



**Tithe an  
Oireachtais  
Houses of the  
Oireachtas**

**An Comhchoiste um Chultúr, Oidhreacht agus Gaeltacht**

**Forbairt agus Coinníollacha Oibre sa Tionscal Scannáin in Éirinn**

**Tuarascáil**

**Iúil 2018**

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**Joint Committee on Culture, Heritage and the Gaeltacht**

**Development and Working Conditions in the Irish Film Industry**

**Report**

**July 2018**

**32JCCHG05**





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## Table of Contents

Réamhrá an Chathaoirligh .....	2
1. Specific Conclusions and Recommendations.....	3
2. Introduction.....	5
3. Summary of Submissions and Discussion with Committee Members (1).....	6
3.1 Irish Film Board/Bord Scannán na hÉireann .....	6
3.2 Screen Producers Ireland.....	6
3.3 Services Industrial Professional and Technical Union (SIPTU) .....	8
3.4 Discussion with Committee Members .....	9
4. Summary of Submissions and Discussion with Committee Members (2).....	10
4.1 GMB Ireland.....	10
4.2 Irish Film Workers' Association.....	10
5. Summary of Further Written Submissions.....	12
5.1 Irish Film Board .....	12
5.2 Screen Producers Ireland.....	13
5.3 SIPTU .....	14
5.4 Other Submissions .....	14
6. Summary of Main Concerns as expressed in Submissions and Discussions with Committee Members .....	16
6.1 Working Conditions.....	16
6.2 Training and Development .....	16
6.3 Funding.....	16
6.4 Trade Union Representation.....	17
<i>Appendix 1 – Committee witnesses .....</i>	<i>18</i>
<i>Appendix 2 – Links to Submissions .....</i>	<i>19</i>
<i>Appendix 3 – Members of the Committee .....</i>	<i>20</i>

## Réamhrá an Chathaoirligh

The Irish Film Industry is an extremely important constituent part of the cultural, artistic and economic life of Ireland. High quality output is produced by a talented and dynamic workforce. Our story, as a people, is told to ourselves and to the world. Our creativity, ingenuity and originality stimulate the eyes and the minds of people in every corner of the world. Through the Irish Film Industry, our innovation pollinates with the best of international film.

Ireland is a highly attractive location for both indigenous and foreign film production. It is the objective of the Joint Committee on Culture, Heritage and the Gaeltacht that we build, strengthen and improve the experience of all stakeholders in the sector in order to see it grow further.

Over the last number of years, the appetite for content has increased radically internationally and Ireland is well placed to meet that demand. The film industry must grow and evolve to meet that demand. As the industry grows, challenges arise. The film industry is a symbiotic industry. All stakeholders of the industry are interdependent, and cooperation is key in its development.

Foreign investment into the Irish film industry is extremely important. It is a key element of the dynamism within the industry. The Government must actively promote and incentivise foreign investment. It is equally important that the Government grows the indigenous capacity with the film industry. Indigenous growth and foreign growth are not mutually exclusive. They are jointly realisable. Indigenous growth and development is stable and sustainable. It involves higher multipliers within the Irish economy and it has the ability to define Ireland as an international hub for the film.

Within any growing sector, there are challenges. The film industry is no different. I believe that it is important that these challenges are addressed and not ignored. The experience of the hearings of the Committee has been that there is broad agreement on what needs to be achieved. There are also differing perspectives and voices that need to be heard. With goodwill by all stakeholders and real Government focus, I have no doubt that these challenges can be resolved.

We hope that this report will help start this process for the mutual benefit of all stakeholders.



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An Teachta Dála Peadar Tóibín  
Cathaoirleach den Chomhchoiste  
12 Iúil 2018

## 1. Specific Conclusions and Recommendations

1. Section 481 is a key and central component within the Irish Film Industry. This fact is accepted by the vast majority of the industry's stakeholders. Section 481 will remain central in the industry into the future.
2. Amongst certain sectors and grades of the industry, concerns exist with regard to working terms and conditions.

There are concerns that these can impact workers with regards to income, redundancy and pension entitlements. They can also affect workers' ability to communicate real workplace difficulties as workers without permanent contracts must be constantly rehired.

It is the view of the Committee that the Government should seek to make working arrangements more secure. Film companies should comply with all labour and other laws in relation to employment and self-employment. The Committee calls on the Government to develop plans that ensure gaps in work are counted towards employment rights and redundancy.

3. The Committee seeks the reform of training in the sector to ensure that all training has a recognised qualification where possible, has a beginning and an end, and that trainees are not forced to repeat specific training. The Committee proposes that there be a wider geographical spread of training courses, the introduction of formal apprenticeships and additional finance to improve this training and development.
4. The Committee calls on the Irish Film Board to constitute the Board's Film Forum, with an independent Chair, in order to allow all stakeholders within the sector to meet and work together to develop mutually beneficial solutions for the industry.
5. An international comparative study should be constituted to analyse the strengths and weaknesses of the Section 481 tax credit. The Committee is not recommending the abolition of the credit, far from it, but its evolution, to ensure that certain foreign investment is not being lost as a result of its current form. Attention must be focused on how Section 481 can be improved to develop rich productive and sustainable indigenous film industry capacity.
6. Workers within the craft grades of the industry should have representatives nominated to the Irish Film Board to feed in their perspectives and needs into the industry's development.
7. The Committee calls for collective bargaining rights of freelance workers.
8. The Committee calls for state support for the precarious existence of actors and sustainable pension structures for workers within the Irish film industry.

9. The Committee seeks the further integration of the film industry on a north/south basis with the creation of formal north/south structures, development plans and investment.
10. The Committee calls on the unions and the representative organisations to work towards a mutually beneficial and respectful understanding.
11. Public funding and adherence to employment standards should be linked.

## 2. Introduction

The Joint Committee on Culture, Heritage and the Gaeltacht (“the Committee”) discussed the issue of ‘Working Conditions and Development in the Film Industry’ on 31<sup>st</sup> January and 13<sup>th</sup> February 2018, and heard from five witnesses in total (See Appendix 1 below). The main concerns raised by the witnesses centred around working conditions, training and development, funding and trade union representation.

The Committee heard how the creative industry is one of Ireland’s great strengths. Irish-made productions are enjoyed by audiences around the world, they enhance our reputation, and provide high value employment. It is important therefore that the long-term sustainability and development of the sector be guaranteed and funding restored to those bodies and organisations that play a leading role in bringing this about.

The cultural and economic value of the independent production sector in delivering the above needs to be continually supported and extended by Government funding incentives such as tax incentives and other funding schemes that are vital for the sustainability of the industry. Such Government commitment will ensure Ireland’s ability to compete against other jurisdictions in getting productions to locate here and to be seen as a territory with strong skills bases, suitable infrastructure and competitive financial incentives.

The first of the two meetings held on January 31<sup>st</sup> was attended by the Irish Film Board/Bord Scannán na hÉireann, Screen Producers Ireland, and SIPTU. A brief summary of witnesses’ contributions and engagement with the Committee is provided in section 3 below. The second meeting held on 13<sup>th</sup> February and attended by trade unions GMB and the Irish Film Workers Association. A brief summary of their contributions and engagement with the Committee is provided in section 4 below.

Further written submissions were received by the Committee Secretariat from The Irish Film Board, Screen Producers Ireland, SIPTU, Locations Department Guild, Irish Guild of Set Decorators, Art Directors’ Guild of Ireland, Production and Accountants’ Guild of Ireland, Ms Louise Mathews, and Troy and Ardmores studios. These later submissions were in response to the content of some contributions made at the Committee’s meeting of 13<sup>th</sup> February and in the main consisted of strong rebuttals and denials of some claims made by the Irish Film Workers’ Association and further clarifications around training and working conditions in the film industry in general. A brief summary of these submissions is contained in Section 5 below.

### 3. Summary of Submissions and Discussion with Committee Members (1)

The first meeting of the Joint Committee took place on 31<sup>st</sup> January 2018 to discuss the issue of Working Conditions and Development in the Film Industry. The Committee heard from the Irish Film Board/Bord Scannán na hÉireann, Screen producers Ireland and SIPTU.

#### 3.1 Irish Film Board/Bord Scannán na hÉireann

The Irish Film Board (IFB)<sup>1</sup> is the national development agency for Irish film and animation. It supports and promotes Irish film, television development and production through fostering Irish artistic production talent, growing audiences and attracting filmmakers and investment into the State. This it achieves through the provision of development funding and production finance by way of debt/equity investment. It also carries out research and publishes industry reports.<sup>2</sup> Through Screen Training Ireland, a national training and development resource specifically created for Ireland's film and television industry, it also provides training programmes.

In its written submission to the Committee, the IFB described how a film/television production is made up of many teams of different people carrying out a wide range of roles which are assembled anew for each new project for various time periods depending on the nature of the role and project in question. Due to the nature of the industry where each production has a finite production period, each team member goes its separate way when their work is completed or when the project as a whole comes to an end. Because of this, and to reflect the nature of the industry, film studios and production companies in Ireland and all across the EU do not generally employ creative and technical talent on a full time long term basis and only retain a small fulltime long-term team to support a production company or studio in the long run between productions.

According to the IFB, while there is intense competition in enticing productions to locate in any particular country, Ireland has been very successful in this regard due in the main to its strong skills base, suitable infrastructure and competitive financial incentives. This has led to the creation today of seventeen thousand full time jobs and a gross value added of the sector currently exceeding €1 billion annually.

A link to the IFB's first written submission to the Joint Committee is provided at *Appendix 2* below.

#### 3.2 Screen Producers Ireland

Screen Producers Ireland (SPI)<sup>3</sup> is a national organisation representing independent film, animation and television production companies. SPI, in its written submission, outlined Ireland's long history of supporting the creative screen industry through fiscal incentives, which over the years have supported indigenous production and attracted productions from

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<sup>1</sup> <https://www.irishfilmboard.ie/>

<sup>2</sup> The Government announced on 10<sup>th</sup> April 2018 the change of name of the IFB, with effect from 18 June 2018, to **Screen Ireland/Fis Éireann** to reflect and encompass the widening remit of the agency across film, animation, TV drama and other screen content

<sup>3</sup> <https://www.screenproducersireland.com/>

overseas leading to the building of a strong reputation for Ireland as a global, high tech, digital and creative content hub.

SPI outlined how the Government's Section 481 (S481) financial incentive<sup>4</sup> has contributed largely to the success of the creative industry in Ireland. It called on the Irish Government to extend the current form of this incentive beyond 2020 as S481 is crucial to the industry as an incentive scheme designed to promote investment in film by allowing tax relief for the investor. This is even more important today due to the current limited national funding and support for indigenous Irish screen production across all sectors. SPI also acknowledged the Irish Film Board's integral role and success in promoting and developing the industry and lamented its decrease in funding of over 40% between 2008 and 2015. It called on the Government to restore the IFB's Oireachtas grant to the 2008 level of €20m.

SPI described to the Committee the project-based nature of the industry whose employment structure reflects the variable range in company sizes and production budgets. As with the IFB submission above, it was explained to the Committee how the employment structures within the industry reflect the nature of the industry whereby an Irish producer-company will have its own full time core staff who develop original projects and put the finance in place and then hire crew at production stage. Crew levels are dependent on the size and genre of the production and for lengths varying from around eight weeks to six months continuously. Due to the project-based nature of the industry, production companies therefore cannot provide full time employment all year around. However, the combined total of independent productions can provide significant employment for the sector where employment status is a combination of PAYE and self-employment, with minimum rates well above the average. Employees are protected by legislation and negotiated collective agreements.

SPI underlined the importance of training in sustaining the current industry and in growing and developing new talent, and it welcomed and supported the proposal from a Crowe Horwath<sup>5</sup> report published in May 2017 on 'the requirement to develop a national strategy for the screen industry to provide the strategic foundation for on-going development of policies and plans in respect of audio-visual skills'. In addition, it welcomed Screen Training Ireland's undertaking in its 2017 Review to implement the main recommendations arising from the Crowe Horwath report.

With regard to working conditions within the Irish film industry, SPI described its proactive approach following recently highlighted issues relating to sexual harassment. SPI collaborated with other industry partners last year in organising and participating in a half-day workshop on Dignity in the Workplace and in producing a suite of resources, including policy documents and promotional materials, for display in offices and on production sets.

A link to SPI's first written submission to the Joint Committee is provided at *Appendix 2* below.

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<sup>4</sup> <https://www.revenue.ie/en/companies-and-charities/reliefs-and-exemptions/film-relief/index.aspx>

<sup>5</sup> <http://www.crowehorwath.ie/report-strategy-development-skills-audiovisual-industry-ireland/>

### 3.3 Services Industrial Professional and Technical Union (SIPTU)

The Services Industrial Professional and Technical Union (SIPTU)<sup>6</sup> represents over 180,000 members providing them with the expertise, experience and back-up services in assisting workers with their dealings with their employers. The film and television production sector, is represented in the main by the Services Division's Arts and Culture Sector. SIPTU also represents some service grades while other grades are represented in the main by other unions which form a group known formally as the ICTU Construction Group of Unions. Pay and general working conditions are negotiated collectively between these bodies in accordance to the various parties being represented.

With regard to working conditions in the industry, SIPTU informed members that no allegations of bullying or harassment had been raised nor complaints brought to its attention. It was however anecdotally aware of an issue within the construction sector of the industry, which in its view pointed to the possibility of an issue between workers.

SIPTU referred in its submission to what it considered to be the genuine issue of continuity of employment for industry workers. It outlined that in order to avail of S481 funding, production companies are compelled to set up a Special Purpose Vehicle (SPV) which is a new production company set up by the mother production company for any new production availing of this funding tax incentive in raising production funds. Each new production company, or special purposes vehicle (SPV), is therefore linked to the production at hand only and employs workers for the lifespan of that production company only, which is then wound down and closed after production. In SIPTU's view, this is unsatisfactory as it leaves workers with no continuity of employment between productions with the result that workers cannot accrue service with any employer. On the issue of self-employment, while there was a rise in this practice, SIPTU's preference for its members was for contract-employment and for the gap between self-employment and contract-employment to be narrowed.

Training and development structures are needed in the industry to create sustainable and quality employment and SIPTU recommended the introduction of a log book system which would prevent the abuse of trainees, who in its view, are kept as trainees over very long periods resulting in them not being able to build up continuous employment records and avail of the benefits these bring. It also recommended that the stakeholder forum currently led by the IFB be replaced by a joint union/industry forum and that funding audits be published each year on compliance in respect of numbers employed, self-employed and progress of trainees.

Irish Equity is part of SIPTU and it seeks to secure decent working and living conditions for its members, which consist in the main of actors, theatre directors, and stage and set designers. It informed the Committee in its submission, that while acknowledging that no evidence or allegations of sexual harassment had arisen from within the film and television production sector, it had invited workers from the audio visual sector to attend a seminar towards the end of 2017 on bullying and harassment within the industry, with the aim of assisting the sector in developing good practices and procedures in conjunction with other bodies and organisations.

A link to the written submissions from SIPTU and Irish Equity are provided at *Appendix 2* below.

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<sup>6</sup> <http://www.siptu.ie/>

### 3.4 Discussion with Committee Members

In addition to the points raised in the written submissions, issues and further points raised during further engagement with Committee members following presentations of the opening statements summarised above included:

- Screen Training Ireland, its history, role to date and future activities
- Need to address gaps in industry training and development and to agree structures to address issues arising
- Lack of quality permanent employment for some workers over very long periods which in some people's views is caused by the S481 funding structure and conditions
- Worker representation on the Irish Film Board and the re-establishment of an industry forum led by the Irish Film Board
- Quality of employment and training opportunities on productions funded by S481
- Advantages and disadvantages of mobility around flexibility within the industry
- Role of trade unions in accreditation process
- Working Time Directive
- The role of funding and tax incentives in sustaining long-term employment
- Finite and short-term nature of training as a requirement under S481 and engagement with the Department of Culture, Heritage and the Gaeltacht
- Need for additional finance and new structures for training across the industry
- Introduction of formal apprenticeships
- Linking public funding in the film industry to employment standards
- Geographical spread of training/feasibility of employment across different productions
- Selective bargaining rights of freelance workers
- State support for the precarious existence of actors
- New sustainable pension structures
- Brexit and future development of the Irish film industry

Transcripts of these discussions are available at the following link:

<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committeetakes/RG22018013100002?opendocument#A00100>

## 4. Summary of Submissions and Discussion with Committee Members (2)

A second meeting of the Joint Committee took place on 13th February and written submissions were presented from GMB Ireland and the Irish Film Workers Association.

### 4.1 GMB Ireland

The GMB union represents workers in Ireland and the Britain and first became involved in the Irish film industry in 2015. Its membership in Ireland is just under three hundred and is made up in the main of workers within construction, props and driver crews sectors. The main current issue concerns those in the industry who have been working for over twenty years without permanent contracts. It was suggested that when workers spoke out in raising their issues, their future employment was threatened and in some instances they were 'blackballed' on new productions as a result.

In GMB's view, continuity and quality of employment is circumvented by the SPV requirements (see 3.3 above) and threatens the successful future of the industry and those who work for it. GMB believes that gaps between productions should be considered as lay-off periods and subject to current legislation related to continuity of employment and future employment rights or redundancy.

Concern was also expressed on how the working week was being implemented where production drivers were expected to work in excess of twelve hours per day, beyond the safe legal limit and without adequate rest periods. While the union accepts the requirement for flexibility and maximisation of the production working day, it does not accept the need for one person to work excessive hours. It believes that such work requirements could be shared across more crew and lead to further employment opportunities for more workers.

GMB also shared SIPTU's concerns around trainees and does not accept the current practice of recruiting trainees for the purposes of S481 funding only as part of any newly created SPV. It objects to the lack of mechanisms to track trainees' progress and/or the type of training being provided and cited examples of some of its members being trainees for over ten years across different productions with no long-term contracts.

On the overall issues of funding, GMB, while welcoming the on-going investment in the industry, recommended a review of funding into the future which would lead to reforms in eradicating what it considered in many instances to be an abuse and wastage of tax payers' money.

A link to GMB's written submission to the Joint Committee is provided at *Appendix 2* below.

### 4.2 Irish Film Workers' Association

The Irish Film Workers' Association (IFWA) represents all grades of workers, its members consisting in the main however of those from set craft grades. It referred in its presentation to what it considered the three main issues of current concern within the film industry: funding, employment and training. It disagreed with the content of some of the statements made at the January meeting and highlighted what it considered to be some wider concerns within the industry.

In IFWA's view, film making in Ireland does not meet the requirements of Section 481 (Parts 1 and 2) of the Taxes Consolidation Act 1997, which refer specifically to quality of employment, and training opportunities. The freelance contracts referred to at the January session are considered by IFWA not to be covered by the legislation and in its view do not concur with the definition of 'worker' under general employment legislation. It disagreed therefore with the views expressed in January that freelance contracts could be signed directly between workers and the production parent companies (as opposed to the SPVs), and that the only valid contracts can be fixed-purpose contracts as defined in the Protection of Employees (Fixed-Term Work) Act 2003.

IFWA also disagreed with the view expressed at the January meeting that parent production companies could not employ crews on a continual basis. In IFWA's view, a Director of Production, for example, should be directly employed by the parent production company as it is a grade with application in the film industry only. In addition, it believed that mechanisms were in place leading to possible breaches of the Organisation of Working Time Act 1997 where there is provision for a maximum working week of 48 hours. It saw collective agreements between some unions and workers as being outside of the legislation, as such legislation stipulated that agreements could only be between the worker and the employer, and not between the worker and any representative organisation.

With regard to training and development within the industry, IFWA expressed its strong disappointment that issues raised in a report<sup>7</sup> as far back as 1995 had not yet been addressed.

A link to the Irish Film Workers' Association's written submission to the Joint Committee is provided at *Appendix 2* below.

### 4.3 Discussion with Committee members

In addition to the points raised in the written submissions, issues and further points raised during further engagement with Committee members following presentations of the opening statements summarised above included:

- Structural problems regarding treatment of workers outside of the actors' sector
- Precarious working conditions diluting some workers' rights
- Workers' representation on the Irish Film Board
- 'Bogus nature' of some self-employment arrangements
- Role of the Workplace Relations Commission
- Establishment of production 'holding companies' to ensure longer term employment
- Dialogue impasse between the various unions and representative organisations
- Legal status of current agreements

Transcripts of these discussions are available at the following link:

<http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/DebatesWebPack.nsf/committees/takes/RG22018021300002?opendocument#C00300>

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<sup>7</sup> STATCOM Report which proposed the registering and certification of Trainees

## 5 Summary of Further Written Submissions

Given their deep concern with the content of the IFWA contribution to the February meeting, the three stakeholders from Session 1 in January provided further written submissions in order to clarify and/or refute points made during the February meeting.

### 5.1 Irish Film Board

The IFB referred to the complex and disparate nature of workers' representatives which in its view was evident throughout the two hearings and the perceived differences of opinion between longer established unions and newer unions, which leads to competition between them in representing what they saw as the different issues causing concern within the sector. The deliberations of the February meeting, in particular, in the IFB's view resulted in a skewed and incomplete picture of the sector painted by two unions representing a minority of sector workers.

With regard to the intermittent nature of employment, the IFB is firmly of the viewpoint that greater levels of regular employment and on-going livelihoods can be achieved by further developing the industry. A future report<sup>8</sup> will show how the levels of employment in the industry have doubled since 2008 and if the right policies are adopted and implemented will double again over the next five years. The report will also show the sector's gross value added to be in excess of €1bn annually. In order for the sector in Ireland to benefit from and compete with strong international growth in the demand for screen storytelling content, it must align itself with international practice. The project nature of the industry is part of this structure, along with competitive working practices and tax incentives.

In relation to employment issues raised around the SPV structure, required as part of the Section 481 tax incentive, IFB reiterated how this structure is replicated world wide for many years and was driven by the need to contain liabilities arising from productions' risks and financiers' requirements in relation to the security of their investments. Regarding concerns raised around the unequal nature of the relationship between employer and employee arising from the intermittent nature of these employment structures, the IFB believes such concerns should be first addressed through collective bargaining agreements between employers and their representatives and the trade unions, supported by the dispute resolution procedures of the WRC and the Labour Court. With regard to the suggested 'illegality' of agreements between SIPTU and SPI, there was no legal requirement to the knowledge of the IFB which required an employer body to have a trade union negotiating licence.

The IFB described how training and apprenticeships within the sector had been traditionally provided by the unions who also monitored and certified trainees. With the exception of some unions, the practice is no longer being applied; however, Screen Training Ireland was now collaborating closely with the Department of Culture, Heritage and the Gaeltacht to achieve the effective functioning of training and development in the industry. While this is taking time and resources, it will result in an improved training environment. The Film Board referred to the list of recommendations in this regard in the Crowe Horwath report referred to in 3.2 above and urged the Committee to give full consideration to these recommendations.

A link to the IFB's second written submission to the Joint Committee is provided at *Appendix 2* below.

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<sup>8</sup> Consultants Olsberg and SPI Ltd will produce a report in Summer 2018 on the economic impact and potential of the Irish film, TV and animations sector.

## 5.2 Screen Producers Ireland

As with the IFB's submission in section 5.1 above, SPI's submission was also in response to the Committee's meeting of 13 February 2018 and consisted of its rebuttal of, and strong objection to, claims made by witnesses during that session. It also expressed its surprise that only two groups from the film industry were present at that session and that the opportunity was not provided to address accusations made by the parties present against absent parties. SPI also expressed its disappointment that no indication was given during the first Committee session that a second session was going to take place. It added that 90% of the industry was being accused by representatives of less than 10% of the industry of acting illegally and those witnesses were not requested to refrain from making comments about individuals, organisations and the legality of industry agreements until close to the end of the meeting. It expressed further concern that the transcripts of the meeting would reflect, what it considered to be misrepresentations made during the sessions and wished to set the record straight in its second submission. It strongly disputed the statements made by IFWA and the GMB to the first session of the Joint Committee but remained open, as always, to engagement with these parties and all other representative parties.

Claims made that SPI cannot negotiate on behalf of its members were refuted in the strongest possible terms by SPI; it cited Section 27 1A of the *Industrial Relations Amendment Act 2015*<sup>9</sup> in support of its position. Furthermore, a collective agreement (Shooting Agreement 2010) recognised by the Labour Court was signed in 2010 between SPI and SIPTU, and negotiations are currently taking place between SPI and the Connect union (formerly TEEU) whereby the terms and conditions of employment will continue to be clearly set out for its members leading to legally binding contracts of employment between producers and employees.

SPI also described the claim made by some witnesses during the previous sessions that the Shooting Agreement 2010 was in breach of the Organisation of Working Time Act 2007 as 'ill-informed and baseless'. It demonstrated in the documentation provided that this agreement is in accordance with the Organisation of Working Time Act which allows for the averaging out of weekly hours to reflect the seasonal nature of the film production industry and also for the adoption of derogations by means of collective agreements.

SPI reiterated and expanded on the information provided by it at the first session in January on the project-based nature of the production industry whereby a company cannot provide production crew with full-time employment for 52 weeks of the year but the combined total of independent production companies can and do provide significant employment. General terms and conditions are collectively and legally negotiated between SPI and ICTU-recognised film group of unions and these have resulted in the majority of those working in the industry being paid more than agreed minimum rates. Production companies must, and do, adhere to the legislation that is in place to protect employees, and to the negotiated collective agreements thus ensuring that employees are provided with the best possible conditions while work is available.

SPI strongly contested the claim made by IFWA that there was cross-over between SPI membership and the Board of the IFB, and while one of IFB's Board members is a member of SPI, none of SPI's Board members is on the Board of the IFB.

SPI welcomed views expressed by some other stakeholders at the two Committee meetings on the need for streamlining and for steps to be put in place for trainee accreditation and felt

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<sup>9</sup> <http://www.irishstatutebook.ie/eli/2015/act/27/enacted/en/html>

that the best place to start this process and agree new industry standards and training is the IFB-led industry forum. However, it strongly refuted the view expressed at the February meeting that training did not take place in S481 projects and reiterated its view to the Committee at its January meeting whereby a minimum of two trainees (up to a maximum of eight) must be made for each €355,000 of corporation tax claimed.

SPI provided copies of all relevant documentation referred to above with its second written submission to which a link is provided at *Appendix 2* below.

### 5.3 SIPTU

SIPTU also submitted a written response to issues raised at the February 13<sup>th</sup> meeting which it did not wish to be left unchallenged. SIPTU submitted that the meeting of 13<sup>th</sup> February contained unfounded allegations which SIPTU was addressing in its second submission.

SIPTU expressed disappointment that the Committee had not invited ICTU trade unions representing construction grades. It wished to correct the statement by the Chair that the meeting was the first held by the Committee attended by non-actors and pointed out that SIPTU also represented 47 different grades (excluding actors and craft grades) represented by other unions at the January meeting.

Allegations made by IFWA at the February meeting regarding illegal agreements made by SIPTU around the Organisation of Working Time Act were strongly refuted by SIPTU. It was firmly placing on the record that it never entered into any agreement ‘tainted with illegality’ and any assertions to the contrary were untrue. It clarified in its statement that there is no provision in the Act for overtime payment and while hours can be averaged out over monthly periods, the maximum hour limit is set and cannot be offset with payments of any kind. SIPTU does not condone any situation whereby workers do not get the benefit of minimum daily rest (as per section 11 of the Act) and SIPTU will always hold the line on good and safe working practices in this regard. Where breaches of the Act have occurred and have been brought to the WRC, SIPTU has successfully been winning cases for workers affected. Where workers are reluctant to raise the issue themselves, the union will often make a complaint to the National Employment Rights Authority (NERA). This allows for a general investigation without having to name the worker involved thus providing a level of protection against any untoward action by the employer.

With regard to employment in general, SIPTU recognises the precarious nature of the industry due to the intermittent employment opportunities and the difficulties encountered by workers in achieving lengths of service with any one employer. All of SIPTU’s collective agreements are legal and serve to represent and protect all employees regardless of employment status. Furthermore, SIPTU has never proposed that producer companies abdicate their responsibilities under employment legislations or under conditions laid out in S481.

A link to SIPTU’s second submission is provided at *Appendix 2* below

### 5.4 Other Submissions

Written submissions were also received from the following

- Locations Guild of Ireland
- Irish Guild of Set Decorators
- Art Directors Guild of Ireland
- Production and Accountants’ Guild of Ireland

- Ms Louise Mathews (production designer)
- Troy and Ardmores studios
- Grip Guild Ireland
- Screen Audio Ireland
- Irish Assistant Directors Guild
- Stunt Guild Ireland
- Irish Society of Cinematographers
- Locations Department Guild of Ireland

While none of the above organisations attended either of the two Committee hearings, their submissions were a response to these meetings' discussions and deliberations.

There was strong reaction in the majority of these submissions against contributions made to the Committee by the IFWA at the February 13<sup>th</sup> hearing on working conditions in the film industry. These stakeholders disagreed strongly with the views expressed by the IFWA adding that the association was not at all representative of their views and possibly represented only a minority of crew working in the film and television industry. Some of the submissions acknowledged that while industrial relations had been allowed to deteriorate in some industry areas, such as construction, resulting in the lack of a single voice representing all crew, they suggested that the time was now right for workers and SIPTU (representing the largest number of workers throughout the whole of the industry) to engage in a more substantive way for the benefit of all. There was general agreement that this could also be facilitated by the re-establishment of the Film Board's Consultation Committee which could provide a space for all stakeholders within the Industry to voice their opinions.

The submission from Troy and Ardmores studios acknowledged problems faced by some incoming productions as a result of industrial relations issues; however it stated that agreements had been made to the satisfaction of all and cited the example of the recently signed Mid-West Construction Agreement. The agreement is more flexible than other agreements, for example, and is based on a 39 hour working week, as opposed to other construction agreements which are based on a 48 hour working week.

In addition to the above, other issues raised concerned in the main long training periods, continuity of employment, provision of a pension fund mechanism, and the absence of formal trainees' registers and accreditation systems, and proposals are provided in the submissions on how these issues can be overcome. In overall terms however, all parties, with the exception of the IFWA, were of the view that the industry is thriving and provides a positive experience for those within it at all levels and will continue to be within the current structures and environment. There is a strong willingness by all parties to address the problems raised and to work together in increasing production and enticing international production to come and work here. A major contributor to ensure this ongoing success is to provide further and increasing funding to the Irish Film Board and the ongoing and increased role of Screen Training Ireland in rolling out training programmes across the whole of the industry.

Links to copies of these submissions are also provided in *Appendix 2* below.

IMRO <https://www.imro.ie/about-imro/research/music-screen-ireland/>

## 6. Summary of Main Concerns as expressed in Submissions and Discussions with Committee Members

### 6.1 Working Conditions

Continuity of employment was raised as an ongoing issue whereby workers are generally employed from production to production and rarely, if ever, work on more than one production at the same time. This is especially the case for those working on S481 productions for which the ‘mother’ production company must set up a special production company for each newly funded production, referred to as special purpose vehicles (SPV). While this structure raises concerns around the continuity of employment for crew between productions, it reflects the nature of the industry whereby an Irish producer-company will have its own full time core staff who develop original projects and put the finance in place and then hire crew at production stage. It was suggested that the issues could be somewhat alleviated by further funding and development of the sector which would lead to narrowing the gaps between new productions and providing greater levels of regular employment and on-going livelihoods.

The above issue also highlighted the concerns in some quarters with the increase in self-employment and the shortage in offers of permanent or long-term contracts. This could lead to risks to future employment and redundancy and pension rights.

With regard to concerns expressed around exceeding the twelve hour working day and the requirement, due to the nature of the industry, of exceeding this limit, it was proposed that such work requirements could be shared across more crew and lead to further employment opportunities for more workers.

### 6.2 Training and Development

All parties agreed with the need for structured and well-financed training and development for the industry in creating sustainable and quality employment. However, some instances were highlighted where workers were being engaged as trainees over different productions from year to year and that such training was not leading to offers of full time employment as new productions came along. The success of the S481 funding incentive was leading to substantial increased activity in the industry and part of the scheme insisted on the provision of training on all productions supported by it. However the question was raised as to how such training could better reflect the overall needs of the industry and be better monitored and recorded. All parties agreed on the importance of training in sustaining the current industry and in growing and developing new talent. The proposal from the Crowe Horwath<sup>10</sup> report (section 3.2 above) with regard to training was welcomed and supported.

Other proposals put forward included a wider geographical spread of training courses, the introduction of formal apprenticeships, additional finance and new structures across the industry.

### 6.3 Funding

The Section 481 Tax Incentive was strongly welcomed in spite of some of the issues it raised, as outlined above. However the importance of restored and guaranteed funding for

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<sup>10</sup> <http://www.crowehorwath.ie/report-strategy-development-skills-audiovisual-industry-ireland/>

those bodies and organisations who play a leading role in guaranteeing the future of the sector and in ensuring the long-term sustainability and development of the sector was strongly underlined. The withdrawal and reduction in funding threatened Ireland's ability to compete against other jurisdictions in getting productions to locate here and raised challenges and concerns for Ireland's strong reputation as a territory with strong skills bases, suitable infrastructure and competitive financial incentives.

#### **6.4 Trade Union Representation**

It was clear from the discussions that there was some disagreement between the longer established unions and newer unions and issues of concern were being expressed differently as a result. Some concerns were raised by IFWA on workers' representation on unions and other representative bodies but overall other parties to the discussions disagreed strongly with IFWA's view and they were satisfied with workers' representation and the guilds in particular referred to leaving the past behind and working closer with the more established trade unions into the future. Any suggestions by IFWA that extant collective agreements may be outside of legislation were strongly refuted by all other parties.

*Appendix 1 – Committee witnesses*

<b>Date</b>	<b>Witnesses</b>
<b>31 January 2018</b>	The Irish Film Board Screen Producers Ireland, SIPTU - Irish Equity
<b>13 February 2018</b>	GMB Irish Film Workers' Association

## *Appendix 2 – Links to Submissions*

Irish Film Board/Bord Scannán na hÉireann (Written Submission 1)

<http://www.oireachtas.ie/parliament/media/committees/cultureheritageandthegaeltacht/IFB-Opening-Statement-31.01.pdf>

Screen Producers Ireland (Written Submission 1)

<http://www.oireachtas.ie/parliament/media/committees/cultureheritageandthegaeltacht/SPI-presentation-to-Culture-Heritage-and-Gaeltacht-Committee.pdf>

SIPTU (Written Submission 1) and Irish Equity group

<http://www.oireachtas.ie/parliament/media/committees/cultureheritageandthegaeltacht/SIPTU-JCCHG-310118.pdf>

<http://www.oireachtas.ie/parliament/media/committees/cultureheritageandthegaeltacht/Irish-Equity-JCCHG-0118.pdf>

GMB (Written Submission)

[http://www.oireachtas.ie/parliament/media/committees/cultureheritageandthegaeltacht/presentations/\[GMB-OS.pdf](http://www.oireachtas.ie/parliament/media/committees/cultureheritageandthegaeltacht/presentations/[GMB-OS.pdf)

Irish Film Workers Association (Written Submission)

[http://www.oireachtas.ie/parliament/oireachtasbusiness/committees\\_list/cultureheritageandthegaeltacht/presentations/](http://www.oireachtas.ie/parliament/oireachtasbusiness/committees_list/cultureheritageandthegaeltacht/presentations/)

The following submissions are on the following link:

<https://www.oireachtas.ie/en/committees/32/culture-heritage-and-the-gaeltacht/>

Irish Film Board (Written Submission 2)

Screen Producers Ireland (Written Submission 2)

SIPTU (Written Submission 2)

Locations Department Guild (Written Submission)

Irish Guild of Set Decorators (Written Submission)

Art Directors Guild of Ireland (Written Submission)

Production and Accountants Guild of Ireland (Written Submission)

Louise Mathews (Written Submission)

Troy and Ardmore studios (Written Submission)

Irish Society of Cinematographers (Written Submission)

### *Appendix 3 – Members of the Committee*

Deputies:           Seán Canny (IND)  
                          Michael Collins (IND)  
                          Danny Healy Rae (IND)  
                          Martin Heydon (FG)  
                          Éamon Ó Cuív (FF)  
                          Niamh Smyth (FF)  
                          Peadar Tóibín (SF) [Chairman]

Senators:           Maura Hopkins (FG)  
                          Marie-Louise O'Donnell (IND)  
                          Aodhán Ó Ríordáin (LAB)  
                          Fintan Warfield (SF)