

# **Why getting an agent is critical, to make it in the creative industries**

**In the creative industries, the talent is often represented by middle men, who reach out to end customers, and find avenues whereby, and marketplaces on which, the products and/or services and skillset of the talent they represent are marketed, sold, distributed, licensed, etc. So, in the art world, these middle men are art galleries and auction houses. In the book publishing sector, these middle men are called literary agents, while in the film industry, those representing the above-the-line talent (actors, directors, writers) are called**

**acting agents and agencies. Even music composers have their own composer agents, with a handful of players in this niche, in France and the United Kingdom (“UK”). So, why do you need an agent, as a creative? How do you find an agent? How will your relationship with the agent work?**



**1. Why do you need an agent, as a creative?**

As a creative, as a talent, you have mostly honed your creative skills, be it your painting skills, your sculpting skills, your acting skills, your writing and literary skills, your fashion design skills, etc.

This is a completely different skill set than the one needed to:

- getting substantial work in your creative field, relying on smooth marketing tactics, social media and public

relations skills;

- networking with the major players in your creative field, be it the most bankable film directors, the most skilled film producers, the stalwart book publishers, the most wealthy art collectors, the largest fashion brands who will hire you as a model for their catwalk presentations, etc.
- negotiating sales, licensing, distribution agreements;
- negotiating service providers agreement to act in a film or write the musical composition and soundtrack to a film;
- negotiating publishing agreements of a literary work with books publishers and online content providers;
- managing, in a strategical and optimal manner, the career of the talent, and
- doing some reputation management work, when and if the career and image of a talent is getting tarnished for some reason.

Well, in a nutshell, you have the required job description of an agent, set out above!

This is why you need an agent: because he or she will do all the things mentioned above, for you, in order to enhance your career as a talent, and get you some jobs, some bookings or some sales, depending on what you have to offer.

Also, there are very low barriers to entry to most creative fields, since everyone can become a player in that field without having to obtain a particular practising license or authorisation from one's government to become an artist, a book author, a painter, an actor, a film director, etc.

Indeed, unlike regulated industries, such as the legal

profession, the medical profession, the accountancy profession, the banking and finance profession, creatives do not need to pass any stringent test or exam to be granted the right to work their creative jobs.

Therefore, the gatekeepers in the creative industries are the agents: since it is in their interest to only work with the best talent, they will pick and choose only the most successful and skilled gamers, designers, artists, painters, actors, film directors, writers, models, music composers, etc. to represent.

So, if you want to be part of the club, in your creative field, and land those big fat contracts, you must find yourself a good agent.

## **2. How do you find an agent?**

Most of the time, it is by word of mouth, or through connections that one finds an agent.

Of course, being an alumni from a prestigious creative school, such as the National Film and Television School ("**NFTS**"), in the UK, or the Royal Academy of Dramatic Art ("**RADA**") helps tremendously, especially since agents love mingling with young graduates there, attending their final and graduation presentations and reviewing their final graduation projects, to assess the amount of talent such graduates may have.

Think Alexander McQueen, the famed, and now deceased, fashion designer who was immediately spotted as a major player among top fashion designers, by the most elitist fashion press, when he presented his MA graduation collection, at his college Saint Martin's in 1992.

Having a family member or friend in the business also helps, and there are countless examples of film actors who gave a major push to their offsprings, in France, the UK and the United States ("**US**") by "connecting them" to their agents.

If you are not one for nepotism, then you could also approach and cold-call the best agents for your particular creative field, and present them with your portfolio of works and CV, in the hopes that they will retain you as their client. However, this route is the toughest one, and you will probably get a lot of rejections, if and when you get picked by an agent.

The web is an excellent source of information to find the best agents in your creative field, in France, the UK and the US.

For example, on the best articles I have ever read on the highly-secretive agenting business is "*Le fascinant business des agents de stars*", which dissects the rarified group of famous acting agents in Paris, France.

### **3. How will your relationship with the agent work?**

The agenting business is mostly an unregulated one, although France, ever the formalistic one, has put in place some rules and regulations relating to the agenting profession in its labour code and a decree on the remuneration of artistic agents, which caps the agents' earnings at 10 percent of the gross remunerations paid to the talent.

The excellent French streaming series, "*10 pour cent*" ("Call my agent" on English streaming channels) gives a great example of what acting agents do, for a mere 10 percent of the actors' earnings.

In the UK and the US, there is way more of a "*laissez-faire*" approach to the agenting business, although the UK has some statutory regulations set out in the Employment Agencies Act 1973 and the Employment Businesses Regulations 2003, which set some standards in terms of:

- providing relevant information and advice to the agents'

clients (i.e. the talent);

- conducting all affairs on behalf of the agents' clients, and
- keeping records, in particular of the contracts and visa application processes, entered into by the agents' clients during the course of the creative activities.

UK and US agents usually get 15 percent commissions, although I have seen percentage rates going as high as 50 percent, in the case of art galleries selling consigned art works on behalf of artists they represent.

These discrepancies in the commission rates, and the various obligations owed by the agent to the talent, are caused by the variance in the provisions set out in the representation agreements entered into between the talent and his or her agent. Since the "freedom to contract" principle applies, the terms of the contractual agreements entered into between the parties are left mostly to the freedom of those parties, except for the rare statutory points mentioned above.

Very often, at our law firm Crefovi, we get approached by creatives who signed very poorly drafted, and very unbalanced, representation agreements with their agents in the past. Therefore, we support them in terminating such agenting agreements, while attempting to recover any earning unpaid to them by these agents.

Therefore, as a talent, it is always advisable to instruct an entertainment lawyer, in order to review, amend and negotiate the terms of any draft representation agreement sent by the agent, before such talent signs it.

Also, it is useful to become a member of a trade union for creative practitioners, such as Equity, which may provide you with ongoing career, business and legal advice, along the way.

If you want to be successful in the arts, you need a top agent in your creative field to represent you. However, an agent is not your friend, but your future business partner, so you need to establish some clear, transparent and fair working conditions with him or her, from the outset. The best way to achieve this is to instruct a seasoned entertainment lawyer, like us at Crefovi, to negotiate such representation agreement for you. Then, it should be plain sailing, a lot of hard work and, hopefully, success and recognition at the end of the line, in your creative field!

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