

**CENTRAL ARBITRATION COMMITTEE**  
**TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992**  
**SCHEDULE A1 - COLLECTIVE BARGAINING: RECOGNITION**  
**DECLARATION OF RECOGNITION WITHOUT A BALLOT**

**The Parties:**

BECTU

and

The Rio Centre (Dalston) Limited

**Introduction**

1. BECTU (the Union) submitted an application to the CAC dated 2 December 2014 that it should be recognised for collective bargaining by The Rio Centre (Dalston) Limited (the Employer) for a bargaining unit comprising “All grades and categories of staff employed by Rio Cinema (Dalston) Limited except for the General Manager”. The stated location of the bargaining unit was 107 Kingsland High Street, London E8 2PB. The application was received by the CAC on 3 December 2014 and the CAC gave both parties notice of receipt of the application on 4 December 2014. The Employer submitted a response to the CAC dated 18 December 2014 which was copied to the Union.

2. In accordance with section 263 of the Trade Union and Labour Relations (Consolidation) Act 1992 (the Act), the CAC Chairman established a Panel to deal with the case. The Panel consisted of Professor Gillian Morris, Chairman of the Panel, and, as Members, Mr Arthur Lodge and Ms. Judy McKnight CBE. The Case Manager appointed to support the Panel was Nigel Cookson.

3. By a decision dated 12 January 2015 the Panel accepted the Union's application. The parties then had a period of 20 working days starting with the day after that on which the CAC gave notice of acceptance of the application to reach an agreement on the appropriate bargaining unit. As no agreement was reached, the parties were invited to supply the Panel with, and to exchange, written submissions relating to the question of the determination of the appropriate bargaining unit. Following a hearing in London on 16 February 2015, the Panel, in a decision dated 20 February 2015, determined that the appropriate bargaining unit was that proposed by the Union in its application, namely "All grades and categories of staff employed by Rio Cinema (Dalston) Limited except for the Executive Director".<sup>1</sup>

### **Issues**

4. Paragraph 22 of the Schedule to the Act (the Schedule) provides that if the CAC is satisfied that a majority of the workers constituting the bargaining unit are members of the union, it must issue a declaration of recognition under paragraph 22(2) unless any of the three qualifying conditions specified in paragraph 22(4) applies. Paragraph 22(3) requires the CAC to hold a ballot even where it has found that a majority of workers constituting the bargaining unit are members of the union if any of these qualifying conditions is fulfilled. The three qualifying conditions are:

- (i) the CAC is satisfied that a ballot should be held in the interests of good industrial relations;**
- (ii) the CAC has evidence, which it considers to be credible, from a significant number of the union members within the bargaining unit that they do not want the union to conduct collective bargaining on their behalf;**
- (iii) membership evidence is produced which leads the CAC to conclude that there are doubts whether a significant number of the union members within the bargaining unit want the union to conduct collective bargaining on their behalf. Paragraph 22(5) states that "membership evidence" is (a) evidence about the circumstances in which union members became members, or (b) evidence about the length of time for which union members have been members, in a case where the CAC is satisfied that such evidence should be taken into account.**

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<sup>1</sup> At the hearing on 16 February 2015 the Union explained that it had intended to exclude from its proposed bargaining unit the single individual at the top of the organisation who was appointed directly by the Employer's Board. At the time of the Union's request to the Employer and application to the CAC this individual was the General Manager; at the time of the hearing it was the Executive Director. The Employer stated that it had no objection to the term "Executive Director" being substituted for that of "General Manager" and for the description of the bargaining unit as amended to be treated as the Union's proposed bargaining unit for the purposes of the Schedule: see decision of 20 February 2015, para 8.

### **The Union's claim to majority membership**

5. In an email to the Case Manager dated 24 February 2015 the Union confirmed that the majority of the workers within the bargaining unit were members of the Union and stated that this had been established independently by the CAC.

6. In the same email the Union stated that it believed that the Employer had, in a letter dated 6 February 2015, confirmed to the Union and the CAC its willingness to enter into a voluntary recognition agreement<sup>2</sup> and that the Union could see no need to hold a ballot as it believed good industrial relations already existed.

### **The views of the Employer**

7. The Union's email of 24 February 2015 was copied to the Employer and the Employer was invited to lodge any submissions it wished to make on the Union's claim to majority membership and on the qualifying conditions set out in paragraph 4 above by the close of business on 2 March 2015. No submissions were received from the Employer by the expiry of this deadline nor was any request made by the Employer for this deadline to be extended.

### **Considerations**

8. The Act requires the Panel to consider whether it is satisfied that the majority of the workers constituting the bargaining unit are members of the Union. If the Panel is satisfied that the majority of the workers constituting the bargaining unit are members of the Union, it must then decide if any of the three conditions in paragraph 22(4) is fulfilled. If the Panel considers that any of them is fulfilled it must give notice to the parties that it intends to arrange for the holding of a secret ballot.

9. The membership check issued by the Case Manager on 24 December 2014, described in paragraphs 17-19 of the acceptance decision dated 12 January 2015, showed that 16 (59.26%) of the 27 workers in the bargaining unit were members of the Union. The

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<sup>2</sup> This related to a bargaining unit which excluded senior managers.

Employer has not sought to argue for the purposes of this decision that the Union does not have majority membership nor has it indicated that any of the workers have left the bargaining unit, or have joined, since the membership check was conducted. The Panel itself notes that, as a result of the inclusion in the bargaining unit of the General Manager subsequent to the membership check of 24 December 2014,<sup>3</sup> the number of workers in the bargaining unit has increased from 27 to 28. The Panel also notes that, even on the assumption that the General Manager is not a member of the Union, this change would result in a membership level of 57.14%. Therefore, in the absence of evidence to the contrary, the Panel is satisfied that the majority of workers in the bargaining unit are members of the Union.

10. The Panel has considered carefully whether any of the qualifying conditions set out in paragraph 22(4) is fulfilled.

11. The first condition is that the Panel is satisfied that a ballot should be held in the interests of good industrial relations. The Panel has not received any evidence that a ballot should be held in the interests of good industrial relations and is not satisfied that this condition is fulfilled.

12. The second condition is that the CAC has evidence, which it considers to be credible, from a significant number of the union members within the bargaining unit that they do not want the union to conduct collective bargaining on their behalf. The Panel has no such evidence and the Panel has therefore concluded that this condition does not apply.

13. The third condition is that membership evidence is produced which leads the CAC to conclude that there are doubts whether a significant number of the union members within the bargaining unit want the union to conduct collective bargaining on their behalf. No such evidence has been produced and the Panel has therefore concluded that this condition does not apply.

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<sup>3</sup> See note 1 above., The Employer explained at the hearing on 16 February 2015 that, following the appointment of the Executive Director, the General Manager was on the same level as the four other senior managers who were below the Executive Director.

## **Declaration of recognition**

14. The Panel is satisfied in accordance with paragraph 22(1)(b) of the Schedule that the majority of the workers constituting the bargaining unit are members of the Union. The Panel is satisfied that none of the conditions in paragraph 22(4) of the Schedule are fulfilled. Pursuant to paragraph 22(2) of the Schedule the CAC must issue a declaration that the Union is recognised as entitled to conduct collective bargaining on behalf of the workers constituting the bargaining unit. The CAC accordingly declares that the Union is recognised by the Employer as entitled to conduct collective bargaining on behalf of the bargaining unit comprising “All grades and categories of staff employed by Rio Cinema (Dalston) Limited except for the Executive Director”.

## **Panel**

Professor Gillian Morris, Chairman of the Panel

Mr Arthur Lodge

Ms Judy McKnight CBE

9 March 2015