



AQTIS acquires the APVQ-STCVQ Federation's certification

On February 23, 2005, the Tribunal rendered Decision 2005 CAPPRT 049, granting an application filed by the Alliance québécoise de l'image et du son (AQTIS). AQTIS is the result of a merger between the Syndicat des techniciennes et des techniciens du cinéma et de la vidéo du Québec (STCVQ) and the Association des professionnelles et professionnels de la vidéo du Québec (APVQ). AQTIS was asking the Tribunal to determine that as a result of the merger, AQTIS is the successor to the federation consisting of the APVQ and the STCVQ pursuant to section 30 of the *Status of the Artist Act* (SAA). A notable consequence of such a succession would be that AQTIS would succeed the Federation as the certified association in the certification granted by the Tribunal in Decision 2003 CAPPRT 041.

It was the first time the Tribunal had to consider an application under section 30 of the SAA. The Tribunal framed its analysis around two criteria. For the first criterion, the Tribunal had to determine whether a merger had indeed taken place and, if so, determine what consequence the merger had as to AQTIS' rights and obligations under the SAA (e.g. certification). The Tribunal noted that both the merging entities and AQTIS were entities incorporated under Quebec's *Companies Act*. The Tribunal determined that the issuance by the proper authorities of letters patent of merger was enough to show that a merger had indeed taken place. As the APVQ and the STCVQ were the only members of the certified federation, the Tribunal concluded that AQTIS succeeded the Federation in the latter's rights and obligations under the SAA.

Since the succeeding association would in fact become the certified association for the sector, for the second criterion the Tribunal subjected AQTIS' statutes and by-laws to the prerequisites for certification set out in section 23 of the SAA. The Tribunal concluded that AQTIS' statutes and by-laws did in fact satisfy the prerequisites in that, for example, they prohibited discrimination, provided voting rights for regular members and gave members the right to access the association's financial statements.

Interview with Mr. David P. Silcox, Tribunal's third and current Chairperson



During the Tribunal's tenth year of operations, we are conducting interviews with the Tribunal's past and current chairpersons. The previous two bulletins featured interviews with the founding Chairperson, Senator Marie-P. Poulin, and its second Chairperson, Mr. André Fortier.

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The current bulletin features the following interview with the Tribunal's third and current Chairperson, Mr. David P. Silcox. Executive Director and General Counsel, Joséé Dubois, met with Mr. Silcox to ask his views on what the Tribunal has achieved and what challenges it faces. Mr. Silcox became a Tribunal member in 1995 and has been its Chairperson and Chief Executive Officer since 1998.

JD: Over your almost ten years, what kinds of cases has the Tribunal dealt with?

DPS: Initially, nearly all the cases and hearings were about certification. It was simply a matter of laying out the field and keeping an eye on whether the Tribunal was covering, one step at a time, the entire field for which it was responsible. That took some initiative and it took a while before the whole field was covered with suitable certifications. At the same time, of course, we were busy establishing the general principles that we wanted to operate under, for example, how language will affect certification—whether to be narrow or broad in national terms when we certify certain associations. We were learning how to interpret the *Act*, and we were refining our ways of dealing with intervenors and the parties before us and of arriving at decisions on the matters before us. After the certification process ran its course for two to three years, we dealt more with complaints, refinements in the definitions of the sectors for bargaining, jurisdictional matters and so on.

JD: What do you think the Tribunal achieved in these years?

DPS: Well, I would say that starting from zero, practically from zero, the Tribunal established a comprehensible, functional and acceptable regime for good relations between artists and producers. It is a system that is fair; it is based on practices and roles that are understood and accepted on both sides, and it is tailored to the cultural sector's very special needs and

requirements. There are 24 artists' associations that have been certified to bargain in defined sectors of activity. There are 25 new agreements that did not exist before and about 65 agreements in total between artists' associations, and broadcasters and federal institutions. The cultural sector is now recognized as a proper area for collective bargaining and I think it has been a basis for good treatment of artists as envisaged by the original UNESCO recommendation in 1980.

JD: What are the current challenges facing the Tribunal in its tenth year?

DPS: I think the greatest problem is that Canada is one of the few countries in the world to adopt a comprehensive response to UNESCO's call for status of the artist legislation. The federal jurisdiction is small compared to the vast majority of labour relations which are the responsibility of the provinces. The largest challenge is having the provinces adopt a parallel or similar regime. So far, only the province of Quebec has done that but I am optimistic that other provinces will move forward in this area. The second challenge we face, having worked with the *Act* for a decade, is to obtain some amendments so that it will become a more effective tool for the artists and producers of Canada. For example, obtaining provision for the arbitration of first agreements. Revision of the *Act* is something which is in the works and I hope it will be successful.

JD: Do you think that the Tribunal, with its small number of part-time members and small staff, can deal effectively with the business at hand?

DPS: The Tribunal is remarkably effective and efficient. It has managed its business exceptionally well and with expedition. It is transparent in all it does and in putting its information forward and out in the eyes of the public and its client groups in a manner that is quite exemplary. It is also a leader in the training of

all tribunal members at the federal level and was helpful in setting up the institute which now trains federal tribunal members. It has been a leader in setting up ethics modules and guidelines for all tribunal members and has been involved with the Canadian Council of Administrative Tribunals.

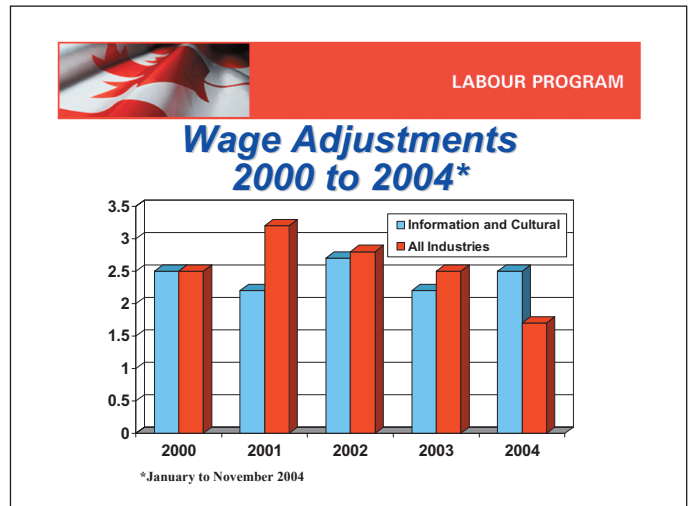
JD: Do you wish to add any other comments?

DPS: Perhaps simply an observation that artists and producers need to be treated as fairly as all other workers and enterprises. The cultural sector in Canada is huge in dollar terms, the fourth largest in terms of percentage of GDP and the sixth largest in terms of payroll. Despite this, the sector gets insufficient priority with all levels of government. That is something that we have to keep working at.

CAPPRT meets with artists' associations in Toronto and Montreal

As part of its 10th anniversary activities, CAPPRT is organizing meetings with artists' associations and producers to discuss collective bargaining under the *Status of the Artist Act* with the objective of assisting the parties to carry out successful negotiations.

In February, meetings with artists' associations took place in Toronto and Montreal. CAPPRT Executive Director, Josée Dubois, explained the mediation assistance available under the *Act* and the other rights and obligations of parties with respect to collective bargaining. Ms. Céline Laporte, from the Workplace Information Directorate of the department of Human Resources and Skills Development Canada, explained the information her services makes available to parties preparing for negotiations—information ranging from wage trends to the comparative analysis of collective agreement provisions on pensions benefits and most



Source: Presentation by Ms. Céline Laporte

other provisions, in specific industry sectors and/or regions of the country. This information is free of charge, and available for the asking or already on-line (1-800-567-6866, www.hrsdc.gc.ca/en/lp/wid/info.shtml).

Afterwards, artists' associations exchanged information on successes and difficulties encountered in bargaining. Among the difficulties expressed were: inadequate financial and human resources for engaging in bargaining; needed amendments to the *Act* such as provision for first contract arbitration; sub-contracting by producers, and the need for a producers' association for federal government producers. Artists' associations were anxious to know the status of the follow-up to the recommendations in the 2003 report on the statutory evaluation of the *Act*. We clarified that the department of Canadian Heritage is responsible for following up on the evaluation report.

CAPPRT will be organizing similar meetings with the broadcasters and federal government producers in the coming months.

CCA Conference on status of the artist

The Canadian Conference of the Arts (CCA) held its national policy conference on status of the artist in Regina on November 20-21, 2004. It brought together 150 members of the arts and culture community from across the country to discuss the state of status of the artist in Canada and how to move forward on this issue.

At the conference, Saskatchewan Minister of Culture, Youth and Recreation, Joan Beatty, released the final report of the Minister's Advisory Committee on Status of the Artist. The report contains recommendations on a variety of issues including benefits and taxation, and education and training. With respect to collective bargaining, the report recommends a two-pronged approach: one dealing with negotiations between individual artists and engagers, and the other dealing with negotiations between groups of artists and engagers or groups of engagers. For both approaches, the proposed regime would be binding for public institutions and publicly funded institutions, and voluntary for the private sector. The government indicated it has already implemented some of the report's recommendations and will continue work on addressing all of them. The report is available on the Internet at: [http://www.cyr.gov.sk.ca/assets/pdf/Final%20MACSA%20FINAL%20REPORT\(letter\).pdf](http://www.cyr.gov.sk.ca/assets/pdf/Final%20MACSA%20FINAL%20REPORT(letter).pdf).

CAPPRT presented a skit on the federal *Status of the Artist Act* to raise understanding of the collective bargaining regime in the *Act*, CAPPRT's role and the results so far. Notes for the skit are available on the Internet at: <http://www.capprt-tcrpap.gc.ca/news/2004-e.html>.

In addition to collective bargaining legislation, various issues related to status of the artist—such as taxation, a federal advisory council on the status of the artist and an Aboriginal model of association—were discussed. CCA's report on the conference is available on the Internet at: <http://www.ccarts.ca/en/advocacy/bulletins/5804.htm>.

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Are you currently preparing a course or organizing a conference on professional relations in the cultural sector?

Tribunal personnel are available to make presentations regarding the *Status of the Artist Act* and the role, procedures and activities of the Tribunal.
