

Progress Report

Minister's Advisory Committee on the Status of the Artist

April, 2003

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Executive Summary

The Status of the Artist Act, which articulates government's commitment to improving the status of artists in the province, and enables the development of measures to do so, was passed in 2002. In September, 2002, the Minister of Culture, Youth and Recreation appointed an advisory committee for a one-year term to explore further measures to enhance the status of Saskatchewan artists.

This report identifies the progress of the Minister's Advisory Committee on Status of the Artist (MACSA) in the first seven months of its mandate. What follows is an overview of the issues, priorities, and initial recommendations of the committee.

This document is intended to be used as a tool for consultation with artists, artist associations and government in order that the committee is able to continue its work in advising the Minister on appropriate measures to improve the status of artists in Saskatchewan. None of the recommendations herein are in their final form. It is only with the input of all stakeholders that the Committee can ensure the most effective mechanisms and responses.

Key Directions and Initiatives

MACSA prioritized its work based on recommendations from the 1993 report of the first Minister's Advisory Committee on Status of the Artist and the criteria outlined in the committee terms of reference. Five strategic directions emerged: *Fair Compensation and Collective Bargaining, Promotion, Economic Development, Benefits & Taxation and Education and Training.*

A. Fair Compensation/Collective Bargaining

Progress: MACSA has placed its highest priority on this issue and has reviewed it in detail. The committee is currently in consultation with a variety of government entities to determine the most effective way in which to achieve its recommendation.

Recommendation: Establish a quasi-judicial authority by which the following issues can be addressed:

1. Support to ensure compliance with the terms of single engagement contracts between artists and engagers
2. Support in the interpretation and implementation of voluntary collective agreements
3. Where voluntary collective agreements do not exist, and where appropriate, support to bring parties together to bargain collectively
4. A process by which fair minimum standard rates can be established where voluntary collective bargaining is not appropriate

This authority will be able to provide dispute resolution support to contracts (either single engagement or collective agreements) that are registered with it. The authority will also be able to invite parties to the bargaining table in instances where the engager and artist are clearly identifiable. Finally, where one or both of the engager and/or artist are not identifiable, the authority

will be able to hold hearings in order to establish recommended minimum industry standard compensation rates and working conditions.

B. Promotion

Progress: MACSA has reviewed current government promotional initiatives (e.g. *The Future is Wide Open*) and had an impact on new directions. MACSA has consulted with various entities responsible for procurement in government and has had an impact on policy direction, including on acceptance of and adherence to industry standard rates for contractors and subcontractors. MACSA has reviewed public art policies from a variety of jurisdictions and has considered the implications of pursuing such policies in Saskatchewan.

Recommendation: None at this time. Work on this agenda will continue.

C. Economic Development

Progress: MACSA has reviewed funding levels for artists in Saskatchewan and determined that increases are warranted. MACSA has reviewed models for income stabilization in other industrial sectors to identify options for artists. The Committee will continue to explore this issue in detail and make recommendations in its final report. MACSA has identified the need to further explore the role of the cultural industries in improving the status of artists.

Recommendation: Funding to the Saskatchewan Arts Board be increased in response to its broader mandate and its fundamental role in supporting individual artists in the province

D. Benefits & Taxation

Progress: MACSA has reviewed the range of benefits (health, disability, pension, etc.) that are currently available to artists and found considerable diversity. Of most concern is that artists tend to use RSPs as income stabilization tools in times of work shortage, illness or injury, rather than for retirement planning. The committee will continue to explore options for benefits and make recommendations in future reports. MACSA has made preliminary inquiries regarding the issue of taxation and artists and will continue to explore the issue in the weeks and months to come.

Recommendation: None at this time. Work on this agenda will continue.

E. Education & Training

Progress: MACSA has reviewed access to training and professional development for artists in the province in a wide range of areas from Occupational Health and Safety to formal post-secondary education. It is recognized by the Committee that the key role in furthering the interests of artists in education and training lies with the arts sector associations. They are well-placed to understand the specific needs of their members and have the capacity to advocate on behalf of their members. In many cases, they are also suppliers of much needed professional development through publications, workshops, and forums. MACSA has also explored the issue of arts education in public schools, and will continue to gather more information in order to enhance the status of artists.

Of particular concern is the role of artists in schools and pay for services that artists provide to schools.

Recommendation: The arts sector itself needs to continue to play a lead role in education and training of artists, including at an advocacy level. In particular:

1. The SaskCulture Human Resource Council should play a primary role in the broad discussion of professional development in the arts.
2. Saskatchewan Occupational Health and Safety has good information and support available on risks associated with arts occupations. Arts associations must take the lead role in the dissemination of this information.

F. Other

Progress: Through the work of MACSA, a process of education has begun within government on the impact of Status of the Artist legislation. The results have, to date, been positive in that those departments and agencies that have been made aware of the issues have responded in a supportive manner. This work needs to continue through both the Committee and the Department of Culture, Youth and Recreation. While MACSA is currently recommending only

Recommendation:

1. That the Ministerial Advisory Committee on the Status of the Artist be appointed for at least one more year to carry on the work that was begun this year. In the second year of its term MACSA should be provided with sufficient resources to expand its consultations with artists, engagers and arts organizations.
2. That there be an internal information and education campaign within government to provide background on the implications of the Status of the Artist Act for the work of government. This information and education campaign should be initiated within the Department of Culture, Youth and Recreation and focus on issues arising out of the Status of the Artist Act and new Status of the Artist initiatives brought forth by the Minister.
3. That the Department of Culture, Youth and Recreation, in partnership with the Saskatchewan Arts Alliance, develop an informational tool to inform artists of Status of the Artist issues and the supports and processes that are available to address those issues.

Progress Report

Minister's Advisory Committee on the Status of the Artist

Background

Introduction:

Status of the Artist issues have been discussed within the Saskatchewan arts sector for well over a decade. In 1992 the Minister in charge of culture, Carol Carson, established an Advisory committee to explore the issue. That advisory committee provided its recommendations to the Minister in 1993. Since that time, small gains had been made, but for the most part, the report and its recommendations languished. In 2001 the arts community and the Saskatchewan Arts Alliance renewed interest in Status of the Artist initiatives through an awareness campaign. The current Minister for Culture, Youth and Recreation, Joanne Crofford responded by introducing new legislation. The Status of the Artist Act, which articulates government's commitment to improving the status of artists in the province, and enables the development of measures to do so, was passed in 2002. In September, 2002, the Minister appointed an advisory committee for a one-year term to explore further measures to enhance the status of Saskatchewan artists.

This report identifies the progress of the Minister's Advisory Committee on Status of the Artist (MACSA) in the first seven months of its mandate. What follows is an overview of the issues, priorities, and initial recommendations of the committee.

This document is intended to be used as a tool for consultation with artists, artist associations and government in order that the committee is able to continue its work in advising the Minister on appropriate measures to improve the status of artists in Saskatchewan. None of the recommendations herein are in their final form. It is only with the input of all stakeholders that the Committee can ensure the most effective mechanisms and responses.

Vision:

The Ministerial Advisory Committee on the Status of the Artist (MACSA) was charged with advancing practical strategies that would have a positive impact on the lives of Saskatchewan artists. The advisory committee has adopted the following vision statement:

- That Saskatchewan artists in all disciplines earn a living from the making of their art and that their creations be available to the public to the maximum extent possible
- That government and society as a whole treat artists fairly by:
 - providing fair and reasonable compensation for their work
 - recognizing full ownership of their creations, including artistic interpretation and or arrangements, and
 - acknowledging the importance of safe work environments for artists.
- That economic and social security is made available to Saskatchewan artists who seek it.
- That resources for education and training will be widely available to Saskatchewan artists.

Status of the Artist Act & Mandate for the Advisory Committee

The Status of the Artist Act marked the passage of enabling legislation that provided certain recognition and rights within government. The Act also outlines several areas in which an Advisory Committee could investigate issues and recommend actions to the Minister:

- (a) labour relations and collective bargaining rights in the arts sector;
- (b) the application of workers' compensation legislation and occupational health and safety legislation to artists;
- (c) pension plans for artists;
- (d) education, professional development and training programs for artists;
- (e) taxation of artists including provisions respecting income averaging for artists;
- (f) any other matters that the Minister considers appropriate.

The terms of reference for MACSA are provided in the appendices. Of particular relevance are the five criteria for developing strategies and priorities. They were:

- a) The strategy responds to current issues and priorities of artists in Saskatchewan
- b) The strategy will have a real impact on the lives of artists in Saskatchewan
- c) The strategy lies within the authority of the Government of Saskatchewan and/or the arts sector of Saskatchewan.
- d) The strategy is achievable. The resources required to achieve the strategy are available and the strategy can realistically be achieved in the short term.
- e) The strategy will, through its implementation, provide insight to other sectors on issues related to supports for self-employed workers.

Strategic Action Plan

MACSA prioritized its work based on recommendations from the 1993 report and the criteria outlined in the committee terms of reference. Five strategic directions emerged: *Fair Compensation and Collective Bargaining, Promotion, Economic Development, Benefits & Taxation and Education and Training.*

Strategic Action Plan and Recommendations

Strategic Direction:

A. Fair Compensation/Collective Bargaining

Background:

Artists and artists associations have long seen issues of fair compensation for their work and access to formal collective bargaining as critical to the status of the artist. Individual artists are often isolated and lack the capacity to insist on fair contracting and remuneration, and in particular have few resources to pursue engagers in the event of contract breach. Formal collective bargaining processes, as are available to employed workers, are not generally available to artists in that the provincial Trade Union Act does not apply to self-employed workers. In response to the priority artists place on the issue of fair compensation and collective bargaining, this issue became the one upon which MACSA placed the greatest emphasis.

Currently, collective bargaining occurs on a voluntary basis in a number of sectors:

- Live theatre artists have bargained a national agreement. Parties to the agreement are the Canadian Actors Equity Association (Equity), which represents actors, dancers, directors, choreographers, and stage managers, and the Professional Association of Canadian Theatres (PACT), which represents the majority of English language professional theatres in the country.
- Film, television and radio actors/performers have bargained several national agreements. Representative of the artists is the Alliance of Cinema, Television, and Radio Artists (ACTRA). Engagers vary by agreement and include the CBC, and an alliance of independent film and television producers.
- Technical workers for both stage and film/television have organized through the International Association of Theatre and Stage Employees (IATSE). In some cases, IATSE acts as a trade union under the terms of the Trade Union Act. However in most cases, agreements are voluntary. They tend to be bargained organization by organization, rather than with employer representative groups.
- The American Federation of Musicians (AF of M) represents musicians. The AF of M has a national agreement with the CBC and has also bargained voluntary agreements locally with the two symphonies and several other organizations (e.g. the Saskatchewan Jazz Festival).

Compliance with existing voluntary agreements by artists tends to vary. For example, it would be almost impossible to hire an actor for the stage or for film who does not at least require the permission of their association to perform outside the collective agreement. For the most part, these agreements are strongly supported and member discipline is strong. However, where collective agreements are not comprehensive geographically and/or are negotiated engager by engager, members frequently work without union agreement or permission.

Even where voluntary agreements are strongly enforced, concerns have been expressed by various artist representative organizations that there are risks:

- Without the force of law, any job action to enforce voluntary agreements might be considered illegal
- Some associations with voluntary agreements have been charged under the federal Competition Act for price fixing

On the other hand, formalized collective bargaining on a provincial level brings some risks; particularly where there are strongly supported national voluntary agreements in place. If a national association were certified to bargain collectively within the province, there is a risk that any agreement in Saskatchewan would be different than those negotiated nationally. None of the national associations consider this acceptable.

Another complication of formal collective bargaining is that it requires two parties at the bargaining table – a representative of artists and a representative of engagers. In numerous circumstances, where artists are contracted on single day engagements by many engagers, this is next to impossible to achieve. Traditional collective bargaining models require that at least 50% of the employees of a workplace support the move to bargaining and accept the agreement. Where artists move through a workplace, the definition of 50% of the workplace becomes an impossible task. Sectoral bargaining by artist associations is an alternative that has been considered in other

jurisdictions, but has tended to be successful only where the engager (or group of engagers) is readily identifiable as the other party to bargaining.

Several mechanisms already exist in Canada to address the issues of collective bargaining among artists.

- The Canadian Artists and Producers Professional Relations Tribunal (CAPPRT) was established as an outcome of federal Status of the Artist legislation and applies only to federally regulated institutions (e.g. CBC, National Gallery, etc.). A key role of CAPPRT is to identify the parties who will engage in bargaining. On the artist side of the bargaining table, CAPPRT certifies artist associations as representatives of artists (generally by artistic discipline). Generally this certification requires that the association represent all artists in the discipline rather than only its members. The engagers are fairly clearly defined. The Tribunal operates in much the same way as any labour relations board; mediating disputes and ensuring contract enforcement.
- In Quebec there are two Status of the Artist laws, one for artists in the performing arts, who tend to work collectively and generally have access to collective agreements, and one for individual artists (visual artists and writers) who tend to work independently. The Act relating to performing artists is similar to the federal act in that it recognizes and certifies artist associations to bargain on behalf of artists. The Act relating to individual artists simply requires that a written contract be established between artist and engager and outlines the elements that must be contained within the contract. Responsibility and authority to enforce those contractual agreements is given artist representative organizations that are certified to do so.

Saskatchewan currently has an Act that addresses some of the issues faced by artists such as transitory work places and employers, national agreements and so on in the construction trades. The Construction Industry Labour Relations Act essentially applies the Trade Union Act when specific terms and conditions are met in the construction trades. The Act provides for the formation and certification of bargaining units for construction trades workers by discipline or geographic region. It also provides for the formation of employer associations as the other party to bargaining.

Employers who have become signatories to collective agreements by their participation in employer associations are obligated to adhere to those agreements in perpetuity. However compliance has become an issue. Essentially employers have begun to form spin-off companies in order to bypass collective agreements.

Recommended Initiative: Fair Compensation for Artists

The Minister's Advisory Committee on Status of the Artist has developed a proposal for consideration by government and the arts community address some of the concerns raised by artists and artist organizations. The model is designed to address four specific issues:

1. Support to ensure compliance with the terms of single engagement contracts between artists and engagers
2. Support in the interpretation and implementation of voluntary collective agreements
3. Where voluntary collective agreements do not exist, and where appropriate, support to bring parties together to bargain collectively
4. A process by which fair minimum standard rates can be established where voluntary collective bargaining is not appropriate

MACSA proposes the establishment of a quasi-judicial authority by which these issues can be addressed. This authority will be able to provide dispute resolution support to contracts (either single engagement or collective agreements) that are registered with it. The authority will also be able to

invite parties to the bargaining table in instances where the engager and artist are clearly identifiable. Finally, where one or both of the engager and/or artist are not identifiable, the authority will be able to hold hearings in order to establish recommended minimum industry standard compensation rates and working conditions.

Compliance with and Enforcement of Contracts

It is proposed that all contracts between artists and engagers, whether they be single engagement contracts or voluntary collective agreements could be registered with the quasi-judicial authority. This registration would provide parties to the contract with support for contract enforcement, including mediation and arbitration of disputes. Registration would also provide other benefits:

- Existing national voluntary agreements could be registered, giving them the force of law in Saskatchewan. This is particularly important where dispute resolution mechanisms have been bargained and agreed upon by the parties to the agreement. Because the registration process does not impinge on the national bargaining process, it would not jeopardize the national characteristics of these agreements.
- Data could be collected through contract registration, which could result in the reporting of average rates and working conditions. This reporting could ultimately lead to the raising of standards in disciplines where collective agreements are not in place. This information could also inform future collective bargaining processes.
- The authority could provide models of contracts for artists and engagers, identifying issues of particular interest in the arts (e.g. copyright, moral rights, reproduction rights, royalties, etc.)
- Contract registration has the potential to ultimately evolve into a process by which social benefits can be achieved (e.g. pension, health benefits, income security, etc.)

There are several assumptions that MACSA made in developing this proposal:

- The contract registration mechanism needs to be cost effective.
- There will be a contract registration fee (from engager and/or the artist) to help cover some of the cost of the process
- Once the mechanism is in place, reciprocity will be sought with other provincial jurisdictions where Status of the Artist provisions exist. The contract registration process would allow for the monitoring of cross jurisdictional disputes.

Charts attached in the appendices to this report provide an overview of the proposed process, including the roles of government, the quasi-judicial authority (referred to in the chart as a Commissioner for ease of understanding), artists, and arts organizations.

Collective Bargaining and Industry Standards

Collective bargaining is occurring on a voluntary basis in some disciplines already. In many cases these agreements are working effectively. However, there are a number of instances in the province where attempts to bargain collectively have failed. In some cases, where voluntary agreements do exist but are either expired or about to expire, there is little pressure the artists' association can effect to bring the engager to the bargaining table. Indeed, it is in the interest of the engager to avoid bargaining for as long as possible.

In cases such as these, MACSA proposes that the quasi-judicial authority envisioned in this report have the authority to invite parties to the bargaining table. It is suggested that the moral force of such an invitation, along with the support of some skilled mediation, more voluntary collective agreements may be the result. The result would be enhanced protection and clarity for artists. This

approach would be useful only in those instances where both the artists' representative and the engager(s) are readily identifiable.

However, this leaves a broad range of circumstances where collective bargaining cannot occur – where the specific artists and specific engagers may not be identifiable for the purposes of collective bargaining. Numerous examples exist:

- Musicians who perform the club circuit
- Visual artists who show work in public galleries (there is no association of public galleries in the province)
- Writers who publish in magazines and periodicals

MACSA proposes that, in these circumstances, a group of artists or a group of engagers could petition the quasi-judicial authority to hold hearings in order to establish recommended industry standard minimum rates and working conditions. While there is little likelihood that these minimum rates could be enforced as binding across the broad spectrum of engagers in the province, once established, adherence to industry standards could become conditions for the receipt of public funds.

Strategic Direction:

B. Promotion

Background:

The 1993 Status of the Artist report noted, "Cultural awareness, visibility and access to audience are crucial issues for artists. This can only come through increased access to and acceptance by audiences...The best promotion for artists and art, then, is for as much work as possible to be available in as many places as possible."

The cultural sector constitutes a large part of the economy yet the sector does is not widely understood within government and within the general public. The Saskatchewan Status of the Artist Act is a good start in providing the foundation for better recognition and awareness of Saskatchewan artists. MACSA agrees with the 1992 Status of the Artist Report when it says, "Government has a special role as a patron of the arts and a special responsibility to develop public policy for fostering appreciation of the artist - for the benefit of society as a whole, not just the arts community and the cultural sector." While there have been strong gains concerning government procurement policies within recent years, MACSA has been actively researching and discussing new directions in the areas of Procurement and Public Art.

Initiatives:

Visibility:

Early in MACSA's deliberations, the provincial *Future is Wide Open* campaign was launched. Along with other cultural organizations, MACSA noted and commented to government that the cultural representation of the province in this campaign was weak. Since then, a new series of commercials has been developed. MACSA is pleased to report that the focus of these new pieces is strongly cultural. Not only has the focus of the campaign begun to include the arts, when the commercials were taped, the government department leading the process, Saskatchewan Industry and Resources, and their creative agency, Phoenix Advertising, as well as the film production company involved, Mind's Eye Pictures, considered the Status of the Artist Act in all of their dealings with local arts organizations. This included negotiation of and payment for reproduction rights with Saskatchewan visual artist, Bob Boyer, for filming his work at the Mackenzie Art Gallery.

Procurement:

MACSA has noted that the provincial government generally operates with a Saskatchewan First procurement policy. The committee has been researching this policy to determine its impact on artists. MACSA is pleased to report some good news on procurement related to the work of artists:

1. All communications contracts, including film and television advertising, are issued under a single procurement policy that clearly identifies Saskatchewan First purchasing except where local expertise is not available. The extent to which a communications proposal complies with "Saskatchewan First" is one of the evaluative measures of any bid for services. The requirement to use "Saskatchewan First" suppliers extends to subcontractors. A new element of communications procurement that is a direct result of the Status of the Artist Act is the inclusion of a requirement that contractors and subcontractors comply with industry minimum standards established by IATSE and the Directors Guild of Canada. Other artist associations are in negotiation with government to identify local industry minimum standards for these purposes. This process can be directly attributed to the work of MACSA.
2. MACSA has met with the coordinator of communications procurement for the Crowns. He has expressed a commitment to furthering the agenda of the Status of the Artist Act within the Crown sector. MACSA will continue to pursue this work in the coming months.

MACSA will continue to investigate the practical aspects of procurement within government and the Crown Corporations. MACSA will also research procurement at the Saskatchewan Property Management Corporation. Finally, MACSA will attempt to identify a monitoring process for Saskatchewan First purchasing and its impact on artists to ensure that there is good compliance with the policy across government.

Public Art:

MACSA has investigated the Public Art Policies of several civic jurisdictions in Canada. These policies provide that a small percentage (0.5% to 1%) of capital construction costs of new or refurbished government buildings be spent on art. While MACSA is very positive about the impact such policy might have should it be adopted by the Saskatchewan Government, more consultation is required before a specific recommendation can be made. MACSA will further investigate public art policies at the SPMC, as well as learn more about the Saskatchewan Arts Board's collection of Saskatchewan art.

Strategic Direction:

C. Economic Development

Background:

Cultural industries are diverse, and dynamic within Saskatchewan. The artist works at the base of the economic pyramid within the Cultural sector, providing the products that drive industries such as film, publishing and sound recording. An effective way of developing the arts and cultural sector is through the support of individual artists.

Recommended Initiatives:

Funding Arts:

The mandate of the Saskatchewan Arts Board was expanded with the enactment of the new Saskatchewan Arts Board Act in 1997. This new role, which includes responsibility for diversity and Aboriginal arts, has not been supported through new funding. The current level of funding will not support initiatives that would further of the Status of the Artist in the years ahead. MACSA will make recommendations on this issue in subsequent reports.

Income Stabilization Program:

The incomes of artists, like the incomes of farmers, vary a great deal from year to year due to events that are largely beyond their control. Writers and visual artists may take years to develop a body of work, which creates income only in the year in which it is sold. An actor may be fortunate to land two film roles in one year and then see a year with no roles at all. Managing these fluctuating income levels is a challenge for all professional artists. MACSA is looking at models (such as NISA and deferred salary plans) in order to determine how income stabilization could be established to assist artists.

Cultural Industries:

The committee has identified that cultural industries play an important role in the status of Saskatchewan artists in that they increase the economic viability of artistic professions and they increase the awareness of the general public of the impact of the arts. The Government of Saskatchewan has funded the Cultural Industries Development Council (CIDC) for four years. For the last two years, that funding has reached \$450,000 annually and that amount has been sustained for the coming fiscal year. The CIDC has developed a strategy for the development of the cultural industries in the province, the Cultural Industries Development Strategy (CIDS) and has been using the funds to further the goals of the strategy. MACSA will continue to examine the role of the cultural industries and in particular, will examine the role the CIDS, and the funds related to it, have had in furthering the interests of artists in the province.

Strategic Direction:

D. Benefits & Taxation

Background:

As with collective bargaining there are artists' organizations such as ACTRA, Actors Equity, and AF of M that provide pension and insurance for their members. Such benefits are calculated based on the level of income of each member and for most members this may vary from year to year. RSP's not only form the principal means for saving for retirement for many Artists, whether employed or self-employed, they also serve as an income stabilization mechanism in times of work shortage or illness.

There are currently few plans in place to support artists through income loss for work shortage, injury or illness. Some of the artist associations have insurance plans, but, for example, the Actors Equity plan kicks in only if the worker cannot fulfill the terms of a contract because of illness or injury that occurred during the term of the contract, and the insurance only covers losses associated with the particular contract during which the illness or injury occurred. ACTRA Fraternal provides more comprehensive coverage, however, its application is also extremely limited. ACTRA Fraternal is attempting to offer health and other benefits beyond its membership to all artists in Canada, although disability insurance is not included in this package. It is not clear yet how such a model might support artists in Saskatchewan, however MACSA will continue to explore options for income security for artists.

One of the ways the Saskatchewan Government can create more income for artists is through tax relief. Other jurisdictions in the country have attempted to address this issue in a variety of ways. For example, in Quebec, provincial income taxes do not apply to the first \$30,000 of royalty income. Tax reform should be designed to allow low-income artists to retain greater income. MACSA will continue to explore options for provincial tax relief for artists.

MACSA is also concerned about the growing pressure by the Canadian Custom and Revenue Agency (CCRA) to categorized artists in some circumstances as employees for income tax purposes rather than as self-employed workers. Recent rulings have affected both symphony musicians and dancers across the country. While this issue is clearly in the federal jurisdiction, there are implications at the provincial level. The cost to organizations contracting artists will increase should artists be considered employees because of the cost of employment related benefits. This could ultimately result in a cost to the province or in a reduction in the overall work available for artists. Additionally, CCRA rulings regarding a worker's status as either an employed or self-employed worker can have an impact on the application of Saskatchewan programs and legislation whether intended or not. Finally, while employee status does increase access for artists to income security mechanisms enjoyed by other workers (e.g. Employment Insurance, Workers' Compensation, etc.), artists lose the ability to deduct work related costs from their income. For many artists, these costs can be considerable (instruments, canvases, music scores, etc.). Further examination of the implications of this issue at the provincial level is required.

Recommended Initiatives:

Provincial Tax Reform:

In its final report MACSA may make specific recommendations on exemptions for artists within the Saskatchewan tax structure.

Pension and Benefits:

MACSA will continue to research and develop recommendations in this area, and future reports will outline the issues under consideration. MACSA feels access to benefits, including income security plans, is important to artists and the committee will look closely at options and at the potential of linking a program to the fair compensation model.

Strategic Direction:

E. Education & Training

Background:

The suppliers of training and professional development within the arts sector have largely been arts and industry organizations. Support from provincial and federal programs has been sought and in the case of the film industry with much success, in other disciplines less so. To develop an integrated approach to training in the sector the Cultural Sectoral Council was developed. In 2000, the group was transformed into the SaskCulture Human Resources Council (SHRC) under the umbrella of SaskCulture. The Council advises SaskCulture on education and training issues and can serve as a resource on education and training issues. While MACSA will continue to develop recommendations in this area this is largely seen as an area where the arts sector will need to take the lead.

Recommended Initiatives:

Access:

MACSA has begun looking at the funding of dedicated arts programming within the education system with an emphasis on rural schools. The research will continue into how artists have been compensated for their work in schools and what improvements may be needed.

Dissemination of Information:

While the SHRC continues to work in the area of information on professional development and training opportunities, a broader discussion may be required to provide an overview of cultural training available in Saskatchewan from community to postgraduate programs, in all disciplines and at all levels.

Occupational Health and Safety:

MACSA has researched the need for broader distribution of information and education on occupational health issues for artists. MACSA will continue looking the occupational health issue but they believe that the arts sector must take the lead in the dissemination of information in this area. Consultations continue in light of identifying which group(s) within the arts and culture sector might lead in this regard.

F. Issues Outside the Strategic Directions:

Ministerial Advisory Committee on the Status of the Artist

Background

MACSA has only begun to identify the issues related to Status of the Artist in the depth required to propose effective, practical solutions. If the status of province's artists is to remain a priority of the Government of Saskatchewan, this work must continue.

In particular, MACSA's proposal regarding fair compensation and collective bargaining will require ongoing monitoring and consultation with community representatives.

Recommended Initiative:

That the Ministerial Advisory Committee on the Status of the Artist be appointed for at least one more year to carry on the work that was begun this year. In the second year of its term MACSA should be provided with sufficient resources to expand its consultations with artists, engagers and arts organizations.

Information & Education Campaign:

Background:

MACSA was heartened by the impact that the Status of the Artist Act and related initiatives had on the province's *Future is Wide Open* campaign. While this is an example that can be pointed to as a

success story, it also demonstrated that there is work to be done in raising Status of the Artist issues across all government departments and agencies.

During initial consultations with artist representative groups, the Saskatchewan Arts Alliance suggested that artists would benefit from a publication that outlined the issues and options arising from Status of the Artist. MACSA also supports this recommendation.

Recommended Initiatives:

1. That there be an internal information and education campaign within government to provide background on the implications of the Status of the Artist Act for the work of government. This information and education campaign should be initiated within the Department of Culture, Youth and Recreation and focus on issues arising out of the Status of the Artist Act and new Status of the Artist initiatives brought forth by the Minister.
2. That the Department of Culture, Youth and Recreation, in partnership with the Saskatchewan Arts Alliance, develop an informational tool to inform artists of Status of the Artist issues and the supports and processes that are available to address those issues.

Definitions

The Saskatchewan Status of the Artist Act specifically applies to professional artists, however, in the Act, the term "professional artist" is not defined. MACSA has deliberated this issue and has adopted a working definition for the time being. However, it is not yet clear whether access to programs and initiatives arising out of the Status of the Artist Act need to be specifically limited to those who fit the definition of "professional artist". Neither is it clear that the working definition is one that artists from a broad cross section of Saskatchewan's artistic community would identify with.

MACSA continues to discuss the issue of a definition of artist and has consulted with the Aboriginal Liaison Committee at the Saskatchewan Arts Board on the issue. The working definition has been included as an appendix to this report.

The definitions that follow are gathered from sources listed within the "literature review" elsewhere in this report.

Arbitration: The settlement of a dispute by the decision of a person or persons with judicial or quasi-judicial powers. (The third party makes the decision).

Artist: is taken to mean any person who creates or gives creative expression to, or recreates works of art; who considers her/his artistic creation to be an essential part of her/his life; who contributes in this way to the development of art and culture; and who is or asks to be recognized as an artist, whether or not she/he is bound by any relations of employment or association. The word "artist" also signifies any person who devotes a qualitatively important part of her/his life to expressing and communicating an aesthetic vision of the world.

Artist Association: a league, union, guild or other association of artists and includes a federation of "artist associations".

Collective Bargaining: When two parties with mutual interest and similar goals come together to achieve by negotiation, a binding agreement on how to conduct their ongoing relationship concerning a number of contractual issues.

Collective Agreement: an agreement between an Artists' Association and an engager or an engager association.

Engager: a company or producer who has a contractual agreement an artist or purchases an artists work through a contractual agreement.

Engager Association: an association of engagers, and includes a federation of "engager associations".

Mediation: a process in which an impartial facilitator assists parties in conflict to communicate and to make voluntary, informed choices in an effort to find an acceptable way to resolve the dispute. The parties make the decisions about what is acceptable.

Status: The word "status" signifies, on the one hand, the regard accorded by society to artists, defined as above, on the basis of the importance attributed to the part they are called upon to play in that society; and, on the other hand, recognition of the liberties and rights which artists should enjoy, including moral, economic and social rights, with particular reference to income and social security.

Consultations

Saskatchewan Arts Board, Aboriginal Liaison Committee

Saskatchewan Arts Board

SaskCulture

Saskatchewan Arts Alliance

Saskatchewan Labour Relations Board

Dance Saskatchewan

Saskatchewan Craft Council

City of Regina

Canadian Conference of the Arts

Canadian Artists & Producers Professional Relations Tribunal (CAPPRT)

Canadian Film and Television Production Association (CFTPA)

Dispute Resolution Services, Department of Justice

Presentations to the Committee

November 2002: an overview of Status of the Artist issues by Sheila Roberts a member of the Saskatchewan Arts Alliance, Artist Equity Committee.

January 2003: presentation from Bob Ross, Manager Workplace Safety (South) with the Occupational Health and Safety Division, Saskatchewan Labour.

February 2003: presentation prepared by the Saskatchewan Arts Alliance on equity issues from the Saskatchewan Arts Alliance, which included a comprehensive review of collective bargaining in the Arts Sector in Canada. The presentation also included a review of both federal and Quebec legislation enabling collective bargaining for artists and artist groups.

March 2003: a presentation from Bob Underwood of ACTRA Fraternal, who gave an excellent overview on the history, current status and future plans for ACTRA Fraternal.

March 2003: met with representatives of the Saskatchewan Arts Alliance to discuss issues of mutual interest. While most of the discussion centered on collective bargaining and fair compensation there was also discussion around communications and resource sharing between the committee and the SAA.

Literature Review

Report of the Minister's Advisory Committee on the Status of the Artist, 1993

Equity for Saskatchewan Artists, Discussion Paper on the 1993 Status of the Artist Report

A Call to Action, A Research Report and Discussion Paper on the Status of the Artist Policy and Legislation in Canada, from the Canadian Conference of the Arts

List of Internet sources on Status of the Artist

Creating Careers: Human Resource Issues in the Cultural Sector

Words in Progress: Human Resource Issues in the Literary Arts and Publishing

Staging the Future, Human Resource Issues in Audio-Visual & Performing Arts

Sound of the Future, Human Resource Issues in Music and Sound Recording

Work in Progress: Human Resource Issues in the Visual Arts and Crafts

(Series sponsored by Human Resources Development, Canada)

Saskatchewan Cultural Workers: Brief to the Standing Committee on Human Resources Development, 1994

Collective Bargaining for Independent Contractors: Is the Status of the Artist Act A model for Other Industrial Sectors? Elizabeth MacPherson, 1999

Employee or Self-Employed? Information Brochure, Canadian Customs and Revenue Agency

WorkSafe Saskatchewan CD from Department of Labour, Occupational Health and Safety

Safe Business is Smart Business: A Guide for Employers, from Saskatchewan Labour, Occupational Health and Safety

The Challenge of New Work Relations for Labour and Employment Law, Eric Tucker and Leah F. Vosko, York University

Face of the Future: A Study of Human Resource Issues in Canada's Cultural Sector, 2002 presented to the Cultural Human Resources Council

Face of the Future: Supporting Documentation, CD, 2002

Quebec Status of the Artist Legislation

Federal Status of the Artist Legislation

APPENDICES

Minister's Advisory Committee on the Status of the Artist Review Committee
Terms of Reference

Committee's Vision and Mission Statement

Fair Compensation Model Organizational Chart

Graph of Fair Compensation Model

Roles within the Fair Compensation Model

The Professional Artist: Definitions

MINISTER'S ADVISORY COMMITTEE ON STATUS OF THE ARTIST

TERMS OF REFERENCE

1) RESPONSIBILITIES:

The Minister's Advisory Committee on the Status of the Artist is responsible to provide advice to the Minister on the development of Status of the Artist measures.

2) OUTCOMES:

Within the context of existing research, reports, and analysis, the outcomes that will be provided by the Minister's Advisory Committee on the Status of the Artist are:

- a) Priorities will be recommended to the Minister – an analysis of previously identified strategies will be undertaken and recommendations will be made regarding strategies that should be addressed first. Criteria for priorities include:
 - i) The strategy responds to current issues and priorities of artists in Saskatchewan
 - ii) The strategy will have a real impact on the lives of artists in Saskatchewan
 - iii) The strategy lies within the authority of the Government of Saskatchewan and/or the arts sector of Saskatchewan.
 - iv) The strategy is achievable. The resources required to achieve the strategy are available and the strategy can realistically be achieved in the short term.
- b) Actions related to specific priorities will be recommended to the Minister. For the recommended actions accepted by the Minister, the Committee will provide consultative support to advance their effective realization.
- c) Key long term strategies that will foster the environment envisioned in the Status of the Artist Act will be recommended to the Minister

3) AUTHORITY:

The Minister's Advisory Committee on Status of the Artist will be appointed for one year to provide the Minister with advice and recommendations on the achievement of the objectives of the Status of the Artist Legislation. As such, subject to agreed upon time-lines and budget considerations, the committee has the authority to:

- a) Call its own meetings
- b) Develop its own agenda in consultation with the Department of Culture, Youth and Recreation
- c) Establish its own working processes to achieve the identified outcomes
- d) Establish its own sub-groups/committees
- e) Engage in its own consultations
- f) Make recommendations to the Minister

4) TIMELINES:

The committee will be appointed for one year beginning September, 2002. The committee's term will expire in August 2003.

5) COMMUNICATIONS:

The committee will provide the following communications:

- a) Minutes of all meetings will be provided to the Department of Culture, Youth and Recreation
- b) A final report of the work of the committee shall be submitted to the Minister.
- c) Where approved in advance by the Minister, the committee shall find mechanisms to report its progress to the cultural sector.

6) SUPPORTS:

The committee will be provided with the support and assistance of the department of Culture Youth and Recreation

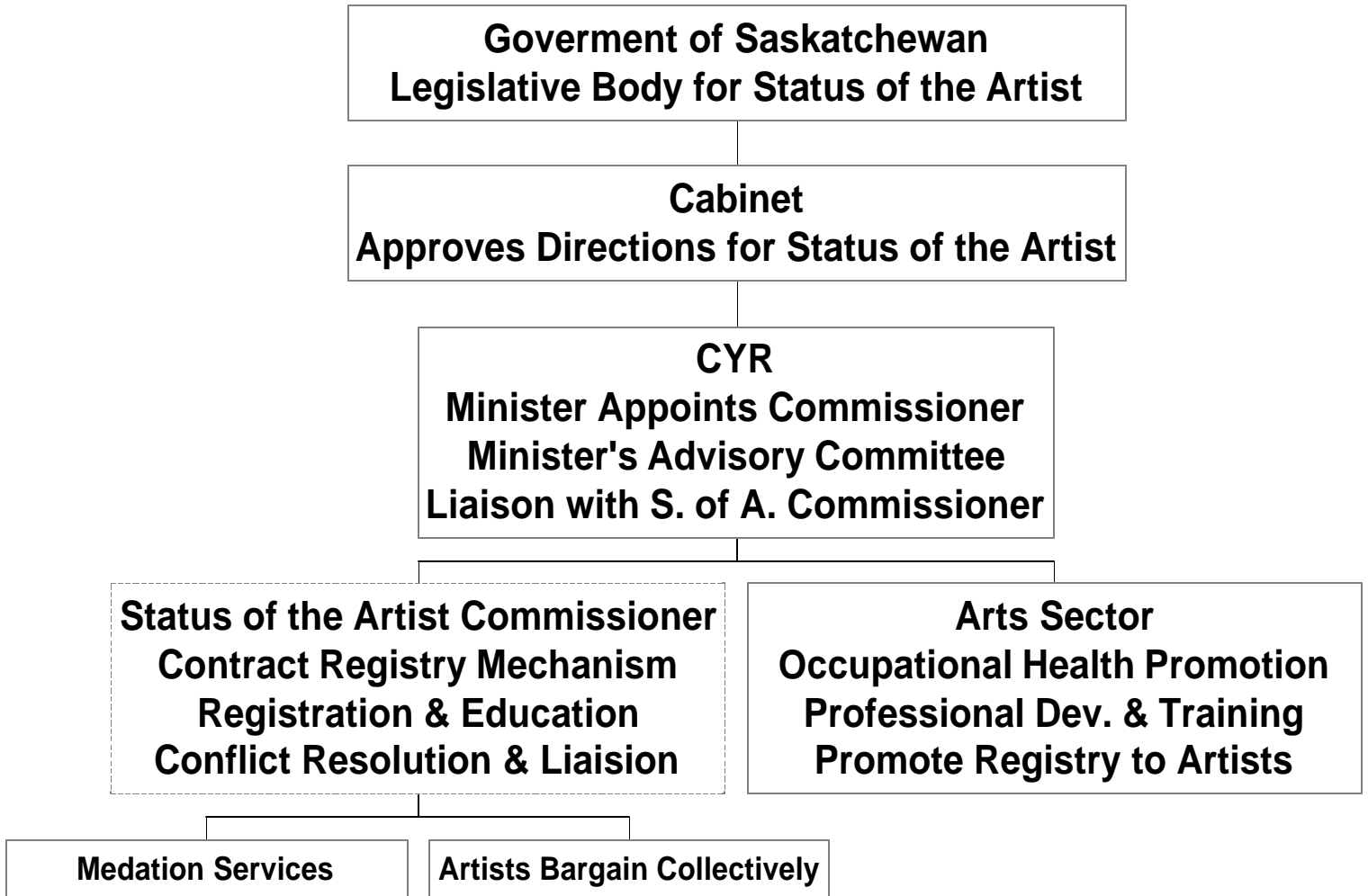
Status of the Artist Vision Statement

Revised

- That Saskatchewan artists in all disciplines earn a living from the making of their art and that their creations be available to the public to the maximum extent possible
- That government and society as a whole treat artists fairly by:
 - providing fair and reasonable compensation for their work
 - recognizing full ownership of their creations including artistic interpretation and or arrangements, and
 - acknowledging the importance of safe work environments for artists.
- That economic and social security is made available to Saskatchewan artists who seek it.
- That resources for education and training will be widely available to Saskatchewan artists.

March 6, 2003

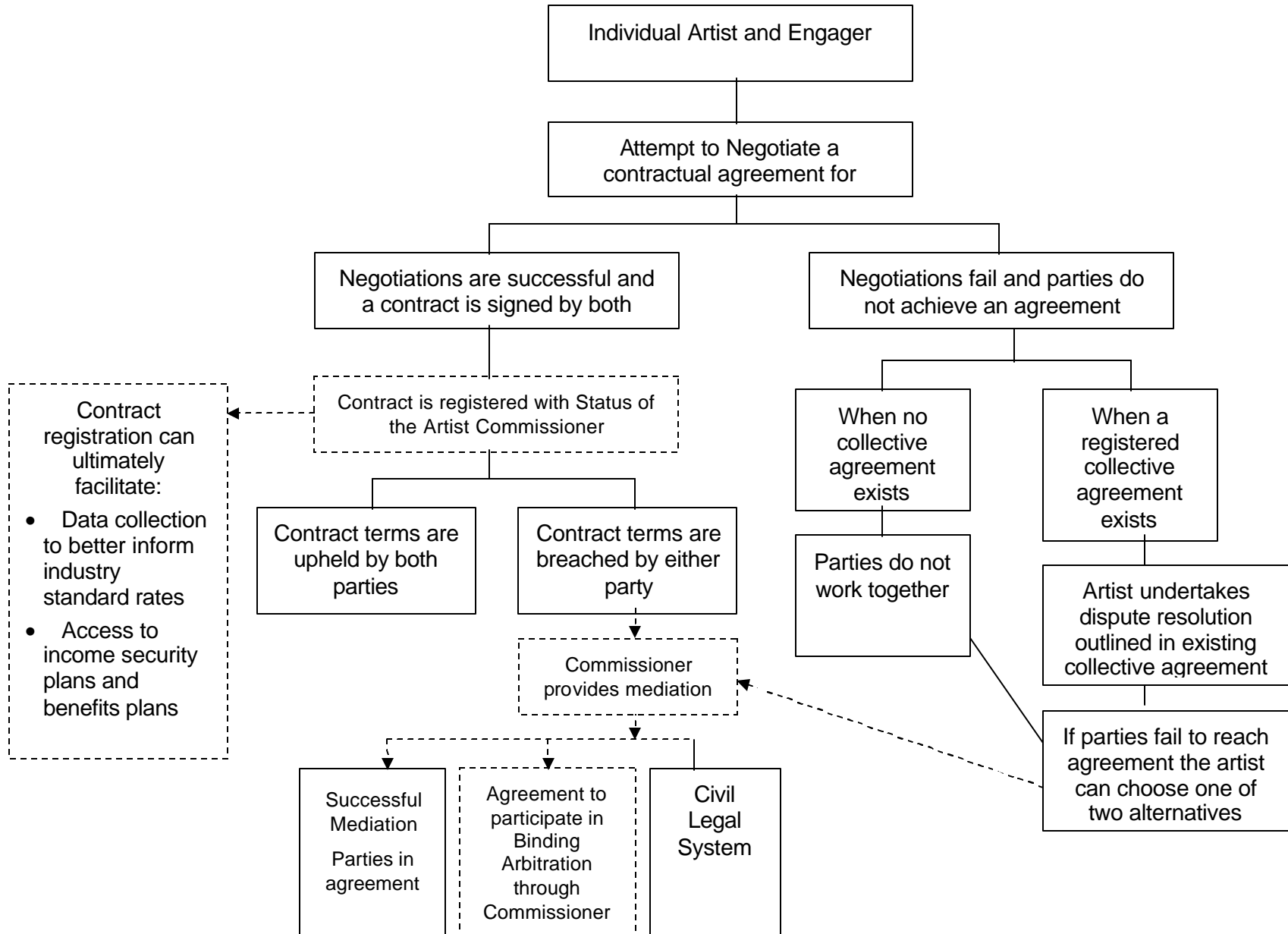
Minister's Advisory Committee on the Status of the Artist Organizational Chart for a Fair Compensation Model



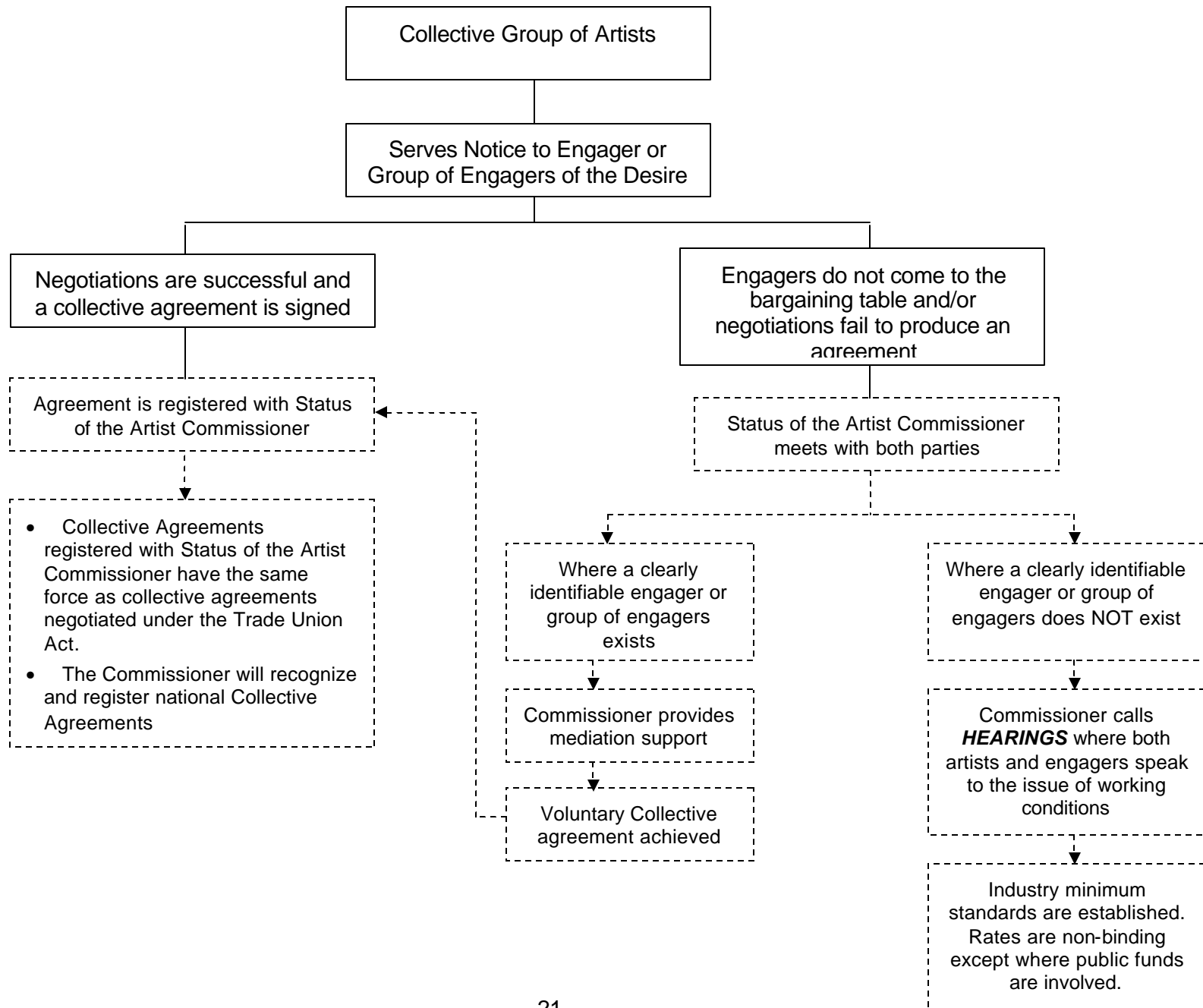
--- Arm's length from Government

Mechanism to Achieve Fair Compensation for Artists

Process for support between Individual Artists and Engagers (Role of Commissioner in Dashed Boxes)



Process for support for Collective Bargaining Process (Role of Commissioner in Dashed Boxes)



ROLES WITHIN A FAIR COMPENSATION MODEL

Engagers	Artists	Government	Commission(er)	Arts Organizations
<ul style="list-style-type: none"> • Negotiate Contracts • Participate in process • Good faith • Maintain documentation • Representation: individual and collective • Records of employment, financial • Develop industry standards • Respect industry standards 	<ul style="list-style-type: none"> • Negotiate Contracts • Perform to contract specifications • Good faith • Register contracts • Develop industry standards • Respect Industry standards 	<ul style="list-style-type: none"> • Funding an effective model • Legislation • Regulation • Appointment of a Commissioner • Maintain a Status of the Artist Advisory Committee • Inter-provincial liaison • Government education of Status issues • Distribution of Information • Sensitize/Harmonize 	<ul style="list-style-type: none"> • Quasi-Judicial: Recognition, Monitoring, liaison with National bodies • Monitors contract data • Liaison with other jurisdictions: copyright • Liaison with arts sector • Reports to government & Sector • Mediator for Artists/Engagers • Arms length from Government • Registers artist contracts • Produces data & collects fees • Provides model contracts & education • Recognize existing National contracts • Model to develop benefits over time 	<ul style="list-style-type: none"> • Represent members • Voice for artists • Leadership • Develop functioning industry standards • Educate membership on Status of the Artist • Adhere to the fair compensation model • Advocacy • Maintain existing benefit programs for artists

The Professional Artist: Definitions

The following has been used as the working definition of a professional artist to guide the work of the committee. It has been agreed that this working definition will be reviewed subsequent to the development of final recommendations. For the most part the definitions in this document come from the 1993 Status of the Artist Report. Those sections which are in italics are suggested additions by the committee.

Definition of "Artist":

"Artist" is taken to mean any person who creates or gives creative expression to, or recreates works of art; who considers her/his artistic creation to be an essential part of her/his life; who contributes in this way to the development of art and culture; and who is or asks to be recognized as an artist, whether or not she/he is bound by any relations of employment or association. The word "artist" also signifies any person who devotes a qualitatively important part of her/his life to expressing and communicating an aesthetic vision of the world.

Definition of "Status":

The word "status" signifies, on the one hand, the regard accorded by society to artists, defined as above, on the basis of the importance attributed to the part they are called upon to play in that society; and, on the other hand, recognition of the liberties and rights which artists should enjoy, including moral, economic and social rights, with particular reference to income and social security.

Specific Definition of "Artist" adapted from the Canadian Artists Code (1988):

A person may be determined to be a *professional* artist through a combination of four of the following criteria, one of which must be (a), (b), or (c):

- a) an artist receives or has received, compensation from her/his work including, but not limited to, sales, fees, commissions, salaries, royalties, residuals, grants and awards, any which may reasonably be included as professional or business income;
- b) an artist has a record of income or loss relevant to the history of her/his work and appropriate to the span of her/his artistic career;
- c) an artist has received public or peer recognition in the form of honours, awards, professional prizes, scholarships, honourable mention, in appointment to an adjudication committee or an invitation to participate in a group exhibition or performance or by publicly disseminated critical appraisal or by any other similar means;
- d) an artist has presented her/his work to the public by means of exhibitions, publications, performances, readings, screenings, or by any other means appropriate to the nature of her/his work;
- e) an artist is represented by a dealer, publisher, agent, or similar representative appropriate to the nature of her/his work;

- f) an artist devotes a reasonable portion of her/his professional time to promoting or marketing her/his work, including, but not limited to, attending auditions, seeking sponsorship, agents, or engagements, and similar activities appropriate to the nature of her/his work;
- g) an artist has received training *and/or traditional knowledge* either in an educational institution or from a practitioner or teacher recognized within her/his profession, *or is self-taught within the established practice of her/his cultural traditions*;
- h) an artist has membership in a professional association appropriate to her/his artistic activity whose membership or categories of membership, is or are, limited under standards established by the association; or which is a trade union or its equivalent appropriate to her/his artistic activity;
- i) an artist holds copyright in her/his own work and has received royalty or residual payment based on that copyright.