

First contractor job losses seen from agency workers legislation

The London-based UK [Direct Marketing Association](#) has warned of contractor job losses should the [Agency Worker legislation](#) be enacted. It is the first concrete indication that the legislation, whether put through the House of Commons or imposed by the European Council of Ministers, will undoubtedly cost contractors work.

As direct marketers make considerable use of IT contractors for database work, this could hit our industry at the heart.

Proof the Unions Are Wrong

Trade unions have claimed that the new legislation would have no effect on contractor jobs. This announcement, which may be only one of many, is the first proof that the trade unions are wrong.

In fact, the London-based [Confederation of British Industry](#) research predicts losses of 250,000 of jobs for all of us contractors. The legislation would oblige us contractors to have the same rights as employees.

Costs Will Be Too High

In a statement made on February 26, the Direct Marketing Association announced that if the legislation is put through in its current form, direct marketers are expected to reduce the use of UK-based contractors and are likely instead to look into outsourcing work overseas during busy periods instead.

Says Michelle Wicker, legal and public affairs adviser at the DMA: "the additional costs imposed under this legislation will clearly limit the ability of direct marketers to engage contractors."

Wicker also commented on the quality of the legislation: "Tighter definitions would make the directive more workable within the direct marketing industry." Many observers have pointed out issues in definition in the new legislation, both at the European Union and national level. The greatest problem is the period in which a contractor would "qualify" for employment rights. The proposal before the European Council of Ministers would make such "qualification" occur after 6 days of work. The UK national proposal would make it a month, although the CBI is working to lengthen that period to one year.

Exemptions Proposed

The DMA is also seeking to create "exemptions" from the new legislation. This is an entirely new approach, one that would be based on sector. The proposal would seek to make specific businesses an area to which the [Agency Workers legislation](#) would not apply. Says Wicker: "Ideally certain areas of the industry such as field marketing should be exempt from the legislation." The DMA is in discussions with the CBI on the implementation of such a proposal. The CBI could not comment on it at this writing.

Although Wicker could not give details on how the DMA understood that such an exemption would be applied, there are unquestionable practical difficulties of such application. The European Commission might well take a dim view of opt-outs of this type from laws that are supposed to be applied in the same way across 28 Member States. The group of private members in the House of Commons who are backing the national legislation have made it clear that the same rules are intended to apply to everyone-- they are demanding the same rate for the same job.

Nonetheless, the DMA proposal is an interesting move which could perhaps offer a way to settle this ongoing dispute between the trade unions and the Confederation of British Industry which is still lobbying hard to defeat the proposal.

Gordon Brown is still attempting to mediate between the labour unions and the CBI with a proposal to create a commission to rule on matters like the "qualification" period. For now both the unions and the CBI have distanced themselves from this proposal

The national legislation is now headed for a committee reading. John Cridland, deputy director-general of the CBI, hopes that it can be blocked at that stage. "If successful this bill would harm the economy and put jobs at risk, but we are confident that its deficiencies will be exposed at Committee stage," Cridland says.

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Michelle Wicker - Direct Marketing Association

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John Cridland - CBI

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