



Equity for Saskatchewan Artists

Collective Bargaining / Labour Standards
for Saskatchewan Artists



Saskatchewan
Arts Alliance



Presentation Outline

- ✦ What is Collective Bargaining?
- ✦ Why Artists need a Collective Bargaining Code
- ✦ Why is Collective Bargaining Important for Artists, Producers, Community and Government?
- ✦ Current Collective Bargaining Laws do not apply to most Artists
- ✦ Goals of an Artists' Collective Bargaining Code



Presentation Outline Cont'd

- ✦ Current Models of Collective Bargaining for Artists and Producers
- ✦ Voluntary Recognition
- ✦ Federal Status of the Artists Legislation
- ✦ Quebec



Presentation Outline Cont'd

- ✦ Provincial Model for Collective Bargaining for Artists and Producers
- ✦ How to Achieve Collective Bargaining for Artists and Producers
- ✦ Other Issues and Considerations



Collective Bargaining – What Is It?

At a very basic level - two parties with mutual interests and similar goals come together to achieve, by negotiation, a binding agreement on how to conduct their relationship concerning issues of payment for services (work), working conditions, conduct, conflict resolution, benefits and other relevant mutual interests.



Collective Bargaining – What Is It?

These are most often *employer/employee/workplace* relationships governed by legislation at federal and provincial levels.

Artists, for the most part, are not in circumstances of employer/employee relationship; also they often do not have a permanent workplace. Artists have a tradition of collective bargaining through voluntary recognition.



Collective Bargaining Legislation

Provides:

- ✦ Due process / regulated relations
- ✦ Certification / recognition
- ✦ Protections / standards
- ✦ Tribunal / hearing process in dispute resolution



Important for Artists, Producers, Community, and Government.

- ✦ Ensures equitable treatment of artists
- ✦ Provides basic income security
- ✦ Provides common benefits and protections
- ✦ Brings stability to cultural industries
- ✦ Advances a healthy cultural climate for artists and producers
- ✦ Disputes between artists and producers can be resolved through the dispute resolution mechanisms



Why Artists need a Collective Bargaining Code

- ✦ Allows artists' associations to enter into binding collective agreements with producers/producer associations
- ✦ Binding agreements (usually called "scale" agreements) set out minimum terms and conditions of work for artists
- ✦ Artists'/ Producers can enforce collective agreements by dispute resolution mechanisms (grievance, arbitration and mediation processes)



Why Artists Need a Collective Bargaining Code

- ✦ Artists assured basic working conditions, pay and benefits
- ✦ Less disruption, greater regulation, in labour relations for producers and artists
- ✦ More orderly and efficient negotiation processes

Current Collective Bargaining Laws do not apply to most Artists

- ✦ *Trade Union Act* applies to persons who are “employees” and “employers” who are often in single defined “workplace”
- ✦ Most artists fall within the legal status of “independent contractors”
- ✦ Without a special collective bargaining statute for artists, artists’ associations have no legal recourse to require producers to engage in collective bargaining



History of Achievement in Canada

- ✦ A century of work has built labour legislation and established precedents for labour relations.
- ✦ Step-by-step principles and legislation have been set down to govern collective bargaining.
- ✦ The cultural sector has a long history of collective action / unionization on which status legislation can be built, a key area of action on behalf of self-employed.
- ✦ Status of the Artist legislation is a *new step*.



Goals of an Artists' Collective Bargaining Code

- ✦ Recognition of “professional “ artists and principles of Saskatchewan Artists Code
- ✦ Permit certification of Artists' Associations to enable them to be exclusive representatives of artists in negotiations with Producers' Associations
- ✦ Establish a tribunal (like Saskatchewan Labour Relations Board) to encourage and support collective bargaining in cultural sector by providing mechanisms to establish and enforce good faith bargaining



Goals of an Artists' Collective Bargaining Code

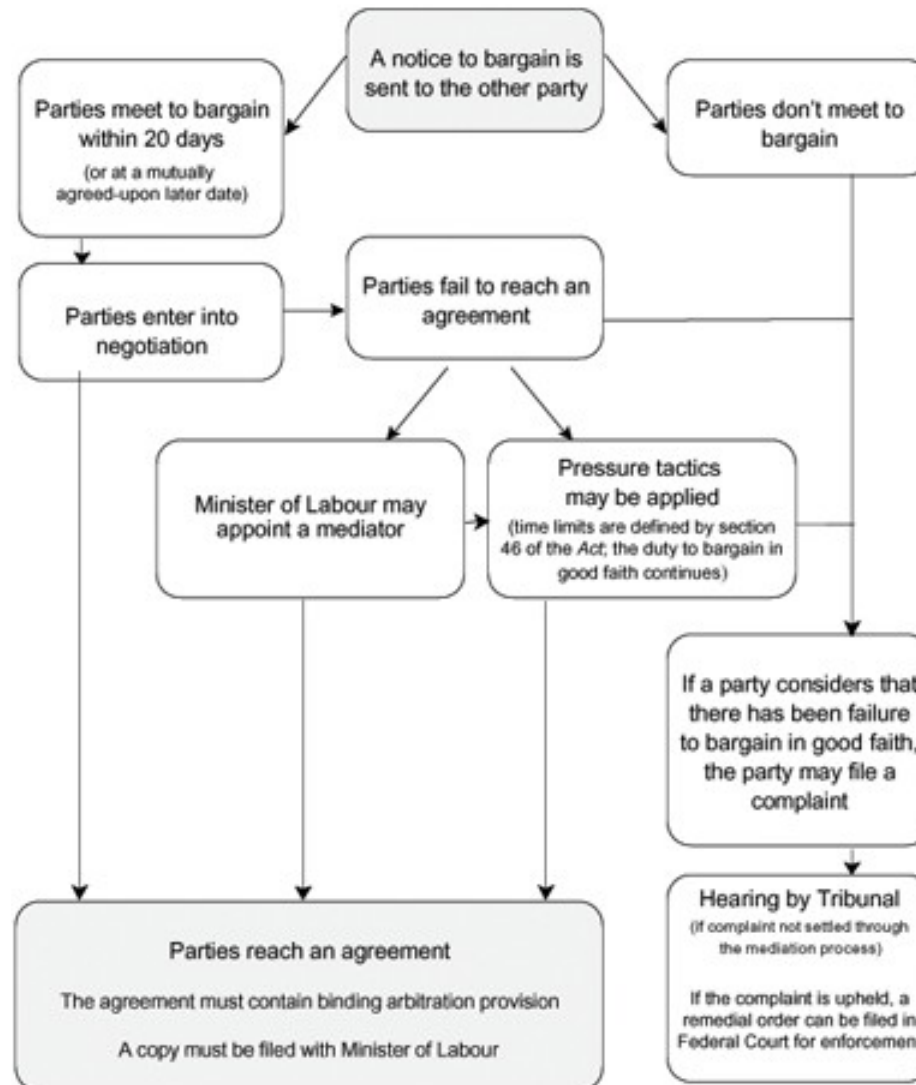
- ✦ Ensure artists and producers freedom of association through development of representational associations, the ability to change representational associations, and the rights of individual artists and producers to participate in representational associations
- ✦ Overcome any legal issues arising from Competitions Act in regards to collective bargaining for persons who have a legal status as “independent contractors”
- ✦ Regulate labour relations conflict in cultural sector



Current Models of Collective Bargaining for Artists and Producers

- ✦ Voluntary Recognition
- ✦ Federal Status of the Artist Legislation
- ✦ Quebec

Steps in the negotiation process under the *Status of the Artist Act*





Voluntary Recognition

- ✦ Achieved by artists collectively organizing into associations/unions that then proceed to ask producer(s) to negotiate collective agreement(s) covering pay, benefits and conditions of work of artists.
- ✦ Producer (employer) voluntarily recognizes artists' association/union because they require artists for production.
- ✦ Voluntary recognition has no legal/legislated status. It is based on the collective power of artists to organize effectively.



Voluntary Recognition

✧ Rights are those set out in voluntary agreements, based on the precedents developed over time. Artists achieve rights on the basis of their collective position.



Voluntary Recognition

✦ Problems: Without legal recognition, the artists' association is vulnerable to legal challenge, for example, restraint of trade or artistic copyright challenge. Artists who are not in large profitable areas of production are unable to develop strength in numbers to ensure adequate protection. As artists are engaged as independent contractors, not as employees, labour legislation does not protect their interests or work standards.



Federal Status of the Artist Legislation

- ✦ Establishes a model of collective bargaining for artists in federal jurisdiction
- ✦ Establishes *Canadian Artists and Producers Professional Relations Tribunal* (CAPPRT) to administer the Legislation
- ✦ Applies to independent contractors who are engaged by federal government, agencies and crown corporations or by broadcasting undertakings under the jurisdiction of CRTC



Federal Status of the Artist Legislation

- ✦ Applies to authors, writers, photographers, visual artists, composers, performers – actors, musicians and singers, directors, set, costume, camera work, lighting and sound designers and others
- ✦ Establishes mechanisms for recognizing artists / producers / associations as the exclusive bargaining forum in a specific defined sector
- ✦ Encourages collective bargaining by establishing mechanisms to encourage and enforce good faith bargaining



Federal Status of the Artist Legislation

- ✧ Encourages the establishment of artists associations by permitting dues deductions and other institutional supports to ensure freedom of association for artists



Quebec

Two pieces of Status legislation have been enacted in Quebec. These cover:

- ✦ Professional Status and Conditions of Engagement of Performing, Recording and Film Artists, 1987
- ✦ Professional Status of Artists in the Visual Arts, Arts and Crafts and Literature, and their Contracts with Promoters, 1988



Quebec

And provide for:

- ✧ Similar recognition and sector bargaining processes as the Federal Status Act and are likewise governed by a similar tribunal process in dealing with dispute and recognition.



Need for Complementary Provincial Status Legislation and Action

CAPPRT and other federal agencies have urged enactment of provincial legislation to complement the federal Status Act.

“...It will be difficult to make improvements to the status of Canadian artists without the cooperation and participation of provincial governments. Existing federal status of the artist legislation will fulfill its purposes only it is accompanied by complementary provincial legislation.” Ninth Report of the Standing Committee on Can. Heritage.



Provincial Model for Collective Bargaining for Artists and Producers

Why is Legislation critical?

- ✦ For orderly effective processes it is necessary to have the weight of legal status, ensuring less vulnerability

What could be achieved?

- ✦ Status of the Artist Legislation complementary to the Federal Act



Provincial Model for Collective Bargaining for Artists and Producers

It would provide for:

- ✦ Recognition of artists associations as exclusive representatives of artists for purpose of bargaining collectively with producers / producer associations
- ✦ Applicable to artists and producers in Provincial jurisdiction such as theatre; film, video and audio productions; visual artists; literary artists; musicians; etc. patterned on Federal Status Act



Provincial Model for Collective Bargaining for Artists and Producers

- ✦ Support and encouragement for collective bargaining through regulation of good faith bargaining and establishment of bargaining framework
- ✦ Institutional support for associations chosen by artists and producers and support for the exercise of freedom of association by artists and producers
- ✦ An administrative tribunal to enforce provisions of the *Act* or an assignment of these tasks to existing LRB
- ✦ Elimination of any concerns related to unfair competition and other legal impediments to collective bargaining

How to Achieve Collective Bargaining for Artists and Producers

- ✱ Develop new collective bargaining legislation for artists and producers
- ✱ Rely on the Saskatchewan Labour Relations Board as the administrative agency to administer the Act for reasons of expertise in collective bargaining and costs (assuming that members of the artists associations and producers associations would be appointed as members to the Board)

How to Achieve Collective Bargaining for Artists and Producers

- ✦ Consider including in the Legislation standards for artists/producer relations in areas of contracting, cancellations, payment periods, benefits (“Labour Standard” like provisions)
- ✦ Follow CAPPRT and Federal Status of Artist Act provisions for sector bargaining. This point is regarded as crucial by artists’ associations so that Provincial Legislation complements and supports Federal Act and processes



Other Issues and Considerations

- ✦ Protection of self-employed status for artists related to income tax issues
- ✦ Organization of artists and producers into sector units
- ✦ Relationship of new Status legislation to other workers in self-employed or independent contractor relationships
- ✦ Similarities to other forms of sectoral bargaining, e.g. Construction trades, CAPPRT
- ✦ Relationship to other provincial legislation (Quebec) and Status developments in other provinces



Status of the Artist Is About Equity for Saskatchewan Artists



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