

# LABOUR MARKET REVIEW

AN INVESTIGATION INTO THE NATURE OF  
THE EMPLOYMENT RELATIONSHIPS IN THE  
SOUTH AFRICAN CREATIVE INDUSTRY





An Investigation  
into the Nature of  
the Employment  
Relationships in the  
**South African  
Creative Industry**



# labour

Department:  
Labour  
REPUBLIC OF SOUTH AFRICA

[www.labour.gov.za](http://www.labour.gov.za)

## Editor-in-Chief

CD: Setsomi Molapo

## Contributors

Martha Molepo  
Asanda Benya  
Zukiswa Mcolomba  
Keleabetswe Morobane  
Thabo Sephiri  
Tendani Ramulongo

## Publisher

Department of Labour  
Chief Directorate of Communication  
Private Bag X117  
Pretoria  
0001

**Editing, Layout and Design, photography and distribution**  
Sub-directorate of Media Production, Design Studio  
Chief Directorate of Communication, Department of Labour

## ISBN

978-0-621-41317-5

## Printer

Government Printers

## TABLE OF CONTENTS

V	> Acknowledgements
VI	> Table of figures
VII	> List of acronyms and abbreviations Preface
VIII	> Preface
1	> Section 1: Introduction
3	> Section 2: Legislative and key legal instruments
6	> Section 3: Craft sector
7	> 3.1 Introduction
8	> 3.2 Sample
8	> 3.3 Findings
8	> 3.3.1 Employment relationship
9	> 3.4 Conclusion
10	> Section 4: Film and television sector
11	> 4.1 Introduction
11	> 4.2 Sample
12	> 4.3 Findings
12	> 4.3.1 Employment relationships
14	> 4.4 Conclusion
15	> Section 5: Music industry sector
16	> 5.1 Introduction
16	> 5.2 Sample
17	> 5.3 Findings
17	> 5.3.1 Employment relationships
18	> 5.4 Conclusion
19	> Section 6: Performing arts sector
20	> 6.1 Introduction
20	> 6.2 Sample
21	> 6.3 Findings
21	> 6.3.1 Employment relationships
22	> 6.4 Conclusion
23	> Section 7: Overall conclusion
25	> Reference list

## ACKNOWLEDGEMENTS

The Research Policy and Planning Unit wishes to express its sincere gratitude:

- The Department of Labour is sincerely acknowledged for identifying the need to investigate the nature of employment in the Creative Industry and for providing resources needed to execute the study identified;
- The research study leading to the development of this Labour Market Review had the following people running behind each sector of the Creative Industry covered in the report:
  - > Martha Molepo,
  - > Asanda Benya,
  - > Zukiswa Mqolomba
  - > Keleabetswe Morobane

*Ladies! your steering effort can never be appreciated enough.*

- Thabo Sephiri and Tendani Ramulongo for supporting the study with valuable ideas from planning to the actual outcome;
- All staff within the Department of Labour who provided their inputs in building the project, your support cannot be measure;
- The Lord who gave the team the knowledge and intelligence and kept them strong to persevere throughout the project.

## LIST OF FIGURES

- 8 Figure 1: Craft sample profile
- 11 Figure 2: Film and television sample profile
- 16 Figure 3: Music industry value chain
- 17 Figure 4: Music sample profile
- 20 Figure 5: Performing arts profile

## LIST OF ACRONYMS AND ABBREVIATIONS

<b>ACTAG</b>	Arts and Culture Task Group	<b>MACUFE</b>	Mangaung Cultural Festival
<b>AIFEC</b>	All India Film Employees Conference	<b>NAMA</b>	National Associations of Managing Agents
<b>BBBEE</b>	Broad-Based Black Economic Empowerment	<b>NEDLAC</b>	National Economic Development and Labour Council
<b>BCEA</b>	Basic Conditions of Employment Act	<b>NORM</b>	National Organisation for Reproduction Rights
<b>CC</b>	Close Cooperation	<b>NPO</b>	Non-Profit Organisation
<b>CCDI</b>	Cape Craft and Design Institute	<b>PANSA</b>	Performing Arts Network of South Africa
<b>CCMA</b>	The Commission for Conciliation, Mediation and Arbitration	<b>PAWE</b>	Performing Arts Workers Equity
<b>CIGS</b>	Cultural Industries Growth Strategy	<b>PES</b>	Public Employment Services
<b>COOP</b>	Cooperative	<b>PMA</b>	Personal Managers Association
<b>COSATU</b>	Congress of South African Trade Unions	<b>QDA</b>	Qualitative Data Analysis
<b>CSDS</b>	Craft Sector Development Strategy	<b>RandB</b>	Rhythm and Blues
<b>CWUSA</b>	Creative Workers' Union of South Africa	<b>SAASP</b>	South African Association of Spools Production
<b>DAC</b>	Department of Arts and Culture	<b>SABC</b>	South African Broadcasting Corporation
<b>DPRU</b>	Development Policy Research Unit	<b>SACP</b>	South African Communist Party
<b>DTI</b>	Department of Trade and Industry	<b>SADC</b>	Southern African Development Community
<b>EEA</b>	Employment Equity Act	<b>SAGA</b>	South African Guild of Actors
<b>ESSA</b>	Employment Services of South Africa	<b>SAMRO</b>	South African Music Rights Organisation
<b>FEFSI</b>	Film Employees Federation of South India	<b>SARRAL</b>	South African Recording Rights Association Limited
<b>FFIWEI</b>	Federation of Film Technicians and Workers of Eastern India	<b>SARS</b>	South African Revenue Services
<b>FICCI</b>	Federation of Indian Chamber of Commerce and Industry	<b>SASFED</b>	South African Scriptwriters Federation
<b>FWICE</b>	Federation of Western India Cine Employees	<b>SDA</b>	Skills Development Act
<b>GDP</b>	Gross Domestic Product	<b>SDL</b>	Skills Development Levy
<b>HSRC</b>	Human Science Research Council	<b>SER</b>	Standard Employment Relationship
<b>INCD</b>	International Network for Cultural Diversity	<b>SM</b>	Session Musician
<b>IP</b>	Intellectual Property	<b>SWOP</b>	Society Work and Development Institute
<b>IPO</b>	Independent Producers Organisation	<b>UIF</b>	Unemployment Insurance Fund
<b>JCC</b>	Joint Consultative Committee	<b>UNCTAD</b>	United Nations Conference on Trade and Development
<b>LRA</b>	Labour Relations Act	<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organisation
<b>MNCs</b>	Multi-National Corporations	<b>WIPO</b>	World Intellectual Property Organisation

## PREFACE

In the past, a series of Labour Market Reviews have been published by the Department of Labour. These Labour Market Reviews focused on different labour market issues that were topical at the time. The latest publication was titled *Making the Invisible Visible: Confronting the Decent Work Deficit in South Africa*. Using five case studies, the issue focused on the linkages between the formal and informal economy and tentatively measured the decent work deficit in formal and informal employment using a Decent Work Deficit Index.

The current Labour Market Review is based on the research conducted by the Department of Labour on *Employment Relationships in the South African Creative Industry*. This was a baseline qualitative research study that was exploratory in nature. Its purpose was to investigate the employment status of creative workers, i.e. whether creative workers are employees or independent contractors as per the guidelines of section 200A of the Labour Relations Act, 1995 (LRA), section 83A of the Basic Conditions of Employment Act, 1997 (BCEA), and the Code of Good Practice 2006: Who is an employee. These sections were used because they address the presumption as to who is an employee and deeming of persons as employers, respectively. In cases where employee-employer relationships exist, the study determined whether or not employees were entitled to social security provisions enshrined in the Basic Conditions of Employment Act, as well as the Unemployment Insurance Act.

A total of 239 respondents were interviewed from seven of nine provinces, i.e. Gauteng, Western Cape, KwaZulu Natal, Mpumalanga, Free State, Limpopo, Eastern Cape. Non-probability sampling methods were used to source respondents, particularly purposive sampling and referral sampling methods. Respondents included the broad array of industry players from across the chosen sub-sectors (crafts and related activities, film and television, music and performing arts) inter alia trade unions, industry associations, agencies, production companies, Government institutions, cooperatives, home-based enterprises and individual artists themselves.

This review is divided into seven sections in accordance to various related themes. **Section 1** deals with the creative industry sector profile, whereas **Section 2** deals with applicable labour legislation and other legal instruments.

From **Section 3** to **Section 6** this labour market review focuses on the findings of individual sectors of the creative industry that were studied; namely crafts and related activities, film and television, music and performing arts.

**Section 7** is the overall conclusion which revisits key points raised by the findings and highlights a need to take each case on its own merit.



# 1

## SECTION 1: INTRODUCTION



## SECTION 1: INTRODUCTION

The South African creative industry is a vibrant and growing sector of the economy<sup>1</sup>. It is multi-dimensional, incorporating development, cultural, economic and social activities. It is vast in size and cuts across key sectors of the economy including manufacturing, trade, technology and tourism, and is regarded in global trade as both a public good and a service.

It is composed of six main sub-sectors, namely Film (television, photography, video, broadcasting), Crafts (traditional art, designer goods, craft art, functional wares and souvenirs), Music (classical, popular, folklore), Performing Arts (theatre, dance, opera, live music), Visual Arts (painting, sculpture, public arts and the decorative arts), and Cross-cutting sectors (i.e. cultural tourism; and the cultural heritage sector)<sup>2</sup>. It makes intensive use of creativity as primary input to produce marketable value-added creative products and services. The outputs are tangible products or intangible services with creative content, social and economic value and market objectives. It also generates income from trade and property rights<sup>3</sup>.

South Africa's creative industry is valued at approximately R7,4 billion. More than 100 000 people are employed within music, film and television and within the craft and related trade sector probably a further 1,2 million people earn a living according to the latest census figures. Though the industry has been reported as having the propensity for providing income-support and for alleviating working class poverty, it is also reported that for the most part, conditions of work are characterised by financial vulnerabilities<sup>4</sup>, which are often coupled with unpleasant conditions of work.

Creative workers have often attested to finding it almost impossible to pursue the arts as a full-time occupation due to lack of full-time work (with indefinite contracts); and also income are often insufficient (income insecurity), and cannot sustain their livelihoods, including the livelihoods of their families.

The Creative Industry is also perceived by the South African Communist Party (SACP), as highly exploitative, as dominated by powerful monopolies and other interests and at the expense of workers<sup>5</sup>. The Party holds that the struggles of workers in this industry only attract public attention when renowned artists die poor in appalling financial conditions, and only to recede from the public domain once again. South Africans are constantly exposed to, entertained by and enjoy the talents and hard work of creative workers, yet the strains and struggles of these workers do not receive the public acknowledgement they deserve. Yet it is some of these very artists who played a significant role as instruments of the national struggle and liberation in South Africa. It is they who continue to raise through music, arts, poetry and other means, the plight of ordinary South Africans, even as we move towards the second decade of democracy in South Africa.

There is therefore a strong view amongst key players in the Creative Industry, particularly amongst worker associations, that stringent measures need be introduced to extend social security rights of creative workers. The issue of social security for creative workers is seen as a significant one, and as a central component of ensuring the long-term growth of the South African Creative industry, which can only be achieved through retaining its human resources, and ensuring that the industry's creators are able to sustain themselves financially<sup>6</sup>. Lack of social security is seen as having adverse effects on the industry, as it translates into valuable talent being lost as talented workers are forced to seek out jobs that provide them with a more regular income.

- 
1. International Network for Cultural Diversity. Strengthening Local Creative Industries and Developing Cultural Capacity for Poverty Alleviation, Roadmap for the INCD.
  2. *Creative South Africa - Cultural Industries and Proposed Strategies for Growth and Development*. A Report to the Department of Arts and Culture, Science and Technology. The Cultural Strategy Group. November 1998.
  3. A.Joffe, and M.Newton. *The Creative Industry in South Africa*. HSRC-DPRU-SWOP Research Consortium. South Africa Dec 2007
  4. *Cultural Industries Growth Strategy - The South African Music* A Report to the Department of Arts and Culture, Science and Technology. The Cultural Strategy Group. November 1998.
  5. B. Ndzimande. Address at the 1st Creative Workers Union of South Africa (CWUSA) Congress, September 2007, South Africa.
  6. *Cultural Industries Growth Strategy - The South African Music* A Report to the Department of Arts and Culture, Science and Technology. The Cultural Strategy Group. November 1998.



# 2

## SECTION 2: LEGISLATION AND KEY LEGAL INSTRUMENTS



## SECTION 2: LEGISLATION AND KEY LEGAL INSTRUMENTS

In order to address the research question, which is whether creative workers are independent contractors or employees, we made reference to section 200A of the Labour Relations Act, 1995 (LRA) and section 83A of the Basic Conditions of Employment Act, 1997 (BCEA), and the Code of Good Practice 2006: Who is an employee. These sections address the presumption as to who is an employee and deeming of persons as employers, respectively. In determining whether a person is an employee or not, we were guided by these legislation documents.

The Dominant's Impression Test (DIT) was used as a legal instrument to ascertain the status of employment relationships in the industry. The decision on the status of employment relationships was therefore taken with due consideration of all the relevant factors identified in Section 200A (1) of the Labour Relations Act, and on the balance of probabilities. The DIT was valuable for its rejection of the notion that any one factor can be decisive in determining the nature of the relationship. The dominant's impression test is consistently followed by the CCMA (The Commission for Conciliation, Mediation and Arbitration), the Labour Court and the Labour Appeal Court.

Section 1 of the Labour Relations Act and Section 3 of the Basic Conditions of Employment Act provide the definitions of 'employee' and 'employer', which is relevant in the case of the Creative Industry. According to these pieces of legislation, "employee" means any person who is employed by or working for any employer and receiving or entitled to receive any remuneration, and subject to subsection (3), any other person whomsoever who in any manner assists in the carrying on or conducting of the business of an employer; and "employed" and "employment" have corresponding meanings".

An independent contractor is not defined in the Acts. However, the Code of Good Practice, 2006, says that if a person (i) is supervised, (ii) does not act independently, (iii) does not have his or her own tools and equipment, (iv) works regular and set hours; and (v) is paid a fixed wage then she or he must be considered an employee rather than an independent contractor.

Part 2 of the Code of Good Practice refers us to Section 200A of LRA and Section 83A of the Basic Conditions of Employment Act, which creates a series of rebuttable presumptions as to who is an employee. The 2002 amendments to the LRA in particular, were introduced to address the problems associated with establishing the distinction between an employee and an independent contractor. These provisions introduce a rebuttable presumption, which if triggered, shifts to the employer the burden of proving that a worker is not an employee.

Section 200A (1) of the Labour Relations Act creates a presumption that until the contrary is proven, a person who renders services to any other person is presumed, regardless of the form of the contract, to be an employee, if any one or more of a list of seven factors are present. The presumption applies regardless of the form of the contract. Accordingly, a person applying the presumption must evaluate evidence concerning the actual nature of the employment relationships. The issue of the applicant's employment status cannot be determined merely by reference to either the applicant's obligations as stipulated in the contract or a "label" attached to the relationship in a contract. Therefore a statement in a contract that the applicant is not an employee or is an independent contractor must not be taken as conclusive proof of the status of the applicant.

The seven factors are drawn largely from the jurisprudence of the courts to provide a framework of indicators pointing to an employment relationship<sup>7</sup>. They are namely:

- The manner in which the person works is subject to the control or direction of another person
- The person's hours of work are subject to the control or direction of another person
- In the case of a person who works for an organisation, the person forms part of that organisation

---

7. Part 2 of the Code of Good Practice 2006

- The person has worked for that other person for an average of at least 40 hours per month over the last three months
- The person is economically dependent on the other person for whom he or she works or renders services
- The person is provided with tools of trade or work equipment by the other person
- The person only works for or renders services to one person.

It is in this context that the distinction between an employee and an independent contractor has become a source of much tension in South Africa's Creative Industry. Tensions arise largely because only employees, and not independent contractors, enjoy the protection of provisions enshrined in labour legislation. Independent contractors are excluded from the Basic Conditions of Employment Act and the Labour Relations Act, they are not entitled to paid annual leave, or paid sick leave, paid responsibility leave, etc. They are also not entitled or eligible for membership of a company pension scheme or medical aid scheme.<sup>8</sup>

---

8. J. Daphne. *When is a Person an Employee or Independent Contractor?* CCMA, Labour Watch Specificational Edition, July 2005.



# 3

## SECTION 3: CRAFTS



## SECTION 3: CRAFTS

### 3.1 INTRODUCTION

Craft forms part of the broader creative industries. While beads are the most well known form of craft, there are other categories to it, some more complex than others proving that the craft industry is highly diversified. In this report, craft activities range from bead work, ceramics/pottery, metal, copper and wood carving, glass work and paper craft, to mention just a few. There are scholarly debates, however, as to whether some of these activities should be classified under craft or art. The distinction between craft and art is not the focal point of the document as the two often overlap. Furthermore, there is no one universally acceptable definition of what craft is and what it is not as it continuously changes and is adopted to changing global production methods (Friedman; 1995, CGIS; 1998, ACTAG; 1996, CSDS; 2005).

Since there is no universally acceptable definition of craft, this report has adopted the Arts and Culture Task Group (ACTAG)'s definition which is deemed by many local scholars as being all encompassing. It defines craft as the "creation and production of a broad range of utilitarian and decorative items produced on a small scale with hand processes being a significant part of the value added content. The production of goods utilises a range of synthetic and natural materials". In addition to that, some scholars take the definition further and argue that craft even covers media and has subcategories which can be based on either one of the following; material, product type, technique, design style or production type (CSDS; 2005 and Friedman 1995).

While this is the definition of the industry what typifies it above the definition are some traits that seem prominent in the industry. In South Africa and across the globe the crafts, just like the main creative industry is seen as a sector:

- Dominated by small and micro, often informal enterprises
- Comprises of young women
- Most enterprises were established less than ten years ago
- Part-time, freelance and contract work are dominant
- Low revenues and low levels of entrepreneurial skills.

(Primorac; 2006, CreateSA; 2003 and Sondermann; 2009).

The above traits come out strongly in the literature, and there is an emphasis on the sector having mainly vulnerable workers in very fragmented informal small scale enterprises (Create SA; 2003).

Despite the industry informality, crafts have helped create employment opportunities and helped generate income and sustain peoples' livelihoods. While crafts has helped create employment, it is important to note that the type of employment it has created is not standard employment where there is one employer, the contract is full-time for an indefinite period of time. Theron (2005) and Benner (2002) say that the nature and patterns of employment have changed and new forms of work have proliferated, challenging old employment traditions and old certainties.

While employment in crafts is not standard, it has still managed to alleviate poverty. The Crafts sectors' ability to help alleviate poverty in communities has been attributed to its' low barriers to entry, meaning anyone who is willing or able can enter the craft market because craft skills can be learned quickly and there is no huge demand for capital, technology and resources as it relies on traditional skills. It is also seen as a sector that provides easy entry point into the economy for the poor and less educated. This makes craft one of the few economic sectors that absorb people with low levels of education (literacy and numeracy).

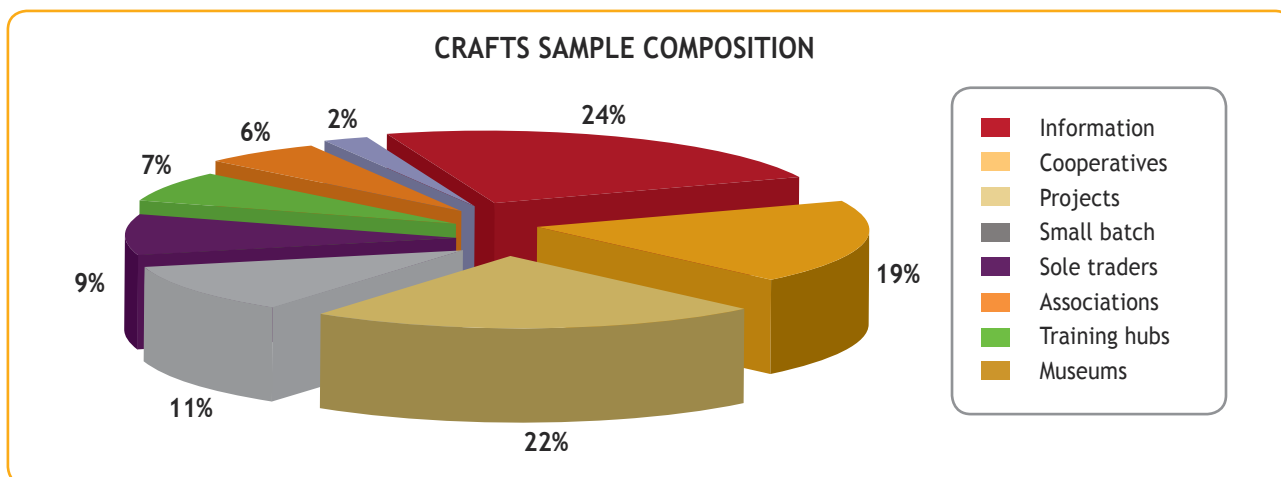
In South Africa, according to the CCDI Impact Assessment Report (2007) the crafts industry alone contributes approximately R2 billion to the GDP. The DTI Craft report of 2005, states that in the early 2000s there were close to 7 028 micro and small craft enterprises across the entire value chain providing employment and income to about 40 000 crafters. Other reports quoted on the same document indicate that numbers are less than that, with craft production enterprises standing at 5 725 and full-time craft

producers estimated at 31 547. Friedman in the Mail and Guardian online (1995) adds a spin to the figures and takes the figures further to estimate that there are approximately 340 000 craftspeople operating in the rural informal sector who are not counted when giving figures of active crafters.

### 3.2 SAMPLE

It is clear that crafts remain a highly unorganised and informal sector thus making it difficult to reach craft principals. We were able to reach 53 craft enterprises (associations, cooperatives, CC, sole traders, NPO and craft trainers) representing a total of 550 individuals across the country. Crafters interviewed were relatively new, with ten or less years existence. Majority of them were home based, driven by and dependent on orders. A bulk of our respondents were vulnerable workers, representing a wide range of these home or community based entities, with 24% operating informally and 22% as Non-Profit Organisations (NPO) and community projects, 19% were cooperatives (co-ops) and 20% were close corporations (cc). Figure 1 below depicts the sample composition of the crafts sector.

Figure 1: Crafts sample profile



### 3.3 FINDINGS

#### 3.3.1 Employment Relationships

From the crafters interviewed, it was discovered that there were many employment status categories in the sector, namely; full-time, part-time, temporary and contract workers. The full-time crafters were further divided into two groups, one falling in the non-standard employment (self employed) and the other group being full-time employees of craft enterprises. The full-time employees had standard employment contracts with one employer, for an indefinite period.

Other groups present in our sample were part-time craft workers. These ones were mainly employees who had an employment relationship with the enterprise owner and were paid based on work completed. They were considered part-time because they only went to work on certain days when the enterprise had many orders. The temporary group was small and comprised mainly of family members of craft workers, they worked in peak seasons. There was another layer of crafters, from the self-employed and part-time groups who considered themselves unemployed even though they were employed on a part-time bases. The final group of crafters interviewed comprised of highly skilled contract craft workers who assisted others with very specialised parts of the production chain, they mainly worked as independent contractors.

Looking at the craft sector, in some cases an employment relationship was not always clear cut in practice as will be shown below. A huge part of our interviewees fell in more than one of the above mentioned employment categories. What was prominent was the predominance of non-standard employment relationships.

#### a) APPLICATION OF THE DOMINANT IMPRESSIONS' TEST

Looking at the above employment status it is clear that crafts employment relationships are not clear cut. Some crafters can be grouped in more than one category while others go as far as seeing themselves as unemployed. Applying certain aspects of the dominant impression test on the above findings, one sees that most crafters are not employees in the standard employment sense, rather, they fall on the independent contractor side, where they work for themselves supplying different and in some cases similar clients.

Using the test as our bases, it is clear that crafters are not necessarily rendering their services to one employer. The crafters themselves argue that they are not rendering services to employers, but to clients, they render their services to whoever has work for them. When one client does not have work, they source work from other clients. This hopping between clients at once is done by almost all crafters including self-employed crafters, with the exception of full-time workers. In fact, the flexibility typifies the industry precisely because it is order based (output driven) and not an employment relationship. While in an employment contract the employee has to do work personally, with crafters it is not so. They can even take work home and get family members to assist them; service does not have to be rendered personally. However, if it is done at the clients' place of work, they prefer it rendered personally as they normally source people based on their skills.

Most of these crafters do not necessarily receive remuneration, instead a fee for their services, per product completed. In standard employment relationships, remuneration is due to workers whether they perform or not, however, in the craft sector there is a fee paid out and it is based on performance. Crafters do not get any money from their clients if the order is not done according to the clients' specifications.

### 3.4 CONCLUSION

The findings reinforce generally held views that the creative industry is dominated by women, it comprises of small and survivalist enterprises and is highly flexible and insecure. The above findings reflect general labour market trends of non-standard employment relationships and informal economic activities. There are hardly clear cut employment relationships, however there are general trends that can assist when deciding whether the majority of crafters are employees or independent contractors.

From the above, one can see that the industry is mainly made up of self-employed and part-time crafters. There is a dominance of contracts of work and very few contracts of employment. There are employer-employee relationships but in most cases crafters are normally hired on a part-time bases with verbal agreements and often operate as independent contractors and not as employees. In some cases there are crafters that work for employers on a full-time bases, but rarely. While they are full-time, their pay is linked to orders completed, there is no minimum wage or basic wages for most of them.

In the crafts we have seen that there is lack of organising and therefore no collective agreements have been reached to assist crafters with minimum wages. While the Government normally sets up the minimum wage rates for poorly organised sectors, in the case of SA crafts there are none. The real challenge in the craft sector for those in SER is the employment of people at a comparable lower rate and bad working conditions.

When working from the dominant impression's test premise, one could argue that, based on the above findings about remuneration fees, tools of trade, control of work and of hours of work and economic dependency crafters can be considered independent contractors at best and at worst, can be seen to be in disguised employment with no labour rights.



# 4

## SECTION 4: FILM AND TELEVISION



## SECTION 4: FILM AND TELEVISION

### 4.1. INTRODUCTION

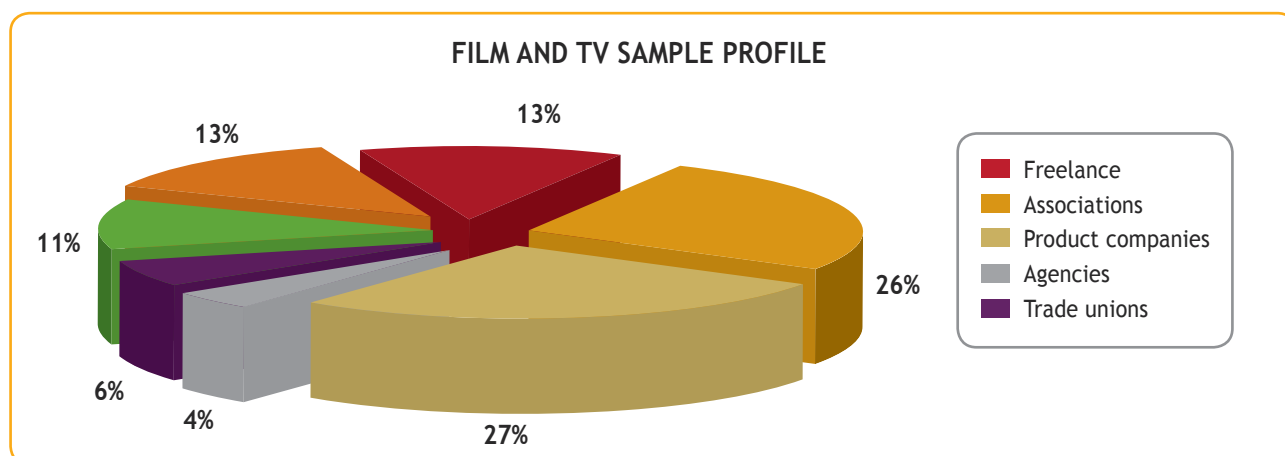
The Film and Television sector (also known as the audio-visual and media sector film) is composed of a number of activities, i.e. television, photography, video, and broadcasting, magazine and music videos, factual programming and documentaries, talk shows and studio-based variety shows, location dramas, studio dramas and soaps, and feature films (local and international). Its value chain consists of pre-production, production and post-production including production companies and set designers, amongst others.

The film and television industry can be described as project-based, short-term, and requiring a diverse range of skills for the execution of well-defined, but complex singular tasks<sup>9</sup>. The majority of occupations are higher skilled, professional, technical or managerial level. Skills are hired per project, based on the demands of the production, on a daily, weekly or monthly basis. However, once a project is completed there is no demand, or indeed financial support, for the services of the crew and cast and they move on to other projects. Budgets and skills utilized for each type of project also vary according to the elements required to create content.

### 4.2. SAMPLE

A hundred participants were interviewed to ascertain the nature and status of employment relationships in the film and television industry. Respondents were solicited through purposive and referral sampling methods, and hailed from production companies, industry associations, private and public broadcasters, trade unions, Government institutions and departments, and some international bodies. A large number of respondents hailed from short and long-feature films, photography and stills production, broadcasting, studio-based variety shows, studio dramas and soapies, television advertising, and international facilitation. **Figure 2** depicts the sample composition of the Film and Television Industry.

Figure 2: Film and TV Sample Profile



There are other types of production (such as documentaries, videos, factual programming, talk shows, natural history, mini-series) which we have not been specifically referenced in this report, however, it is important to highlight that such production activities, are subject to either all, some, or a combination of the afore-mentioned factors.

9. *Creative South Africa - Cultural Industries and Proposed Strategies for Growth and Development*. A Report to the Department of Arts and Culture, Science and Technology. The Cultural Strategy Group. November 1998.

## 4.3. FINDINGS

### 4.3.1 Employment Relationships

Creative workers in the film and television industry can be categorised as belonging to either the core or periphery of the industry. Most often than not, there is a small core group who work within a production company on a full-time basis. These are people who work on permanent and specialised functions (i.e. creative management, financial management, employee relations, etc.). Executive management, and support staff tend to be the only people employed as permanent employees. They enjoy both the benefits and disadvantages of this status.

The vast body of creative workers, however, operate as independent contractors (alternatively known as freelancers), and the terms and conditions of each individual contract varies with skills type/level, experience, reputation, social network/capital, and between companies, sectors and genres, as each project often requires the creation of a unique production environment.

Independent production companies also have fixed independent contracts providing services to it. Endemol, for example, has over 500 fixed-term independent contractors, and only 26 permanent employees, fulfilling permanent functions (i.e. finance, human resources, and marketing). According to them, they outsource only the non-core aspects of production (i.e. post production, catering, transport and security). But with the use of creative workers as independent contractors, it can be argued that core aspects of production are also outsourced (i.e. acting and crew services).

Television production, particularly local soapie production, often has commercial contracts with public and private broadcasters. Because they have three-year contracts with the public broadcaster (for Isidingo, for example), fixed-term contracts follow logically therefore. These often span up to three years for actors/actresses, are renewed annually, based on performance of the talent/crew and relevance of a particular character in the story-line. Extras and non-principal actors/actresses are paid a daily rate as independent contractors. Studio technicians, however, are employed by the SABC. Crew members, on the other hand, are employed as either fixed-term employees or fixed-term independent contracts (predominantly), with contracts renewable annually. This system is dominant in television production, particularly in local soapie production that contract work from the public broadcaster.

Most talent, particularly in the modeling, advertising, and stills shoots production, work on an on-call basis, and may work on a once-off and or pro rata on a daily basis, and largely as independent contractors. "Many companies that we deal with as agents, hire our artists for once off performance or occasional services such as voice overs, calls on a television series or film, commercial", (PMA chair, 2007).

In almost all production activities, crew members tend to work on a more permanent basis, from one project to the next with the same production companies. Albeit as either independent contractors (most popular) or fixed-term employees (as in some cases in SABC). This is the case particularly for long feature films. It must be highlighted, however, that fixed-term employment contracts stipulate that employment is linked to broadcaster renewal and that automatic renewal may not be anticipated.

In the same breath, however, project work can and is often renewed regularly over long-term periods. This reality often takes crew or cast members out of freelance work. It is possible to argue therefore that defacto long-term employment relationships can and often do form with certain preferred workers, though not all. Regularly renewed work can create ongoing expectations of employment notwithstanding contractual wording. Notwithstanding this, however, creative workers are not disallowed from taking on multiple jobs, provided they do not work for competition (as is the case for models and actors/actresses) and continue to deliver on the job specification (as is the case with technicians).

Independent contracting, although more widely applied to once-off projects is the preferred contracting method of some long running series as well. Independent contractors have the advantage of higher payment and a greater ability to take on non-conflicting employment. Long running projects provide scheduled production breaks irrespective of the method of contracting and independent contractors benefit from this too.

Most (95% - 100%) of all creative workers interviewed, have also indicated that they prefer retaining their status as freelancers/independent contractors. Evidently, creative workers tend to benefit much more by being independent contractors, for example, they enjoy job variety, and not being restricted to work on single job.

## A) APPLICATION OF DOMINANT'S IMPRESSION TEST

### i) Control of manner of working

A look at the manner in which creative work is done does suggest that creative workers are often subject to the control and/or direction of another/other persons. This is particularly the case for actors/actresses (in short and long feature films, studio dramas and soapies), presenters in documentaries and studio-based variety shows, as well as models in stills shoots, photography and advertising. Crew members across the sub-sectors, however, tend to enjoy great levels of independence, although final outputs are subject to the revision of executive managers of production companies, and largely for the purposes of quality assurance, as well as to ascertain whether or not the work done is per the job specification. The greater the degree of independence from such supervision and control, the stronger the probability will be that it is a contract of work. Their hours of work are, however, subject to the control and/or direction of the production company that employs their service. They have to be on-site rendering production services (i.e. producing, directing, technical assistance, lighting design, photography, wardrobe coordination etc).

### ii) Control of hours

The hours of work of creative workers are often subject to the control and/or direction of the production company or production director or producer. This is particularly the case for talent. In the SABC, for example, sports presenters work a fixed hourly roster on Saturdays, which also tends to rotate over time. They, however, are free to do other types of work outside of this legal arrangement.

### iii) Hours of work

Crew members and actors who work for long-feature films, as well as studio-based dramas and soapies tend to work on average, more than forty hours per month for more than three months on any given season. Reportedly, crew and cast in the industry are expected to work 10 - 12 hours a day in exchange for slightly higher remuneration. Some contracts clearly stipulate that independent contractors are required to work in six-hour shifts between meal breaks as opposed to employees who have to work between four and five hours between breaks. In addition, creative workers may work up to a 72 hour week where a standard employee is limited to 45 hours per working week. Creative workers are also compensated for overtime work, and on an agreed contractual rate. This is particularly the case for long feature films, studio dramas, soapies and stills shoots.

### iv) Economic dependency

In terms of economic dependency, there are creative workers who are never dependent on a single source of income at any given period. Well-established workers tend to work on multiple projects simultaneously. This is the case particularly for creative workers who have diversified their portfolios or themselves as brands. One of the actors from Isidingo, for example, is not only an actor for Isidingo, but also features in a number of short feature-films, does voice-overs, presenting, as well as mc-work on the side. A well-known Generation's actress is also renowned as a business woman and social entrepreneur. They are, however, restricted from working for competing production houses (1st-call clause). Audience reception is inferred as the main reason for clauses of this nature. They are brands as characters. Audiences wouldn't appreciate duality in characters of single personalities.

There are creative workers, however, who are not able to secure multiple jobs, and therefore find themselves dependent on a single job for income. This is the case, particularly for new entrants. Some crew members, however, do rely on single production companies, as they are often used by single companies for a series of jobs over a given time period. They, however, are not bound to single production companies.

### v) Tools of trade

Tools of trade are often not provided to specialist crew members, as they are expected to source these themselves. For example, photographers are often expected to bring their cameras, lightening designers their own briefcases, make up artists their own make-up kits, technicians their own toolkit and so on. There are a number of cases, however, in which creative workers do

depend on production companies/broadcasters to provide them with the tools of trade. This is the case particularly for heavy and exorbitantly expensive machinery, as well as customised items (lights, mass costumes/wardrobe, make-up, studio sets). Producers, directors, wardrobe managers, make-up artists are often provided with these by their companies.

#### 4.4 CONCLUSION

Film and television is characterised by the following features: increased freelancing and casualisation of the workforce, portfolio careerism, development of small business enterprises, and expansion of the services industries. There is therefore existence of an employment relationship, but this to a certain extent as most of the activities involved contracts on individual basis. It can therefore be concluded that the majority of people participating in this industry are independent contractors who cannot be covered by labour legislation. However there are those few individuals who need extended protection of labour laws as they are vulnerable workers. This should be whilst permitting flexible contracting arrangements in instances wherein fixed-term employment arrangements are not possible.



# 5

## SECTION 5: MUSIC



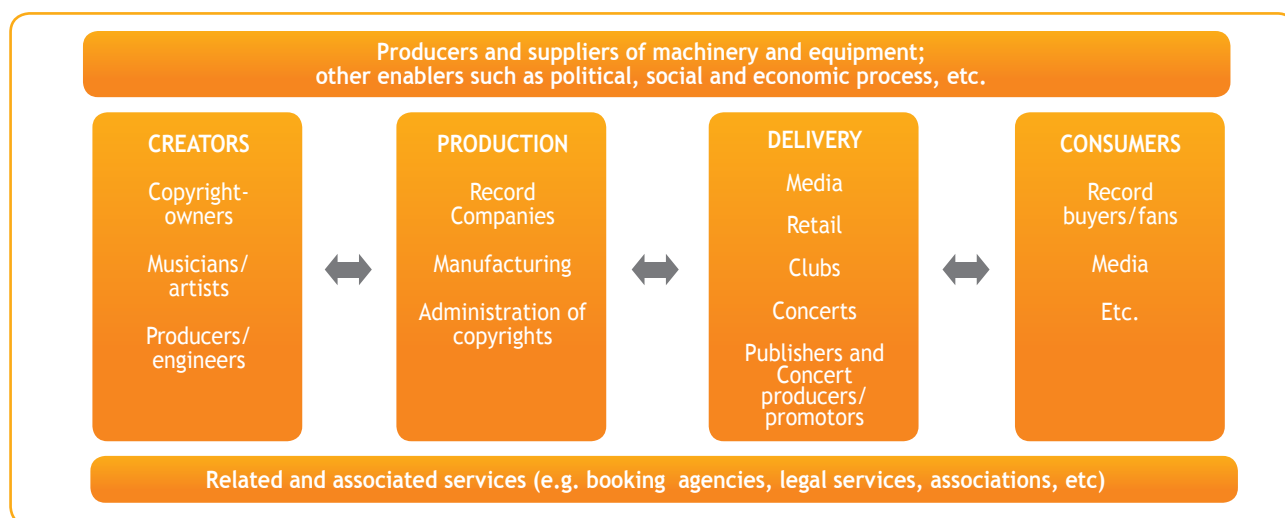
## SECTION 5: MUSIC

### 5.1 INTRODUCTION

The South African music industry makes up a greater portion of Africa’s share of the global market. This is attributed to its advantage in the recording industry (i.e. SA musical sales makes 94% of African sales). Local sales grew from R384 million in 2005 to R443 million in 2007. However, sales are dominated by the big four, which includes Sony (29,1%), Universal (28,3%), Gallo (17,1%) and EMI (17,1%) who released 56.6% of musical products/repertoire internationally, and 52,9% of local repertoire sales.

The independent record companies’ share of the local repertoire at the time of reporting was at 48,1% while they only manage to produce 43,3% of international repertoire (Recording Industry of South Africa, 2007). These demonstrate the monopolisation of multinational companies in the South African market, which is not specific to this country only. Across the globe, big record companies are also applying vertical and hierarchical integration to dominate<sup>10</sup>. The industry value chain is depicted in Figure 3:

Figure 3: Music Industry Value Chain



(Sourced and adapted from Hallencreutz 2002 and Charles Landry in (Joffe and Newton, 2008)

The music industry genres entails jazz, pop, reggae, hip hop, gospel, R&B, soul, rock, kwaito, house, and many more.

### 5.2 SAMPLE

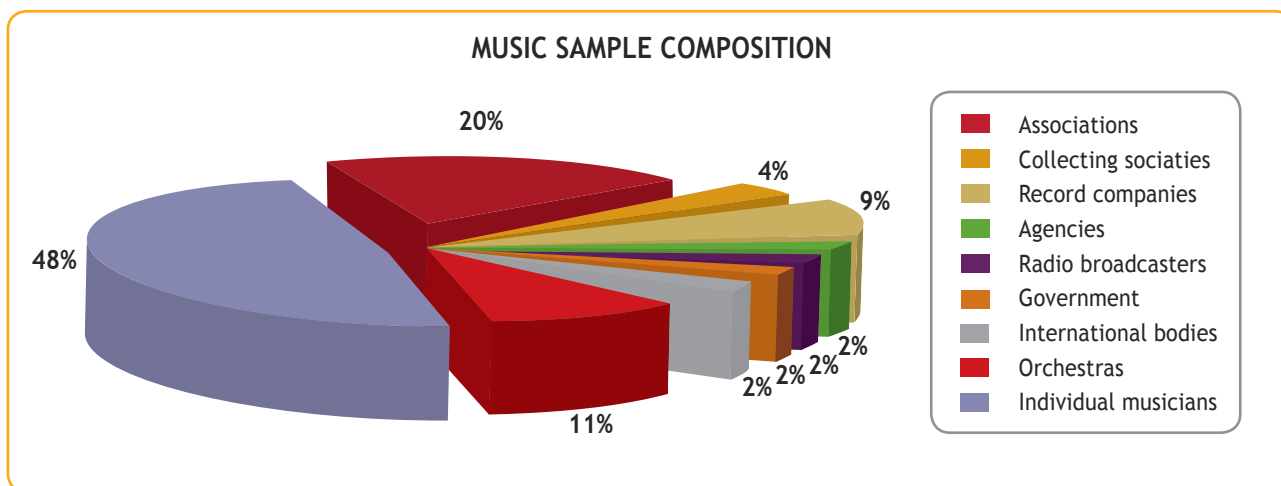
Interviews were conducted with industry players in Gauteng and Western Cape, including associations, record companies and artists from varying genres. In addition, two club owners were also interviewed. It should be noted that due to the musicians’ multifunctional roles each interview could concurrently provide rich information on issues pertaining to independent record companies, managers, backing vocalists and solo artists. Interviews were done with two DJs and also within the orchestral sector. Due to the space provided for this research study, the availability of interviewees during the data collection period, time and resource constraints, a number of industry players, particularly instrumentalists and artists representing genres such as hip hop, rock, reggae and choirs were not interviewed.

10. CSG study (1998:30), Volgsten and Brown and Negus in Du Gay (1997: 86).

A number of industry players were also not interviewed or included in the final analysis including roadies, sound and lighting engineers, equipment rental and management, based on the same reasons.

An overall amount of 50 semi-structured interviews were conducted. In both provinces, the respondents were mostly African males. Thus, the reader needs to note that recommendations of this study are limited to the data collected during the course of this study. **Figure 4** depicts the sample composition of the Music Sector.

**Figure 4: Music Sample Profile**



## 5.3 FINDINGS

### 5.3.1 Employment relationships

Determining the employment status within the music industry is quite complex, hence the reader must always remember that each case should be taken on its own merit. In ascertaining the level of *control and integration into an organisation*, it was discovered that musicians do not feature on company organograms. Musicians are remunerated in the form of piece-rate payment. In clubs, this is true for both in-house and visiting musicians and it gives owners flexibility to source varying musicians as they like so as to attract patrons. In addition, the size of the club and ability to attract patrons has a bearing on the remuneration and on their future possibilities of getting opportunities to perform in the club. This means that remuneration depends on profits. In case, the musicians' performance did not attract patrons, a club owner may remunerate the musician but the musician would not be hired again (Interview-club owner, 2010). On the flip-side of the coin and most crucial to note, is that musicians in clubs/hotels are not necessarily core services and such companies can actually survive without their services. Hence, these points also highlight an independent contractor status.

In the *record companies*, the application of project management principles was preferred to control the project. The Independent Recording Company owner that was interviewed argued that meetings are used in his company to get feedback on contractual obligations that the musician should undertake such as appearances. These meetings are not similar to the company meetings and are not used as platforms through which musicians may receive training or instructions on what to do with the project. Hence, the interviews did not provide evidence that companies have no authority to control the musician.

Given the difficulty indicated in interviews in ensuring that musicians adheres to contractual obligations, the strongest and most common tool of control indicated in the interviews is the contract. The type of contract they both entered into dictates the degree of control carried out by the company. But this does not indicate control that presumes an employee status. From contractual point of view, musicians are mostly deemed as independent contractors.

In this industry, the easiest case to determine and which also clearly signifies an independent contractor status is that of the individual unsigned artist. S/he is self-employed, hence makes investment in the recording or production of work (“the project”) and for purposes of live performances. The fact that both the signed and unsigned musicians earn on the basis of mechanical royalty clearly depict self-employment (ILO ICSE:1993 <sup>11</sup>).

For the signed musician, there are a number of factors that strengthen an *argument for independent contractor status*. For instance, the record company invests into the musician’s project and expects to recoup return on their investment through mechanical royalties. Therefore this seems like musicians are applying for a loan. Since the record company expects a return. Hence even though the musician suggests the perfect resources, the final plan on undertaking the CD production is negotiated. Consequently, the musician may be advised to scale down or resort to alternative resources with similar quality but at a lower cost as the project has to be accomplished within the set budget.

In case they accept the offer to be part of the recording/performance, they negotiate for remuneration which may be calculated per period e.g. three hours per session/24 hours/a number of days/months/project. Remuneration of human resources is also incurred in the musician’s company or record company’s budget. Clubs normally pay the musician after every performance indicating payment for work done than disbursement of payments even when a worker did not undertake work. In contrast, corporate concerts may pay on the basis on 50/50 split wherein 50% is paid before performing while the remaining money is paid after the live performance. The manager gets 30% of the remuneration, which raises discontent as illustrated by musicians who were interviewed. While others thought it was a massive amount, others said that it was sometimes undeserved as managers do not always find jobs for them. In understanding this area of tension, it was clear that managers were deducting for administration work related to the live performance (e.g. royalty payments for the songs used by the musician, etc).

In terms of economic dependency, the nature of the industry necessitate that un/signed musician hold multiple jobs (e.g. television/film/theatre/session work). During the post-production phase, the signed musician is on call basis to fulfill any other contractual obligations towards the Multi-National Company (MNC) such as promotional tours. Usually, the musician spend these times in live performances and any other freelance work that does not hamper or conflict with his/her contractual obligations. This is called an exclusionary clause and does not necessarily mean the presence of the employer-employee relations. At the same time, holding multiple jobs also does not necessarily mean an independent contractors’ status.

All the other artists such as producers, engineers and backing vocalists, although they are not in an exclusionary contract with the lead musician, are in multiple client relations. According to UNESCO (2004), it is a trend for musician across the globe to have multiple client-base due to the decline in full-time work or lack of measures that stimulate commitment to one client. One of the strongest indicators denoting independent contractors’ status is that of financial risk. The unsigned musician obviously bears risk for the entire project.

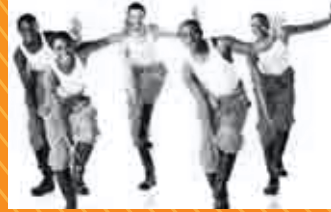
In addition to fruitless investment of creative juices, the signed musician may bear financial risk for CD production, especially if s/he entered into a distribution deal or joint venture. This also means that the record company bears financial risk for their investment into the project. It is clear that the nature of the industry, in this case is not where you earn a salary as it is the case in the traditional form of employment. Hence, it becomes clear that other issues need to be addressed, such as a need for training in order to induce creativity, to enable the development of sustainable businesses even in areas where they may be excluded, such as technical support.

## 5.4 CONCLUSION

From the findings, it is evident that most musicians are independent contractors. There clearly is a need for an enabling environment for many of them who are actually engaged in the business of managing their brands which requires business acumen and appropriate policy interventions for instance in the area of piracy. The music industry is complex, requiring a flexible attitude and proper collaboration in devising appropriate mechanisms for improved working conditions.

---

11. [http://www.ilo.org/global/What\\_we\\_do/Statistics/topics/Statusinemployment/guidelines/lang--en/index.htm](http://www.ilo.org/global/What_we_do/Statistics/topics/Statusinemployment/guidelines/lang--en/index.htm)



# 6

## SECTION 6: PERFORMING ARTS



## SECTION 6: PERFORMING ARTS

### 6.1 INTRODUCTION

The performing arts sector deals with theatre, dance, orchestra, opera, and music theatre to various multimedia performances and musical forms (Research Consortium, 2008). Theatre includes performers and directors of contemporary drama, classical theatre, stand-up comedy, pantomimes, political satire and live entertainment, costume makers, set builders, music, sound and lighting technicians, design, and advertising. The core activities include the production and presentation of performances in theatres.

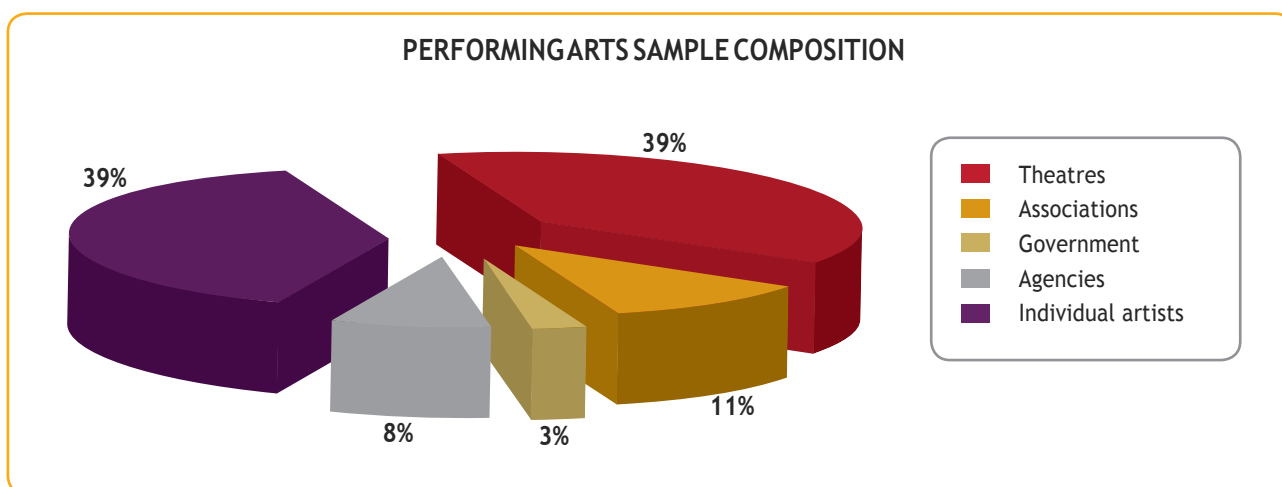
There are three types of activities in the performing arts sector: music, drama and dance. The performing arts are the smallest sub-sector in the creative arts industry. The majority of companies in this sub-sector are small with a few companies having staff complements of twenty at the most. According to research conducted by the Performing Arts Network of South Africa (PANSA) in 2005, there are approximately 100 theatres in South Africa. These theatres are offering 35 shows per year on average. Half of them are privately owned, 30% of these theatres are supported by the three spheres of Government and 20% is located within educational institutions.

The role of the performing arts industry in the economy across the world and locally is still being developed, however, very little data exist in this regard. The sub-sector can also generate additional foreign revenue through tourists, donor and international corporate funding. Moreover, exposure to the performing arts can help to equip the workforce to participate in the knowledge economy, improve customer service levels and increase creativity levels. In particular, performing arts has been demonstrated to have the capability to improve the educational performance of youth at risk.

### 6.2 SAMPLE

The participants in this sub-sector incorporated producers, performers, associations, Government departments and agency management. According to the findings in terms of statistical analysis, 80% of participants were females, with 20% being males. In terms of race, the majority of interviewees were black Africans, with few White and Indian representatives. Looking at different types of theatres, state and community theatres have a majority of black African performers, with commercial theatres dominated by white performers. Below is a graphical representation of the people interviewed. **Figure 5** depicts the sample composition of the Performing Arts sector.

Figure 5: Performing Arts Sample Profile



## 6.3 FINDINGS

### 6.3.1. Employment Relationships

Part-time work, short-term contracts and self-employment are long standing characteristics of the performing arts, and they are becoming more prominent. This is the case even globally as asserted in the study by Eurofound (2009) <sup>12</sup>. The nature of the projects in this industry is uncertain, as a result, in terms of funding this means that it is nearly impossible to employ artists on medium to long-term contracts with the exception of certain theatres (e.g. Ballet theatres). Subsidised theatres (e.g. Windybrow) have their core infrastructure funded by Government, but production budgets depend on donor funding. Theatres with the exception of commercial theatres depend on public funding, which is not enough to sustain their careers, therefore, they have to find other forms of generating income.

Most performers engage in multiple roles as demonstrated in interviews conducted with performers and producers in the performing arts. The same phenomenon can be identified across the globe. For instance the Eurofound report state that performers do engage in teaching and also work in theatres. Thus, in European countries, the primary nature of employment contracts for artists entails freelance workers who enter into contract with a service provider. *In South Africa, the is same phenomena is more prevalent with the commercial theatres.*

The performing arts sector employment relationship is generally between the performer and the producer, between the performer and the theatre, and between the performer and the agency as well.

In community theatres, the performers (after the expiration of production) remain permanently <sup>13</sup> employed, unless they find alternative employment in another production; and also if they no longer want to concurrently be part of the production at community theatres and elsewhere. It is crucial to note that community theatres are used as talent search platforms for sourcing required performers. Thus, they are given the liberty to leave the theatre should they get better offers with other theatres. Additionally, their employment tenure is based on the availability of financial resources e.g. funding from Government and other institutions.

In terms of the control factor, the interview with producers demonstrated that the in-house productions, controlled by producers develop their own productions or plays; hire their required performers through auditions, and also engage in directing the play. The performers do not choose the type of production, including scripts and roles. Thus, the performer cannot change the role assigned to him/her. This demonstrates the level of control that the theatres have over-performers. However high-profile performers, as in the case with high profile musicians, are able to negotiate the terms of their contracts.

The producer develops a schedule for both rehearsals and shows, and then communicates the schedule to the selected candidates. These apply to all the theatres (e.g. state, community and commercial theatres).

In terms of remuneration, *Government theatres'* performers including those in training (e.g. interns), who signed a contract that lasts for a specific period, get paid on a monthly basis. The minimum salary for the trainees or interns is R1 600 a week. However, it was not disclosed how much or the minimum remuneration the rest of the staff is earning. The manner in which artists are *remunerated* differs. With internal production, artists are paid during the rehearsals and during the performances. For example during the rehearsals artists are paid on a weekly basis. However, only free-lancers get a once-off payment, i.e. a lump-sum.

One out of four theatres' staff, i.e. producers versus performers' remuneration incorporates medical aid, UIF, pension fund, and the thirteenth cheque which is double their salary, and the contract of employment is renewable after every twelve months, and

---

12. [http://www.eurofound.europa.eu/emcc/content/source/eu06008a.htm?p1=ef\\_publication&p2=null](http://www.eurofound.europa.eu/emcc/content/source/eu06008a.htm?p1=ef_publication&p2=null)

13. Hired, whether as a part-time or full-time employee but having an ongoing employment relationship.

the salary goes up by a minimum of 8% depending on the interest rate. The minimum salary, for example for a nineteen year old is R3 500, plus R900 to R1 000 for pension fund and medical aid.

A closer look at the *termination of contracts* revealed that the contract between theatre and the artist depends on the market forces (i.e. audience reception). If it is doing well, it then continues. However, it gets discontinued should it not do well. With in-house production, the performers sign a contract of employment which is only viable for a stipulated production period. The minimum period of production is approximately three months, with the maximum of a year. However, the contract of employment is renewable.

## 6.4 CONCLUSION

The employment contract within the performing arts sub-sector is a written agreement between the artist and the producer, who in most cases is the employer. It is only when a free-lance artist is required, then they get them through agencies. But this does not happen regularly. In *Government theatres*, contracts of employment are signed between the artist and the theatre. *Agencies are not involved pertaining to the contract of employment* as the artists are hired by the producers through auditions. Therefore, they do not engage in a triangular relationship. With community theatres, the artists are also hired by the theatre, and they sign a contract of employment which stipulates the conditions for employment (e.g. working hours, fees, etc). As a result, the *relationship is between the theatre and the artist*.

With the commercial theatres, artists are not directly involved with the theatre. They are hired by the production houses, which only use a theatre space to perform their production. The performers in this case sign their employment contracts with their independent producers.

In addition to the different forms of employment relationships stated above, it has been established that there are theatres, for instance state theatres and production companies that utilise full-time administrative employees. Producers in the state theatres and in production companies are also employees.

# 7

## SECTION 7: CONCLUSION



## SECTION 7: CONCLUSION

The findings contained within indeed affirm issues that are well known in the public discourse about the plight of vulnerable creative workers in South Africa. The general findings are that most creative workers can generally be considered as independent contractors, as per the application of Dominant's Impression Test which looks at control of the work process by another person, control of hours of work, is the person in question part of the organisation, is the person economically dependent on the other person for whom services are rendered to, provision of tools of trade and whether the person renders services to one person or more people. When using this test, it was clear that many creative workers fall under independent contractors, they are working for themselves even though in some cases there are traces of employer-employee relationships. This was so, with the exception of principal actors/actresses in long feature films and dramas, artists in state theatres, and brand managers in the music industry, all of whom are deemed to be working as fixed-term employees.

Some creative workers are engaged in enterprise work as private persons or individual firms. In most cases, they assist in conducting the business of production companies and/or broadcasters only 'as to the result of their work, and not as to the means by which it is accomplished'. They sell their skill/job to service providers, as apposed to their labour potential.

It is important to highlight, however, that the status of creative workers depends largely on the merits of each individual case. In each instance, unique circumstances prevail and whilst there are specifications of the employee relationship, as defined by labour legislation, that apply to film and television workers, equally, there are specifications that do not. Often there are variations in conditions of work and social security.

## REFERENCE LIST

- Allen, K. 2009. Guardian-UK. Sourced at <http://www.guardian.co.uk/business/2009/nov/23/sweden-music-sales-file-sharing-crackdown>.
- Annual Report 2008-2009: Ministry of Textiles, Indian Government.
- Arts and Culture Task Group, 1995, White Paper on Arts, Culture and Heritage, South Africa.
- Benner, C. 2002. *Work in the New Economy: Flexible Labor Markets in Silicon Valley*. Oxford: Blackwell.
- Bezuidenhout, A. (2006). *Mining Externalization in South Africa After Apartheid*, SWOP, Wits, Draft Paper.
- Bhorat, H. , Lundall, P. and Rospabe, S. (2002). *The South African Labour Market in a globalising world: Economic and Legislative Considerations*. International Labour Office.
- Bothma, L.J. and Thomas, K. *The enforcement Of the BCEA and Waiters: Will They Gain Or Loose?*
- Labour Appeal Court of South Africa. (1998). Case no. CA8/98. 25.
- Compendium - cultural policies and trends in Europe: country profile-Sweden. April, 2009. <http://www.culturalpolicies.net/web/statistics-population>.
- Department of Trade and Industry. (2005). *Craft Sector Development Strategy*. Pretoria. South Africa.
- Department of Arts and Culture. (1998). *Cultural Industries and Proposed Strategies for Growth and Development*. Pretoria. South Africa.
- Department of Arts and Culture. (2003) *CreateSA: National Skills and Resources Audit. Final Results Cultural Industries Growth Strategy, The South African Craft Industry Report*, South Africa.
- Daphne, J. (2005). *When is a Person an Employee or Independent Contractor?* CCMAil, Labour Watch Edition.
- Department of Arts and Culture. (2000). *Music industry task team (MITT) report*. Pretoria. South Africa.
- Department of Arts and Culture. (2006). *Tender specification: services of an events management company at* <http://www.dac.gov.za/tenders>.
- Department of Arts and Culture. (1998). *Creative South Africa: a strategy for realizing the potential of the cultural industries*. Cultural strategy group. Pretoria. South Africa.
- Development works. (2004). *Take Note: the (re)naissance of the music industry in sub-Saharan Africa*, paper prepared for the Global Alliance for Cultural Diversity Division of Arts and Cultural Enterprise, Unesco at <http://portal.unesco.org/culture/en/files>.
- Finnemore, M. (2002). *Introduction to Labour Relations in South Africa*.
- French Music.(1995). *France's support for the music of today at* <http://www.french-music.org/publish/document>.
- Friedman, H. (1995). *Arts and Crafty Solutions*, Mail and Guardian, 13 October, 1995.
- Geographia.(1997). *Sweden-Music:1997-2000 at* <http://www.geographia.com/sweden/music.html>
- HSRC, DPRU, Sociology of Work Unit. (2007) *Research Consortium. Creative Industries Sector Report.2007.* <http://www.eurofound.europa.eu/emcc/content/source>
- International Network for Cultural Diversity. *Strengthening Local Creative Industries and Developing Cultural Capacity for Poverty Alleviation, Roadmap for the INCD*.
- Joffe, A. and Newton, M. (2007). *The Creative Industry in South Africa*. HSRC-DPRU-SWOP Research Consortium. South Africa. 2007
- Johansson, D and Larsson, M. (2009). *The Swedish Music Industry in Graphs in Economic Development Report 2000 - 2008*. Royal Institute of ??????.

- Moutton, J. and Babbie, E. (2001). *The Practice of Social Research*. Cape Town. Oxford University Press.
- Negus, K, *Production of culture in Du Gay*. 1997. *Production of culture/cultures of production*. Sage publication, London.
- Pan-African Creative Africa Dialogue for African Cultural and Creative Industry Development. (2008) *Strategy and Road map*. Guana.
- Power, D and Hallencreutz, D. (2002). Centre for innovation research. <http://www.step.no/music/Sverige%20downloadable/Mapping%20the%20Swedish%20music%20industry.doc>.
- Primorac, J. (2006), *The Position of Cultural Workers in Creative Industries: The South Eastern European Perspective*, European Cultural Foundation, Croatia.
- Recording Industry of South Africa. (2007). RISA industry data: <http://www.risa.org.za/downloads/264,13>.
- Labour Appeal Court. (1999). Ruling made by the Labour Appeal Court (between SABC v McKenzie, 1999, 591).
- Rogers, C.M. *Creative Industries and Urban Tourism; SA Perspectives*. School of Geography, University of Witwatersrand. South Africa.
- SARS. (1999). *Employees tax independent contractors - circular notices no 22/1999*. Government publications.
- Statistics South Africa. (2009). *Mid-year population estimates*. <http://www.statssa.gov.za/publications/P0302/P03022009.pdf>.
- Smith, D. and Kochhar, R., 2001, *The Dhokra Artisans of Bankura and Dariapur, West Bengal: A Case Study and Knowledge Archive of Technological Change in Progress*, New Delhi, India.
- Sondermann, M., Backes, C., Amdt, O. and Brunk, D. (2009). *Culture and Creative Industries in Germany*, Commissioned by Federal Ministry of Economics and Technology, [www.bmwi.de](http://www.bmwi.de).
- Standing, G. (1997). *Globalisation, Labour Flexibility and Insecurity: The Era of Market Regulation*. *European Journal of Industrial Relations*, 3(1). at [http://www.trendmaze.com/media/1038/swedish\\_music\\_industry\\_2000-2008.pdf](http://www.trendmaze.com/media/1038/swedish_music_industry_2000-2008.pdf).
- Theron, J. (2005). *Employment is Not What it Used To Be: The Nature and Impact of Work Restructuring in South Africa*. In *Beyond the Apartheid Workplace: Studies in Transition*, edited by E. Webster and K. von Holdt. Scottsville: University of Natal Press.
- The Artist's Handbook*. (2008). *A Guide to the Business of the Arts*.
- The Journal of South African Economic and Management Sciences*. (2001). *The Performing Arts Network of South Africa and the Creative Workers Union; in The Artist's Handbook*.
- Triegaardt, J.D. (2006). *Transformation of Social Security in South Africa: Accomplishments and Challenges for Partnerships in Development*. DBSA. South Africa.
- Ndzimande, B. (2007). Address at the 1st Creative Workers Union of South Africa (CWUSA) Congress, September 2007, South Africa.
- Silver, B., (2003), *Forces of Labour: Workers' Movements and Globalization Since 1870*, Cambridge University Press, New York, USA.
- The local Swedish news*. (2008). <http://www.thelocal.se/14164/20080905/>.
- Standing, G. (1997). *Globalisation, Labour Flexibility and Insecurity: The Era of Market Regulation*. *European Journal of Industrial Relations*, 3(1).
- Vaghela, S.S. (2010). *Union Ministry of Textiles Unveils a Unique Health Insurance Policy for Handicraft Artisans*, accessed on 16 March, 2010, [www.indiawire.com/pressrelease/insurance/200703312424.htm](http://www.indiawire.com/pressrelease/insurance/200703312424.htm)
- Vavi, Z. (2007). Address at the 1st Creative Workers Union of South Africa (CWUSA) Congress, September 2007, South Africa.
- Wafawarowa, B. (2007). *WIPO International Conference on Intellectual Property and the Creative Industry*. Geneva. October 2007.
- Wallis, R. (2001). *Best Practice Cases in the Music Industry and their relevance for Government policies in developing countries* at [www.wipo.int/about-ip/en/studies/pdf/study\\_r\\_wallis.pdf](http://www.wipo.int/about-ip/en/studies/pdf/study_r_wallis.pdf).

Western Cape Department of Economic Development and Tourism MEDS. (2009). 2008/20099 Research: Performing Arts: Draft Final Report. 2009. [www.maynardville.co.za](http://www.maynardville.co.za).

Shri Shankarsinh Vaghela, Union Ministry of Textiles unveils a Unique Health Insurance Policy for Handicraft Artisans, [www.indiawire.com/pressrelease/insurance/200703312424.htm](http://www.indiawire.com/pressrelease/insurance/200703312424.htm)

▶ ISBN: 978-0-621-41317-5



labour

Department:  
Labour  
REPUBLIC OF SOUTH AFRICA