



Canadian Artists and Producers Professional Relations Tribunal

2006-2007
Estimates

Part III - Report on Plans and Priorities

Canadian Artists and Producers Professional Relations Tribunal

2006-2007
Estimates

Report on Plans and Priorities

Approved:

The Honourable Jean-Pierre Blackburn
Minister of Labour and Minister of the Economic Development
Agency of Canada for the Regions of Quebec

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Section I: Overview

Message from the Chairperson

I am pleased to present the 2006-2007 *Report on Plans and Priorities* for the Canadian Artists and Producers Professional Relations Tribunal (CAPPRT or the Tribunal). This report outlines its intended direction for the next three years based on the lessons learned from practice.

CAPPRT will continue to fulfill its statutory responsibilities. It expects to deal mostly with complaints of unfair labour practices and other matters brought forward by artists, artists' associations, producers and arbitrators. It will also continue to determine the sectors of cultural activity suitable for collective bargaining and certifying artists' associations to represent self-employed artists working in these sectors as required.

In carrying out its statutory responsibilities, CAPPRT aims to provide high quality service in dealing with matters. It informs and assists the parties so that they will exercise their rights and carry out their responsibilities. CAPPRT maintains as a priority for 2006-2007 to assist in preparing amendments to the *Status of the Artist Act* and other changes which would make the *Act* more effective. This work is being carried out with the Department of Human Resources and Social Development under the lead of the Department of Canadian Heritage, in response to its evaluation report tabled in April 2003.

The Canadian Artists and Producers Professional Relations Tribunal remains firmly committed to the development and maintenance of constructive professional relations between artists and producers and will continue to contribute to the economic and social well-being of its client community. The goal of this work is to support a thriving and successful cultural sector in Canada.

Management Representation Statement

I submit for tabling in Parliament, the 2006-2007 *Report on Plans and Priorities (RPP)* for the Canadian Artists and Producers Professional Relations Tribunal.

This document has been prepared based on the reporting principles contained in the *Guide to the Preparation of Part III of the 2005-2006 Estimates: Reports on Plans and Priorities and Departmental Performance Reports*:

- It adheres to the specific reporting requirements outlined in the Treasury Board Secretariat (TBS) guidance;
- It is based on CAPPRT's approved Program Activity Architecture structure as reflected in its Management, Resources and Results Structure (MRRS);
- It presents consistent, comprehensive, balanced and reliable information;
- It provides a basis of accountability for the results achieved with the resources and authorities entrusted to it; and

- It reports finances based on approved planned spending numbers from the Treasury Board Secretariat in the Report on Plans and Priorities.

John M. Moreau, Q.C.
Acting Chairperson and Chief Executive Officer
August 2, 2006

Summary Information

Reason for Existence

The mandate of the Canadian Artists and Producers Professional Relations Tribunal is to administer Part II of the <i>Status of the Artist Act</i> which governs professional relations between self-employed artists and producers in the federal jurisdiction. By carrying out its mandate, CAPPRT contributes to developing constructive labour relations between these parties.
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Financial Resources (\$ millions)

2006-2007	2007-2008	2008-2009
1.9	1.9	1.9

Human Resources (full-time equivalents)

2006-2007	2007-2008	2008-2009
10	10	10

Departmental Plans and Priorities

Operating Environment

The economic contribution of the arts and culture sector is significant. In 2002, the sector contributed \$39 billion to the Canadian economy, or almost 4 percent of gross domestic product, according to Statistics Canada's most recent figures. Although the works of Canadian artists enrich our daily lives and represent Canadians at home and abroad, the valuable contribution of artists is not reflected in their earnings. According to the most recent Statistics Canada census data, artists' average income rose to \$27,200 in 2000, up 23 percent from 1995. However it remained below the average income of all workers in Canada (\$31,800), despite the higher than average level of education of artists. A high proportion of artists are self-employed; for example, almost 70 percent of visual artists and close to 50 percent of writers and craftspersons work as independent entrepreneurs according to the census. An estimated 100,000 self-employed artists fall under the Tribunal's jurisdiction. In addition to having lower earnings, many self-employed artists do not have the advantages enjoyed by many workers who are employees, such as employment insurance, training benefits and pension funds.

The economics of artistic endeavours

The federal government has various institutions, programs and policies to recognize and support artists and producers. The *Status of the Artist Act* and CAPPRT are part of this government support system for arts and culture. However, the impact of the *Act* is limited due to its application to a small jurisdiction. Most work in the cultural sector which includes sound recording, art exhibitions, theatrical production, book publishing and the vast majority of film and television programming production falls under the jurisdiction of the provinces.

Limitations of the Status of the Artist Act

To date, Quebec is the only province with legislation granting collective bargaining rights to self-employed artists. The necessity for provincial legislation was recognized by the Standing Committee on Canadian Heritage in its ninth report in 1999. This view was expressed again in

the Department of Canadian Heritage’s evaluation of the provisions and operations of the *Status of the Artist Act* carried out in 2002¹ (referred to as “evaluation report” in this document). Since the adoption of enabling legislation on the status of the artist in 2002, the Saskatchewan government has been studying the possibility of introducing a legal collective bargaining framework for some artistic work in that province. The Ontario Culture Minister’s Advisory Council for Arts and Culture has undertaken an official study of status of the artist in Ontario. The Tribunal supports the adoption of status of the artist legislation by more provinces and will continue to provide information to policy makers and others interested in the benefits of such legislation.

Because artists’ associations lack sufficient time and resources, they would rather negotiate with producers’ associations than with individual producers. And many government producers would prefer to designate one department as their lead negotiator. One of the recommendations from the evaluation report was to give consideration “to establishing one bargaining authority for all federal government departments”. The Tribunal supports this recommendation, as it would facilitate the bargaining process and make it more cost-effective.

Like all federal institutions, CAPPRT faces the challenge of carrying out its statutory responsibilities and fulfilling the increasing requirements for transparent and accountable reporting, while at the same time being careful in the spending of public funds. At its creation in 1993, CAPPRT adopted efficient business practices, and in the spirit of the day soon adopted a clear statement of objectives, high standards for service delivery, a comprehensive performance measurement framework and transparent reporting on its activities and results. CAPPRT’s management team embraced this framework at its inception and has been continually guided by it as it evolves.

**Small
agency
challenges**

As a very small agency, CAPPRT faces a particular challenge in operating in that there are a myriad of tasks for a small staff. This is compounded by the fact that the workload is unpredictable and changing, as parties themselves decide whether to bring cases to CAPPRT. To meet these particular challenges, CAPPRT has followed a number of practices, such as contracting-out and sharing of accommodation, as described in Section III under Organizational Information. Tribunal members are appointed on a part-time basis, a fact which adds to our economic efficiency as they are called on and paid only as needed; however this makes scheduling more difficult as they have other commitments. All Tribunal members are currently bilingual, a situation which facilitates the scheduling of cases.

Government of Canada Outcomes

In encouraging constructive labour relations between self-employed artists and producers in its jurisdiction, CAPPRT expects that artists’ income and working conditions will improve, artists will be more likely to pursue their careers in the arts and provide an adequate pool of highly talented and trained artists, and a predictable labour environment will result. In this way,

¹ Available on the Internet at: www.pch.gc.ca/progs/em-cr/eval/2002/2002_25/tdm_e.cfm

CAPPRT contributes to two of the outcomes pursued by the Government of Canada through its legislation, policies and programs:

- Income security and employment for Canadians, and
- A vibrant Canadian culture and heritage.

Departmental Priorities by Strategic Outcome

Strategic Outcome: Constructive professional relations between self-employed artists and producers in CAPPRT's jurisdiction					
Priority	Type of Priority	Program Activity	Planned Spending (\$ millions)		
			2006-2007	2007-2008	2008-2009
1. Deal with matters with high quality service	Ongoing	Processing of cases	1.2	1.2	1.2
2. Fully inform and assist clients	Ongoing	Processing of cases	0.7	0.7	0.7
3. Work on amendments to the <i>Act</i> and other changes	Previously committed	Processing of cases	*		

* No specific budget has been allocated to this priority as the cost involved is included in the first two priorities.

Strategic Outcome: Constructive professional relations between self-employed artists and producers

The Tribunal will achieve its sole strategic outcome of developing constructive relations between self-employed artists and producers in its jurisdiction by implementing its priorities as follows.

1. Deal with requests under the legislation with high quality service

The Tribunal continues to deal with new issues and to establish its own jurisprudence since there is only one other jurisdiction in Canada with similar legislation (Quebec). This “newness” presents a challenge for timeliness in decision making on some cases. It is important that we maintain a strong research capacity to ensure that the Tribunal’s decisions are fair and reflect the realities of the client community. We will continue to organize information and training sessions for Tribunal members on new and relevant topics as they arise. The new case management database is in use although it is not yet fully functional. The timetable for its completion has been modified in line with the availability of staff resources.

2. Fully inform and assist clients

CAPPRT will continue to inform artists, artists’ associations and producers about their rights and obligations under the *Status of the Artist Act* through presentations and communications materials. It will also hold meetings with government producers who are negotiating under the *Act*, a need that was identified in the meeting it held with government producers in May 2005.

With respect to other kinds of assistance, CAPPRT will continue to encourage parties to resolve as many differences as possible prior to a hearing. When appropriate, staff will investigate the situation and provide mediation assistance. This informal approach to resolving differences will reduce the number of hearings and panel decisions, and save time and money for CAPPRT and its clientele.

3. Work on amendments to the Act and other changes

CAPPRT staff will continue to work with staff from Canadian Heritage (DCH) and Human Resources and Social Development on obtaining amendments to the *Status of the Artist Act* and other changes which would make the Act more effective in achieving expected results, as was pointed out in the evaluation report of 2003. Although CAPPRT is not in control of this work (it is the responsibility of DCH), these changes are a priority for CAPPRT. Various amendments, such as requiring arbitration in specific situations for the settlement of first agreements, and other changes recommended in the evaluation report would facilitate the goal of successful negotiations following certification.

Management Priorities

To guide it in the achievement of its objectives for improved management, the government has adopted the Management Accountability Framework. It is an all-encompassing framework that brings together the management-focussed initiatives underway in various areas, such as Modern Comptrollership, Human Resources Modernization, Service Improvement and Government On-Line.

In line with government initiatives, CAPPRT is committed to continuous improvement of its management practices. CAPPRT will continue to work in a cluster group with three other small quasi-judicial agencies: the Competition Tribunal, the Copyright Board and the Transportation Appeal Tribunal. In the cluster group, the agencies aim for greater efficiency and effectiveness in their efforts by undertaking joint initiatives and sharing experiences and expertise. The focus of the group for 2006-2007 will be on:

- implementing the new Internal Audit Policy and the new Policy on Learning, Training and Development;
- completing the implementation of the Public Service Modernization Act;
- improving on the management of government information by implementing information management tools being developed for small agencies; and
- looking at the feasibility of participating in the Travel AcXess Voyage Project, which is part of the Shared Travel Services Initiative.

CAPPRT will continue to contract out for services that are not required on a full-time basis. It will be renegotiating the Memorandum of Understanding under which it has provided accommodation and some administrative services to the small office of Environmental Protection Review Canada.

Section II: Analysis of Program Activities by Strategic Outcome

Strategic Outcome: Constructive professional relations between self-employed artists and producers in the federal jurisdiction

Financial Resources (\$ millions)

2006-2007	2007-2008	2008-2009
1.9	1.9	1.9

Human Resources (full-time equivalents)

2006-2007	2007-2008	2008-2009
10	10	10

The indicators and targets below are used to monitor whether CAPPRT is achieving its strategic outcome. Two indicators of constructive professional relations have been withdrawn as recommended by a consultant who was commissioned to develop an evaluation framework for CAPPRT. The indicators that were removed were: greater recognition and improved wages and working conditions for artists, and a stable and predictable working environment for artists and producers. These measures are not under the control of the Tribunal and are rather objectives of the *Status of the Artist Act*.

Also, the target for the indicator “Proportion of certified artists’ associations with a first agreement within five years of certification” has been changed. The new target is “a minimum of 80 percent of certified artists’ associations have negotiated at least one new scale agreement within five years of certification”. The previous target of 100 percent was unrealistic since, among other reasons, there is no provision for first contract arbitration in the legislation and therefore parties may be involved in bargaining for many years without ever concluding an agreement. Furthermore, some associations will likely not negotiate with the government producers unless until there is an association of such producers.

<i>Indicator</i>	<i>Target</i>
Percentage of complaints resolved without a hearing	At least half of all complaints are resolved without a hearing.
Proportion of certified artists’ associations with a first agreement within five years of certification.	80 percent of certified artists’ associations have negotiated at least one new scale agreement within five years of being certified.

Program supporting this strategic outcome: Processing of cases

Performance Measurement Strategy

CAPPRT has several performance measures or indicators that assist it in monitoring whether its objectives are being achieved.

Objective 1: Deal with requests under the legislation with high quality service

CAPPRT's first objective remains dealing with requests under the legislation with high quality service. This refers to prompt and high quality work of staff, for example, in preparing cases and providing legal advice, and of members, for example, in deliberating and making decisions. The indicators and targets for measuring high quality processing of cases remain the same and are found below.

<i>Indicator</i>	<i>Target</i>
Average time to issue reasons for a decision after the hearing in all cases	Maximum of 60 calendar days
Average time to process all cases (from the date of receipt of the completed application to the date of the decision)	Maximum of 200 calendar days
Percentage of Tribunal decisions upheld under judicial review.	More than 50 percent

Objective 2: Fully inform and assist clients

<i>Indicator</i>	<i>Target</i>
Quality and timeliness of information bulletins	At least three information bulletins are issued annually. Clients are satisfied (as determined by client consultations).
Quality of the Tribunal's Web site	The Web site contains timely and accurate information and meets Government On Line standards. Clients are satisfied (as determined by client consultations).
Success of information sessions for clients	Clients are satisfied, as determined by survey of attendees.

Section III: Supplementary Information

Mandate, Role and Responsibilities

Since 1995, the Canadian Artists and Producers Professional Relations Tribunal has administered Part II of the *Status of the Artist Act*, which governs professional relations (labour relations) between self-employed artists and federally regulated producers. The Tribunal is a quasi-judicial, independent federal agency, whose ultimate aim is to encourage constructive professional relations between these parties.

The Tribunal is one of three agencies that regulate labour relations in the federal jurisdiction. The other two are the Canada Industrial Relations Board, which deals with labour relations mainly between private sector employers in the federal jurisdiction and their employees, and the Public Service Staff Relations Board, which deals with labour relations between most federal government institutions and their employees. Under the Canadian Constitution, provincial legislatures are responsible for regulating labour relations between the vast majority of workers and employers. The federal government has the authority to regulate labour relations in a small number of industry sectors which include: broadcasting, telecommunications, banking, interprovincial transportation and federal government institutions.

The Tribunal's jurisdiction covers broadcasting undertakings regulated by the Canadian Radio-television and Telecommunications Commission, federal government departments, and the majority of federal agencies and Crown corporations (such as the National Film Board and the national museums).

The self-employed artists within the Tribunal's jurisdiction include artists covered by the *Copyright Act* (such as writers, photographers and music composers), performers (such as actors, musicians and singers), directors, and other professionals who contribute to the creation of a production, such as those doing camera work, lighting and costume design.

The Tribunal has the following statutory responsibilities:

- To define the sectors of cultural activity suitable for collective bargaining between artists' associations and producers within CAPPRT's jurisdiction, and to certify artists' associations to represent self-employed artists working in these sectors; and
- To deal with complaints of unfair labour practices and other matters brought forward by artists, artists' associations or producers, and to prescribe appropriate remedies for contraventions of Part II of the *Act*.

By following the procedures specified in the *Act*, certified associations have the exclusive right to negotiate scale agreements with producers. A scale agreement specifies the minimum terms and conditions under which producers engage the services of, or commission a work from, a self-employed artist in a specified sector.

Organizational Information

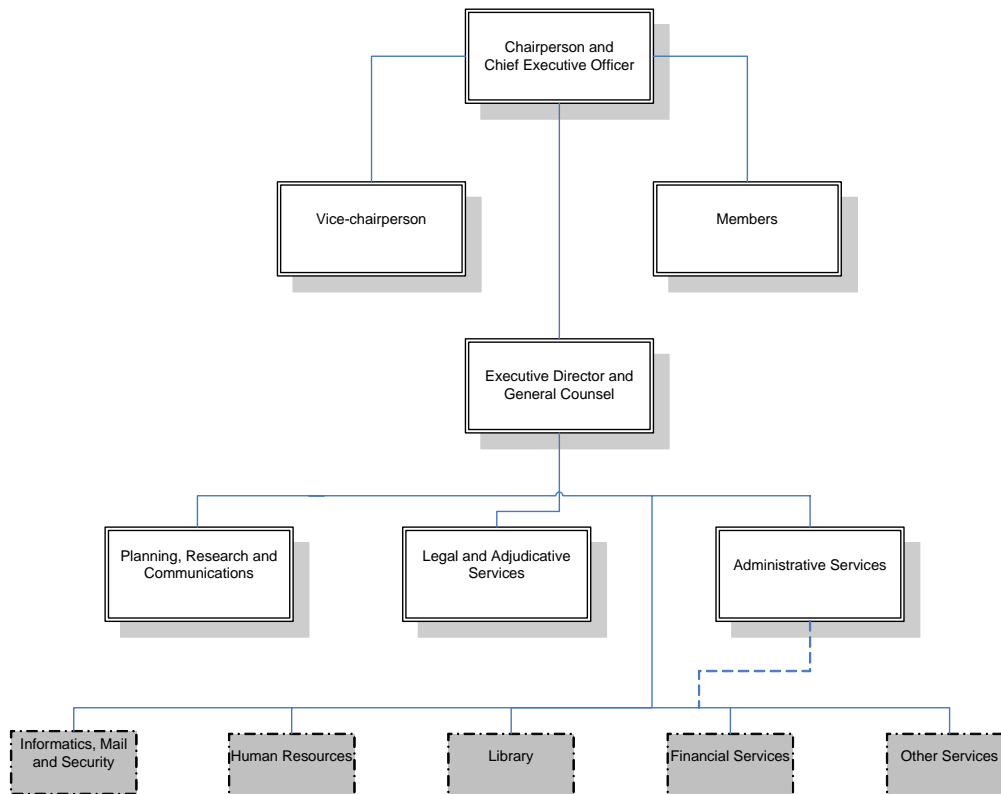
The Tribunal reports to Parliament through the Minister of Labour.

The Tribunal is currently composed of an acting chairperson and two other members. Members are appointed by the Governor in Council, and all three members are part-time appointees.

The Tribunal has a straight-forward organizational structure which permits it to carry out its mandate with a minimum of staff. The part-time chairperson is the chief executive officer of the Tribunal. The daily management of staff and operations of the Tribunal is the responsibility of the executive director and general counsel who reports to the chairperson. Ten staff members carry out the functions of legal counsel, registrar, planning, research, communications and administrative services. Staff are multi-skilled in order to take on various kinds of tasks as required. Also, the Tribunal outsources some corporate services that are not required on a full time basis; for example, it contracts with Canadian Heritage for human resources services, and with Industry Canada for informatics, security and mail services. It has arrangements with the other two federal labour boards to use their hearing rooms and library services.

Figure 2 illustrates the Tribunal's organizational structure.

Figure 2. Organization Chart



■ Services provided on contract or by other arrangements

Table 1: Departmental Planned Spending and Full-time Equivalent

(\$ millions)	Forecast Spending 2005-2006	Planned Spending 2006-2007	Planned Spending 2007-2008	Planned Spending 2008-2009
PROCESSING OF CASES				
Budgetary Main Estimates	1.8	1.9	1.9	1.9
Non-Budgetary Main Estimates	0	0	0	0
Less: Respendable revenue	0	0	0	0
Total Main Estimates	1.8	1.9	1.9	1.9
Adjustments				
Other				
Year-end lapse	(.7)*			
Total adjustments	(.7)	0	0	0
Total Planned Spending	1.1**	1.9	1.9	1.9
Less: Non-respendable revenue	0	0	0	0
<i>Plus:</i> Cost of services received without charge***	0.4	0.4	0.4	0.4
Total Departmental Spending	1.5	2.3	2.3	2.3
Full Time Equivalents	10	10	10	10

* Total Planned Spending is the actual spending for the year

** The Year-end Lapse was due to a lower volume of cases received during the year

*** Includes the cost of accommodation provided by the Tribunal to the office of Environmental Protection Review Canada

The planned spending does not vary over the next three years. For the Tribunal, it is business as usual. New initiatives, such as those related to management improvement, will be financed out of the reallocation of existing resources.

Table 2: Resources by Program Activity

2006 –2007 (\$ millions)			
	Budgetary	Total Main	Total Planned
Program Activity	Operating	Estimates	Spending
Processing of Cases	1.9	1.9	1.9
Total	1.9	1.9	1.9

Table 3: Services Received Without Charge

(\$ millions)	2006-2007
Accommodation provided by Public Works and Government Services Canada*	0.3
Employer's contribution to employees' insured benefit plans and expenditures paid by the TBS	0.1
Workers' compensation coverage provided by Human Resources and Social Development	0
Total 2006-2007 Services received without charge	0.4

* Includes the cost of accommodation provided by the Tribunal to the office of Environmental Protection Review Canada

Section IV: Other

Contact Information

Canadian Artists and Producers Professional Relations Tribunal
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Email: info@capprt-tcrpap.gc.ca

Website: www.capprt-tcrpap.gc.ca

Statute and Regulations

<i>Status of the Artist Act</i>	S.C. 1992, c.33, as amended
<i>Status of the Artist Act Professional Category Regulations</i>	SOR 99/191
<i>Canadian Artists and Producers Professional Relations Tribunal Procedural Regulations</i>	SOR/2003-343

Statutory Responsibilities

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

1. pass by-laws governing the conduct of its affairs [subs.11(2)];
2. hold meetings or proceedings of the Tribunal at such times and locations in Canada as it considers desirable [subs.13(2)];
3. make regulations of general application which it considers conducive to the performance of its duties [s.16];
4. make interim orders [subs.20(2)];
5. rescind or amend determinations or orders and rehear applications [subs.20(1)];
6. file a copy of its order or determination in the Federal Court for purposes of enforcement [s.22];
7. review by-laws of artists' associations [s.23];
8. receive copies of membership lists filed by associations of producers [s.24];
9. receive applications for certification from artists' associations pursuant to s.25 and provide public notice of the application;
10. determine the appropriateness of sectors for collective bargaining [s.26];
11. determine whether an artists' association is representative of the sector for which it seeks certification [s.27];
12. certify artists' associations to represent specific sectors [s.28];
13. maintain a register of all certificates issued [subs.28(4)];

14. receive, consider and decide applications for revocation of certification [s.29];
15. determine the rights, duties and privileges acquired by an artists' association following a merger, amalgamation or transfer of jurisdiction [s.30];
16. determine whether contractual conditions are "more favourable" to an artist than those contained in a scale agreement [subs.33(5)];
17. change the termination date of a scale agreement when so requested by the parties [s.34];
18. hear and determine questions referred to it by an arbitrator or arbitration board [s.41];
19. hear and decide on applications for a declaration that the use of pressure tactics is unlawful and prescribe appropriate remedies [ss.47,48,49];
20. hear and decide applications alleging unfair labour practices and prescribe appropriate remedies [ss.53,54];
21. issue consent to prosecute [s.59];
22. establish other offices which it considers necessary [subs.13(1)];
23. prepare and submit an annual report to Parliament through the Minister of Labour regarding activities during the fiscal year [s.61].