

## Summary of Conference of National Arts Service Organizations

The National Arts Service Organizations Conference, and Beyond...

### SOCIAL PROGRAMMES AND THE STATUS OF THE ARTIST

November 15 and 16, 1989  
Hotel Plaza de la Chaudière, Hull

There is a window open..."

On November 15 and 16, 1989, the Canadian Conference of the Arts organized a conference of national arts service organizations to discuss social programmes and the status of the artist. The intent of the meeting was to develop a consensus on what changes to present social programmes should be made, or what new social programmes should be created to improve the economic and social situation of artists. It was made clear to delegates by the co-chairs of the meeting, Michelle d'Auray, National Director of the Canadian Conference of the Arts, and Don Stephenson, Director of Cultural Policy at the Department of Communications, and by other speakers throughout the day, that the timing of such consensus is urgent. With the November 7 statement by the Minister of Communications to the Standing Committee on Communications and Culture confirming his commitment to legislation on the status of the artist; and with changes to the Canada Pension Plan, the Unemployment Insurance regulations, and Income Tax legislation presently under consideration, there is at present 'a window of opportunity' open on the political agenda which is both unprecedented and short.

Furthermore, it appears that there is a political will to allow important changes to take place. On October 31, in response to questioning from Ian Waddell on the government's intention to introduce legislation on copyright and status of the artist, the Prime Minister declared to the House of Commons:

"I have had the occasion to meet personally on a number of occasions with many members of the artistic community who are promoting and have promoted the needs that my hon. friend has just described. I would not be violating any great secrecy if I conveyed to my hon. friend the fact that I have instructed the minister and his colleagues to make certain that this government proceeds as quickly as we can to ensure that those legitimate needs of the artistic community are met for the first time in Canada...."

"I was able to meet Serge Turgeon, Diane Juster, Gilles Vigneault and other artists who worked on this initiative, which reflects the entirely legitimate desires of artists in Québec and across Canada. In fact, there are even more on the anglophone side whom I met and who also met the Minister. The Hon. Member identified the purpose of these efforts. With the support of all Members of this House, I am sure that in the near future, the Canadian Government will be able to draft a bill and take steps that reflect these wishes, for the greater benefit of the Canadian arts community."

Delegates at the Conference were urged by a number of speakers to take advantage of this 'confluence of opportunities'. Over the course of the 2 days, they considered programmes presently in place, the possible changes that these could undergo to better accommodate needs of artists, and what new programmes might be developed. They moved discussion on these issues along considerably, and emerged with clear plans of action for the next few months in order to respond effectively to the opportunity now before them.

Wednesday November 15      Public and Private Plans

Opening

The meeting opened with general remarks from co-chairs Michelle d'Auray and Don Stephenson. Michelle

described the options before the conference: (1) to open existing public programmes; (2) to create new programmes run by arts associations; (3) to use private programmes; and (4) a combination of public and private and self-directed programmes.

She described the process that the Minister set in motion to develop legislation on the status of the artist. The sub-committee of the Standing Committee on Communications and Culture has been asked to submit a report by Christmas. The government response could then be ready in February, and legislation (if applicable) could be introduced in June or July.

Michelle stressed the importance of bringing forward concrete and detailed proposals to the process - "which means a lot of collective work"...

Don Stephenson spoke of the opportunities that have become available as Canada Pension Plan regulations, and Unemployment Insurance and Income Tax legislation are being changed. He said that the general consensus of a September 6 Round Table of arts groups who met to discuss these issues, was that self-directed benefit programmes would provide the best solution for artists' access to social benefits. He referred delegates to a paper on "Self-Directed Benefits for the Artistic Community", prepared by Dr. Irwin Pressman for the Department of Communications, which provides information on existing social programmes and offers some suggestions for developing self-directed benefit programmes.

#### Unemployment Insurance and Employment Training Programmes

Michel Proulx, Chief, Unemployment Insurance Programme Analysis, Employment and Immigration Canada, spoke on changes to the unemployment insurance programme. He explained the 'restrictive' changes to the U.I. programme as (a) the requirement for an increased number of weeks of employment to receive benefits in regions with low unemployment; (b) a reduction in the length of benefits in regions of low unemployment; and (c) an increased penalty for workers who leave their jobs without just cause. The changes which might be beneficial to the arts community are (a) the elimination of the penalty for 'repeaters', thus making access to the programme easier in regions of high unemployment; (b) the introduction of parental leave (for mothers and fathers); and (c) the possibility for workers over 65 to contribute to and receive benefits from the programme.

Yves Poisson, Director General, Policy and Programme Development, Employment and Immigration Canada, described the present and proposed training and employment programmes offered by EIC. He admitted that over the past year statistics show a decline in the overall contribution by EIC to the cultural sector. Current programmes do not respond to demand for skills upgrading courses in the cultural field nor in specific skills such as marketing which employed workers need to improve cultural sector visibility and production. To resolve this situation, EIC is examining the possibility of designating occupations under the Skill Shortages programme of the Canadian Jobs Strategy (CJS) to consolidate existing activity and employment and to secure the forecasted growth levels in the cultural sector occupations to the year 1995 (1.5%). With respect to CJS programme delivery, EIC officials are examining among other things, the developmental use of UI benefits to see how the socio-economic status of the artist can be promoted and enhanced.

Mr. Poisson encouraged the cultural sector to seize the opportunity presented by the government's intention to withdraw from contributing to the UI account and "turn it to their advantage." With the major shift in government policy indicated by the reinvestment of \$800 million of UI funds in training and development, employers and employees will have more say than they previously had on how UI funds are spent on training.

Some delegates expressed concern over the level of training or retraining that is being provided. Dancers, for example, must begin training when they are twelve years old. Similarly, training or retraining creative artists is not appropriate. EIC should be thinking more in terms of professional development - i.e. giving the artist time to develop through, for example, a six week residency fund; or in terms of developing marketing strategies to encourage artists to 'sell' themselves.

In reply to questions from the delegates, Mr. Poisson elaborated on the role of the Canadian Labour Market and Productivity Centre (CLMPC) in developing new policies for the Department of Employment and Immigration. This group is presently conducting symposia on five specific topics in centres across the country. These include:

1. Training for older workers
2. Training for social assistance recipients
3. Approaches to human resource planning
4. Training for unemployment insurance beneficiaries
5. Entry level training, apprenticeship and cooperative education

The CLMPC is expected to report in early 1990. Changes to the employment side will occur in the spring or summer of 1990. He strongly suggested that arts groups provide input into the appropriate CLMPC discussions, and hence the recommendations of the CLMPC's final report, although the fact that the CLMPC task force has no cultural representatives was noted. The infusion of \$800 million from the unemployment insurance funds into training make it an ideal time to press for attention to the specific needs of the cultural sector in this regard.

Don Stephenson pointed out that artists must be represented in the consultation/decision-making process affecting changes to UI and training programmes. It was clear that a study must be undertaken to identify the employment programmes and training needs of the cultural sector. Mr. Poisson assured the delegates that his Department is willing to finance such a study, as long as it involves the people in the sector.

With regard to the fact that self-employed people in the cultural sector are not currently in a position to benefit from UI, Mr. Poisson stated that "current thinking is that a special fund, outside the UI scheme may be set up to deal with such special circumstances..."

Mr. Poisson concluded his presentation on an optimistic note: "I am pleased to advise you that EIC is working closely with your Association, with the Canada Council, and the federal Department of Communications, to examine new approaches to the issues of funding, income stabilization, and internship training on the job. We anticipate our collaborative efforts will lead to new beginnings early in 1990".

#### Canada Pension Plan

Rodney Hagglund, Assistant Director General, Policy and Legislation, Department of Health and Welfare, outlined the present pension plans provided by the government. These include the Canada Pension Plan, Old Age Security and the Guaranteed Income Supplement. Recent amendments to the governing legislation have significantly raised the limit of the level of contributions. However, the problem for artists is that often their income is too low to make contributions. It was suggested that their CPP contributions might be based on gross rather than net income. However, Mr. Hagglund pointed out that net income is a better basis for contributions since the programme is aimed at wage replacement. It is not designed to increase one's income after retirement.

The real problem then for artists in relation to CPP is not access but their low level income.

#### Private Pension Plans

Michael Cohen from William M. Mercer Limited, gave a presentation on private pension plans. Like the previous speaker, he pointed out that we must separate the poverty issue from the retirement issue. Access to pension plans or RRSP's does not address the basic issue or chronic problem of income that is too low.

He explained that pension plans require an employer-employee relationship with contributions from the employer. The self-employed may participate in RRSP's but not to employer-sponsored plans. Under existing

rules, group RRSP's are more suitable for the members of the arts community. They will become even more popular when new legislation, expected in the next few weeks, raises the limit of RRSP contributions to which one may contribute to 18% of salary or \$15,000; and which provides for the ability to carry forward contributions from year to year (which will partly address the problem of income fluctuation).

Another suggestion which might be attractive to artists, arts cooperatives and small theatre/dance companies is the multi-employer plan. According to Mr. Cohen, it allows employers to take advantage of economies of scale, and it allows portability between participating employers. He used the Merchant Seaman Guild as an example to show how individual self-employed artists could come together for specific productions, or work for many engagers grouped under one plan. Such a plan works well if the workers are in the same industry.

### Workers' Compensation

Representatives of the Ontario Workers' Compensation Board, and of the Commission de la Santé et de la Sécurité du Québec, gave details of the workers' compensation plans in their respective provinces. In Ontario, the Act governing workers' compensation is legislated to cover workers, not professionals, and specifically those in an employer/employee relationship. Artists would likely find access difficult on both counts. Delegates were told that artists must lobby the WCB to extend coverage to self-employed artists as the Board does have power to add to its schedule.

In Quebec, access to the CSST plan is much broader. Although it too is directed to employed workers, in order to allow as wide an access as possible, the definition of this term may extend for example to include someone on contract. It is possible for an artist in Quebec to be considered self-employed for income tax purposes and employed for purposes of the CSST. While in Ontario self-employed workers may not participate in the Workers' Compensation Plan, in Quebec they may contribute to the CSST plan on an individual basis. One of the points raised by delegates was that either the government or producers should cover the artists' CSST contributions.

Gaétan Patenaude of the Regroupement des professionnels de la danse du Québec described a study carried out by his organization entitled 'Danse professionnelle au Québec; nature, fréquence et gravité des blessures et leur prévention'. It identifies statistically the types and frequency of dancers' injuries; and explores the political steps that must be taken to ensure compensation for dancers injured in the course of practising their profession, and the steps that must be taken within the dance community itself to prevent the all-too-often recurring injuries. It is hoped that this very valuable report will be translated and circulated to other dance companies across the country who are likewise seeking ways to protect their dancers. The initiative of the Regroupement des professionnels de la danse du Québec serves as an example for other disciplines as well - musicians, visual artists, craftspeople etc. - who are seeking compensation plans for injuries specific to their profession.

### Thursday November 16 Self-Directed Plans for Artists

#### Existing Benefits Plans of Arts Organisations

Thursday's session opened with brief presentations by the Association of Canadian Television and Radio Artists (ACTRA), the American Federation of Musicians (AFofM), Canadian Actors' Equity Association, the Union des Artistes, Dance in Canada, the National Ballet and the Periodical Writers' Association of Canada (PWAC) about their self-directed benefit plans. A summary of these plans is attached. In the course of their presentations, the following comments were made.

#### **ACTRA**

ACTRA is seeking a change to the Income Tax Act that would make an engager's contribution to a performer's insurance plan a non-taxable benefit. In this way, individual contributions could be pooled and a greater range of services offered to all members, notwithstanding their earnings. It was noted that contributions in Quebec are treated as non-taxable benefits.

#### **AFofM**

AFofM wants pension plans to be made available legally to associations of self-employed artists who are able to negotiate agreements with engagers. Unemployment insurance should be available to self-employed professionals who are engaged under a collective bargaining agreement and do not have year-round employment. The AFofM supports the idea that artists should remain as self-employed for purposes of the Income Tax Act, and as employed for all other social programmes.

#### **Canadian Actors' Equity Association**

Canadian Actors' Equity Association prefers their individual plan to workers' compensation which has not proved particularly successful. Their present goal is to extend their private sickness coverage to year-round. They would rather set up a fully fledged pension plan instead of the collectively administered and individually held RRSP plan they now offer their members. The present plan allows them to withdraw their funds at any time and defeats the notion of retirement planning. Nonetheless they acknowledge the need for a flexible withdrawal system because of income fluctuation. They also expressed frustration having to collect benefit contributions from delinquent engagers, and proposed a shift in the onus. Two key points were made: (1) the issue to resolve is income stabilization as theatre seasons shorten across the country; and (2) Employment and Immigration Canada should be encouraged to subsidize training and professional development at higher levels, and to subsidize audition costs.

#### **PACT**

PACT also has a pension plan for member theatres who wish to participate. Employees of theatres, and theatres as employers, remit their respective payments to the PACT office which in turn administers the programme through Manu Life.

PACT also mentioned the Actors' Fund which is a benevolent fund, run as a non-profit charity, based on voluntary contributions and available to anyone in the arts community who is in financial trouble. However, the fund is a stop-gap measure to relieve poverty, and not a social benefit programme.

#### **Union des Artistes**

The Union des Artistes for its part has imposed greater restrictions on its members' ability to withdraw their contributions to the Caisse de Sécurité du Spectacle and use them as income stop-gaps. The Caisse is meant as a retirement plan and should be so used.

Two benefits provided by the Union des Artistes include (1) a holiday benefit based on contributions of 4% for producers and 4% for members, which provides them with vacation money in the summer months; and (2) maternity leave provided through an agreement with Blue Cross.

They also have a charitable fund (d'entraide) for artists in extreme difficulty, much like the Actors' Fund.

Changes to legislation proposed by the Union des Artistes include a plan which would run parallel to unemployment insurance as a 'Caisse de stabilisation du revenu', rules for which would be adapted specifically to artists. This would be a properly constituted federal plan, approved by the Parliament of Canada. The programmes of the Caisse would be run by the professional associations now in place, and would include maternity benefits.

With regard to the CSST, the Union des Artistes proposes changes that would allow self-employed workers to access the benefits collectively through their organisations rather than on an individual basis.

In terms of its dealings with the Quebec ministry of Revenu, the Union des Artistes has made some significant break throughs. For example, the ministry now presumes artists to be self-employed. The onus to prove otherwise rests on the government. (The Union des Artistes hopes to obtain similar recognition from Revenue Canada.) Furthermore, Revenu Québec has approved a longer and more appropriate list of deductions for artists, which has proven to be an important advantage. Concerning the question of who is a professional artist, Revenu Québec has chosen to recognize as a self-employed professional artists those who have contracts established by associations recognized pursuant to Bill 90.

#### Dance in Canada

Dance in Canada, with a tiny office of two people and members across the country, has opted for a private plan that is administered by Mutual of Omaha. Dance in Canada simply puts their members in touch with Mutual and then has nothing more to do with it. It is an expensive plan, and there is no feedback from the company on who uses it or if they are pleased with it. "Dancers need something they can afford, that doesn't make them feel like they are in a position all the time of looking for a handout", commented one participant.

#### National Ballet

The National Ballet has a traditional corporate model of social benefits.

#### PWAC

The Periodical Writers Association of Canada has, like Dance in Canada, an arrangement with Mutual of Omaha to provide social benefits to its members. It appears that Mutual is the only insurance plan available that will cover self-employed people and look after the administration of the plan. Other arts organizations such as the Canadian Authors Association and the Writers' Union of Canada also belong, and are displeased with the service.

PWAC indicated an interest in pursuing with other organizations the possibility of finding another insurance company that might be willing to propose a similar plan.

PWAC also raised the problem of bankruptcy - what protection is there for writers who are writing for magazines that go bankrupt?

#### Self-Directed Benefits

Irwin Pressman then spoke briefly on the study he prepared for the Department of Communications on "Self-Directed Benefits for the Artistic Community".

Working from the basis of shared information on existing self-directed plans, and the information and ideas put forward by Mr. Pressman, the delegates began to discuss the problems associated with self-directed benefits plans.

Some of the difficult questions raised by participants were the following.

- Who will contribute to the plans?
- Many visual artists, writers and independent dancers have no employers, and are not affiliated with a larger group that would subsidize payments.
- In the case of the publishing sector, will publishers contribute to plans for writers?
- In the case of visual artists, will museums and galleries contribute?
- Do writers and visual artists really want access to unemployment insurance? or should we be developing some sort of income stabilization plan?
- How can self-employed artists qualify for unemployment insurance without giving up self-employed status for income tax purposes?

Has there been any thought on behalf of performers' organizations to opening their doors to creator

organizations and helping them to organize collectively? This question was put to delegates by the chair. Representatives of the ACTRA Fraternal Benefit Society pointed out that certain technical amendments would have to be made to federal and provincial laws, allowing for the pooling of resources before such measures could be considered, but that it might be possible.

CARFAC indicated that they might be interested in such an arrangement. The representative of ANNPAC stated that if creators can't find an employer, then they would want government to act as their employer by contributing 50% of an individual's plan.

The Union des Artistes said that they would in principle be willing to be of service to the creator groups, but that they preferred a federation approach where everyone keeps their own autonomy.

Paul Siren, President of the Canadian Conference of the Arts, commented that "there is no intent to dismantle what is functioning extremely well." He added that "together we are looking for the possibility of using existing structures to be able to provide a superimposed plan where you can act both as an insurer and an administrator for other groups - combining administrative apparatus, costs and services." The most important consideration is whether it is possible to establish that kind of cooperative mechanism, and how it can be financed in terms of premium payments.

Canadian Actors' Equity Association indicated that they and the ACTRA Fraternal Benefit Society had tried unsuccessfully to amalgamate their benefit plans. They came to the conclusion that it would be better to start with a new plan rather than working with existing structures.

## Summary

The conclusion of the days' discussions focussed on the following 6 points.

(1) Dual status: Dual status, whereby an artist is recognized as self-employed for income tax purposes and employed for the purpose of unemployment insurance and other benefits, is not a vital issue for creators who work mostly on their own. Nonetheless they were prepared to support the demand for dual status by performers. This spirit of flexibility and cooperation was gratefully acknowledged. There was nonetheless a strong feeling among some performers (such as ACTRA and the Union des Artistes) that it would ultimately be more beneficial to artists to develop a plan parallel to UI rather than to try to fit into the present UI programme.

(2) Income Stabilization/Income levels: The basic need is for a steady flow of income that would allow people to create and at the same time to contribute to their own plans. Should we be looking at a tax deductible registered income plan which would have public contributions and to which artists could contribute and withdraw from as necessary to stabilize fluctuation? Many questions followed. Who would contribute? What is the role of government? Should there be one big plan - or one for performers and one for creators?

The CCA agreed to coordinate two working groups - one of performers and one of creators - to answer these questions and to develop these ideas with reference to their respective disciplines.

(3) Opening existing plans: It was clear that beyond principle, it was not possible to explore this idea because so much information is missing. An actuarial study and an evaluation of membership would have to be carried out by creator groups. They indicated their willingness to undertake such studies this if public funds were available to finance them.

It was agreed that the working group of creators formed to consider the question of income stabilization would also consider the question of accessing in some way the existing benefits programmes of performing groups. (Creator groups reiterated that they could undertake such extensive research only if public funds

were available for it.)

**(4) Collective agreements:** At the present time, the collective agreements of the AFofM, ACTRA and Uda do not conform to the Canadian Labour Code in that they do not represent workers who hold employer/employee relationships as the basis of employment. They could in fact become the subject of enquiries and potential prosecution under the Competition Act. Federal enactment of the provisions of the Canadian Artists Code would legalize these organizations. This would strengthen the recognition of the artistic sector and its professional status. It would also encourage provincial governments to follow suit in areas under their own jurisdiction i.e. all areas other than broadcasting.

**(5) Definition of artist:** In the Canadian Artists Code, artists are defined as those who work under contract negotiated by a recognized professional association (as is provided for in Quebec's Bill 90). This seemed to be generally accepted by those present to be a fair and just means of identifying artists.

**(6) Training/retraining/professional development:** Artists don't need entry-level training in their profession. They might on occasion need retraining, but programmes providing for professional development would be the most appropriate.

Delegates agreed to send their suggestions on use of training funds to the CCA who would coordinate their input into a report to the Department of Communications, and to the Employment and Immigration Commission.

---

Since the NASO Conference, much has happened.....

On December 19, 1989, the Standing Committee on Communications and Culture released its sub-committee's report on the Status of the Artist. It's recommendations indeed address the problems identified by the national arts service organizations at their conference, and propose solutions which are in line with the consensus of their meeting. Consider the 6 points summarized at the conference in light of the sub-committee's recommendations.

1) Dual Status: Delegates at the conference agreed to support a demand for dual status whereby an artist is recognized as employed for the purposes of unemployment insurance and self-employed for income tax purposes. Recommendations 4 and 5 of the sub-committee's report state:

#4. That the proposed legislation on the status of the artist presume that, for income tax purposes, artists who are represented by certified professional associations are self-employed, and that the Income Tax Act amended accordingly.

#5. That the proposed legislation on the status of the artist give artists, represented by certified professional associations, the right to be an employee for unemployment insurance purposes, on that part of the income generated from salaried employment and that the Unemployment Insurance Act be amended accordingly.

2. Income Stabilization/Income levels: Artists need a steady flow of income to allow them to create and at the same time contribute to their own plan. While as a result of the NASO conference, 2 working groups - one of performers and one of creators - are meeting to consider ways of ensuring steady and sufficient income, they will do it in light of Recommendation 10.



**#10. That the proposed legislation on the status of the artist give self-employed artists the right to stabilize their income by setting aside a part of their artistic income in an "Artist Account" on which tax liability would be deferred, and that the Income Tax Act be amended accordingly.**

**3. Opening existing plans: Studies that creator groups are proposing to undertake to consider the question of accessing the existing benefits programmes of performing groups will be carried out in light of Recommendation 6.**

**#6. That the Minister of Communications explore the demand for and the viability of establishing private group benefit plans for creative artists.**

**4. Collective agreements: The need to recognize associations of artists for collective bargaining purposes is acknowledged in Recommendation 3.**

**#3. That legislation on the status of the artist be established to recognize the professional status of the artist and to give certified professional associations representing self-employed artists working in areas of federal jurisdiction, the right of collective bargaining as allowed under the Canada Labour Code.**

**5. Definition of artist: There was consensus at the NASO conference that artists should be defined as those who work under contract negotiated by a recognized professional association. While the Recommendations of the sub-committee do not address this question directly, it is one which could well be raised in discussions related to Recommendation 3.**

**6. Training/retraining and professional development: Comments and suggestions in the area of training are being dealt with in a memorandum from DOC to EIC which has been developed in consultation with the CCA, and which incorporates many of the suggestions from arts organizations.**

---

**What's to come....**

**Now that the Committee's report has been tabled, the government has 150 days to respond. If the government's response recommends legislation (and the Minister has indicated that this is his desire), then a bill might in fact be introduced as early as June or July of this year.**

**Artists and arts groups must 'keep the pressure on' by writing to the Minister, with copies to the Chairman of the Standing Committee and to the Prime Minister, expressing support for the Report's recommendations.**

**Addresses are:**

**The Honourable Marcel Masse  
Minister of Communications  
Journal Tower North  
300 Slater Street  
Ottawa K1A 0C8**

**Felix Holtmann  
Chairman, Standing Committee of Communications and Culture  
Room 259, Wellington Building  
House of Commons  
Ottawa K1A 0A6**

**Prime Minister Brian Mulroney  
Langevin Building  
Wellington Street  
Ottawa K1A 0A2**

**In the area of training and employment programmes, consultations with DOC and EIC continue, and the interests and desires of artists are well-represented by the CCA.**

**In the area of social benefits, the CCA is meeting with creator groups to follow-up on the recommendation of the NASO conference that an actuarial study and an assessment of membership be carried out prior to discussing the possibility of opening up the existing benefits programmes of performing groups. Certainly the consensus that was arrived at at the NASO conference will assist immeasurably in achieving the goals of the arts community and the government in its legislation on the status of the arts.**