

**BRITISH COLUMBIA
LABOUR RELATIONS BOARD**

August 22, 2008

By Fax

To Interested Parties

Dear Sirs/Mesdames:

Re: Canadian Affiliates of the Alliance of Motion Picture and Television Producers ("AMPTP") -and- B.C. Producers' Branch of Canadian Film and Television Production Association ("CFTPA") -and- B.C. and Yukon Council of Film Unions ("Film Council"), ACFC West ("ACFC"), Union of B.C. Performers ("UBCP"), Directors Guild of Canada - B.C. District Council ("DGC-BC")
(Section 41 Application - Case No. 57508/08)

This is further to my letter of June 6, 2008. Since that time I have continued to have informal discussions with parties on matters relating to the Section 41 Inquiry and in particular with respect to matters commented upon in my letter.

Based on those discussions, and in order to provide an impetus to attempts to find an acceptable outcome, especially with respect to the second issue identified in my letter, I am setting out some concepts arising out of those discussions. I hope they will provide a basis for more focused discussions with respect to the second issue.

As noted in my June 6 letter, voluntary recognition, rather than certification, is the norm in the B.C. film industry. Applications for certification which pre-dated the initiation of this Section 41 process raised concerns relating to predictability and certainty for producers. While the Film Council defends the right to apply for certification, it acknowledges that certification, as a means of access to collective bargaining, does not currently result in meaningful collective bargaining in the unique context of the film industry.

As further noted in my letter, some parties seek a means by which the legitimacy of voluntary recognition agreements can be established and respected, such that the "norm" of voluntary recognition in the film industry is protected. As was noted in my letter, there is a general understanding that very "low-budget" productions are likely to remain non-union. The parties also accept that there are a range of "mid-budget" productions that are likely to sign voluntary recognition agreements with either the Film Council or ACFC.

My discussions with parties have brought into focus shortcomings of applications for certification as a method for achieving meaningful access to collective bargaining in this industry. They have also highlighted the importance of voluntary recognition as a method for achieving that outcome.

Based on those discussions, I accept the importance of addressing the various interests/concerns relating to the second issue within the particular context of this industry. In that regard, it would appear to make sense to explore the following concept.

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With the exception of very low-budget productions and productions that fall within the exclusive zone, voluntary recognition agreements should remain the norm and should be respected and protected. In order to achieve that result, a test specific to this industry would need to be developed for establishing the validity of such an agreement, as against a subsequent application for certification.

Where a production in the mid-budget range has been made subject to a valid voluntary recognition agreement, that agreement would prevail over a subsequent application for certification for that production.

Where a producer of a mid-range production chooses not to enter into a voluntary recognition agreement with a union and a certification is granted with respect to that production, a process or method would need to be developed to ensure an expeditious collective bargaining outcome.

This concept raises a number of questions which require further discussion among and with the parties. For example, what would be an appropriate test for a valid voluntary recognition agreement in this industry? What would be an appropriate process or method for ensuring an expeditious collective bargaining outcome where an application for certification is granted? How should the "mid-budget" range, which generally should be subject to either voluntary recognition or certification, be demarcated or distinguished from the very low budget range of productions, which generally operate non-union?

I will contact the parties to arrange informal meetings to discuss these and related concepts and to explore the potential for a viable outcome to this issue.

Yours truly,

LABOUR RELATIONS BOARD



Michael Fleming
Associate Chair, Adjudication

MF/sn

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