



April 22, 2014

*After conclusion of the 2013 Commercials Contracts negotiations and ratification, a handful of issues came up for which the Union and JPC had differing interpretations warranting further discussion and clarification. Those issues have been resolved and below are the jointly agreed upon interpretations.*

*The original 2013 Memoranda can be found on the SAG-AFTRA website:  
<http://www.sagaftra.org/production-center/commercial/documents>*

## 2013 SAG-AFTRA COMMERCIALS CONTRACT

### SECTION 26 – EDITING OF COMMERCIALS

#### A. Shorter/Longer Versions

Producer may edit a commercial to make up to 2 additional shorter and/or longer versions of the same commercial, neither of which may be the same length as the original commercial. For clarification, the 2 versions created under this subsection A may be the same length as each other. For example, Producer may create 2 thirty second versions of an original sixty second commercial. Producer shall pay a session fee to each principal performer appearing in the second additional version. Producer may record a sound track to fit such additional version(s), provided that the sound track for such version must be the same except for such changes as are required for timing and synchronization.

### SECTION 36 & 37 MADE FOR INTERNET & MADE FOR NEW MEDIA – CREDITING OF SESSION FEE

#### 36.B Commercials Made for Initial Use on the Internet

Effective April 1, 2011, Producer shall pay performer compensation in such amount as shall be agreed by direct bargaining with the performer or the performer's agent. In no event shall such compensation be less than the minimum rates for sessions set forth in Section 20 and the minimum use rates as set forth in Section 36.A.4. Session fee may be credited against Internet use if such use occurs within 13 weeks of the initial session date.

#### 37.B Commercials Made for Initial Use on New Media

Effective April 1, 2011, Producer shall pay performer compensation in such amount as shall be agreed by direct bargaining with the performer or the performer's agent. In no event shall such compensation be less than the minimum rates for sessions set forth in Section 20 and the minimum use rates as set forth in Section 37.A.4. Session fee may be credited against Internet use if such use occurs within 13 weeks of the initial session date.

*Crediting of session fees on both 36.B and 37.B, as referenced above, shall apply to commercials produced on or after May 1, 2014.*

## **SECTION 36 & 37 MADE FOR INTERNET & MADE FOR NEW MEDIA – NONCONSECUTIVE USE CYCLES**

Add a new sub¶ 2 to subsection B. (“Made Fors”) of Section 36, Internet as follows and renumber the remaining subparagraphs:

### **2. Cycles of Internet Use**

Upon conclusion of either the initial 8-week cycle of use or the initial one-year cycle of Internet use, Producer may use the commercial for additional consecutive 8-week or one-year cycles of use for the remainder of the maximum period of use for the same rates set forth in Section 36.B.1. Notwithstanding the foregoing, Producer may use the commercial for additional nonconsecutive 8-week or one-year cycles of use for the remainder of the maximum period of use, provided and for so long as Producer is paying holding fees as per Section 31 to all principal performers in the commercial.

Add a new sub¶ 2 to subsection B. (“Made Fors”) of Section 37, New Media as follows and renumber the remaining subparagraphs:

### **2. Cycles of New Media Use**

Upon conclusion of either the initial 8-week cycle of use or the initial one-year cycle of New Media use, Producer may use the commercial for additional consecutive 8-week or one-year cycles of use for the remainder of the maximum period of use for the same rates set forth in Section 37.B.1. Notwithstanding the foregoing, Producer may use the commercial for additional nonconsecutive 8-week or one-year cycles of use for the remainder of the maximum period of use, provided and for so long as Producer is paying holding fees as per Section 31 to all principal performers in the commercial.

## **SECTION 38 – DEALER COMMERCIALS**

### A.4.c Type A Dealer Commercials – Holding Fees

The holding fee may be credited against the use fees incurred in an 8-week cycle of use.

### B.4.c Type B Dealer Commercials – Holding Fees

The holding fee may be credited against the use fees incurred in an 8-week cycle of use.

*\*Per Section 31.E, if Producer fails to pay the holding fee due within the 8-week dealer cycle, all further right of Producer to use the commercial shall cease and terminate, and the principal performer is automatically released from all contractual obligations with respect to the commercial.*

## **SIDELETTER 7 – EXPERIMENTAL COVERAGE WAIVER FOR MADE FOR INTERNET AND MADE FOR NEW MEDIA COMMERCIALS**

This letter will confirm the Union’s agreement to an experimental waiver regarding coverage of persons in Made for Internet and Made for New Media commercials. This waiver shall expire on March 31, 2016 and shall not be citable or precedential in future negotiations or in the interpretation of any other provision of the Contract.

This waiver will not apply with respect to those persons who are cast and/or who are scripted for the commercial(s).

A Producer of a Made for Internet or Made for New Media commercial(s) may film or record activities of persons in public without covering such persons under the Contract, provided such persons are neither scripted to speak any dialogue nor cast for the commercial(s).

Notwithstanding the foregoing, this waiver is limited to the following:

- a. Live Events – “Live Events” are events attended by at least 20 persons who are neither hired nor cast by Producer to attend the event. However, such Live Events (1) shall not be staged for the purpose of producing a commercial(s); and (2) non-covered participants at the live event may not receive individual direction but may be directed as a group.
- b. Man on the Street Commercial – A “Man on the Street Commercial” means a commercial(s) where an interviewer interviews people on the street, at public venues, or at live events and asks them questions or makes statements or gestures to elicit a response or reaction from them. The interviewer is a Covered Person for purposes of the Contract whether or not they appear or perform in the commercial(s).
- c. Hidden Camera Commercials – A “Hidden Camera Commercial” means a commercial(s) comprised of footage captured by a hidden camera(s) without direction to the individual(s) being filmed. An individual(s) appearing in such footage shall not be a Covered Person(s) for purposes of the Contract. Any person(s) appearing in the capacity of an interviewer, however, shall be a Covered Person whether or not they appear in the commercial.

As a material condition of this waiver, Producer shall notify the Union that it has applied the waiver and provide the Union with an electronic or physical copy of the commercial(s) within 60 days of the first exhibition of the commercial.

If a commercial produced pursuant to this waiver is subsequently exhibited other than on the Internet or New Media where such use is otherwise covered by the Contract, anyone qualifying as a principal in the commercial as subsequently exhibited shall be a Covered Person under the Contract and compensated accordingly. No use fees shall be due for any past or future Internet and/or New Media use of a commercial produced under this waiver regardless of whether such commercial is exhibited in any other medium.

## **2013 RADIO RECORDED COMMERCIALS CONTRACT**

### **SECTION 16 & 17 MADE FOR INTERNET & MADE FOR NEW MEDIA – CREDITING OF SESSION FEE**

#### **16.B Commercials Made for Initial Use on the Internet**

Effective April 1, 2011, Producer shall pay performer compensation in such amount as shall be agreed by direct bargaining with the performer or the performer's agent. In no event shall such compensation be less than the minimum rates for sessions set forth in Section 6 and the minimum use rates as set forth in Section 16.B. Session fee may be credited against Internet use if such use occurs within 13 weeks of the initial session date.

#### **17.B Commercials Made for Initial Use on New Media**

Effective April 1, 2011, Producer shall pay performer compensation in such amount as shall be agreed by direct bargaining with the performer or the performer's agent. In no event shall such compensation be less than the minimum rates for sessions set forth in Section 6 and the minimum use rates as set forth in Section 17.B. Session fee may be credited against Internet use if such use occurs within 13 weeks of the initial session date.

*Crediting of session fees on both 16.B and 17.B, as referenced above, applies to commercials produced on or after May 1, 2014.*

### **SECTION 16 & 17 MADE FOR INTERNET & MADE FOR NEW MEDIA – NONCONSECUTIVE USE CYCLES**

Add a new sub¶ 2 to subsection B. of Section 16, Internet ("Made Fors") as follows and renumber the remaining subparagraphs:

- 2) Upon conclusion of either 8-week cycle of use or the one-year cycle of initial Internet use, Producer may use the commercial for additional one-year cycle or 8-week cycles of use for the remainder of the MPU for the same rates set forth in Section 16.B.1.

Add a new sub¶ 2 to subsection B. of Section 17, New Media ("Made Fors") as follows and renumber the remaining subparagraphs:

- 2) Upon conclusion of either 8-week cycle of use or the one-year cycle of initial New Media use, Producer may use the commercial for additional one-year cycle or 8-week cycles of use for the remainder of the MPU for the same rates set forth in

**SIDELETTER 5 – EXPERIMENTAL COVERAGE WAIVER FOR MADE FOR INTERNET AND MADE FOR NEW MEDIA COMMERCIALS**

This letter will confirm the Union’s agreement to an experimental waiver regarding coverage of persons in Made for Internet and Made for New Media commercials. This waiver shall expire on March 31, 2016 and shall not be citable or precedential in future negotiations or in the interpretation of any other provision of the Contract.

This waiver will not apply with respect to those persons who are cast and/or who are scripted for the commercial(s).

A Producer of a Made for Internet or Made for New Media commercial(s) may record activities of persons in public without covering such persons under the Contract, provided such persons are neither scripted to speak any dialogue nor cast for the commercial(s).

Notwithstanding the foregoing, this waiver is limited to the following:

- a. Live Events – “Live Events” are events attended by at least 20 persons who are neither hired nor cast by Producer to attend the event. However, such Live Events (1) shall not be staged for the purpose of producing a commercial(s); and (2) non-covered participants at the live event may not receive individual direction but may be directed as a group.
- b. Man on the Street Commercial – A “Man on the Street Commercial” means a commercial(s) where an interviewer interviews people on the street, at public venues, or at live events and asks them questions or makes statements or gestures to elicit a response or reaction from them. The interviewer is a Covered Person for purposes of the Contract whether or not they appear or perform in the commercial(s).
- c. Hidden Recording Commercials – A “Hidden Recording Commercial” means a commercial(s) comprised of recordings captured by a hidden microphone(s) without direction to the individual(s) being recorded. An individual(s) performing in such footage shall not be a Covered Person(s) for purposes of the Contract. Any person(s) performing in the capacity of an interviewer, however, shall be a Covered Person whether or not their performance remains in the commercial.

As a material condition of this waiver, Producer shall notify the Union that it has applied the waiver and provide the Union with an electronic or physical copy of the commercial(s) within 60 days of the first exhibition of the commercial.

If a commercial produced pursuant to this waiver is subsequently exhibited other than on the Internet or New Media where such use is otherwise covered by the Contract, anyone qualifying as a principal in the commercial as subsequently exhibited shall be a Covered Person under the Contract and compensated accordingly. No use fees shall be due for any past or future Internet and/or New Media use of a commercial produced under this waiver regardless of whether such commercial is exhibited in any other medium.