



Setting the record straight on the ABC Test and the Protecting the Right to Organize (PRO) Act

The International Alliance of Theatrical Stage Employees (IATSE) and our members have been in the “gig economy” since 1893

- Work in the entertainment industry is primarily project, or “gig” based, meaning most workers perform work outside of what is considered “regular employment.” Regular employment is expected to continue on an ongoing basis, as opposed to project-based/“gig” work which has set end dates.
- Some productions, or “gigs”, are only ongoing for a short time before they wrap. Project-based work in live events can be as short as a few hours for a concert, multiple weeks or months for a touring production, or even a couple years for a successful Broadway show. Project-based work in film and television production can be as short as a few hours for a commercial shoot, multiple months for a film production, or a couple years for a recurring television series.
- Entertainment workers can have multiple, if not dozens, of employers in a given year – but that is typical and does not make them independent contractors.
- Not all “gig workers” are independent contractors. Our union of behind-the-scenes entertainment workers exists because “regular employment” isn’t the sole basis on which the federal government determines what workers are covered by the labor rights outlined in the National Labor Relations Act (NLRA). Every worker covered by an IATSE contract is classified as an employee, but that doesn’t prevent our members from pursuing the independent contractor model if they so choose.

Hollywood is proof that unions and freelancing can not only coexist, but thrive. The PRO Act and the ABC test would not change that.

- The IATSE Basic Agreement – a national contract covering several of our locals and crafts, where the major studios negotiate as a group with our International – is structured to set minimum wage rates, benefits, and conditions for workers in film and television, but it allows for workers who choose to incorporate to negotiate terms and conditions that are above the minimums set by the agreement.
- For various reasons, some people working in the motion picture and television industry choose to form their own loan-out corporations. Nothing in the Basic Agreement prohibits this practice. As a result, employees working directly for a producer and employees working for a loan-out company coexist in the same workplace – film sets – and work under the same collective bargaining agreement.

- The ABC Test within the PRO Act does not affect workers' freedom to incorporate and choose that model if it is right for them, as the film and television production industry has shown for decades. Under the union contract, workers can be employed by either the producer or their loan-out company.

Worker misclassification is a serious issue for entertainment workers. The PRO Act and the ABC test would help remedy that.

- Non-union crewing services in the live event industry perpetuate sub-standard wages, benefits, and conditions through intentional worker misclassification. These labor subcontractors refer and dispatch workers to work another company's event for far less than our established standards by misclassifying them as independent contractors.
- The outdated employee vs. independent contractor standard enables, and even encourages these companies to misclassify workers as a union-avoidance tactic.
- There have been numerous instances of stagehands at non-union crewing services attempting to join together in union and voting to be represented by the IATSE, only to have those workers declared to be independent contractors - dissolving the union their workers overwhelmingly voted for.
- Tackling this type of misclassification is why the PRO Act includes the ABC test as the standard for determining who is an employee for purposes of forming a union under the NLRA. The PRO Act only affects the NLRA: It uses the ABC test to determine who enjoys bargaining rights under the NLRA.
- The only thing the ABC test within the PRO Act would change is that more workers would have the right to union representation if they wanted it. Workers must still decide to join together, vote to form a union, and negotiate as a group. Those not wanting to organize a union or engage in collective action would be unaffected.

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The International Alliance of Theatrical Stage Employees or IATSE (full name: International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada), is a labor union representing over 150,000 technicians, artisans and craftspersons in the entertainment industry, including live theatre, motion picture and television production, broadcast, and trade shows in the United States and Canada.