



NOTES FOR EDUCATIONAL PRESENTATION

Canadian Conference of the Arts National Conference
From Act to Action: Moving Forward on Status of the Artist

Regina
November 19, 2004



What is Part II of the federal *Status of the Artist Act*?

- Part II is a collective bargaining regime for self-employed artists and producers under federal jurisdiction—responsibility of the Canadian Artists and Producers Professional Relations Tribunal.
- Part I concerns the Canadian Council on the Status of the Artist—responsibility of the Department of Canadian Heritage.

Who is covered by the *Act*?

- Self-employed artists:
 - Authors covered by the *Copyright Act*, e.g. writers, photographers, visual artists, composers
 - Performers, e.g. actors, musicians and singers
 - Directors
 - Designers, e.g. set, costume, camera work, lighting and sound, and other contributors to the creation of productions
- Producers:
 - Broadcasters regulated by the CRTC: Radio, TV, Internet
 - Federal government departments and most federal agencies and crown corporations (e.g. Canada Post, National Arts Centre, National Film Board)

What about writers, actors and others working for independent film production companies? What about self-employed artists working in live theatre?

- They are not covered by the *Status of the Artist Act* unless they are providing services to federal government institutions like the NAC.
- Under the Canadian Constitution, independent film producers, live theatre, art galleries, in fact most artistic work, fall under provincial authority or jurisdiction, not federal jurisdiction.
- Provinces have the authority to pass laws regulating labour relations between most producers and artists.

Why would artists engage in collective bargaining with a producer? Why have such a legal regime?

- The purpose is to negotiate an improvement in conditions of work and pay and to sign a scale agreement which sets minimum terms and conditions.
- Collective bargaining is one tool which artists have to gain recognition and raise their standard of living.

Why would producers engage in collective bargaining with artists?

- Most producers, like employers, probably believe it would be better not to have collective bargaining. However there are pluses for them.

- An artists' association represents artists in collective bargaining; so a producer has a representative of a particular group of artists to discuss any matters with, thus facilitating positive relations in the workplace.
- With a scale agreement in place, producers can plan their projects, knowing the minimum conditions and pay in the sector.
- When artists are recognized, have equal rights to other workers and have decent pay and working conditions, they are more likely to remain in the sector, thus ensuring a supply of highly skilled and motivated artists for the producers.

What difference does it make if there is a status of the artist law? We had voluntary bargaining before.

- The law provides certain protections and imposes certain obligations on artists and producers.
- For example, for artists:
 - When they send a notice to bargain to a producer, the producer is obligated to meet with them, and begin bargaining with the objective of entering into a scale agreement.
 - An artists' association can make a complaint if the producer is not bargaining in good faith.
 - An artists' association is certified by the Tribunal to represent a group of artists in bargaining; no other artists' association can replace it except under certain circumstances.
 - An artists' association cannot discriminate against artists in representing them.
 - Scale agreements signed between producers and artists' associations must be adhered to or there are consequences.
- For artists and producers:
 - Mediation services to help in bargaining are available free of charge through the Minister of Labour.
 - Pressure tactics are legal with some conditions attached.
 - Complaints regarding non-adherence to the *Act* can be made to the Tribunal.

What does the Tribunal do?

- It certifies an artists' association to represent a group of artists in bargaining with a producer.
- It deals with complaints of unfair bargaining and other matters brought forth by artists, artists' associations and producers.

Who is the Tribunal?

- It is composed of a maximum of six members, all appointed by the Governor in council.
- They are all part-time members and are called on as needed.
- They all have experience in the arts and/or labour relations.

- David Silcox, well-known art historian and writer, is the Chairperson; John Van Burek, theatre director, teacher and translator, is one of the members.

Is the Tribunal a board like the board of the CCA or of the National Arts Centre?

- No, the Tribunal members' responsibility is to deal with cases submitted by artists, artists' associations and producers.
- There is a Tribunal Secretariat that is responsible for the day-to-day operations—preparing cases, looking after communications and finances, preparing and submitting reports to Parliament, etc.
- Josée Dubois is responsible for the day-to-day operation of the Secretariat and reports to David Silcox. The other members have no responsibility for the operations of the Secretariat.

Does the Tribunal get its orders from the government?

- The Tribunal is something like a court—it is a quasi-judicial or administrative Tribunal with experts from the field responsible for making the decisions.
- It is independent from government with respect to its decisions on cases, like the courts are independent from government.
- It reports to Parliament through the Minister of Labour, who tables its annual report and budget documents in Parliament and it receives a budget from Parliament.
- The staff of the Tribunal Secretariat are public service employees.

What has the Tribunal done up to now?

- The Tribunal started operations in May 1995 and will celebrate its tenth birthday in May 2005.
- It has certified 24 artists' associations to represent artists in bargaining. These include ACTRA, Union des artistes, Canadian Actors Equity, la Société des auteurs de radio, télévision et cinéma, the Directors Guild, the American Federation of Musicians and CARFAC.
- It has dealt with complaints for failure to bargain in bad faith, and requests from artists' associations to make changes to the kinds of artists they represent and other matters.
- Certified artists' associations and producers have negotiated some 65 scale agreements; at least one third of those are new agreements that were negotiated since the certification of the respective artists' associations.