



November 27<sup>th</sup>, 2020

The Honourable Steven Guilbault, P.C., M.P.  
Minister of Canadian Heritage  
House of Commons

VIA EMAIL: [steven.guilbault@parl.gc.ca](mailto:steven.guilbault@parl.gc.ca)

Dear Minister Guilbault,

As a result of a discussion with members of your staff earlier this month, Canadian Actors' Equity Association (Equity) would like to provide you with some requested facts and figures.

**Loss of Revenue**

As of March 31<sup>st</sup>, 2020, Equity had 5,582 members in good standing, of which 4,111 had worked in the previous year. Our members earned approximately \$81,100,000 in fiscal 2019-2020. **This year, earnings are approximately 15% of that**, and those earnings are primarily derived from the ballet companies (the Alberta Ballet, the Royal Winnipeg Ballet, the National Ballet of Canada and Les Grands Ballets Canadiens), some small opera engagements, and a number of very small theatrical presentations.

The provincial earnings for the fiscal year April 1<sup>st</sup>, 2019 to March 31<sup>st</sup>, 2019 are as follows:

Alberta: \$9,592,611  
BC: \$9,286,938  
Manitoba: \$3,646,793  
New Brunswick: \$172,408  
Newfoundland and Labrador: \$207,621  
Nova Scotia: \$2,232,780  
Ontario: \$49,039,603  
Prince Edward Island: \$1,317,360  
Quebec: \$3,606,869  
Saskatchewan: \$1,470,913  
Yukon: \$39,405  
Outside Canada: \$20,496  
Unknown: \$87,036

Earnings by type for the year are:

Theatre: \$61,232,419  
Dance: \$9,496,577  
Opera: \$10,046,058  
Federal Agreements: \$345,780

These earnings have been effectively wiped out this year.

### **Impact of the CEWS and CRB on our membership**

Only a small percentage of our members are engaged as “employees”. This includes the stage managers who work under the Canadian Theatre Agreement (CTA – negotiated with PACT) and at some opera companies. Otherwise, the only employees that Equity represents are the dancers at the Alberta Ballet and at Les Grands Ballets Canadiens. The Shaw and Stratford Festivals were able to take advantage of the CEWS to continue to engage stage management personnel for a couple of months after they were forced to cancel their seasons. Both the Alberta Ballet and Les Grands have been able to continue to pay their dancers for an extended period because of the CEWS. However, the cash flow at the Alberta Ballet made it impossible for them to retain the company of dancers and the 2020-2021 season was cancelled. Both the Shaw Festival and the Royal Winnipeg Ballet were able to employ a few artists early on in the pandemic to provide other services (teaching, outreach to donors, sponsors, etc.) but those jobs were outside of Equity’s jurisdiction and therefore, there were no union contracts in place for those short-term employment opportunities.

Equity itself has relied on the CEWS to keep its staff employed. Despite that, there have been several layoffs, most of the remaining staff have had their hours reduced significantly and all remaining staff have taken cuts to their pay and Equity’s contribution to their RRSPs. Our monthly revenue has averaged about \$30,000 a month, which is insufficient to pay staff, rent and other fixed overhead costs. Almost all other expenses have been cut to zero, other than those necessary to maintain the basic operations of the Association. We have received a few months of rent subsidy on our Toronto office, but our Vancouver landlord declined to participate in the program. We will, however, be applying for the new rent subsidy for both of our offices.

Without the CERB and the new CRB, our members would have been in desperate straits. It is our understanding that most of our members have accessed the CERB/CRB for some or all the periods. We are not made aware of when a member applies for assistance, so we cannot confirm actual numbers beyond anecdotal information. However, we are now hearing stories of members who, by virtue of the fact that they are able to earn a little bit of money, are finding themselves ineligible for any meaningful amount of CRB.

Here is a specific example, provided by one of my members:

Based on their Notice of Assessment, the Member earned \$38,000 last year. Total self-employed income was \$11,006, with net income of \$9,278. To calculate their eligible amount under the new CRB, they were instructed to divide their net by 52 to determine a weekly amount. According to the calculation mechanism on the website, they are eligible for 50% of that weekly fee or \$89 in CRB payments. The member earns about \$120 a week by teaching 2 classes online per week. Their accountant has verified that this is the correct method of calculation. Unfortunately, they are better off giving up their teaching income and earning nothing for a period of time so that they might be eligible for the full CRB amount. Clearly, this was an unintended consequence of the new rules for calculating eligibility for assistance.

### **The Pivot to Digital**

Although the “pivot to digital” has been touted as a way for live performance to reinvent itself during the pandemic, this is not a long-term solution for a variety of reasons.

Many companies have neither the resources nor the skill set to properly film their productions, presuming they can bring the participants together, due to COVID restrictions. Audiences who regularly consume recorded live performances are used to the exceptionally high-quality production exemplified by those done by the Metropolitan Opera or National Theatre Live and those are awfully expensive projects.

Any performances which have been recorded during the pandemic have had very small casts and usually with stripped down production values. These performances are not able to compete with the high quality live or recorded productions many audience members are accustomed to. The charm of artists simply reading plays or playing instruments from their living rooms wore off early in the pandemic.

Given the resulting lowered production values, audiences are not prepared to pay, either in ticket price or in volume of sales, enough to cover the costs of production. In any case, audiences will never pay a ticket price that is remotely comparable to what they will pay to be in the venue watching a performance live.

As recorded media is the traditional jurisdiction of ACTRA, switching over from one contract to another has posed problems for many of our engagers and members. ACTRA's structure allows for a great deal of autonomy amongst its regional branches and so there is absolutely no consistency in the application of terms and conditions for any projects wishing to film. In some cases, the fees quoted are far too high for the Engager to afford.

On the other hand, ACTRA's fees for low-budget web-based projects are so low that they do not begin to replace the earnings lost as a result of having no live performances, which normally span 3 weeks or more. As an example, a payment under ACTRA of \$162 covers 6 months use of internet streaming. The lowest Equity weekly fee of \$656.54 would result in \$1969.62 for a 3-week run. At higher weekly fees, this can result in the loss of over \$4000 of earnings per member.

As many of our members are not dual ACTRA members (only approximately 40% of our members are also ACTRA members), any work done exclusively under an ACTRA agreement (example: Dan Chamero's "Leer Estates", his one-person series of webisodes done through the Stratford Festival) may require the payment of "work permit" fees and deductions made for insurance coverage that the Artist will not be eligible to access as a non-member. Additionally, even if they are members of both associations, the loss of insurance contributions under an Equity contract (where the cost of premiums sufficient to provide coverage is still very low) in favour of contributions to ACTRA (where the lowest annual premium in order to receive coverage is over 5 times higher than at Equity) means that Artists will qualify for neither Equity's insurance nor ACTRA's insurance, leaving them without additional insurance for at least a year.

To be clear, Equity is in favour of our work being recorded and made available, not just to Canadians who otherwise would not be able to attend the live performance, but also as a way of allowing international audiences to see the excellent work done by our Artists. However, if this is to be successful, we must find a way to provide the resources needed to capture live performance properly. Done improperly it is neither fish nor fowl. It is neither a "film" as we are used to seeing them with significant production values and a story line specific to the medium, nor a "live performance" with the energy that comes from being in the same space as the Artists. The viewing experience is often inherently unsatisfying. As most of the major engagers are not-for-profits, they are not eligible to access the tax credits available to filmmakers, and the inability to access the soft money and the lack of interest in the material by Canadian film distributors makes the current film financing structure inappropriate for the capture of live performing arts material.

Equity understands that there is a Bill in place to require the internet providers to contribute to the production funds, just like any broadcaster. Equity recommends that a small percentage of those new monies be set aside for a fund dedicated to the production of live performing arts streaming/recorded material, available directly for not-for-profit theatre, dance, and opera producers.

Along that same theme, we would like to see the CBC begin to capture and broadcast live performing arts programming again. Many of us of a certain age grew up watching the best of Canada's performing arts community on the national broadcaster. This provides a (currently untapped) source of Canadian content and is an excellent way of bringing productions already supported by the Canadian taxpayer to a national audience.

### **Other areas of possible support**

**Physical plant:** As we have previously discussed with various levels of government, many of the live performance spaces in our country are old and in need of significant upgrade. While different levels of government have provided funds for upgrade, most of that has gone into the front of house (particularly to

improve accessibility and washroom facilities) or to upgrade aging technical equipment (lighting boards, etc.) The backstage areas of most theatres in this country are barely accessible to the able-bodied and it would be impossible to have disabled artists or technicians working in those environments. With the need for social distancing, most backstage areas, particularly dressing rooms which are traditionally shared by multiple people, do not provide safe options for distancing. Wing and “crossover” areas have the same problem.

The need for social distancing for the foreseeable future (particularly as we learn that vaccines may not be available in sufficient numbers for all Canadians until late in 2021) will mean a reduction in the size of productions in order to meet provincial guidelines. The ability to produce musical theatre is on hold indefinitely as singing, dancing and live orchestras create their own issues with respect to distancing.

All this points out the need for a significant investment in infrastructure, including modernized HVAC systems or the installation of high efficiency air purifiers to provide a greater level of safety for both the Artists and the audiences.

**Other types of financial support:** My colleagues at the IATSE have pointed out the problems with the support offered to engagers in the province of Quebec and are unsure if any of our members in Quebec whose contracts were cancelled will see any of that subsidy money either. While no one is expecting government to completely replace lost wages, it is essential that any government assistance at least cover the minimum cancellation or termination provisions in any of the applicable collective agreements.

Our colleagues in the film and television industry have been successful in negotiating an insurance backstop with Heritage, that provides their engagers with some security in the event of a required shutdown. We would ask that Heritage consider a similar program for the live performance sector. Equity requires that all engagers provide us with a security guarantee equal to two weeks of Artist’s fees, as two weeks is the minimum cancellation period in many of our collective agreements. The exception to that is in the opera world where Soloist contracts are all “pay or play”, which can amount to hundreds of thousands of dollars on a single production. In all cases this year, the opera companies have had to negotiate smaller cancellation fees as they are unable to live up to their contractual obligations due to cash flow issues. Last year, the security collected by Equity amounted to approximately \$9.6 million dollars. Out of that, we were obligated to draw on approximately \$100,000 to make payments owed to members. This is an unusually high amount due to a problem with a commercial engager, who is now out of business. Draws on the security are usually in the neighbourhood of \$10,000 a year.

We know that a certain number of engagers are unsure about restarting production plans again, as they cannot guarantee that they would be able to go ahead some weeks or months from now. A guarantee that at least they would be able to cover liabilities to our members would likely provide some comfort for some productions to go ahead.

Lastly, we have been working with other colleagues in the arts and culture sector in support of the creation of a Guaranteed Basic Income. While we are still far better off than many citizens of many countries, as we know, the pandemic has pointed out the cracks in Canada’s social security network. The increasing number of businesses that are transferring work from fulltime employees to independent contractors has thrust thousands of people into precarious gig work. Of course, those are, and have been for many years, the working conditions for the majority of our members. Numbers from last year indicate that 76% of Equity members in good standing earned less than \$19,000 on Equity contracts. Poverty does not build character. Financial insecurity does not create good art. It causes mental health issues, and marital and family struggles. Financial security is a key element in building a healthy and productive society and Equity members make valuable contributions to their communities and to the cultural fabric of Canada. But it is hard for them to do that when they are unable to pay their rent. We urge the Government to create and implement a Guaranteed Basic Income for all those who are unable to earn sufficient income (for whatever reason) to live at a decent level.

We wish to reiterate our thanks to the Minister, the staff at the Ministry of Heritage and to the Government in general for all the support they have shown Canadians and our sector during this difficult time. With news that potentially only half of Canadians will have received the vaccine by the end of September, we foresee needing existing support mechanisms to stay in place until such time as all physical distancing restrictions have been lifted and audiences are free to return to the theatre. Estimates of the period of time needed for the sector to recover to any meaningful degree are being pushed farther and farther out and current estimates are now at two years.

Lastly, thank you for the opportunity to provide you with some statistics and information about what is most needed at this time for our members.

As always, we are available to answer any questions or provide you with further data.

Sincerely,

A handwritten signature in black ink, reading "Arden R. Ryshpan". The signature is written in a cursive style with a large loop at the end of the last name.

(Ms.) Arden R. Ryshpan  
Executive Director  
**CANADIAN ACTORS' EQUITY ASSOCIATION**

## **IMPACT ON CONTRACTUAL ARRANGEMENTS OF CANCELLATIONS/POSTPONEMENTS**

Equity's jurisdiction covers theatre, dance, and opera in English Canada. Within those sectors, engagements can be as short as 4 hours or as long as 52 weeks. It goes without saying that there are far more 4-hour engagements than there are ones that last 52 weeks.

Equity represents the following types of Artists: Performers (actors, singers, dancers), Directors and Assistant Directors, Choreographers and Assistant Choreographers, Stage Managers and Assistant Stage Managers, Fight Directors, and Intimacy Directors.

The contractual liabilities assumed by live performance engagers are created in the ways illustrated below. Sudden and/or forced shutdowns and the inability to predict whether a production can proceed, can cause financial havoc for an engager and discourage them from attempting to mount any size of work until such time as the pandemic is effectively over. This underscores the importance of providing support to Engagers to cover losses if they are obligated to shut down or severely reduce audience size because of government edict.

### **Theatre**

Theatre engagers plan their "seasons" sometimes several years in advance as a Theatre may have to secure the rights for a particular work a year or two in advance. Rights for popular musicals (particularly those that have recently been successful on Broadway) may be negotiated even longer in advance. As an example, rights holders would not grant the rights for a production of "Wicked" in Winnipeg if a touring production were scheduled to come through Winnipeg within an extended period of time on either side of the tour. Postponing a production requires renegotiation of those rights.

Theatres begin to advertise their next season not long after the previous one has closed, in order to stimulate season ticket and other advance sales. That cash flow can be essential to covering production costs. It is not unusual to buy tickets for certain productions 6 to 8 months in advance. Often, key performers are contracted many months in advance so that their names can be included in those promotional materials.

Directors and Choreographers are often engaged many months ahead as well and, in fact, the decision to go ahead with a particular production may be dependent on the availability of one or both key creative people. Their preparation work can begin weeks or months ahead of the first day of actual rehearsal, as by that point, they will have already been working with the design team on set, costume, and lighting requirements.

Stage management personnel normally begin one week before the actors arrive and occasionally, continue to work for a couple of days after the production closes.

Rehearsal periods can be as short as 3 weeks or as long as many, many months (in the case of a brand-new musical or when working in repertory) with normal hours from 10am to 6:30pm, six days a week. Prior to opening, there are generally at least two extended days in the theatre to work on technical aspects. These days are minimum 10 hours of work out of a 12-hour span, but almost always run hours beyond that.

Once a production opens, there are usually 8 performances a week – every night except Sunday and Monday and 2 show days on Wednesday and Saturday for 3 or 4 weeks. The day off is Monday. Open ended runs, like the ones at the Mirvish Theatre, as an example, may provide work for members for a number of years.

The current restrictions on physical distancing and the issues posed by singing, make it impossible for theatres to produce musicals as this time. Musicals are often the most popular (and therefore profitable) programming for a theatre and the inability to produce them for the foreseeable future makes planning financially successful seasons much harder.

## **Dance**

Ballet companies normally work between 35 and 52 weeks a year with a group of dancers that are mostly engaged from year to year. Dancers work 5 days a week, with their day starting with a 75-minute class at 10am, followed by rehearsal blocks of varying length throughout the day and ending at 6 or 6:30pm. Dancers are usually rehearsing more than one production simultaneously. Shut down of a season would deprive a dancer of some or all their entire year's income as there are limited dance opportunities for classical ballet dancers and they would have to resort to some form of alternative temporary employment if that work should be available.

Performances may be 6 days a week or fewer, depending on the company and the number of weeks may vary as well, but are rarely fewer than 2 weeks long. Unlike the theatre or opera, ballet companies often have 2, 3 or even 4 different casts of the Principals and Soloists (due to the physical demands of the work) and a Principal dancer may only dance 3 or 4 performances out of a 12-performance run. The exception to this rule is the seasonal favourite "The Nutcracker", where a company may perform that ballet for 5 or 6 weeks. It is not unusual for ticket revenue from "The Nutcracker" to make up the bulk of ticket revenue for the entire season. Every ballet company in the world who performs a version of "The Nutcracker" is highly dependent on the revenue. The cancellation of all the ballet companies' versions this year is a serious blow to their financial stability.

Like the theatre, rights are negotiated well in advance but unlike theatre, are usually granted to a ballet company to allow them to perform the ballet over several seasons. In some cases, if the ballet has commissioned the work, it may be permanently available to them without the need to renegotiate the rights, but simply in exchange for a royalty payment. As well, the licensing of a ballet may include the requirement for key artistic personnel, including staggers or repetiteurs, to participate in the production. Again, postponement for any reason may mean having to delay the production for an extended period until the key personnel are available again.

Ballet dancers, even if they are employees, are on term contracts and there is no guarantee of a renewal once the contract comes to an end. Although the collective agreements set out various terms for renewal and non-renewal, there is no obligation for renewal.

The pandemic has been particularly hard on the ballet dancers. Like high performance athletes, they cannot go without the rigorous daily training for very long before their bodies begin to have trouble maintaining peak conditioning. It has been essential to get the dancers back into studio as soon as possible so that they could resume class and rehearsal, even if there are no scheduled performance dates.

Restrictions on physical distancing have made taking class and rehearsing difficult as ballet relies on a great deal of close contact and partnering. The extreme physical exertion required makes mask wearing, in some cases, challenging if not impossible. Currently, only those dancers who live with each other (in a domestic relationship or as roommates) have been allowed to partner with each other.

## **Opera**

Well known opera soloists are booked several years in advance, so decisions on productions in opera are made 3 to 4 years ahead. Unlike choristers (who are paid on a weekly basis) soloists are paid on a per performance basis as a soloist is expected to arrive knowing the material and requiring only limited amounts of rehearsal. Fees for soloists can be as high as \$25,000 or \$30,000 per performance and are “pay or play” contracts, where the entire value of the contract is owed if the Artist is cancelled by the opera company.

The cost of major productions is so high that opera companies may partner with another company on the creation of a new production or they may rent a production from another company. The rental may come with sets, costumes, and key personnel to restage the production as part of the licensing arrangement. Any disruption in scheduling may result in having to delay productions for years. To avoid the payment of any “pay or play” contracts, opera companies often try to renegotiate either the dates of performance or transfer the contractual obligation to a different opera in a different season based on the Artist's availability.

Contracts for stage managers and choristers may be for as many as 35 weeks, although the choristers work is done on a part-time basis in the evenings. Cancellation and postponement obligations are limited to those in the collective agreement and are not significant, except that the fees may apply to 100 or more Artists.

## **In Conclusion**

The upfront production costs, particularly for the creation of a brand-new work, are significant and are separate and in addition to the “running costs”, which are those costs associated with the performance aspect.

Cancellations or postponements may mean that key artistic personnel, including Equity members, are no longer available at the rescheduled time. The huge risk engagers take at this time when contemplating mounting a production are discouraging many from starting. As well, although a certain percentage of audience members have reported that they are ready to return to venues now, that has not always been borne out by those few productions that have been able to go ahead. Reduction in the size of public gatherings will continue to make it difficult for many venues to contemplate reopening for regular activities until at least the fall of 2021 or until such time as enough Canadians have received the vaccination that restrictions on public gatherings are lifted.