
ONTARIO STATUS OF THE ARTIST COALITION

RESPONSE TO

**THE STATUS OF THE ARTIST IN ONTARIO
SUMMARY OF CONSULTATIONS**

NOVEMBER 30, 1992

The *Summary of Consultations* cover a broad spectrum of issues and concerns that have been with us for some years. The points raised have been discussed many times in the past and show up in a myriad of federal and provincial reports and Task Forces. We recognize that not all of the points raised in the discussion paper can be resolved today. However, the time is long overdue for bringing many of these points to a successful conclusion. To be quite frank, enough time and energy has been spent on recommending and discussing the difficulties. The *Summary of Consultations* should, at this time, mark a turning point. A change from discussion and consultation to a direct road that will lead to actual implementation within a very short time-frame.

We recognize that the Ministry of Culture and Communications is currently working on many of the points raised in this paper. We are aware of the work the Ministry is involved in on Arts Awareness, Arts Education and Artists' Housing and Workspace and inter-governmental responsibility for the arts. Members of our Coalition would like to congratulate the Ministry for the initiatives taken and the progress that has been made so far. We support this work and the continuing efforts in these areas.

During our discussions we have considered both the content and approach to bringing in legislative changes for artists. We would like to state at the outset that our first priority is to introduce enabling legislation by September 1993. This enabling legislation would provide tools for creators and their organizations to become more effective in providing benefits and services. Artist organizations are currently restricted by existing legislation that does not recognize their unique working environment in the arts. This environment must retain its uniqueness in order to support the creative process.

In order to facilitate this goal we are recommending the immediate establishment of an advisory committee. This committee would be charged with the responsibility of coordinating the necessary work and bringing a final draft of the legislation before September 1993.

A. ADVISORY COMMITTEE

Our first recommendation is to immediately create an advisory committee that would:

- a) Review responses to the Ministry's Summary of Consultations.
- b) Develop phase one of implementing legislation.
- c) Be part of the legislative drafting process.

The Committee mandate would be based on the 9 principles stated in the Ontario Status of the Artist Coalition's July 1991 statement of Common Principles on Status of the Artist (attached). The Advisory Committee would be a working group made up of members selected by the Ontario Status of the Artist Coalition and the Ministry of Culture and Communications.

- a) The Committee would be responsible to bring forward a legislative package on Status of the Artist for inclusion in the cabinet's September 1993 agenda.
- b) This Committee should be constructed immediately so it can have its first meeting no later than January 20, 1993.

The OSOAC feels that it is imperative that the process for bringing in this legislation be started immediately so an omnibus bill can be put before cabinet by September 1993.

B. OMNIBUS BILL

While each of the areas covered in the Ministry's report are important and eventually should be included in the legislation, we have identified priorities for the first phase of an omnibus bill. Please understand that this list is not meant to underestimate the significance of other topics in the report. It is the minimum that we feel is necessary for immediate adoption in a Status of the Artist bill.

1. Artists' Bargaining Rights

Collective Bargaining is a primary consideration for the Status of the Artist. All too often creators enter into relationships that are oppressive because of their weak bargaining position. An individual creator must be in a stronger position when dealing with institutions or businesses.

a) The legislation should formally recognize and enshrine the collective bargaining regimes of art organizations that are already engaged in collective bargaining but do not have statutory support. Without recognition such bargaining agents are left in a very vulnerable position.

b) The legislation should also enable the development of new bargaining agents in the arts. Not all art disciplines have organizations that currently collectively bargain for their constituents. Existing legislation doesn't support collective bargaining, therefore many organizations have been reluctant to establish such a service for their members.

c) The legislation should also include provisions for arbitrating disputes. An affordable mechanism for arbitration needs to encompass both collective bargaining organizations and disputes between individual creators and clients.

In relationship to collective bargaining organizations, it is likely that most of these organizations will include provisions for arbitration internally during their contract negotiations. However, an additional authority may be required in the event the internal structure is unsuccessful in reaching a resolution.

In relationship to individual creators the need is explicit, in that creators need an affordable authority empowered to act in disputes. Currently, many

creators have no recourse when a dispute arises because of the prohibitive costs of using legal remedies.

Not all arts disciplines have organizations that are likely to form collective bargaining services for their members. For this reason there is also a need to have legislation that offers protection for the individual creator when a bargaining service doesn't exist. This protection could be provided by the requirement for contracts with minimum standards between creators and their clients. The Status of the Artist legislation in Quebec provides a good example.

2. Access to Social Benefits:

a) Without question there is a need for a pension plan for creators. As outlined in the *Summary of Consultation*, this is not available to most creators, either because of the inability to identify an employer to host the plan or because of creators' limited personal financial resources.

The recommendations contained in the *Summary of Consultations* should be enacted. Specifically, the recommendation to revise the Pension Benefits Act to make artists' associations eligible to register plans under the Act and develop Multi-Employer Pension Plans for the Arts sector.

Currently, there is research taking place within the arts community to determine the viability of a sector-wide umbrella plan. From discussions to date, it would appear that such a plan is the favoured option.

Determining the sources of revenue for a plan is of extreme importance. The proposal in the *Summary of Consultations* should be used as a guide to determine the most appropriate revenue sources.

b) The provincial government should work directly with the federal government to make social benefits available to creators. The fact that many creators are self-employed or have dual employment / self-employment status should not restrict them from participating in benefit programs.

c) Work should continue in developing private disability plans for artists.

3. *Insolvency / Bankruptcy*

The recommendations contained in the *Summary of Consultations* should be pursued to ensure that creators qualify as preferred creditors and through liens on assets of an insolvent business. As recommended, expansion of the Employee Wage Protection Fund to include artists should be considered.

The provincial government should change legislation under its jurisdiction to protect artists from losses due to insolvency and bankruptcy. In addition, the provincial government should also work with the federal government to change legislation under federal jurisdiction. As outlined in the *Summary of Consultations*, artists are often unfairly treated in insolvency situations.

4. *Workers' Compensation*

a) The Workers' Compensation categories should be amended to include a specific category for the arts. For example, the current category that crafts businesses falls under is inappropriate and the rate is far too high for such small businesses to be able to reasonably meet.

b) The new category should allow for artists that are either employed or self-employed.

c) The new category should be voluntary. It should not be a requirement in the way that crafts businesses are currently required to register.

5. *Artists' Live/Workspace*

Currently there are two groups working on legislation that affects artists Live/Workspace. The Ministry of Housing's Building Code Working Group and Toronto Artscape Inc. have taken initiatives to deal with provincial aspects of Artists' Live/Workspace.

The OSOAC supports the work currently being done by these groups and recommends that their findings be incorporated into the Status of the Artist Legislation.

C. PROVINCIAL DIRECTIVE

Not all of the recommendations in the *Summary of Consultations* require legislation that is clearly defined at this time. However, it doesn't mean that these areas should be considered any less important. For this reason the OSOAC recommends that a directive be included in the omnibus bill that would commit the government of Ontario to continue to work toward resolving the following issues.

1. *Arts Awareness*

The enabling tools listed above in the omnibus bill are predicated on establishing a real market for the arts. This market at present doesn't fully support the generation of revenues that will provide reasonable incomes for artists. An Arts Awareness program is needed to build a market that will provide an economy for the arts. The development of this program is already underway and submissions have been made to the Ministry of Culture and Communications to support this program.

In the long term, success in building a realistic economy in the arts for both artists and art support services requires a much more highly developed interaction between art and the people of Ontario. OSOAC would like to see this program in full operation in the very near future.

2. *Professional Development*

Programs are required to supplement artists' education in practical professional skills. These programs need to take place in three areas:

- a) Through initial formal training at Universities and Art Colleges.
- b) Through continuing programs where artists may gain skills that were not taught during their initial training and to upgrade skills on a continuing basis.
- c) Through retraining programs, to provide opportunities for artists to establish alternate means of pursuing their chosen discipline.

Currently most artists have to learn their skills the hard way, which often results in lost financial and artistic opportunities. Without basic art business

skills artists often reach a frustration level where they simply give up.

3. Education

Understanding and appreciation of the arts should be fundamental in the education of our youth and their development into complete adults. Education programs should be directed toward understanding and familiarizing students in the arts. This is best achieved through direct contact with various art forms - by seeing performances and visual arts, hearing music and experiencing multi-media work. Arts education programs should be considered a fundamental part of the education of our youth, just as comprehension and communication are considered basic educational requirements.

We support the recommendations made in the *Summary of Consultations*.

4. Occupational Health and Safety

In too many instances artists are working in unsafe environments with unsafe materials. This in part is because of artists' limited resources and employer requirements. It is also a product of too few regulations in the workplace. The needs of the employer will often force artists into unsafe conditions where it is difficult to say no. As stated in the summary of consultations these issues need to be addressed and the work currently underway should be continued.

An arts sector committee should be established to analyze the options and make concrete recommendations that can be enacted. Training on health and safety could be incorporated into a program for professional development as stated above.

5. Federal Jurisdiction

A formalized structure should be established by the Ministry of Culture and Communications to work with the federal government to attempt to resolve outstanding issues that affect Ontario artists but is within federal jurisdiction. Consideration should be given to expanding this structure to include other provinces as well.

D. CONCLUSION

The *Summary of Consultations* has provided an opportunity to concretize many of the concepts and potential solutions to the long-standing issues that creators face on a day to day basis. It has also provided an occasion for arts organizations of all disciplines to recognize common concerns and develop common approaches to resolving these issues.

It is clear that a comprehensive approach is needed in order to deal with the dilemma that artists must contend with; a comprehensive approach where the solution to one problem is also a part of the solution to others. Generating an economy for creators requires enabling tools as indicated in the proposal for an Omnibus bill on Status of the Artist. However, for these tools to be ultimately useful other structures must be put in place as well. For example:

- an Arts Awareness Program is necessary to generate the market that can produce the revenue to acquire a reasonable income for creators;
- arts education for our youth is necessary to develop an appreciative audience for the arts;
- professional training is necessary to ensure that artists are able use the tools at their disposal.

One of the most debilitating aspects of the environment that artists work in is also one of the most necessary for the creation of art. That is the employment status of artists, which is and must be a varied arrangement between the employed and self-employed. The debilitating factor is the lack of recognition of self-employed artists in provincial and federal statutes which precludes artists from legislation and regulation that is available to other Ontarians. In almost every instance, existing artist organizations could act as the employer for specific purposes.

Resolving the issues that were flagged in the *Summary of Consultations* has more than a singular objective. Certainly our interest is in developing and supporting an art economy for the creator. However, there is another side to this coin. If artists cannot continue to create, or their creations are not highly visible, then we cannot expect our society to be creative. Without creative solutions the outlook for the future is not optimistic.

The Ontario Status of the Artist Coalition member organizations:

Alliance of Canadian Cinema, TV & Radio Arts

Alliance culturelle de l'Ontario

Canadian Actors Equity Association

Canadian Artists' Representation Ontario

Dance in Canada

Dancers' Transition Centre

Directors Guild of Canada

Directors Guild of Canada, Ontario Division

Ontario Choral Federation

Periodical Writers Association of Canada

Playwrites Union of Canada

Union des Artistes

Visual Arts Ontario

The Writer's Union of Canada

Status of the Artist Coalition

The Status of the Artist Coalition brings together 15 groups and individuals representing artists in dance, music, on stage and screen, in writing, and the visual arts. This group met in July 1991 to forge principles which would act as a basis for the distinct legislation which recognizes the contribution that artists make to life in Ontario.

The Coalition wishes to reinforce existing policies, programs and organizations and lay the foundation for improved conditions for artists as a result of status of the artist legislation. These principles seek to reflect the contemporary circumstances of Canadian artists.

Common Principles

- A. That distinct legislation be enacted to recognize the vital role that each artist contributes to society and the unique status of the artistic profession.
 - i. That a permanent advisory committee comprised of working artists or their representatives be recognized to work directly with ministries, agencies and institutions to assist in the development and implementation of the legislation and its resultant programs.

Included in its mandate would be a responsibility for increasing public awareness of the arts and a mandate to achieve programs which will improve the province's arts education: recognizing the diversity of artistic expression.
 - ii. That the legislation would recognize the rights of artists to bargain collectively; would recognize existing bargaining agents and collective agreements, and allow for certification of artists' groups.

That the legislation would enable existing and new mechanisms to assist in the exercise of those rights and agreements.

That the legislation create a tribunal for artists' and producers' professional relations which include appointed councillors with demonstrated arts and labour experience.
 - iii. That the legislation would enable the development of or access to plans which provide social benefits to the artist and establish the means whereby the plans can be realized.

Common Principles/2

- iv. That it establish and assist professional development and retraining programs for the artist.
- v. That the legislation institute appropriate mechanisms for the self regulation of the artists' working conditions by providing the means to set up regulating bodies. These groups shall be made up of artists or their representatives and those who engage their services or market their products, for the purpose of ensuring that reasonable standards of health and safety prevail.
- vi. That the legislation require that the government purchase artistic works and services for its public buildings and programs from professional artists.
- vii. That the legislation address taxation matters affecting the artist such as insolvency; the application of the health services tax; business tax on studios, and income tax practices.
- viii. That the legislation should lay the foundation for affordable living and work space for artists in this province.
- ix. That the legislation enable the the advisory committee to examine other relevant legislation which affects the status of the artists and recommend amendments, on a continuing basis.

B. Definition of an Artist

- i. the Coalition favors a definition derived from UNESCO and the Canadian Artists' Code (Sections 2 & 9). (Appendix 1)
- ii. the definition should espouse the general principles of the UNESCO definition in its primary clauses.
- iii. the secondary clauses should recognize the status of the professional artist.

25 July 1991