

ACTRA

PRE-BUDGET SUBMISSION

*IN ADVANCE OF THE
2024 FEDERAL BUDGET*

August 1, 2023

WHO WE ARE & WHAT WE BRING

The Alliance of Canadian Cinema Television and Radio Artists (ACTRA) is pleased to make this submission to the House of Commons Standing Committee on Finance as it considers the 2024 Federal Budget, on behalf of more than 28,000 professional performers working in English-language recorded media in Canada. For 80 years, ACTRA has represented performers living and working in every corner of the country who are pivotal to bringing Canadian stories and music to life in film, television, radio, and digital media. ACTRA would welcome an opportunity to appear to discuss our unique concerns directly with the Committee.

ACTRA has repeatedly recommended federal budget measures to strengthen the industries in which our members work. We have also advanced proposals to improve the economic wellbeing of artists, and to ensure equity, diversity, inclusion, and reconciliation are achieved in our powerful media. As we explain below, ACTRA submits that **provisions of Budget 2024 that address arts and culture should focus primarily on improving the economic circumstances of professional artists**, including targeted measures that address the reality of how artists work, support the professional organizations they have created, and acknowledge the vital role artists play in society.

FILM, TELEVISION, RADIO & DIGITAL PRODUCTION *current landscape*

Overall, Canada's film, television and digital media industry recovered from the pandemic. CMPA reports that total production volume in 2022 reached \$11.69 billion, an increase of 28 per cent from the previous year. The sector generated 240,760 green, high-end, FTE jobs, an 11 per cent increase. These are massive increases from a decade early, when total production volume of \$5.9 billion generated 132,500 jobs. But these figures hide a worrisome trend. Canadian productions (including broadcaster in-house) were 71.6 per cent of the total production volume in 2012, a decade later they were only 42.7 per cent. The growth in our industry has come primarily from foreign service productions. While ACTRA members happily work on these productions, our

passion is to work with other Canadian artists to bring our stories, our perspectives, and our realities to Canadian and global audiences.

The figures reflect how much foreign online streaming services have disrupted our broadcasting system. Their rapid growth has put immense competitive pressure on traditional Canadian broadcasters, which are now losing revenues and audiences. These broadcasters have less to spend on the most culturally essential programming genres, while inflation and competition from foreign service producers have hiked production costs.

Despite having the necessary regulatory authority, for 20 years the CRTC has failed to regulate streamers and to ensure every broadcasting and distribution undertaking providing programming to Canadians shares equitably in meeting the objectives of the *Broadcasting Act*. While it may be “better late than never,” the CRTC is finally acting, prompted by the *Online Streaming Act* and pressure from the industry and Government.

ACTRA is eagerly contributing to the CRTC processes launched recently and expects that the Commission will soon require foreign online undertakings to make appropriate financial contributions to Canadian programs, and to make Canadian content available and discoverable on their services. After these processes finish, the CRTC must reassess the obligations of Canadian linear broadcasters, specialty services and online undertakings.

In the discussions on the *Online Streaming Act*, the Department of Canadian Heritage and the Minister stated they estimate that “online undertakings’ expenditure requirements will annually generate \$1.0 billion in the production of Canadian programs.” ACTRA expects the CRTC and Government will deliver on this objective. Annually investing \$1.0 billion of new money in the production of Canadian content provides a solid foundation on which our industry can grow and flourish in the increasingly global marketplace.

SUPPORTING ARTISTS TO BUILD SUSTAINABLE CAREERS

While the industry was quick to recover from the pandemic, professional artists in every sector are not there yet, for a variety of reasons.

Canada was one of the leaders in the development of the 1980 UNESCO *Recommendation Concerning the Status of the Artist*, a ground-breaking international instrument that calls on Member States to recognize the important roles artists play in every society, and to respond to the unique way in which artists work by implementing appropriate policies and measures.

ACTRA contributed significantly to the development of the UNESCO *Recommendation* and was deeply involved in the work in Canada that led to the adoption of Canada’s *Status of the Artist Act (SOA)* in 1992. Since then, there have been some positive policy changes, but much more needs to be done to ensure our artists can prosper. In a March 2023 report *Strengthening the Status of the Artist in Canada*, the House of Commons Standing Committee on Canadian Heritage calls for actions in several key areas.

Implement concrete measures to improve the economic circumstances of professional artists

Most artists, including ACTRA members, work in different ways from others. Performers of course were the original “gig” workers: self-employed independent contractors who cobble together a living from a variety of different engagers. Some will have little work for a few years and then a great deal the next. Many must work at other jobs, either in the sector or outside, to survive economically. While individual engagements in ACTRA’s jurisdiction are well-paid, performers are constantly searching and competing for the available work. However much the industry grows, there will be even more artists looking for the next gig.

Analysis of census data shows that the median income of the 202,000 artists in Canada is roughly 44 per cent lower than the median income of all workers. The 62,900 performers in the census data are divided into four categories: Actors/Comedians; Dancers; Musicians/Singers; Other Performers. The median income in each of these categories is lower than the median income of all artists. Many reports provide detailed information and data that support our recommendations on income tax and Employment Insurance. The Parliamentary Committee SOA Report recommendations include:

- 1) EI be amended to accommodate the nature of artistic work;
- 2) The Government consider tax measures to support professional artists;
- 3) The Income Tax Act be amended to:
 - include a tax deduction for income from copyright.
 - ensure professional artists can average their income when they have a more prosperous year.



- *The first \$15,000 of professional artistic income must be tax free.*
- *Introduce a four-year back-averaging system for professional income to ensure tax fairness.*
- *Change the Employment Insurance program to permit self-employed artists to receive regular benefits if they i) paid into the system; ii) are laid-off from their employment, or otherwise not working; and iii) have no current income.*

Operationalize the Status of the Artist Act (SOA) Policy Statement

While there has been some discussion over the years about Part 2 of Canada’s SOA, which establishes a regulatory system for collective bargaining, ACTRA would highlight Part 1 of the Act, which states:

“Canada’s policy on the professional status of the artist, as implemented by the Minister of Canadian Heritage, is based on the following rights:

- (a) the right of artists and producers to freedom of association and expression;
- (b) the right of associations representing artists to be recognized in law and to promote the professional and socio-economic interests of their members; and ...”

Negotiating collective bargaining agreements with media producers is a difficult challenge, as evidenced by the current Hollywood strikes. But ACTRA has done this successfully for decades, and most producers adhere to our agreements. Unfortunately, in film, television, digital media, and commercial production, some producers choose to operate outside the agreements. This is a violation of the SOA Policy Statement and thus it is completely inappropriate for these producers to receive public funds, either directly through agencies such as Telefilm or the Canadian Media Fund, or indirectly via tax credits.

ACTRA believes it is unacceptable that there is nothing stopping publicly funded Canadian producers from operating outside our agreements that are intended to set minimum standards to protect precarious workers by keeping them safe at work and fairly compensated.

ACTRA notes that the Parliamentary Committee SOA Report recommends that the “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,” and further that the Government take “steps to ensure that producers who receive Government funding guarantee minimum working conditions.”

These are important recommendations that would seek to protect the most vulnerable – particularly artists from equity-deserving groups.



Operationalize the Policy Statement in the Status of the Artist Act by:

- *Directing all appropriate federal agencies to require that, as a condition of funding, every producer of Canadian content, must adhere to the terms and conditions of the appropriate collective agreements negotiated by ACTRA and other unions and guilds with bargaining rights in law. We note that ACTRA has agreements in place that are appropriate for every budget level.*
- *Directing the CRTC to introduce an analogous requirement on every undertaking it licenses or regulates.*

Revise Federal Procurement Policy to prohibit the use of replacement workers

- In May of 2023 delegates at the Canadian Labour Congress Convention passed a resolution proposed by ACTRA that demands “the Government of Canada revise its national procurement policy to forbid the use of any scab labour, directly or indirectly through subcontractors, and further to seek to use only unionized goods and services.” ACTRA is proud to have proposed this resolution and that it was enthusiastically endorsed by Canadian Labour.
- ACTRA believes it is contradictory for any government to promise anti-scab legislation, designed to protect unionized workers, while also using any entity which engages replacement workers during any labour dispute including lockouts and strike actions.



- *Amend the federal government’s procurement policy to forbid the use of replacement workers, directly or indirectly through subcontractors.*
- *Ensure that all future advertising agencies selected as the federal government’s “Agency of Record,” or engaged otherwise, be signatory to ACTRA’s National Commercial Agreement.*
- *Amend federal government procurement policy to ensure that every producer undertaking audiovisual work, including commercials, for the Government adheres to all relevant collective agreements.*

OTHER IMPORTANT ISSUES FOR ACTRA

Copyright

The work of performers and other artists has two dimensions: physical labour and creativity. Each performer brings the scripted character to life in their own unique way. Canada’s copyright laws are designed to protect and promote creativity. They urgently need to be updated, as many studies and reports have shown.

ACTRA continues to urge the Government to update Canada’s Copyright Act for all artists to ensure they can be compensated when their work is used. Moral Rights provisions need to be expanded to strengthen their common law “right of personality” to ensure every artist can control their image, voice, and personality in the AI world.

Economic Rights provisions need to be strengthened to keep up with international standards, and technological advancements. We propose an un-waivable right for performers in making available fixed performances to on-demand and interactive streaming, both for sound recordings and audiovisual recordings. This direct source of income will support performers and ultimately benefit the entertainment industry. These modernization amendments are complementary to Bill C-11 which, among others, adds obligations for the heightened “discoverability” of Canadian content online and for transparent use of algorithms streaming platforms.

Artificial Intelligence Legislation

As performers and creative artists, ACTRA members heavily depend on the licensed use of their creative works, voice, likeness, and performances to make a living. These invaluable assets are being mis-used without their consent, control, or compensation in deepfakes, often to create pornographic content. New legislation must include protections for performer’s images, likeness, voices, and performances to prevent unauthorized replacement of human performances by artificial intelligence technology.

Equity, Diversity, Inclusion, and Reconciliation

ACTRA continues its efforts to achieve a more equitable, diverse, and inclusive recorded media industry. ACTRA supports every effort to better reflect all our communities on our screens, and to expand opportunities for equity-deserving groups (including Black, Indigenous, and racialized communities along with women, 2SLGBTQIA+, and artists living with disabilities), in every work category in our sector.