

SAG-AFTRA STATEMENT OF POLICY ON USE OF SAG-AFTRA LOW BUDGET THEATRICAL AGREEMENTS

In the past several months, some IFTA members have been challenged by SAG-AFTRA to substantiate that their use of the SAG-AFTRA Low Budget Theatrical Agreement was legitimate because the Union felt that the practice was developing of airing and/or premiering low budget theatrical films on Lifetime, SyFy or other cable channels.

We have discussed this with SAG-AFTRA and they have confirmed that the following policy will apply to pictures that are signed after April 15, 2015:

- (1) The use of the Low Budget Theatrical Agreement is only legitimate if there is an initial release of the film in a theatrical venue OR the producer is able to establish by convincing evidence that diligent efforts to sell the film for theatrical release failed.
- (2) Producers will not be disqualified from using the Low Budget Theatrical Agreement merely because they pre-sell rights to other platforms provided that the distribution agreements for pictures signed after April 15, 2015 do not include:
 - (a) The right to identify the film as initially premiering or debuting on any non-theatrical platform (though "initial worldwide Television premiere" or similar reference to release on another non-theatrical platform after a theatrical release is acceptable);
 - (b) The right to identify the film as anything other than a "made for theatrical motion picture" OR as having been "made for" any non-theatrical platform;
 - (c) The right to market the film in connection with any non-theatrical platform in advance of the theatrical release.

SAG-AFTRA have further commented that low budget theatrical films should be treated – distributed, marketed and exhibited – as theatrical motion pictures. Clauses in non-theatrical distribution contracts that conflict with the criteria of paragraph 2 above raise concerns that the film was not considered to be theatrical at inception and thus may trigger investigation. For films signed before April 15, 2015, these deviations from paragraph 2 criteria alone will not form the basis of a claim.

SAG-AFTRA has declined to define "theatrical release" in order to avoid prematurely judging unique circumstances. They advise that they are looking for a good faith effort to sell the film into theatrical distribution, involving more than "theatrical exhibitions in basically no more than one theater especially in a regional one where only the crew, friends and family attend."

*Updated 4/22/15