



Canadian Artists and Producers Professional Relations Tribunal

2000-2001
Estimates

Part III – Report on Plans and Priorities

Canada

The Estimates Documents

Each year, the government prepares Estimates in support of its request to Parliament for authority to spend public monies. This request is formalized through the tabling of appropriation bills in Parliament. The Estimates, which are tabled in the House of Commons by the President of the Treasury Board, consist of three parts:

Part I – The Government Expenditure Plan provides an overview of federal spending and summarizes both the relationship of the key elements of the Main Estimates to the Expenditure Plan (as set out in the Budget).

Part II – The Main Estimates directly support the *Appropriation Act*. The Main Estimates identify the spending authorities (votes) and amounts to be included in subsequent appropriation bills. Parliament will be asked to approve these votes to enable the government to proceed with its spending plans. Parts I and II of the Estimates are tabled concurrently on or before 1 March.

Part III – Departmental Expenditure Plans which is divided into two components:

- (1) **Reports on Plans and Priorities (RPPs)** are individual expenditure plans for each department and agency (excluding Crown corporations). These reports provide increased levels of detail on a business line basis and contain information on objectives, initiatives and planned results, including links to related resource requirements over a three-year period. The RPPs also provide details on human resource requirements, major capital projects, grants and contributions, and net program costs. They are tabled in Parliament by the President of the Treasury Board on behalf of the ministers who preside over the departments and agencies identified in Schedules I, I.1 and II of the *Financial Administration Act*. These documents are to be tabled on or before 31 March and referred to committees, which then report back to the House of Commons pursuant to Standing Order 81(4).
- (2) **Departmental Performance Reports (DPRs)** are individual department and agency accounts of accomplishments achieved against planned performance expectations as set out in respective RPPs. These Performance Reports, which cover the most recently completed fiscal year, are tabled in Parliament in the fall by the President of the Treasury Board on behalf of the ministers who preside over the departments and agencies identified in Schedules I, I.1 and II of the *Financial Administration Act*.

The Estimates, along with the Minister of Finance's Budget, reflect the government's annual budget planning and resource allocation priorities. In combination with the subsequent reporting of financial results in the Public Accounts and of accomplishments achieved in Departmental Performance Reports, this material helps Parliament hold the government to account for the allocation and management of public funds.

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Canadian Artists and Producers Professional Relations Tribunal

2000-2001
Estimates

Report on Plans and Priorities

Approved:

Honourable Claudette Bradshaw
Minister of Labour

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Section I: Messages

A. Message from the Chairperson

I am pleased to present the Canadian Artists and Producers Professional Relations Tribunal's Report on Plans and Priorities for the fiscal year 2000-2001. This report reflects the experience the Tribunal has gained in its first five years of operation and sets out its intended direction for the years ahead.

The Tribunal's energies will continue to be directed toward fulfilling its statutory mandate: the determination of sectors of cultural activity suitable for collective bargaining; the certification of artists' associations to represent self-employed artists working in these sectors; and the resolution of complaints alleging contravention of the *Status of the Artist Act*.

In addition, consultations and discussions will continue with our client community to ensure that artists, artists' associations and producers are aware of and understand their rights, responsibilities and obligations under the *Act*. Initiatives aimed at assisting artists and producers in resolving their differences and taking advantage of the benefits of the *Act* will also continue.

The Tribunal remains committed to the development and maintenance of constructive professional relations among artists, artists' associations and producers. As we enter the new millennium, the Tribunal will continue in its efforts to contribute to the economic and social well-being of its client community in a manner that will permit the Canadian cultural sector to thrive and flourish.

B. Management Representation Statement

MANAGEMENT REPRESENTATION

Report on Plans and Priorities 2000-2001

I submit, for tabling in Parliament, the 2000-2001 Report on Plans and Priorities (RPP) for the Canadian Artists and Producers Professional Relations Tribunal.

To the best of my knowledge, the information:

- Accurately portrays the Tribunal's mandate, plans, priorities, strategies and expected key results of the organization;
- Is consistent with the disclosure principles contained in the *Guidelines for Preparing a Report on Plans and Priorities*;
- Is comprehensive and accurate;
- Is based on sound underlying departmental information and management systems.

I am satisfied as to the quality assurance processes and procedures used for the RPP's production.

The Planning and Reporting Accountability Structure on which this document is based has been approved by Treasury Board Ministers and is the basis for accountability for the results achieved with the resources and authorities provided.

David P. Silcox
Chairperson and Chief Executive Officer
February 9, 2000

Section II: Departmental Overview

A. Mandate, Roles and Responsibilities

Mandate

The Canadian Artists and Producers Professional Relations Tribunal is the independent, quasi-judicial agency established to administer the framework governing professional relations set out in the *Status of the Artist Act* (S.C. 1992, c. 33, the “Act”).

The Tribunal’s statutory mandate is to define the sectors of cultural activities subject to federal jurisdiction that are suitable for collective bargaining, to certify artists’ associations to represent independent entrepreneurs working in these sectors, to hear and decide complaints of unfair practices filed by artists, artists’ associations and producers, and to prescribe appropriate remedies for contraventions of the *Status of the Artist Act*. The Tribunal’s statutory responsibilities are more fully set out in Section V - Other Information.

Roles

The *Status of the Artist Act* was enacted in 1992 to recognize the important role that artists play in Canadian society and to provide mechanisms to improve the socio-economic status of self-employed artists.

The Canadian Artists and Producers Professional Relations Tribunal was created in 1993 to assist in achieving these objectives. The Tribunal interprets and applies the legal framework for collective bargaining between self-employed artists and producers in the federal jurisdiction as set out in Part II of the *Act*.

The *Act* defines artists as independent contractors who are authors within the meaning of the *Copyright Act*, directors, performers or other professionals who contribute to the creation of a production. Federal producers include all broadcasting undertakings under the jurisdiction of the Canadian Radio-television and Telecommunications Commission, all federal government departments and the majority of federal agencies and crown corporations.

By following the procedures set out in the *Act*, associations representing self-employed artists can receive certification from the Tribunal which grants them legal status and the exclusive right to negotiate with producers for the purpose of entering into scale agreements. These agreements specify the minimum terms and conditions to which a producer must adhere when engaging or commissioning work from a self-employed professional artist in a particular sector.

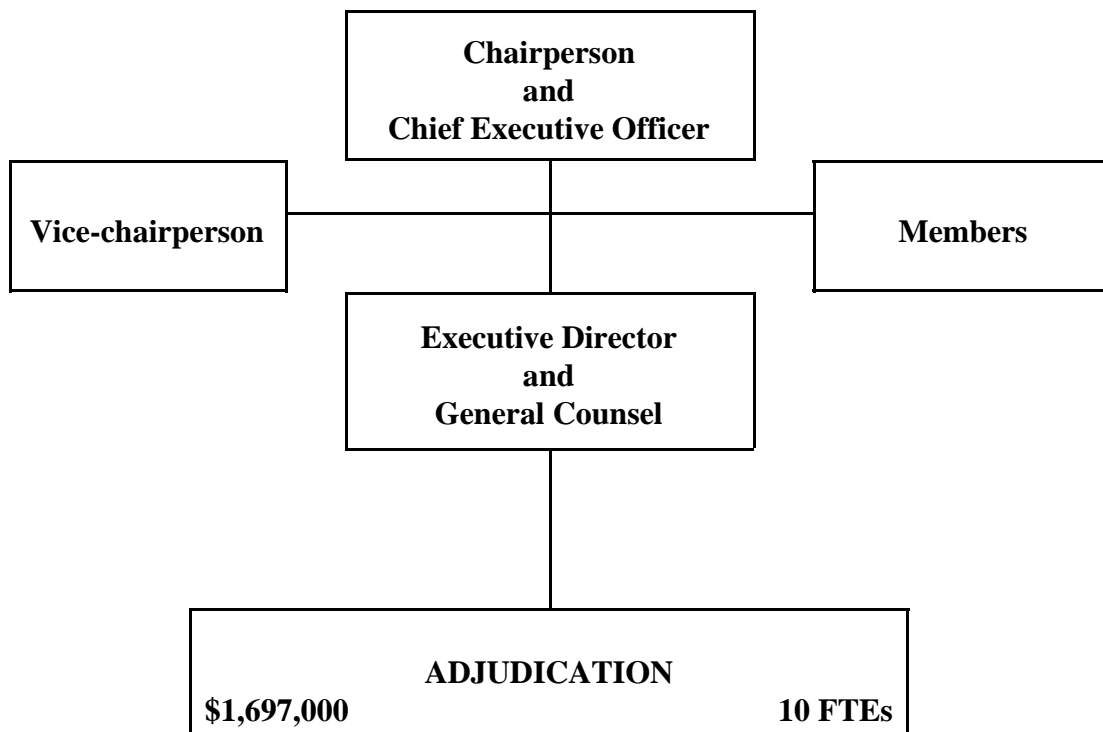
Responsibilities

The Tribunal reports to the Parliament of Canada through the Minister of Labour. On matters affecting regulations made under the *Act* and appointments to the Tribunal, the Minister must consult with the Minister of Canadian Heritage whose sectoral clientele includes users of the Tribunal.

The Tribunal is currently composed of a Chairperson, a Vice-chairperson and three other members. Members are appointed by the Governor in Council, and all five members are part-time appointees.

The Chairperson is the Chief Executive Officer of the Tribunal. The daily management of staff and operations of the Tribunal are the responsibility of the Executive Director who reports to the Chairperson.

The Tribunal has a sole business line, adjudication, which involves dealing with applications, complaints, and other matters brought before it pursuant to the *Status of the Artist Act*.



B. Departmental/Program Objective

The Tribunal's overall objective is to encourage constructive professional relations between artists, as independent entrepreneurs, and producers in the federal jurisdiction.

The Tribunal has established the following specific objectives for the planning period:

- ◆ to process applications, complaints and other matters and to make sound decisions promptly, professionally and in a cost-sensitive manner;
- ◆ to inform and assist artists and producers in resolving differences and taking advantage of the benefits of the *Status of the Artist Act*; and
- ◆ to ensure visibility to the public of the aims, activities and impact of the Tribunal.

C. External Factors Influencing the Department

The cultural sector is an important part of the Canadian economy, representing a direct economic impact of approximately \$24 billion in the 1996-97 fiscal year, and sustaining approximately 710,000 full- and part-time jobs, according to the Department of Canadian Heritage. Between 1991 and 1997, the value of Canadian exports of selected cultural goods to foreign markets grew by an average of 12.5 percent per year to \$1.5 billion, even without including the value of exports of intellectual property and some other services, according to Statistics Canada.

Artists and other cultural workers play a vital role in Canadian society as a whole, by representing Canada's identity at home and abroad and by contributing to the cultural, social, economic and political enrichment of Canada. However, the revenues that artists earn do not reflect their importance to our country. The latest Statistics Canada Census shows that the average employment income of artists in the Tribunal's jurisdiction was \$23,000 in 1995. This includes income earned in addition to their artistic work. This level is still lower than the average income for all Canadian workers which was \$26,000, even though artists have a higher than average level of education.

A growing number of Canada's artists are self-employed. Although exact figures are not available, Statistics Canada estimates that 42 percent of artists were self-employed in 1996 and, for some occupations such as writers, musicians and visual artists, the proportion is between 50 and 75 percent self-employed. This is a considerable increase from the 32 percent of artists who identified themselves as being self-employed in 1991.

It is estimated that some 100,000 of these self-employed artists are engaged in activities that are subject to the Tribunal's jurisdiction. This number does not include those individuals whose principal work is in another occupation but who in addition work as artists.

There are a number of factors which affect whether artists' associations will apply for certification under the *Status of the Artist Act*, and whether certified artists' associations and producers will succeed in negotiating scale agreements that contribute to constructive professional relations.

One of the influencing factors is the financial health of artists' associations. Many are small organizations representing freelance artists who are in precarious economic situations dealing with a rapidly changing work environment affected by globalization and new technologies. These associations find themselves in a difficult situation as they have limited resources to devote to the pursuit of collective bargaining even though success in this area might eventually provide them with better financial and organizational stability. Also, in recent years, cutbacks in government funding have made it even more challenging for these associations to meet their objectives. The Canada Council for the Arts recently announced its intention to augment its funding for artists' associations operations substantially. This funding may help to alleviate the situation of some artists' associations.

Attempts so far by certified artists' associations to negotiate scale agreements with federal government institutions have, for the most part, not been successful. For reasons of efficiency and economy, artists' associations had hoped to be able to negotiate with a single producers' association representing most federal government institutions. Since such a producers' association has not been formed, artists' associations are faced with the lengthy and costly task of negotiating with most of these institutions individually. A recent development has occurred in this area in that two departments have formed a producers' association for the purpose of negotiating with one of the artists' associations. This development may pave the way for other federal departments and institutions to follow suit.

In carrying out its responsibilities, the Tribunal is mindful of the limited resources available to these associations, and facilitates their access to the Tribunal's processes by, for example, adopting simple procedures and holding hearings at locations convenient to the clients.

The potential number of artists falling under the jurisdiction of the Tribunal is considerable. However, the impact of the Tribunal on the socio-economic situation of these artists is limited because the Tribunal's jurisdiction is a small one, including only broadcasters and federal government institutions. The amount of work offered by these producers is modest in comparison to total activity in the cultural sector in Canada, which includes independent film and television production, sound recording, art exhibitions, theatre and other performances. When artists are engaged by producers outside of the

Tribunal's jurisdiction, only in Quebec are they covered by similar legislation providing for a collective bargaining regime. In the absence of complementary labour relations regimes in the provinces and territories in the rest of Canada, a marked improvement in the well-being of artists is potentially hindered. The Tribunal has and will continue to provide information and advice to policy makers and other interested parties in provincial jurisdictions which are interested in considering the advantages of status of the artist legislation.

The globalization of the economy also affects Canadian artists. In such an open environment, artists in some disciplines may find increased opportunities while others may face significant challenges. Canada's cultural policies have historically included the use of subsidies, ownership restrictions and Canadian content requirements to support domestic cultural industries. The government's ability to continue these forms of support is coming under increasing pressure from foreign challenges pursuant to existing international trade treaties. In the absence of such policies, job security and working conditions of some artists may become threatened and any improvement or even just maintenance of status and working conditions may become more difficult.

Evolving technologies and, specifically, the ongoing convergence of media distribution technologies are other factors which impact on the relations between artists and producers. The line between telecommunications and broadcasting is becoming less distinct and the relevance of policies and regulations developed for each mode is being questioned. This is particularly true with respect to the rapid evolution of the Internet, which among other things is creating a number of intellectual property issues. Difficulties in enforcing copyrights through civil litigation have led to suggestions that copyright be made a matter of contract in scale agreements negotiated under the *Status of the Artist Act*, thereby permitting enforcement through the grievance arbitration system.

The continued rapid growth of services on the Internet, which include the distribution of audio and audio-visual programming, prompted the Canadian Radio-television and Telecommunications Commission (CRTC) to hold a public proceeding to examine the implications and significance that these new media services have for creators, distributors and users. The CRTC recently determined as a result of this proceeding that some of the material transmitted over the Internet falls within the definition of "broadcasting" under the *Broadcasting Act*. The Tribunal is researching the implications of this conclusion and the potential application of the *Status of the Artist Act's* collective bargaining regime to broadcasting on the Internet.

D. Departmental Planned Spending

(\$ thousands)	Forecast Spending 1999-2000*	Planned Spending 2000-2001	Planned Spending 2001-2002	Planned Spending 2002-2003
Budgetary Main Estimates	1,300	1,697	1,697	1,697
Non-Budgetary Main Estimates	0	0	0	0
Less: Respendable revenue	0	0	0	0
Total Main Estimates	1,300	1,697	1,697	1,697
Adjustments to Planned Spending	0	0	0	0
	1,300	1,697	1,697	1,697
Less: Non-respendable revenue	0	0	0	0
<i>Plus:</i> Cost of services received without charge	245	263	263	263
Net cost of Program	1,545	1,960	1,960	1,960
Full Time Equivalents	8	10	10	10

* Reflects best forecast of total planned spending to the end of the fiscal year.

Section III: Plans, Results and Resources

BUSINESS LINE: ADJUDICATION

A. Planned Spending (\$ thousands) and Full Time Equivalents (FTEs)

Forecast Spending 1999-2000*	Planned Spending 2000-2001	Planned Spending 2001-2002	Planned Spending 2002-2003
1,300	1,697	1,697	1,697
8	10	10	10

* Reflects best forecast of total planned spending and full time equivalents to the end of the fiscal year.

B. Business Line Objective

The objective of the sole business line is identical to that of the program as a whole: to encourage constructive professional relations between artists, as independent entrepreneurs, and producers in the federal jurisdiction.

C. Business Line Description

Administration of the provisions of the *Status of the Artist Act* relative to professional relations between self-employed entrepreneurs in the cultural sector and federally regulated producers, including: the determination of artistic sectors appropriate for collective bargaining; the certification of artists' associations to represent specific artistic sectors; the investigation and adjudication of complaints alleging contravention of the *Status of the Artist Act* and the exercise of ancillary remedial authority; the provision of advice and recommendations relative to the statutory jurisdiction and powers of the Tribunal; and the provision of administrative services to these ends.

Section IV: Financial Information

Net Cost of Program for the Estimates Year

(\$ thousands)	Administration of the <i>Status of the Artist Act</i>	Total
Planned Spending (Budgetary and Non-budgetary Main Estimates plus adjustments)	1,697	1,697
<i>Plus: Services Received without Charge</i>		
Accommodation provided by Public Works and Government Services Canada (PWGSC)	223	223
Contributions covering employees' share of employees' insurance premiums and expenditures paid by TBS	40	40
Workers' compensation coverage provided by Human Resources Development Canada	0	0
Salary and associated expenditures of legal services provided by Justice Canada	0	0
	263	263
<i>Less: Respendable Revenue</i>	0	0
<i>Less: Non-respendable Revenue</i>	0	0
	0	0
2000-2001 Net Program Cost (Total Planned Spending)	1,960	1,960

Section V: Other Information

Listing of Statutes and Regulations

Statute and Regulations Currently in Force

<i>Status of the Artist Act</i>	S.C. 1992, c.33, as amended
<i>Status of the Artist Act Professional Category Regulations</i>	SOR 99/191

Proposed Regulations

<i>Canadian Artists and Producers Professional Relations Tribunal Procedural Regulations</i>	In progress
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References

Canadian Artists and Producers Professional Relations Tribunal
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Internet Site: <http://homer.ic.gc.ca/capprt>

Publications

Canadian Artists and Producers Professional Relations Tribunal Annual Report -
<http://homer.ic.gc.ca/capprt/annre98e.html>

Canadian Artists and Producers Professional Relations Tribunal Information Bulletin
(several per year)

Canadian Artists and Producers Professional Relations Tribunal Performance Report
(annual) - http://homer.ic.gc.ca/capprt/perf99_e.html

*Canadian Artists and Producers Professional Relations Tribunal Report on Plans and
Priorities* (annual) - <http://homer.ic.gc.ca/capprt/rpp9-0en.html>

Canadian Artists and Producers Professional Relations Tribunal Procedures, 3rd Edition,
February 1999 - http://homer.ic.gc.ca/capprt/pguide_e.html

The Status of the Artist Act Annotated, published by Carswell, 1999 -
<http://www.carswell.com/records/L459-26234-3.html>

The Tribunal's Statutory Responsibilities

The *Status of the Artist Act* requires or permits the Tribunal to undertake the following activities:

1. pass by-laws governing the conduct of its affairs [s.11(2)]
2. hold meetings or proceedings of the Tribunal at such times and locations in Canada as it considers desirable [s.13(2)]
3. make regulations of general application which it considers conducive to the performance of its duties [s.16]
4. make interim orders [s.20(2)]
5. rescind or amend determinations or orders and rehear applications [s.20(1)]
6. file a copy of its order or determination in the Federal Court for purposes of enforcement [s.22]
7. review by-laws of artists' associations for conformity with s.23
8. receive copies of membership lists filed by associations of producers in conformity with s.24
9. receive applications for certification from artists' associations pursuant to s.25; provide public notice of the application
10. determine the appropriateness of sectors for collective bargaining [s.26]
11. determine whether an artists' association is representative of the sector for which it seeks certification [s.27]
12. certify artists' associations to represent specific sectors [s.28]
13. maintain a register of all certificates issued [s.28(4)]
14. receive, consider and decide applications for revocation of certification [s.29]
15. determine the rights, duties and privileges acquired by an artists' association following a merger, amalgamation or transfer of jurisdiction [s.30]
16. determine whether contractual conditions are “more favourable” to an artist than those contained in a scale agreement [s.33(5)]
17. change the termination date of a scale agreement when so requested by the parties [s.34]
18. hear and determine questions referred to it by an arbitrator or arbitration board [s.41]
19. hear and decide on applications for a declaration that the use of pressure tactics is unlawful and prescribe appropriate remedies [s.47,48,49]
20. hear and decide applications alleging unfair labour practices and prescribe appropriate remedies [s.53,54]
21. issue consent to prosecute [s.59]
22. establish other offices which it considers necessary [s.13(1)]
23. prepare and submit an annual report to Parliament through the Minister of Labour regarding activities during the fiscal year [s.61]

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