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CANADA

STRENGTHENING THE STATUS OF THE ARTIST IN CANADA

Report of the Standing Committee on Canadian Heritage

Hon. Hedy Fry, Chair

**MARCH 2023
44th PARLIAMENT, 1st SESSION**

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Chair**

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NOTICE TO READER

Reports from committees presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

To assist the reader:

A list of abbreviations used in this report is available on page xi

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has the honour to present its

FIFTH REPORT

Pursuant to its mandate under Standing Order 108(2), the committee has studied the *Status of the Artist Act* and its impact on improving basic working conditions for artists and has agreed to report the following:

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LIST OF ABBREVIATIONS

ACTRA	Alliance of Canadian Cinema, Television and Radio Artists
AQTIS	Alliance québécoise des techniciens de l'image et du son
ARRQ	Association des réalisateurs et réalisatrices du Québec
CARFAC	Canadian Artists Representation/Front des artistes canadiens
CIRB	Canada Industrial Relations Board
CRTC	Canadian Radio-television and Telecommunications Commission
DGC	Directors Guild of Canada
FCCF	Fédération culturelle canadienne-française
GMMQ	Guilde des musiciens et musiciennes du Québec
NFB	National Film Board of Canada
NGC	National Gallery of Canada
SAA	Status of the Artist Act
SCGC	Screen Composers Guild of Canada
RAAV	Regroupement des artistes en arts visuels du Québec
SPACQ	Société professionnelle des auteurs et des compositeurs du Québec

LIST OF RECOMMENDATIONS

As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

Recommendation 1

That the Government of Canada undertake an in-depth review of the *Status of the Artist Act* and the *Copyright Act*. 21

Recommendation 2

That the Government of Canada amend Part II of the *Status of the Artist Act* to include a provision on bargaining and arbitration for the purpose of concluding a first “scale agreement.” 21

Recommendation 3

That the Government of Canada take all necessary measures so that producers who receive any financial support from the government use Canadian resources on funded projects whenever reasonably possible..... 21

Recommendation 4

That the *Status of the Artist Act* be amended to prohibit producers from making the engagement of an independent artist conditional on their agreeing to lesser conditions of employment than those set out in the Act..... 21

Recommendation 5

That the Government of Canada accelerate the reform for a modernized employment insurance (EI) program that accomodates for the nature of artistic work and the various employment realities of cultural workers, that allows them to pay and withdraw from EI, and that makes the program more accessible for artists and cultural workers to all EI regular and special benefits. 21

Recommendation 6

That the Government of Canada consider tax measures to support professional artists in the practice of their art and promote Canadian cultural products as well as the purchase of works of art by Canadian artists. 21

Recommendation 7

That the Government of Canada amend the *Income Tax Act* to include a tax deduction for income from copyright to reduce the tax on this type of revenue for professional artists. 22

Recommendation 8

That the Government of Canada amend the *Income Tax Act* to ensure professional artists can average their income when they have a more prosperous year. 22

Recommendation 9

That 1% of the total renovation or construction budget for government buildings be set aside to purchase works of art by professional Canadian artists, and that a tax credit worth up to 1% of the total renovation or construction budget of a building be offered to any business or organization that spends an equivalent amount acquiring works of art by professional Canadian artists..... 22

Recommendation 10

That the Government of Canada establish a binding arbitration process in the negotiation between parties. 22

Recommendation 11

That the Government of Canada undertake a comprehensive review of the best practices from countries such as Ireland and Finland as well as upstate New York, which have implemented basic income programs for artists. 22

Recommendation 12

That the Government of Canada codify in the *Status of the Artist Act* the principles established in the Supreme Court decision *Canadian Artists' Representation v. National Gallery of Canada*..... 22

Recommendation 13

That the Government of Canada take the necessary steps to ensure that producers who receive government funding guarantee minimum working conditions. 22

Recommendation 14

That the Government of Canada adapt the section 44 of the *Canada Labour Code* to the context of the *Status of the Artist Act*, and clarify that artists' accreditations, master agreements and contracts are protected in the event of a sale of business or a change in the legal structure of the producer..... 23

Recommendation 15

Should the Government of Canada proceed with any amendments to *the Status of the Artist Act*, those amendments should focus on simplifying and reducing the tax burdens placed on artists and creators. 23

Recommendation 16

Should the Government of Canada proceed with any amendments to the *Status of the Artist Act* those amendments should ensure the act is compatible and consistent with similar statutes at the provincial level. 23

Recommendation 17

That the Government of Canada recognize the evolving nature of the arts industry and ensure future policy decisions fairly consider the impacts on all types of artists and creators regardless of the medium or technique used to express their art. 23

Recommendation 18

That the Department of Canadian Heritage continue to work with the Departments of Finance and Employment and Social Development, as well as the Canada Revenue Agency, to deliver, through multiple federal levers, on the objectives of the *Status of the Artist Act* in order to improve the socio-economic realities of artists. 23

Recommendation 19

That the Government of Canada deliver on its commitments to amend the *Copyright Act* and introduce the Artist Resale Right, to ensure artists are paid their fair due and achieve a more sustainable living income based on the value of their work. 23

Recommendation 20

That the Government of Canada continue to work with provincial and territorial counterparts to ensure robust protections and supports for artists and cultural workers throughout the country. 24



STRENGTHENING THE STATUS OF THE ARTIST IN CANADA

CONTEXT OF THE STUDY

On 31 January 2022, the House of Commons Standing Committee on Canadian Heritage (the Committee) adopted the following motion:

That, pursuant to Standing Order 108(2), the committee undertake a study on the *Status of the Artist Act* and its impact on improving basic working conditions for artists; that the committee invite officials from the heritage department, tax experts and other stakeholders and groups from the culture sector to follow up on this issue and that the committee hold a minimum of four meetings to that end; and that the committee report its findings and recommendations to the House.¹

Pursuant to this motion, the Committee held four meetings and heard 29 witnesses. It also received five briefs. Witnesses included representatives from the cultural sector, the tax sector and the federal government.

This report has two main parts. The first part covers the witnesses' views on the overall implementation of the *Status of the Artist Act*. The second part summarizes various proposals to amend the Act and improve the socioeconomic situation of cultural workers.

SHORT SUMMARY OF THE *STATUS OF THE ARTIST ACT*

The purpose of the *Status of the Artist Act* (the Act or the SAA) is “to establish a framework to govern professional relations between artists and producers.”² The Minister of Canadian Heritage is responsible for the general principles of the SAA (Part I), while the Minister of Labour is responsible for Part II, which addresses professional relations between independent artists and producers.

1 House of Commons, Standing Committee on Canadian Heritage (CHPC), *Minutes of Proceedings*, 31 January 2022.

2 *Status of the Artist Act*, S.C. 1992, c. 33, s. 7.



Artists' associations certified by the Canada Industrial Relations Board (CIRB) have the exclusive authority to defend the interests of their members in a particular sector for the purpose of collective bargaining with producers. Artists are described as being "authors of artistic, dramatic, literary or musical works within the meaning of the [Copyright Act](#), or directors responsible for the overall direction of audiovisual works."³ A "producer"⁴ is described as a government institution or broadcasting undertaking under the jurisdiction of the Canadian Radio-television and Telecommunications Commission (CRTC) that engages artists' services to provide an artistic production. Artists' associations and producers can reach scale agreements outlining the minimum terms and conditions for the provision of the artists' services. There are currently 26 artists' associations certified by the CIRB. It is worth noting that five provinces have passed their own status of the artist legislation: Quebec, Ontario, Saskatchewan, Nova Scotia, and Newfoundland and Labrador.

PART 1: WITNESS PERSPECTIVES ON THE STATUS OF THE ARTIST ACT

The Limitations of the Status of the Artist Act

Various witnesses agreed that the SAA was important for the cultural sector. According to Keith Martin Gordey, National Vice-President of the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA), it establishes "a framework for improving the social and economic status of professional artists."⁵ Maryse Beaulieu, Executive Director of the Regroupement des artistes en arts visuels du Québec (RAAV), explained that the SAA is paramount to visual artists:

It is of utmost importance to reiterate that establishing a collective bargaining regime, as permitted under the Status of the Artist Act, is absolutely cardinal to improving the conditions under which artists operate (...) We could not end this presentation without saying how fundamental a collective bargaining regime, as provided for in the Status of the Artist Act, is for visual artists. It can't be the only definitive solution for improving the living conditions of these artists, but the act is one milestone that helps us reflect on the situation of artists so that they can aspire to living conditions commensurate with what they represent for Canadian society.

3 Ibid., s. 6(2)(b)(i).

4 Ibid., s. 5 and s. 6(2)(a).

5 CHPC, *Evidence*, 21 March 2022, 1555 (Keith Martin Gordey, National Vice-President, Alliance of Canadian Cinema, Television and Radio Artists).

Needless to say, the purpose of establishing a collective bargaining regime is to restore balance between the parties when it comes to negotiating with producers. The goals of the Status of the Artist Act, which emphasize how important artists are in our society, are a commitment to those we have celebrated during this pandemic.⁶

However, a number of witnesses said that SAA has not improved the socioeconomic status of cultural workers in a meaningful way. As Ginette Brazeau, Chairperson of the CIRB, pointed out, the Act applies only to labour relations within federal jurisdiction:

The *Status of the Artist Act* applies uniquely and solely to federal producers, and they are defined very clearly in the act. It has to be a broadcasting entity regulated by the CRTC or a department or a federal organization listed in the *Privacy Act*. A very circumscribed list of entities are covered by the act.⁷

The fact that the SAA does not apply to producers subcontracted by producers under federal jurisdiction diminish the effectiveness of the Act. Dave Forget, National Executive Director of the Directors Guild of Canada (DGC) said:

[W]henver the NFB collaborates with the co-producer, often the co-producer becomes the engager and the agreement falls to the side. This includes all the protections that have been negotiated, such as collective rights, minimum rates of pay and contributions to health plan and retirement plan, among other things. Of course, this also further diminishes the effectiveness of the act.⁸

Mylène Cyr, Executive Director of the Association des réalisateurs et réalisatrices du Québec (ARRQ), mentioned that agreements must be negotiated with these independent producers to guarantee minimum employment conditions:

For example, CBC/Radio-Canada, which used to hire male and female directors for its in-house productions, now uses the services of independent producers. Minimum working conditions may be required through negotiated agreements with these producers.⁹

The Guilde des musiciens et musiciennes du Québec (GMMQ) is facing a similar issue. While the GMMQ has negotiated scale agreements with CBC/Radio-Canada and the

6 CHPC, *Evidence*, 21 March 2022, 1605 (Maryse Beaulieu, Executive Director, Regroupement des artistes en arts visuels du Québec).

7 CHPC, *Evidence*, 4 April 2022, 1635 (Ginette Brazeau, Chairperson, Canada Industrial Relations Board).

8 CHPC, *Evidence*, 23 March 2022, 1600 (Dave Forget, National Executive Director, Directors Guild of Canada).

9 CHPC, *Evidence*, 30 March 2022, 1615 (Mylène Cyr, Executive Director, Association des réalisateurs et réalisatrices du Québec).



National Film Board (NFB), these federal cultural institutions collaborate with independent producers who are not subject to the Act:

[W]e still have to deal with a significant number of independent producers, who cannot be regulated in any particular way to ensure that agreements with reasonable working conditions can be reached between artists and those producers.¹⁰

In addition, the collective bargaining process between artists' associations and producers under federal jurisdiction can take several years, and is a very involved and expensive process.

For example, the bargaining process between the Canadian Artists' Representation/Front des artistes canadiens (CARFAC), RAAV and the National Gallery of Canada (NGC) took over ten years before a scale agreement was reached. Even then, it was not until the Supreme Court of Canada ruled on the matter in 2014¹¹ that CARFAC and RAAV were able to ratify a scale agreement with the NGC.¹²

It also took the ARRQ a long time to negotiate an agreement with the NFB:

While ARRQ has only negotiated one framework agreement under the federal Status of the Artist Act, or SAA, we believe that some amendments to it could greatly improve its effectiveness. Our first negotiation with the National Film Board spanned almost five years and involved 59 negotiation sessions.¹³

Lastly, it should be noted that provincial, territorial and municipal governments play a key role to improve the socioeconomic status of cultural workers. According to Karl Beveridge, a visual artist and member of CARFAC, the SAA helps improve the situation of artists, but "provincial status of the artist legislation"¹⁴ is also needed.

Where the Social Safety Net Falls Short for Cultural Workers

A number of witnesses appearing for this study said that self-employed cultural workers do not have the same social protections as other paid employees. The COVID-19 pandemic has amplified the financial difficulties of many cultural workers. According to

10 CHPC, *Evidence*, 23 March 2022, 1605 (Éric Lefebvre, Secretary-Treasurer, Guilde des musiciens et musiciennes du Québec).

11 *Canadian Artists' Representation v. National Gallery of Canada*, 2014 SCC 42.

12 CHPC, *Evidence*, 21 March 2022, 1600 (April Britski, Executive Director, Canadian Artists' Representation).

13 CHPC, *Evidence*, 30 March 2022, 1615 (Mylène Cyr).

14 CHPC, *Evidence*, 21 March 2022, 1635 (Karl Beveridge, Visual Artist, Canadian Artists' Representation).

Simon Brault, Director and Chief Executive Officer of the Canada Council for the Arts, “the pandemic highlighted that a stronger social safety net for artists is needed more than ever, and that there are multiple avenues worth exploring.”¹⁵

Ms. Cyr of the ARRQ explained the issue from the perspective of directors in Quebec:

Currently, a producer can receive government funding without any obligation to guarantee artists that they will provide minimum working conditions. These artists hired for government-funded productions have no social safety net. The pandemic has shown us how important it is to reflect on this situation.¹⁶

According to Mr. Gordey of ACTRA, the COVID-19 pandemic has revealed that artists who take on another job between two contracts are not adequately covered by the Employment Insurance program:

If a self-employed artist works at another job between gigs, they and their employer will pay into the program on the insurable hours, but if they are laid off from employment, they are ineligible to collect regular EI benefits.¹⁷

Christian Lemay, President of the Alliance québécoise des techniciens de l’image et du son (AQTIS), said that being self-employed prevents workers in the audiovisual industry “from qualifying for employment insurance benefits when they are in between jobs.”¹⁸ Moreover, when federal cultural institutions use subcontractors, the socioeconomic status of cultural workers may not improve, as subcontractors are not required to pay into the group insurance plan or the registered retirement savings plan.¹⁹

Representatives of the International Centre of Art for Social Change,²⁰ the Canadian Arts Coalition²¹ and the Fédération culturelle canadienne-française (FCCF)²² also hoped that

15 CHPC, *Evidence*, 4 April 2022, 1555 (Simon Brault, Director and Chief Executive Officer, Canada Council for the Arts).

16 CHPC, *Evidence*, 30 March 2022, 1615 (Mylène Cyr).

17 CHPC, *Evidence*, 21 March 2022, 1550 (Keith Martin Gordey).

18 CHPC, *Evidence*, 21 March 2022, 1555 (Christian Lemay, President, Alliance québécoise des techniciens de l’image et du son).

19 Ibid., 1625.

20 CHPC, *Evidence*, 23 March 2022, 1610 (Judith Marcuse, Founder and Director, International Centre of Art for Social Change).

21 CHPC, *Evidence*, 30 March 2022, 1620 (Sarah Iley, Member of Steering Committee, Canadian Arts Coalition).

22 CHPC, *Evidence*, 30 March 2022, 1625 (Marie-Christine Morin, Executive Director, Fédération culturelle Canadienne-française).



the eligibility criteria for Employment Insurance would be reviewed to take into account the status of self-employed artists.

Technological Changes

The SAA was passed at a time when the Internet and digital technologies were just taking off. As a result, the Act makes no reference to them at all. Some witnesses, such as Mr. Forget of the DGC believe the SAA should be “more flexible and responsive to technological change.”²³

Brandon Gonez, Chief Executive Officer of Gonez Media Inc., shared Mr. Forget’s perspective:

What stands out to me about the act is that, like many other regulatory frameworks, it doesn’t apply to digital creators like me, because it became law well before the Internet existed as we know it today.²⁴

Darcy Michael, an actor and creator, said that online platforms such as YouTube, TikTok and Instagram now enable artists to be “in control of their creations, their content and their businesses.”²⁵ These creators do not need to go through intermediaries to reach their audience or distribute their artistic works. According to Mr. Gonez, these digital platforms let artists reach “a global audience without those financial barriers, for example, of building up a whole network.”²⁶

According to Oorbee Roy, a digital content creator, there are “lots of channels and spaces opening up”²⁷ on digital platforms, although it can be difficult to be “jockeying for a position.”²⁸

23 CHPC, [Evidence](#), 23 March 2022, 1600 (Dave Forget).

24 CHPC, [Evidence](#), 30 March 2022, 1630 (Brandon Gonez, Chief Executive Officer, Gonez Media Inc.).

25 CHPC, [Evidence](#), 21 March 2022, 1540 (Darcy Michael, Actor and Creator, As an Individual).

26 CHPC, [Evidence](#), 30 March 2022, 1640 (Brandon Gonez).

27 CHPC, [Evidence](#), 21 March 2022, 1655 (Oorbee Roy, As an Individual).

28 Ibid.

Intellectual Property Rights in the Digital Era

Part I of the SAA recognizes, “the importance to artists that they be compensated for the use of their works, including the public lending of them.”²⁹

According to April Britski, Executive Director of CARFAC, the SAA and the *Copyright Act* go hand in hand. The *Copyright Act* establishes the right to be paid, while “collective bargaining through the [SAA] establishes the amount to be paid.”³⁰

However, some witnesses believe that more can be done to strengthen the relationship between the two Acts. In the music sector, the fact that film and television producers have not signed a scale agreement with the GMMQ means they are not required to pay royalties to performers for the use of their audiovisual works. Mr. Lefebvre of the GMMQ gave the following recommendation:

In order for performers to receive royalties when their performances are recorded as part of a film, video or television program, it would be important for artists’ associations to be able to negotiate directly with federal undertakings and CRTC-regulated organizations, as provided for in the act, a framework agreement providing for the payment of compensation without regard to the fact that a collective agreement or contract has been previously negotiated for the payment of a royalty.³¹

Alexandre Alonso, Executive Director of the Société professionnelle des auteurs et des compositeurs du Québec (SPACQ), believes it is strange for a producer who develops podcasts for a mobile application not to be “obliged, within a reasonable period of time,”³² to negotiate framework agreements for these new distribution channels.

The creators represented by the Screen Composers Guild of Canada (SCGC) are dealing with a similar situation. According to John Welsman, President of the SCGC, English-speaking screen composers sometimes have to turn over their copyright during negotiations with media producers. The consequences are far-reaching:

29 *Status of the Artist Act*, S.C. 1992, c. 33, s. 2.

30 CHPC, *Evidence*, 21 March 2022, 1600 (April Britski).

31 CHPC, *Evidence*, 23 March 2022, 1605 (Éric Lefebvre).

32 CHPC, *Evidence*, 30 March 2022, 1630 (Alexandre Alonso, Executive Director, Société professionnelle des auteurs et des compositeurs du Québec).



That effectively means that a portion of the downstream revenue, the royalties that would come to us through SOCAN—formerly SODRAC—would then be diverted to the producer or shared in some way.³³

It is important to note that the SCGC tried to negotiate a scale agreement with the Canadian Media Producers Association to address this issue, but no agreement has been reached.

PART 2: WITNESS SUGGESTIONS

Job specifications are different for cultural workers than for other workers. Their self-employed status, need to hold multiple jobs and fluctuating incomes are but a few examples of the socioeconomic circumstances of many artists. Witnesses proposed amendments to the SAA and other legislation in order to improve cultural workers' financial security.

Proposed Amendments to the *Status of the Artist Act*

Some witnesses drew the Committee's attention to certain amendments they would like to see made to the SAA.

The SPACQ called for an overhaul of the SAA that would impose "technological neutrality."³⁴ This change would require "producers to negotiate minimum working conditions for any new broadcasting channel or any new means of production within a reasonable period of time after their first use."³⁵ The Union des artistes was also in favour of including a specific statement providing that the SAA "applies to any artistic production that may be featured in various media platforms in a way that is similar to Quebec's legislation."³⁶

Definition of the Terms "Artist" and "Producer"

Under section 5 and section 6(2)(b) of the SAA, artists are defined as independent contractors determined to be professionals based on the following categories:

33 CHPC, [Evidence](#), 23 March 2022, 1630 (John Welsman, President, Screen Composers Guild of Canada).

34 CHPC, [Evidence](#), 30 March 2022, 1630 (Alexandre Alonso).

35 Ibid.

36 Union des artistes, [Brief to the Standing Committee on Canadian Heritage](#), 31 March 2022, p. 1.

- authors of artistic, dramatic, literary or musical works within the meaning of the Copyright Act, or directors responsible for the overall direction of audiovisual works;
- artists who perform, sing, recite, direct or act, in any manner, in a musical, literary or dramatic work, or in a circus, variety, mime or puppet show; or
- artists who contribute to the creation of any production in the performing arts, music, dance and variety entertainment, film, radio and television, video, sound-recording, dubbing or the recording of commercials, arts and crafts, or visual arts, and fall within a professional category prescribed by regulation.³⁷

The [*Status of the Artist Act Professional Category Regulations*](#) lists the additional professional categories eligible under the SAA. The Union des artistes recommended that these regulations be reviewed to include a broader range of professions, especially new categories that have emerged in the film and television production sector.³⁸

Some witnesses recommended reviewing the definition of “artist” in the SAA. The DGC said it was necessary to update this definition “and simplify the recognition process” in response to the technological changes that have transformed the arts and culture sector.³⁹

However, Thomas Owen Ripley, Associate Assistant Deputy Minister at the Department of Canadian Heritage, said that the definition of “artist” in the SAA is already quite broad and captures “a wide slice of artists and creators, even as technology has evolved.”⁴⁰

In contrast, the ARRQ believes that the definition of artists as authors is confusing, because “practice and jurisprudence recognize that directors are indeed authors within the meaning of the act.”⁴¹ The ARRQ suggested amending this definition to be closer to the one used in Quebec in the [*Act respecting the professional status and conditions of engagement of performing, recording and film artists*](#). It defines an artist as “a natural

37 [*Status of the Artist Act*](#), S.C. 1992, c. 33, s. 6(2)(b).

38 Union des artistes, [Brief to the Standing Committee on Canadian Heritage](#), 31 March 2022, pp. 4–5.

39 CHPC, [Evidence](#), 23 March 2022, 1600 (Dave Forget).

40 CHPC, [Evidence](#), 4 April 2022, 1605 (Thomas Owen Ripley, Associate Assistant Deputy Minister, Department of Canadian Heritage).

41 CHPC, [Evidence](#), 30 March 2022, 1615 (Mylène Cyr).



person who practises an art on his own account and offers his services, for remuneration, as a creator or performer.”⁴² The Union des artistes was also in favour of “[s]implifying the definition of artist in the SAA, similar to what is provided in Quebec’s legislation.”⁴³

In the FCCF’s view, the definition of an artist “should be based on the international treaties signed and on the definition given by other funders, such as the Canada Council for the Arts.”⁴⁴

Some witnesses also called for a review of the definition of “producer.” GMMQ and SCGC⁴⁵ representatives called for the definition to be amended so that independent producers would be subject to the Act. Mr. Lefebvre described the situation as follows:

If the federal legislation more broadly defined the word “producer,” it would be possible to designate the producer as the one who bears the financial risk. It would be easier to say that we will negotiate with a broadcaster, with CTV, for example, which would be required to negotiate with an artists’ association.⁴⁶

According to the SCGC, the definition of the SAA “is ambiguous as to whether those producers who actually execute on the broadcaster’s requirements to participate in a CanCon system are captured.”⁴⁷ It called for the SAA to be clarified to ensure that independent media producers are included in the definition of “producer.”⁴⁸

Binding Arbitration When Negotiating an Initial Scale Agreement

Some witnesses said that negotiating the first scale agreement was the biggest challenge. To improve the efficiency of the bargaining process, a number of witnesses recommended including in the SAA a dispute arbitration process. According to Ms. Cyr of the ARRQ, one option is to look to the Quebec [Act respecting the professional status](#)

42 Of note, the definition has been slightly amended since the Committee heard this testimony. It now says “for remuneration or other monetary consideration”. See: Quebec’s [Act respecting the professional status and conditions of engagement of performing, recording and film artists](#), c. S-32.1, s. 1.1.

43 Union des artistes, [Brief to the Standing Committee on Canadian Heritage](#), 31 March 2022, p. 1.

44 CHPC, [Evidence](#), 30 March 2022, 1645 (Marie-Christine Morin).

45 CHPC, [Evidence](#), 23 March 2022, 1620 (John Welsman).

46 CHPC, [Evidence](#), 23 March 2022, 1635 (Éric Lefebvre).

47 CHPC, [Evidence](#), 23 March 2022, 1700 (John Welsman).

48 Ibid., 1620.

of artists in the visual arts, arts and crafts and literature, and their contracts with promoters, which already provides for an arbitration mechanism.

With regard to the arbitration mechanism, negotiating a first collective agreement is often a very arduous process. It is particularly difficult for directors, who find themselves performing this function alone on a set. We understand that a balance of power is difficult to establish. Thus, to facilitate the establishment of a first agreement, the Act respecting the professional status of artists in the visual arts, crafts and literature and their contracts with promoters, namely Quebec’s law S-32.01, provides for the possibility of holding an arbitration of disputes for the first collective agreement at the request of one of the parties.⁴⁹

Like the ARRQ, the Union des artistes recommended including in the SAA “an arbitration mechanism for the first scale agreement at the request of one of the parties, in the same way as the *Quebec Act* does.”⁵⁰ The Canadian Actors’ Equity Association was also in favour of adding such a provision.⁵¹

Mr. Forget of the DGC recommended including a provision to that effect as well, one that “ensures binding arbitration for a first contract as is currently the case in Quebec’s *Status of the Artist Act*, as well as in provincial and federal labour codes.”⁵²

The GMMQ also supported binding arbitration, not only for the first contract, “but for subsequent agreements as well.”⁵³ The SCGC called for the CIRB to have the explicit authority “to order arbitration at the sole expense of the recalcitrant party.”⁵⁴

Ms. Brazeau of CIRB said that adding a provision to the SAA for binding arbitration is worth considering. However, in the end, it is a policy decision:

Should [the SAA] be reviewed to incorporate provisions to parallel those of the *Canada Labour Code* concerning binding arbitration for a first scale agreement? That’s a very good question, one that will have to be studied carefully. It is a tool that is provided in the *Canada Labour Code* that could be incorporated into the *Status of the Artist Act* if,

49 CHPC, [Evidence](#), 30 March 2022, 1615 (Mylène Cyr, Executive Director).

50 Union des artistes, [Brief to the Standing Committee on Canadian Heritage](#), 31 March 2022, p. 6.

51 Canadian Actors’ Equity Association, [Submission Regarding the Impact of the Status of the Artist Act on the Working Conditions of Artists](#), p. 3.

52 CHPC, [Evidence](#), 23 March 2022, 1600 (Dave Forget).

53 CHPC, [Evidence](#), 23 March 2022, 1635 (Éric Lefebvre).

54 CHPC, [Evidence](#), 23 March 2022, 1620 (John Welsman).



when this study is completed, your committee or the department concludes that it would be a good approach to achieve the desired results.⁵⁵

Amendments to Other Acts and Programs

Eligibility for Employment Insurance Benefits

Self-employment is common in the cultural sector. In 2015, approximately 28% of cultural workers were self-employed, which is more than double the rate for all Canadian workers.⁵⁶ Many cultural workers have part-time, temporary or contract working arrangements. Given these circumstances, witnesses were in favour of reviewing the eligibility criteria for Employment Insurance to take into account the situation of workers in the cultural sector.

According to Mr. Brault of the Canada Council for the Arts, it is necessary to “find a fair way of remunerating artists, rather than obliging them to run from one contract to another, knowing full well that they will have long periods when they have no work.”⁵⁷

Mr. Gordey of ACTRA suggested establishing a benefits model based on earnings rather than insurable hours:

Employment Insurance has special rules for others. In particular, self-employed fishers, hairdressers and drivers qualify for regular benefits based on earnings rather than insurable hours. Surely, the same earning model could be adapted for artists. An Employment Insurance program for a modern economy would allow self-employed workers to contribute to and collect EI despite the absence of a traditional employer-employee relationship.⁵⁸

The [mandate letter](#) for the Minister of Employment, Workforce Development and Disability Inclusion and the [mandate letter](#) for the Minister of Labour both included commitments regarding self-employed workers. Mr. Ripley, of the Department of Canadian Heritage, said that his department was working alongside these federal departments to ensure that the Employment Insurance program takes into account the unique situation of cultural workers:

55 CHPC, [Evidence](#), 4 April 2022, 1620 (Ginette Brazeau).

56 Conference Board of Canada, [Labour Market Information for Canada's Cultural Sector](#) (study prepared for the Cultural Human Resources Council), September 2019, p. 18.

57 CHPC, [Evidence](#), 4 April 2022, 1620 (Simon Brault).

58 CHPC, [Evidence](#), 21 March 2022, 1550 (Keith Martin Gordey).

For example, in the mandate letter of the Minister of Labour, he is asked to evaluate the framework for self-employed workers. As well, the mandate letter of the Minister of Employment, Workforce Development and Disability Inclusion asks her to determine whether there is sufficient support for self-employed workers, who do not have access to employment insurance. We are certainly going to work with our colleagues in those departments to ensure that the interests of cultural workers and artists are reflected in that work.⁵⁹

Possible Changes to the Tax System

Income Averaging

The income of cultural workers often fluctuates from one year to the next. A survey conducted by the Department of Canadian Heritage in 2021 found the following:

[A] quarter of these artists report that their income from creative work fluctuates by at least 100% from year to year. Furthermore, 35% indicated that it could fluctuate by 50% year to year. We know that the majority of these respondents—57%—said that they earn under \$40,000 in pre-tax income. That compares to a national pre-tax median of \$71,000, for example.⁶⁰

Several witnesses appearing before the Committee suggested measures to establish better tax equity for Canadian artists that take into account the cyclical nature of their work.

Mr. Gordey of ACTRA said that one of the most meaningful measures would be to make “the first \$15,000 of annual income earned from professional artistic activity” exempt from federal income taxes.⁶¹ ACTRA also recommended reimplementing the “four-year income averaging system” that was available to artists before 1989.⁶² Judith Marcuse, founder and director of the International Centre of Art for Social Change,⁶³ was in favour of this type of measure, as was the Canadian Actors’ Equity Association.⁶⁴

59 CHPC, [Evidence](#), 4 April 2022, 1620 (Thomas Owen Ripley).

60 *Ibid.*, 1610.

61 CHPC, [Evidence](#), 21 March 2022, 1550 (Keith Martin Gordey).

62 *Ibid.*

63 CHPC, [Evidence](#), 23 March 2022, 1610 (Judith Marcuse).

64 Canadian Actors’ Equity Association, [Submission Regarding the Impact of the Status of the Artist Act on the Working Conditions of Artists](#), p. 2.



Mr. Michael gave a real-life example of how variable income affects artists:

[W]hen I booked my sitcom through CTV originally, the year prior to that I'd made \$18,000, just like Mr. Gordey said, and then the next year I made \$120,000, and 50% of it went to taxes. Even if it was giving me a leg up, it was quickly taken away. I believe that averaging the income is essential.⁶⁵

In 2004, the [Income-Averaging Annuity for Artists](#) was introduced in Quebec. It gives professional artists the option of investing part of their income in an annuity to spread out taxation over seven years.

Philippe Beaulieu, a Chartered Professional Accountant, believes an income averaging system at the federal level would be useful, as long as the income averaging periods are harmonized between both levels of government.⁶⁶

Costa Dimitrakopoulos, Director General of the Canada Revenue Agency's Income Tax Rulings Directorate, under Legislative Policy and Regulatory Affairs, pointed out that implementing this type of measure falls to the Department of Finance, which is responsible for making any amendments to the *Income Tax Act*.⁶⁷

Guaranteed Basic Income

Some witnesses argued that implementing a guaranteed basic income, also known as a guaranteed annual income or universal basic income, is worth considering as a form of financial support, since it would ensure a minimum income for cultural workers.

According to some witnesses, the temporary financial support implemented by the federal government over the course of the COVID-19 pandemic is a good model to follow. Marie-Christine Morin, Executive Director of the FCCF, made the following comment:

[T]he idea of a guaranteed annual income should be considered. The CRB and CERB showed that guaranteed income support gave our arts community the chance to survive and breathe more easily during this pandemic. I think that this idea must be considered.⁶⁸

65 CHPC, [Evidence](#), 21 March 2022, 1655 (Darcy Michael).

66 CHPC, [Evidence](#), 4 April 2022, 1715 (Philippe Beaulieu, Chartered Professional Accountant, As an Individual).

67 CHPC, [Evidence](#), 4 April 2022, 1730 (Costa Dimitrakopoulos, Director General, Income Tax Rulings Directorate, Legislative Policy and Regulatory Affairs, Canada Revenue Agency).

68 CHPC, [Evidence](#), 30 March 2022, 1645 (Marie-Christine Morin).

Similarly, the Canadian Actors' Equity Association believes that universal basic income is the "single most significant program the federal government could institute to provide stability for precarious workers."⁶⁹

Both Howard R. Jang, Executive and Artistic Director of ArtSpring,⁷⁰ and Ms. Marcuse of the International Centre of Art for Social Change⁷¹ argued that a universal basic income modelled on the Canada Emergency Response Benefit should be considered. They believe that Canada could follow the example of Ireland, Finland and the State of New York in providing a guaranteed basic income to artists.

Taxation of Grants

Grants given to artists, including those from the Canada Council for the Arts, are considered taxable income. The Canada Council for the Arts gives recipients the option of breaking up the amount over multiple years.⁷² That way, it is easier for the beneficiary to match their grant income and eligible expenses in a given year.⁷³

However, the COVID-19 pandemic created a unique problem, according to Mr. Beaulieu:

At present, professional artists are having to pay tax on any balance of grants received for which expenses remain to be incurred in the next year. The pandemic has accentuated this phenomenon because creation centres closed and this delayed the creation of the projects funded.⁷⁴

To address this issue, Mr. Beaulieu suggested establishing a tax deduction "for grants that have been received but for which expenses remain to be incurred."⁷⁵

69 Canadian Actors' Equity Association, [*Submission Regarding the Impact of the Status of the Artist Act on the Working Conditions of Artists*](#), p. 3.

70 CHPC, [*Evidence*](#), 23 March 2022, 1705 (Howard R. Jang, Executive and Artistic Director, ArtSpring).

71 CHPC, [*Evidence*](#), 23 March 2022, 1610 (Judith Marcuse).

72 Canada Council for the Arts, [*If You Receive a Grant*](#).

73 Canada Council for the Arts, [*Income Taxes and Your Grant*](#).

74 CHPC, [*Evidence*](#), 4 April 2022, 1645 (Philippe Beaulieu).

75 Ibid.



For its part, the Canadian Actors' Equity Association recommended “fully exempting income tax on grant income earned by artists through awards from the Canada Council, the provincial arts councils and other Canadian grant agencies.”⁷⁶

Income From Copyright

Mr. Beaulieu proposed a tax deduction for copyright royalties derived from the use of professional artists' work, in order to “reduce a portion of the tax on this type of income.”⁷⁷

The Canadian Actors' Equity Association was also in favour of “a tax exemption, per year, on income derived from copyright, neighbouring rights and/or other income derived from the sale of any creative work.”⁷⁸

In the visual arts sector, representatives of CARFAC⁷⁹ and RAAV⁸⁰ took the opportunity to emphasize the importance of incorporating a resale right⁸¹ in Canadian copyright legislation.

CONCLUSION AND RECOMMENDATIONS

Over the course of this study on the SAA and its impact on basic working conditions of artists, the Committee learned that while the Act is a key piece in the cultural ecosystem, it does not fully achieve its intended purpose. Witnesses identified issues which affect its effectiveness, in addition to other areas of concern to workers from the cultural sector.

The Committee makes recommendations to amend the SAA to attempt to increase the Act's impact. The Committee also recommends changes to the fiscal regime to better account for the nature of artistic work and the various employment realities in the

76 Canadian Actors' Equity Association, *Submission Regarding the Impact of the Status of the Artist Act on the Working Conditions of Artists*, p. 2.

77 CHPC, *Evidence*, 4 April 2022, 1645 (Philippe Beaulieu).

78 Canadian Actors' Equity Association, *Submission Regarding the Impact of the Status of the Artist Act on the Working Conditions of Artists*, p. 3.

79 CHPC, *Evidence*, 21 March 2022, 1600 (April Britski).

80 CHPC, *Evidence*, 21 March 2022, 1650 (Maryse Beaulieu).

81 A resale right would ensure visual artists could receive a percentage when their artwork is resold by an art dealer or auction house.

cultural sector. In addition, the Committee urges the government to take appropriate measures to ensure minimum working conditions for all workers in the sector.

Therefore, the Committee recommends:

Recommendation 1

That the Government of Canada undertake an in-depth review of the *Status of the Artist Act* and the *Copyright Act*.

Recommendation 2

That the Government of Canada amend Part II of the *Status of the Artist Act* to include a provision on bargaining and arbitration for the purpose of concluding a first “scale agreement.”

Recommendation 3

That the Government of Canada take all necessary measures so that producers who receive any financial support from the government use Canadian resources on funded projects whenever reasonably possible.

Recommendation 4

That the Status of the Artist Act be amended to prohibit producers from making the engagement of an independent artist conditional on their agreeing to lesser conditions of employment than those set out in the Act.

Recommendation 5

That the Government of Canada accelerate the reform for a modernized employment insurance (EI) program that accommodates for the nature of artistic work and the various employment realities of cultural workers, that allows them to pay and withdraw from EI, and that makes the program more accessible for artists and cultural workers to all EI regular and special benefits.

Recommendation 6

That the Government of Canada consider tax measures to support professional artists in the practice of their art and promote Canadian cultural products as well as the purchase of works of art by Canadian artists.



Recommendation 7

That the Government of Canada amend the *Income Tax Act* to include a tax deduction for income from copyright to reduce the tax on this type of revenue for professional artists.

Recommendation 8

That the Government of Canada amend the *Income Tax Act* to ensure professional artists can average their income when they have a more prosperous year.

Recommendation 9

That 1% of the total renovation or construction budget for government buildings be set aside to purchase works of art by professional Canadian artists, and that a tax credit worth up to 1% of the total renovation or construction budget of a building be offered to any business or organization that spends an equivalent amount acquiring works of art by professional Canadian artists.

Recommendation 10

That the Government of Canada establish a binding arbitration process in the negotiation between parties.

Recommendation 11

That the Government of Canada undertake a comprehensive review of the best practices from countries such as Ireland and Finland as well as upstate New York, which have implemented basic income programs for artists.

Recommendation 12

That the Government of Canada codify in the *Status of the Artist Act* the principles established in the Supreme Court decision *Canadian Artists' Representation v. National Gallery of Canada*.

Recommendation 13

That the Government of Canada take the necessary steps to ensure that producers who receive government funding guarantee minimum working conditions.

Recommendation 14

That the Government of Canada adapt the section 44 of the *Canada Labour Code* to the context of the *Status of the Artist Act*, and clarify that artists' accreditations, master agreements and contracts are protected in the event of a sale of business or a change in the legal structure of the producer.

Recommendation 15

Should the Government of Canada proceed with any amendments to *the Status of the Artist Act*, those amendments should focus on simplifying and reducing the tax burdens placed on artists and creators.

Recommendation 16

Should the Government of Canada proceed with any amendments to the *Status of the Artist Act* those amendments should ensure the act is compatible and consistent with similar statutes at the provincial level.

Recommendation 17

That the Government of Canada recognize the evolving nature of the arts industry and ensure future policy decisions fairly consider the impacts on all types of artists and creators regardless of the medium or technique used to express their art.

Recommendation 18

That the Department of Canadian Heritage continue to work with the Departments of Finance and Employment and Social Development, as well as the Canada Revenue Agency, to deliver, through multiple federal levers, on the objectives of the *Status of the Artist Act* in order to improve the socio-economic realities of artists.

Recommendation 19

That the Government of Canada deliver on its commitments to amend the *Copyright Act* and introduce the Artist Resale Right, to ensure artists are paid their fair due and achieve a more sustainable living income based on the value of their work.



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CANADA

Recommendation 20

That the Government of Canada continue to work with provincial and territorial counterparts to ensure robust protections and supports for artists and cultural workers throughout the country.

APPENDIX A LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee’s [webpage for this study](#).

Organizations and Individuals	Date	Meeting
As an individual	2022/03/21	10
Darcy Michael, Actor and Creator		
Oorbee Roy, Digital Content Creator		
Alliance of Canadian Cinema, Television and Radio Artists	2022/03/21	10
Lisa Blanchette, Director, Public Affairs and Communications		
Keith Martin Gordey, National Vice-President		
Alliance québécoise des techniciens de l'image et du son	2022/03/21	10
Christian Lemay, President		
Canadian Artists' Representation	2022/03/21	10
Karl Beveridge, Visual Artist		
April Britski, Executive Director		
Regroupement des artistes en arts visuels du Québec	2022/03/21	10
Maryse Beaulieu, Executive Director		
ArtSpring	2022/03/23	11
Howard R. Jang, Executive and Artistic Director		
Digital First Canada	2022/03/23	11
Scott Benzie, Executive Director		
Directors Guild of Canada	2022/03/23	11
Samuel Bischoff, Public Affairs Manager		
Dave Forget, National Executive Director		

Organizations and Individuals	Date	Meeting
Guilde des musiciens et musiciennes du Québec Éric Lefebvre, Secretary-Treasurer	2022/03/23	11
International Centre of Art for Social Change Judith Marcuse, Founder and Director	2022/03/23	11
Screen Composers Guild of Canada John Rowley, Vice-President John Welsman, President	2022/03/23	11
Association des réalisateurs et réalisatrices du Québec Mylène Cyr, Executive Director Gabriel Pelletier, President	2022/03/30	13
Canadian Arts Coalition Sarah J.E. Iley, Member of the Steering Committee Jacoba Knaapen, Member of the Steering Committee	2022/03/30	13
Fédération culturelle canadienne-française Marie-Christine Morin, Executive Director	2022/03/30	13
Gonez Media Inc. Brandon Gonez, Chief Executive Officer	2022/03/30	13
Société professionnelle des auteurs et des compositeurs du Québec Alexandre Alonso, Executive Director	2022/03/30	13
As an individual Philippe Beaulieu, Chartered Professional Accountant	2022/04/04	14
Canada Council for the Arts Simon Brault, Director and Chief Executive Officer	2022/04/04	14
Canada Industrial Relations Board Ginette Brazeau, Chairperson	2022/04/04	14
Canada Revenue Agency Costa Dimitrakopoulos, Director General, Income Tax Rulings Directorate, Legislative Policy and Regulatory Affairs	2022/04/04	14

Organizations and Individuals	Date	Meeting
Department of Canadian Heritage Kelly Beaton, Director General, Arts Branch Thomas Owen Ripley, Associate Assistant Deputy Minister	2022/04/04	14

APPENDIX B LIST OF BRIEFS

The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

Association des réalisateurs et réalisatrices du Québec

Canadian Actors' Equity Association

Screen Composers Guild of Canada

Union des Artistes

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 10, 11, 13, 14, 62 and 64](#)) is tabled.

Respectfully submitted,

Hon. Hedy Fry, P.C. M.P.
Chair

Impact of the Status of the Artist Act on the Working Conditions of Artists

Supplementary Opinion of the Conservative Party of Canada

The Conservative Members of the Standing Committee on Canadian Heritage are grateful to the witnesses who appeared before the committee to share their experiences and recommendations regarding the *Status of the Artist Act*.

Unfortunately, both the Committee's Third Report of the 44th Parliament and the study that led to it were unfocused and lacked depth. Though many issues were explored, little depth was reached. As a result, Conservatives believe it would not be responsible to draw significant conclusions or proceed with changes to public policy based on the contents of this report.

It should be noted that references to the *Status of the Artist Act* have been absent from Ministerial Mandate Letters, Canadian Heritage Departmental Plans, and other major departmental reports since the current Liberal Government came into office in 2015.

The Conservative Members of the Standing Committee on Canadian Heritage wish to offer reflections on two issues that came up during the study: guaranteed basic income for artists and artists in a digital world.

Guaranteed Basic Income

The COVID crisis posed an unprecedented challenge for the arts and culture industry as a result of public health restrictions across Canada. Notwithstanding the varying degrees of success of these public health measures, it is unquestionable the government-imposed closure of businesses, venues, mandates, and restrictions on gatherings affected the ability of the arts and culture industry to generate revenue.

That said, for decades Canadian artists have risen above the typical challenges present in the arts and culture industry to achieve worldwide success.

Conservatives recognize the unique nature of the industry, such as volatility in year-over-year income. Nevertheless, Conservatives believe in a free and fair market and would stress that a guaranteed basic income should not be considered as a means of earning – or supplementing – an income in Canada.

Canadian artists are world class. Assuming government-granted guaranteed income would assist artists in achieving success is a disservice to the talent, hard work, and dedication of so many artists who are striving for and achieving success on their own merit. Artists should be championed in a manner that promotes a free, fair, competitive, and open arts and culture industry.

Artists in a Digital World

Given the rapid evolving nature of the arts and culture industry into the online sphere, digital creators are finding new ways of reaching audiences not limited by geography, language, or traditional barriers such as broadcasting regulations or licensing.

As Mr. Brandon Gonez stated:

“As a digital creator and somebody who came from the legacy space, I think what is so fascinating is that the barriers that were once in place to export what we as Canadians believe to be entertainment, art, news and essential information are no longer in place. What is so amazing is that, with these digital platforms, we can reach a global audience without those financial barriers, for example, of building up a whole network. It's right there at our disposal.”¹

As Canadians have witnessed with the current Liberal Government, intrusion into the de-facto new public square—the internet—has never been more apparent. The creation of legislation that determines which user-generated content is and isn't considered “Canadian”, or artificially promoting or demoting content at the discretion of the government, are just a few examples of how the current government seeks to impose its own values on Canadians.

Bill C-11: the *Online Streaming Act*, which is currently in the final stage of the legislative process, will hinder digital first creators from achieving success online and keep Canadians from being able to find and enjoy the creative content they wish to watch on the internet. Numerous witnesses testified that Bill C-11 is seen as a direct attack on their ability to reach a global audience and maintain their livelihood.

During witness testimony, Mr. Darcy Michael stated:

“Before pivoting to being a digital creator, I was making ends meet as an artist, but just barely. I was lucky that my husband had a good corporate job and our daughter was able to get student loans for university. However, today, because of our success online, my husband now works with me full time and our daughter's student loans are completely paid off... Not only has our success benefited us financially, but by my working directly with Canadian brands across our social media platforms, in just the last 12 months, we've helped put over \$500,000 in sales back into the Canadian economy. That's from one channel on TikTok.

I'm speaking to you as a proud queer digital creator with content that celebrates conversations around mental health, body positivity and human rights. These are all the things I tried to do with traditional networks, but three gatekeepers didn't think there was an appetite for it. There are three million people who disagreed with them.”²

Conservatives believe it is incumbent upon the Government of Canada to allow Canadian content to naturally flourish in the online world.

¹ CHPC, [Evidence](#), 30 March 2022, 1640 (Brandon Gonez, Gonez Media Inc.)

² CHPC, [Evidence](#), 21 March 2022, 1540 (Darcy Michael, As an Individual)

Conservatives caution against directing bureaucracy to regulate the internet by prioritizing some creative content and demoting other content.

Recommendations:

Should the Government of Canada choose to undertake an in-depth review of the *Status of the Artist Act* it should do so in a manner that:

- a) Focuses on simplifying and reducing the tax burdens placed on artists and creators
- b) Recognizes it is better for artists, creators, consumers, and the industry to allow artists and creators to profit off the work they produce rather than rely on subsidies as financial aid from the Federal Government
- c) Ensures any tax and regulatory burdens it places on artists and creators be done so in a way that promotes a free, fair, competitive, and open arts and culture industry.
- d) Recognizes the evolving nature of the arts industry and ensure future policy decisions fairly consider the impacts on all types of artist and creators regardless of the medium or technique used to express their art.
- e) Recognizes that the arts and culture industry has changed significantly since the last major reforms were made to the Act and acknowledges that the traditional employment relationships on which much of the Act is based may no longer apply, especially in the field of digital creation and presentation.

Conservatives wish to thank witnesses for their testimony, committee analysts, clerks, and interpreters for their work during the study.

Supplementary Report of the New Democratic Party:
Canadian Heritage Committee's Study on the Status of Artist Act and Its Impact on Improving
Basic Working Conditions for Artists

Introduction

The House of Commons Standing Committee on Canadian Heritage study on the Status of Artist Act and Its Impact on Improving Basic Working Conditions for Artists heard from twenty-nine witnesses who represented artists, musicians, screen writers and producers in television, cinemas, and radio over seven meetings. The testimony was clear – Canadian artists are living with extremely precarious livelihoods.

In a 2021 Federal government survey, the *Canadian Artists and Content Creators Economic Survey*¹, the majority of the respondents were self-employed and without Employment Insurance coverage if they lost their jobs. One quarter of the respondents said that their income, prior to the pandemic, could fluctuate from year to year up to 100%. Nearly 60% of the respondents reported a gross annual income of under \$40,000 in 2019. When the Covid-19 pandemic hit Canada in 2020., live performances were shut down immediately. Nearly 80% of musical artists and over 70% of performing artists reported loss of income due to the pandemic.

Federal government Covid-19 pandemic support was helpful in the short run. Many artists continue to suffer from financial loss and lack of EI coverage. Over the course of the committee hearing, witnesses have given the committee many valuable recommendations. The New Democratic Party would like to highlight three important recommendations: basic income protection, Employment insurance reform and fair bargaining process between parties.

Basic Income and Minimum Working Conditions for Artists

During committee hearings, we heard from multiple witnesses that, coming out from the pandemic, basic income and minimum working conditions were crucial for artists' livelihood. Ms. Judith Marcuse (Founder and Director, International Centre of Art for Social Change) said: "Pre-pandemic,

¹ <https://www.canada.ca/en/canadian-heritage/services/copyright-policy-publications/results-survey-artist-content-creators.html#a4a>

professional artists in Canada earned 46% of the median income of all Canadians. The incomes of BIPOC artists are significantly lower.... I advocate for a universal basic income. Basic income programs for artists are currently existing in Ireland, Finland, and New York State. Ireland also provides pensions to their artists. A model of guaranteed income, in the form of CERB, has been a critical economic survival mechanism for artists during the pandemic.”²

Ms. Jacoba Knaapen (Canadian Arts Coalition) said in her testimony that the support for a basic income program to ensure a stable and effective future that recognizes the changing nature of employment for all Canadians, including artists, is essential.³

Ireland currently is undertaking a three-year pilot project to provide 2000 eligible artists and creative arts workers €325 per week (about \$467CAN). 1000 eligible but unsuccessful applicants are recruited to be part of the control group study. The goal of this pilot project is to find out if there are significant difference between the eligible artists and the non-eligible artists in terms of their time spent on various activities including creative practice, working in the arts, work in other sectors, training, professional development, leisure time and overall well-being.⁴

Finland and Upstate New York are also conducting similar pilot projects. The New Democratic Party, therefore, proposed the Government of Canada to undertake a comprehensive review of the best practices from countries such as Ireland, Finland, and upstate New York, which have implemented basic income programs for artists.

Employment Insurance Reform

The New Democratic Party believes that the Government of Canada must accelerate the Employment Insurance reform so that it accommodates for the nature of artistic work and the various employment realities of cultural workers. We believe that a new EI program needs to allow artists and

² CHPC, Evidence, 23 March 2022, 011 – p. 6

³ CHPC, Evidence, 30 March 2022, 013 – p. 3

⁴ <https://www.gov.ie/en/press-release/2a6d0-groundbreaking-basic-income-for-the-arts-pilot-scheme-grants-awarded/>

cultural workers to pay and withdraw from EI and that it makes the program more accessible for artists and self-employed cultural workers to all EI regular and special benefits.

Ms. Marie-Christine Morin (Executive Director, Fédération culturelle canadienne-française) said in her testimony that many artists and cultural workers take risks on a daily basis while practising their art. She identified major gaps in the social safety net therefore, artists and cultural workers often fell through the cracks. The employment insurance system must be opened up to self-employed and contract workers and to people with intermittent jobs. They currently don't have access to this social safety net. Significant changes should be made to the system so that these workers are fully recognized and able to benefit from the Canadian social safety net. This path should certainly be explored.”⁵

Mr. Simon Brault (Canadian Council for the Arts) brought up the example in France entertainment industry casual workers have been protected under law since 1936. While the Canada Council for the Arts supports the arts ecosystem in a broad sense, they have no control over the mechanisms and systems that are currently in place—such as employment insurance, income tax and legislation like the Status of the Artist Act—that directly impact working conditions. As a recent UNESCO report entitled “Reshaping Policies for Creativity” states, the pandemic highlighted that a stronger social safety net for artists is needed more than ever, and that there are multiple avenues worth exploring.⁶

Fair Bargaining Process

Currently, the Status of the Artist Act lacks effectiveness and provides little provision to reach a scale agreement. According to Mr. Dave Forget, National Executive Director of Directors Guild of Canada, a national labour organization representing over 6,000 creative and logistical professionals in the film, television, and digital media industries in all areas of direction, design, production, logistics and editing, even when a party is willing to negotiate, additional issues may arise. It often takes years to conduct a complete negotiation to secure both the initial and subsequent agreement. For this reason, the DGC recommends including a provision in the act that ensures **binding arbitration** for a first contract as is currently the case in Quebec's Status of the Artist Act, as well as in provincial and federal labour

⁵ CHPC, Evidence, 30 March 2022, 013 – p. 4

⁶ CHPC, Evidence, 4 April 2022, 014 – p. 3

codes. The benefits to artists derived from the act are only available once an agreement is secured. Keeping in mind the precarious nature of working conditions, any delays in the process only further negatively impact the artists. It is important to ensure meaningful and fair bargaining between parties.⁷

Therefore, the New Democratic Party recommended the Government of Canada to establish a binding arbitration process in the negotiation between parties.

Conclusion

The House of Commons Standing Committee on Canadian Heritage undertook this study to improve the difficult financial circumstances that many artists and cultural workers face everyday in Canada. Over the course of our meetings, we heard from artists and unions that represent artists that they were not getting enough support from the federal government. Their inability to sustain their livelihood and perform means that Canada is in a danger of losing our cultural strength.

Other countries are much more advanced than Canada in this regard. Our government needs to take this seriously and start to make the changes that other countries have made to provide for a solid basis for artists in our country.

⁷ CHPC, Evidence, 23 March 2022, 011 – p. 3