



Canadian Artists and Producers Professional Relations Tribunal

2007-2008
Estimates

Part III - Report on Plans and Priorities

Canadian Artists and Producers Professional Relations Tribunal

2007-2008
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 2007-2008 *Report on Plans and Priorities* for the Canadian Artists and Producers Professional Relations Tribunal (“CAPPRT” or “the Tribunal”). This report outlines the Tribunal’s intended direction for the next three years.

The *Canadian Artists and Producers Professional Relations Tribunal* remains firmly committed to the development and maintenance of constructive professional relations between artists and producers. The Tribunal will continue to contribute to the economic and social well-being of its client community. By encouraging and facilitating a thriving and successful cultural sector in Canada, the Tribunal’s work contributes to income security and employment for Canadians and a vibrant Canadian culture and heritage.

CAPPRT will provide a high quality of service in dealing with adjudicative matters within its statutory responsibilities. It will inform and assist the parties in order to permit them to exercise their rights and carry out their responsibilities.

During 2007-2008, the Tribunal expects to deal mostly with complaints of unfair labour practices and other matters brought forward by artists, artists’ associations, producers, and labour arbitrators. It will also, as required, determine sectors of cultural activity suitable for collective bargaining and certify artists’ associations to represent self-employed artists working in these sectors.

Management Representation Statement

I submit for tabling in Parliament, the 2007-2008 *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 2007-2008 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 figures from the Treasury Board Secretariat.

John M. Moreau, Q.C.
Acting Chairperson and Chief Executive Officer
February 1, 2007

Summary Information

Raison d'être

Parliament created the Canadian Artists and Producers Professional Relations Tribunal to administer Part II of the *Status of the Artist Act*, which governs professional relations between self-employed artists and producers in federal jurisdiction. The Tribunal defines sectors appropriate for collective bargaining, certifies artists' associations to represent self-employed artists working in those sectors, and deals with complaints of unfair labour practices from artists, artists' associations and producers. CAPPRT's fulfilment of its mandate contributes to the development of constructive labour relations between these parties.

Financial Resources (\$ millions)

2007-2008	2008-2009	2009-2010
1.9	1.9	1.9

Human Resources (full-time equivalents)

2007-2008	2008-2009	2009-2010
10	10	10

Tribunal Priorities

Name	Type
1. Deal with matters brought before Tribunal with high quality service	Ongoing
2. Fully inform and assist clients	Ongoing

Program Activities by Strategic Outcome

	Expected Results	Planned Spending (\$ millions)			Contributes to the following priority
		2007-2008	2008-2009	2009-2010	
Strategic Outcome: Constructive professional relations between artists and producers in CAPPRT's jurisdiction					
Program activity: 1. Processing of cases	High quality service, with clients fully informed and assisted	1.2	1.2	1.2	Priorities 1 & 2
2. Corporate Services	Case processing supported	0.7	0.7	0.7	Priorities 1 & 2

Tribunal Plans and Priorities

The Tribunal has a single strategic outcome: constructive professional relations between self-employed artists and producers within its jurisdiction. The means used for achieving this strategic outcome by the Tribunal is through dealing with matters brought before it with a high quality of service as well as to keep its clients – artists, artists’ associations and producers – fully informed.

The Tribunal also has a single operating goal: the efficient and effective processing of cases brought before it within its jurisdiction.

Operating Environment

The economic contribution of the arts and culture sector is significant. In 2002, the most recent year for which Statistics Canada provides figures, the sector contributed \$39 billion to the Canadian economy, or almost 4 percent of gross domestic product. Although the works of Canadian artists enrich our 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 \$23,500 in 2001, up 26 percent from 1991. Yet it remained below the average income of all workers in Canada (\$31,800), despite the higher than average education level of artists.

The economics of artistic endeavours

A high proportion of artists are self-employed. For example, according to the census, almost 70 percent of visual artists, and close to 50 percent of writers and craftspersons, work as independent entrepreneurs. An estimated 100,000 self-employed artists fall under the Tribunal’s jurisdiction¹. In addition to having lower earnings, self-employed artists do not have the advantages enjoyed by many employees, such as employment insurance, training benefits and pension funds.

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.

Limitations of the *Status of the Artist Act*

Internal and external factors

The impact of the *Status of the Artist Act* is limited due to its application to such a small jurisdiction. The vast majority of sound recording, art exhibitions, theatrical production, book publishing, and film and television production falls under the jurisdiction of the provinces.

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

¹ Sources: Hill Strategies Research, September 2004: Statistical Profile of Artists in Canada; Hill Strategies Research, March 2005: Arts Research Monitor

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 2002².

Since adopting enabling legislation on the status of the artist in 2002, the Saskatchewan government has been studying the possibility of introducing a collective bargaining framework for some artistic work in that province. Current hearings on proposed amendments to its legislation are addressing this issue. The Ontario Culture Minister's Advisory Council for Arts and Culture has also recently released the report of an official study of the status of the artist in Ontario. The study recommends the establishment of a consultative process to determine whether a mandatory collective bargaining regime should be established.

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. The Tribunal has noted with interest the following suggestion: where a provincial statute and the *Status of the Artist Act* are substantially uniform, the Tribunal, under an administrative agreement, would administer the provincial law on behalf of the province. Similar arrangements are envisaged in the *Canada Labour Code*, and this option may be of interest to legislators. Such an arrangement would allow the provinces to take advantage of the expertise and resources of the Tribunal –and also contribute to consistent administration of similar legislation.

Because some artists' associations lack sufficient time and resources, they would rather negotiate with producers' associations than with individual producers. Many federal government producers would likewise prefer to designate one department as their lead negotiator. One of the recommendations from the Department of Canadian Heritage 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, spending public funds prudently, and fulfilling the increasing requirements for transparent and accountable reporting. At its creation in 1993, CAPPRT adopted efficient business practices. A short time later, the Tribunal published a clear statement of objectives including 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 over the years.

**Small
agency
challenges**

As a very small agency, CAPPRT faces a particular operational challenge 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. As is described in Section III under Organizational Information, CAPPRT uses flexible practices such as contracting-out and sharing of its offices to meet these particular challenges. Tribunal

² Available on the Internet at: www.pch.gc.ca/progs/em-cr/eval/2002/2002_25/tm_e.cfm

members are appointed on a part-time basis, which is efficient, as they are called on and paid only as needed. However, it also makes scheduling more difficult, as they have other commitments. All current Tribunal members are bilingual, which facilitates the scheduling of cases.

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.

Program Priorities

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

We expect the case work of the Tribunal to continue with the present trend away from certification applications towards complaints and references from arbitrators.

The Tribunal continues to deal with new issues and its jurisprudence is largely innovative. Only one other jurisdiction (Quebec) has similar legislation. This “newness” presents a challenge for decision-making on some cases. We will maintain a strong research capacity to ensure that the Tribunal’s decisions are fair and reflect the realities of the client community. We will also continue to organize information and training sessions for Tribunal members on new and relevant topics as they arise. Our new case management database is now fully functional and used extensively; it will be further developed over the course of the year.

2. Fully inform and assist clients

CAPPRT will reorient its communications activities and products, to emphasize providing better information to artists, artists’ associations and producers on how to do business with the Tribunal and about their rights and obligations under the *Status of the Artist Act*. We will continue to inform and assist clients through presentations and communications materials.

CAPPRT will also continue to encourage parties to resolve as many differences as possible prior to a hearing. When appropriate, staff will investigate the difference and help the parties through mediation to try and achieve a settlement. 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.

Management Priorities

The government has adopted the Management Accountability Framework (MAF), an all-encompassing framework that brings together management-focussed initiatives such as Modern Comptrollership, Human Resources Modernization, Service Improvement and Government On-Line.

Developing a MAF for a micro-agency is challenging. CAPPRT works in a cluster group with three other small quasi-judicial agencies (the Competition Tribunal, the Copyright Board and the Transportation Appeal Tribunal). By undertaking joint initiatives and sharing experiences and expertise with the cluster group, CAPPRT is working towards development of the elements of the MAF.

The Tribunal developed an evaluation framework in 2005-2006 and, following the guidance of the Centre of Excellence for Evaluation, will continue to work in 2007-2008 on applying the government's evaluation policy in the context of a micro-agency. The Tribunal will continue to collect performance information concerning its responsiveness to requests for assistance, the effectiveness of its communications products, and the timeliness of its case processing.

The Tribunal has integrated its human resources and business planning by developing a Strategic Human Resources Plan and a Staffing Management Accountability Framework in 2006-2007. It will implement the Policy on Learning, Training and Development and will ensure that new managers participate in mandatory training and have existing managers' knowledge validated every five years. While the Tribunal conducts few staffing actions, simply by virtue of its small number of staff, it will monitor statistics on staffing actions in relation to staffing strategies and plans.

The Tribunal has a code of values and ethics as well as policies on harassment and the internal disclosure of wrongdoing. The Tribunal will use the latter policy as the basis on which to build the administrative and managerial structures necessary to the implementation of the *Public Service Disclosure Protection Act* in 2007-2008. In order to foster good labour-management relations, the Tribunal will also participate in an umbrella Labour-Management Consultation Committee for small agencies and micro-agencies.

CAPPRT is committed to continuous improvement of its management practices. It will continue to work in its cluster group, focusing in 2007-2008 on implementing the Internal Audit Policy, completing the implementation of the *Public Service Modernization Act*, and implementing the Travel AcXess Voyage Project (part of the Shared Travel Services Initiative).

CAPPRT will continue to contract out for services that are not required on a full-time basis. We will also continue to provide accommodation and administrative services to Environmental Protection Review Canada, under a Memorandum of Understanding.

Link to the Government of Canada Outcome areas

CAPPRT expects that its facilitation of constructive labour relations between self-employed artists and producers will contribute to the improvement of artists' income and working conditions. By doing so, artists are more likely to pursue their careers in the arts, producers in turn will have access to an adequate pool of highly talented and trained artists, and both artists and producers will benefit from a predictable labour environment. In this way, 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.

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)

2007-2008	2008-2009	2009-2010
1.9	1.9	1.9

Human Resources (full-time equivalents)

2007-2008	2008-2009	2009-2010
10	10	10

Two indicators are used to assess whether CAPPRT is achieving its strategic outcome of constructive professional relations between artists and producers: the percentage of complaints that are resolved without a hearing, and the proportion of artists’ associations that have successfully negotiated a first agreement within five years of certification.

<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

This program has two objectives associated with it: providing high quality service in dealing with requests under the legislation, and fully informing and assisting clients.

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 is to provide high quality service in dealing with requests under the legislation. This refers to prompt and high quality work of staff such as, for example, in case preparation, in conducting research and analysis, and in providing legal advice. Similarly, for the part-time members of the Tribunal, the goal of high quality of service is achieved in the

timely processing of their cases. The indicators and targets for measuring high quality processing of cases 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

CAPPRT’s second objective is to fully inform and assist the artists, artists’ associations, and producers that make up its clientele. It does this through regular information bulletins and regularly-updated information on its Web site. In the past, the Tribunal has also relied on information sessions for clients. While the information sessions have been useful and well-received by clients, there is limited value in repeating them in the near future. The Tribunal is considering other approaches to supplement or replace the information sessions.

Tribunal staff will meet during 2007-2008 with a sample of the Tribunal’s clients from both the artists’ and producers’ communities. The meetings will allow the Tribunal to identify the clients’ information needs. The meeting will also allow the Tribunal to meet many of these needs during the course of the meetings.

The indicators and targets for measuring the Tribunal’s attainment of this objective are set out below.

<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, accurate and helpful information, explains clearly how to do business with the Tribunal, and meets Government On-Line standards. Clients are satisfied (as determined by client consultations).
Information needs of clients are determined.	Meetings are held with at least four artists’ associations and four producers.
Success of information sessions for clients	Clients are satisfied, as determined by post-session evaluations filled out by 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.

Under the Canadian constitution, labour relations between the vast majority of workers and employers fall within provincial jurisdiction. The federal government has the authority to regulate labour relations in a small number of industry sectors, including broadcasting, telecommunications, banking, interprovincial and international transportation, and federal government institutions. The Tribunal is one of four agencies that regulate labour relations in the federal jurisdiction. The other three are: the *Canada Industrial Relations Board*, which deals with labour relations in the federally regulated private sector; the *Public Service Staffing Tribunal*, which deals with complaints related to internal appointments and layoffs in the federal public service; and the *Public Service Labour Relations Board*, which deals with labour relations between most federal government institutions and their employees.

The Tribunal's jurisdiction over producers is set out in the *Status of the Artist Act*, and 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 Tribunal's jurisdiction over self-employed artists is also set out in the *Status of the Artist Act*, and includes 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,
- 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, and producers, and prescribe appropriate remedies.

By following the procedures specified in the *Status of the Artist 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

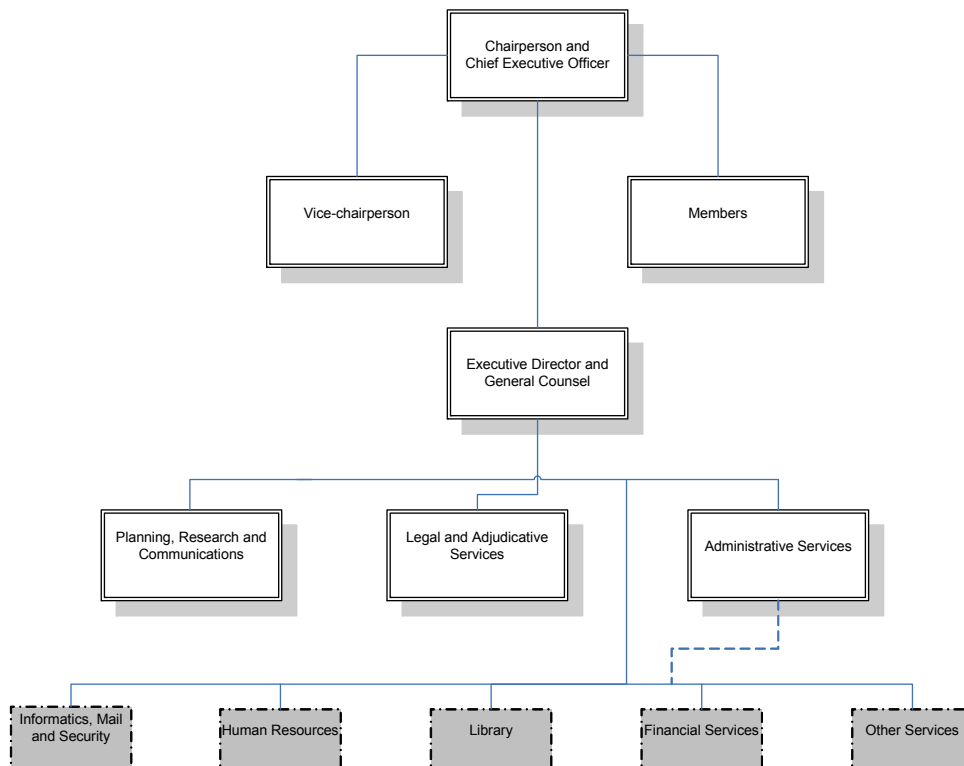
The Tribunal reports to Parliament through the Minister of Labour.

The Tribunal is normally composed of a Chairperson, a Vice-chairperson, and not less than two or more than four other full-time or part-time members. It is currently composed of an acting Chairperson and two other members. Members are appointed by the Governor in Council. All three current members are part-time appointees.

The Tribunal has a straightforward organizational structure and carries out its mandate with a minimum of staff. The part-time Chairperson is the chief executive officer of the Tribunal, while the Executive Director and General Counsel, who reports to the Chairperson, is responsible for the daily management of staff and operations. Ten staff members carry out the functions of legal counsel, registrar, planning, research, communications, and administrative services. Staff are multi-skilled and take on various kinds of tasks as required. 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

Tribunal links to the Government of Canada Outcomes

2007-2008			
	Budgetary	Non-Budgetary	
	Operating	Total Main Estimates	Total Planned Spending
Strategic Outcome: Constructive professional relations between self-employed artists and producers in the federal jurisdiction			
Program Activity #1: Processing of cases	1.2	1.2	0.6
Program Activity #2: Corporate Services	0.7	0.7	0.6
Total	1.9	1.9	1.2

Program Activities 1 and 2 contribute to the achievement of the Government of Canada's "income security and employment for Canadians" and "a vibrant Canadian culture and heritage" outcomes.

Table 1: Tribunal Planned Spending and Full-time Equivalent

(\$ millions)	Forecast Spending 2006-2007	Planned Spending 2007-2008	Planned Spending 2008-2009	Planned Spending 2009-2010
PROCESSING OF CASES				
Budgetary Main Estimates	1.9	1.9	1.9	1.9
Non-Budgetary Main Estimates	0	0	0	0
Less: Respendable revenue	0	0	0	0
Total Main Estimates	1.9	1.9	1.9	1.9
Adjustments				
Procurement savings				
Processing of cases				
Other				
Year-end lapse	(.7)*			
Total adjustments	(.7)	0	0	0
Total Planned Spending	1.2**	1.9	1.9	1.9
Less: Non-respendable revenue	0	0	0	0
<i>Plus: Cost of services received without charge***</i>	0.4	0.4	0.4	0.4
Total Tribunal Spending	1.6	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: Voted and Statutory Items listed in Main Estimates

(\$ millions)			
Vote of Statutory Item	Canadian Artists and Producers Professional Relations Tribunal	2007-2008 Main Estimates	2006-2007 Main Estimates
20	Program expenditures	1.8	1.8
(S)	Contributions to employee benefit plans	0.1	0.1
	Total Agency	1.9	1.9

Table 3: Services Received Without Charge

(\$ millions)		2007-2008
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		
Total 2007-2008 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
240 Sparks Street, 1st Floor West
Ottawa, Ontario K1A 1A1

Telephone: (613) 996-4052 or 1 800 263-2787

Facsimile: (613) 947-4125

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].