



Canadian Artists and Producers Professional Relations Tribunal

2004-2005
Estimates

Part III - Report on Plans and
Priorities

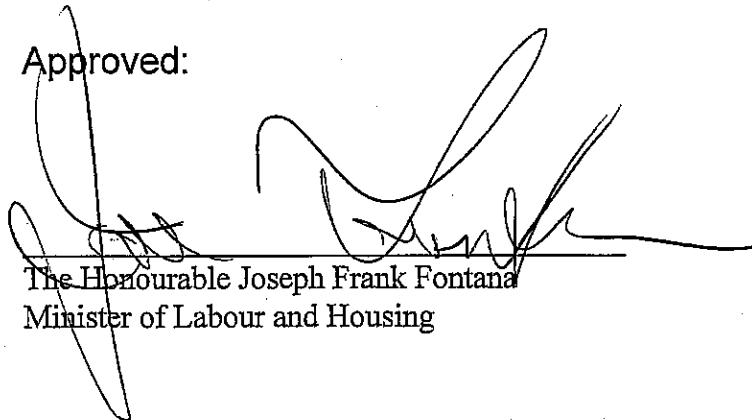


Canadian Artists and Producers Professional Relations Tribunal

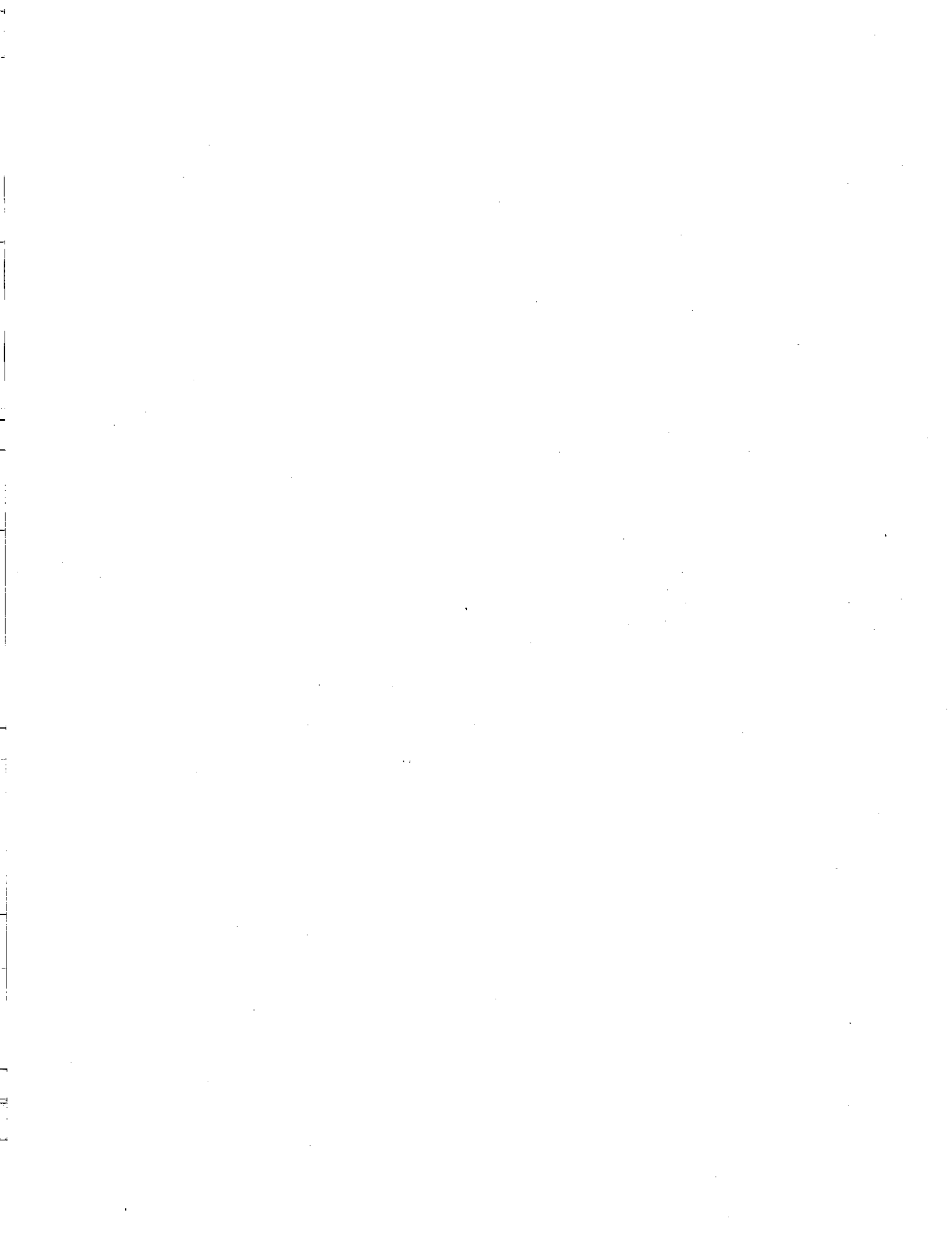
2004-2005
Estimates

Report on Plans and Priorities

Approved:



The Honourable Joseph Frank Fontana
Minister of Labour and Housing



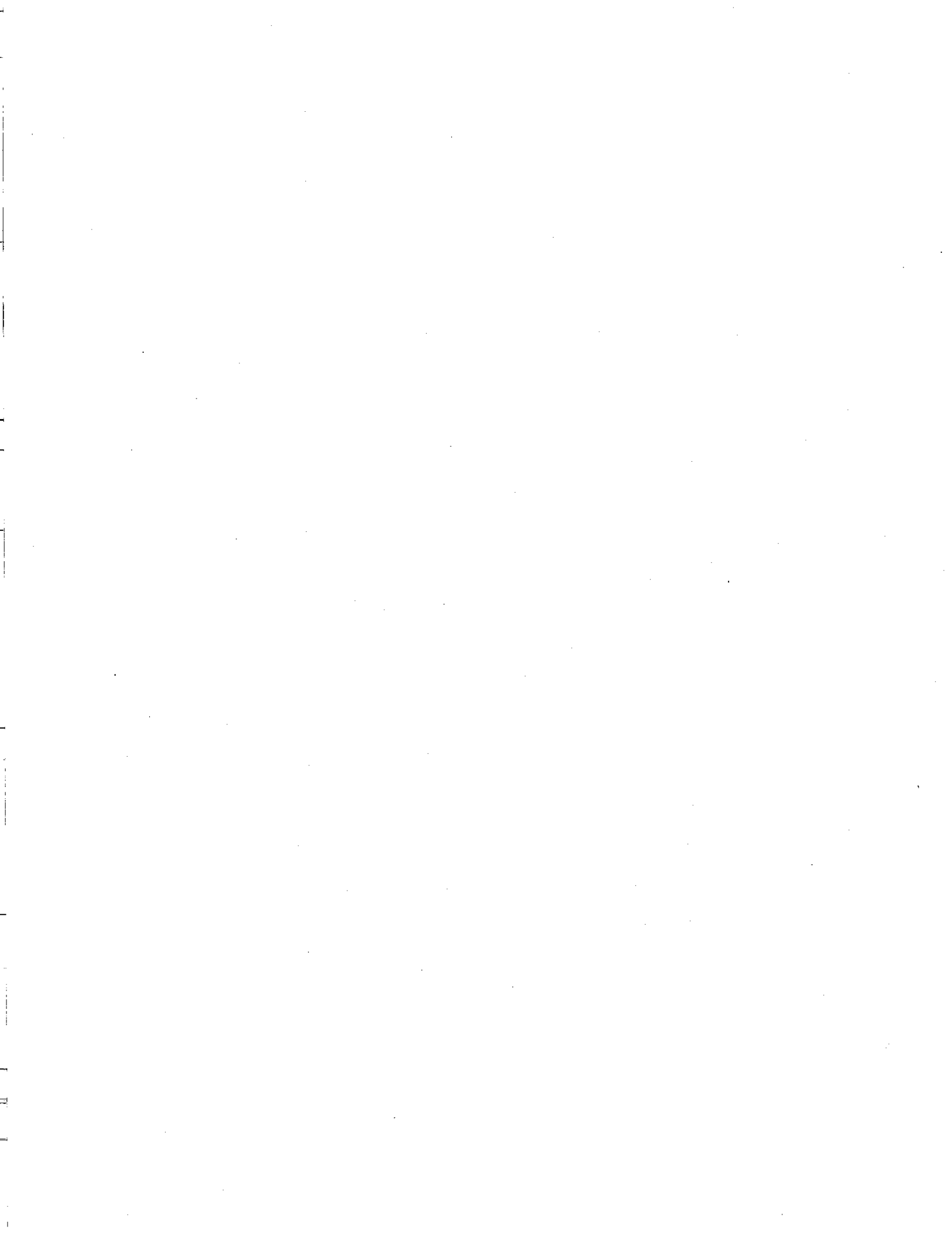
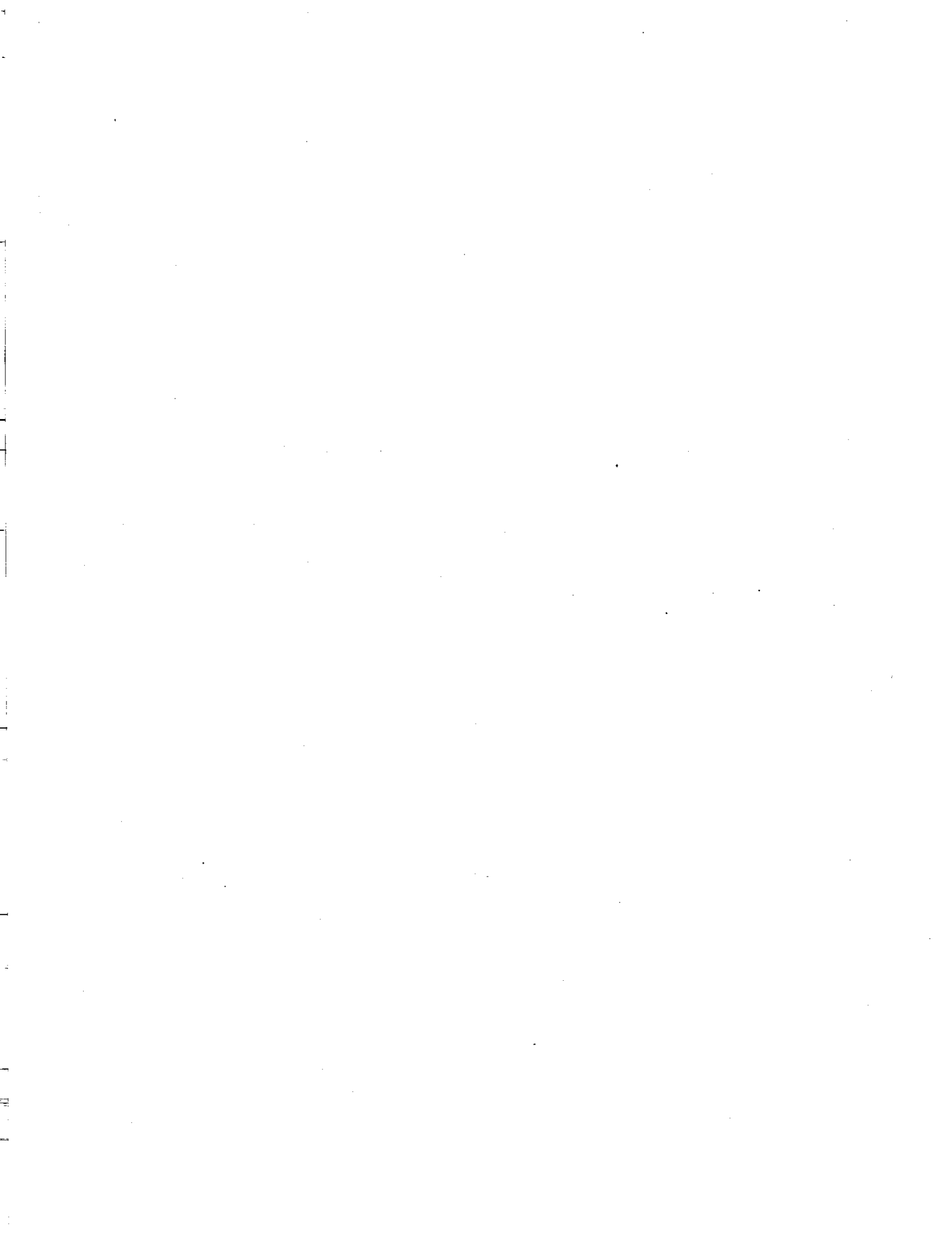


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Section I: Chairperson's Message and Management Representation Statement

Message from the Chairperson

I am pleased to present the 2004-2005 *Report on Plans and Priorities* for the Canadian Artists and Producers Professional Relations Tribunal. This report outlines its intended direction for the next three years based on the lessons learned since it began operations in 1995.

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 to resolve their differences and take advantage of the benefits of the *Act* are ongoing.

The Tribunal has also identified as a priority for 2004-2005 to assist in preparing possible amendments to the *Status of the Artist Act* and other changes which would make the *Act* more effective. This work is being carried out with the Department of Human Resources and Skills Development under the lead of the Department of Canadian Heritage, in response to its evaluation report tabled in April 2003.

The fiscal year 2004-2005 is an important year. It marks the tenth anniversary year of the Tribunal. To celebrate its anniversary and emphasize the benefits gained by artists and producers, the Tribunal will release a special anniversary annual report and host various meetings.

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 2004-2005

I submit, for tabling in Parliament, the 2004-2005 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 2004-2005 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.
- It is comprehensive and accurate.
- It 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
March 31, 2004

Section II: Raison d'être

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

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

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

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

The Tribunal has the following statutory mandate:

- to define, within its jurisdiction, 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 hear and decide complaints of unfair practices filed by artists, artists' associations or producers and to prescribe appropriate remedies for contraventions of Part II of the *Act*.

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

Planning Overview

The Tribunal is funded through annual appropriations and does not have the authority to spend any revenues received during the year.

The economic contribution of the arts and culture sector is significant. In 2001, the sector contributed an estimated \$26 billion to the Canadian economy and provided 740,000 jobs, according to Statistics Canada.

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

The economics of artistic endeavours

Although Part II of the *Status of the Artist Act* was enacted to assist artists and producers, its impact is limited due to its application to a small jurisdiction. Most work in the cultural sector falls under the jurisdiction of the provinces, which includes the vast majority of film and television programming production, sound recording, art exhibitions, theatrical production and book publishing. To date, Quebec is the only province with legislation granting collective bargaining rights to self-employed artists. Since the introduction of enabling legislation on the status of the artist in 2002, the Saskatchewan government has been studying the possibility of introducing a legal collective bargaining framework for some artistic work in that province.

Need for provincial legislation

The necessity for provincial legislation was recognized by the Standing Committee on Canadian Heritage in its ninth report in 1999. This view was expressed again in the Department of Canadian Heritage's evaluation of the provisions and operations of the *Status of the Artist Act* carried out in 2002¹ (referred to as "evaluation report" in this document).

Global competition and the convergence of broadcasting and telecommunications technologies have led to horizontal and

The changing industry environment

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

vertical integration in the media production, programming and distribution industries. Negotiating scale agreements in an environment of continual organizational upheaval is challenging for producers and artists' associations alike. Moreover, in some cases it is difficult for the parties, and ultimately for labour boards, to determine where provincial jurisdiction ends and federal jurisdiction begins. Canadian Heritage's evaluation report indicated that a shortcoming of the *Act* was the fact that the *Status of the Artist Act* does not apply to producers sub-contracted by producers within the federal jurisdiction.

The CRTC has determined that some Internet transmissions constitute broadcasting, although it has exempted these broadcasters from the necessity of obtaining a license for the time being. The CRTC's decision may broaden the Tribunal's jurisdiction to include unlicensed Internet broadcasters, although the Tribunal has yet to rule on this subject. As expected, it is taking time to initiate negotiations in this emerging sector. However, in traditional broadcasting and the federal sector, provisions have been negotiated in scale agreements with some artists, such as actors and writers, to deal with transmission of works and performances over the Internet.

The process of negotiating scale agreements can be daunting. Many artists' associations are small, lack financial resources and have little or no experience in labour relations. As a result, despite the fact that collective bargaining has the potential to improve artists' earnings, some artists' associations may not be able to enter into negotiations immediately following certification because the negotiation process can be long and costly.

**Financial
difficulties of
artists'
associations**

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



Section III: Plans and Priorities by Strategic Outcome

Summary

Strategic Outcome	Priorities	Associated Resources	Type of Priority
Constructive professional relations between self-employed artists and producers in the federal jurisdiction.	1. Deal with matters promptly and competently	\$1,000,000	Ongoing
	2. Fully inform and assist clients	\$ 600,000	Ongoing
	3. Work on amendments to the <i>Act</i> and other changes	*	New

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

The resources associated with the above priorities do not make up the entire budget of the Tribunal. The difference of some \$200,000 is accounted for by Other--administration and overhead.

Details

Strategic Outcome: (Total Planned Spending - \$1,840,000)

The Tribunal will achieve its strategic outcome by implementing its priorities as follows.

1. Deal with requests under the legislation promptly and competently

The Tribunal continues to deal with new issues and to establish its own jurisprudence since there is only one other jurisdiction in Canada with similar legislation (Quebec). This "newness" presents a challenge for timeliness in decision making on some cases. It is important that we maintain a strong research capacity to ensure that the Tribunal's decisions are fair and reflect the realities of the client community. We will continue to organize information and training sessions for Tribunal members on new and relevant topics as they arise. In order to plan and operate more efficiently and effectively, the Tribunal will implement a new case management database in June 2004.

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

2. Fully inform and assist clients

Because the *Status of the Artist Act* is a unique piece of legislation and still relatively recent, some clients, particularly in the producer community, still lack a complete understanding of the *Act*, thus hindering its full implementation. The Tribunal will celebrate its tenth anniversary year starting in May 2004. We will organize various events to mark the special year and to emphasize the rights and responsibilities of producers, artists and artists' associations. A special anniversary annual report and other documents will be released to provide information on the Tribunal's work and the benefits of the *Status of the Artist Act*. Current and accurate information will be available on our Web site to supplement these efforts.

3. Work on amendments to the *Act* and other changes

The statutory review of the *Status of the Artist Act* was carried out by the Department of Canadian Heritage (DCH) in consultation with the Department of Human Resources and Skills Development (HRSD). The resultant evaluation report and the government's response were tabled in Parliament in April 2003. In response to the evaluation report, the Tribunal and HRSD are assisting DCH to prepare possible amendments to the *Status of the Artist Act* and other changes which would make the *Act* more effective in achieving expected results. Although the Tribunal is not in control of this work (it is the responsibility of DCH), these changes are a priority for the Tribunal. Various recommended amendments and other changes, such as allowing for arbitration in first scale agreements, would facilitate the goal of successful negotiations following certification.

Financial Management and Comptrollership

The implementation of Modern Comptrollership (MC) will continue to be a key priority for the Tribunal. The Tribunal will continue to work in partnership with three other small quasi-judicial agencies namely, the Competition Tribunal, Copyright Board and the Transportation Appeal Tribunal (formerly the Civil Aviation Tribunal) who have formed a cluster group to implement MC. Most of the activities listed in both the Cluster Group MC Action Plan and the Tribunal's Individual Action Plan were completed in 2003-2004. The focus for the Tribunal in 2004-2005 will be on sustaining MC and building on the work undertaken in 2003-2004 related to implementing the Internal Audit and Evaluation policies, the Integrated Risk Management Framework, and the new *Values and Ethics Code for the Public Service*. In addition, the cluster group will look at the feasibility of developing a performance measurement framework based on an analysis of the appropriateness of current performance indicators.

Performance Measures

The Tribunal has several performance measures or indicators that assist in monitoring whether our priorities will deliver the planned results and the desired outcomes. The following tables provide the performance indicator and target for each.

Strategic Outcome: Constructive professional relations

<i>Indicator</i>	<i>Target</i>
Percentage of complaints resolved without a hearing	At least half of all complaints are resolved without a hearing.
Negotiation of first agreements	All certified artists' associations have negotiated at least one new scale agreement within five years of being certified.
Greater recognition and improved wages and working conditions for artists	Targets are being developed.
A stable and predictable working environment for artists and producers	Targets are being developed.

Priority 1: Deal with matters promptly and competently

<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)	To be determined
Percentage of applications for judicial review that have been granted	Less than 50 percent

The target for the performance indicator which represents the time to write and translate reasons for decision after a hearing has been increased from an average of 30 days to an average of 60 days. During the last two reporting years, the Tribunal had difficulty meeting its former target because of the complexity of cases dealt with, the availability of part-time members and changes in key staff. Tribunal members were reluctant to increase the targeted time because of their concern for providing the most prompt service possible to clients. However, upon studying the performance of other administrative tribunals and federal agencies dealing with cases, it found that a target time of 60 days is well within the range of results achieved by other similar organizations. Based on this information and after consideration of its own capabilities regarding availability, etc., the Tribunal decided to increase the target time to 60 days.

The target for the performance indicator which represents the time to process a case to final decision is currently in revision. This target measured the time to process certification cases only, since certification cases comprised the vast majority of the Tribunal's business until recently. Other kinds of cases, however, such as complaints and reviews, are growing in number. The new target will include all the cases of the Tribunal and will be established by the end of June 2004, when the new database will be able to generate the required data for these cases.

Priority 2: Fully inform and assist clients

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

Priority 3: Work on amendments to the *Act* and other changes

The Tribunal Secretariat is assisting the Department of Canadian Heritage in the preparation of possible amendments and other changes as recommended in the evaluation of the *Act*. There are no specific targets at present as these will depend on the political agenda of the new government and the department's priorities.

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 Tribunal has a straight-forward organizational structure which permits it to carry out its mandate, comprising one business line, with a minimum of staff. 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 and General Counsel who reports to the Chairperson. Ten staff members carry out the functions of legal counsel, registrar, planning, research, communications, mediation and administrative services. Staff are multi-skilled in order to take on various kinds of tasks as required. Also, the Tribunal outsources some corporate services that are not required on a full time basis, such as informatics, human resources and finance.

The Tribunal continues to provide accommodation to the office of Environmental Protection Review Canada.

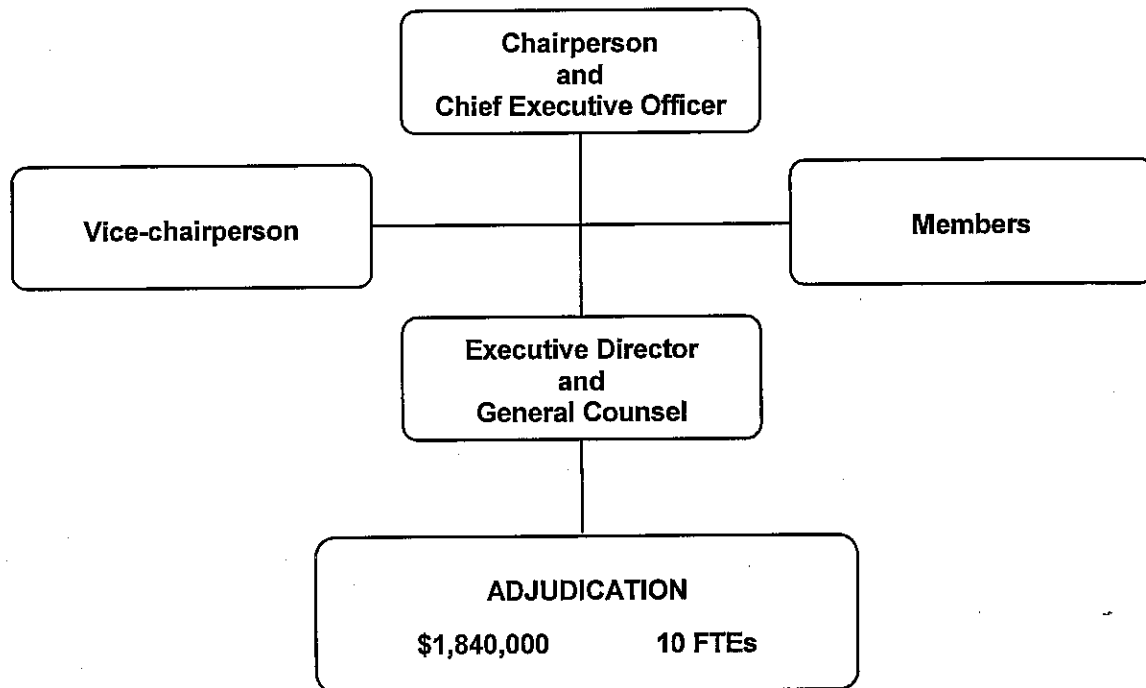


Table 1: Departmental Planned Spending

(\$ thousands)	Forecast Spending 2003-2004	Planned Spending 2004-2005	Planned Spending 2005-2006	Planned Spending 2006-2007
ADJUDICATION				
Budgetary Main Estimates	1,789	1,840	1,840	1,840
Non-Budgetary Main Estimates	0	0	0	0
Less: Respendable revenue	0	0	0	0
Total Main Estimates	1,789	1,840	1,840	1,840
Adjustments*	57	0	0	0
Net Planned Spending	1,846	1,840	1,840	1,840
Less: Non-respendable revenue	0	0	0	0
<i>Plus: Cost of services received without charge**</i>	425	433	433	433
Net cost of Program	2,271	2,273	2,273	2,273
Full Time Equivalents	10	10	10	10

* Adjustments include funds received for adjustments to collective agreements affecting terms of employment and for internal audit.

** 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 Modern Comptrollership, will be financed out of the reallocation of existing resources.

Section V: Annexes

Table 2: Net Cost of Program for the Estimates Year

(\$ thousands)	Total
Net Planned Spending (Total Main Estimates plus Adjustments as per the Planned Spending Table)	1,840
<i>Plus: Services Received without Charge</i>	
Accommodation provided by Public Works and Government Services Canada (PWGSC)	368
Contributions covering employer's share of employees' insurance premiums and expenditures paid by TBS (excluding revolving funds)	65
Workers' compensation coverage provided by Human Resources and Skills Development	0
Salary and associated expenditures of legal services provided by Justice Canada	0
	433
<i>Less: Non-respendable Revenue</i>	0
2004-2005 Net Cost of Program	2,273

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

Contact Information

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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

Publications and Other Relevant Documents²

Canadian Artists and Producers Professional Relations Tribunal Annual Report

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

Canadian Artists and Producers Professional Relations Tribunal Information Bulletins
(three to four per year)

Canadian Artists and Producers Professional Relations Tribunal Procedures, 4th Edition, 2003 (updated occasionally)

The Status of the Artist Act Annotated, prepared by the Legal and Adjudicative Services Branch of the Canadian Artists and Producers Professional Relations Tribunal, continually revised by the Tribunal.

² All are available on the Tribunal's web site: www.capprt-tcrpap.gc.ca

Evaluation of the Provisions and Operations of the Status of the Artist Act, prepared by Prairie Research Associates Inc. for Canadian Heritage, July 2002, and *Government Response to the Evaluation of the Provisions and Operations of the Status of the Artist Act*, both tabled in Parliament on April 1, 2003.

Client Feedback on the Performance of the Canadian Artists and Producers Professional Relations Tribunal, prepared by Cultural Enterprises International for the Tribunal, April 30, 2000.

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].