



CHAIRMAN'S REPORT – AGM 2022

Our Annual General Meeting brings us together once a year. It is a great privilege for your EXCO to carry your mandate, and it is with a great sense of satisfaction that we present to you a summary of all our activities for the past year.

This is an election year and we invited nominees to stand for election to serve on our Executive Committee for a 2yr period. Sadly, we bid farewell to three of our EXCO members who have opted to stand down, and I extend a special word of thanks to **Ashley Dowds**, **Motlatji Mjamba** and **Shadi Chauke** for their sacrifice and their contributions as ambassadors for our Guild.

Shadi Chauke asked to be excused prior to the expiry of her term, and we are enormously grateful that **Hungani Ndlovu** accepted a nomination and was elected to that post last year. It is only fitting that I acknowledge him officially at this AGM and thank him for the exceptional work he has conducted for SAGA. As required by our constitution, **Ashley's** and **Motlatji's** posts will be filled by the process of election, and we thank all our members who exercised their voting rights to appoint our new EXCO volunteers, who we will introduce later at this meeting.

I wish to thank all members of our EXCO for their diligence in the day-to-day management of SAGA business. My sincere thanks to our Administrator **Diakanyo Huma**, our labour partners UASA, our Skills Workshop Project Manager **Siyabonga Mngoma**, our media manager and copywriter, **Christopher van der Westhuizen**, and our legal advisor **Kelly Kropman**, who have all carried out their duties with unfailing dedication.

Most importantly, I thank all SAGA members for the trust you place in us and for being the reason our Guild has grown into a relentless force for industry change. We are proud to serve you.

My report today can best be described by the theme '**Outreach**'. Most of SAGA's activities over the past year have involved intensive lobbying within and outside our sector to help secure SAGA's position in two critical areas:

- Mobilising support for the **CAB and PPAB**.
- Mobilising support to secure actors' rights under a **Sectoral Determination** granted by the **Dept of Employment and Labour**.

I report now on SAGA's ongoing projects under these two headlines:

1. CAB/PPAB Activism

The bills were remitted to the Portfolio Committee last year, and fierce lobbying has given the Committee cause to review its stance on a number of critical areas that have resulted in new drafts of the bills that undermine their very purpose. Fair Use provisions that permit lawful exceptions to copyright protection is under threat, so too are actor royalties. Future royalty earnings from past contracts have been completely removed, according to the new draft.

SAGA embarked on extensive outreach campaigns to gain support for the provisions we will not compromise on:

- Of its own accord, the **EFF** initiated a stakeholder engagement process outside of Parliament to better understand the rights drafted into the CAB. SAGA made strong submissions in support of royalty rights for actors at this engagement. The **EFF** has subsequently adopted a stance in favour of actor royalties in their recommendations to the PC.
- Last year, **BlindSA** successfully argued before the Gauteng High Court for parts of the existing Copyright Act (1978) to be declared prejudicial to blind people and therefore unconstitutional. The motion succeeded and it fell to the ConCourt to ratify the order of the High Court. **BlindSA** led a demonstration to the ConCourt when the case was being heard earlier this month, and SAGA participated in the demonstration as a show of solidarity with BlindSA, and to promote our own interests in the bills. We were supported by **BlindSA**, **Section27**, **Right2Know** and **ReCreate**, who are all vocal supporters of actor royalties.
- SAGA facilitated a workshop on the rights of learners, educators and researchers, whose rights to Fair Use protection are also under direct threat by opponents to the bills. As affiliates of **UASA**, we were able to invite key **FEDUSA** affiliates working in the education sector. We have now secured a collaboration between **COSATU** and **FEDUSA** affiliates who will now lobby for the signing of the bills.
- In February this year, SAGA attended the **Africa Games Week** expo in Cape Town and we established links with major animation and on-line game producers. This strategic outreach exercise was two-fold: first, to propose standard contracts for voice actors and motion capture performers in this incredibly fast-growing sector of the entertainment industry. The second was to introduce game developers to important rights that pertain to game development that are contained in the bills.

Through this activism, SAGA has secured additional inputs in favour of the bills from sectors that were either ambivalent to, or ignorant of, the importance of the reforms contained in the bills. We are hopeful that the PC will use all these additional inputs to revise the bills into a new draft before they are submitted to the NCOP.

2. Dept of Employment and Labour

In 2019 the Dept of Employment and Labour embarked on a major stakeholder engagement in the Creative Sector to recommend the drafting of a **Sectoral Determination** that would allow freelance actors to maintain their status, while defining and protecting their rights in a more inclusive process of industry self-regulation.

It fell to individual organisations to draft for themselves the minimum rates and working conditions that would form the basis of a submission to the DEL that may then be gazetted by the minister as a Sectoral Determination. SAGA is working very closely with UASA to draft minimum standards for the unique working conditions of live theatre, film and TV production, voice work and commercials.

While it was expected that some industry organisations would attempt to subvert this drafting process, it was in fact the **Commercial Producers Association** that issued speculative warnings to industry organisations that a Sectoral Determination would allow Govt to exert direct control over our industry, and that freelancers would lose their freelance status and become employees.

To counter this misinformation, SAGA embarked on an outreach exercise to include in the drafting process the voices of several industry stakeholders that were not aware of the DEL stakeholder engagement process.

Since last year, SAGA has initiated discussions with the **SA Stunt Association (SASA)**, the **South African Casting Association (OSCASA)** comprising background actor agents, and agents for **on-set Safety Officers**.

OTHER MATTERS

TADA

The Theatre and Dance Alliance was established in 2021 out of a need for the theatre and live performance sector to be heard during the devastation of the COVID 19 pandemic. SAGA assisted with the drafting of the TADA Constitution and is a member organisation since its inception. TADA called for a forensic audit of the NAC misappropriation of funds and Exco member Adrian Galley assisted with the task.

TADA continues to lobby government to open theatres to fuller capacities, especially now where the 50% limitation is still applicable which is a deterrent for many independent productions to be financially viable to produce theatre.

The new National Steering Committee has recently been elected with Lesego van Niekerk as the Chairperson and Cornelia Faasen as the Deputy Chairperson, SAGA is a representative on the NSC. TADA is in the process of negotiating with all role players to submit to the DEL terms for a Sectoral Determination in live performance.

We have facilitated links between these organisations and UASA, who continues to help align all our submissions with the case they are building in favour of a Sectoral Determination. Through this process, SAGA has helped build more substantial support for the DEL process by increasing the number of industry organisations demanding a Sectoral Determination as the basis for industry self-regulation.

In addition, SAGA has made submissions to a number of independent social policy activist groups, that have a focus on Constitutional issues. We have brought our case to:

- Rivonia Circle
- Public Private Growth Initiative
- Goethe Institute
- South African United Business Confederation
- Pan-African Business Chamber

We have established a strong network of influential organisations that see the enormous potential of our sector as an engine for broader economic growth, if it can be regulated fairly. All these organisations support the DEL initiative and SAGA will be making final submissions to UASA before the end of June.

3. Streamers

SAGA is delighted that we have a growing number of subscriber-based streaming platforms in SA. They are here to commission work and create content. This is a good thing for work. However, when Netflix arrived in the country SAGA asked their legal team at an in-person meeting how they intended to navigate our industry which had no real regulatory framework, compared to the other territories in which they had a presence. They said they were happy to work with standard practices in South Africa and that they would be selective about the producers they commissioned to keep a check on unfair actor contracts.

Three years later, and in many respects, Netflix productions are disastrous for actor rights, and Netflix executives decline SAGA's every request to meet. They refer us instead to producers, who in turn, refer us back to Netflix.

There is a very real danger that every other streaming platform will adopt exactly the same approach as Netflix, and we may see the accelerated erosion of actor rights in a very short space of time. SAGA has raised this with FIA, and we will hopefully convene a meeting with specialist streaming working groups within FIA to develop a strategy for South Africa.

4. WGSA/NFVF

SAGA is not the only industry body with serious concerns about Netflix. The WGSA reported to us that writers on Netflix productions are as exploited by unfair rates and working conditions as actors, and suggested we refer our shared concerns to the NFVF. The reason it was agreed to approach the NFVF is because last year this agency of the DSAC proudly announced its investment in several Netflix productions with the objective of generating work for writers, actors, directors and crew, while the industry was still reeling from the stifling effects of lockdown regulations.

The problem is two-fold: first, that the NFVF did not concern itself that Netflix contracts were restrictive and unfair to the working rights of writers and actors. They simply allocated the budget, made their media announcement, and walked away. The second problem is that according to the NFVF itself, its mandate does not include actor rights. This is confusing because the SAFTA Awards for example, is an annual awards event that celebrates, among other categories, exceptional acting talent. How does the NFVF disavow itself of actor-related issues, but still celebrate performers with red carpet celebrations and award actors the legendary Golden Horn?

This was one of our questions to NFVF in April at a meeting with them and WGSA. There was no satisfactory response so SAGA, together with WGSA will pursue this with NFVF in a formal letter which will be sent to them by the end of this month. Most importantly, we wish to understand how the NFVF can simply secure a collaboration with Netflix when it takes no further interest in the exploitative contractual provisions in the performer's contract. These questions have no immediate resolution, and we will pursue this until NFVF either takes responsibility for performer rights as part of its mandate, or stops doing deals on behalf of actors where actors have no input, and we are simply hung out to dry.

Thank you for your attention. I look forward to your questions.

Jack Devnarain – SAGA AGM, May 2022