

5. INTERPRETATION	5. DÉFINITIONS
<p>In this Part,</p> <p>“artist” means an independent contractor described in paragraph 6(2) (b);</p> <p>“artists’ association” means any organization, or a branch or local thereof, that has among its objectives the management or promotion of the professional and socio-economic interests of artists who are members of the organization, and includes a federation of artists’ associations;</p> <p>“Minister” means the Minister of Labour;</p> <p>“party” means</p> <p>(a) in respect of the entering into, renewal or revision of a scale agreement or in respect of a difference in relation to the interpretation, application, administration or alleged breach thereof, the producer or the artists’ association, and</p> <p>(b) in respect of a complaint made to the Tribunal, the complainant or the person or organization that is the object of the complaint;</p> <p>“pressure tactic” includes</p> <p>(a) a cessation of work or a refusal to work or to continue to work by artists or artists’ associations in combination, in concert or in accordance with a common understanding, and a slowdown of work or other concerted activity by artists or artists’ associations respecting the provision of their services, done to compel a producer to agree to terms or conditions of engagement, or</p> <p>(b) the closing of a place of work, a suspension of production or a refusal to continue the engagement of one or more artists by a producer, done to compel artists, or to assist another producer to compel artists, to agree to terms or conditions of engagement;</p>	<p>Les définitions qui suivent s’appliquent à la présente partie.</p> <p>«accord-cadre» Accord écrit conclu entre un producteur et une association d’artistes et comportant des dispositions relatives aux conditions minimales pour les prestations de services des artistes et à des questions connexes.</p> <p>«artiste» Entrepreneur indépendant visé à l’alinéa 6(2)b).</p> <p>«association d’artistes» Groupement y compris toute division ou section locale de celui-ci ayant parmi ses objets la promotion ou la gestion des intérêts professionnels et socio-économiques des artistes qui en sont membres; la présente définition vise également les regroupements d’associations.</p> <p>«ministre» Le ministre du Travail.</p> <p>«moyen de pression» S’entend notamment :</p> <p>a) d’un arrêt ou refus de prestation de services par des artistes ou des associations d’artistes agissant conjointement, de concert ou de connivence, pris par les artistes ou les associations pour contraindre le producteur à accepter des conditions d’engagement; lui sont assimilés le ralentissement de travail ou toute autre activité concertée, de la part des artistes ou des associations, relative à la prestation de leurs services;</p> <p>b) d’une mesure - fermeture du lieu de travail, suspension du travail ou refus de continuer à utiliser les services d’un ou plusieurs artistes - prise par le producteur soit pour contraindre les artistes à accepter des conditions d’engagement, soit pour aider un autre producteur à réaliser cette même fin.</p> <p>«partie»</p> <p>a) En matière de conclusion, renouvellement ou révision d’un accord-cadre, ou de conflit</p>

<p>“producer” means a government institution or broadcasting undertaking described in paragraph 6(2)(a), and includes an association of producers;</p> <p>“scale agreement” means an agreement in writing between a producer and an artists' association respecting minimum terms and conditions for the provision of artists' services and other related matters;</p> <p>“Tribunal” means the Canadian Artists and Producers Professional Relations Tribunal established by subsection 10(1).</p>	<p>sur l'interprétation, le champ d'application, la mise en oeuvre ou la prétendue violation d'un accord-cadre, le producteur et l'association d'artistes;</p> <p>b) dans le cas d'une plainte déposée devant le Tribunal, le plaignant et la personne ou l'organisation visée par la plainte.</p> <p>«producteur» Les institutions fédérales et les entreprises de radiodiffusion visées à l'alinéa 6(2)a); la présente définition vise à la fois le producteur unique et toute association de tels producteurs.</p> <p>«Tribunal» Le Tribunal canadien des relations professionnelles artistes-producteurs.</p>
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CORRESPONDING SECTIONS:

<i>SAA:</i> 5	<i>CLC:</i> 2, 3	<i>PSLRA:</i> 2,4
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COMMENTARY:

The sections noted in the CLC and the PSLRA provide the definitions of the terms used in the respective Acts.

The CLC applies to “employees” and “dependent contractors” and the PSLRA applies to “employees” (see Commentary under section 9).

JURISPRUDENCE :

<i>Scale agreement</i>	<p>1995 CAPPRT 001 (UNEQ), para. 20; 1995 CAPPRT 002 (SARDeC), para. 20; 1995 CAPPRT 003 (WGC), para. 20 (See s. 33 - Effect of scale agreement and s. 36 - Interpretation of scale agreement)</p> <p>The objective of the bargaining undertaken by an artists' association subsequent to certification is to put in place one or more scale agreements prescribing the minimum terms and conditions under which the artists covered by the agreement will provide their services to producers in the federal jurisdiction. The content of the scale agreement is a matter for negotiation between the certified artists' association and the producers; the scale agreement could touch on matters of copyright but need not necessarily do so.</p>
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<i>Contents of scale agreement</i>	<p>1996 CAPPRT 005 (UNEQ), para. 36 and 37</p> <p>What is included in this right to bargain? Subsection 31(1) of the <i>Act</i> states that the purpose of bargaining is to enter into a scale agreement. A scale agreement is defined as “an agreement in writing between a producer and an artists’ association respecting minimum terms and conditions for the provision of artists’ services and other related matters”.</p> <p>In these early stages of collective bargaining on behalf of artists who are independent contractors, the Tribunal is not inclined to begin defining or limiting the subjects that can be included in the category of “matters related to the provision or artists’ services”. In our view, it would be unacceptable to divide the provision of services from the use of the work. A producer who commissions a work must be able to use or disseminate the work for which he or she has paid.</p>
<i>Subject-matter of bargaining</i>	<p>2003 CAPPRT 047 (CARFAC), para. 19</p> <p>(...) the Tribunal, and labour boards generally, cannot dictate the subjects the parties may bargain. The proposed amendment may enlarge the scope of CARFAC’s bargaining but would not result in the determination of what subject matters can or cannot be bargained. Parties would remain free to put forth any proposals they wish, and would be free to accept, reject or put forth counter-proposals.</p>
<i>Artists’ association</i>	<p>1996 CAPPRT 008 (AFM), para. 18</p> <p>In the Tribunal’s view, because both the Recording Musicians Association - Toronto Chapter and the Guilde de musiciens are branch or local affiliates of the AFM, they qualify as artists’ associations within the meaning of the <i>Act</i>. Accordingly, the Tribunal finds that both organizations are entitled, as of right, to intervenor status with respect to the AFM’s application for certification by virtue of subsection 26(2) and 27(2) of the <i>Act</i>.</p>