



**Canadian Media
Producers Association**
BC Producers' Branch



March 19, 2018

By Email: LRCreview@gov.bc.ca

Labour Relations Code Review Panel

RE: Labour Relations Code Review

Joint Submission - Canadian Affiliates of the Alliance of Motion Picture and Television Producers ("AMPTP") and the Canadian Media Producers Association, BC Producers Branch ("CMPA-BC")

Dear Sirs/Mesdames:

Please accept this joint submission from the Canadian Affiliates of the Alliance of Motion Picture and Television Producers ("AMPTP") and the Canadian Media Producers Association – BC Producers Branch ("CMPA-BC") with respect to the British Columbia Labour Relations Code Review. The AMPTP and the CMPA-BC, as employer representatives, have an interest in maintaining certain, harmonious and stable labour relations within British Columbia ("BC").

Background

The AMPTP and the CMPA-BC represent American and Canadian film and television producers, respectively, in relation to the negotiation of industry collective agreements and the employment of workers on film and television productions in British Columbia and elsewhere. Together, the AMPTP and the CMPA-BC are commonly referred to as the "Negotiating Producers", as they negotiate industry-wide master collective agreements with trade unions in BC, including the British Columbia and Yukon Council of Film Unions (the "Council"), the Union of BC Performers ("UBCP") and the Directors Guild of Canada – BC District Council ("DGC BC").

The bargaining structure involving the Negotiating Producers and the Council was mandated by the Labour Relations Board in 1995, in proceedings under section 41 of the *Labour Relations*

Code: BCLRB No. B448/95.¹ In doing so, the Board recognized the unique culture in the film and television industry, including its mobility and project-based nature.

A second inquiry pursuant to section 41 of the *Code* was commenced on February 4, 2008, when the Labour Relations Board was directed by the Minister of Labour and Citizens' Services to conduct a review of the BC film and television industry, as the industry was facing various challenges that threatened industrial stability (the "Section 41 Inquiry"). Mr. Michael Fleming, then Associate Chair, Adjudication, was constituted as a panel of the Board to conduct the Section 41 Inquiry. Mr. Fleming engaged in extensive consultation with the parties, and issued a number of interim directives and decisions throughout the Section 41 Inquiry, culminating in the "*Report regarding a Section 41 Inquiry into Labour Relations in the British Columbia Film Industry*" issued on March 4, 2012. The Report again acknowledged the unique nature of the industry from a labour relations perspective, including the need for stability and certainty.

The film and television industry is highly active in BC. For the period April 1, 2016 to March 31, 2017, it is estimated that \$2.65 billion was budgeted for productions produced in BC, based on the number of applications for tax credits during that period.² This includes both AMPTP and CMPA-BC productions, including feature films, TV series, programs and pilots, direct to DVD, mini-series, movies of the week, and web-based productions.

The industry is also a highly mobile industry, as productions can easily be mounted in different jurisdictions, or moved to different locations. A variety of considerations are taken into account in determining where to locate a particular production, one of the most important of which is labour costs and the industrial relations climate.

Submission

The film and television industry in BC has enjoyed a relatively stable labour relations climate since the initial section 41 decision in 1995. The parties have been able to successfully negotiate a series of master collective agreements, usually with three year terms, since that time. Industrial stability is paramount to the decision to locate productions in the province, and any threat to industrial stability may result in productions being located elsewhere, in other jurisdictions.

For this reason, the AMPTP and the CMPA-BC submit to the Panel that the *Labour Relations Code* should not undergo any significant changes as a result of the Review. The existing processes and procedures set out in the *Code* have resulted in a fairly stable and certain labour relations climate for the industry, which has resulted in significant growth in the industry in BC. This

¹ This process was reviewed in the previous Labour Relations Code Review report, dated February 25, 1998, in which it was recognized as an innovative solution to "accommodate and encourage what has become the exponential growth of television and movie production in the province", and as an example of a successful and mature labour-management relationship.

² Creative BC, Fiscal Year Reporting. For the period April 1, 2015 to March 31, 2016, the amount was \$1.922 billion. https://www.creativebc.com/database/files/library/Tax_Credit_Certifications_2014_2017___Final.pdf

growth has resulted in the creation of a significant number of jobs and high levels of employment for BC workers within the industry.

The importance of the industry in BC, as highlighted above, underscores the need to maintain the certainty and stability of labour relations in the province to ensure the long-term vitality and competitiveness of industry employers.

The AMPTP and the CMPA-BC further respectfully submit that the following duties of the Board and purposes of the *Code*, set out in section 2, must be kept in mind during the course of the Review:

- a. Fostering the employment of workers in economically viable businesses;
- b. Encouraging the practice and procedures of collective bargaining between employers and trade unions as the freely-chosen representatives of employees;
- c. Encouraging the cooperative participation between employers and trade unions in resolving workplace issues, adapting to changes in the economy, developing workforce skills and developing a workforce and a workplace that promotes productivity; and
- d. Promoting conditions favourable to the orderly, constructive and expeditious settlement of disputes.

Card-Based Certification

The AMPTP and the CMPA-BC understand that there may be a push from the trade union movement within the province for a change to the *Code* to incorporate card-based certification in BC, rather than the current requirement for a secret ballot vote.

The AMPTP and the CMPA-BC oppose any change to the *Code* that would result in card-based certification. Although the majority of employees in the film and television industry in BC work under union contracts, a large number of non-union productions remain, which are found primarily in the smaller, domestic area of production within the jurisdiction of the CMPA-BC.

Card-based certification may inflate the true level of support for unionization among employees, and result in the true desires of employees not being accurately represented. Employees may sign cards without being fully informed of the implications in doing so.

It is submitted that employees on non-union productions may be especially vulnerable when a large part of the industry is already unionized and, therefore, many employees on a non-union production may already be members of one of the film industry unions. Further, being permitted to vote by secret ballot is a fundamental right of workers in a democratic society, in which all individuals should be afforded the protection of anonymity.

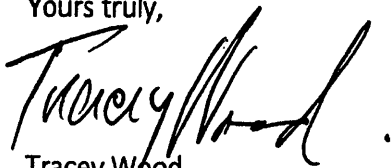
Conclusion

Based on all of the foregoing, the AMPTP and the CMPA-BC respectfully submit that conditions do not warrant the Labour Relations Review Panel making any significant or substantive changes to the *Labour Relations Code* that could affect the competitiveness of British Columbia as a centre of film and television production, or that could affect the long-term certainty and stability of industrial relations in the province.

Under the existing *Labour Relations Code*, employers and trade unions in the industry have successfully collaborated to produce in BC a highly-skilled, well-paid and sought-after workforce capable of performing the magic once confined only to Hollywood, while at the same time offering employers a competitive and stable labour environment that continues to attract motion picture and television production, despite mounting competition from other jurisdictions. Making substantive changes to the *Labour Relations Code*, such as reverting to a card-based system of certification, could serve to make the industry less competitive and drive production to other jurisdictions.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Yours truly,



Tracey Wood
Vice President
Canadian Affiliates of the AMPTP



Jason Lee
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