



# Canadian Artists and Producers Professional Relations Tribunal

2003-2004  
Estimates

Part III - Report on Plans and  
Priorities



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Estimates

Report on Plans and Priorities

Approved:

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Honourable Claudette Bradshaw  
Minister of Labour

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## **Section I: Chairperson's Message and Management Representation Statement**

### **Message from the Chairperson**

I am pleased to present the 2003-2004 *Report on Plans and Priorities* for the Canadian Artists and Producers Professional Relations Tribunal. This report reflects the experience that the Tribunal has gained since it began its operations in 1995, and outlines its intended direction for the next three years.

The Tribunal will continue to fulfill its statutory mandate: determining sectors of cultural activity suitable for collective bargaining; certifying artists' associations to represent self-employed artists working in these sectors; and resolving complaints of unfair labour practices in contravention of the *Status of the Artist Act*. Initiatives aimed at assisting artists and producers in resolving their differences and taking advantage of the benefits of the *Act* are ongoing.

The Tribunal provides descriptive documents and useful information to its clients. These products will be complemented by the Tribunal's comprehensive website. Artists, producers, representatives of their associations, as well as Canadians and others around the globe interested in artistic matters, can access the website for detailed and timely information on all the Tribunal's activities.

The *Act* requires that the Minister of Canadian Heritage, in consultation with the Minister of Labour, review the provisions and operations of the *Status of the Artist Act* in 2002. Should the review of the *Act* result in legislative amendments, the Tribunal will respond to any changes with respect to its responsibilities to its clients.

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

# MANAGEMENT REPRESENTATION STATEMENT

## *Report on Plans and Priorities 2003-2004*

I submit, for tabling in Parliament, the 2003-2004 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 and disclosure requirements contained in the *Guide to the preparation of the 2003-2004 Report on Plans and Priorities*:

- It accurately portrays the Tribunal's plans and priorities.
- The planned spending information in this document is consistent with the directions provided in the Minister of Finance's Budget and by TBS.
- Is comprehensive and accurate.
- Is based on sound underlying departmental information and management systems.

The reporting structure on which this document is based has been approved by Treasury Board Ministers and is the basis for accountability for the results achieved with the resources and authorities provided.

David P. Silcox  
Chairperson and Chief Executive Officer  
February 12, 2003

## Section II - Raison d'être

The Canadian Artists and Producers Professional Relations Tribunal administers Part II of the *Status of the Artist Act* (the *Act*), which regulates professional relations between self-employed artists and federally regulated producers.

The Tribunal's statutory mandate is:

- to define the sectors of cultural activity subject to federal jurisdiction that are suitable for collective bargaining;
- to certify artists' associations to represent independent entrepreneurs working in these sectors;
- to hear and decide complaints of unfair practices filed by artists, artists' associations and producers; and
- to prescribe appropriate remedies for contraventions of the *Status of the Artist Act*.

## Planning Overview

The *Status of the Artist Act* was enacted in 1992 to recognize the important role that artists play in Canadian society and to provide mechanisms to improve the socio-economic status of self-employed artists.

The Canadian Artists and Producers Professional Relations Tribunal is the independent, quasi-judicial agency created to assist in the achievement of these aims. In addition to interpreting and applying the legal framework for collective bargaining between self-employed artists and producers in the federal jurisdiction, the Tribunal encourages constructive professional relations between producers and artists' associations.

The *Act* defines artists as independent contractors who are authors within the meaning of the *Copyright Act*, directors, performers, or other professionals who contribute to the creation of a production. Federal producers include all broadcasting undertakings under the jurisdiction of the Canadian Radio-television and Telecommunications Commission, all federal government departments and the majority of federal agencies and crown corporations. By following the procedures set out in the *Act*, associations representing self-employed artists can receive certification from the Tribunal which grants them legal status and the exclusive right to negotiate with producers for the purpose of entering into scale agreements. These agreements specify the minimum terms and conditions to which a producer must adhere when engaging the services of, or commissioning work from, a self-employed professional artist in a particular sector.

Improving the social-economic well-being of the artistic community through the successful negotiation of scale agreements between the parties supports the important goal of a stable and successful cultural sector in Canada.





## **Section III - Plans and Priorities by Strategic Outcome**

### **Summary:**

The Tribunal's activities have one strategic outcome: to encourage constructive professional relations between self-employed artists and producers in the federal jurisdiction.

To achieve this outcome, the Tribunal will focus on the following ongoing key priorities for the planning period:

- to process applications, complaints and other matters and to make decisions promptly, professionally and in a cost-sensitive manner;
- to inform and assist artists and producers in resolving differences and taking advantage of the benefits of the *Status of the Artist Act*;
- to inform Canadians of the Tribunal's work; and
- to manage resources efficiently and with accountability.

### **Details:**

#### **Strategic Outcome: (Total Planned Spending - \$1,789,000 )**

The Tribunal will realise its strategic outcome and priorities by providing fair, prompt, professional and cost-effective adjudicative services. Enhancing the strong research capacity in the Tribunal Secretariat will continue to ensure that the Tribunal's decisions reflect the realities of the client community and the changing environment affecting artists.

Producers and artists' associations will continue to be encouraged to resolve as many differences as possible prior to a hearing. When appropriate, staff of the Tribunal Secretariat 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 the Tribunal and its clientele.

Artists' associations are for the most part small, have limited financial resources and have little or no experience in labour relations. Because they lack sufficient time and resources, artists' associations have expressed the desire to negotiate with associations of producers rather than with individual producers. As well, many government producers would prefer to designate one department as the lead negotiator. The Tribunal will continue to encourage the parties to discuss this strategy since it may, ultimately, facilitate the bargaining process and make it more cost-effective.

As reported in our 2002-2003 *Report on Plans and Priorities*, under the provisions of the *Status of the Artist Act*, a mandatory review of the *Act* is required seven years after it comes into full effect. In 2002, this review was conducted by the Department of Canadian Heritage in consultation with the Department of Human Resources Development Canada. The Tribunal and its Secretariat contributed background information and, when requested, provided its own views on the operation and provisions of the *Act*. Artists' associations and producers had the opportunity to make their views known and legislators will subsequently decide whether to take any action based on recommendations resulting from this process. The Tribunal will respond to any changes with respect to its responsibilities that result from this review to better serve its client community.

To assist our client community, the Tribunal Secretariat offers diverse information products and services tailored to the specific needs of artists' associations and producers. In keeping with these outreach activities, if the review of the *Act* results in legislative amendments, the Tribunal Secretariat will organize client information sessions to ensure that they are aware of any changes respecting their rights, roles, responsibilities and obligations under the *Act*. These will be complimented by the publication of timely information bulletins, reports and other materials, and the continued enhancement of the Tribunal's website. In addition to being a resource for the Tribunal's clientele, the website provides detailed information on the Tribunal's activities to Canadians as well as to people from around the world interested in artistic matters. The website, which is found at [www.capprt-tcrpap.gc.ca](http://www.capprt-tcrpap.gc.ca), has been modified to meet the requirements of the Government on Line initiative.

Since its inception, the Tribunal has endeavoured to use procedures that are fair and transparent and there have been several amendments made to its procedures based on consultations with clients. Early in fiscal year 2003-2004, the Tribunal's procedural regulations will be pre-published in the *Canada Gazette* for comment and it is expected that they will be formally in place later that year. A plain language guide to the Tribunal's procedures and a handbook for unrepresented parties who appear before the Tribunal, are expected to be published towards the end of the fiscal year.

The Tribunal is committed to the efficient and economical management of its resources. As part of the Modern Comptrollership Initiative, the Tribunal along with three other small quasi-judicial agencies, formed a cluster group and conducted capacity assessments related to establishing modern comptrollership within each organisation. The Tribunal's Comptrollership Capacity Assessment sets the groundwork for the formulation of a detailed plan and priorities to implement modern comptrollership over the next two to three years. This assessment is found on the Tribunal web site at [www.capprt-tcrpap.gc.ca/pubs/comptrollership/assessment-e.pdf](http://www.capprt-tcrpap.gc.ca/pubs/comptrollership/assessment-e.pdf)

Demands on the Tribunal's human and financial resources continue to come from several sources: the creation of new bargaining relationships following certification orders granted by the Tribunal, a rise in the number of notices to bargain that result from these

certification orders, increasingly complex applications for certification, and complaints. However, the Tribunal has no control over the level of its caseload. This depends entirely on the demands of the client community. Proper resource management is made more difficult in this situation. In the years when the caseload is less than projected, surplus funds are returned to the Consolidated Revenue Fund.

## **Performance Measures**

The Tribunal has several performance measures that assist in monitoring whether our strategic outcome and key priorities are on track. These measures are currently under review to ensure that they are the most accurate, appropriate, and affordable indicators of the Tribunal's effectiveness. The rationale for any changes to the performance measures will be explained in subsequent Estimates reporting documents.

While measuring constructive professional relations can be challenging, the Tribunal presently monitors progress towards this goal in several ways. An effective measure is the percentage of complaints resolved without a hearing. The target for this performance measure is a minimum of 50 percent of complaints resolved without a hearing. Another indicator of constructive professional relations is the successful negotiation of first agreements. This is measured by whether certified artists' associations have negotiated at least one new scale agreement within five years of certification by the Tribunal. A third indicator is greater recognition and improved wages and working conditions for artists and a stable and predictable working environment for both artists and producers. As reported in the 2002-2003 Report on Plans and Priorities, the achievement of this result is expected to be quantifiable in two to three years when more first agreements have been signed by artists' associations and producers. Results will be determined in large part through client consultations.

Prompt and competent handling of cases is a key ongoing priority. The time to process applications for certification from the receipt of a completed application to the date that the Tribunal renders a decision (maximum 300 calendar days), and the time that reasons for decision are issued after a hearing has concluded (maximum 35 days), are the performance measures currently in place. To measure the Tribunal's competence in dealing with cases, it uses the results of judicial review as an indicator. It is expected that less than 50 percent of applications for judicial review will be granted by the courts.

The Tribunal has always taken very seriously its responsibility to ensure that artists' associations and producers are fully aware of their rights and responsibilities under the *Status of the Artist Act*. Performance in this regard will be measured by the quality and timeliness of information bulletins, the quality of the Tribunal's website, accurate and timely responses to queries and requests for information, and fair and effective procedures and regulations. At least three information bulletins will be issued annually and satisfaction will be determined by client feedback. The Tribunal's website dovetails with the Government on Line initiative and will continue to contain comprehensive and up-to-date information. The maximum response time to enquiries and requests for

information will be two working days. Procedures, regulations and explanatory documents have been developed from the perspective of appropriateness and ease of use by clients. To date, no negative comments have been received about these documents. This situation will continue to be monitored and changes made as required.

**Table 1: Departmental Planned Spending**

(\$ thousands)	Forecast Spending 2002-2003	<b>Planned Spending 2003-2004</b>	Planned Spending 2004-2005	Planned Spending 2005-2006
<b>ADJUDICATION</b>				
Budgetary Main Estimates	1,739	<b>1,789</b>	1,789	1,789
Non-Budgetary Main Estimates	0	<b>0</b>	0	0
Less: Respendable revenue	0	<b>0</b>	0	0
<b>Total Main Estimates</b>	1,739	<b>1,789</b>	1,789	1,789
Adjustments**	45	<b>0</b>	0	0
<b>Net Planned Spending</b>	1,784*	<b>1,789</b>	1,789	1,789
Less: Non-respendable revenue	0	<b>0</b>	0	0
<i>Plus:</i> Cost of services received without charge	307	<b>425</b>	425	425
<b>Net cost of Program</b>	2,091	<b>2,214</b>	2,214	2,214
<b>Full Time Equivalent</b>	9	<b>10</b>	10	10

\* Reflects the best forecast of total planned spending to the end of the fiscal year.

\*\* Adjustments are to accommodate approvals obtained since the Main Estimates and are to include Budget initiatives, Supplementary Estimates etc.

## Section IV: Organisation

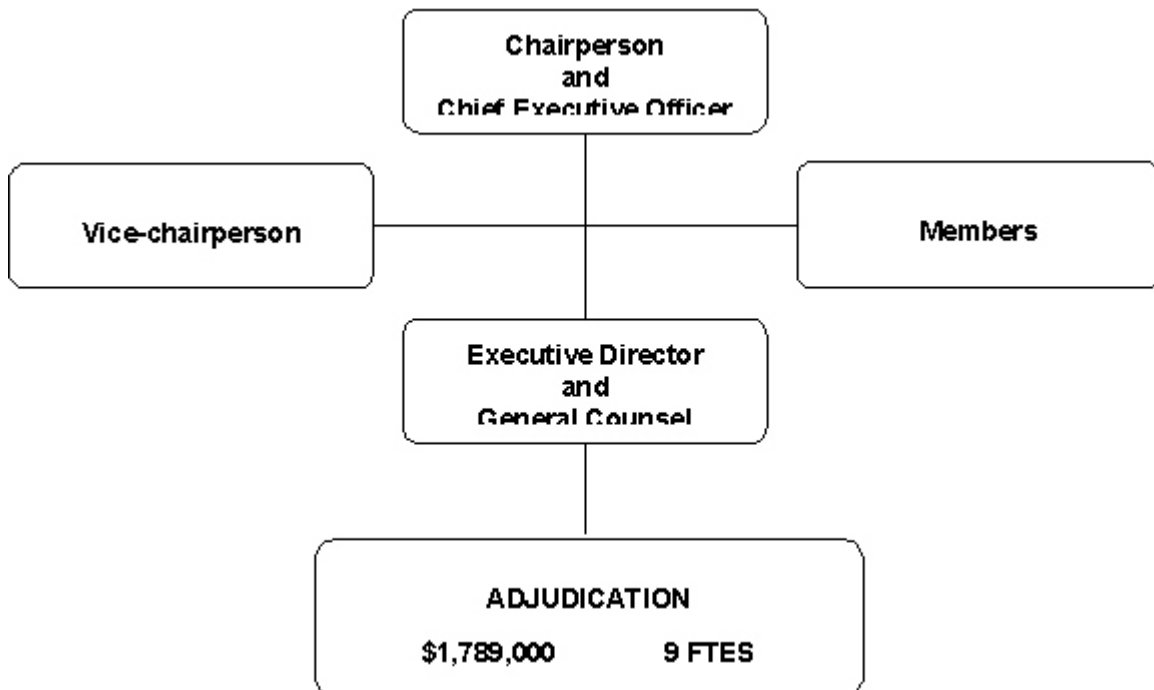
### Accountability

The Tribunal reports to Parliament through the Minister of Labour.

The Tribunal is currently composed of a Chairperson, a Vice-chairperson and four other members. Members are appointed by the Governor in Council, and all six members are part-time appointees.

The Chairperson is the Chief Executive Officer of the Tribunal. The daily management of staff and the operations of the Tribunal are the responsibility of the Executive Director who reports to the Chairperson.

The Tribunal has the statutory mandate to deal with applications, complaints, and other matters brought before it pursuant to the *Status of the Artist Act*.



**Section V: Annexes**

**Table 2: Net Cost of Program for the Estimates Year**

(\$ thousands)	<b>Total</b>
Net Planned Spending (Total Main Estimates plus Adjustments as per the Planned Spending Table)	<b>1,789</b>
<i>Plus: Services Received without Charge</i>	
Accommodation provided by Public Works and Government Services Canada (PWGSC)	<b>365</b>
Contributions covering employees' share of employees' insurance premiums and expenditures paid by TBS (excluding revolving funds)	<b>60</b>
Workers' compensation coverage provided by Human Resources Development Canada	<b>0</b>
Salary and associated expenditures of legal services provided by Justice Canada	<b>0</b>
	<b>425</b>
<i>Less: Non-responsible Revenue</i>	<b>0</b>
<b>2003-2004 Net cost of Program</b>	<b>2,214</b>



## 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>	In preparation

## References

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-ARTS (2787)  
Facsimile: (613) 947-4125  
Email: [info@capprt-tcrpap.gc.ca](mailto:info@capprt-tcrpap.gc.ca)  
Website: [www.capprt-tcrpap.gc.ca](http://www.capprt-tcrpap.gc.ca)

## Publications

*Canadian Artists and Producers Professional Relations Tribunal Annual Report and Canadian Artists and Producers Professional Relations Tribunal Performance Report* (annual)

<http://www.capprt-tcrpap.gc.ca/pubs/reportsto/index-e.html>

Canadian Artists and Producers Professional Relations Tribunal Information Bulletins (several per year)

<http://www.capprt-tcrpap.gc.ca/pubs/bulletins/index-e.html>

*Canadian Artists and Producers Professional Relations Tribunal Procedures*, 3<sup>rd</sup> Edition, February 1999

<http://www.capprt-tcrpap.gc.ca/pubs/procedures/index-e.html>

*The Status of the Artist Act Annotated*, published by Carswell, 1999 -

[http://www.carswell.com/law\\_index.asp](http://www.carswell.com/law_index.asp) (to order)

## The Tribunal's 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 [s.11(2)]
2. hold meetings or proceedings of the Tribunal at such times and locations in Canada as it considers desirable [s.13(2)]
3. make regulations of general application which it considers conducive to the performance of its duties [s.16]
4. make interim orders [s.20(2)]
5. rescind or amend determinations or orders and rehear applications [s.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 for conformity with [s.23]
8. receive copies of membership lists filed by associations of producers in conformity with [s.24]
9. receive applications for certification from artists' associations pursuant to s.25; 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 [s.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 [s.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 [s.47,48,49]
20. hear and decide applications alleging unfair labour practices and prescribe appropriate remedies [s.53,54]
21. issue consent to prosecute [s.59]
22. establish other offices which it considers necessary [s.13(1)]
23. prepare and submit an annual report to Parliament through the Minister of Labour regarding activities during the fiscal year [s.61]