

THE CANADIAN ADVISORY COMMITTEE ON THE STATUS OF THE ARTIST

A proposed Act on the professional
status of the artist

"Canadian Artists' Code"

AUGUST 1988

Preamble

The Canadian Advisory Committee on the Status of the Artist (CACSA) was established by the Minister of Communications, the Honourable Flora MacDonald, in January 1987 to provide advice to the government regarding the measures proposed to promote and strengthen the position of professional artists. The establishment of this Committee was one of the recommendations of the Task Force Report on the Status of the Artist.

During the past year, the Committee has met with many senior officials of various government departments and has examined many issues of concern to the arts community, including taxation issues, collective bargaining rights, copyright and social benefits. The artistic community has made representations concerning these issues for many years. CACSA has come to the conclusion that, in addition to specific action on some pressing matters, special legislation is the best and only route to achieve real improvements in the socio-economic status of Canada's artists.

The Committee has therefore focused its recent efforts on the development of proposed legislative measures pertaining to the status of the artist. This document is the result of the Committee's efforts. CACSA believes that this initiative constitutes an important step in the process leading to legislative recognition of the professional status of the artist.

It is hoped that this document which will inevitably generate wide discussion in the arts community, among the public and in Canadian political circles will rally the support of the large majority of artists around essential needs which have been expressed for many years.

Members and alternates of the Committee are:

Daphne Goldrick, playwright, and vice-president (external), Canadian Actors' Equity Association, Vancouver, British Columbia; and alternate **Sara Diamond**, a Vancouver video artist;

Visual artist **Pamela Hall**, former national spokesperson of the Association of National Non-Profit Artists' Centres, St. John's, Newfoundland; and alternate **M^{me} Claude Gauvin**, a visual artist from Moncton, New Brunswick;

Henri-Dominique Paratte, a writer and former president, Association des écrivains acadiens, as well as vice-president, Fédération internationale des écrivains de langue française, Wolfville, Nova Scotia; and alternate, **Rudy Wiebe**, of Edmonton, Alberta, a writer and former chairman, Writers' Union of Canada;

Musician **Linda Patterson**, associate principal horn of the Winnipeg Symphony Orchestra, Winnipeg, Manitoba, and alternate **Alex Pauk**, composer, and president) League of Canadian Composers, Toronto, Ontario;

Jean-Pierre Perreault, choreographer, one of the founders and former president of Le Regroupement des professionnels de la danse du Québec inc., as well as professor of dance, Université du Québec à Montréal, Montréal, Québec; and alternate **Joysanne Sidimus**, national executive director, Dancer Transition Centre, Toronto, Ontario;

The Alliance of Canadian Cinema, Television and Radio Artists' (ACTRA) general secretary emeritus, **Paul Siren**, of Toronto, who is also president of the Canadian Conference of the Arts; and alternate **Serge Demers**, director general , Union des artistes, Montreal, Québec;

Actor **Serge Turgeon**, president, Union des artistes, Montreal, Québec; and alternate **Garry Neil**, general secretary, ACTRA, Toronto, Ontario.

The Co-chairs of the Committee are **Paul Siren** and **Henri -Dominique Paratte**.

Alex Pauk, president of the Canadian League of Composers, Toronto, and **Peter Weinrich**, executive director of the Canadian Crafts Council, Ottawa, are special advisors and provide expertise concerning composers and craftspersons. **Michelle d'Auray**, National Director of the Canadian Conference of the Arts, is also Special Advisor.

Keith Kelly, policy analyst with Communications Canada, acted as general secretary to the Committee until February 1988 at which time **Lise Legault**, also with Communications Canada, joined the Committee in that capacity.

Resource Material

The proposed Bill embodies, in principle, the recommendations of reports of committees of the House of Commons and other reports. These reports include the following:

1. Report of the Sub-Committee on the Taxation of Visual and Performing Artists and Writers, Standing Committee on Communications and Culture. (June 1984).
2. Report of the Sub-Committee on the Revision of Copyright, Standing Committee on Communications and Culture - "A Charter of Rights for Creators". (October 1985).
3. Report of the Task Force on Funding of the Arts in Canada to the Year 2000. (June 1986).
4. Report of the Task Force on the Status of the Artist. (August 1986).
5. Report of the Standing Committee on Communications and Culture on Taxation of Artists and the Arts. (January 1987).
6. Government Response to the Report of the Standing Committee on Communications and Culture "Taxation of Artists and the Arts". (May 1987).
7. A Summary of the Impact of Tax Reform on Individuals in the Arts - Prepared by Touche Ross and Co. for the Canadian Conference of the Arts. (September 1987).
8. Report of the Standing Committee on Communications and Culture, Review of Taxation of Artists and the Arts. (April 1988).
9. An Act respecting the professional status and conditions of engagement of performing, recording and film artists (Province of Quebec).

**An Act to implement a policy on
the professional status of the artist for Canada**

Short Title

1. This Act may be cited as the Canadian Artists' Code.

PART I

GENERAL

Interpretation

2. In this Act:

"Artist" means any natural person a) who practices an art, and who offers his/her professional services for remuneration, as a creator, interpreter or performer in one or more of the fields of artistic endeavour referred to in Section 4 hereof; b) who meets the requirements of Section 9 and; c) includes such a person employed or engaged by a producer pursuant to a contract for services or a contract of service;

"Artistic Activity" includes any activity within the cultural sectors defined herein and any similar activity yet to be invented which contributes to Canadian culture and heritage;

"Audio-Visual Arts" includes the creation and/or the presentation of a work of sound or image or sound and image with the use of technical , electronic or computer-based means, and includes video, film, radio and television;

"Government of Canada" includes agencies of the Government and crown corporations, wherever appropriate;

"Literary Arts" includes the creation of any literary work, in any medium, including literary translation and script-writing;

"Performing Arts" includes the creation, interpretation and/or performance of theatre, opera, music, dance and variety entertainment;

"Producer" means a person or company who or which retains the services of artists with the intent of producing or making accessible to the public an artistic work in a field of endeavour contemplated in Section 4;

"Recording" includes recording in audio and visual material in any recorded form and dubbing;

"Visual Arts" includes painting, drawing, sculpture, architecture, printmaking, crafts, photography, holography, the illustration of texts, performance and installation art and other experimental art forms.

General objectives and application

3. It is the policy of the Government of Canada to recognize the professional status of the artist contributing to the enrichment and continued development of the cultural, political, social and economic fabric of Canada as a nation.
4. This Act applies to artists, and to producers who retain artists' professional services, in the following fields of artistic endeavour: the performing arts, the visual arts, the literary arts, audio-visual arts and recording in the jurisdiction of the Government of Canada.
5. The fact that an artist furnishes personal services through a corporation, or a legal entity other than the artist, is no obstacle to the application of this Act.
6. This Act reflects and recognizes the linguistic duality and multicultural composition of Canada, as well as the laws and regulations which follow.
7. This Act is binding on the Crown.
8. In this Act, any reference to the masculine gender includes the feminine gender and vice versa and any reference to the singular includes the plural.

Fundamental Principles

9. It is the policy of the Government of Canada that:

WHEREAS the treatment of the artist by society reflects its appreciation of the value of creativity, the right to self-expression, and the respect it holds for its cultural heritage and development;

WHEREAS the contribution of the artist to society is manifested in economic, labour market, social and industrial terms, true value being evidenced in the quality of life and the maturity of the nation;

WHEREAS the fundamental role of the artist as the creative force behind all cultural industries warrants that artists enjoy an equitable share in the profits and decisions of the sector;

WHEREAS the work of an artist is clearly linked to community, region and nation and is an eloquent ambassador which is most effective when accessible to its public;

THEREFORE, it is recognized in law that:

- a) authors of artistic works have full ownership of their creations and performing artists are accorded full neighbouring rights;
- b) artists have a fundamental right to freedom of expression and this right can be exercised publicly without direct or indirect control;
- c) artists enjoy the right of association and the right to bargain collectively;
- d) artists enjoy the means to assure a reasonable livelihood and a safe working environment;
- e) creativity will be continuously supported and developed by initiating specific measures in education, professional development and the development of the young artist in particular;
- f) all people within national borders will enjoy the broadest possible access to Canadian artists and their work through the significant presence of Canadian works on all cultural distribution, exhibition and presentation systems.
- g) artists regardless of where they work will receive equal treatment by all levels of government;
- h) indigenous artists will receive the same treatment and support as artists from other communities, including the right to professional development opportunities;

- i) the dignity and respect accorded to the artistic profession, as well as the support and encouragement provided by governments, will not be limited by gender, race, ethnic origins, sexual preference or the physical abilities of the individual.

Professional Recognition of Artists

10. The Government will consider a combination of four of the following criteria, one of which must be (d), (e), or (g), to determine who may be considered an artist:
 - (a) the fact that an artist has presented his/her work to the public by means of exhibitions, publications, performances, readings, screenings, or by any other means appropriate to the nature of his/her work;
 - (b) the fact that an artist is represented by a dealer, publisher, agent, or similar representative appropriate to the nature of her/his work;
 - (c) the fact that an artist devotes a reasonable proportion of his/her professional time as an artist to promoting or marketing his/her work, including, but not limited to) presenting himself/herself for auditions) seeking sponsorship, agents or engagements, or similar activities appropriate to the nature of his/her work;
 - (d) the fact that an artist receives or has received, compensation from her/his work including, but not limited to, sales, fees, commissions, salaries, royalties, residuals, grants and awards, any of which may reasonably be included as professional or business income;
 - (e) the fact that an artist has a record of income or loss relevant to the exploitation of his/her work and appropriate to the span of his/her artistic career;
 - (f) the fact that an artist has received professional training either in an educational institution or from a practitioner or teacher recognized within her/his profession;
 - (g) the fact that an artist has received public or peer recognition in the form of honours, awards, professional prizes or by publicly disseminated critical appraisal;

(h) the fact that an artist has membership in a professional association appropriate to his/her artistic activity whose membership or categories of membership, is or are, limited under standards established by the association; or which is a trade union or its equivalent appropriate to his/her artistic activity.

The Economic Rights of the Artist

Interpretation

11. In this part, "appropriate compensation" means fee schedules established by professional associations within a discipline, or rates established by units in collective bargaining as defined in Section 16, or, in the absence of either of these, compensation established by comparison with similar areas of endeavour.

General objectives and application

12. Notwithstanding the fact that artists enjoy the fundamental right to be recognized as first owner of moral rights to their creation or performance, regardless of the fact that these may or may not have been fixed, it is the policy of the Government Of Canada that:
 - a) artists are entitled to all rights flowing therefrom, including, but not restricted to, copyright, design protection, exhibition rights and neighbouring rights and any other rights that from time to time may be included in the Berne Copyright Convention;
 - b) artists have the right to enforce the rights in clause 11(a) individually or through professional associations, including the right to enforce appropriate compensation;
 - c) artists are entitled to appropriate compensation for the public use of their work; where such work is available to the public without charge, appropriate compensation shall be paid from public funds;

- d) performers and creators are entitled to appropriate compensation for the use of their work in audio-visual media as defined in Section 2;
- e) the unique circumstances surrounding the artistic profession are recognized in taxation policy and practice;
- f) self-employed artists enjoy the right of access to the same social benefits as are offered to employees which include, but are not limited to, workers' compensation, unemployment insurance and Canada pension.

The Social Rights of the Artist

Interpretation

- 13. In this Part, "professional artistic organization" means any union or association of artists whose membership, or categories of membership, is limited under standards established by that association or any association that serves such associations and which includes them in its membership.
- 14. The Government of Canada recognizes:
 - a) the right of professional artistic organizations to be recognized in law and to serve the social and economic interests of its membership without impediment;
 - b) the right of professional artistic organizations to deliver social benefit programs such as pension plans, income protection plans, disability insurance and other benefits appropriate to the needs of its membership, and to access government funds to accomplish these objectives;
 - c) the right of every individual artist to fair and equitable access to funds administered by public funding bodies without prejudice to membership in a professional artistic organization;

- d) the right of professional artistic organizations to issue tax receipts for financial contributions received from the private sector;
- e) the right of individual artists to seek membership in any artistic organization which they deem most beneficial to them and where they satisfy the criteria for professional membership status;
- f) the right of professional artistic organizations and their membership to set criteria for professional membership and to assign and collect membership dues or commissions determined by their members;
- g) the right of individual artists to undertake professional development without detriment to their professional status;
- h) the right of artists and their organizations to enjoy the recognition of their professional status by government and its agencies through inclusion in census data, employment description and any other activity wherein occupation is an element of measurement, assessment or description.

PART II
POLICY ON THE PROFESSIONAL STATUS OF THE ARTIST FOR CANADA
AND
ANENDMENTS TO EXISTING LEGISLATION

15. The Government of Canada undertakes:
- (a) to promote and support artistic activity in Canada and to amend existing legislation and regulations to conform with this Act;
 - (b) to provide adequate financial support to individual artists and professional artistic organizations and ensure the continuity of this support;
 - (c) to provide incentives to encourage public and private contributions to support artistic activity;
 - (d) to pay appropriate compensation as defined in Section 10 for artistic services of any kind and to ensure that recipients of public funds do likewise;
 - (e) to recognize in federal policies and any future legislation the importance of the artist as well as the unique circumstances surrounding the artistic profession;
 - (f) to develop policies and programs which will promote in an international context the work of Canadian artists;
 - (g) to ensure that such policies and legislation referred to in this Section are developed in full consultation with the artistic community;
 - (h) to take every appropriate opportunity in the normal conduct of business to provide professional artists in all sectors and regions with economic opportunities including, but not limited to (I) the purchase, commission or rental of visual art for public buildings and parks (II) the commission of performing arts works for presentation by Government or for advertising, informational and/or promotional purposes (III) the commission of audio-visual works for advertising, informational and/or promotional purposes;

(i) to cooperate with provincial and territorial governments to ensure that the regional needs and realities of the artistic profession are met and recognized through their collective energies, that artists enjoy equitable access to institutions, programs and financial assistance for professional training and development, and that Canadians enjoy equitable access to artists and their works in all regions of Canada.

16. (a) For the purpose of calculating the income of an artist under the Income Tax Act, the following conditions shall apply:
- i) recognition of the unique circumstances surrounding the artistic profession;
 - ii) a definition of artistic activity in conformity with this Act;
 - iii) allowing losses incurred by professional artists to be deducted from other sources of income;
 - iv) allowing employed professional artists to deduct costs associated with artistic employment from their employment incomes;
 - v) allowing professional artists to adopt income averaging;
 - vi) allowing professional artistic organizations to issue receipts permitting tax deductions for gifts;
 - vii) allowing professional artists, whether employed or self-employed, to treat project grants and travel allowances as professional or business income;
 - viii) allowing the executors of the estates of professional artists to donate the work or works of the artist to the Crown in lieu of taxes;
 - ix) allowing professional artists to donate works to the Crown at their fair market value;
- (b) There shall be established a joint consultative committee with representatives of Revenue Canada, the Departments of Finance and Communications, and the artistic profession to resolve problems arising from the administration of the Income Tax Act and the regulations attached thereto.

PART III

COLLECTIVE BARGAINING

Interpretation

17. In this PART:

"Artists' Association" means a league, union, guild, or other association of artists and includes a federation of Artists' Associations;

"Bargaining Unit" means a group of artists recognized by the Agreement;

"Collective Agreement" means an agreement between an Artists' Association and a producer or a Producers' Association;

"Commission" means the Canadian Artists Associations Recognition and Mediation Commission;

"Producers' Association" means an association of producers, and includes a federation of Producers' Associations;

"Sector" means one of the fields of artistic endeavour described in Section 4 hereof, or a part or parts thereof and includes such other fields of artistic endeavour as may be declared to be sectors by the Commission from time to time.

FREEDOMS

18. Every artist is free to join the Artists' Association of choice and to participate in its establishment, activities and administration.
19. No producer may refuse to engage artists on account of their exercising their rights under this Act.

20. Every producer is free to join a Producers' Association and to participate in its establishment, activities and administration.

RECOGNITION OF ARTISTS' ASSOCIATIONS

Division I

Right to Recognition

21. Every Artists' Association which
- (a) has objects which include an obligation to bargain collectively with respect to fees, wages, and other working conditions for artists, and
 - (b) represents the majority of artists in a sector either directly, or indirectly through a federation of Associations;
- is entitled to recognition as exclusive bargaining agent for artists in that sector.
22. Where Artists' Associations combine to form a federation of Artists' Associations, notwithstanding anything contained in the Constitution or By-Laws of such federation, the powers of the federation shall be confined, for the purposes of this Act, to the negotiation and conclusion of Collective Agreements, and all other rights, duties and powers with respect to collective bargaining, including, but not limited to, the administration of a Collective Agreement, shall be vested in the Artists' Association.

Division II

Recognition Procedure

23. An Artists' Association may apply for recognition by way of a written application addressed to the Commission.

24. An Artists' Association bound to a Producers Association or a producer by a Collective Agreement on the conditions of engagement of artists in force on the date of coming into force of this Act or an Artists' Association exercising bargaining rights or representation rights in one or more sectors in which no collective agreement is in effect, may file the Collective Agreement or document evidencing recognition or representation rights, as the case may be, with the Commission within 60 days of coming into force of this Act.
25. An Artists' Association which complies with Section 23 is automatically recognized under this Act on the date of coming into force of this Act for the negotiating sector corresponding to the field to which the filed Collective Agreement or document evidencing recognition or representation rights applies.
26. Every Collective Agreement binding an Artists' Association recognized by the effect of Section 24 and a Producers' Association or producer on the date of coming into force of this Act is deemed to have been concluded under this Act.
27. The Commission, upon the application of one of the parties bound by a Collective Agreement or document evidencing recognition or exercising representation rights contemplated in Section 23, may decide any dispute as to the definition of the negotiating sector corresponding to the field to which the pertinent document applies.
28. An Association may apply for recognition for one or more negotiating sectors as provided for in Appendix A.

Division III

Effects of Recognition

29. Recognition as bargaining agent confers the following powers on an Artists' Association:
 - (a) to defend and promote the economic, social , and professional interests of its members;
 - (b) to represent the artists in every instance where it is in the general interest it should do so, and to cooperate for that purpose with any organization pursuing similar ends;

- (c) to conduct research and surveys on the development of new markets and on any matter which may affect the economic and social situation of the artists;
 - (d) to fix the dues for the artists;
 - (e) to collect any amounts due to the artists whom it represents, and remit the amounts to them;
 - (f) to establish standard forms of contract for the performance of services and to make agreements with the producers as to the use of such services;
 - (g) to negotiate a Collective Agreement which may include a standard form of contract for the performance of services by the artists.
30. A recognized Artists' Association, in the representation of artists for whom it has the exclusive power to bargain collectively, shall not act in a manner which is arbitrary, discriminatory or in bad faith.
31. Every Producers' Association and every producer who is not a member of a Producers' Association shall, for the purposes of negotiating a Collective Agreement, recognize the Artists' Association recognized by the Commission as the sole representative of artists in the negotiating sector concerned.

Division IV

Collective Agreement

32. In a negotiating sector, the recognized Artists' Association and the Producers' Association or a producer who is not a member of a Producers' Association may negotiate and conclude a Collective Agreement providing minimum conditions with respect to the engagement of artists.

The Agreement may also contain any provisions not prohibited by law.

33. The negotiation and conclusion of a Collective Agreement or arbitration award shall be governed by the procedures as provided for in Appendix B.
34. During the term of a Collective Agreement or arbitration award,
 - a) no recognized Association nor any artists it represents may boycott or advise or enjoin artists to boycott a producer or Producers' Association bound by the Agreement or award, or use any similar pressure tactics against them, except where it is established that a producer has defaulted in payment of the required and/or contracted fees or other payments;
 - b) no producer may use any pressure tactics that result in depriving of work artists bound by that Agreement or award;
35. No recognized Artists' Association nor any artist represented thereby may use pressure tactics designed to prevent a producer to whom the Association is bound by a Collective Agreement from producing an artistic work or presenting it to the public.
36. The Collective Agreement binds the producer and every artist belonging to the negotiating sector who is engaged by the producer. In case of an Agreement concluded with a Producers' Association, the Agreement binds every producer who is a member of the Association on the date of the giving of the notice to bargain pursuant to Appendix B of this Act, or who subsequently becomes a member thereof, even if such producer ceases to belong to the Association or the Association is dissolved.
37. The recognized Artists' Association may exercise the recourses of the artists it represents under the Collective Agreement without having to establish an assignment of the claim of the member concerned.

**CANADIAN ARTISTS ASSOCIATIONS
RECOGNITION AND MEDIATION COMMISSION**

Division I

Establishment

38. A body is hereby established under the name "Canadian Artists Associations Recognition and Mediation Commission
39. The Commission is composed of a Chair and Vice-chair and not more than six other members, half of whom shall be appointed in consultation with recognized organizations representing artists and half of whom shall be appointed in consultation with organizations representing producers. Substitute members shall be similarly appointed.
40. A panel of the Commission for the purpose of hearing applications shall be composed of three members, including a Chair or a Vice-chair and two members: one of whom shall be from among those members appointed after consultation with artists' organizations, and one of whom shall be from those members appointed after consultation with producers' organizations, as provided for in Section 38.
41. The rules governing the conduct and administration of the Commission are as provided for in Appendix C.

DIVISION II

Duties and Powers

42. The duties of the Commission are
 - (a) to decide any application for recognition submitted by an artists' association;
 - (b) to appoint a mediator at the request of a party to the negotiation of a Collective Agreement;

- (c) to arbitrate any dispute submitted to it jointly by the parties negotiating a Collective Agreement;
 - (d) to consult with persons or organizations having particular knowledge of the sector or other issue under review.
- 43. The Commission, upon application, may define negotiation sectors in respect of which recognition may be granted.
 - 44. For the purposes of Section 42, the Commission shall take into particular account the common interests of the artists concerned and the history of relations between artists and producers in respect of the negotiation of Collective Agreements.
 - 45. The remaining duties and powers of the Commission are as provided for in Appendix D.

Offences and Penalties

- 46. Offences under this Act shall be dealt with pursuant to provisions as provided for in Appendix E.

PART IV

General

47. If there shall exist any conflict between the provisions of this Act and any other Act of the Parliament of Canada, including, but not limited to, any one or more of the Criminal Code of Canada, the Copyright Act, the Combines Act, the Workplace Hazardous Materials Information System Act and the Canada Labour Code, the provisions of this Act shall prevail.
48. The Minister of Communications is responsible for the administration of this Act.
49. This Act comes into force on the date of sanction of this Act.

APPENDIX A

Recognition Procedure

1. An Artists' Association may apply for recognition:
 - (a) at any time in respect of a sector for which no association is recognized;
 - (b) where an Artists' Association is recognized with respect to a sector and a Collective Agreement has been entered into, after the commencement of the last two months of the term of a Collective Agreement or after the commencement of the 34th month of a Collective Agreement, whichever is earlier, provided that no application for recognition may be made after the expiration of the Collective Agreement where a new Collective Agreement has been entered into;
 - (c) where an Artists' Association is recognized in a sector, at any time after one year has elapsed since the date of recognition and no Collective Agreement is in effect at the time of application.
2. The application for recognition must be accompanied by a certified copy of the by-laws of the Artists' Association and the membership list of the Artists' Association in the sector for which application is being made.
3. Where the Commission is called upon to rule on an application for recognition, it may take any measure it considers necessary to determine a sector and to ascertain whether the membership of the Artists' Association contains the majority of artists in the sector concerned, including the taking of a vote amongst those artists.

The Commission shall publish, at least twice in two daily newspapers having general circulation in the geographical area covered by the application, a notice indicating that it intends to ascertain the representativeness of the Artists' Association and indicating what measures it considers it necessary to take for that purpose.
4. Where an application for recognition is being considered, the artists the Artists' Associations and any producer may address the Commission on the question of defining the negotiating sector.

APPENDIX A

-2-

5. If the Commission is satisfied that the Association represents the majority of artists in the sector concerned, it shall grant recognition to the Association.
6. Where the Commission grants recognition, it shall publish a notice thereof in the Canada Gazette at the expiry of fifteen days after transmission of the decision to the interested parties. The recognition takes effect on the date of the publication.
7. Recognition of an Artists' Association withdraws recognition of any other Artists' Association in the sector for which the new recognition is granted.

APPENDIX B

Collective Agreement

1. The recognized Artists' Association or the Producers' Association, or the producer who is not a member of a Producers' Association, as the case may be, may initiate the negotiation of a Collective Agreement by giving the other party written notice of a least ten days, requesting a meeting in view of the conclusion of a Collective Agreement.

Where the parties are already bound by a Collective Agreement, the recognized Artists' Association or the Producers' Association or the producer who is not a member of a Producers' Association may give such notice in the 120 days preceding the expiry of the Agreement.

2. The party who gives a notice provided for in Section 1 of this Appendix must send a copy thereof on the same day to the Commission by registered or certified mail. The Commission shall inform the parties of the date on which it received a copy of the notice.
3. The parties must begin to negotiate at the time fixed in the notice provided for in Section 1 of this Appendix and conduct the negotiations in good faith.
4. At any stage of the negotiations, either party may request the Commission to appoint a mediator.
5. The mediator appointed by the Commission shall convene the interested parties and attempt to bring them to a settlement.

The parties must attend every meeting to which they are convened by the mediator.

The mediator may make recommendations to the parties.

6. The parties may jointly submit their dispute to arbitration by the Commission.

In that case, the arbitration award has the same effect as a Collective Agreement.

APPENDIX B

-2-

7. Unless an Agreement has been reached or the parties have submitted their dispute to arbitration, the recognized Artists' Association may, after the expiry of 30 days after the date the Commission received the notice provided for in Section 3 of this Appendix, initiate concerted action against the other party so as to induce him to conclude a Collective Agreement.

After the expiry of the same time, the producer may suspend all or part of his operations so as to induce the recognized Artists' Association to conclude a Collective Agreement.

8. The party having taken the initiative in the negotiation shall , within 30 days from the signature of a Collective Agreement, transmit a copy of the Agreement to the Commission. The same rule applies to any amendment subsequently made to that Collective Agreement.
9. The term of a Collective Agreement or of an arbitration award, where such is the case, shall be of not over three years.
10. A newly recognized Artists' Association replaces the Association formerly recognized in the same sector in respect of all the rights and obligations resulting from a Collective Agreement concluded by the Association whose recognition is withdrawn.

APPENDIX C

CANADIAN ARTISTS ASSOCIATIONS RECOGNITION AND MEDIATION COMMISSION

1. The Chair shall be appointed by the Governor-in-Council for a term not exceeding three years and shall perform his/her duties full time.

The Government shall fix the remuneration of the Chair, Vice-chair and members of the Commission.
2. The Chair of the Commission is responsible for the administration of the Commission and the direction of its staff.
3. The secretary and other employees of the Commission are appointed in the manner and according to the staffing requirements determined by the Commission.

The standards and scales of remuneration and the other conditions of employment of the secretary and other employees of the Commission shall also be determined by the Commission.

The staffing plan, the standards and scales of remuneration and the conditions of employment shall be approved by the Governor-in-Council.
4. The Commission shall have its head office in the City of Ottawa.

The Commission may sit at any place in Canada.
5. The Vice-chair shall exercise the powers of the Chair in case of his/her absence or inability to act.
6. Members of the Commission may continue to examine any application or request referred to them and make a decision notwithstanding the expiry of their term.

APPENDIX C

-2-

7. No member of the Commission may, under pain of forfeiture of office, have any direct or indirect interest in an undertaking putting her/his personal interest in conflict with that of the Commission.

Forfeiture is not incurred if the interest devolves to the member by succession or gift, provided she/he renounces or disposes of it with dispatch.

8. The members and employees of the Commission cannot be prosecuted on account of acts done in good faith in the performance of their duties.
9. Any writing or document forming part of the records of the Commission and signed or attested by the Chair or a person designated by him/her for that purpose is authentic and is proof of its contents, without the necessity of proving the signature thereof.
10. The fiscal year of the Commission ends on 31 March each year.
11. Not later than 30 June each year, the Commission shall submit a report of its activities for the preceding fiscal year to the Minister.

The Minister shall table the report to the Parliament of Canada within thirty days of receiving it if Parliament is in session or, if it is not sitting, within thirty days after resumption.

APPENDIX D

Duties and Powers of the Commission

1. The Commission may require any information from Artists' Associations and producers and examine any document, as may be necessary for the performance of its duties.
2. The Commission may inquire into any matter relating to the implementation of this Act.
3. The Commission may decide an application in part only. It may also make any provisional order it considers necessary for the protection of the rights of the parties.
4. Before rendering a decision on an application for recognition or for withdrawal of recognition, the Commission shall give the association concerned an opportunity to make representations.

In the case of a motion relating to the matter of which negotiating sector an artist belongs to, the Commission shall give every producer and every interested association intervening in the case an opportunity to make representations.

Every decision of the Commission must give reasons in writing and be transmitted to the persons having intervened in the case.

5. The Commission may rule that any application or motion that is, in its opinion, manifestly frivolous, vexatious or in bad faith, is inadmissible.
6. The Commission, by by-law, may
 - (1) provide for its internal management;
 - (2) adopt rules of proof and procedure, which shall come into force upon approval by the Government.
7. Every decision of the Commission is final and without appeal

APPENDIX D

-2-

8. The Commission may revise or revoke any decision or order it has made:
 - (1) where a new fact is discovered which, if it had been known in due time, might have justified a different decision;
 - (2) where a party interested in the issue was, for reasons considered sufficient, prevented from being heard;
 - (3) where a substantive or procedural defect is likely to invalidate the decision.
9. The decision of the Commission shall be the decision of the majority of a hearing panel and in the absence of a majority, the decision of the Chair shall prevail.

APPENDIX E

Offences and Penalties

1. Every person who contravenes Sections 18 or 30 of this Act or Section 3 of Appendix B is guilty of an offence and is liable to a fine of \$100. to \$1,000 in addition to costs.
2. Every person who contravenes Section 33 or Section 34 is guilty of an offence and is liable) in addition to costs, to a fine
 - a) of \$50. to \$200., in case of an artist;
 - b) of \$500. to \$5,000., in the case of an officer or employee of an Artists' Association or of a director, agent or advisor of an Artists' Association or producer;
 - c) of \$2,500 to \$25,000., in the case of a producer, Artists' Association or Producers' Association or in the case of any union, federation, confederation or central labour body to which an Artists' Association is affiliated or belongs.
3. Each day that any section of this Act is contravened constitutes a separate offence.
4. Proceedings under this Act are brought in accordance with the Summary Convictions Act of any province by the Attorney-General for Canada or any person generally or specially authorized by him/her for that purpose.