

DGC  GCR

**DIRECTORS GUILD OF CANADA
GUILDE CANADIENNE DES RÉALISATEURS**

**Brief presented to the Standing Committee on
Canadian Heritage**

**CHPC Study on Challenges and Issues Faced by the
Arts, Culture, Heritage and Sport Sectors During the
COVID-19 Pandemic**

December 8, 2020

I. Introduction: challenges created by the Covid-19 pandemic

The Directors Guild of Canada (DGC) wishes to thank the Standing Committee on Canadian Heritage for the opportunity to submit a written brief on the challenges and issues experienced by our membership since March 2020.

The DGC is a national labour organization that represents key creative and logistical personnel in the film, television and digital media industries. Today, it has approximately 5,000 members drawn from 47 different craft and occupational categories covering all areas of direction, production, editing and design of screen-based programming in Canada.

Our industry saw tremendous growth and a record-high production volume of \$9.4 billion in 2019, and 2020 was set to break new records. But our sector, strong of 180,000 full time equivalent jobs (FTEs), was significantly impacted when the pandemic hit Canada as production activity completely shut down this spring. Even with the resumption of some production activity over the summer and early fall, job precarity remains for many of our members, including Directors, Assistant Directors, Designers, Picture and Sound Editors, and many others who are only now returning to work.

Obviously, today, our industry is far from a return to normal, with a rise in the levels of community spread across Canada we anticipate a deteriorating health situation until a vaccine is widely available. Film and TV freelance workers, already in an uncertain situation, are facing the prospect of longer months of financial hardship before the situation stabilizes.

Our comments in this brief focus on the targeted government's emergency response to the audiovisual sector, struck by the Covid-19 pandemic, our recent advocacy efforts and on the remaining challenges for the months to come. Since the Covid-19 pandemic hit Canada, the federal government and Canadian Heritage pledged comprehensive support the audiovisual sector, and the government has delivered a staggered response with the objective of responding to the needs of individuals and the companies who employ them within the audiovisual sector. This support has been crucial to maintaining our ecosystem.

As Canada has remained relatively sheltered from the Covid-19 pandemic in comparison to some other parts of the world, foreign service production soared across Canada amid the virus' second wave spikes. While foreign service and domestic production each present distinct challenges, the DGC has worked with peer organizations, industry stakeholders and other unions to maintain production levels to ensure that workers are protected as new shutdowns are being announced across provinces.

Unions and guilds, along with producers' associations industry stakeholders and provincial/municipal health authorities have worked hard to develop comprehensive, rigorous health and safety standards, often exceeding those set out by provincial health authorities. Our industry has adopted a rigorous approach to health and safety protocols to

ensure the highest level of protection remains in place for all film and television industry workers. This has already proven to be effective to curb the spread of the virus, as virus outbreaks are rare and cases on film and TV production sets have been systematically isolated and their contacts traced.

II. Emergency response programs from the government: support to contract workers

As a first immediate lifeline, federal programs such as the Canadian Emergency Response Benefit (CERB) and the Canada Emergency Wage Subsidy (CEWS) programs have been instrumental for providing support for our membership throughout 2020. The return to work happened at various stages in the different parts of Canada, and is now once again compromised by the second wave of shutdowns due to the spike in virus cases. This is why the transition to the Canada Recovery Benefit announced last September for those not eligible for the Employment Insurance (EI) is more relevant than ever, serving mainly the self-employed and including freelancers working in the gig economy.

The federal emergency programs have taught us that in the course of this pandemic, immediate, easy-to-access and universal programs are the right approach to support workers, protect the economy and, of course, reduce the transmission of COVID-19.

Equally important, these programs have each recognized the need to support both continuous and contact workers. This is not only an indisputable success in the government response to the pandemic, but also represents significant progress in supporting categories of workers who used to fall between the cracks of the system.

The DGC has been in contact with different government departments to ensure that our members are eligible to these emergency programs such as CERB, CEWS and the New Recovery Benefit program. We also provided our input to government officials to improve and prolong these programs, in order to make sure that recipients may continue to work and receive royalties while receiving the benefits. Our advocacy efforts proved to be successful on this front.

Because of the contractual nature of their work, our members often work with multiple employers in the course of a year, however, the work relationship with each employer is no different than for continuous employees. That said, because of the fixed term nature of the contract work, our members have had very little access to paid sick days.

We thank the federal government for putting in place the Canada Recovery Sickness Benefit which provides a two-week sick leave to workers unable to work because they are sick or must isolate due to Covid-19. This benefit, made available until September 2021, will help to mitigate the risks associated with COVID and help to safely restart film and television productions across Canada.

Beyond the current pandemic, the DGC believes it is essential that all workers, including contract workers, be eligible for a paid sick leave policy, similarly to the current Canada Recovery Sickness Benefit.

III. Providing temporary enhanced flexibility for RSP plans

The CERB and CEWS programs provided much-needed emergency help at the onset of the pandemic. But a percentage of contract workers still found themselves under tremendous financial stress to meet essential needs such as rent, mortgage payments, groceries and other essentials. While we appreciated the government's concerted response to the crisis, however we believed there is an opportunity to provide additional relief through existing fiscal mechanisms.

The DGC offers a group Retirement Savings Plan (RSP), the Canadian Entertainment Industry Retirement Plan (CEIRP), to its members funded largely through the collective agreements negotiated between the DGC and the producers' associations across Canada. We saw here a unique opportunity to exceptionally make RRSP withdrawals more flexible due to extraordinary circumstances, reuse existing programs' templates to create a temporary emergency fiscal response.

In April, the IATSE and the DGC came together to enjoin the federal government to institute a temporary emergency program, similar to the Home Buyers¹ and Lifelong Learning² plans, which would allow Canadians to 'borrow' from their RRSP with no tax implications for a limited amount of time. The COVID-19 crisis offers an opportunity for the Government of Canada to temporarily allow similar withdrawals from RRSPs.

Inspired by these existing programs, we believe that these models could provide the template and be replicated to create an emergency fiscal response to the COVID-19 crisis. The RSP proposal would have the benefit to provide support to Canadians without an income during this difficult period, while creating a path to restoring their savings over time and protect their long-term future.

DGC strongly encourages its members to save for their retirement, but with financial stress, many Canadians might withdraw their RRSP savings altogether in the coming months. This would result in reduced retirement savings and tax implications for the current year.

Although the Department of Finance did not act on the proposal in April, the DGC has continued to advocate for this modest adjustment which would bring flexibility to existing programs. This remains an important point as the federal government is currently looking at ways to reduce pandemic related spending.

¹ <https://www.canada.ca/en/revenue-agency/services/tax/individuals/topics/rrsps-related-plans/what-home-buyers-plan.html>

² <https://www.canada.ca/en/revenue-agency/services/tax/individuals/topics/rrsps-related-plans/lifelong-learning-plan.html>

IV. The Emergency Support Fund for Cultural, Heritage and Sport

On May 8, 2020, the Department of Canadian Heritage announced the Emergency Support Fund for Cultural, Heritage and Sport organizations. This represented \$115.8 million to support the Canadian audiovisual sector, to be distributed by the Canada Media Fund (\$88.8 million) and Telefilm Canada (\$27 million) in a first phase. These funds were meant to help companies in the film, television and interactive digital media sectors ensure continuity of operations and safeguard jobs.

Months after the launch of this Emergency Relief Fund, there is evidence that Telefilm Canada and the Canada Media Fund (CMF) approaches failed to appropriately respond to industry workers needs and ensure the fair and transparent redistribution of these funds.

Telefilm and the CMF eligibility criteria to access those funds did not ensure that the paid amounts flowed to creators. We have heard the concerns of our members regarding the process through which these funds were awarded, and we are surprised that neither Telefilm or the CMF have contemplated of reporting or accountability for recipients of this support.

Telefilm and the CMF both stated that one component of the emergency relief was recognizing the need to support film workers such as the self-employed and freelance workers, artists, and creators. However, notwithstanding this expectation there were no specific requirements, and each fund recipient had the flexibility to determine how best to use the funds to achieve this objective, such as covering costs for business continuity.

More specifically, the DGC was disappointed that during the deployment of the emergency fund in the first phase, the support for production companies was not linked to current productions. The pandemic has demonstrated that safety, and especially safety on production sets comes with a price. The additional steps taken to ensure a safe workplace have largely been effective, but have added time and costs to production budgets. The DGC wonders if the government support could have been more effectively tied to these new or ongoing production expenses that have been measured sometimes between 7 to 15% of a total budget.

Last November, the government released the results of a recipient survey on the Phase 1 of the Emergency Support Fund for Cultural, Heritage and Sport Organizations³. This study revealed that *“paying for operating costs other than labour costs and paying self-employed workers/freelancers were the top two reasons respondents sought ESF funding”*. Unfortunately, these findings do not correspond to the reality experienced by our members in the audiovisual sector across Canada.

³ <https://www.canada.ca/en/canadian-heritage/services/funding/information-covid-19/emergency-support-phase-1-survey-results.html>

Most independent production companies in Canada are small and medium size businesses, and are the foundation of our domestic production ecosystem, but this is only made possible with the sector's large pool of contract workers, many of whom are self-employed. We understand that time is of the essence in order to quickly deliver \$115.8 million of support funds in a short timeframe, however, this should not be made at the expense of contract workers who are the first in line to experience precarity and work uncertainty.

V. Workers compensation through the Short-Term Compensation Fund (STCF)

Industry stakeholders, including film and television unions have advocated recently for the creation by the government of an insurance compensation fund in order to allow productions without insurance for Covid related events to resume. Countries with important production centres, such as the United Kingdom or France, have launched government-backed insurance funds to compensate production companies facing shut downs due to Covid-19.

On September 25 2020, the Government of Canada announced a temporary fund, called the Short-Term Compensation Fund to provide insurance coverage for production interruptions due to confirmed COVID-19 Cases on film productions. The industry was unanimously appreciative of this \$50 million fund made available until March 31, 2021, or until the exhaustion or lapse of the budget envelope allocated.

While, again, we understood that the rapid implementation of this program was critical, reducing the lack of predictability that is paralyzing our sector, the DGC, alongside other unions expressed concerns to the fund administrator, Telefilm Canada, were at risk of being used at the expense of creators, crews, performers and other film workers.

We insisted in our exchanges with Telefilm that it is essential that any guidelines include provisions for adequate compensation for cast and crew who may be subject to a temporary suspension of work or be laid off due to Covid-19 (facing mandatory quarantine or a pandemic-related work stoppage).

In general, payments to labour are not referenced explicitly in insurance policy provisions, instructing how the insurance payments should be used. However, because these are public resources administered by a government agency, we believed that the fund guidelines should exceptionally require production companies to commit to severance provisions, whether they have been negotiated or not, in the event of a COVID related outbreak on a film or television production or postproduction workplace.

Telefilm agreed and in the program guidelines explicitly deemed sick leave and severance payments payable to cast or crew absent due to COVID-19 to be eligible expenses. The health and safety of our members is always our first and most vital concern and we are delighted that Telefilm took steps to add protections in the guidelines. Now, the DGC joins

other industry partners asking the government to extend the Short-Term Compensation Fund beyond the end date of March 31st, 2021, in order to continue protecting productions without pandemic coverage.

VI. Conclusion

In this pandemic, the Government of Canada and the Department of Canadian Heritage have listened carefully to the needs of the audiovisual sector, focusing on two key pillars for individuals: protect film and television workers unable to resume work, while ensuring protections for these workers to stay healthy on the job. We are grateful to the Government of Canada, and to Minister Guilbeault, for acting quickly and comprehensive to support the audiovisual sector.

We invite members of the Standing Committee on Canadian Heritage to examine how emergency funds directed at the audiovisual sector can flow to effectively benefit and appropriately support contract workers. With the experience of the last nine months, we believe we have the collective knowledge to ensure safeguards are in place to ensure, as needed, a fair redistribution of emergency funds.

In order to preserve Canadian film and television creators and workforce at large, the DGC recommends extending the Canada Recovery Benefit and Canada Recovery Sickness Benefit until the pandemic ends in Canada.

The DGC also views the current situation as an opportunity to bring federal labour standards to the 21st century, as Canadian labour policies, most of which were created in the 1960's are now outdated and no longer as relevant to the current work paradigm.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dave Forget', with a long horizontal stroke extending to the right.

Dave Forget
National Executive Director
Directors Guild of Canada