

- (c) conduct educational programs to promote the production of commercials in Canada, improve auditioning and casting processes, and collaborate on the development of presentations to all levels of government that promote the engagement of Canadian talent and further the quality of the Canadian commercial production industry.
- 603 **Credits** Should any party involved in the production of a commercial receive credit, the Engager shall make best efforts to ensure that Performers in residual categories are also credited, for example, in award nominations or any public listing of production credits.

SECTION 7 – PREFERENCE OF ENGAGEMENT

- 701 **Preference of Engagement to ACTRA Members** The Engager agrees that preference of engagement will be given to members of ACTRA.
- 702 **Preference of Engagement to Canadian Resident Performers** The Engager agrees that the development and maintenance of a pool of professional Performers is a major requisite for the cultural development of Canada. The Engager further agrees that the opportunity to work in commercials is a vital element in the continued maintenance of such a pool of professional Performers.

Therefore, the engagement of Canadian resident Performers is a matter of course.

The Engager agrees that preference of engagement will be given to Canadian resident Performers. The Engager also recognizes that the availability of Performers in Canada requires a longer period of search for an individual Performer, and therefore it shall be the Engager's obligation, wherever possible, to undertake and provide a longer preparatory period for this purpose.

- 703 **Work Permits for Non-Canadian Performers**
- (a) Subject to Article 704, ACTRA shall issue a work permit for the engagement of a non-Canadian Performer if it is established that one or more of the following circumstances apply:
- (i) when Performers of international reputation appear as themselves to endorse a product or service;

- (ii) when an Engager or advertiser is committed to a long-term contract with a personality, which contract provides for use of the individual in advertising.
- (b) Subject to Article 704, ACTRA shall issue a work permit for the engagement of non-Canadian Performers if, after a thorough and conscientious search (as defined in Article 704), such Performer is not available in the Canadian talent pool and one or more of the following circumstances apply:
 - (i) when a Performer with particular physical attributes is required, e.g., perfect teeth for toothpaste commercials, ideal hair for shampoo;
 - (ii) when a Performer with special skills is required, e.g., mimic, acrobat, rope walker;
 - (iii) when a specific voice character is required, e.g., an authentic ethnic or regional dialect;
 - (iv) when a Performer is required in the Singer category;
 - (v) when no available Canadian Performer with the requisite combination of performance skill and appearance can be secured.

The provisions of Article 703 operate subject to the requirements from time to time of Canadian immigration laws and regulations and directives and regulations of the Canadian Radio-television and Telecommunications Commission.

- 704 **Procedure for Obtaining a Work Permit for a Non-Canadian Performer** Within two (2) business days of receipt of a complete written request for a work permit for a non-Canadian Performer, ACTRA will either issue the permit or advise the Engager in writing concerning the reason(s) for the refusal to issue a permit. In filing the written request for a work permit, the Engager must provide full documentation concerning the application, including the following:

- (a) a citation of the circumstances (defined in Article 703) under which a permit is being sought;
- (b) documented evidence that the permit application fulfils one of the circumstances cited in Article 703;
- (c) a copy of the script/storyboard;

- (d) a picture and résumé of the Performer;
- (e) in the circumstance of Article 703(a)(i) above, documented evidence of the Performer's international reputation;
- (f) in the circumstance of Article 703(a)(ii) above, a letter from the Engager or advertiser confirming the long-term contract with the personality.
- (g) In the circumstance of Article 703(b) above, documented evidence of a thorough and conscientious search for the Performer in Canada must be provided. A "thorough and conscientious search" is defined as a minimum of three (3) casting sessions (excluding recall auditions) in two (2) or more Canadian production centres. The director and/or a key member of the Engager's team shall attend each of the auditions and sign and date the audition report form. Where the audition takes place in a centre where the production is not taking place, only the Casting Director will be required to sign and date the audition report form. All audition report forms, along with a description of the type of Performer required and, in the case of a thorough and conscientious search, copies of the audition tapes, will be forwarded with the application for a permit.

Upon receipt of a negative decision from ACTRA, an Engager may appeal such decision by referring the matter to a single Arbitrator. Following a brief presentation (no more than 30 minutes) of evidence from each of ACTRA and the Engager, the Arbitrator will determine whether the permit was properly refused according to the provisions of this Agreement, and specifically according to Articles 703(a) and (b) above.

The arbitration proceedings shall commence within two (2) business days of receipt of the written request to proceed to arbitration (except if an extension of time period is agreed to by ACTRA and the Engager). The cost of the Arbitrator shall be borne equally by the Engager and ACTRA. Arbitrators shall be chosen by the parties to hear the matter, depending on availability (list of Arbitrators to be agreed upon).

705 Work Permits for Canadian Non-members

- (a) **Employees of Advertising Agencies** Except for members of ACTRA, employees of the advertising agency or the video production house or members of the employee's immediate family shall not be engaged as Performers in television or radio commercials in which such agency or video production house is involved.

- (b) **Testimonials** Non-members may be engaged to appear as themselves to endorse or give a testimonial about a product or service in television or radio commercials.
 - (c) **Radio Commercials** The Engager agrees that only Members or Apprentice Members of ACTRA shall be engaged as Single Voice/Solo Singer and Multiple Voice/Group Singer Performers in radio commercials, except that non-members may be engaged to appear as themselves to endorse or give a testimonial about a product or service. Notwithstanding the foregoing, but consistent with the principles expressed in Section 702, work permits may be issued to non-members in the Singer categories after a review of the audition forms.
 - (d) **Procedure for Application for Work Permit** If after auditions the Engager establishes that a Performer of the type required is not available within the ACTRA membership, upon provision by the Engager to ACTRA of details of all Performers auditioned or considered, ACTRA shall issue a work permit for the engagement of a Canadian non-member in a television commercial.
- 706 **Exclusions** The following persons shall be excluded from the terms and conditions of the NCA, except for the provisions of Article 1217, Accident on Set Insurance, where applicable.
- (a) **Employees of the Advertiser**
 - (i) Executive officers of companies, such as Chief Executive Officer, President, Chairperson of the Board or other equivalent title, when they appear as themselves in a commercial for their company. Such officers shall be identified.
 - (ii) Employees at their usual place of business, engaged in their regular employment, where it would be considered unsafe to replace them with an ACTRA member.
 - (iii) Employees specifically making or representing a claim, e.g., "I work for (company name) and I care because I own the company."
 - (b) **Lottery/Contest Winners** and members of their immediate families (partner and children), whose winnings exceed ten (10) times the Session Fee (\$7,500) for a Principal Performer, pursuant to Article 1202. This exclusion shall be used for one commercial only.

- (c) Persons appearing as themselves in a situation where they are unscripted and truth in advertising (inclusive of the Competition Act and the Canadian Code of Advertising Standards) is required.

707 **Members of the Public Waiver** The Parties agree to a waiver regarding coverage of members of the public in commercials, the intent of which is to increase production volumes under the NCA. This waiver will be monitored by the parties throughout the term of the NCA at Quarterly Meetings, specified in Side Letter #4. This waiver will not apply to those persons who are cast and/or who are scripted for the commercial.

An Engager may film or record activities of persons in public without covering such persons under the NCA, provided that such persons are neither scripted to speak any dialogue nor cast for the commercial. The Engager shall pay for a waiver in the amount of two hundred dollars (\$200.00) for the use of members of the public to appear in one (1) commercial. At least two (2) business days prior to the production of a commercial in which the Engager wishes to shoot undirected/unscripted scenes, the idea or outline for the commercial shall be provided to ACTRA. Provided that one of the criteria outlined below is met, the waiver for use of members of the public shall be considered 'automatic'. Only one (1) commercial (including Alternate Versions, per Article 1902) shall be made from material recorded at an event where such a waiver applies.

Criteria:

- (i) **Undirected Background Scenes**, per Article 2204 (a).
- (ii) **Undirected/Unscripted Scenes** Such scenes can include members of the public reacting to an event, provided that the event is not staged for the purposes of making a commercial. Members of the public shall not be notified in advance that a commercial is being made. At the time of the event, members of the public may be notified that the event is being recorded.
- (iii) **Live Events** Live Events are events attended by at least twenty (20) persons who are neither hired nor cast by the Engager to attend the event.

However, such Live Events

- (1) shall not be staged for the purpose of producing a commercial; and
- (2) non-covered participants at the live event shall not receive individual direction but may be directed as a group.

- (iv) **Person on the Street Commercials** A ‘Person on the Street Commercial’ means a commercial where an interviewer interviews people on the street, at public venues or at live events, and asks them questions or makes statements or gestures to elicit a response or reaction from them. Any person(s) appearing (voice- over or on screen) in the capacity of interviewer shall be an ACTRA member.
- (v) **Hidden Camera Commercials** A ‘Hidden Camera Commercial’ means a commercial comprising footage captured by a hidden camera(s) without direction to the individual(s) being filmed. An individual appearing in such footage shall be excluded from the NCA. Any person(s) appearing (voice-over or on screen) in the capacity of interviewer shall be an ACTRA member.

As a material condition of this waiver, the Engager shall notify ACTRA that it is applying the waiver and will at the same time provide ACTRA with an Intent to Produce. If the waiver does not meet one of the above criteria, the Engager may still apply for a waiver pursuant to Article 106, Extraordinary Circumstances.

- 708 **Violations of Section 7** A violation of the intent of any of these Articles may be referred for disposition to the Joint Standing Committee under Section 34.