contracts.....   | 25          |
| History of the process of disaffirmance in the United States.....   | 27          |
| The Coogan Law and protection of children’s earnings in California.....   | 29          |
| 5. The role of performers’ organizations.....   | 31          |

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|    |   |    |
|----|---|----|
| 6. | A selection of contractual provisions .....                     | 33 |
|    | Contract provisions from the United States .....                | 33 |
|    | Contract provisions from Canada.....                            | 34 |
|    | Contract provisions from Australia.....                         | 35 |
| 7. | Key elements for protecting child performers.....               | 37 |
|    | Definitions.....  | 37 |
|    | Age splits.....   | 37 |
|    | Babies.....   | 38 |
|    | Licensing and permit systems .....                              | 38 |
|    | Reference to agents and parents.....                            | 39 |
|    | Hours worked per day/year .....                                 | 39 |
|    | Educational provisions and requirements .....                   | 39 |
|    | Turnaround time, rest time, rest days.....                      | 40 |
|    | Night work – particularly in live performance.....              | 40 |
|    | Touring and travelling.....                                     | 40 |
|    | Moral oversight .....   | 40 |
|    | General health and safety .....                                 | 41 |
|    | Pay and remuneration.....                                       | 41 |
| 8. | When child performers grow up .....                             | 42 |
| 9. | Ways forward to improve the protection of child performers..... | 43 |
|    | Selected bibliography .....                                     | 44 |
|    | Appendix 1 .....  | 49 |
|    | FIA survey on child performers .....                            | 49 |
|    | Sectoral working papers .....                                   | 65 |

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## Introduction

The motivation for a study on the problems faced by child performers working in entertainment industries around the world arises from the conclusions adopted by the tripartite Symposium on Information Technologies in the Media and Entertainment Industries: Their Impact on Employment, Working Conditions and Labour-management Relations, convened by the International Labour Office in 2000. The Symposium was charged with the task of elaborating conclusions “that would provide guidance for the ILO’s future work in the sector considered”, and one element of those conclusions was the need for research into the conditions experienced by child performers.<sup>1</sup>

The ILO has – since its inception, and now through IPEC (International Programme for the Elimination of Child Labour) – as one of its primary aims, “the progressive elimination of child labour by strengthening national capacities to address child labour problems, and by creating a worldwide movement to combat it”.<sup>2</sup> The children targeted as being in need of priority attention are bonded child labourers, children in hazardous working conditions and occupations, and children who are particularly vulnerable, i.e. very young working children (below 12 years of age) and working girls.

The earliest ILO standard on child labour dates from its year of establishment – the Minimum Age (Industry) Convention, 1919 (No. 5), while the principal international labour standards on this issue now are the Minimum Age Convention, 1973 (No. 138), and the ILO Worst Forms of Child Labour Convention, 1999 (No. 182).

In writing this report, thanks are due to the member organizations of the International Federation of Actors (FIA), a federation of 100 unions, guilds and associations of professional performers from 70 countries around the world, formed in 1952. The members of FIA with a specialized interest in improving the lot of young performers inspired the inclusion of this subject in the ILO Symposium on the media and entertainment industries, which gave rise to this very first inquiry, and a number of FIA-affiliated organizations kindly contributed information and advice to the paper.

<sup>1</sup> ILO, SMEI/2000/7, Final Report, Symposium on Information Technologies in the Media and Entertainment Industries: Their Impact on Employment, Working Conditions, and Labour-Management Relations, Geneva, 28 February–3 March 2000 (Geneva, ILO, 2001).

<sup>2</sup> Internet reference: <http://www.ilo.org/public/english/standards/ipec/index.htm>.

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## 1. Overview

### Why examine the problems of child performers?

It is important to acknowledge from the outset that the problem of child performers in the entertainment industry is different in scale and nature from that of child labourers targeted by IPEC and a large number of governments and non-governmental organizations around the world. With possibly very few exceptions, at least in the developed countries, children are not driven to work in these industries because of poverty, their work environments are not hazardous or oppressive and, of course, the numbers of child performers concerned are minuscule in comparison with the hundreds of millions of children employed in industrial, agricultural and other work that is more usually the focus of those with an interest in child labour. This is recognized in Article 8 of Convention 138, which acknowledges the special status of child performers by allowing exceptions to the prohibition of employment or work children for “such purposes as participation in artistic performances”.

This paper will not attempt to draw simplistic parallels between these working children and the tiny number of children working in the highly specialized environment of entertainment; however, the problems of child performers are important and interesting in their own right. They are comparable with other working children to the extent that they frequently illustrate the deficiencies of labour legislation and enforcement as well as problems associated with advocacy on behalf of children in any kind of employment. Finally, of course, the basic needs and rights of children are a constant, and in this respect too, this paper begins with the premise encapsulated in the United Nations Declaration of the Rights of the Child, which recognizes that “... the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.”<sup>1</sup>

Perhaps the fundamental difference we see when considering children working in the entertainment industry is that there is obviously an extent to which their employment is both necessary and positively desirable in modern society. As long as human beings have been organizing and presenting entertainment to each other, children have been involved, not only because of their natural propensity to be entertaining and appealing to adults as well as to other children, but also because of the need, when telling any kind of story, to present a reality which inevitably includes them.

### The value of children to the entertainment industry

Twenty-eight FIA member organizations responded to a survey on a range of issues;<sup>2</sup> one question asked for their assessment as to the importance of the employment of child performers in various parts of the entertainment industry. Even though many performers’ unions have, for various reasons, little contact with child employment in the profession, the considerable majority reported that this kind of employment was increasing – especially in

<sup>1</sup> *United Nations Declaration of the Rights of the Child*, proclaimed by General Assembly resolution 1386(XIV) of 20 November 1959, <http://www.unhcr.ch/html/menu3/b/25.htm>.

<sup>2</sup> See Appendix 1, Survey of FIA member unions.

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films and television and in commercials, sometimes even at the expense of adult employment.

A key element to consider when looking at child performers and their relatively small numbers is the comparative earning power of those children, and the amount of money they make for adults. In the twentieth century, with the advent of film, television and recorded music, child movie stars became as visible as their adult counterparts – and also became a considerable source of revenue to the international entertainment industry. Well-known examples from American entertainment industries include Jackie Coogan, Shirley Temple, Elizabeth Taylor, Britney Spears, Jodie Foster, Brooke Shields, Drew Barrymore and Michael Jackson, but undoubtedly every country has produced its own child “stars”. In addition to these famous cases, some of which will be referred to later in this paper, children have always been a key element in the world of advertising. The power of children to sell all kinds of products – to adult consumers as well as to children – is self-evident by their extensive use in both printed and recorded commercials, in any country around the world. An observation by the French-Canadian union, the Union des Artistes, in FIA’s survey is apposite: “In advertising, children are being used more and more as a way of reaching both child and adult audiences”.

The massive proliferation of broadcasting outlets and the internationalization of the media and entertainment industries have led to even more opportunities for children to seek and be given employment as performers. A report published in November 2001 by *Screen Digest* (United Kingdom) states that “Children’s programmes are one of the most commercial genres on television” and that “Airtime dedicated to children’s programmes has hugely expanded with the launch of new cable, satellite and terrestrial channels”.<sup>3</sup> Not all this programming requires the employment of children. However, much of it inevitably does – and of course, children are a constant feature in entertainment products designed with adults in mind. Examples abound of the value of children to films and television. At the time of writing, the release of the new film “Harry Potter” had already earned AOL-Time Warner (the company that produced it) nearly US\$200 million in theatrical release of the film alone. The exploitation of the movie in secondary markets – foreign sales, cable, satellite and analogue broadcasting, DVD and video and in merchandising – will mean that the film and its sequels will, thanks in large part to its child performers, continue to earn huge sums. The music industry – mainly the pop music industry, but also classical music – places considerable reliance on child performers; and there are numerous examples, referred to later in this paper, of children whose performances gross many millions for the companies that employ them. Clearly not all those children employed in the industry become major stars in their own right, although the well-publicized and successful few, several of whom will be cited later in this paper, are undoubtedly influential in encouraging more production of this kind, and are inevitably a factor in prompting children (often incited by their parents) to seek to become entertainers. The cumulative situation in films, television, advertising and music seems to be that of increasing employment of children, and it is these segments of the entertainment industry that will tend to form the main subject of the paper.

The situation of children working in live performance – principally the theatre – will also be referred to. As in films and television, children are crucial to those shows that require a subtle and believable portrayal of a youthful perspective to the audience, and live performance creates different, but equally important hazards for those employed. There is, however, less evidence from our anecdotal survey to suggest that this is increasing as a form of employment for children.

<sup>3</sup> “The Business of Children’s Television”, 2nd Edition, *Screen Digest*, November 2001.

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A further area of child employment – that of children working in circuses – is more obscure and difficult to analyse, and is not covered in this study. The itinerant nature of the circus, the complex and dangerous work itself, the fact that in many cases children in circuses are working within family enterprises, make this a very difficult area for study; the lack of attention to circus performers here is due to the absence of information about it. This is regrettable, because circuses continue to be a popular form of entertainment in many countries around the world, including a number of developing countries, and some of the cases of abuse that have come to public attention are extremely serious.<sup>4</sup> However, the situation of children working in circuses remains difficult to research in any way.

## **Difficulties inherent in examining the problems of child performers**

Any examination of the working situation of child performers encounters a number of difficulties that it is important to take account of from the outset. Some of these are common to all performers, whose highly specialized working lives are often poorly understood or taken insufficiently seriously by society at large, despite the relative visibility of the profession. Such problems are, to some extent, generic to all performers and include such aspects as intermittent, short-term and precarious employment, the frequent absence of adequate or clearly defined employment status and rights, problems accessing social and other protections afforded to employees, difficulties with respect to unionization and collective bargaining, and severe inequality in the employment relationship, among other difficulties. This report will only refer generally to these issues, rather than describing them in detail; more information on the employment of performers is provided in an earlier ILO Sectoral Activities Programme working paper.<sup>5</sup>

However, there are a number of specific difficulties facing child performers that will be covered by this report, although it has proved hard to gather reliable information about the children and their working conditions. Children frequently appear fleetingly or sporadically in the employment market, and long-term careers are the exception rather than the rule – the advertising industry in particular is a difficult area in which to track employment, since it is by its nature short-term. There is a very high turnover of children coming into and then leaving the entertainment industry. In a number of cases the performers' trade unions and professional associations (which might have an interest in following the employment of children) are restricted by their own rules and traditions, or even (in some cases) by law, from representing minors and providing protections in addition to those that might be afforded by law. Those who are traditionally assumed to be "guardians" of children's rights – namely the child's parents – cannot, or do not, always do right by their own offspring. Finally as will be described, the legal protections that do exist are very varied in their nature and application. The inescapable conclusion is that there are a number of children and babies doing "adult" work in the entertainment industry, but without adult safeguards, autonomy or advocacy in what is already a difficult and precarious working environment.

<sup>4</sup> The fatal deaths of Nepali girls employed in Indian circuses are reported by an NGO campaigning against child labour. Their report describes how girls have become the victims of torture and sexual exploitation at the hands of circus employers and male co-workers, and how a number of them have subsequently committed suicide. See "Crimes against children," in *Voice of Child Labour*, (Kathmandu, Nepal, Child Workers in Nepal), No. 27, April-June, 1999 <http://www.cwin-nepal.org/voice27.html#coverstory>.

<sup>5</sup> Katherine Sand: *Actors and the International Audiovisual Production Industries*, Sectoral Activities Programme Working Paper, Geneva, International Labour Organization, January 2000.

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## The remit of this paper

The author would like to cite some qualifications with regard to this paper. It is designed to be an overview of the key issues and a starting point for discussion and study at national and international level. It is not either statistically or geographically exhaustive, due to the fact that data simply does not exist in many countries. The paper may therefore raise more questions than it answers; much more study at the national level, in countries at all stages of development, would seem both desirable and urgent.

The paper will not deal with spectre of child pornography and any relationship it may have, in extreme cases, with child performers. This study will only discuss children working in legitimate areas of entertainment as performers or models. Modelling itself is a rather grey area – some of the work that is done by children both for television and print advertising may seem rather distant from performing, but will be referred to in this paper. Much of the subject matter of this study is applicable to child athletes (for example, issues relating to protection of earnings, agents, educational requirements.) but the paper will not refer to children in sport because of the absence of any employment relationship.

Readers will notice frequent reference to child performers' conditions and case-studies from the United States in particular, and other English-speaking countries. In writing this paper, information was drawn from information provided by performers' trade unions and professional associations in 28 countries, as well as an international literature search, and every attempt has been made to make this paper truly international in scope. The fact is that the employment of child performers – as well as the law, practice, advocacy and “evidence” relating to them – is far more extensive and developed in the United States than in any other country, hence this (over) emphasis. However, it is hard to imagine that the United States situation is not, despite the problems of obtaining specific evidence, replicated throughout the world to different degrees. It is therefore hoped that the paper will give pause for thought to trade unions, employers and governments in other countries as to their own situation, and stimulate greater attention to what is undoubtedly a problem of international interest.

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## **2. Existing international and regional standards relating to protection of children and child labour and their relevance to child performers**

The rights of children within society and, specifically, in relation to work they may undertake, have been established by governments through a number of international instruments from the twentieth century. They are clearly of considerable importance insofar as they are ratified and acceded to by nations, and subsequently influence national legislation – however, their relevance to the rather specific situation of working children in entertainment may be rather distant.

### **The United Nations Declaration on the Rights of the Child, 1959**

The Declaration, which builds on an earlier UN Recommendation of 1924, and elements of which are further enunciated in a number of other UN instruments, delineates a number of basic entitlements for children. The following extract is interesting with reference to working child performers and their rights:

Whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth,

The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages.

The best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents.

In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration.

The notions of special safeguards and care for children and appropriate legal protection are important and unarguable general principles, but in respect of children working in the adult-orientated environment of entertainment production, these are not uniformly or universally applied, as will be seen in later in this paper. Similarly, the emphasis on the importance of education as a basic tenet should be fundamental in establishing conditions of work for children, but this is not always the case. Finally, we see that the primary responsibility for the child lies with the parents. It is hard to question this as a basic principle, but it is regrettably the case, as examples cited in this paper will show, that not all parents act in the best interests of their working children. It is therefore interesting to see the extent to which society – through regulation and law – is prepared to question the motives of parents with respect to the welfare of their children, to ensure probity when dealing with their finances, and to afford some measure of independent protection or scrutiny. We may also wonder whether the establishment of rules does not in fact strengthen the position of parents with respect to their working children by setting out clear boundaries and responsibilities, and giving the parents a defined status within the child's employment environment and processes.

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## **ILO Minimum Age Convention, 1973 (No. 138)**

The underlying philosophy of this extremely important and influential tripartite Convention, now ratified by 117 countries<sup>1</sup> is as follows: to lead governments towards the elimination of child employment for children under 15 (or having completed compulsory schooling), or 14 in developing countries as a transitional measure and, progressively, to raise the level of permitted minimum ages at which children can be employed in various sectors. It is, in the main, a general instrument dealing with the principle of child employment, but it does refer to a range of very specific sectors to which the Convention is applicable, as well as a series of other Conventions referring to specific sectors such as mining, fishing, agriculture and industrial work.

The Convention also refers to “light work” that will not prejudice the attendance of children at school (Article 7(2)). Of principal interest to our discussion is Article 8, which states:

1. After consultation with the organizations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.
2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

The stated exception for artistic performances is important, and has led to similar legislative provisions around the world relating to the protection of child performers, such as the United States Fair Labor Standards Act (1938), the Federal law which regulates child labour, prohibiting employers from using “oppressive child labor”, and containing the exclusions that the provisions “shall not apply to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions”.<sup>2</sup> The notion that permits granted under the exemption should be limited is well-meaning but slight, as will be seen in the context of the modern entertainment industry. The limiting of hours and “conditions in which work is allowed” leaves considerable room for interpretation and may, to some extent, have resulted in the varied legal provisions and systems of licensing that have subsequently been put in place. It is unfair to expect legislation written in the 1930s or a Convention drafted in the 1970s to deal comprehensively with as small a sector as entertainment in any detail, but given the growth of the industry and its international scope, perhaps it is now possible to start imagining an international Recommendation or code of practice being established through international processes.

## **ILO Minimum Age Recommendation, 1973 (No. 146)**

The context of this Recommendation, which complements the Minimum Age Convention, is that of poverty alleviation and training as a means by which to reduce and abolish child labour. It calls upon governments to develop economic and social measures

<sup>1</sup> As of 19 August 2002.

<sup>2</sup> *Fair Labor Standards Act* 1938 (United States), Section 213. It should be remembered that when the Fair Labor Standards Act was written, most of the artistic performances undertaken by children would still have been live performances.

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to make it unnecessary for families to rely upon the employment of children (an important recognition in the case of children working in entertainment) and proposes further measures including on raising the minimum age, on hazardous work, on conditions of employment and on enforcement. It also outlines some specific requirements relating to health and safety standards, annual holidays, social security and other insurance and benefit schemes, including that attention should be given to:

- (a) the provision of fair remuneration and its protection, bearing in mind the principle of equal pay for equal work;
- (b) the strict limitation of the hours spent at work in a day and in a week, and the prohibition of overtime, so as to allow enough time for education and training (including the time needed for homework related thereto), for rest during the day and for leisure activities;
- (c) the granting, without possibility of exception save in genuine emergency, of a minimum consecutive period of 12 hours' night rest, and of customary weekly rest days.<sup>3</sup>

These three measures are useful when thinking about the kind of regulation appropriate to the work of child performers. The notion of fair remuneration and in particular, equal pay for equal work is not something that is invariably observed for child performers, as will be seen later in this study. Equally, the following notions – that (a) if children do work, their hours must be limited; (b) they should have time for education, rest and play; and (c) there should be a consecutive period of rest and rest days – are important but widely interpreted with respect to child performers. It is also worth bearing in mind that the particular demands of the entertainment industry – whether relating to theatres operating at night, or film and television sets working to tight and costly deadlines – may put pressure on those administering permits for child performers to work to make exceptions and variations to even these basic provisions.

## **ILO Worst Forms of Child Labour Convention, 1999 (No. 182)**

This very recent Convention details measures for the prohibition and elimination of a number of the worst forms of child labour. 129 countries have already ratified it.<sup>4</sup> It is by definition not specifically relevant to any but the most extreme cases of abuse arising from the work of child performers. In this respect, Article 3(d) refers to child pornography and “work which by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children”. The determination of this article is left to national law, but the component of “moral oversight” of child employment by law is relevant to this paper, and indeed is referred to in some national laws and licensing systems.

<sup>3</sup> Article 13(1), Minimum Age Recommendation, 1973 (No. 146).

<sup>4</sup> As of 19 August 2002.

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## **ILO Private Employment Agencies Convention, 1997 (No. 181)**

This Convention, updating an earlier Convention of 1949 on Fee-Charging Employment Agencies, recognizes the role of private employment agencies in a well-functioning labour market and, in that context, reaffirms the right of agency workers to freedom of association, collective bargaining and a range of other rights and basic conditions. The Convention may seem of little relevance to performers given that they frequently have independent or freelance status and, in many cases, lack a counterpart for collective bargaining. It has only received 12 ratifications.<sup>5</sup>

In another key aspect, the Convention does not apply to the entertainment industry since, in Article 7, agents are prohibited from charging the workers concerned (either directly or indirectly) – which is precisely how performers’ agents operate. This kind of exception is recognized in Article 2, which allows contracting states to exclude “workers in certain branches of economic activity, or parts thereof, from the scope of the Convention or from certain of its provisions, provided that adequate protection is otherwise assured” and Article 7(2) allows an exception (after consultation with employers and workers) with regard to the charging (directly or indirectly) of fees or costs to workers for certain kinds of worker or agency.

The Convention is as yet very new, and Governments ratifying it must report on the allowed exceptions. It will therefore be instructive, in time, to see how this field of employment legislation develops, and the extent to which Governments exempt the entertainment industry from broad fee-charging agency provisions, while at the same time finding ways in which to regulate those rather specific agencies, if indeed they choose to do so. Finally, we may note that Article 9 states that: “A member shall take measures to ensure that child labour is not used or supplied by private employment agencies.”

## **European Commission: European Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work**

This Directive is included as an interesting – perhaps the only – example of a piece of regional legislation relating to child performers, to be implemented by the member states of the European Union, illustrating how the general exemptions for “artistic performances” in the ILO Conventions established are interpreted and subsequently filter down to regional and national level. Article 5 is relevant to a discussion about child performers and fleshes out the provisions of Convention No. 138 in a detailed way, providing a structure for national legislators to implement.

### *Article 5. Cultural or similar activities*

1. The employment of children for the purposes of performance in cultural, artistic, sports or advertising activities shall be subject to prior authorization to be given by the competent authority in individual cases.
2. Member States shall by legislative or regulatory provision lay down the working conditions for children in the cases referred to in paragraph 1 and the details of the prior authorization procedure, on condition that the activities:

<sup>5</sup> As of 19 August 2002.

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- (i) are not likely to be harmful to the safety, health or development of children, and
    - (ii) are not such as to be harmful to their attendance at school, their participation in vocational guidance or training programmes approved by the competent authority or their capacity to benefit from the instruction received.
  3. By way of derogation from the procedure laid down in paragraph 1, in the case of children of at least 13 years of age, Member States may authorize, by legislative or regulatory provision, in accordance with conditions which they shall determine, the employment of children for the purposes of performance in cultural, artistic, sports or advertising activities.
  4. The Member States which have a specific authorization system for modelling agencies with regard to the activities of children may retain that system.

Directives are binding upon the laws of the European Union member states and also upon a range of other countries bordering them, so we may expect rather similar legislation in all those countries flowing from it. A good example of the way in which harmonization in this kind of instrument can have a very positive effect on national standards is that of the United Kingdom. Following the passing of this Directive, the United Kingdom had to implement changes to the Children and Young Persons Acts of 1933 and 1963 and the secondary regulations. These changes were implemented in the United Kingdom in August 1998, and for the first time brought child modelling and sporting activities within the ambit of the Acts and Regulations, thus reducing the circumstances in which a performance licence is not needed.

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### 3. The child as a performer

This section looks at some of the important factors that may affect the employment of children in the entertainment industries even before any employment actually takes place. It is interesting to consider these elements in understanding how it is that children end up working as performers, even if it is not always possible to provide for them in regulation.

#### Children and their parents

Given the complexity of obtaining work in the theatre, films or television, it is likely that in most cases, children will have had to have the active support and assistance of their parents in order to become working performers. Only with the agreement of parents are children going to be able to obtain drama training, go to stage schools and even attend auditions and interviews. It is also generally assumed that parents will invariably act in the best interests of their children. Yet the attraction of the fame and fortune that can be obtained, albeit by a very tiny minority of highly successful child performers and models, can create enormous pressures on children, their parents and the relationship between them; and these are worth examining.

Most children are natural performers, and the progression from enthusiastic amateur to potential professional may not be a great one – at least in the eyes of an adoring parent. It is hard to imagine a child being forced to become a performer against his or her will, but the employment of babies and very young children is a different issue.<sup>1</sup> The apparent glamour of “show business” is something that can influence even small children, who see others on stage, or in television, commercials and films and may want to emulate them. When these wishes are combined with parental agreement or even ambition, a potential child performer comes into being. But to what extent do parents in fact act in the best interests of their children? What support do parents need to be good guardians of their employed children, and are safeguards necessary to protect children, in some instances, from their own parents?

Getting a child into the entertainment business is unlikely to be a straightforward process. Performers of any age encounter a great deal of competition for jobs, and it is no different for children; thus for parents, supporting children through the preparation,

<sup>1</sup> While there are many who would argue that the use of babies and young children in entertainment is highly objectionable, *New Baby Magazine* (United Kingdom), October 2001 provided another side of the argument, as follows:

Have you ever looked at the cute baby on the front cover of a magazine and thought that your little one would look pretty good on the news stand too? Just how does a young baby suddenly become a cover model? To some parents, it would be a dream come true to see their baby’s face in a magazine or catalogue, or on a poster in a shop window. And, of course, the money that comes from modelling can’t do any harm when you have a family to support. But is baby modelling fair to a child who doesn’t even know what’s going on? The truth is that a baby modelling session is probably a great deal more stressful for the parent who accompanies the baby than for the child herself. After all, a baby cannot be forced into smiling and performing for the camera and if your baby is tired, she will have no qualms about taking a nap right then and there. Luckily, the people who hire baby models will be used to their unpredictability, and will be prepared for it. As for your baby, when she does get in front of the camera, she is more than likely to adore being the centre of attention.

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training and auditioning stages – never mind what is required when a child actually starts work – is likely to require considerable sacrifice and determination. Parents may well incur expenses and spend time in a range of ways, from getting photographs of children, paying for acting classes or stage school, to travel to numerous auditions and casting calls – not to mention the considerable time needed to help children appear for auditions and performances. Getting work as a performer is a long and often thankless process. Kat Driane Davis, Teacher at the Neighbourhood Playhouse Junior School in New York, counsels parents as follows: “Parents really give up a large chunk of their lives [and should] understand that you will probably put out more money than you make – at first or ever.” Paul Petersen, himself a former child performer and founder of A Minor Consideration<sup>2</sup> (a United States-based non-profit advocacy group formed to support child actors), says of the parents of child actors: “You don’t see doctors and lawyers [doing this], it’s a waste of time. For most kids in the business, the interview process is, say, 20 interviews to get one job that pays \$1000? That’s below poverty wage.”<sup>3</sup> The adverse impact on other children in a family when one child embarks upon a career as a performer is also a factor to consider. The classic image of the “stage mother” is undoubtedly the exception rather than the rule. However, even positive and conscientious parental involvement can build up and increase pressure on the child to succeed. The mother of Robert Iler, child performer in the hit American show *The Sopranos* is quoted as saying; “When he was very young and we were first going to auditions I did some of the things you should never do... He’d sometimes say he didn’t want to do an audition and I’d try to bribe him, saying that afterwards we’d get a toy he wanted. It’s all so different now”.<sup>4</sup>

## **Navigating through the auditioning and casting process**

Getting work in the entertainment industry or modelling is almost without exception a long, slow (not to say time-consuming and expensive) process of attending interviews, auditions and call-backs, potentially as disruptive to a child’s education and domestic routine as the work itself. Producers routinely see a very large number of children for parts, all but a very few of whom will be turned away. The process is not for the faint-hearted – children will be expected to be focused yet natural, have to expect a certain amount of judgement with respect to their physical appearance and deal with the inevitable comparison and competition with other children – even in situations that are handled sensitively by casting directors, agents and others. The issue of body image and appearance is just one of the potential hazards of the profession for young dancers, for whom gaining weight may be seen as problematic: and indeed for all young performers, who may well see their work drying up as they get older and their bodies, appearances and voices change. The importance of a child’s parents in reinforcing a child’s sense of self and coming to terms with a reality of a profession in which appearance does matter, cannot be underestimated when facing these issues, and it is sadly true that many young performers have experienced difficulties in later life, including anorexia and other disorders, as a result of being put through this process.

The parental “investment” in a working child’s career may well also include dealing with the emotional strain of life as an aspiring performer. Stage parents have to be steeled to prepare their children for the reality of rejection and disappointment – and to be able to

<sup>2</sup> [www.minorcon.org](http://www.minorcon.org).

<sup>3</sup> *LA Weekly*, 16-22 June 2000.

<sup>4</sup> *Backstage* (New York, VNU Media), 30 March 2001.

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accept that disappointment themselves. “When Justine’s agent called to congratulate her on coming so close – in other words, she didn’t get the part – ‘Justine fell apart’, her father said. ‘She cried and started to scream that she’s never going to get a job. Kids are so vulnerable. Every time she goes up for something the possibility of it happening again makes me sad.’”<sup>5</sup> A child performers’ talent agent Marlene Wallach says; “I’m frequently asked ‘how do you handle a kid’s disappointment when he does not get a job?’ It’s not the child’s disappointment you have to deal with but the parent’s. The child can easily go on to the next project. The parent’s reaction is the key to how the youngster will respond. It’s the parent’s job to provide the kid with a healthy sense of self and oftentimes in this business they don’t.”<sup>6</sup> The numerous guides and articles published to advise parents on getting young people into the entertainment business all emphasize the problems entailed by the constant rejection that is endemic among performers seeking work, such as that given in the very comprehensive AFTRA-SAG Young Performers’ Handbook – “FOCUS your attention on your child’s needs and desires. TEACH your child to cope with rejection and disappointment.”<sup>7</sup>

Once a child starts to obtain work, demand for parental support may increase still further, as can parental expectations and pressure on the child. Those children who do succeed in becoming child performers are often going to be those who have an affinity for performing, the right level of confidence and drive, and well-rounded lives, with a good balance between their work and life in the “real world” of education, play and family life. These qualities can rarely be taught or forced, and the importance of supportive parents in establishing a healthy working environment for a talented child cannot be underestimated. However even the parents themselves can undermine that environment. James Dawson, an American psychologist and head of the Professional Children’s school says “... in today’s world, with its strong cult of celebrity, there are parents who would rather their child be a recognizable star than an educated person” and he warns against the dangers of parents seeking “vicarious glory through their children”.<sup>8</sup>

The final factor in the parent/child relationship that should be borne in mind is that of earnings. Whether or not the child becomes very successful as a model or performer, the money earned for doing what is often a less than glamorous job, involving a great deal of waiting around, discomfort and boredom (for parents as well as the children), can become a contentious and difficult issue within families, and one which is addressed in more detail in this paper. The right of a minor to (eventually) enjoy the benefit of his or her own earnings, and the potential for conflict with parents who will probably have sacrificed considerable time and money in that child’s “career” and may well feel that some “return” is due, are important areas for legal oversight. Alan Simon, President of On Location Education, which provides backstage and on-set tutors for performers in the United States,

<sup>5</sup> Ralph Gardner Jr.: “Attack of the Four-Foot Celebrities,” *New York Magazine*, 10 November 1997.

<sup>6</sup> *Backstage* (New York), “Spotlight on Young Performers”, 31 March 2000.

<sup>7</sup> Jacqueline Bradley, Charles Frederickson, Barry Gordon, Michael Harrah, Mac Harris (eds.): *The AFTRA-SAG Young Performers’ Handbook*, 3rd Edition, (Los Angeles, American Federation of Television and Radio Artists and Screen Actors’ Guild), 2001, at <http://www.sag.org/youngpersons.html>.

<sup>8</sup> *Backstage* (New York), “Spotlight on Young Performers”, 30 March 2001.

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observes that the most problematic situations arise if a family views the child as the breadwinner: “Those dynamics are not healthy.”<sup>9</sup>

This paper will refer to the various roles played by parents, including those of promoter, coach, advocate and financial trustee of a working child. It should be acknowledged that parents usually supply part of the service in supporting a talented child, but that there is a need to ensure that children are, where necessary, protected from parents who do not act in their child’s best interests.

## Agents and managers

A further process through which child performers must navigate is their relationship with an agent or manager. Agents usually negotiate the performer’s contract in return for a percentage fee, while managers may take a more extensive role in the child’s business affairs, perhaps even investing in their client financially, often for a higher fee (the lines are increasingly blurred between these functions). Agents and managers do not operate in every country; however, where agents do exist, a contractual relationship and set of mutual obligations are established with the client (the child and/or the child’s parents) and, in these situations, it is generally necessary to have an agent in order to obtain work. This paper does not go into detail on the whole issue of the legal status and regulation of agencies – in some countries of the world they are outlawed, and regulation systems vary considerably – but this question is referred to in a previous paper examining the lives of actors in the international audiovisual industries.<sup>10</sup>

In a field as competitive as that of child modelling and performing, agents specialized in spotting young talent, and marketing, representing and assisting in the casting of them undoubtedly have an important part to play in the smooth running of the business. Sometimes stage schools attended by children will act as agents for their pupils, and there are many legitimate individuals and organizations working in this business who do an important job of representing (and protecting) the rights of their young clients.

Unfortunately, there are also unscrupulous agents in existence, trying to cash in on the hopes of parents and children, and they present yet another hazard for the child performer. All the guidebooks on children breaking into the entertainment business stress that the child’s own natural qualities and looks are far more influential than expensive photographs and heavy coaching. However, there are a huge number of agencies and casting directories to try to persuade parents otherwise. “If someone tells you it’s going to cost you money, run in the other direction”, says Nancy Carson of Carson-Adler, a successful New York agent, “Any of these screen tests, demo recordings, anything like that is really a scam.”<sup>11</sup> In some cases, agents ask for advance fees from clients, a practice which is outlawed in certain countries. Agents will require parents to pay an “entry” fee in return for placement in a casting book, including the child’s description and an often costly photograph. The existence of the internet seems to have added a new dimension to casting services, with many child modelling agencies in particular advertising on-line, for example [www.childmodel.com](http://www.childmodel.com), [www.toptots.com](http://www.toptots.com) and [www.modelsdirect.com](http://www.modelsdirect.com).

<sup>9</sup> *Backstage* (New York), “Spotlight on Young Performers”, 30 March 2001.

<sup>10</sup> Katherine Sand, 2000, op. cit., pp. 52-53.

<sup>11</sup> Quoted in Gardner, “Attack of the Four-Foot Celebrities”, op. cit.

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Obviously, if a talent agency is going to operate in an illegitimate manner, they may not restrict themselves to child performers, but parents hoping to put their children into modelling for print or filmed commercials may be particularly vulnerable; such operators prey on the hopes of young people in a business where “who you know” is often perceived as being more important than anything else. An example of a long-running scam in the United States was that of National Talent Associates,<sup>12</sup> a company that obtained new parents’ names and addresses and sent them letters encouraging them to set up appointments to discuss their baby’s prospects in the modelling and talent industries. The company persuaded parents to sign five-year contracts to have their children photographed annually. It took several years and a number of United States Federal Trade Commission actions against the organization before a Federal District Court in New Jersey issued a permanent injunction against the company, charging NTA with misrepresenting its ability to place children in high-paying modelling and acting jobs.

The involvement of the agent or manager in the child’s financial affairs once the child becomes successful can become another complicating factor. The recent example of classical singer Charlotte Church – one of the top recording artists in the world – illustrates what happens when the stakes are high. In February 2001, her former manager (Mr. Shalit) sued her in London’s High Court for damages and breach of agreement, as described in a BBC News story.<sup>13</sup> Mr. Shalit sued the soprano and her parents for breaking a management deal that he said was due to run until June 2002. The singer’s parents had launched a compensation suit after claiming that her former manager had damaged the singer’s career. Mr. Shalit counter-sued for a percentage of her future earnings on the basis of their agreement, arguing that he had built up her career. Charlotte Church was discovered when she appeared on a television talent show, aged just 11 – she then went on to become the youngest solo artist to break into the top 30 United States album chart and the top 40 in the United Kingdom’s pop and classical charts. At the age of 14 in 2000, she was already estimated to have earned about £6m before tax.

## Children working as models

Child modelling is big business, so it is not surprising that agents take an interest in it – and of course parents, who may not be very objective about their children and who may, as well as wanting the exposure, be keen for their children to earn money. It is controversial as to whether children should be allowed to work very young or not – sometimes babies as young as four weeks old are subject to the bright lights of photo shoots. The following advice is given in a magazine for the parents of new babies:<sup>14</sup> “Many child modelling agencies are not to be trusted. Some will demand a very large fee upfront, and may continue to do so annually, with no intention of offering your child any work; so you must be careful. Beware of agencies that seem overly keen to get your child on their books without even interviewing them. The most important thing is to choose your agency either by word of mouth or reputation, rather than from a random advertisement in your local newspaper.”

<sup>12</sup> Quoted in Emily Swaab, Stephanie Landay: *Turning Dreams into Nightmares – Modelling and Talent Agency Scams*, a report by the City of New York Department of Consumer Affairs, September 1993.

<sup>13</sup> BBC News Online, Monday, 21 February 2000.

<sup>14</sup> *New Baby Magazine*, UK, October 2001.

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It is common for modelling agencies to have special divisions for children. The children come to agents in a number of ways – agencies may hold open calls, and some companies sponsor model search events and beauty pageants geared to child models. Much modelling takes place during school holidays, after weekends or after school, but there is considerable potential for unsafe working conditions and unreasonable hours, and child models experience the industry in the same way as adult models, being put through the lengthy process of going for call-backs and interviews before being selected for a job.

Appearing in commercials is something of a grey area of work for performers, and while modelling agencies are different from performers' agencies in terms of function, they are still considered to be employment agencies and may charge commissions. Models who make their main careers working in print or live fashion shows are unlikely to be members of performers' unions and, if they are members because of other performing work they do, they will not be covered by union contracts or protections for the modelling work. The absence of union protections in modelling makes it all the more urgent that adequate licensing and regulatory systems be put in place – child models routinely face difficult, sometimes frightening working conditions, may be sent abroad to work, and will have to deal with difficult financial entanglements including waiting many months to get paid, and more serious problems.

The regulation of talent agencies is a large subject but, given the close involvement of agents in procuring children for modelling assignments, it is interesting that some national laws relating to child performers and models specifically mention agents, and impose specific requirements, while many laws appear to be entirely silent on the issue.

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#### 4. The regulation and monitoring of children's working conditions in the entertainment industry

No one should be under any misapprehension about the fact that child performers do a serious job of work. Whether in theatre, a recording or photographer's studio or on a film, television or commercial set (all of which are very sophisticated and highly technical environments), the preparation required and tasks performed by most children will often be equivalent to those of adult performers and demand a considerable degree of self-discipline and concentration, not to mention talent. Given these exigencies, it is not surprising that so many children are disappointed in their hopes of becoming performers.

Another problem encountered in any examination of performers' work is that by its very nature, there is no standard workplace, and often no standard working day to monitor. Unions and guilds of performers in many countries have negotiated with employers to ensure basic conditions and some kind of order in the workplace, but even where these exist, any kind of rule-making, monitoring and enforcement of the performers' working environment is very complicated. The performer's engagement (including the rehearsal period) can last for a few hours to months and even years in the case of long-running television series or an exclusive music-recording contract. When under contract, the performer must be entirely available to the producer for specified periods but, in an average day, the performer may in fact spend very little time actually performing. Production schedules are also likely to change at very short notice for any number of reasons. A well-publicized example of this took place during the filming of *Harry Potter* when the producers had to seek permission from the local licensing authority for the star Daniel Radcliffe to be allowed to stay away from school for some extra weeks to continue filming, as their schedule had overrun because of bad weather.<sup>1</sup> Child performers and, in this respect, child models too, are particularly vulnerable to a whole range of problems and abuses stemming from the particular discipline in which they are working. Commercials are difficult for any organization or authority to monitor day-to-day compared with, for example a long-running television series, since the workplace itself may exist only fleetingly; indeed, more and more performers' engagements follow this short-term, unpredictable pattern. Other approaches again will be necessary for different artistic disciplines – for example live performance requires different rules, as music, dance and theatre work is likely to entail working at nights, matinee performances and touring – therefore regulation must take all these factors into account.

Such complications illustrate difficulties in creating but also, importantly, monitoring and enforcing laws and other protections for children in this area of employment. However they also strengthen the argument for the establishment of clear international guidelines for codes of practices and minimum acceptable standards, which can then be adapted by legislators to match national circumstances and industries.

<sup>1</sup> BBC News Online quotes a local education authority official: "We are currently looking in to the request and the exceptional circumstances involved. This film is going to launch Daniel into the stratosphere of stardom. It would be highly unlikely for us to suddenly put a stop to that."

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## A brief overview of laws and regulations for child performers

The purpose of this central section is to examine the controls and restrictions placed upon children's working conditions by reference to a number of national laws, secondary regulations and codes of practice, as well as provisions contained within a certain number of collective bargaining agreements negotiated by performers' unions.

Obtaining information on this small, specialized and largely overlooked field has been difficult and therefore the information obtained was not, by any means exhaustive or comprehensive. It is possible that other regulations exist in secondary legislation and this was not supplied. A detailed country-by-country exercise in comparative research would undoubtedly be useful for the future. However, this paper seeks to provide an overview of the issues, thus it seemed more important to present a range of legislative options and choices to illustrate the diversity of approach and understanding about this issue in various countries – as well as the shortcomings of that diversity.

In the main, children working in the entertainment industry are specifically exempt from national laws on child labour – the model established by ILO Convention No. 138 has clearly been influential in this respect. Those laws recognize that children should be able to work as entertainers, but the laws have developed in different ways, something we may possibly attribute to an absence of any specific international norms or standards on this sector, as well as the relative importance and scale of the entertainment industry from country to country. It is hardly accidental that the most highly developed work on child performers comes from a country with a huge film and television industry, while in other countries, the focus is more on live performance. Clearly, different segments of the entertainment industry and a wide variety of work environments place different kinds of demands on children, but despite this, it is hard to see why the children in one country should be differently protected or taken less seriously than in another when the essential work (and rights of the child) are presumably the same. For this reason, it is hoped that some of the examples of good practice cited in this field may be interesting and influential even in very different countries and could encourage practitioners and legislators to consider finding ways to harmonize protection. In order to achieve this goal in the long term, international standards or guidelines would surely be of assistance. This is a small, highly specialized field, and national expertise in the employment of children may be limited to a very few people (some of whom may have an active interest in not increasing regulation). Organizations, governments and parents need information, and to be sensitized to the potential problems and given standard guidelines or a “shopping list” of important considerations when a child goes to work in modelling or entertainment.

There is a danger that producers may shop around for different laws if they are inconsistent (even within a country such as the United States) or unequally enforced. Evidence in this regard is hard to obtain but it has been suggested that some United States commercials have been shot in Canada using Canadian children rather than complying with the Screen Actors' Guild collective agreement. Certainly, even within the United States, state film commissions trying to attract film production may use the fact that the state lightly regulates the employment of children as an “incentive” to producers. Child employment may not be the biggest factor in a producer's decision about where it may or may not be convenient to shoot – however, it would seem unarguable, as long as children are able to work as performers in a safe and reasonable way, that it should never be a factor at all.

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## **A comparison of some different legal approaches and situations**

Laws and regulations from a number of countries were examined – to some extent a self-selected sample – and for reasons already given, they will not be critiqued individually or judged in comparison to each other. The interest in this exercise relates more to the differences in their emphasis and any obvious deficiencies or interesting features. The majority of the laws examined deal in some way with such basic issues as the number of hours children may work, educational requirements and health and safety (although not necessarily in the detail and in a child-specific way that would be desirable). It is also quite possible that in many countries, child performers are dealt with in secondary legislation and regulation or by other authorities, and that this information was not supplied. It is a complicated picture in any case, and a comprehensive legal survey would have to take account of the very different laws and systems of permits and administrative authorizations that exist even within countries (the United States and Australia for example) in order to activate the generally accepted exemption of artistic professions from child labour law.

From the evidence given by FIA affiliates, in a large number of countries it is widely recognized that child performers require a legal exception – examples of those countries include Austria, Bulgaria, Denmark, Estonia, Finland, France, Portugal and Sweden. It was stated by some respondents to the survey that no specialized law exists (Turkey was one such example, where the question was, however, covered by the Turkish Constitution) in which cases child performers would either be in the position of working illegally or at best in an ambiguous situation – in either case, hardly the highest protection possible. The response from the union SUA in Uruguay was very clear in this respect; “In theory the law is the same for all children. In reality there are exceptions – children under 12 cannot work under any circumstances, but in fact there are child performers that do work. As there are no specific regulations for filming at the moment, we use the laws that apply to other areas. The Code concerning Children is currently being revised by Parliament”. Perhaps the most telling feature of the legal protections that were submitted is their variety and disparity.

### ***Austria***

The Austrian Child Labour law prohibits children from working under 15. Given that Austria is a member state of the EU, the provisions in directive 94/33/EC must apply and it seems that the Austrian law contains a range of protections. In additions it also specifies that “The employment of children in amusement halls, cabarets, bars, sex shops, dance floors, discotheques and the like, or in circus performances, is not permitted.”

### ***Finland***

Section 15 of the Finnish child labour law states that special permits can be issued by the Labour Council with respect to children working “in artistic or cultural performances and other similar events, when the said performance or event does not endanger the children or cause harm to their health, development or education.” It does not, however, provide an exemption with respect to working time or periods of rest (the international standard 12 hours in every 24).

### ***France***

The French Law L.211-6 deals with children in performance and also, specifically children working as models in commercials and in the fashion industry. It is an interesting and comprehensive piece of legislation, with a series of detailed procedures for obtaining permits from the prefecture in order to employ children. Child performers are given

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employee status, as are all French performers – an important protection for the child worker, conferring a range of state benefits and rights that they would not enjoy as freelance workers.

The Prefect, together with a Commission of specialists (educators, a doctor, health and safety expert and so on), is also responsible for issuing an annually renewable permit to model agencies, imposing strict rules on what they can do, including publishing information about children, and the way in which they can advertise their services, ensuring that they do not entice children. The law provides the authorities with considerable powers to demand information from any agency dealing with child models and with employers, including (for performers) looking at scripts to determine that the role being played will not be morally damaging to the child, and looking at company finances, checking the company's directors and requiring evidence of their good character and legitimate experience in child modelling.

As well as a series of protections and monitored derogations covering night performances, education, work on school days, among other things, the French law is one of the few seen that make detailed provision for the child's earnings. The Commission has the power to examine the child's contract and conditions, and fixes the part of the earnings that can be put to use by the child's "legal representatives". The rest of it is put in a savings account until the child attains majority. The money collected is not restricted to that flowing directly from the contract, but also remuneration from the use of the child's image, for example the secondary rights which are likely to be administered through a collecting society.

The law also carries, as do many, heavy sanctions and penalties for agents and employers that transgress, including fines and imprisonment.

## ***Ireland***

The Irish Act of Parliament, the Protection of Young Persons (Employment) Act 1996 gives the Minister the responsibility of giving licenses for children to work as performers. As part of the process, the Minister can require details of the project, location, contract or draft contract and also the sums to be earned by the child – although the law doesn't specify exactly what is to be done with that information. Education is dealt with only in a very cursory way in the law – "where the hours of work of the child involve an absence from school of more than one week, appropriate alternative teaching arrangements must be made", but it is possible that more subsidiary regulations exist for this.

## ***United Kingdom***

British law places very strong emphasis on educational requirements for working children as well as on the hours of work permitted. The licensing authority is the Local Education Authority in the area where the child lives (to give continuity with the child's compulsory education). The licensing authority must approve a chaperone, so that the child is always supervised. It also differentiates between acting and ballet and opera or musical performances. Another requirement is that employers demonstrate when seeking a licence that the part concerned has to be performed by a child. The law differentiates, as many do, between children of different ages, but in British law the youngest age group is broadly drawn as under 5, while babies are not mentioned. Dangerous performances (for example some circus acts) may require an additional licence, and the law includes requirements for medical examinations – another common feature of this kind of legislation. Travel abroad is also subject to an additional license. There are no requirements in the law relating to a child's earnings.

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## Australia

In Australia, the laws relating to child performers are established at state level, and this results in a disparity in protection that has been highlighted by the union as a problem. In New South Wales, there is a 1992 law amending the Children (Care and Protection) Act, which establishes a set of more detailed regulations that specify a licensing regime and, most importantly, enforce a code of practice – more detailed still – on the licensed employer. The code of practice therefore becomes a document with considerable status, and the employer is required to ensure that the parents of the child are furnished with it. The Code of Practice delineates the respective responsibilities of the employer, parent and licensing authority (the NSW Department of Community Services) and is one of the clearest and most understandable documents that have been seen in the complex area of regulating children's work in entertainment. In its preamble, the authors of the Code say that it is hoped to strike a balance between the need for flexibility and efficiency for the producer on the one hand, with the well-being of the child on the other.

As well as specific provisions on hours and number of permitted days of work, the code goes into detail with regard to the work environment, including requirements for insurance, food and drink appropriate for children, private changing facilities, prohibiting children from seeing upsetting or distressing scenes, or from being punished. In addition, the code specifies the inclusion of travel time to be included in the calculation of what constitutes the working day. Perhaps the most unusual element of the code is the detail given with respect to the use of babies under the age of 12 weeks, restricting considerably the things to which it is possible to expose a baby in the course of production (bright light and certain kinds of make-up are prohibited), the number of people handling the child, and exposure to people on set with particular kinds of respiratory or skin infections.

However, the code makes almost no mention of educational requirements, except to say that a child may not be employed on a school day for more than 4 hours – this does not mean that other rules do not exist, only that another authority may deal with them. The code also recognizes the existence of awards (collective agreements) and is subject to them.

By sharp contrast, it seems that other states in Australia do not treat children in a similar fashion. The performers' union MEAA<sup>2</sup> says that by comparison to New South Wales, the span of permissible working hours in the state of Victoria is too wide – a child of 7 could be asked to start work as early as 6 a.m. or finish as late as 11 p.m., and thereby work an 8-hour call. Travel time and meals are not counted towards the time, all of which adds up to a very long day. A range of improvements to this law are suggested, including preventing overtime, extending the regulations to 16-year-olds (who are still juveniles), 12-hour breaks between working days, accreditation for children's agents, more enforcement (the NSW code emphasizes the presence on sets of inspectors).

The Australian situation argues strongly for a national regulatory code in that country – particularly given the level of mobility in the industry and the basic injustice of such disparate treatment of children within the same country.

<sup>2</sup> Media, Entertainment and Arts Alliance, *Why Child Employment Legislation is Inadequate for Children Working in Film and Television in Victoria* (Redfern, New South Wales, Australia, 2000).

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## **Israel**

The Israeli Youth Labour Law specifies that “the employment of a child in a public or artistic appearance or for the purposes of advertising, or in photographs for the purposes of advertising ... shall be deemed to be employment, even if no employer/employee relationship was created by virtue of such employment, and even where it was a one-time engagement, and this applies whether or not such employment was for consideration or reward; for this purpose, ‘employment of child’ – includes his participation.” This is an interesting element, ensuring that producers cannot use the often-ambiguous employment status of performers to avoid child labour requirements for young performers.

Under the law, the Minister of Labour and Social Affairs may grant a permit for the limited-term employment of a child or “for the brokering of that child’s employment in an appearance or in photographs”. The appearance is to include rehearsals, study or practice for the purposes of the appearance. The emphasis on “brokering” creates a place in the legislation for the regulation of agents, recognising that certain kinds of agents or managers are a common reality in child performer and model employment, and imposing strong penalties for “unauthorized brokering.”

## **United States**

The situation for child performers in the United States is one of the most developed in some key aspects, but, surprisingly in view of the size of the United States entertainment industry, is also one of the most complicated. In the United States, all Federal laws regulating child labour are incorporated into the FLSA (Fair Labor Standards Act of 1938). The Act prohibits employers from using “oppressive” child labor, and its provisions exclude child performers in that they; “shall not apply to any child employed as an actor or performer in motion pictures of theatrical productions, or in radio or television productions”. The FLSA, as “umbrella legislation” is applicable within every state but beyond these general prohibitions, there is no federal statute, while every state has its own laws and systems governing child labour (including child performers). This creates a difficult mosaic for all kinds of child labour and no less for performers – every state has different provisions and requirements.<sup>3</sup> There are such great differences from state to state that the unions’ collective bargaining agreements are the closest thing that exists in the United States to national provisions.

The laws in California and New York lead the way among the states in terms of the range of protections – most entertainment industry work historically and actually takes place there) – but the patchwork of laws is extremely problematic in a business in which production moves around so much. Another feature of the film industry is that of Film Commissions, which offer various kinds of incentives to production. Producers are prepared to move around between states and even countries for many reasons, not least to save money – is it possible that an unscrupulous producer might choose one state over another to reduce obligations with respect to child labour laws? And why should states implement stringent laws that might discourage production? An internal report from the President of A Minor Consideration, a non-profit advocacy and campaign group for young performers, reported on meetings with Film Commission employees in a state which currently has little child performer legislation: “As with every state, the Film Commission worries about being put at a disadvantage vis-à-vis other jurisdictions and doesn’t want to get too ‘out front’ on protecting children.”

<sup>3</sup> See <http://www.sag.org/youngpersons.html> for a detailed synopsis of child labour laws in each of the states in that country.

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The laws in California, to be found within the Penal, Labor and Family codes are the most extensive anywhere in the United States, and include the “Coogan Law” relating to the earnings of minors working as performers, which is interesting in terms of its development, and so developed and specialized that it merits separate examination.

Minors working as performers have to be subject to permit issued by the Labor Commissioner, who must be satisfied that the environment is acceptable and that the child’s educational requirements are being met. This is subject to verification from the child’s own educational district.

There are two types of permit possible – individual permits (issued for up to 6 months) or blanket permits for groups (for special events, although each individual in the group must have given individual consent). Among other requirements, the law requires that Studio Teachers must be hired by the employer and provide proof of workers’ compensation must be given by the employer, as well as providing adequate school facilities for the purpose of teaching. In addition to fulfilling these requirements, the employer too must have a permit.

The law (which, incidentally applies to children taken out of the state but employed in California), like others examined, specifies the child performer’s working hours per day, days within a week and working hours and rest periods during the day. Then it specifies, as do other laws, individual hours in addition to these for individual age groups – infants aged 15 days to 6 months, and then up to 16. The age breaks are very detailed compared with other countries’ laws (e.g. in the United Kingdom and Ireland, the ages are broken down into three groups – although the breaks are different in each country).

An important feature of the Californian system is that all children must be given a Studio Teacher (1 per 10 children or fewer) and a parent or guardian should also be present on set. The presence of the specially trained Studio Teachers replace the requirement for children to attend regular school, and the law also differentiates between children in “regular school” (who are educated for longer hours, and can work less) and children who are tutored on set. This allows flexibility to the producer, and makes particular sense for children involved in long engagements – for example a television series. The Studio Teachers in California are themselves members of a union and publish a Blue Book<sup>4</sup> of requirements for all interested parties with respect to relevant legal provisions, interpretations and related information on the education of children working in entertainment, in order “to achieve a uniformity of understanding and enforcement”. The Studio Teacher’s role in fact goes some way beyond that of a teacher. In addition to teaching, they have almost a social work role, required by the law to observe the working conditions and physical surroundings of the child, and can, *in extremis*, stop a child from working in a particular context. They have to be present for such elements of the working day as hair, makeup etc. The fascinating aspect of the enlarged role of the Studio Teacher is that he or she can act as an additional advocate for the child in the workplace. The parents, who are also required to be present, may not be confident about what can be an intimidating environment to the outsider, and may not always be able to act in the interest of the child. Union representatives present on a set may have no idea as to the specific needs of children, and will have other calls on their attention from the rest of the workforce. By endowing Studio Teachers with these responsibilities, the law gives the child an extra advocate where he or she may need it most – in the workplace.

<sup>4</sup> Available at [www.studioteachers.com/bluebook](http://www.studioteachers.com/bluebook).

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Many other American states have much further to go in terms of providing prescriptive protections. In Illinois an official of the State Film Office explains that: “Child Labor Law Rules state that when children are in school, hours worked are ‘subject to reasonable conditions to be imposed by the rule of the Department of Labor’, which lends quite a bit of flexibility to the industry when working with children in Illinois. Frankly, this flexibility is probably why so many industry professionals love working with Chicago’s young actors; most times we’re simply glad to be working!”<sup>5</sup> The campaign for harmonization of legal protection for child performers continues in the United States, spearheaded by performers’ trade unions and advocacy groups like A Minor Consideration.

## **Canada**

Canada, like the United States, lacks a comprehensive federal law protecting child performers and indeed the federal government prohibits outright the employment of minors, giving an exception to the film and television industry. The provincial governments (with the exception of British Columbia) allow children to work in entertainment under guidelines provided in collective agreements between the ACTRA performers’ guild and producers. A Canadian journalist writes; “The federal and provincial governments turn a blind eye, preferring to let the performers’ union and producers find their own ways to settle working conditions for child actors in what are conveniently regarded as special circumstances.”<sup>6</sup> The absence of protection in some Canadian provinces has been highlighted by American child performer advocates as problematic, because United States film and television producers have moved their production to Canada since the early 1980s for a variety of reasons, not least the favourable value of the Canadian dollar. Paul Petersen, of “A Minor Consideration”, suggested in testifying to a California Assembly Select Committee on Entertainment and the Arts in 1999 that less stringent requirements on the employment of child performers in Canada has been an attractive element for producers. While this is a difficult and contentious area, it must nevertheless seem obvious that in an era of highly mobile production and in spite of the efforts of trade unions, a disparity of protection within a country – and no less between neighbouring countries can create opportunities for abuse.

The law in British Columbia<sup>7</sup> does however give children a set of employment standards for performers, designed to expedite the process of giving permits for children to work and including giving child performers an important level of earnings protection. Once a child under 15 years old has earned more than \$5000 CDN in his or her lifetime, 25 per cent (a figure based on United States and Canadian case law) of those gross earnings must be remitted to the Public Guardian and Trustee, to be held in trust for the children. The British Columbia law explains that: “unlike most other employment relationships, child actors are very young and may have substantial earnings. It is also not uncommon for a child actor’s earnings to be paid to someone other than the performer. The law and the courts have recognized for many years that children’s financial rights are independent of their parents and families. Because children cannot legally enter into

<sup>5</sup> Quoted by Kelsey Levert, “Children’s Rights in the Eyes of the Law”, *Perform Ink*, (Chicago), 27 October 2000, at <http://www.performink.com/Framesets/2frmBody.html>.

<sup>6</sup> Greg Quill: “Child Actors Work Outside Law”, *Toronto Star*, 1998, at <http://www.minorcon.org/outsidethelaw.html>.

<sup>7</sup> British Columbia Ministry of Labour: *Employment Standards Act Fact Sheet*, May 2000.

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contracts, someone else usually has to manage the child's income for them'. The money is therefore held in trust until the child reaches his or her majority.

## **Secondary regulation, licensing, guidelines and codes of conduct**

In very many, perhaps even the majority of countries, the regulation of child performers is accomplished through secondary regulation, a range of licensing requirements and, in a very few cases, accompanying codes of conduct. This paper makes no assessment of the effectiveness or otherwise of such systems. In some cases, licensing authorities will have a great deal of experience of the specialized educational, health and safety and other requirements of minors, and be able to use this expertise to balance the child's needs against the pressure for flexibility in an unpredictable workplace, which is difficult to regulate in a number of respects. Assessment or enforcement on film or commercial sets must inevitably be a difficult and costly process for such authorities, and the adults working in other capacities as technicians or even other actors should not be depended upon to monitor the working conditions of children. In such situations, and with the employment of children in film and television production growing, it would seem that internationally standardized codes of practice and guidelines – and informational materials for employers, regulators and unions alike – could well be beneficial.

## **The capacity of minors to sign contracts**

An important factor to look at when considering the rights of child performers is the extent to which they can be bound by contract. The entertainment industry depends considerably on individual contractual relationships – in the music industry, featured artists will almost invariably have exclusive recording contracts with a record company, and such agreements are often painstakingly negotiated in considerable detail. The actual employment status of performers differs from country to country, and this does not form part of the scope of this paper. However, a common element to most legal traditions, whatever the status of the performer, is that individual employment contracts are used to regulate the relationship between the employer/producer and the performer.

Contracts are important to specify and bind the employment relationship for obvious reasons but in any form of recorded performance they may have an ongoing existence beyond the work that has taken place including, for example, secondary financial and other obligations. In a number of countries, unions have negotiated collective agreements which specify the basic minimum standards for each performer's individual contract (including specifying repeat fees and other secondary payments) so the money, obligations and responsibilities that flow from an individual performer's contract can continue to be at issue long after the actual performance has taken place – the production may well have a life of many years.

Unlike any other area of child labour, the entertainment industry depends on being able to make contracts with performers. In the early days of Hollywood, children and indeed all performers had long-term contracts with studios. Now (with the exception of the music industry) short-term contracts are the norm. Contracting with minors could be said to present a certain risk to employers who, it is argued, invest heavily in developing the talented young person. "During the early stages of motion picture production, children were often signed to multi-year contracts by the major studios. This was a significant investment of both money and effort since the studios spent a great deal on training and

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publicity.”<sup>8</sup> Those days are gone, but modern short-term contracts still represent an investment on the part of producers who rely on minors to be able to fulfil their contractual obligations. The music industry, unlike film production, still requires multi-year contracts with musicians (there are many highly successful artists who are legal minors). Record producers would argue that their industry is structured on the basis that producers invest in establishing the child’s career and may well own copyrights pursuant to the contractual relationship with that minor. Therefore if the contract is put in question in any way or proves to be unenforceable, the producer risks suffering a financial loss. On the other hand, the artist rarely has much bargaining power in the negotiation and may have little option but to sign a contract containing what may turn out to be unfair provisions, or risk losing the work. The issue of power in the negotiation is something that always has to be borne in mind in looking at the situation of performers and even more so in the case of very young performers.

However, despite the importance of contracts to the industry, in a very large number of countries surveyed, children who have not attained majority (which is variously defined) cannot legally enter into a contract – and in some common law countries a contract purporting to bind a minor is voidable at the election of the minor. This process of voiding contracts is also known in the United States as “disaffirming”.

The way that minors and their contracts are dealt with in slightly different ways even in countries with a common law tradition. In the United Kingdom, for example, the courts may decide that a contract is void, but will not correct a “bad bargain” (this is possible in some legal regimes); however, they may well look at unduly restrictive terms and undue influence – for example if a young artist keen to get into the music business signed a long-term agreement, the provisions of which could later be interpreted as going against common sense, then that contract could be voidable. United Kingdom contract law defines “undue influence” as taking place when people in positions of trust exert influence in their relationship purely to their own interest or to the detriment of the person whose trust they hold. This kind of formulation could be said by producers to introduce legal uncertainty in to the relationship with the young performer, but it does of course represent a way of protecting the minor.

A survey was undertaken by the Council of Europe’s Centre for Europe’s Children, about the ages at which children are legally entitled to carry out a series of acts in Council of Europe member countries.<sup>9</sup> The study shows that whereas the age of civil majority is frequently 18, there is a considerable variation in the ages at which children can sign contracts with – or without – parental consent. In a large number of cases, there is a caveat relating to the individual child’s capacity (e.g. in the Czech Republic – “Depending on maturity and understanding”, Finland – “Parents can rescind”, France – “If child’s understanding is sufficient”, Netherlands – “in practice when the child has reached the age of discernment”). Others restrict permissible contracts to those that would bring legal advantage to the child, as in Germany and France. In most cases, the only circumstances in which a child under 18 can be bound to a contract is if his or parents have signed it on his or her behalf.

<sup>8</sup> Boehm and Guzman: “Legislative and Judicial Approaches to Minors’ Contractual Rights in the Entertainment Industry, 1984,” quoted in Erika D. Munro, “Under Age, Under Contract, and Under-Protected”, *Columbia-VLA Journal of Law and the Arts*, Vol. 20, No. 3, Spring 1996.

<sup>9</sup> Council of Europe Steering Committee on Social Policy: “Ages at which children are legally entitled to carry out a series of acts in Council of Europe member countries”, March 1998.

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In the United States, the law and practice in this area is more developed than in other places. It is perhaps worth looking at how the system works – and in whose interests. Two main kinds of contracts are commonly signed – firstly “releases” granting permission to use a minor’s pre-existing performance, likeness or work and secondly “personal services contracts” granting the right to obtain the minor’s future services. Because a minor cannot enter into a contract, the contract is voidable at majority (now normally 18).

Releases can be signed by parents on behalf of minors, and the parents’ role is an influential one – an important case in this regard is that of the performer Brooke Shields, who was photographed nearly nude at 10 years old. Her mother had signed the release authorizing the publication of photos, which Brooke tried to disaffirm when she turned 18 in order to stop their use. However her attempt failed and the release prevailed, strengthening the influence of the parent in this kind of situation.

In personal services contracts, parents are asked to guarantee the contract making them financially liable if the child did not perform pursuant to the terms of the contract – and other obligations are also included, for example that the parent use best or good faith efforts to ensure that the minor actually performs.

## **History of the process of disaffirmance in the United States**

The history of the United States laws related to minors’ money is closely related to the law on contracts, and goes back even to the earliest days of Hollywood. Neither the value of children to the entertainment industry nor, on occasion, their exploitation by parents is new. Famous examples in the United States include Jackie Coogan, the silent-era child film star whose mother squandered his money under the common law rule giving her the right to claim his earnings,<sup>10</sup> Elizabeth Taylor, Shirley Temple, whose entertainment earnings supported a household of twelve individuals and who only retained a few thousand dollars and a dollhouse,<sup>11</sup> and more recently others such as actors Macaulay Culkin, Gary Coleman and Jena Malone. Clearly the greater the star power of the child, the more there is at stake for all parties and, in this situation, the business of contracts can become very unpleasant even within families, because the child’s earnings have legally belonged to his or her parents.

As discussed, in the United States, states remain free to make their own laws for children employed as performers, and provisions vary – in the states of California and New York, where most production takes place, the law is most developed. The early movie industry was instrumental in establishing laws that “initially arose out of concern for stability in the field and a need to uphold the validity of contracts with minors”.<sup>12</sup> Through the statutes, the courts were given the authority to approve entertainment contracts once a request that this be done was made by the employer. After court approval, the minor is prohibited from disaffirming the contract. These laws were intended to protect children by introducing the court to protect their rights. However, more often than not they favoured

<sup>10</sup> *Kid Time*, 2 May 1938. When asked if she believed Jackie’s fortune belonged to her, Coogan’s mother replied, “I believe that is the law.” Quoted in Munro, 1996, op. cit.

<sup>11</sup> Erica Siegel, “When parental interference goes too far: the need for adequate protection of child entertainers and athletes”, *Cardozo Arts and Entertainment Law Journal*, Yeshiva University, 2000.

<sup>12</sup> Robert A. Martis, *Children in the Entertainment Industry: Are They Being Protected?*, 1988, quoted in Munro, 1996, op. cit., p. 32.

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the interests of the stronger party to the contract – the employers – who did better out of the system because courts tended to uphold the validity of the contract.

The industry in the United States has changed very much over time, but disaffirmance remains important for music recording contracts. “Crucial to the viability of the recording business is the popularity both of performing artists who are minors, and their music. Such phenomenon [sic] presupposes the need to protect the financial investment in these artists [and in the conveyance of copyright] by eliminating their common law right of disaffirmance.”<sup>13</sup>

The constitutionality of statutes withdrawing the child’s right to disaffirm has been challenged a number of times but, in an interesting and gradual change, the child’s welfare has come to be a more important consideration, and it is recognized that the child entertainer is by far the more vulnerable party in the making of such agreements. In return for the contract approval, the laws have developed in such ways as to include certain limitations and protections in favour of the child. For example the New York statute limited the approval of contracts to three years or less, in order “to limit the contract to a period in which the infant’s development and his future needs and capabilities are reasonably foreseeable”,<sup>14</sup> and did not include contract provisions covering the transfer of intellectual property rights (unlike in California), while the California statute includes extensive provisions regarding the disposition of funds due under the contract, known as the Coogan Law (see below).

There continue to be a number of concerns about the process of disaffirmance in the United States. Getting court approval for a contract can be arduous and, since it is not mandatory, many contracts never get to the court for approval. Judges are not required to look in detail at the terms and conditions of a contract, and may not have the specialized knowledge by which to understand a performer’s contract in any case. And as has been seen, the child is still vulnerable in a situation in which his or her parents have consented to the contract.

It is possible in a number of legal traditions for children to petition the court for emancipation. In California, a child aged over 14 but under 18 can petition the court and, if emancipated, is not exempted from school attendance or child labor laws, but is given the ability to enter into a binding contract, having proved to the satisfaction of the court that he or she is living apart from parents and is managing his or her own financial affairs. This is a difficult and testing process, as one may imagine. There have been some high-profile cases very recently in the United States, illustrating what can happen when the parent/child relationship breaks down entirely – almost invariably because of money. Jena Malone, a highly successful young performer, sought – and achieved – emancipation from her mother Debbie after mismanagement of her earnings; Jena is quoted as saying; “She wanted so much to be part of my business life, and I just kind of wanted her to be my mom, but it was hard for her to see where the line ended and where the line began.”<sup>15</sup> In another case, child star Taran Noah Smith, who had spent 9 years starring in the hit show “Home Improvement”, at the age of 17 hired an attorney to help him fight his parents and gain control of his earnings. “Right now I’m making between \$10,000 and \$15,000 a month from my trust fund and residuals combined and I see none of it. They [his parents] also

<sup>13</sup> Melvin Simensky, *The Right of Minors to Disaffirm Entertainment Contracts*, 1986, in Munro, op. cit., p. 32.

<sup>14</sup> *Bright Tunes Productions v. Lee*.

<sup>15</sup> Nancy Rommelmann, “Jena at 16: A childhood in Hollywood”, *LA Weekly*, 16-22 June 2000.

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have ownership of my car and I still have to pay a mortgage of \$5000 a month on my \$585,000 house ... that they live in.”<sup>16</sup>

The complications inherent in contracting with children would therefore seem to argue strongly for mandatory and universal legal protection of children’s earnings, as exemplified by laws in California, British Columbia and France. In this way at least, a significant area of abuse – i.e. the appropriation by family or others of the child’s earnings – would be reduced without altering basic tenets of contract law, which differ greatly around the world.

## **The Coogan Law and protection of children’s earnings in California**

The original Coogan Law came about directly from the fact that, by common law tradition, the earnings of a minor child belonged to its parents, including when contracts were approved by the courts. The 1938 dispute over the millions of dollars that Jackie Coogan had earned gave rise to a change in the law, giving courts authorization to require that a trust fund or savings plan be set up on the child’s behalf as a precondition of approval of the contract. The creation of these trusts held for the child (which are only seen in the laws of a few other countries – France being an important example) were – and still are – seen as important in protecting the child from parents (in some cases) and also in mitigating the effect of any future misfortunes the child might experience, as many children with successful acting careers do not find that success continues on into adulthood.

The Coogan Law, which came out of the original part of the California Civil Code, effectively immunizing employers from child performers who chose to disaffirm their contracts, did provide some measure of protection for children under the studio system, during which long-term contracts prevailed. However, considerable discretion was given to judges to establish the terms, and the parents still controlled whatever money was not set aside. It has been argued that the absence of case law on the subject shows that the law provided far more protection to the studios than the child actors<sup>17</sup> – in two key cases in the California Supreme Court, the court upheld the right of the studios to maintain long-term contracts with minors<sup>18</sup> – and therefore, it is often said, the balance of power continued to rest squarely with the studios.

California law did develop to some extent over the years, giving the courts wider powers to approve contracts pursuant to a wider range of artistic occupations and sports, while continuing the practice whereby minors could not legally disaffirm approved contracts (of under seven years in duration) and extending court approval to talent agency contracts. The portion of “net” earnings set aside by the courts was also defined as being the total sum received for contract services less required taxes, “reasonable sums expended for the support, care, maintenance, education and training of [a] minor” and “attorney’s fees for services rendered in connection with the contract and other business of [a]

<sup>16</sup> Madinah Hazim and Michael Hooper, “Ex-Sitcom Actor Battling Parents”, *The Topeka Capital-Journal*, at <http://www.minorcon.org/taran.html>.

<sup>17</sup> Marc R. Staenberg and Daniel K. Stuart: “Children as Chattels: The disturbing plight of child performers” (Gardena, California, A Minor Consideration), at <http://www.minorcon.org/childrenaschattels.html>, last modified 18 April 2000.

<sup>18</sup> *Warner Bros Pictures v. Brodel* (1948) and *Loew’s Inc. v. Elmes* (1948).

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minor”.<sup>19</sup> Nevertheless, despite the difficulties in establishing what were the legitimate expenses necessary in the pursuit of a child’s career, the main failing in the system (which had, after all, been created at a time when the studios normally made long-term agreements with child actors) was that the vast majority of contracts in recent decades have been short term in nature, with no incentive for producers ever to seek court approval, and therefore no protection or advocate for the child’s interests ever coming into play.

In 1999, a bill co-authored by Senate President *pro tempore* John Burton and Assembly members Sheila James Kuehl (a former child actor) and Scott Wildman (whose children are child actors) and sponsored by the American Screen Actors’ Guild, amended the Coogan Law in a far-reaching way, in order to reflect its original intent. The amendments, which came into force in early 2000, ensured that when young performers work under entertainment contracts (including sports contracts), 15 per cent of the gross earnings will be set aside for them until they reach legal majority. Producers can still seek court approval to prohibit disaffirmance of the contract, but the new Coogan Law creates new safeguards, making the child’s parents the formal guardian *ad litem* with a strict set of fiduciary duties and obligations, unless the court determines that appointment of a different individual is required in the best interests of the minor. The law also makes the child’s earnings his or her own legal property, which is an important codification of current judicial practice. The rules for trusteeship of the child’s money are also specified in detail, creating a fiduciary relationship between parents and children that is governed by the law of trusts, making it an obligation for the parent or guardian not only to support the child, but also detailing how payment of all liabilities incurred by the minor shall be met from the remaining 85 per cent of his or her earnings.

Perhaps most importantly, all contracts, even those not under court approval, are included, thereby closing a major loophole in the system; producers are required to make timely deposits into the child’s fund to allow interest to build as soon as possible.<sup>20</sup>

The development of the California law – and the stark fact that such provisions are by no means universal even within the United States, let alone the rest of the world, offers an interesting and salutary lesson. If society accepts that children can work as performers, surely it is incumbent upon the law to provide for a situation in which some children may have incredible value to producers and consequently great earning power at an age at which they cannot enter into legal agreements nor manage money. Would it not also be important to have statutory regulations that would “ensure the benevolence of parents’ intentions”?<sup>21</sup> This certainly seems to be one area that merits international attention.

<sup>19</sup> California Family Code, quoted in Thom Hardin: “The Regulation of Minors’ Entertainment Contracts: Effective California Law or Hollywood Grandeur?”, in *Journal of Juvenile Law* (University of La Verne College of Law, Ontario, California), 1998.

<sup>20</sup> Screen Actors’ Guild: *The Coogan Law: What every child actor and their parents need to know about California’s Coogan Law*, (Los Angeles), April 2001 (information also available at [www.sag.org](http://www.sag.org)).

<sup>21</sup> Erica Siegel, “When parental interference goes too far: the need for adequate protection of child entertainers and athletes,” in *Cardozo Arts and Entertainment Law Journal*, (New York, Cardozo School of Law, Yeshiva University), Vol. 18, No. 2, 2000.

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## 5. The role of performers' organizations

In a number of countries, union collective bargaining agreements have gone some way to mitigate omissions in the law protecting child performers, and sometimes (for example in Canada) the union provides the only real protections for child performers. However, representing children is problematic for performers' organizations. In many instances, as FIA's survey of its member organizations shows,<sup>1</sup> the unions of performers have the character of professional associations<sup>2</sup> and rather strict entry criteria based on professional qualifications – for example that members must have graduated from specific drama schools or be able to produce contracts showing professional experience. These strict professional standards and entry restrictions are some of the most important tools by which performers have been able to organize and protect jobs in a very fluid and difficult employment. Such measures will inevitably make it very difficult or impossible for children to belong to these organizations.

It is also, of course, true that child performers are not numerous, and so there is unsurprisingly little incentive or interest for unions or professional associations to identify or take on their specific concerns. Unions are likely to have quite enough problems organizing performers in the sector, and little time or interest in dealing with children. There seems from the responses to the FIA survey to be an assumption that children are well protected by laws in almost every country. Many unions say that no problems have come to their attention (though others do say that they have given advice on children's employment on an *ad hoc* basis), so it is assumed that all is well, and that other bodies and authorities are taking care of children's needs. Given the lack of advocacy on behalf of children working in the industry, we might wonder how problems would come to light except perhaps in [cases of major problems,] but most of the unions believe that there is no particular role for them to play in the protection of child performers.

In some other cases – the United Kingdom is one example – unions are legally prohibited from representing minors, and this obviously impacts upon the unions' areas of interest and involvement. Where unions are able to represent children, minors may be asked to join the union, and this in itself might be seen as contentious. The United States Screen Actors' Guild requires child performers – even babies – to join the union and meet exactly the same obligations as adult performers, paying a percentage of earnings in membership dues in order to be represented. However, it is arguable that it is only by imposing such requirements that the union has been able to resource a strong platform for children, and provide advocacy and advice.

There are examples in which issues relating specifically to minors have been included within union negotiations, and this study will examine collective bargaining agreements from Australia, Canada and the United States. However in any collective bargaining process the specific needs of children will have to be balanced against what the unions hope to gain for the large (adult) majority of their members. It is understandable that unions are not keen to sacrifice the possibility of achieving contract protections for adults in order to build in children's issues, when only a tiny minority of those working under the agreement will be children and many of them may work only briefly and not go on to have professional performing careers. There are also areas of work for children in which there is rarely – if ever – any union involvement, photographic modelling being an example. There

<sup>1</sup> Appendix 1.

<sup>2</sup> Discussed in Sand, 2000, *op. cit.*

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is no likelihood of performers' unions applying resources to areas like this, in which their membership is not represented, and it is at least questionable as to whether licensing authorities are able to monitor all these workplaces, leading to the question – who precisely oversees the work of child performers?

Within the unions' own membership, children are likely to be far from visible, because they are small in number and also because they may pass quite fleetingly through the employment market. Keeping track of all the children working in the business would seem an almost impossible task for a union to assume – in the final analysis, perhaps only the bodies responsible for giving permits or licenses would have both the information about the work being undertaken and the specialist understanding needed to ensure compliance with such rules that do exist.

There is a very positive example from the United States of what can happen when former child performers create a lobby within a union and work to empower and inform children and their parents. The organization called "A Minor Consideration" was established by former child performers in 1990 in order to achieve the following objectives: to try to establish uniform national laws in the United States; ensure that child performers are able to benefit from their own earnings; create a status for the parents within the employment process; prevent the hiring of premature babies; establish enforcement mechanisms, and set up programmes to try to assist child performers with transition issues.<sup>3</sup> This organization has worked within the United States Screen Actors' Guild and its child performer committee (only the unions in North America and in Uruguay seem to have such specialized committees of members) and has established a broad programme of activities to assist and advise child performers, providing an online handbook, telephone hotline, regular informational meetings, standard financial forms, and so on. The success of this committee (whose members are necessarily adults for fiduciary and privacy reasons) can be judged both by its output and the legislative changes for which it has lobbied. Other American performers' unions have also developed a range of specific activities on behalf of child performers – Actors' Equity holds regional meetings on the subject and provides recommendations to the union's bargaining team during negotiations, also looking at the various relationships that child performers experience with managers, agents and parents, and devising contract provisions for touring shows.

In other countries, the principal advocates for child performers are apparently those organizations that concern themselves in a general way with child labour. It is worth speculating how much specialized understanding these bodies have about children working in entertainment and, given the very small numbers concerned, how much attention they can pay them. The inevitable conclusion is that child performers seem to be deficient in independent advocacy and representation, except by those who have a direct interest in their employment – their agents, managers and even parents who may not know what the "rules" are and, even if they do, may be powerless or even disinclined to act, because in doing so, their child may lose a job. The lack of independent advocacy for children working in entertainment is perhaps the starkest finding of this study.

<sup>3</sup> See <http://www.minorcon.org>.

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## 6. A selection of contractual provisions

A small number of union contract provisions were provided in response to the FIA survey, and are referred to here. It seems that few union collective bargaining agreements refer specifically to children for reasons already discussed, and while important, it is not argued that collective bargaining is an alternative to adequate child labour laws and regulation.

Collective agreements have a number of shortcomings. Depending on the system that pertains in a particular country, collective bargaining agreements only cover the parties signatory to them and only relate to a specific area of work, which can result in varying levels of protection between agreements negotiated at different times and with different groups of employers – an obvious failing. Another major problem is that union agreements are often limited geographically, so that as soon as a production takes place outside the territory in which the agreement was negotiated, its provisions may no longer be enforceable within the agreement or the law (in the same way, however, laws may apply only to the nationals of a particular country, and not be applicable to foreigners). At a time when production of films, television and commercials is more mobile than ever, one can see how this would be a problem for all performers, not only children.

The agreements presented are included for the purposes of illustration rather than comparison or evaluation – each is a product of a different bargaining process and a specific industrial and legal context, and clearly there are variations, with some containing less favourable terms than others. Instead, emphasis is placed on the nature and variety of provisions.

### Contract provisions from the United States

Some of the most extensive collective agreement provisions anywhere are in the United States, where the unions in television and films (AFTRA and SAG) and in live performance (Actors' Equity) have negotiated a set of protections in addition to those that exist in law (as previously discussed, the laws relating to child performers are relatively strong in California and New York, where much of the entertainment industry is situated, but very deficient in a large number of other American states) and these provisions also reinforce the laws. Agreements exist in a number of professional areas, negotiated with different groups of employers – including commercials, films, television, radio, industrial and educational films; but, because the agreements are negotiated separately, the provisions within them may well vary slightly from each other.

Some key elements taken from United States agreements are as follows:

- Every stage of the employment process is covered – from the actual engagement through the work itself.
- They impose another layer of requirements on producers, in addition to those in the law. In the SAG-AFTRA main agreement, it is confirmed that California laws apply pursuant to a contract made in California.
- There are very detailed provisions relating to the organization of the working day, and a large number of health and safety concerns, including for example, specifying how costume fittings must take place (two adults present at all times), that there must be separate dressing rooms for children and adults (and children of the opposite sex);

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that there must be a play area and that appropriate – well-balanced and nutritious – food must be provided.

- The agreements impose the requirement to have a studio teacher present after three or more consecutive days of employment, and confirm that the teacher is paid by the producer; or for example in a commercials agreement, that an individual be designated to coordinate all matters relating to the child's welfare.
- One typical instance in which agreements reinforce the law is that they establish conditions for legally required education on set to take place, e.g. specifying the nature of the teaching facility (the child cannot be taught in the back of a stationary or moving bus or car, or during transport), making it clear that no one – except the children and staff – can enter the teaching facility, and that when the school is in session the teacher has primary responsibility for the children.
- Unusual physical, athletic or acrobatic ability and appropriate consents and protections are provided for, and employers must provide rest and play areas.
- In the commercials agreement, notification and consent are required by the parent if the child is to perform in the presence of alcohol, tobacco or firearms; and if a child is required to have his or her hair cut, coloured or chemically treated, the conditions for this taking place are set out.
- The role and responsibility of parents is reaffirmed in the negotiated agreements, and they are given the right to fullest information about all aspects of the child's employment, are given the same transport, lodging and meal allowance as the child, although they are not permitted to interfere with production or bring other children to a studio or location.
- Agreements specify that highest form of protection shall apply, whether in the law or agreements, and provide that the provisions protecting minors in the agreement prevail over any inconsistent and less restrictive terms elsewhere in the agreements.
- Actors' Equity's agreements for children in live performance provide for children working at night and for touring.
- In theatre, the union has negotiated that there should be "wranglers" appointed by the producers to manage the children – these people take over from the parents because backstage conditions in a theatre cannot physically accommodate all the parents.<sup>1</sup>

## **Contract provisions from Canada**

In English-speaking Canada the union agreements in film and television are negotiated by ACTRA (in French-speaking Canada, the Union des Artistes has jurisdiction). Some key elements of the ACTRA agreement, many of which are similar but not identical to those found in the United States, are as follows:

<sup>1</sup> From Actors' Equity response to FIA survey: "The backstage of a theatre can be a very dangerous environment, with scenery flying in and out and numerous personnel, and added to this scenario are active children, often supervised by only one 'wrangler'. This situation can be complicated by the fact that they might have different appearance times on stage."

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- Parents are given notice and information about the demands of the shoots, including night work, hazardous work, etc., and are not to interfere with production “unless interference is required to ensure the Minor’s safety”.
  - Work/break periods are specified – for example a child aged 2 and under cannot work for more than 15 consecutive minutes without a break of 20 minutes.
  - If a minor is required to perform subject matter that may be psychologically damaging, the producer must hire an accredited psychologist to guide and assist the minor in the process of performing, and if necessary, to supervise – provisions include consultation and assistance for children engaged to perform in scenes depicting “child abuse, disturbing violence or carnal acts”.
  - Tutors’ qualifications are specified, including for instruction other than in English – tutoring is required to take place within the first three hours of a minor’s workday, and in blocks of a specified minimum length (separate from a performers’ break time).
  - The tutor must prepare a weekly written report for each child, to be delivered by the parent to the minor’s regular school.
  - It is possible (by agreement between the parent and tutor when the combined work/school schedule is unusually heavy) to “bank” or accumulate tutor time. The way in which the banked hours can be used is closely defined, presumably to avoid abuse, but these provisions give some additional flexibility in their disposition.
  - Certain elements of an engagement (wardrobe and makeup tests, for example) cannot take place during school hours.
  - The engagement of children younger than 15 days old is prohibited.
  - Conditions for babies are specified, including the need for quiet rooms for changing and rest and the sanitizing of equipment, which cannot be shared by different children on set.
  - The agreement includes a provision for the establishment of a trust account for a child – after a minor’s total lifetime remuneration reaches \$5000, 25 per cent of the gross remuneration is deducted and held by the union’s collecting society, subject to the trustee rules of that society.

## **Contract provisions from Australia**

The Performers’ Certified Agreement of Australia contains some provisions specifically covering the employment of minors. These include:

- Performers aged 14 and under must earn a minimum of 45 per cent of the total minimum weekly rate of adults (the adult rate applies for children on tour in the theatre) – performers aged 15 must earn no less than 55 per cent of the adult weekly rate.
- The conditions of employment set out in the Code of Practice for Children’s Employment in New South Wales (already referred to) are in theory – if not in practice – applied to all engagements of juvenile performers under this agreement (the Code is appended as a Schedule to the Agreement).

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- Juvenile performers engaged on contracts of twelve weeks or longer, or employed in the entertainment industry for a minimum of six professional engagements or a minimum of 30 days receive, as do adult performers, the benefit of a contribution to a Joint Union Superannuation Fund based on legislation or 3 per cent of the employee's actual rate of pay, whichever is the greater.

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## 7. Key elements for protecting child performers

It is evident that no single law, or set of laws or collective bargaining agreement in any country, even where interest in the employment of child performers is very high, is entirely comprehensive either in scope or in content – each has a different emphasis, and the result is a patchwork of different protections around the world. Rather than critique different laws, the aim of this section is to highlight some key provisions for practitioners, advocates and legislators to consider. Given the range and variety of protections, a model law or at least an internationally-agreed code of practice would seem to be urgently needed.

### Definitions

It is of fundamental importance that laws define exactly what a child performer is – or even more importantly, what the entertainment industry is – in order to qualify for exemption from widely observed prohibitions on child labour. This means taking account of the different kinds of work undertaken in the industry, the varied nature of the disciplines that need to be regulated (in some cases, these would be in different ways from each other) and including certain kinds of ancillary activities such as modelling, despite (or because of) the difficulties of monitoring and enforcement of regulations in this area.

The definition of the entertainment industry in California state regulations is a thorough example, including at least one very American form of entertainment unlikely to be of interest in other countries, but illustrating how national laws can take culturally specific “art forms” into consideration.

The Californian definition is:

Any organization or individual, using the services of any minor in: motion pictures of any type (film, videotape, etc.), using any format (theatrical, film, commercial, documentary, television program, etc.), by any medium (theatre, television, videocassette, etc.); photography; recording; modelling; theatrical productions; publicity; rodeos; circuses, musical performances; and any other performances where minors perform to entertain the public.<sup>1</sup>

Any definitions in law will require certain exemptions, for example for amateur or school productions, and other non-professional forms of entertainment in which children may be involved.

### Age splits

There is considerable variation between the age divisions in different laws, codes of practice and collective agreements that were examined. While it is obvious that some children develop faster than others, it is nevertheless essential to differentiate in general terms between what children require (in terms of education, rest time, etc.) and are capable of doing at different ages, and this would seem to be an area ripe for some kind of international consensus.

<sup>1</sup> 8 CCR 11751 (see California Department of Industrial Relations, 2000).

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One illustration of this difference is between two neighbouring countries. In the United Kingdom, restrictions divide children into: “Aged under 5, Aged over 5 and under 14, and Aged 14 and over” for the purposes of restricting the number of hours and days that can be worked; however, in Ireland the divisions are “Under 7, From 7 to 13, and Over 13”. The New South Wales Code of Practice (Australia) has five groups – the youngest two being “under 6 months and then 6 months to 2 years” and there are many other examples.

## **Babies**

It is surprising how little treatment exists in any law relating to the employment of very small children and babies – this too is an area in which law and practice should be further examined, and model provisions agreed by legislators and practitioners. The prevention of the employment of premature babies is clearly problematic – in the United States, babies cannot be used until they are 15 days old, but the realism of TV frequently requires newborns and live birth, so producers have been known to use premature babies who can be more than 15 days old but have still not reached their due date and tend therefore to be very underweight. Wherever there is any kind of regulation of this issue, babies cannot be made to “work” in front of cameras or be made up for long periods, but they may nevertheless be kept at studios for very long days, and should have special facilities and care.

The New South Wales Code of Practice is one of the few official documents to go into some detail about the employment of babies. It refers to babies less than 12 days old, and their employment requires express authority as well as a range of measures including that a baby care professional be present at all times, that the baby was delivered full term and in good health, has a minimum birth weight and is entirely healthy. In addition, there are other health and safety rules about exposure of babies to direct lighting, the application of make-up and a limitation to four people (including the mother and the healthcare professional), who are allowed to handle the baby during any single period of employment.

The ACTRA Independent Production Agreement from Canada, like those in the United States, contains a whole section on infants – defined as less than 2 years old and more than 15 days – and stipulates that a baby cannot be employed before this age.

## **Licensing and permit systems**

Perhaps the biggest variation from country to country is the mechanism specified in law for issuing work permits for children working in entertainment. The other problem is that it is difficult – if not impossible – to assess the resources attached to the monitoring and enforcement of those regulations by official bodies once work permits have been issued, and it is less than clear from the responses to the FIA questionnaire how much is really known about what happens to children working in entertainment.

Given the specialized nature of the entertainment industry, and bearing in mind variations in practice at national level, it would seem useful for practitioners to develop an internationally standardized set of guidelines or code of practice, such as have been developed by experts through the tripartite ILO mechanism to promote health and safety in certain specialized industries and occupations. These codes could be used for training programmes and to assist the development of national law and enforcement, among other things.

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## Reference to agents and parents

Agency licensing and regulation is as complex and varied from country to country as that of child performer employment. Any model laws or guidelines should consider the need for special recognition of the role of agents and their relationship to children working in entertainment, because of the obvious vulnerability of children and the influence such agents may have on parents hopeful of making careers for their children. Establishing consensus on the rights and obligations of the parents of child performers might be a useful adjunct to this discussion.

The Israeli Youth Labour Law makes specific reference to “persons who broker the employment of a child” and the French law requires special measures on the part of modelling agencies that employ children. Apart from these examples, there is little reference to agents and how they specifically relate to child performers in any of the documents examined in the course of this study (although there may well be general provisions regulating entertainment agencies, which are not discussed here).

In most laws, parents are required to have primary responsibility for the child in a working environment, with an important role to play in making it possible for the child to work, but, as has been seen, they are not invariably assumed to be working “partners” of their children. Apart from legal provisions protecting the child’s earnings (including from their families), which have already been discussed, other measures seen in collective agreements include prohibitions on the right of the parent to interfere with production, and collective agreements specifying that the parent can accompany the child on hair, make-up and wardrobe calls if space is available and provided the parent is not disruptive (ACTRA, Canada). Actors’ Equity (United States) specifies that children backstage in theatres are to be “wrangled” by specialist minders – perhaps a good model for others to consider. It has been said that parents have an ambiguous situation vis-à-vis their working children, performing an important function but not actually employed by the production. Some unions have negotiated that the travel and expenses of the accompanying parent be met; however, it has even been suggested by some child performer advocates that parents should be given a clear status and some financial compensation for making it possible for the child to work – often at the expense of their own employment.

## Hours worked per day/year

Even on this most basic question – the length of a child’s working day – there is huge national variation, as there also is with the calculation of the number of days in a given period in which a child can work. Collective agreements and working practice as to what constitutes an acceptable working day differ around the world for adult performers, and harmonization has not been a priority in performers’ union discussions. However, there might be more interest in objective international guidelines as to how much a child performer may be expected to do in a given time period, as well as how this working time can be measured against rest periods. Given the complexity of what takes place on theatre stages, television and film studios and locations, and the unpredictability of film production in particular, time is probably the factor more prone to adverse pressure than anything else in a working day. This would seem to suggest that consensus on the issue would be helpful – for example in dealing with international co-production.

## Educational provisions and requirements

In some laws and regulations on child performers, the education of the child is central – the law in the United Kingdom is a good example of this, with the primary licensing

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body for child performers being the Local Education Authority. In other laws, education is barely mentioned. Requirements for the amount of schooling in a working day vary considerably around the world. Collective agreements in Canada and the United States (as previously discussed) make provision for studio teachers, for longer engagements. It is inevitable that children working as performers will miss school (either in long and continuous periods of employment, or in a number of very short engagements), and it would seem essential for national regulations and any international guidelines to be formulated to make provision in this most important area.

### **Turnaround time, rest time, rest days**

The requirement for a 12-hour rest day between periods of employment, as enshrined in ILO instruments, is often seen in reflected in national laws. However, the balance of rest periods during the working day and time off during the course of longer engagements are as important as the hours of work themselves, and they are just as prone to abuse in the course of production.

### **Night work – particularly in live performance**

Many laws make night work possible by permit, and it is normally necessary, in particular for children employed in the theatre. It is especially important to regulate the amount of time between performances before children are permitted to work again – some productions manage this by having teams of children alternating nightly in the same parts.

### **Touring and travelling**

Few laws make reference to what happens when children work away from home, either on location (which can be abroad) or on tour in a live performance. British law makes specific mention of children working outside United Kingdom and the Irish Republic (requiring a special licence and specification of educational arrangements proposed if the time away involves absence from school).

### **Moral oversight**

The “moral” question of what child performers should, and should not be exposed to in the course of their working day and in their own performances – or that they may witness in the workplace – is an aspect referred to in different ways in some regulations and collective agreements. In a number of instances, reference is made to the need for the child’s privacy (for example, in changing facilities), in others that the child should not be cast in a role or situation that is inappropriate, be exposed to distressing scenes, be forced to become distressed in order to prompt a more realistic reaction and must not be employed in any situation involving nudity (either of the child or another person). In a recent development, the United States Screen Actors’ Guild have negotiated a clause in their commercials contract requiring producers to notify the child and his or her parents in advance if the child is to appear in a commercial depicting the use or presence of alcohol, tobacco or firearms. The French law requires that the application for permission to employ a minor must be accompanied by documents allowing the licensing authorities to understand the difficulties and the morality of the role to be performed, so that the experience and ability of the child can be taken into account. In Canada, the ACTRA agreement requires the producer to make available a psychologist or properly accredited

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therapist to observe and advise during the production, in cases when the child has to perform a scene that “depicts child abuse, disturbing violence or carnal acts”.

## General health and safety

In almost every country, medical examination of a child performer is a prerequisite for obtaining a licence for that child to be work. Specific requirements for children’s health and safety (in addition to general performers’ health and safety requirements) are usually to be found in union collective bargaining agreements. In the United States, for example, there is a national agreement provision that consent is needed if a child performing in a commercial is to have his or her hair cut or chemically treated, and there are also references to stunts, acrobatics, dangerous activities and situations in which children may be asked to perform. Some agreements cover even more basic needs, requiring that nutritious food be provided for children, and that rest and play be built into the working day; these may be good examples for others to consider.

## Pay and remuneration

Gaining information about payment is invariably complex in the entertainment industry, in which contracts are individually negotiated, pay is rarely disclosed and notions of “earning power” are highly subjective. The FIA member survey suggests that sometimes unions recommend reduced rates (in proportion to adult minimums) in their collective agreements – an issue about which it would be interesting to have international dialogue. Child performers may not be looked at as professionals, and will only rarely have significant negotiating power with producers,<sup>2</sup> which is a factor putting them at a disadvantage when trying to obtain fair payment for their efforts. The protection of children’s earnings has already been discussed, and is perhaps one of the most urgent items for a legislator’s “shopping list” in this area, since so few laws contain any reference to this issue. Surely regulatory authorities and unions should take child performers’ work seriously enough to ensure that, if they are working, they should be paid appropriately and that these earnings are protected?

<sup>2</sup> *BBC Online* – in “‘Pay row’ over Potter stars”, 16 October 2000 - commented as follows:

At least four leading agents are reported to be unhappy with Warner Bros’ heavy handed’ treatment of their clients, according to *The Independent* newspaper. Two are reported to have already withdrawn children from the £90m film, set to hit British cinemas late next year. The film giant is said to be exploiting the fact that children are desperate to appear in the adaptation of J.K. Rowling’s best-seller, offering the lowest possible fees for speaking parts and as little as £35 per day for background parts. According to parents and agents who complained about the rates, Warner Bros said that if they were unhappy, there were ‘5,000 children waiting to do it for nothing’. About 40,000 child actors besieged the Harry Potter website when the filmmaker announced a worldwide search for the cast. One agent, whose client was trying for a lead part, said the filmmaker refused to consider negotiations on profit share or merchandising. Another, whose client was also up for a leading role, was told they had to sign the deal before the child would be allowed a screen test. ‘It all got very nasty,’ she told the newspaper. The ‘horrible’ negotiation period had proved ‘very distressing’ for her young hopeful. Warner Bros have declined to comment on the allegations, saying that any contractual agreement is ‘strictly confidential’.

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## 8. When child performers grow up

The fate of child performers who have had long and successful careers once they become adults is an area that has received little attention. Some famous children do go on to have acting careers as adults, while others have problems translating their success into adulthood. Even if children continue to find work as performers, the effects of early stardom may manifest themselves in a range of problems, including addiction, depression, eating disorders and financial problems. There have been well-publicized cases around the world, of child performers who have “coping difficulties”. An article in *Asahi Shimbun* in Japan describes the problems of a number of Japanese performers (such as Kazuki Enari – a child star actor for 12 years, suspended in a kind of permanent childhood, afraid to grow up), saying: “Child actors often face difficulties making the shift into adulthood. Some agents say children who belong to a theatrical group or production company bear an excess sense of responsibility, because they are the faces of commercial products. Others say child actors and models struggle through physical changes and can’t handle the huge impression they have left on audiences.”<sup>1</sup> Stan Ziegler, a Los Angeles psychologist specializing in child performers says: “Theories abound about why so many child performers seem to have such difficulty adjusting to life as adults. Instead of a natural childhood ... they are pampered, protected and catered to. Suddenly that world ends and they are forced to make this adjustment to the real world. Most can’t.”<sup>2</sup>

In some respects the challenges of transition from child to adult performer are not unlike those which dancers and young sports stars often experience – coping with their own physical changes and the need to try to make new careers after having had a disrupted education and been brought up in a rather unusual lifestyle. These problems argue strongly for comprehensive protections for children when they are working to try to keep their lives and development as “normal” as possible, and also for advocacy and support groups (such as “A Minor Consideration” in the United States). The dance transition organizations that have been created (mainly by performers’ unions) in a number of countries are also potentially a very good model for young performers’ support and retraining needs.<sup>3</sup>

It is unlikely, given the current deficiencies of even basic legal protections in so many countries, that legislators will leap to consider young performers’ transition a priority, but it is perhaps something that performers’ representatives could consider to be part of the context for devising any model codes or guidelines for the employment of children in entertainment.

<sup>1</sup> Chie Matsumoto: “A difficult shift from stardom to adulthood”, *Asahi Shimbun* (Tokyo, Japan), 19 August 2001, at <http://www.asahi.com/english/weekend/K2001081900087.html>.

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<sup>3</sup> See The International Organization for the Transition of Professional Dancers, IOTPD, at [http://www.fionline.it/scena\\_italiana/ing/iotpd.html](http://www.fionline.it/scena_italiana/ing/iotpd.html).

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## 9. Ways forward to improve the protection of child performers

This paper has covered a wide range of issues in order to stimulate interest in the complicated problems of children working in different parts of the entertainment industry. The question has apparently not received much attention outside of Hollywood, and the assembly of information from sources around the world in order to present a truly international picture was not easy. It is clear that there is still much more to be learned. In particular, it would be useful to undertake further research on child performers in the entertainment industry in developing countries, to identify useful statistical data on the subject from around the world, and to develop methodologies for collecting data on child performers.

That said, the basic recommendations for the future are reasonably straightforward, but will require a consensus among at least some of the interested parties (unions, parents, governments and employers) that this is an issue of importance, if they are ever to be implemented.

Two main problems require at least some resolution. The first is that *child performers need a voice*. The absence of advocacy for children working in the entertainment industries seems to be the group's greatest impediment. Perhaps it is possible to imagine a future in which unions, child labour organizations, regulators and parents come together to try and improve conditions at the national level, but at the time of writing there are scarcely any examples of this happening – ideally, advocacy groups could be created in a number of countries to develop the dialogue and start to create awareness about the needs of this small, young but highly visible workforce. The second problem is *the absence of consensus on exactly what kinds of protection are necessary and desirable*. This argues for an international model code of practice and guidelines – perhaps even an international charter containing basic agreed rights for child performers – which could be developed under the auspices of the ILO, in conjunction with other intergovernmental and non-governmental agencies, incorporating specialized advice. If this process is to be pursued, a next step might include a detailed legal comparison of primary and secondary legislation in this field.

The goal of this work should not be to stop or frustrate the employment of child performers, but rather to ensure that wherever in the world children do undertake this work, they are treated with respect, that their specialized needs, abilities and development are fully taken account of, that they are not subject to any kind of exploitation, and that they receive proper payment, which is protected for them until they are adults. An international code could be used to advise and educate national politicians and officials, and to standardize processes and enforcement. At a time when audiovisual production is more international than ever, surely it is right that children deserve equivalent treatment and protection wherever they work around the world.

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## **Collective agreements**

### **United States**

Actors' Equity Production Contract

AFTRA Commercial Radio Broadcasting Code

AFTRA Network Code

AFTRA Public Radio Agreement

AFTRA Public Television Agreement

Producer-Screen Actors' Guild, Codified Basic Feature Film/Television Agreement

Producers-Screen Actors' Guild 1996 Codified Industrial and Educational Contract

SAG/AFTRA Contract and 2000 Memorandum of Agreement

### **Canada**

ACTRA Independent Production Agreement

### **Australia**

Performers' Certified Agreement

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## Appendix 1

### FIA survey on child performers

#### 1. Do you have child members of your union?

| Organization            | Yes | No |
|-------------------------|-----|----|
| Argentina (AAA)         | X   |    |
| Australia (MEAA)        | X   |    |
| Austria (KMFSB)         |     | X  |
| Bulgaria (UBA)          |     | X  |
| Canada (UDA)            | X   |    |
| Croatia (HDDU)          |     | X  |
| Denmark (DSF)           |     | X  |
| Estonia (ENL)           |     | X  |
| Finland (STTL)          |     | X  |
| France (SFA)            |     | X  |
| Germany (IG Medien)     | X   |    |
| Greece (GSU)            |     | X  |
| Greece (HAU)            |     | X  |
| Ireland (SIPTU)         |     | X  |
| Israel (IUPA/NUAD)      |     | X  |
| Korea, Rep. (KATAA)     |     | X  |
| Luxembourg (OGBL)       |     | X  |
| Netherlands (FNV Kiem)  |     | X  |
| Peru (SAIP)             | X   |    |
| Portugal (STE)          |     | X  |
| Sweden (TF)             | X   |    |
| Turkey (CASOD)          |     | X  |
| Turkey (TOBAV)          |     | X  |
| United Kingdom (Equity) |     | X  |
| United States (Equity)  | X   |    |
| United States (SAG)     | X   |    |
| Uruguay (SUA)           |     | X  |
| Zimbabwe (ZIFTAU)       | X   |    |

## 2. If NO, why not?

| Organization            | Reason   |
|-------------------------|--|
| Argentina (AAA)         | n/a  |
| Australia (MEAA)        | n/a  |
| Austria (KMfSB)         | They have young members who are drama students 18 and older – no need for union protection since child labour in entertainment is highly protected.  |
| Bulgaria (UBA)          | None given.  |
| Canada (UDA)            | n/a  |
| Croatia (HDDU)          | Members of HDDU are professional actors who qualified at the Academy for Theatre, TV and Film.   |
| Denmark (DSF)           | Collective agreements do not cover performers under 18 (16 for dancers).   |
| Estonia (ENL)           | Association admits “professionals” only.   |
| Finland (STTL)          | Requirement for membership is that actor must be professional. Students in theatre school are accepted as student members. Not aware of any trade union which would accept child members.  |
| France (SFA)            | Since in France it isn't an obligation to be a union member, they (or parents and agents) don't approach the union.  |
| Germany (IG Medien)     | There are no salaried employees.   |
| Greece (HAU)            | Because children under 16 aren't qualified under the union's rules (professionalism, etc.).  |
| Ireland (SIPTU)         | Children cannot be available on a full-time basis for employment – the age limit for union membership is 18.   |
| Israel (IUPA/NUAD)      | Union members must be adult professional actors. Child performers operate under special contracts and the provision of the Youth Labour Law enforced by Ministry of Labour.  |
| Korea, Rep. (KATAA)     | The union is for adults only.  |
| Luxembourg (OGBL)       | They are not recognized in Luxembourg (OGBL), even when employed.  |
| Netherlands (FNV Kiem)  | There is a rather strict legislation on child labour and there is no real need for the union to interfere.   |
| Portugal (STE)          | Because none of them have asked to join. The union only accepts professionals with high school qualifications in the arts or at least a year of professional experience.   |
| Sweden (TF)             | All collective agreements have regulations that stipulate that agreement does not apply to those under 18 (dancers under 16).<br>Furthermore, in order to join union, member must be employed as performer at time of application; also must have earned living as performer under union's collective agreements for 6-12 months.  |
| Turkey (TOBAV)          | Because it is not seen as “regular” work.  |
| United Kingdom (Equity) | There is youth membership for 14-16s but, under British law, unions cannot represent children (and children are defined as under 14).  |
| Uruguay (SUA)           | There are no children working regularly in any sector of the performing arts. There is no legislation governing any kind of work in the arts. That means that when children work in advertising their contracts are not governed by the general norms of SUA contracts. In a very few isolated cases SUA has acted for child performers but this makes it very expensive for production companies and as a result those children work fewer hours. |

3. If YES, what proportion of your members are minors (under 16) (or how many members do you currently have)?

| Organization            | Proportion           | Number                          | Information                                |
|-------------------------|----------------------|---------------------------------|--|
| Argentina (AAA)         |                      | 79                              |  |
| Australia (MEAA)        | 10 per cent under 16 | -                               |  |
| Austria (KMfSB)         |                      |                                 |  |
| Bulgaria (UBA)          | -                    | -                               |  |
| Canada (UDA)            | About 5 per cent     |                                 | 23 active members<br>447 <i>stagiaires</i> |
| Denmark (DSF)           | -                    | -                               |  |
| Luxembourg (OGBL)       | -                    | -                               |  |
| Peru (SAIP)             | About 5 per cent     |                                 |  |
| United Kingdom (Equity) |                      | 11                              | Youth members                              |
| United States (Equity)  | 0.79 per cent        | 285                             | Aged 16 or younger                         |
| United States (SAG)     | -                    | Under 16: 7074<br>Over 16: 9343 |  |
| Zimbabwe (ZIFTAU)       |                      | 2                               |  |

4. Do you believe that employment for child performers is increasing or decreasing?

| Organization            | Live performance | Film and TV drama | Commercials | No change   |
|-------------------------|------------------|-------------------|-------------|---|
| Argentina (AAA)         | increasing       | increasing        | increasing  |   |
| Australia (MEAA)        | -                | -                 | -           | X   |
| Austria (KMfSB)         |                  |                   |             | X   |
| Bulgaria (UBA)          |                  |                   |             | Do not know if there is increase or decrease.                               |
| Canada (UDA)            | -                | -                 | increasing  |   |
| Croatia (HDDU)          | decreasing       | decreasing        | decreasing  |   |
| Denmark (DSF)           |                  |                   |             | X   |
| Finland (STTL)          | same             | increasing        | increasing  |   |
| France (SFA)            | increasing       | increasing        | increasing  |   |
| Greece (GSU)            | decreasing       | increasing        | increasing  |   |
| Greece (HAU)            | increasing       | increasing        | increasing  |   |
| Ireland (SIPTU)         | increasing       | increasing        | increasing  |   |
| Israel (IUPA/NUAD)      | decreasing       | increasing        | increasing  |   |
| Korea, Rep. (KATAA)     | increasing       | increasing        | increasing  |   |
| Luxembourg (OGBL)       | decreasing       | increasing        | increasing  |   |
| Netherlands (FNV Kiem)  |                  |                   | increasing  |   |
| Peru (SAIP)             | decreasing       | decreasing        | increasing  |   |
| Portugal (STE)          | increasing       | increasing        | increasing  |   |
| Sweden (TF)             | -                | increasing        | -           |   |
| Turkey (CASOD)          | increasing       | increasing        | increasing  |   |
| Turkey (TOBAV)          | increasing       |                   | increasing  |   |
| United Kingdom (Equity) | static           | static            | static      |   |
| United States (Equity)  | No               |                   |             | Hard to judge (lengthy answer re. progression in employment and long runs). |
| United States (SAG)     |                  |                   |             | Answer to be supplied.  |
| Uruguay (SUA)           | -                | -                 | increasing  |   |
| Zimbabwe (ZIFTAU)       | increasing       | decreasing        | increasing  |   |

5. How important do you think that the employment of children in the entertainment industry is to those industries?

| Organization           | Importance  |
|------------------------|---|
| Argentina (AAA)        | In general the opportunities are few. But for those children who get work, things are very positive.  |
| Australia (MEAA)       | As the industries are trying to reflect society as a whole, very important in film, TV and commercials, less so in live performance.  |
| Austria (KMfSB)        | The entertainment market in Austria is very small, though they have the Vienna Boys' choir, ballet schools, opera school, etc.  |
| Bulgaria (UBA)         | Essential in order to portray real life.  |
| Canada (UDA)           | Important in targeting young audiences by getting them to identify with the young performers. In the dubbing industry there is concern among adult voice artists that producers are choosing to use children to voice child characters and cartoons. In the advertising children are being used more and more as a way of reaching both child and adult audiences.  |
| Croatia (HDDU)         | No answer supplied.   |
| Denmark (DSF)          | Important in certain theatre productions/some films and TV. Not important in economic terms.  |
| Finland (STTL)         | Quite important and need for child performers is increasing in film, TV drama and commercials.  |
| France (SFA)           | They aren't expensive (normally get only the union minimum) – they don't tend to be demanding (often they are pushed by their parents!). Often in some sectors, e.g. dubbing, they are paid "by line" – this means they earn reasonable money, becoming "specialists" or "technicians".   |
| Greece (GSU)           | Children are employed only when they feel it is absolutely necessary.   |
| Greece (HAU)           | Not very – the entertainment industry is not an "industry".   |
| Israel (IUPA/NUAD)     | Child employment is generally marginal according to artistic content. However the great increase viewing time has brought an increase in children's programmes and more appearances of children in them.  |
| Korea, Rep. (KATAA)    | It is unavoidable fact that as the employment for child performers increases, the employment for adult performers decreases).   |
| Luxembourg (OGBL)      | Their main importance is to increase the number of children/ young people as audiences and consumers.   |
| Netherlands (FNV Kiem) | Important but the legislation leave little space for the industries to misbehave (sic).   |
| Peru (SAIP)            | Essential because of the portrayal of "daily life" in performance.  |
| Portugal (STE)         | Most of the cases are economically very important for the children's parents in respect to live performance and film/television – children are essential in the commercials industry.   |
| Sweden (TF)            | No answer supplied.   |
| Turkey (CASOD)         | Important.  |
| Turkey (TOBAV)         | There isn't regular employment of children in live performance, though it often happens in film but they're paid and insured the same as adult performers.  |
| United States (Equity) | Very important in TV and Film, where there are celebrity child actors with real economic clout. Crucial in theatre for subtle and believable portrayal of a youthful perspective. Juvenile members often have aspirations to continue within profession (despite difficulties of late night curtain down and early morning school) – gives them professional insight, knowledge and discipline but there are few opportunities. |
| United States (SAG)    | Children are used extensively: therefore very important to the industry.  |
| Zimbabwe (ZIFTAU)      | It's important because the industries are benefiting financially.   |

6. Do your union collective agreements cover child performers? Please give any information you can about your agreements and how they relate to children.

| Organization            | Yes | No | Information  |
|-------------------------|-----|----|--|
| Argentina (AAA)         |     |    | The collective agreement is partly applicable; those areas it does not address are covered by general labour legislation.  |
| Australia (MEAA)        | X   |    | Supplied.  |
| Austria (KMFSB)         | X   |    | It is stipulated in collective agreements that children are legally represented by their parents at the signing of the contract. Trainees are regulated in collective agreements.  |
| Bulgaria (UBA)          |     | X  | Contracts usually signed with those accompanying the children.   |
| Canada (UDA)            | X   |    | Our agreements for the audio-visual sector have special provisions on the hiring and employment of children, including: maximum daily working hours, minimum rest periods and meal breaks (variable depending on age); general principles regarding tiredness; the producer's duty to hire either a nurse or a responsible person chosen by the parent or a tutor: the producer's duty to pay for the parent or guardian's (but not in all in agreements). |
| Croatia (HDDU)          |     | X  |  |
| Denmark (DSF)           |     | X  | Parents responsible. Union advises and makes recommendations.  |
| Estonia (ENL)           |     | X  |  |
| Finland (STTL)          |     |    | Collective agreements only cover union members. According to Finland (STTL)'s labour law, collective agreements concerning the state also binding when actor who is non-union member is hired. No court decisions on how collective agreements concerning the state relate to children.  |
| France (SFA)            | X   |    | Agreements only deal with general conditions limiting the working day (6 hours for children instead of 8).   |
| Germany (IG Medien)     |     | X  |  |
| Greece (HAU)            |     |    | In special cases the union can afford legal protection of the union to children though they are not members.   |
| Israel (IUPA/NUAD)      |     | X  |  |
| Korea, Rep. (KATAA)     |     | X  |  |
| Luxembourg (OGBL)       |     |    | No collective agreements.  |
| Netherlands (FNV Kiem)  |     | X  |  |
| Peru (SAIP)             |     |    | Labour and economic conditions in Peru during the last 10 stable years have not yet allowed the negotiation of such standards.   |
| Portugal (STE)          |     | X  |  |
| Sweden (TF)             |     | X  | Only recent exception is where child plays leading part in film in which case union distributes royalty to them too. Also local safety organizations have rules concerning child employees.  |
| Turkey (CASOD)          |     | X  |  |
| Turkey (TOBAV)          |     | X  |  |
| United Kingdom (Equity) |     | X  |  |
| United States (Equity)  | X   |    |  |
| United States (SAG)     | X   |    | Pertinent provisions supplied.   |
| Uruguay (SUA)           |     |    | Their only experience is in film. The agreements have considered fair pay, the extension of hours, limiting work at night and during school hours. This has been based on the Code of Children that is currently in force and the application of standards, which they have compared with laws in countries like the United Kingdom.   |
| Zimbabwe (ZIFTAU)       |     |    | In the few contracts that are signed, children are treated as adults and the contracts are signed by their parents or guardians.   |

7. Does your union have specific additional recommendations for the employment of child performers covering rates of pay? Is there a minimum rate of pay for children or is it the same as that for adult performers?

| Organization            | Minimum rate  | Same as adults | Recommendations   |
|-------------------------|---|----------------|---|
| Argentina (AAA)         |   | X              | No recommendations. General legislation only allows children to work 6 hours a day.   |
| Australia (MEAA)        | 50 per cent of adult rate for under-sixteens.           |                | Performers of sixteen years and over treated as adult performers.   |
| Austria (KMF SB)        |   |                | Example from Musicals' sector: parents and children came to the union because they thought they were underpaid. So they negotiated a higher fee despite the fact that they were not members – they respond to all problems in theatre – but they don't have too many problems because the legislation is so strict. |
| Bulgaria (UBA)          |   | X              |   |
| Canada (UDA)            |   | X              | Same as for adults, but in some cases where the working day is shorter, a pro-rata payment is calculated.   |
| Croatia (HDDU)          | –   | –              | No recommendations.   |
| Denmark (DSF)           | Usual payment is approximately one-third of adult rate. |                | Recommendations mainly on working conditions and transport.   |
| Finland (STTL)          |   | X              | Union recommends the same pay as for adults but not legally binding.  |
| France (SFA)            |   |                | Conditions for payment are either the same (where there is a union minimum) or lower (because of a pro-rata payment based on a shorter official working day but this is custom and practice).   |
| Germany (IG Medien)     |   | X              |   |
| Greece (HAU)            |   |                | No recommendations, but the union's agreement is in force for anyone.   |
| Israel (IUPA/NUAD)      |   |                | No recommendations.   |
| Korea, Rep. (KATAA)     |   |                | The broadcasters each have their own standardized pay rates.  |
| Luxembourg (OGBL)       | –   | –              | –   |
| Netherlands (FNV Kiem)  |   | X              |   |
| Peru (SAIP)             |   |                | The union has no specific provisions for children – conditions are the same as those for adults.  |
| Portugal (STE)          |   | X              |   |
| Sweden (TF)             | –   | –              | No minimum but union tries to advise parents.   |
| Turkey (CASOD)          |   | X              | No minimum.   |
| Turkey (TOBAV)          |   | X              | They get the same pay etc. as adult actors.   |
| United Kingdom (Equity) |   |                | Youth membership – the individual must be earning at least 50 per cent of the adult rate.   |
| United States (Equity)  |   | X              | No differential.  |
| United States (SAG)     |   | X              | Same minimum rates cover children and adults.   |
| Uruguay (SUA)           |   | X              | Minimum rates apply to all ages. As children's hours are fewer but they receive the same pay, you could say they get a better hourly rate than adults.  |
| Zimbabwe (ZIFTAU)       |   | X              | Rates are the same, but the union has tried to fight for reduced hours for children on set.   |

8. Is there a specific law in your country establishing conditions for employing child performers?  
(please specify if this is a national law, or a law at provincial or local level)

| Organization                   | Yes (type)  | No                           |
|--------------------------------|---|------------------------------|
| Argentina (AAA)                |   | X                            |
| Australia (MEAA)               | Yes: regulated on state-by-state basis.   |                              |
| Austria (KMfSB)                | The law on the employment of children and young people (paragraph 6 applies to the cultural sector). There is a Decree on children's employment prohibition or restrictions and Law on professional education (for theatre trainees). |                              |
| Bulgaria (UBA)                 |   | X                            |
| Canada (UDA)                   |   | X                            |
| Croatia (HDDU)                 |   | X                            |
| Denmark (DSF)                  | (i) National law 516 (June 1996), which enforces EC directive, and<br>(ii) ILO Convention 182 on Elimination of Worst Forms of Child Labour was ratified by Denmark in 2000.  |                              |
| Estonia (ENL)                  | National law allows children to work in performances up to 4 hours per day,   |                              |
| Finland (STTL)                 | National law of young workers and national statute of protection of young workers. According to these, a young person is one who is under 18.   |                              |
| France (SFA)                   | National law L211-6.  |                              |
| Germany (IG Medien)            | National law.   |                              |
| Greece (HAU)                   | The child labour law prohibits child labour.  |                              |
| Israel (IUPA/NUAD)             | Copy of specific law attached.  |                              |
| Korea, Rep. (KATAA)            | To the best of their knowledge there is no special law.   |                              |
| Luxembourg (OGBL)              |   | X                            |
| Netherlands (FNV Kiem)         | National law (not specified which).   |                              |
| Peru (SAIP)                    | Only the general law dealing with Child Labour.   |                              |
| Portugal (STE)                 | Yes, children under 16 cannot be employed without an authorization (from parents and government), but there is in general a problem of child labour in Portugal.  |                              |
| Sweden (TF)                    | National law and national provisions for employment of children.  |                              |
| Turkey (CASOD)                 | Only those covered by the Constitution.   |                              |
| Turkey (TOBAV)                 |   | X                            |
| United States (SAG and Equity) | Each state (but not all of them) has own laws concerning employment of children in entertainment industry – FLSA regulates educational opportunities and prevents them from working in certain industries.                            |                              |
| Uruguay (SUA)                  |   | X                            |
| Zimbabwe (ZIFTAU)              |   | X<br>There is no law at all. |

## 9. Are children in entertainment exempt from other child labour law protections?

| Organization           | Yes | No | Information  |
|------------------------|-----|----|--|
| Argentina (AAA)        |     |    | They must be under our jurisdiction.   |
| Australia (MEAA)       |     |    | Differs from state to state. New South Wales is only state with specific regulations. In some cases general labour law protections are all that are applied.   |
| Austria (KMfSB)        |     |    | No specific law.   |
| Bulgaria (UBA)         | X   |    | Officially child labour for under-sixteens is illegal but exceptions are made in the entertainment industry.   |
| Canada (UDA)           |     |    | No answer supplied.  |
| Croatia (HDDU)         |     | X  |  |
| Denmark (DSF)          |     | X  | Law 516, Ch. 7 contains exemptions for child performers.   |
| Estonia (ENL)          | X   |    | They can work after 6 if permitted by parents – if under 13 years old, children cannot work in theatre, or under 16 for other work.  |
| Finland (STTL)         |     |    | Law of young workers includes special provision for children in entertainment whereby there is obligation to apply for a licence to employ a child performer under 14 years of age.  |
| France (SFA)           |     |    | In France children under 14 aren't allowed to work – there are therefore derogations for performance with specific requirements attached.  |
| Germany (GDU)          |     | X  |  |
| Greece (HAU)           | X   |    | Yes, in special cases, but with a number of special recommendations.   |
| Israel (IUPA/NUAD)     |     | X  |  |
| Luxembourg (OGBL)      |     | X  |  |
| Netherlands (FNV Kiem) |     | X  |  |
| Peru (SAIP)            |     |    | No specific law exists.  |
| Portugal (STE)         |     | X  |  |
| Sweden (TF)            | X   |    | Normally children under 13 are not allowed to work. Exception is child performers provided Swedish Work Environment Authority approves and if work causes no danger or harm to child.  |
| Turkey (TOBAV)         |     | X  | No specific law for child performers.  |
| United States (Equity) |     |    | In some states children are exempt from state child labour laws – some require permits or administrative authorization in order for the exemption to be exercised.   |
| United States (SAG)    |     |    | Different for each state (see attachment).   |
| Uruguay (SUA)          |     | X  | In theory the law is the same for all children. In reality there are in fact exceptions – children under 12 cannot work under any circumstances but in fact there are child performers that do work. As there are no specific regulations for filming moment we use the laws that apply to other areas. The Code of Children is currently being revised by Parliament. |

10. Which of the following areas does the law cover?

| Organization           | Licence    | Working hours              | Education   | Health and safety | Protection of earnings              | Other   |
|------------------------|------------|----------------------------|---|-------------------|-------------------------------------|---|
| Argentina (AAA)        | yes        | yes                        | –   | yes               | yes                                 | –   |
| Australia (MEAA)       | yes        | yes                        | yes   | yes               | –                                   |   |
| Austria (KMFSB)        | yes        | yes                        | yes   | yes               | yes                                 | Legal breaks in the day's work, protection of health and morality etc.  |
| Bulgaria (UBA)         | –          | –                          | –   | –                 | –                                   | –   |
| Canada (UDA)           | –          | –                          | –   | –                 | –                                   | No answer supplied.   |
| Croatia (HDDU)         | –          | –                          | –   | –                 | –                                   | none  |
| Denmark (DSF)          | (under 13) | yes                        | yes   | yes               | –                                   | Supervision rules   |
| Estonia (ENL)          | x          | x                          |   | x                 |                                     | Age   |
| Finland (STTL)         | (under 14) | yes                        | yes   | yes               | –                                   |   |
| France (SFA)           | yes        | yes                        | yes   | yes               | yes                                 | Oversight of the content of the script (moral reasons).                 |
| Germany (GDU)          | yes        | yes                        |   | yes               |                                     |   |
| Greece (HAU)           | yes        | yes                        | yes   | yes               |                                     |   |
| Israel (IUPA/NUAD)     | yes        | yes                        | yes   | yes               | yes                                 | Content of performance must not damage child.                           |
| Luxembourg (OGBL)      | no         | yes                        | yes   | no                | yes                                 | –   |
| Netherlands (FNV Kiem) | yes        | yes                        | yes   | yes               | –                                   |   |
| Peru (SAIP)            |            |                            |   |                   |                                     | Hours, health and safety, etc. are included in the Ley del Artista.     |
| Portugal (STE)         | yes        | yes                        |   |                   |                                     |   |
| Sweden (TF)            | yes        | yes                        | yes   | yes               | –                                   | –   |
| United States (Equity) | Some       | Some (no national statute) | Public schools have state-mandated attendance requirements and a tutor is hired under Equity rules. | States and unions | Some, many not – Coogan Law is best |   |
| United States (SAG)    | –          | –                          | –   | –                 | –                                   | See Question 9.   |
| Uruguay (SUA)          | –          | yes                        | –   | yes               | yes                                 | Permission must be given by parent before National Institute of Minors. |

11. In your experience, are laws and regulations affecting child performers adequately enforced?

| Organization            | Yes | No | Information   |
|-------------------------|-----|----|---|
| Argentina (AAA)         |     | X  |   |
| Australia (MEAA)        |     | X  | Inadequate resources provided by Government.  |
| Austria (KMfSB)         | X   |    |   |
| Bulgaria (UBA)          | -   | -  |   |
| Canada (UDA)            |     |    | No answer supplied.   |
| Croatia (HDDU)          |     |    | No answer supplied.   |
| Denmark (DSF)           |     |    | Union not involved. Contract is between parent/child and theatre or producer.   |
| Estonia (ENL)           |     |    | It's a problem obtaining children to work evening performances – they themselves want to but the law doesn't allow children to perform after 10 p.m.  |
| Finland (STTL)          | X   |    | To their knowledge.   |
| France (SFA)            |     |    | More or less, where working time and conditions are concerned – there is no problem with the law, just the employers.   |
| Germany (IG Medien)     | X   |    |   |
| Greece (GSU)            |     | X  | Laws (not specified) are not adequately enforced.   |
| Greece (HAU)            |     | X  | Not adequately.   |
| Israel (IUPA/NUAD)      |     | X  |   |
| Luxembourg (OGBL)       | -   | -  | -   |
| Netherlands (FNV Kiem)  | X   |    |   |
| Peru (SAIP)             |     |    | Working conditions in general have deteriorated in the last few years.  |
| Portugal (STE)          |     | X  |   |
| Sweden (TF)             |     | X  | Not when it comes to working hours.   |
| Turkey (CASOD)          |     | X  |   |
| United Kingdom (Equity) | X   |    |   |
| United States (Equity)  |     |    | Need for greater uniformity and protection – in work, rehearsals and hours etc are regulated and supervised by Equity specialist minders – and wranglers are assigned because of lack of backstage space. |
| United States (SAG)     | -   | ?  | Questionable. In dealing with welfare of children high enforcement standard must be met.  |
| Uruguay (SUA)           |     | X  | Production companies try to evade all regulations.  |
| Zimbabwe (ZIFTAU)       |     |    | Everything is left up to the producers.   |

12. Are there employment practices in the case of child performers that give your union cause for concern?

| Organization            | Yes | No | Description  |
|-------------------------|-----|----|--|
| Argentina (AAA)         | X   |    | Ongoing problem of some companies not observing working hours.   |
| Australia (MEAA)        | -   | -  | -  |
| Austria (KMfSB)         | X   |    |  |
| Bulgaria (UBA)          |     | X  |  |
| Canada (UDA)            | -   | -  | No answer supplied.  |
| Croatia (HDDU)          | -   | -  | -  |
| Denmark (DSF)           |     | X  |  |
| Estonia (ENL)           |     | X  |  |
| Finland (STTL)          | X   |    | Necessary conditions demanded by union are crèche for young children during waiting periods; also proper provision of meals and transportation.                                    |
| Netherlands (FNV Kiem)  | X   |    | Children's earnings should be of concern.  |
| France (SFA)            | X   |    | Overwork – psychological problems.   |
| Germany (IG Medien)     |     | X  |  |
| Greece (GSU)            |     |    | Have no cases they can tell us about.  |
| Greece (HAU)            |     | X  | Not so far.  |
| Israel (IUPA/NUAD)      | X   |    | On certain projects use of child performers reduces employment opportunities for adults.   |
| Korea, Rep. (KATAA)     | X   |    | There have been some publicized cases (not detailed).  |
| Luxembourg (OGBL)       | -   | -  | -  |
| Peru (SAIP)             | X   |    | Poor working conditions, pay, social conditions, health and safety.  |
| Portugal (STE)          |     | X  | Not yet, nobody has complained but they know that in many cases children work very long hours and there are no meal breaks.  |
| Sweden (TF)             | -   | -  | -  |
| United Kingdom (Equity) |     | X  | Not especially – union does not get involved as they are covered by legislation and breaches are not handled by the union, but not aware of high rate of transgressions.           |
| United States (Equity)  | X   |    | Mostly problems are lapses in judgement. Backstage of theatre is very dangerous environment – kids are active and on stage at different times – also lack of parental supervision. |
| United States (SAG)     | X   | -  | Concerned about people circumventing existing laws. Also many states lack applicable laws, creating climate for exploitation.  |
| Uruguay (SUA)           | X   |    | Mainly in advertising. Apart from those problems already outlined they don't pay for repeats.  |
| Zimbabwe (ZIFTAU)       | X   |    | Children are treated the same as adults but need more rest, food and care.   |

13. Are there other organizations in your country (unions/associations or pressure groups) which have an interest in child performer issues?

| Organization            | Yes | No | Description  |
|-------------------------|-----|----|--|
| Argentina (AAA)         |     | X  |  |
| Australia (MEAA)        |     | X  |  |
| Austria (KMfSB)         | X   |    | The Austrian Trade Union Congress and some others  |
| Bulgaria (UBA)          |     | X  |  |
| Canada (UDA)            |     |    | No answer supplied.  |
| Croatia (HDDU)          | X   |    | Yes, there is an actors' studio for children at the youth theatre which has been running for 50 years (children from 6-12) but children attend on educational and voluntary basis; not necessarily for appearing on stage.   |
| Denmark (DSF)           |     | X  |  |
| Estonia (ENL)           |     | X  |  |
| Finland (STTL)          | X   |    | The Union of Finnish Dance Artists and Musicians' Union. The Mannerheim League for Child Welfare is the largest child welfare organization and acts for general welfare of children.   |
| France (SFA)            |     | X  |  |
| Greece (GAU)            |     | X  | None that they know of.  |
| Greece (GSU)            |     | X  | The child performers' parents are the only group monitoring conditions.  |
| Israel (IUPA/NUAD)      |     | X  |  |
| Korea, Rep. (KATAA)     | X   |    | Private agencies and institutes working in the child performer management business. Contracts with agents may last from 3-5 years and income is shared on a 4-6 ratio.   |
| Luxembourg (OGBL)       | X   |    | Theatre groups   |
| Netherlands (FNV Kiem)  |     | X  |  |
| Peru (SAIP)             |     | X  |  |
| Portugal (STE)          | X   |    | SOS Criança  |
| Sweden (TF)             | -   | -  | -  |
| Turkey (CASOD)          |     | X  |  |
| United Kingdom (Equity) | X   |    | Local authorities, National Child Employment Network, APT, Association of Professional Theatre for Children and Young People.  |
| United States (Equity)  | X   |    | AFTRA/SAG Young Performers' committee and A.M.C.   |
| United States (SAG)     | X   |    | American Humane Association, A Minor Consideration and various performers unions.  |
| Uruguay (SUA)           |     | X  | Only SUA. Two years ago, at the same time as the start of the electoral campaign, we began conversations with INAME and at that time we had meetings with all the candidates. The present Government has begun to review the Code for Children and we have been in constant contact with a range of politicians. |

14. Is there any child performers' organization or committee of your union in existence to monitor or support child performers? If so, what kind of work is done?

| Organization            | Yes | No | Information  |
|-------------------------|-----|----|--|
| Argentina (AAA)         |     | X  |  |
| Australia (MEAA)        |     | X  |  |
| Austria (KMfSB)         | X   |    | There is a young people's department in the union (a large general union) and people go to the individual sections, theatre, variety, musicians etc. if necessary.   |
| Bulgaria (UBA)          |     | X  |  |
| Canada (UDA)            | X   |    | Yes, the battle with Société Radio-Canada regarding under-sixteens which aimed to get them the same deal as all other performers.  |
| Croatia (HDDU)          |     | X  |  |
| Denmark (DSF)           |     | X  |  |
| Estonia (ENL)           |     | X  |  |
| Finland (STTL)          |     | X  |  |
| France (SFA)            |     | X  |  |
| Greece (HAU)            |     | X  |  |
| Israel (IUPA/NUAD)      |     | X  |  |
| Luxembourg (OGBL)       | -   | -  | -  |
| Netherlands (FNV Kiem)  |     | X  |  |
| Peru (SAIP)             |     | X  |  |
| Portugal (STE)          |     | X  |  |
| Sweden (TF)             | -   | -  | -  |
| Turkey (CASOD)          |     | X  |  |
| United Kingdom (Equity) |     | X  |  |
| United States (Equity)  | X   |    | Young performers' committee – provides contract language recommendations to negotiating team – has sponsored 2 regional meetings for kids and parents – look at relationship between family and agent/manager/legal and financial manager and contract provisions regarding touring. |
| United States (SAG)     | X   |    | Young Performers Committee monitors relevant industry activity, conducts seminars for parents and others and advocates legislation.  |
| Uruguay (SUA)           | X   |    | The monitoring of child performers in film is done by an appointed representative of the union who is on set during all filming.   |

## 15. Other information

| Organization    | Other information supplied  |
|-----------------|---|
| Argentina (AAA) | <p>No laws relating specifically to child performers.</p> <p>Average contractual salary of a minor in TV (based on 60 per cent of kids working) is 2000 per month.</p> <p>Agent or representative gets a percentage of salary and organizes castings.</p>   |
| Denmark (DSF)   | <p>Copy of national law no. 516 dated 14/6/96 (in Danish).</p> <p>Council Directive 94/33/EC dated 22/6/94 on protection of young people at work.</p>   |
| France (SFA)    | <p>There is the Labour Code with special elements and agents used – there have been abuses in commercials by agents as modelling agents aren't regulated as artistic agents.</p>  |
| Uruguay (SUA)   | <p>There is no legislation for child performers. All existing information can be found at <a href="http://www.iname.gub.uy/">http://www.iname.gub.uy/</a>, which is the official site of the National Institute for Children (Instituto Nacional del Menor).</p> <p>Model agencies use children but they have not provided information. However we can confirm that in modelling there is no control of working hours, fees (usually one third of those established by SUA) or repeat fees. Usually children are contracted directly by the advertising production company or they are the offspring of clients or technicians.</p> <p>No cases of child performers being exploited have been made public. Producers are not alone in exploiting children; getting one's child onto TV for a few seconds is something all parents aspire to. In general kids in commercials are from middle/upper class families.</p> |