



Canadian Artists and Producers  
Professional Relations Tribunal

Tribunal canadien des relations  
professionnelles artistes-producteurs



# Annual Report

15<sup>th</sup> report | 2008-2009

Canada

**Canadian Artists and Producers  
Professional Relations Tribunal**

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October 6, 2009

The Honourable Rona Ambrose  
Minister of Labour  
Ottawa, Ontario K1A 0J2

Dear Minister Ambrose:

In accordance with section 61 of the *Status of the Artist Act*, I am pleased to submit for tabling in Parliament the annual report of the Canadian Artists and Producers Professional Relations Tribunal for the period April 1, 2008 to March 31, 2009.

Yours respectfully,

Elaine Kierans  
Acting Chairperson and Chief Executive Officer



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## Chairperson's Message



This is the second year in a row in which, as Acting Chairperson of the Canadian Artists and Producers Professional Relations Tribunal, I have the honour of presenting the Tribunal's Annual Report to Parliament and Canadians.

The Tribunal continues to promote and encourage constructive professional relations in the cultural sector, by administering the collective bargaining provisions of the *Status of the Artist Act*. The *Act* gives legal recognition and protection to collective bargaining, not by employees, but by independent self-employed artists. Bargaining is based on sectors of artistic activity, rather than on particular workplaces. Crafted with input from artists, producers and labour relations practitioners, the *Act* gives artists' associations and producers a labour relations forum that recognizes the particular and unique ways in which they work together. It is an innovative collective bargaining model, with only Quebec having a similar statutorily-based system.

As countless studies and reports have shown, culture and the arts play a tremendously important role in Canada's society and economy. They are fundamental to our shared humanity, central to how we as Canadians represent ourselves to the world, and huge in their economic impact, with even small investments yielding multiple benefits in wealth and employment.

Collective bargaining is more important than ever in the arts and culture sector. Faced with the overlapping challenges of staggering technological changes, the crumbling of traditional business models and a massive economic downturn, artists and producers need to develop creative collective agreements. We've been very pleased to see recent agreements in the film and television industries, for example, dealing with material disseminated on the Internet. In the midst of economic turmoil, these agreements contribute to improved compensation and working conditions for artists, to stable and predictable labour relations and qualified talent pools for producers, and to a strong Canadian presence in new media. The artists associations and producers involved are to be commended for their creative bargaining.

One of the essential conditions for the Tribunal to be effective in this role is to have qualified members to deal with matters promptly and efficiently, and a sufficient number of members to assure quorum and avoid delays due to scheduling. I would be remiss if I did not say that the Tribunal's effectiveness has been hampered lately by a shortage of members. The Tribunal has not been able to assure quorum since September, 2008. We look forward to appointments to the Tribunal that will allow us to conduct business as Parliament intended.

I have had the pleasure again this year of serving with very qualified Tribunal members.

Mr. Sébastien Dhavernas was appointed as part-time Chairperson of the Tribunal during the period under review. Mr. Dhavernas is well known and respected as both an artist and a producer. During his brief tenure with the Tribunal, his extensive knowledge of cultural industries was of great benefit.

The appointment of another valued member of the Tribunal, Mr. Michael LaLeune, came to an end on June 1, 2008. Mr. LaLeune also had experience as both an artist and producer, and he brought important perspective to the work of the Tribunal.

The Tribunal welcomed the reappointment of Ms. Lyse Lemieux, a member of the Tribunal since 2002, on June 2, 2009.

Our work as Tribunal members would be impossible without the help of a capable staff, and I want to take this opportunity to thank them all. I look forward to working with them, with my fellow members, and with our many stakeholders, in the coming years to enhance productive professional relations in the arts and culture sector.

**Elaine Kierans**

Acting Chairperson and Chief Executive Officer



# PART ONE

## The Tribunal and What it Does



## ***Mandate***

The Canadian Artists and Producers Professional Relations Tribunal administers Part II of the *Status of the Artist Act*, which governs professional relations between self-employed artists and federally regulated producers. The Tribunal is an independent, quasi-judicial federal agency, whose goal is to encourage constructive professional relations between these parties.

The Tribunal's jurisdiction covers broadcasting undertakings under the jurisdiction of 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 national museums.

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 principal statutory responsibilities:

- To define 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 or producers, and prescribe appropriate remedies.

In carrying out its responsibilities, the Tribunal assists self-employed artists, artists' associations and producers in the conduct of their professional relations.

Artists' associations certified under the *Act* 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.

## ***Role***

The role of the Tribunal is to provide a strong legal framework to support collective bargaining in the arts. This is important to artists, artists' associations and producers, and in the larger picture to Canadians as a whole, particularly in light of current economic conditions.

Constructive professional relations are an important element of a vibrant Canadian arts and culture sector. When artists can earn fair compensation and obtain equitable economic and social status with other Canadian workers, they are more likely to continue their artistic work. This provides producers with a national pool of highly skilled artistic talent. Both groups also need a stable, predictable working environment. This means improved status, wages and working conditions for artists, and an environment in which producers can plan their projects around established terms and conditions for engaging artists.

Over the years since the passage of the *Status of the Artist Act*, the Tribunal has defined 26 sectors of artistic activity and certified 24 artists' associations to represent them. Artists' associations certified under the *Act* have gone on to conclude over 150 scale agreements with producers, including broadcasters and federal government institutions. Over 20 percent of these are the first agreements that the parties have ever concluded.

Most sectors are now defined and artists' associations certified to represent them. The work of the Tribunal now focuses more on assisting parties in the bargaining process, renewal of certification orders, dealing with complaints under the *Act* about matters that arise in the bargaining relationship, changes in the definition of sectors and representation, and determining questions referred to the Tribunal by arbitrators.

## ***Our Organization***

The Tribunal is an independent quasi-judicial agency. It reports to Parliament through the Minister of Labour.

The Minister of Labour is responsible under the *Act* for tabling the Tribunal's annual report before Parliament and for signing documents required under the *Financial Administration Act*. The Minister of Labour is also responsible for making recommendations to the Governor in Council, in consultation with the Minister of Heritage, for the appointment of members to the Tribunal.

Under its governance structure, the Chairperson is the chief executive officer of the Tribunal and is responsible for management of the staff and supervision of the work of the Tribunal.

For most of 2008-2009, Elaine Kierans presided over the Tribunal as Acting Chairperson.

The Executive Director and General Counsel of the Tribunal assists the Chairperson in the exercise of her functions and, subject to her direction, directs and supervises the day-to-day operation of the Tribunal, the management of its internal affairs, and the work of the employees. As General Counsel, she is responsible for the provision of legal support and research to the Chairperson and the Tribunal members as required.

### ***Changes at the Tribunal***

During fiscal year 2008-2009, a Chairperson was appointed and resigned and a member's term came to an end.

Mr. Sébastien Dhavernas, of Sainte-Lucies des Laurentides, Quebec, was appointed as permanent part-time Chairperson and Chief Executive Officer of the Tribunal on June 18, 2008. He resigned his position on September 7, 2008.

On June 1, 2008, the appointment of Mr. Michael LaLeune, Member, came to an end. Mr. LaLeune, of Herring Cove, Nova Scotia, was appointed on June 2, 2005.

The appointment of Lyse Lemieux, a member of the Tribunal since 2002, was renewed for another year on June 2, 2009.

## ***Members and Staff of the Tribunal***<sup>1</sup>

Elaine Kierans  
*Acting Chairperson and Chief Executive  
Officer*

Lyse Lemieux  
*Member*

Diane Chartrand  
*Executive Director and General Counsel*

Steve Joannis  
*Registrar and Legal Counsel*

Manon Allaire  
*Scheduling and Hearing Officer*

Brian K. Stewart  
*Director, Planning, Research and  
Communications*

Marie-Joelle LeBlanc  
*Research and Communications Officer*

Suzanne Séguin  
*Manager, Corporate Services*

Sylvie Besner  
*Administrative and Financial Officer*

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<sup>1</sup> This reflects the composition of the Tribunal as of August 31, 2009. As noted in the text of the Report, the membership of the Tribunal was different during the fiscal year under review.

# PART TWO

**This year at the Tribunal**



## ***This Year at the Tribunal***

The Tribunal's primary responsibility is to provide its stakeholder base – artists, artists' associations, and producers – with the structured labour relations framework set out in the *Status of the Artist Act*. The Tribunal also provides stakeholders with assistance and support related to the collective bargaining process.

Tribunal staff members also carry out communications and outreach work to make the *Act* and its provisions more widely known to stakeholders and encourage them to make use of its provisions. In addition, staff members provide support to Tribunal members, and conduct research on issues related to the arts and cultural sector.

## ***Case Activity***

During most of the 2008-2009 fiscal year the Tribunal was without quorum and thus unable to hear cases. It began the year with one case pending from the previous fiscal year. During the year, the Tribunal received one new application. The Tribunal rendered two interim decisions.

A number of associations and individuals have contacted the Tribunal intending to make applications or complaints, but have not provided the necessary information to allow the Tribunal to deal with their applications. The Tribunal tried to assist the parties to provide the necessary information, but at year-end these cases were still incomplete

Two cases were pending at fiscal year-end.

The Canadian Artists' Representation/Le Front des artistes canadiens (CARFAC) and Le Regroupement des artistes en arts visuels du Québec (RAAV) filed a complaint against the National Gallery of Canada (NGC) on April 22, 2008, alleging that the NGC failed to bargain in good faith (File No. 1330-08-001). The matter was pending at the end of the fiscal year, as the Tribunal lacked quorum to hear the case.

The application for certification from the League of Canadian Composers filed in 2005 (File No. 1310-05-001) remained open at the end of the fiscal year.

## ***Certification Renewal***

Pursuant to subsection 28(2) of the *Act*, an artists' association's certification by the Tribunal as the bargaining agent for a specified sector is valid for three years. During the 2008-2009 fiscal year, twelve certification orders issued by the Tribunal came up for renewal:

- Alliance québécoise des techniciens de l'image et du son (AQTIS)
- Editors' Association of Canada

- Guilde des musiciens du Québec
- Alliance of Canadian Cinema, Television and Radio Artists (ACTRA)
- Professional Writers Association of Canada
- Canadian Association of Photographers and Illustrators in Communications (CAPIC)
- Société professionnelle des auteurs et des compositeurs du Québec (SPACQ)
- Association québécoise des auteurs dramatiques
- American Federation of Musicians of the United States and Canada
- Playwrights Guild of Canada
- Writers Guild of Canada
- Canadian Actors' Equity Association

All twelve certifications were renewed for a further three years.

## ***Bargaining Under the Act***

### **Notices to bargain filed with the Tribunal**

To initiate the bargaining process or to renew or revise a scale agreement, an artists' association or a producer serves a notice to bargain on the other party. Subsection 31(5) of the *Act* states that a party issuing a notice to bargain must file a copy with the Minister of Labour without delay. As with scale agreements, the Tribunal encourages the parties to file copies of their notices to bargain with the Tribunal as well. In fiscal 2008-2009, eight notices to bargain were filed with the Tribunal Secretariat:

- The Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) issued a notice to bargain on City TV, Global Communications and CTV.
- The American Federation of Musicians of the United States and Canada issued a notice to bargain on CTV.
- The Canadian Actors' Equity Association issued a notice to bargain on the National Arts Centre (Music Department), the National Capital Commission, and the Canada School of Public Service.
- The Playwrights Guild of Canada issued a notice to bargain on the Professional Association of Canadian Theatres.

Once a notice to bargain has been issued, the parties must meet and begin bargaining within twenty days, unless they agree otherwise. All eight notices to bargain were still outstanding at the end of the fiscal year.

### **Agreements filed with the Tribunal**

Pursuant to subsection 33(2) of the *Act*, parties to a scale agreement are required to file a copy of the agreement with the Minister of Labour without delay. The Tribunal encourages the parties to send a copy of the agreement to the Secretariat of the Tribunal as well, to assist it in reporting on bargaining activity under the *Act*. During the 2008-2009 fiscal year, two scale agreements were filed with the Tribunal:

- L'Association québécoise des auteurs dramatiques and Théâtres Associés Inc. have renewed their agreement until November 3, 2013.
- L'Union des Artistes and Groupe TVA have negotiated a new agreement that will be in place until March 15, 2012.

Tribunal staff members were available throughout the fiscal year to provide information and assistance to the parties in bargaining as required.

## ***Communications and Outreach***

Communications and outreach are very important to the Tribunal. The Tribunal's communications strategy, research agenda, and outreach activities continued to be central to its work in 2008-2009. The Tribunal has always worked to ensure that artists' associations and producers understand the *Status of the Artist Act* and what it can do for them. This is of increasing importance with the acceleration of changes in the new media and broadcasting industries.

The Chairperson, members and senior staff members play a key role in building awareness of the Tribunal's mandates and services. They frequently share their professional knowledge and experience with colleagues, clients and stakeholders, at conferences, presentations, and training sessions, and serve on professional committees.

Again in 2008-2009, Tribunal senior staff held many one-on-one meetings with artists' associations and producers, and attendance at industry conferences. This will continue to be a major area of activity for the Tribunal in coming years.

The Tribunal continued to update its website to emphasize the services that the Tribunal can make available to artists, artists' associations, and producers. In addition, the Tribunal made a number of improvements to the website to bring it into compliance with the Government's new Common Look and Feel (CLF) 2.0 initiative.

The Treasury Board Secretariat launched the Common Look and Feel Standards for the Internet initiative on January 1, 2007. The new standards apply to Internet sites of Federal institutions listed in Schedules I, I.1 and II of the *Financial Administration Act*, and were designed to promote consistent branding and proper communications practice. The Tribunal is strongly committed to ensuring accessibility and promoting the use of Canada's two official languages, and used optimum business management practices to ensure compliance with the new standards. It was one of 30 institutions that were able to meet the Treasury Board Secretariat's compliance deadline of December 31, 2008.

The Tribunal's *Information Bulletins* on the website provide detailed information on case activity and developments at the Tribunal. All written reasons for decisions are available on the Tribunal's website.

More detailed information on the Tribunal's activities and on the challenges it faces is available in the Tribunal's annual *Departmental Performance Report*.

### **Enhanced assistance to the parties in the bargaining process**

Professional relations between artists, artists' associations representing them and producers are enhanced when all parties work with the same information.

A significant new development with the Tribunal's website is the availability of scale agreements. Most of the scale agreements currently in force between artists' associations and



producers under the *Act* can be viewed through the Tribunal's website. This is part of a continuing project, which includes making available analyses of the scale agreements and facilitating comparisons between them.

Tribunal staff members provide information to artists, producers and members of the public in response to inquiries. This is an ongoing commitment that frequently requires the staff to research complex issues and track down answers.

Much of the research focuses on broadcasting, one of the principal areas of the Tribunal's jurisdiction. Broadcasting is undergoing dramatic transformations, with mergers, changes of ownership, new technologies, and disrupted business models. Another area of importance for research is copyright law, since copyright is so fundamental to the monetization of culture, and is frequently an important element in or underlying scale agreements. The complexity of the new digital media environment presents artists, artists' association and producers with unprecedented challenges related to collective bargaining. These have a significant impact on the work of the Tribunal.

The Tribunal's staff members are committed to assisting parties and providing them with information and research, and to making this information publicly available.

The Tribunal also encourages parties unable to reach an agreement to seek the assistance of professional mediators. Mediators can be appointed pursuant to section 45 of the *Act*. They are appointed from the Federal Mediation and Conciliation Service (FMCS). They are knowledgeable, impartial third parties, with no decision power, who intervene in disputes to help the parties reach their own mutually acceptable solutions.

Mediation contributes directly to constructive professional relations in the cultural sector.



# PART THREE

## The Context for the Tribunal and the *Status of the Artist Act*



## ***The Tribunal, the Act and Collective Bargaining in the Arts***

The Canadian Artists and Producers Professional Relations Tribunal and the collective bargaining structure that it administers under the *Status of the Artist Act*, are important elements in the cultural life of Canada.

The *Act* represents the fulfilment of a commitment by the Government of Canada. In 1980, Canada and other member countries of UNESCO adopted the *Recommendation Concerning the Status of the Artist*.<sup>2</sup> The *Recommendation* affirmed the right of artists to the same legal, social and economic advantages enjoyed by other workers, including the right to organize collectively and defend their common interests. UNESCO member states were encouraged to take “whatever legislative or other steps may be required” to apply the principles and norms of the *Recommendation* within their territories.

Among the principles that member states were encouraged to apply was this one:

... that artists have the freedom and the right to establish trade unions and professional organizations of their choosing and to become members of such organizations, if they so wish, and [member states] should make it possible for organizations representing artists to participate in the formulation of cultural policies and employment policies, including the professional training of artists, and in the determination of artists’ conditions of work.

At the time, artists’ associations in Canada already had a long history of representing artists’ interests through collective bargaining. Since the late nineteenth century, artists had been forming associations to bargain with producers on issues like compensation and working conditions. The American Federation of Musicians of the United States and Canada, for example, has roots in Canada going back to 1897.

Because artists tended to move from engagement to engagement, collective bargaining was rarely based around workplaces, as it is in most industrial relations regimes. With a few exceptions such as resident orchestras, artists and producers in Canada pursued collective bargaining based on associations representing workers in sectors of artistic activity, rather than in specific workplaces.

But the legal status of that collective bargaining was murky. Because artists were self-employed, their relations with producers did not fit easily under federal and provincial labour laws, and lacked the solid legal foundation that collective bargaining enjoyed in most of the rest of the economy. The role of artists’ associations as bargaining agents for their members was recognized voluntarily by producers, but the legal structures or mechanisms that we associate with labour relations in most jurisdictions – provisions for certification of bargaining agents, requirements to bargain in good faith, systems for dispute resolution – were not available to them. In fact, for self-employed workers, the very act of joining together and establishing a minimum rate at which they would contract for their services put them on uncertain legal ground, leaving them open to possible charges of price-fixing.

The first jurisdiction to put the UNESCO *Recommendation* into effect and give a statutory basis for collective bargaining was Quebec. In 1987 and 1988, the Quebec National Assembly passed

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<sup>2</sup> Available on-line at [http://portal.unesco.org/en/ev.php-URL\\_ID=13138&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13138&URL_DO=DO_TOPIC&URL_SECTION=201.html)

two statutes<sup>3</sup>, providing a framework for sector-based collective bargaining in the visual, literary and performing arts.

Also in 1988, the Canadian Advisory Committee on the Status of the Artist developed a Canadian Artists' Code, recommending, among other things in areas of federal jurisdiction, a legal framework for collective bargaining similar to the one adopted in Quebec.

In 1989, the Standing Committee on Communications and Culture tabled a report endorsed by the three main political parties, recommending a legal framework for artists' professional relations to be administered by an independent administrative tribunal.

Finally, in 1992, Parliament confirmed Canada's commitment at the UNESCO conference by passing the *Status of the Artist Act*. The *Act* explicitly recognized the artist's role in society – a first for a Canadian statute. It also established a framework for collective bargaining for professional self-employed artists and producers in federal jurisdiction, to be administered by the Canadian Artists and Producers Professional Relations Tribunal.

The *Act* gave explicit recognition to the model of collective bargaining that had developed in the arts. It provided a legal underpinning for artists' associations to negotiate collective agreements on behalf of their members, and protection for accredited artists' associations, producers and producers' associations from all actions brought under the *Competition Act*.

At the UNESCO World Congress on the Status of the Artist in 1997, held to review progress made following the 1980 recommendation on the status of the artist, Canada was often cited as an example. The following conclusion of Congress is noteworthy:

Self-employed artists must be able to enjoy the same rights and freedoms as employed people – including the right to bargain collectively and to benefit from social security systems. This was far from being the case in far too many countries.

## ***Operating Environment***

Artists and producers play a central role in creating and defining Canada and Canadians. They make our lives richer and our society vibrant. They represent Canada internationally. And, as studies keep showing, artistic activity creates jobs and generates wealth well beyond the amounts invested in it.

According to a 2008 analysis<sup>4</sup> by the Conference Board of Canada, the cultural sector generated about \$46 billion in real value-added gross domestic product (GDP) in 2007. This constituted 3.8 percent of Canada's real GDP. The cultural sector also created 616,000 jobs.

Moreover, the arts and cultural industries enhance economic performance more generally and act, in the words of the Conference Board, as "a catalyst of prosperity," attracting talent and spurring creativity across all sectors of the economy. The Conference Board found that when the effects on other sectors of the economy were considered, the economic footprint of the arts and cultural industries amounted to about \$84.6 billion in 2007, or 7.4 percent of total real GDP, and contributed 1.1 million jobs to the economy.

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<sup>3</sup> *An Act respecting the professional status and conditions of engagement of performing, recording and film artists* (R.S.Q., chapter S-32.1) and *An Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters* (R.S.Q., chapter S-32.01)

<sup>4</sup> Conference Board of Canada, *Valuing Culture: Measuring and Understanding Canada's Creative Economy* (August 2008).

### **Part Three: The Context for the Tribunal and the *Status of the Artist Act***

The earnings of Canadian artists, however, do not reflect their contributions to the country. The Federal Cultural Policy Review Committee observed in 1982 that most artists could best be classified as “highly-specialized, working poor” who subsidized Canada’s culture through their unpaid or underpaid labour. Many reports since then, with dispiriting regularity, point out that artists have significantly lower earnings than other workers, and, because they tend to be self-employed, often do not have access to social program benefits available to employees, such as employment insurance, training benefits and pension funds.

In February 2009, Hill Strategies Research released *A Statistical Profile of Artists in Canada Based on the 2006 Census*<sup>5</sup>. Among the findings was that the number of artists in Canada in 2006 was slightly larger than the number of Canadians directly employed in the automotive industry (135,000). When heritage and cultural occupations were included as part of a broader cultural sector, the number employed swelled to 609,000, about double the number employed in the forestry sector and more than double the number in Canadian banks.

The report highlighted some key facts about artists in Canada. Most noteworthy, and perhaps most predictable, was that their average earnings are very low. Median earnings for artists in 2006 were only \$12,900, less than half the typical earnings of all Canadian workers, and 38 percent below the low-income cutoff for larger urban areas. The situation is worse in some arts than in others, and a typical actor, artisan, dancer, musician, or visual artist earns only about \$10,000 or less.

Another finding confirmed what was known from earlier studies: higher education for artists does not translate into economic success. Not only is the percentage of artists with a bachelor’s degree or higher nearly double the rate in the overall labour force, but the average earnings of university-educated artists are less than the average earnings of overall labour force workers with a high school diploma.

What all this points to is that, more than ever, there is a need for a strong collective bargaining regime in the arts, to support predictable, structured professional relations between artists and producers, and to ensure the continued existence of a pool of professional artistic talent.

## ***Limitations of the Status of the Artist Act***

There are a number of respects in which the *Act* falls short of the expectations of the many artists and producers who welcomed it when it was introduced.

The impact of the *Act* is limited by its application to the federal jurisdiction. Most work in the cultural sector, including the bulk of film and television production, sound recording, art exhibitions, theatrical production and book publishing, 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 need for provincial legislation was recognized by the Standing Committee on Canadian Heritage in its ninth report in 1999, and by the Department of Canadian Heritage in its 2002 evaluation<sup>6</sup> of the provisions and operations of the *Status of the Artist Act*.

The Tribunal supports the adoption by other jurisdictions of collective bargaining legislation for self-employed artists. In the past, it has provided information to policy makers and others interested in the benefits of such legislation, and it will continue to do so.

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<sup>5</sup> Available on-line at <http://www.hillstrategies.com/>.

<sup>6</sup> Available on the Internet at: [www.pch.gc.ca/progs/em-cr/eval/2002/2002\\_25/tm\\_e.cfm](http://www.pch.gc.ca/progs/em-cr/eval/2002/2002_25/tm_e.cfm)

The *Act's* effectiveness is also limited because few federal government institutions – one of the class of producers covered by the *Act* – have entered into scale agreements with artists' associations. Artists' associations are typically hard-pressed for time and resources, and would rather negotiate with producers' associations than with individual producers. Similarly, many government producers would prefer to designate one department as their lead negotiator. One of the recommendations from the Department of Canadian Heritage's 2002 evaluation report was that the government consider establishing a single bargaining authority for all departments. The Tribunal supports this recommendation, as it would facilitate the bargaining process and make it more cost-effective, and is committed to working with other federal government institutions to promote understanding of the *Act* and the importance of respecting it.

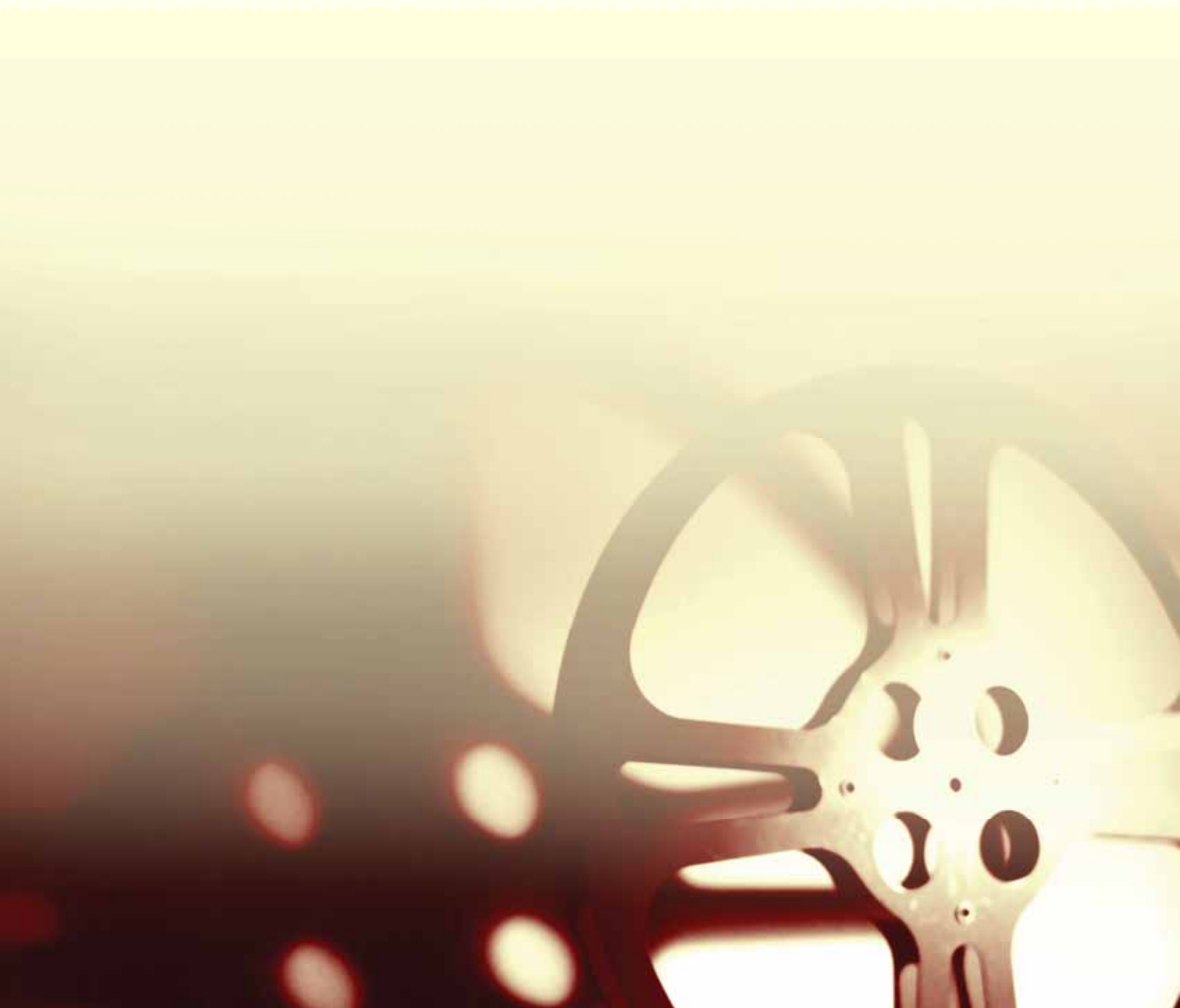
Most importantly, as the Tribunal has frequently noted in reports to Parliament, amendments to the *Status of the Artist Act* would make the *Act* more effective. Various amendments recommended in the 2002 evaluation of the *Act*, such as requiring arbitration in specific situations for the settlement of first agreements, would further the aims of the *Act*.





# PART FOUR

## Case Statistics



**Part Four: Case Statistics**

All files <sup>1</sup>	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	Average over past 10 years
Brought forward from previous fiscal year	11	10	9	7	7	5	5	7	2	1	6
New applications received	2	5	6	6	7	5	8	1	1	1	4
Days of hearings held <sup>2,3</sup>	2	18	12	13	11	10	16	1	1	0	8
Interim decisions rendered	2	14	12	5	5	6	6	2	3	2	6
Final decisions rendered <sup>3</sup>	1	2	5	4	7	4	3	4	2	0	3
Cases withdrawn	1	4	1	2	1	1	2	2	0	0	1
Renewals	10	2	6	10	2	8	12	4	8	12	7
Pending at fiscal year end	10	9	7	7	5	5	7	2	1	2	6

1. Includes complaints and applications for certification, for review of decisions or orders, for determinations or declarations and for consent to prosecute.
2. Includes public hearings and paper hearings.
3. Tribunal was without quorum through most of 2008-2009 and was unable to hear cases.

## Spending

	2007-2008	2008-2009
Operating expenditures	\$392,675	\$306,221
Salaries, wages and other personnel costs	\$661,954	\$708,640
Total spending	\$1,054,629	\$1,014,861
Unspent*	\$940,950	\$1,046,265
Total available for use	\$1,995,579	\$2,061,126

\*Returned to the Consolidated Revenue Fund of the government.

# APPENDIX



# APPENDIX 1

## *Negotiation Activity Under the Act*

### Notices to bargain

A list of notices to bargain sent between April 1, 2008 and March 31, 2009, copies of which were provided to the Tribunal, is found below.

Artists' Associations	Producers
ACTRA Performers Guild	City TV
	CTV Globemedia
	Global Communications Limited
American Federation of Musicians of the United States and Canada (AFM)	CTV Globemedia
Canadian Actors' Equity Association (CAEA)	Canada School of Public Service
	National Arts Centre (Music Department)
	National Capital Commission
Playwrights Guild of Canada	Professional Association of Canadian Theatres

### Scale agreements filed with the Tribunal

A list of scale agreements filed with the Tribunal between April 1, 2008 and March 31, 2009, copies of which were provided to the Tribunal, is found below.

Artists' Associations	Producers
Association québécoise des auteurs dramatiques	Théâtres Associés Inc.
Union des Artistes	Groupe TVA

## APPENDIX 2

### *Members' Biographies*

The following members served during the 2008-2009 fiscal year:



**Sébastien Dhavernas**  
**Sainte-Lucies des**  
**Laurentides, Quebec**  
**Chairperson and**  
**Chief Executive**  
**Officer**

Mr. Dhavernas was appointed Chairperson of the Tribunal on June 18, 2008.

Mr. Dhavernas has worked in film, television and theatre for more than thirty years, as an actor, producer, studio director, stage director, artistic director, and writer of dialogue adaptations.

Mr. Dhavernas served on numerous negotiating committees and as President of the Commission du doublage of the Société de développement des entreprises culturelles from 1999 to 2002. He has been a council member of the Union des artistes since 2007. Mr. Dhavernas holds a bachelor's degree from Stanislas College and a diploma in TV screenwriting from the Institut national de l'image et du son. He also attended the Conservatoire d'art dramatique de Montréal and the Institut de recherche Pantonal Inc.

Mr. Dhavernas resigned from the Tribunal on September 7, 2008.



**Elaine Kierans**  
**Toronto, Ontario**  
**Vice-Chairperson**

Elaine Kierans was appointed part-time Vice-Chairperson of the Tribunal on May 15, 2007, and was appointed Acting Chairperson and Chief Executive Officer on September 8, 2008.

Ms. Kierans worked as a lawyer after graduating from McGill University in 1983, and remains an active member of the Law Society of Upper Canada. She also holds a business degree, specializing in labour relations, from McGill University.

Ms. Kierans has held numerous positions throughout her career including Vice-Chair of the Alcohol and Gaming Commission of Ontario. She also has sat on a number of boards, including those of Brighter Minds Media Inc. and the Toronto French School.

## Appendix



**Lyse Lemieux**  
Vancouver, British  
Columbia

Lyse Lemieux was appointed as a part-time member of the Tribunal on April 18, 2002. Ms. Lemieux is a visual artist with extensive experience in the field of arts and culture. In addition to her experience in gallery management, her artistic work has been exhibited in Canada and Europe and is held in corporate and private collections.

Ms. Lemieux also worked for the Canadian Broadcasting Corporation for many years, where she produced numerous radio programs. She was assistant producer for the national French radio program *Le Monde à Lanvers* for which she won the 1999 French radio award "*Meilleure création radiophonique.*"



**Michael LaLeune**  
Herring Cove, Nova  
Scotia

Michael LaLeune was appointed as a part-time member of the Tribunal on June 6, 2005. His appointment came to an end on June 1, 2008. Mr. LaLeune holds a Bachelor of Music from the University of Western Ontario and currently serves on the National Advisory Board of the Royal Conservatory of Music in Toronto and the National Advisory Council for the Canadian Centre for Cultural Management.

Since 2004, Mr. LaLeune has been the Executive Director for the Nova Centre for the Performing Arts. He held several management positions over the years for organizations such as the Congrès Mondial Acadien 2004, Grou Tyme Acadien Festival, Atlantic Theatre Festival, Nova Scotia Kitchen Party, Nacel Inc., East Coast Arts Productions, Symphony Nova Scotia, Ontario Arts Council and the Toronto Symphony Orchestra. He has also given numerous professional performances as a concert soloist and cabaret singer across Canada, including at the Stratford Shakespearean Festival.

## APPENDIX 3

### *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];

## **Appendix**

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].