DÁIL ÉIREANN

AN COMHCHOISTE UM CHULTÚR, OIDHREACHT AGUS GAELTACHT

JOINT COMMITTEE ON CULTURE, HERITAGE AND THE GAELTACHT

Dé Máirt, 13 Feabhra 2018

Tuesday, 13 February 2018

Tháinig an Comhchoiste le chéile ag 11 a.m.

The Joint Committee met at 11 a.m.

Comhaltaí a bhí i láthair/Members present:

Teachtaí Dála/Deputies	Seanadóirí/Senators
Niamh Smyth.	Maura Hopkins,
	Marie-Louise O'Donnell,
	Aodhán Ó Ríordáin,
	Fintan Warfield.

I láthair/In attendance: Deputy Richard Boyd Barrett.

Teachta/Deputy Peadar Tóibín sa Chathaoir/in the Chair.

Business of Joint Committee

Chairman: Tá ceathrar comhaltaí i láthair agus is féidir linn tús a chur leis an gcruinniú. Táimid i seisiún poiblí. Níl aon leithscéal faighte againn. Fanfaimid go dtiocfaidh na finnéithe go léir isteach.

I remind members and witnesses to turn off their mobile telephones, particularly as they interfere with the sound system and the broadcasting of their dulcet tones.

All the relevant documents have been emailed to members.

The joint committee went into private session at 11.10 a.m. and resumed in public session at 11. 12 a.m.

Irish Film Industry: Discussion (Resumed)

Chairman: We will continue our discussion on working conditions in and the development of the Irish film industry. At our previous meeting we heard from the Irish Film Board, Screen Producers Ireland, Irish Equity and SIPTU. Today, I welcome Ms Denise Walker, Mr. John Ward, Mr. Liam Neville and Mr. Thomas O'Meilly from the GMB trade union and Mr. John Purdy and Mr. John Arkins from the Irish Film Workers Association.

Before we start, I want to read the terms and conditions of our meetings. I wish to draw the attention of witnesses to the fact that by virtue of section 17(2)(*l*) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to so do, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable. I also wish to advise that the opening statement or any documents witnesses have submitted to the committee may be published on the committee website after this meeting. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable.

This is a very important issue and it is a great opportunity for us to get people who are experienced in the sector to focus on some of the issues that are affecting the sector in order that we can strengthen it. We want to do so in a fair manner. I invite the representative from GMB to make a presentation.

Ms Denise Walker: My name is Denise Walker and I am a regional organiser for GMB trade union in Ireland covering GMB members in both the North and the South. I am accompanied today by Mr. John Ward who has worked as a unit driver on a number of productions for more than 20 years, Mr. Thomas O'Meilly, who has worked as a facility driver for more than ten years and Mr. Liam Neville who has more than 20 years experience as a driver. GMB is a general union operating in the UK and Ireland with more than 700,000 members in public and private sectors and in a variety of workplaces and environments.

GMB became involved with the film industry around two years ago. Our membership is just below 300 and is mainly drawn from the construction, props and driving crews.

From the outset of our engagement with the workforce we became aware of issues of serious concern to any trade unionist. These included bullying and harassment, mistreatment of workers, breaches of health and safety and unsafe working practices, which includes the length of the working day and week. No one has a permanent contract, many have worked in the industry in excess of 20 years yet still have no provision for acquired rights or even a pension.

It became obvious that those who spoke out for their rights or the rights of their fellow workers were prejudicing their future employment and today we have representatives present who are not employed because they stood up for those entitlements. We have numerous members who should today be working on sets, who have worked on previous jobs for many years without any disciplinary action or criticism of their working ethics or performance, not working because they have raised concerns or asked for their due entitlements.

The precarious nature of the employment leaves open the path to the culture of "keep your head down, do not object and do what you are told". Your current job and future employment seems to be based solely on whether your face fits rather than your past employment record. Challenging the *status quo* has led to GMB activists and members, among others, effectively being blackballed on current productions. These members have asked for no more than respect for their limited rights, such as holiday pay, overtime pay or the correct rate for the job or they have raised genuine concerns on the treatment of workers.

Continuity of employment is an issue which can and must be resolved to secure the successful future of the industry and the rights of the crew members. The use of the special purpose vehicle, SPV, subsidiary company circumvents the production company's responsibility and relationship with those employed by it. Gaps within production time should be considered as lay off periods and subject to normal legislation for continuity of employment, future employment rights or redundancy. This is an industry which receives millions of euro annually in loans and grants and very generous section 481 incentives to create quality employment, yet we see no evidence of quality employment on the ground.

Heads of department are PAYE employees and often oversee the recruitment process of their relevant department. We have seen this job given to a person who is also a contractor, supplying goods, services and manpower. This has led to under employment of regular crew, reduction in the negotiated rates for the job and what can only be deemed as a massive conflict of interest where this person is effectively awarding contracts to themselves. The subject of how and who will be employed is clearly open to abuse.

All employees and workers are committed to working at least a 55 hour week. The Organisation of Working Time Act stipulates that an employer shall not permit an employee to work, in each period of seven days, more than an average of 48 hours, that is say an average of 48 hours calculated over a period that does not exceed four months. Part 11 of the Act further stipulates the daily rest period. An employee shall be entitled to a rest period of not less than 11 consecutive hours in each period of 24 hours during which he or she works for his or her employer. This legislation is in place to ensure the health, safety and wellbeing of those working. GMB does not believe that the practice of working for periods in excess of the 48 hour week is healthy or safe, particularly for those employed to drive either heavy goods vehicles or passengers or for those engaged in manual labour or in control of machinery. Drivers are regularly expected to work in excess of 12-hour days, breaching both mainstays of the legisla-

tion. The fact that productions may last less than the maximum average of four months cannot form part of the argument that it is okay and necessary to work these hours and cannot be used when productions run beyond the four month period as seen on productions such as "Vikings". It is reasonable for the average to be calculated over the duration or intended duration of the production. While this may prove difficult in certain circumstances, the calculation of the 11-hour rest period is simple and yet often ignored. My colleagues here with me today have been employed as drivers and have first-hand experience of this on a regular basis. The production managers, transport captains and heads of departments would have clear insight into the length of the working day planned ahead and would know that they are forcing people to work beyond the safe legal limit and without adequate rest periods. Drivers raising objections and concerns are told they will not be re-employed or they will be let go if they refuse to work the hours.

In addition to the Organisation of Working Time Act, the RSA guidelines on the Road Transport Working Time Directive are also being breached. This poses a major health and safety risk, not only to the drivers and their passengers but to other road users. We accept that productions require a degree of flexibility and the need to maximise the working day, but there is no need to have one person working excessive hours when this work could effectively be split amongst more crew and lead to further job creation. This is particularly relevant for the types of crews that we represent.

The presentation includes copies of the contracts that would be issued to prospective workers which, in addition to compelling them to a 55-hour week, commit them to exclusivity, etc. Failure to agree to these terms would exclude someone from employment. It also clearly demonstrates that the person taking up that position is under the control of another person who directs him as to how, when and where the work is carried out; receives a fixed hourly, weekly or monthly wage; cannot sub-contract the work; works set hours or a given number of hours per week; and receives expenses payments to cover subsistence and-or travel expenses. All of these points are met by the individual and would clearly define him or her as an employee, yet many are operating as self-assessed or, indeed, self-employed, and this runs contrary to the Revenue guidelines.

GMB welcomes and supports employers who are investing in their workforce through proper training. We welcome the practice of introducing trainees to the workplace where those trainees are valued, have recognised training pathways and prospective employment within the company. We do not accept that the current practice of employing trainees within the film industry to simply meet the demands of the section 481 incentive is either satisfactory or appropriate. In other jurisdictions, training within the sector is highly rewarding and leads to the proper skilling of the individual, offering him or her the potential to work in the industry and hence add to the secure future of the sector. The industry currently cannot even track the progress of trainees or substantiate the type and quality of any supposed training. It appears purely a mechanism to meet the requirements of section 481 and provide a cheaper source of labour on set. We have experience of members who have been employed as trainees having had ten years or more experience within the industry in their particular field. In one example, an individual had previously worked as a qualified props master for a number of years but when a new production - for a producer the individual had worked with - started up, the individual was advised that the only job available for the individual would be at a trainee rate.

The funding has created many problems within the industry. We welcome the ongoing investment in the industry but we want to see the sector grow and prosper. We call for serious consideration to be given to the reform of how funding is made going forward. This reform

must seek to eradicate abuse and waste of taxpayers' money. At a minimum, proper scrutiny must take place to ensure that funded projects create clearly defined quality jobs and this must be rigorously monitored.

GMB has fought an uphill battle for the past few years trying to secure proper rights and working conditions for our members in the film industry. We are committed to building and strengthening jobs in this sector but not at the expense of workers' rights. Reform is needed and worker participation is paramount to ensure that the voices of those who have helped build the reputation of strong, talented and dedicated crews in Ireland and the Irish film industry are heard. There must be proper and ongoing dialogue with elected representatives from within the workforce - people with first-hand experience of the industry and its problems who can assist in reforming the industry for the better. It is also essential that proper worker participation is secured on the Irish Film Board to represent workers. While we have concentrated today on the many things that are wrong within the industry, we must ensure that proper recognition is paid to the many dedicated crew members who have contributed to date to make the sector a success.

Chairman: As nobody else from GMB is seeking to make a presentation, I call on John Arkins to make his presentation.

Mr. John Arkins: Hopefully, the Chairman and members will have had an opportunity to read the submission we furnished to the committee on 31 January 2018.

My name is John Arkins. I am general secretary of the Irish Film Workers Association. I am accompanied by my colleague, John Purdy. The association represents all grades of workers in the film industry, the majority being of the set craft grade. In this summary of our position, we will address some of the key aspects of the previous presentations by the Irish Film Board, Screen Producers Ireland and SIPTU which are also dealt with in our submission.

The issues break down into three key categories – funding, employment and training. On funding under section 481, the legislation follows at Appendix 3, page 150, of our substantive submission. The committee will note that an authorisation shall not be given by the Minister under section 481(2) of the Act of 1997, that is, the Taxes Consolidation Act 1997, in relation to a film unless: (a) the film is within a category of film set out in Schedule 2, and (b) the Minister is satisfied that the film will either or both: (i) act as an effective stimulus to film making in the State through amongst other things the provision of quality employment and training opportunities, and (ii) be of importance to the promotion, development, enhancement of the national culture including where applicable the Irish language. Film making in Ireland, we would suggest, never meets the requirements of either subparagraphs (i) or (ii) of the Act.

SIPTU in its submission to the committee described employment in the film industry as "precarious". The union further put forward a view that freelance contracts are favoured by some workers. A union official went on to suggest that this issue could be addressed by engagement with the parent company. It is our understanding that those on freelance contracts are not covered by the legislation and do not meet the definition of "worker" under any of the various pieces of employment legislation. We believe it is an absurd proposition from the largest trade union in Ireland to engage in dialogue with the producer company which is the recipient of section 481 funding in respect of "precarious" employment or outsourcing key functions.

We, film workers, are engaged on fixed-purpose contracts. This atypical working arrangement was recognised by the European social partners and resulted in major reform with the introduction of the Protection of Employees (Fixed-Term Work) Act 2003. To put it in context,

some 15 years after the introduction of the legislation, SIPTU is proposing to allow producer companies abdicate their responsibilities to both employment legislation and section 481 funding notwithstanding that SIPTU, in the first instance, by way of collective agreements, provided the mechanism to the producer companies to continue the abusive use of fixed-term contracts with what is known as a 50/50 nomination system, that is, the union proposes a member for a job and management proposes the next member. Apart from the constitutional issues which arise, there is a belief that we, as workers, were taxed by the union to go to work.

It has long been recognised that precarious or atypical employment undermines the stability and continuity of employment which is central to the funding legislation and, indeed, actively conspires against the effective functioning of the industry.

It was also most disappointing to hear Screen Producers Ireland confirm to the committee what it has been telling us for some time, that is, that its members do not employ anybody, yet they seek to engage with SIPTU to conclude collective agreements.

Mr. Collins of Screen Producers Ireland also informed the committee that producer companies are custodians of section 481. The effect of being a custodian means that they are guardians and overseers of how the money is spent. We would suggest they are doing a very bad job, as there is no return on the investment for the taxpayer.

Mr. Collins, speaking as a member of Screen Producers Ireland and as spokesperson for the producer company members, put forward an argument as to why they could not have crew. He used an analogy that if he hired a director of photography who did not want to use his camera technician, then his technician would have no work and that would give the technician an unrealistic expectation. The reality is that producer companies should have a crew and the director of photography should be directly employed as it is a grade that only has an application in the film industry. It seems that Screen Producers Ireland seriously believe that this kind of glib comment is helpful to their members. We respectfully suggest that when one is in a hole, one should stop digging.

Another issue was the submission to the committee, again by the union, in respect of the Organisation of Working Time Act 1997. The Act provides a maximum working week of 48 hours. The averaging period is four months, 16 weeks, not 17, as stated by the union. Producer companies are aware that if the duration of the production is less than the averaging periods, then the working week cannot in any circumstances exceed 48 hours. There are no exemptions from the legislation for the film industry. That this was acknowledged by the union came as a total shock to us as workers given that the union yet again provided the mechanism to the producer companies to breach the Act by way of a collective agreement. This agreement is forced on workers by way of an appendix to our contracts.

Senior union officials have unfortunately overlooked the organisation of working time consolidated legislation which provides that if a collective agreement were to take workers outside of the legislation, it could only be concluded between a worker and his or her employer, the statutory consequences of opting out having been explained in plain language. The legislation requires that such an agreement cannot be negotiated by representative bodies. This should be obvious to both the union and Screen Producers Ireland as the provisions of employment legislation are individual rights of entitlement.

We know the union is familiar with this piece of legislation and we know it is familiar with the case law as set down by the European Court of Justice. We know this because we have told

it in correspondence on numerous occasions and we were ignored. Senior officials did point out that workers who are in breach of the legislation could be penalised if they go to work on another production, which is correct, but neglected to say that the net effect of this breach is that workers may be prevented from taking another job and neither could they avail of unemployment assistance because they could not be available for work.

How are workers supposed to live if the union's collective agreement renders them unable to work? It is truly shocking that a most senior official ignored their own role in this injustice by implementing the collective agreement that provides for a 50 hour, up to a 66 hour, week before overtime. To further compound this injustice, this official has just entered into another such agreement with Troy Studios in Limerick, again in the full knowledge that it is a breach of legislation. There is no reason that film production cannot abide by the legislation and organise the work over 48 hours.

Our submission to the committee sets out the reality of the issues facing trainees. The CEO and chairperson of the Irish Film Board along with the union acknowledged that there were issues with trainees and training, but nothing has been done to address these issues. Our submission deals with the Crowe Horwath report. We do not believe it complied with its terms of reference and feel it is not capable of being implemented. There was another major report which was referred to by the CEO of the Irish Film Board going back as far as 1995, the STATCOM report, which proposed the registering and certification of trainees. To date, none of its recommendations are in place.

Screen Training Ireland is, in our view, a major drain on the taxpayer and should be returned to SOLAS from where it came.

What is the value to taxpayers of throwing more money at Screen Training Ireland which has no QQI accreditation, does not engage with trainees, in an industry which determines its own training needs and which has fundamentally failed to implement the key recommendations of previous training reports? Screen Training Ireland held an open day in Troy Studios in Limerick two years ago and promised jobs in the film industry yet there were no employers recruiting workers because there are no jobs. The production which is now under way in Troy Studios has at least 80% of the crew having been brought in from New Zealand and the UK. Irish crew must go down as local crew, even though they are not local. Workers are brought here from abroad even though there are experienced film workers and trainees sitting at home. Who is responsible for carrying out the labour market needs test which is required when hiring non-EEA workers? Was such a test carried out?

In order to determine training needs or to devise training courses, two essential ingredients are fundamental to the process without which the process is irrelevant, namely an employer and an employee. Section 10 of the fixed-term work legislation places an obligation on employers to provide access to training, so here we have two pieces of legislation placing obligations on employers under section 481 and the Protection of Employees (Fixed-Term Work) Act 2003. Therefore, the question arises as to what useful purpose can be served in granting Screen Training Ireland extra resources other than to give the impression that there is a career in film, when we know to our cost there is no such thing.

Chairman: I thank Mr. Arkins. I will begin the questions myself. Several groups have come before the committee on this sector. It is an important sector for many reasons, economically, in the provision of work and because of the way in which it allows our country to tell its own story. If we do not do that, there is a danger that we could become a cultural satellite of

other, larger countries.

I have been examining this issue in the last six months. There seem to be significant structural problems within the sector regarding how workers are treated. This is the first time this committee has had before it non-actors working in the sector, people working in the clerical and other grades. It is important to facilitate this.

It is also important because the State gives considerable money to the sector, whether through loans or tax breaks. Most sectors in Ireland will say that precarious working conditions tend towards the abuse of the rights of workers. If there is an equal balance between worker and employer, one is likely to get fair treatment of the employee, but where there is a major imbalance, through precarious work, it leads to major difficulties.

I want to ask the witnesses their opinions on some ideas that I have had. I think there should be a need for a member of the craft sectors to have a representative on the Irish Film Board, which is not now the case, and they should be nominated by the Minister so they can help steer future development. The Irish Film Board can initiate an Irish film forum where all stakeholders can participate. I have asked for this to happen and, to be fair, the Irish Film Board has said it would be interested in it. What are the witnesses' views on this?

Bogus self-employment was raised. Views differ on the prevalence of bogus self-employment in the sector. There is a view that there is a need for some level of self-employment to allow flexibility and some people choose it themselves. How prevalent do witnesses think is bogus self-employment in the sector? Is it a case that 20% of people in sector are forced into bogus self-employment, or is it far more widespread than that? We often hear there is good employment legislation in the State and regulatory bodies such as the Workplace Relations Commission, WRC, to oversee it. Obviously, that is difficult to use if one is in a precarious working environment. Are there examples of it being used where it has successfully underlined the concerns that witnesses have, or is it the case that it is nearly impossible to use those sectors? The witnesses might address those four questions, whichever of them would like to choose one of them.

Mr. John Arkins: On the Chairman's question on whether the mechanism of the WRC operates for this industry, during the past two years since the Irish Film Workers Association was formed as a registered trade union, we have taken cases to the WRC on a number of issues. We represented trainees who were denied natural justice. We got them compensation and an option that they could return to work. We believe the mechanism can work, and we will be back to the court this month again dealing with a case involving a beneficiary of section 481 funding who has said he is not the employer. There is an issue if one does not know who one is bringing to court and people are not willing to acknowledge they are in receipt of this money and that they are the employers. It is not that hard for us to identify the employers. If the Chairman's reads our submission, he will note that the beneficiaries of all the section 418 funding is set out in the category on the left-hand side of Appendix 5. Every single one of them gets section 481 money and every one of them gets that money to create quality employment, to provide training and to invest in the infrastructure of facilities. We all want to have these goods and services within the State.

Chairman: If I may interrupt, the problem with special purpose vehicles is that they only last for the duration of production. People are employed directly for that and, therefore, they are being flipped every so often. Would the solution to that be that the workers within the sector would be employed directly by the production company?

Mr. John Arkins: We put forward a proposal to Screen Producers Ireland, SPI, roughly two years ago suggesting that a holding company would be set up involving the employers of the members of SPI, that the section 481 money would be put into the holding company and that the members would be employed by the holding company. We have examined that proposal and the only way these issues can be resolved is with the employers and the employees. We know this has worked in the shipping industry where dock workers were treated in manner where they got a job today and did not get one tomorrow for no other reason other than the colour of their eyes. Those workers put a holding company in place. Section 481 money could be put into a holding company. The producers would be the directors and owners of the holding company. We as employees would be employed by the holding company. We would get our entitlements, holidays, advancement, training and pensions. We do not believe that proposal was ever put to the membership of SPI. In the meantime, we have had to complete agreements with three of our employers, who to date have signed agreements directly with their workers. Those are the only legal agreements between an employer and employees in this industry today. We have come up with solutions that need to be addressed and discussed.

Chairman: With regard to the prevalence of bogus self-employment, would Ms Denise Walker or Mr. John Arkins have an idea of the incidence of that?

Mr. John Arkins: I have been working in the industry for 27 years. There are 77 grades in the film industry - 77 different departments mobilise together to make a film or a television show. Every one of those jobs is identified and that is the only application in respect of which one can work. If somebody is not making a film, I cannot be a self-employed unit driver because the only time I am hired is when somebody is making a film and I am required to pick up an actor, staff and a crew member. We can do that across the 77 applications and one could argue that the 77 applications are all employees. We do not understand what the out-sourcing of employment is giving to service providers who do not have any other clients. They do not have any other outlet for their business unless someone is making a film or television show. If someone can explain to me how someone-----

Chairman: To be devil's advocate for a moment, if there was a person who was dealing with three different films at once, they could set up as a self-employed person and deliver that service to a number of different customers. Could that situation arise?

Ms Denise Walker: The typical contract handed out commits that person to exclusivity on that job and a 55-hour week. With the driving sector particularly, the majority of the drivers would be working well in excess of that 55-hour week. In terms of the potential to move from job to job, therefore, it is physically impossible for that individual to be employed on a number of locations at once. The drivers here will be able to tell the Chairman more about their feel for the percentages, so to speak, of those who are self-employed but it would not be uncommon for two people to be doing roughly the same job or for one who was self-assessed working alongside someone who was on a PAYE type contract. That in itself would tell me that employment does not need to be self-assessed or self-employed-----

Chairman: I have only a couple of minutes left. The issue of training is one of the most bizarre elements of this sector in that it does not have a start, a middle, a finish or accreditation and that people who are highly experienced and highly trained already can be forced into situations where they are trainees again on a production. I am trying to get a feel for the prevalence of that. Testimony was given to the committee the last time we discussed it to the effect that it was unusual that this might be the case. In terms of an honest perception, could Ms Walker indicate whether it is the case that many people are regularly forced back into training or does

it just happen now and again?

Ms Denise Walker: It certainly happens now and again but in terms of a trainee, whether that person has worked for the industry previously at a different grade in some respects is irrelevant. That example highlights that the training is not real and is not a proper career progression. The fact is that trainees come into the job and there is no accreditation or training plan or pathway and if we are talking about a trainee on a job for ten weeks, if that person is let go after the end of that ten weeks, what actual skills can they pick up within that time? They are employed and then they are dumped.

Chairman: Does any member want to contribute?

Senator Aodhán Ó Ríordáin: I thank the witnesses for their presentations. I have to leave at 12 noon so I hope they do not mind if I move on. I have a brief question on the submission by Mr. Arkins. One paragraph in it states: "It is our understanding that those on freelance contracts are not covered by the legislation [I believe he is referring to the 1997 Act] and do not meet the definition of "worker" under any of the various pieces of employment legislation." We passed legislation last year on the collective bargaining rights of freelance workers. Would that legislation have dealt with the issue Mr. Arkins referred to in his submission? He said it was his understanding, but has he looked at that legislation and does it cover the type of vicarious work to which he referred? Is it something that is still finding its feet, so to speak, in terms of the industry in which he is working?

Mr. John Arkins: My understanding is that every piece of employment legislation gives a definition of an employee. It states that "employee" means a person who has entered into or works under or, where the employment has ceased, entered into or worked under, a contract of employment and that references, in relation to an employer, to an employee shall be construed as references to an employee employed by that employer. If a person is an employee, he or she is an employee; if a person is freelance, he or she is freelance. The legislation is quite specific. If a person is on a contract of service, he or she is an employee; if a person is on a contract for service, he or she is not. Perhaps the legislation the Senator is referring to was brought in primarily for voice-over actors and actors. When I was a shop steward in SIPTU, and president of the branch, I raised these issues. I have emails relating to these issues and these contracts going back to 2011. I have raised all these issues and concerns. I am a supervising stagehand and I am not paid for doing what I am doing here today, but my understanding is that as an employee, one is on a contract of service. If someone is on a contract for service, he or she is a contractor and the appropriate legislation applies.

I suggest to the Chairman that the committee gets clarity on that matter when it is putting its report together on the issue.

Senator Marie-Louise O'Donnell: I thank Mr. Arkins for his presentation. I ploughed through his submission, which was very well done. The survey he included, on which he based many of his facts, was also very interesting. I thank him for his presentation and for being here. It is refreshing because sometimes we get top-down information rather than it being bottom up from the people who actually run things. I know that film is highly collaborative and without Mr. Arkins, or without the creative director and so on, it does not work.

Ms Walker painted a very negative picture in relation to hours, conditions, threats, bullying, lack of training, or at least training that is not progressive, grounded or meaningful, and also of contracts. If Ms Walker had a magic wand, how would she change things? What is the first

thing she would do that might have an impact without waiting a year or two? What would she change and how would she go about it? What is the first thing that should be done?

Ms Denise Walker: Security of employment is definitely one of the most important things I believe would help bring about change. When someone has that security of employment, he or she is less likely to face some of the abuses that we have seen.

The working week is definitely an issue and needs to be changed. I am sure everyone here has worked 12 hour days at different times, but to continually work those sorts of hours cannot be good for any person. It cannot be good for the industry either because that progressive tiredness creeps in.

I believe there is a very good film industry and the basis of a fantastic film industry here in Ireland which is a credit to those workers and those who are employed within the industry. Security of employment is the number one thing that I would change.

Senator Marie-Louise O'Donnell: How does one marry that with the natural, temporary nature of the work because of its creativity and the moving on to different films? Is it through a holding company to which Ms Walker referred? How does one go about creating that security of tenure when, by its very nature, it moves all the time and it changes all the time like an actress in the theatre? We do not have any permanent actresses in permanent national theatres since they stopped doing that in the Abbey. How does one marry that? What does one do?

Ms Denise Walker: If I am a producer, I am not here for one production. If I want to be a successful producer, I am here for the long haul. In order to be that successful producer, I do not just need the actors and to be creative. I need the people who will build the sets and who make sure the extras get there on time. Why not invest in those crews, because without them one cannot have that production? I believe in the idea of the holding company but the employment must belong with the production companies and not with the qualifying company or the special purpose vehicle or the designated activity company or whatever invention is next brought to the table which circumvents proper employment.

Mr. John Ward: The film industry over the past number of years has been more consistent. We are doing television series year in, year out. Over the past 11 years, I have worked consistently on films, so there is a basis for the proper employment of people. It is not like 15 years ago when we would be lucky enough to get one movie a year and then have to wait around for the next one. We were employed, laid off for six weeks or longer and, if one's face fit, one was employed again. There is consistency now.

Senator Marie-Louise O'Donnell: Who are the organisations in dialogue with? Why does Mr. Ward think this is not happening? I ask that to be informed; I am not making an accusation.

Mr. Thomas O'Meilly: I work for a service provider to the film industry. A few years ago, we asked to be directly employed by production and we were told that the hours we worked were illegal and production companies could not employ us. We, therefore, had to work for a service provider. I will give an outline of my day's work. I am a facilities driver and I start at 6 a.m. I will get everything up and running, including generators, heaters, etc. Everything also has to be cleaned. I am basically a driver-cleaner and, at the end of the day, the production wraps at 6 p.m. and everybody is out by 7 p.m. Everything has to be cleaned and, from 7 p.m., it takes us three or four hours to move. We finish at 10 p.m. or 11 p.m. and get home at midnight. We start again at 6 a.m. the following morning. That is a basic day for a facilities driver. We

want to be employed by the production companies but they say they cannot do that because of the hours we do. If we were employed by them, that would create employment for more drivers because they do not have enough.

Senator Marie-Louise O'Donnell: I refer to the dialogue impasse. The Chairman suggested that a representative could be appointed to the Irish Film Board. Where does the impasse stand in respect of those the representatives need to dialogue with? Do they have a part in that falling down? That is a non-accusative question based on my information. Why is there an impasse?

Mr. John Arkins: We have been in dialogue with Screen Producers Ireland. We have correspondence in front of us going back to 2016, which states, "SPI remains committed to the progress agreed in December between the IFWA and SIPTU and negotiating an industry agreement to the benefit of all concerned". Our issue is that SPI cannot negotiate an industry agreement and we said that we could not either. We can only sit down and talk to our employers. Since SPI does not employ us, we cannot then have an industry agreement. We do not work for SPI.

Senator Marie-Louise O'Donnell: Who would the IFWA be dialoguing with?

Mr. John Arkins: BB146 refers to any agreement that takes one outside the maximum labour week. The signatories to that agreement have not signed. The people who SPI represents, who are our employers, should sign the agreement. The workers they expect to work in this industry should sign the agreement and no representative bodies can do so. That is the reason we raise this issue time and time again. People cannot sign up to an employment agreement with someone who does not employ them. The main two stakeholders in this industry are the employees and the employers. We have identified ourselves as the employees.

Senator Marie-Louise O'Donnell: The workers are falling between stools.

Mr. John Arkins: There are vested interests who say they are stakeholders in the industry but they are not. They are vested interests that generate money from the industry. We do not get money from the industry. We earn our money in the industry and we earn that working for our employers. However, when we told Screen Producers Ireland that we have no problem talking about and arranging the issues, the correspondence we got said its members do not negotiate with anyone outside the ICTU group of unions. We are a registered trade union and they are not. They cannot negotiate terms and conditions of employment for people who do not work for them. That is the law, whether they like it or not. People can only address a problem if they acknowledge there is a problem.

Deputy Richard Boyd Barrett: I thank the Irish Film Workers Association and the GMB for further educating me about the nature of the industry. For many people, it is an industry that is about the glamorous stuff. It is a very important step forward that the people behind the scenes, who do critical work but are rarely seen, get a chance to speak up about their situation. The picture they paint, as I said at the last committee, is a fairly bleak one in terms of the treatment of workers in the industry.

I will ask a few questions to allow the witnesses to elaborate on some of the points they have made. From our point of view as a committee, some of the allegations the witnesses are making are very serious and I would have thought we, as a committee and as Members of the Oireachtas, have a serious responsibility to look into them. If I understand Mr. Arkins, he is saying there is an illegal agreement in place currently in the film industry, which is an agree-

ment between some unions and Screen Producers Ireland that sets down conditions of employment and hours of employment that are illegal. Is that correct? Obviously, if that is correct, it would be very serious indeed and we would have a responsibility as a committee. Mr. Arkins has obviously spelled out that this is the case but I would like him to confirm and underline that.

Mr. John Arkins: Basically, there is not one but two now in the industry that are illegal. If the Deputy looks at appendix 8 of our submission, we cite from the agreement, which, in respect of the guaranteed week, states:

> A The Production Company may schedule the production over any 5 or 6 consecutive days out of 7 according to the logistics of the production, which will be advised to the authorised union representative during pre-production.
>
> B. The guaranteed working week [will] be: a five day working week or a six day working week, or a combination of both, conditional on:
>
> > i. Payment, in all cases, must reflect the days worked
> >
> > ii. The combination will not be manipulated and used so as to avoid payment of a Public Holiday.

Where the members contracted start or finish on a week that is a full week, then the pay will exceed the guaranteed day hours of work. The latter states:

> The working day shall be ten hours, excluding lunch, calculated from unit call to unit wrap.
>
> ... Alternatively the Production Company may choose to operate an eleven hour day, excluding lunch. In this event all other contingent conditions will be adjusted accordingly, whether expressly stated in this agreement...
>
> ... The start time for the day [will be from 7 a.m. until 12 noon]. An overtime rate of time and a half will apply for hours worked before scheduled start time and after scheduled finishing time...

That means someone can work a 66-hour, six-day week before getting an hour of overtime. That is what is happening in our workplace today.

Deputy Richard Boyd Barrett: What Mr. Arkins is saying is quite technical but, to summarise it in language we can understand, according to Mr. Arkins, specifying hours of between 55 and 66 hours as normal working time directly breaches the working time legislation. Is that correct?

Mr. John Arkins: Yes. Our submission states that any collective agreement that takes a worker outside the maximum legal week of 48 hours cannot be done by representative bodies. It can only be done by the employer and the employee, and the entire agreement must be lodged with the court. We asked these questions and we have emails going back. I was the shop steward in SIPTU and president of the union's film and entertainment branch. I raised these issues and I have correspondence with all the union officials going back to 2011. We can make it available to members. I also made a submission as the shop steward in 2011 to a Mr. Finbarr Flood, who was brought in by the Minister at the time, Jimmy Deenihan, on foot of the Creative

Capital report to see what was going on within the industry. I was the only worker to meet Mr. Finbarr Flood. The union officials met him by themselves. I have been raising this issue for a long time as the shop steward.

Deputy Richard Boyd Barrett: I apologise for interrupting Mr. Arkins but I will run out of time if I do not do so. I want to touch on a few other things. In very simple terms, he says this agreement breaches the law.

Mr. John Arkins: The committee has access to the Labour Court and the Workplace Relations Commission, WRC. All the committee has to do is ask them. They have a copy of this agreement as we furnished it to them.

Deputy Richard Boyd Barrett: That is a very serious matter into which this committee has a responsibility to look. The issue of bogus self-employment and people being employed as contractors rather than direct PAYE employees is widespread in the construction industry as well. Is it the case - it is certainly the case in the construction industry - that if people in the film industry ask for PAYE employment, they are told they will not get the job and, in some cases, are blacklisted for asking for direct employment? Is there a similar picture in the film industry?

Mr. John Arkins: We have emails to our members stating if they do not sign these contracts, not only will they not get paid but they will actually not get the job. We have emails from people who are employers at present. There are people present today, workers, who have correspondence and who have been blackballed because of what Deputy Boyd Barrett is saying. These employers have people signing out of their rights and entitlements for jobs. One cannot raise an issue or grievance; otherwise one will never work again. The reason my colleagues, Mr. Purdy and Mr. Grey, are with us is that between them they have 83 or 84 years' experience working in the industry. Blackballing does not carry any fear for them anymore. This is why they said they would come here today as workers to give their account of blackballing.

Deputy Richard Boyd Barrett: Again, it is something for the committee to bear in mind. Perhaps Mr. Arkins or Ms Walker or some of the others would know about this practice in the construction industry. One of the ways in which those of us in the Opposition have been raising bogus self-employment, and quite a few of us have been doing so, is to ensure that Revenue is checking whether people meet the criteria, particularly in cases where people may be being bullied into declaring themselves self-employed out of fear that they will not get work unless they do so. However, there are objective criteria as to what a contractor is as against what an employee is. There are certain requirements, such as a premises. There are a series of requirements. I will not go through them now - in fact, I do not have the list with me - but one is supposed to meet a set of objective criteria. Where we have indicated in the Dáil or got word about particular building sites on which people are being misclassified as self-employed, raids on those sites by the Scope section or Revenue have quite easily ascertained whether or not people were legitimately self-employed or whether they should in fact have been categorised as PAYE employees. Does Mr. Arkins believe Revenue and the various other bodies should be checking this and seeing whether people meet the criteria? Would that begin to start to address the matter?

Mr. John Arkins: Revenue has already started that process. It has turned up to an awful lot of people's places of work and it is asking these questions now. We believe Revenue is doing it now but we do not know to what extent. However, we know the extent of the problem within the industry. It would be remiss of me to speak about the industry in a negative way because I have worked in it for 27 years and I love my job. Only two years ago, we set up the

association. It was our constitutional right to do so and we are the registered trade union under the Acts. We talked to our employers and raised our concerns with them. We have agreements with those employers. They have no issues with entering into an agreement with their workers. There are some serious problems in the industry at the moment and the employers are working with us to deal with them. However, vested interest groups are interfering because they want to destabilise what we are doing.

Revenue has a huge role to play. As far as we are concerned, if one does not fulfil the criteria set out in section 41 of the legislation, one should not be funded. The Minister should not sign any section 481 certification until all of the checks have been carried out, including whether there is quality employment.

Deputy Richard Boyd Barrett: My time is up. Can we have a second round of questioning?

Chairman: Yes.

Senator Maura Hopkins: I thank the witnesses for their presentations.

Both organisations have raised serious concerns about the working week and the terms and conditions of employment. In the context of the difficulties that have been identified and queries about the integrity of other organisations, what have both organisations done about negotiating with others? Mr. Arkins mentioned that his organisation is negotiating with specific employers. Am I right?

Mr. John Arkins: Yes.

Senator Maura Hopkins: How far have those negotiations progressed in terms of trying to deal with the concerns that have been raised?

Mr. John Arkins: Our negotiations have ended up with three legal agreements being reached with our employers and resulted in a maximum working week of 48 hours being agreed. Three major production companies in Ireland have entered into an agreement with their workforce. Both sides have tried to address these situations. Some situations are not covered by the agreement but we are working on the matter as we speak. There has been interference and people have come up with the bogus argument that the Irish Film Workers Association does not have a negotiation licence. I do not need a licence to talk to my employer and no group of workers needs a licence to talk to their employer. However, Screen Producers Ireland and Troy Studios need licences to negotiate and to set terms and conditions. Neither has a licence, so neither can set the terms and conditions for employees who do not work for them. The Irish Film Workers Association is doing what has to be done and our employers have stepped up to the plate.

There are some huge issues within the industry. My colleagues who are seated on my left have some major problems and my organisation is trying to address them with the employers in the industry. That is why we cannot go down the route of negotiating an industry agreement with Screen Producers Ireland because it is not an accepted body under the Act. I can quote the Act and what is required. If an organisation is not an accepted body or a trade union, then it cannot set terms and conditions for people who do not work for the organisation. Any trade union that enters into an agreement with a body that has no licence and cannot get one is misleading people. That is where the problems stem from. The big red herring in this room is who can one talk to. One talks to an employer and an employee. Anyone else in between who interferes in that relationship is interfering for his or her own gain.

Senator Maura Hopkins: Mr. Arkins stated it is a relationship between the employer and the employee and also that there have been three agreements put in place in terms of specific working conditions. I take it those agreements are being adhered to.

Mr. John Arkins: They are in full. If any industrial relations issues arises with trainees, drivers or anyone else, those employers participate in the mechanism of the State and they adhere to the ruling from the rights commissioners.

Senator Maura Hopkins: I thank Mr. Arkins for the concerns that have been raised. It emphasises that it is a whole-team approach to make productions happen. Is that the best way? I am not specifically asking Mr. Arkins. In general, is that the best way in terms of negotiating between an specific employer and employee or is there a better way to do it? Obviously, serious difficulties have been identified here. Is that the best way of dealing with it?

Mr. John Arkins: We have no issue in dealing with a mechanism that is legal. For instance, if Screen Producers Ireland would enter into a collective agreement where it names its members and those members identify themselves as the employer, we would have no issue with that arrangement whatsoever. As long as they would be named in the agreement, we would have no issue with it. If one has an issue with any of this, one could go through the process of dealing with them in the mechanism of the State. It is crazy to think that one arm of the State, the Revenue, gives money to individuals who recognise the benefits of section 481 and who are beneficiaries of that money, but who do not recognise their role when it comes to another arm of the State, the Workplace Relations Commission, WRC, and who turn up to the WRC to defend their position and tell us there that they are not the employer, they only got €10 million for their last production and it has nothing to do with them. That is untenable. That is unacceptable. That is what needs to be changed.

Chairman: I would make a couple of points. This is a really important sector. Most involved in it would agree that section 481 funding is a good development and the sector needs this funding. Obviously, there is an element of dysfunction within the process that needs to be reformed.

Funnily enough, we have had SPI, the film board and SIPTU here with us, and while they have a radically different perspective than that which has been articulated here, in the main they would agree that there are certain problems with it that need to be resolved.

I will say there is a fractured nature to the trade unions representation in the sector and that is not good in trying to fix it. If there could be inter-union work to resolve the fractured nature of representation, it would benefit the workers. I am not laying blame on anybody here. I am merely saying that it would benefit the workers. It would probably make for an easier accommodation there too.

The major element of Mr. Arkins's argument here is the illegal nature of these agreements. Have those agreements been challenged in the courts as to their illegality? If these are illegal and if people are representing sectors of society without licence to do so, if they are getting involved in going outside the Organisation of Working Time Act 1997 with regards to 66 hours and they are not negotiating with an individual worker, has there been an effort to challenge these agreements in the courts or in the WRC in their entirety?

Mr. John Arkins: They were challenged in the European Court of Justice in 2004.

Chairman: What was the result?

Mr. John Arkins: Any agreement outside the maximum legal week of 48 hours was already dealt with in the European court. This is what the legislation states; the whole argument about this has been exhausted. I have no problem working 60 hours a week for my employer if he needs me to do so but I have a problem with someone saying I must do it. What I have a problem with is that, after six or seven months work, because I have exceeded 1,365 hours in that year, I cannot go down and sign on the social welfare because I am not available for work. That is the consequence of doing this which has been identified by the courts. This was born out of social and community justice. Workers need to have a life outside of their workplace; they need to be able to raise an issue or a grievance without their livelihood being taken off them.

Chairman: Absolutely, I agree 100% that one needs to have, first of all, a situation where workers can actually live a healthy life, as well, for a start. Healthy workers living healthy lives are actually better workers, and more productive workers and more beneficial to society as well. Without a shadow of a doubt, it cannot be the case that one works above 48 hours or one is out. Once that big stick is there, there is a dysfunction. The European Court of Justice 2004 ruling was mentioned. Can these specific agreements not be challenged under those illegalities?

Mr. John Arkins: There is actually no need to challenge them. They have already been proven to be illegal and unconstitutional because of the laws that have already been passed. Basically, this law has been exhausted in the courts. There is no objective justification one can bring into my workplace that is funded to create quality employment where the minimum standard laid down in the legislation does not apply. We have a group of unions who purport to represent workers in this industry but no one can explain how the fixed-term workers' legislation, which was transposed into the 2003 Act, does not apply to people who have been 37, 27 or 43 years working in the industry and are still on fixed-term contracts today. We would welcome such an explanation. We would also like to hear why employers have funded employment creation yet we are still on fixed-term contracts, 15 years after the Act came in to stop the abuse of fixed-term workers.

Chairman: Senator O' Donnell, you wish to come in here.

Senator Marie-Louise O'Donnell: I do not know if I am angry or confused now. There is part of me, listening to Mr. Arkins, that wants the Government to commit to the tax incentives past the year 2020 for the film industry, and there is another part of me that wants what the Government gives to the world of film to be held on to, and to maintain the current format. I want that to happen yet at the same time we have this complete impasse. It seems to me that there are middlemen dictating without licence aspects of the industry's work, is that the case?

Mr. John Arkins: That is exactly what is happening. One has vested interest groups, they are not stakeholders by any stretch of the imagination. The only stakeholders in this industry are the employers and the employees. The rest are organisations that make money out of it.

Senator Marie-Louise O'Donnell: How good is the momentum behind Mr. Arkin's organisation? Is there much momentum or force behind him in terms of names and numbers?

Mr. John Arkins: We have in the region of 450 members in the Irish Film Workers Association. We do not charge for membership. We do not get anything out of this. Our sole role is to educate workers about 48 pieces of legislation that were passed by this House that governs every aspect of their working life and the workplace. It is an educational role we have. My whole working life has already been negotiated and been agreed, my maximum working week, my maximum working year, my maximum working day, my rest days, my parental leave etc.

Senator Marie-Louise O'Donnell: Are the other 77 grades listening to him? Are the other unions, or other parts of the unions, listening?

Mr. John Arkins: That is a very good question. Just before Christmas, in an attempt to discredit us, a statement was sent to film sets saying that the Irish Film Workers Association and its leadership were doing this for their own benefit. However, it is hard to discredit the truth. When an organisation does not take money from members but commits to addressing a problem, when workers put their hands in their pockets and pay for printing and for men to appear here today so they do not lose a day's wages themselves, it is hard to discredit that. We are not here to discredit anyone. We are here for one reason only. In that context, the legislation that applies to every single worker in this country should apply to me in my workplace. The first part of that is identifying the worker, the trainee, the employer and who is responsible. We have done that.

Mr. John Ward: I wish to mention a few issues here. For several years now, only Mr. Arkins has given people someone to go to for hope. We were abandoned by SIPTU several years ago. I paid my money just as everybody else did. We came to an issue about employment and SIPTU turned its back on us. It told us that we were self-employed and it could not represent us. This was after it had taken our money for several years. I have seen people pursue different avenues. Nobody could help them and they had nobody to go to. We were left in that situation. Mr. John Arkins and his association were the only people that gave me a bit of hope and tried to help me in my situation. As I said, I have been in the business for 20 years. Just because I gave out about my hours, I am being blackballed. It is nothing to do with my work or anything else.

During that process, GMB came along. GMB has given us hope as well, and wants to negotiate on our behalf. However, these people do not seem to want to negotiate. Basically, the whole industry is about greed. It is a question of how much money these people want to make out of the industry by taking it out of the ordinary person's pocket every day of the week. I stood up and asked about my hours last year and I was told that I had 55 hours a week under contract. I worked on "Vikings" from the very start and I was on the job for 70 hours a week. I stood in a field for 15 hours a week and was not paid for it. How is that right?

Chairman: I caution people not to name individuals. A number of names have been mentioned already. It is important not to make allegations against people outside the Houses due to legal considerations. However, I appreciate the point being made.

Deputy Richard Boyd Barrett: There are a couple of issues that have been alluded to. It is probably important to spell them out here. How many people are actually employed in the industry? Is ask this in light of the tax arrangements relating to the industry and the more than €70 million in grants from which it benefits? Either Screen Producers Ireland or the Irish Film Board, I cannot remember which, referred to 17,000 full-time equivalent employees. The witnesses are suggesting that the number employed in the industry is actually a fraction of that and that those people essentially have no recognition of their employment. They have no continuity of employment. In many cases, there is no recognition of their qualifications as a result of the abuse of the trainee category. I was very struck when I met some of the workers to whom Mr. Ward and Mr. Neville introduced me. There were people who had worked in the industry for a long time - 30 or 40 years - but despite that long service, they had no pension entitlements whatsoever. Indeed, on foot of their lack of proper employment status, they were working well into their 70s when they would rather be retired. Would the witnesses like to comment on that issue? How many people are actually employed in the industry, and what does their career look like, where those issues are concerned?

Mr. John Arkins: I can give the Deputy a summary of our 2011 submission, from the time when I was shop steward and president of the branch. This is the mechanism from which those figures come. This was a 2011 report called the Creative Capital report. Every five years, a report is prepared by vested interest groups, usually at the time of a change of Government. Now we have the Crowe Horwath report. This is how they come to these figures. This is what lay people need to hear, before deciding what they think .

The report claimed that crew are employed on a 38-hour week, and work 232 days per year. It found that the 38-hour week average is derived from a 39-hour week average for manual workers and a 37-hour week for clerical professionals and technical workers. The 232-day working year is derived as follows. From 365 days, 104 are subtracted for weekends; a further nine for public holidays; 20 days are then subtracted for average annual leave. This leaves 232 days.

We and our colleagues work for up to 70 or 80 hours a week. That has been reported as a 38-hour week. All of the hours worked have been counted. That is how they arrive at an figure of 17,000 people in full-time jobs, working 1,365 hours a year. They calculate the hours, not the people. One can do that all one likes, but that is the reality. Those were the findings of the Creative Capital report from 2010. That is their contention, not ours.

The report did avert to industrial relations issues, and following its publication the then Minister for Arts, Heritage and the Gaeltacht, Deputy Jimmy Deenihan, appointed a man named Mr. Peter Cassells to investigate industrial relations in Irish film. He would not take the job, and it was given to a lovely man by the name of Mr. Finbarr Flood, whom I was privileged to meet. He started his working life as a 14-year-old boy at the Guinness brewery. Over his working career, he ended up becoming the managing director of the company. He was also the chair of the Labour Court. Mr. Flood said he could understand that after 27 years working in the industry, I am still humping timber. The man on my right is still humping timber. There is no career path, because no one takes responsibility. No one has to.

That is how they came up with the figures, and that is how they come up with the figures today. As a group of workers, we have been excluded. We are habitually employed by my employer and associate employers. I refer to the McHenry brothers. This is law adjudicated on by the court. We cannot be treated any less favourably than full-time workers, but we have been excluded from our workplace by agreements. The employers do not hire union members; they get conscripts. They are conscripted for one job and one job only. That is the problem.

Deputy Richard Boyd Barrett: This is my last question. Obviously, the issue of the law applying to the witnesses is a no-brainer. Our responsibility is to make sure that happens, and any money that comes from the State should be conditional, at a minimum, on the application of the law where workers' entitlements are concerned. That is critical. At the level of oversight of the industry, and worker participation in it, what would the witnesses recommend? Would they propose representation of the workers and of the different grades on the Irish Film Board? How many representatives would be appropriate? How would the witnesses envisage the industry being properly monitored, and genuine diversity of the different stakeholders being represented?

Ms Denise Walker: One of the things that I would say is that when it comes to worker participation, it needs to be proper worker participation and that means properly elected from within the peer groups. Those best placed are those who are working within the industry. In terms of numbers, I do not want to specify a number, but I would certainly say that there are a

number of broad categories which would need to be represented. John is probably better placed to give an overview of that, having worked in the industry. From my perspective, one would have transport, as one area, props, set craft-----

Mr. John Arkins: Basically, it is very simple. One should have one employee for every producer on the Irish Film Board. One should have the balance that the Deputy referred to, the balance should be equal. If one has all producers on the Irish Film Board, all members of Screen Producers Ireland, SPI, where is the balance? When one applies to the funding agency one is either a SPI member or a member of the film board, and probably both. If you are asking me as a worker, I genuinely believe if that if there are five producers or ten producers, there should be five or ten workers. It should be a 50:50 participation. They must be workers, as laid down in the legislation, not service providers, not contractors, but workers. Then one might have a balanced outlook on the board, then one might have a balanced view, then one might have people dealing with the issues within the industry that need to be dealt with. We are trying to do it on a job by job basis, we are trying to do it with the employers who have employed us. We had an agreement with the employer that did the job in Limerick. He left his entire crew behind. One of them is in the WRC next week.

We know what the problems are, not only are our employment rights being trampled on here, our constitutional rights are too, as is our freedom to make a living and carry out our occupation. People have worked as stage hands since the 1700s, we have done it in this industry for 30 years in my own case, 37 and 42 years. We cannot work for an employer that we have worked for in the past. We have been excluded because we will not be part of a deception that we live locally. No film crew lives locally. Film crews come from all over the world. We have people from New Zealand doing jobs that we have done. We have been excluded; we have an agreement being brought in with an entity that cannot have such an agreement. We have a crazy situation where people are being forced to accept a job as local crew. If one does not, the person does not get the job. Who are they trying to deceive? Production companies come in here for three things - facilities, tax incentives and crew. We have given five reports to the Government and four of these reports - from New York to New Zealand - have referred 50 times to access to a professional crew. The Irish report, which was done by our industry, has a single line reference.

Chairman: I would like to thank you all. Would Mr. Ward like to have a final word?

Mr. John Ward: I would like to return to an issue please. Unit drivers and facilities workers are a small group of people, so we have been very vulnerable all of the time. Mr. Arkins referred to the various agreements in place. He is talking and fighting hard for the larger majority of people, but he or anybody else would find it very difficult to negotiate on our part. That is why we have been treated badly in respect of our hours over the years. We do not have enough support, other than Mr. Arkins and the GMB coming on board. They do not want to talk about us, facilities or unit drivers and they do not want to negotiate with us at all. We are not part of the negotiations of any agreement. That is a big issue for us because we are a small group of vulnerable people who are being treated badly every day. It needs to stop now.

Chairman: I thank everyone for coming in to discuss this extremely important issue. Their perspectives and views will be represented in the report that we will draft on this. We wish them luck in the future.

The joint committee went into private session at 12.40 p.m. and adjourned at 12.50 p.m. until 1.30 p.m. on Wednesday, 14 February 2018.