



**A NEW NATIONAL COMMERCIAL AGREEMENT (NCA)
ACA/ICA Proposal to ACTRA
September 11, 2023, at 15h00**

Proposals are made without prejudice and are perishable in the event of a labour dispute. ACA/ICA reserves the right to modify, amend and make further or different proposals. E & O excepted.

History

Since the 1960s there has been a commercial agreement in place between the union the Alliance of Canadian Cinema, Television and Radio Artists (ACTRA) and a joint negotiating team of the Association of Canadian Advertisers (ACA), representing advertisers with an interest in engaging advertising for their products or services, and the Institute of Canadian Agencies (ICA), representing advertising agencies responsible for creating advertisements on behalf of their clients, the advertisers.

This agreement seeks to set the minimum terms and conditions of hiring Canadian performers for their services in advertising. Negotiations on these terms takes place approximately every 3 years. These terms are known as the National Commercial Agreement (NCA).

- To benefit from the NCA, and access ACTRA talent, an advertiser or advertising agency becomes a “signatory” by signing a Letter of Adherence to the NCA.
- Becoming a signatory means exclusively using ACTRA members for all the signatory’s productions and not using non-union performers. In return ACTRA agrees to provide exclusive access to its members to signatories.
- The NCA gave commercial advantage to signatories, as it was the only way to access the high-quality talent only available from ACTRA performers.
- No advertiser has ever been a signatory to the NCA, instead accessing Canadian performers via an advertising agency.

The issue

In 2008 the parties agreed to support a method for Canada to welcome productions from companies from outside Canada who wanted to produce in Canada; this included creating a way for those non-Canadian companies to access and hire union (ACTRA) performers. Article 3005 of the NCA was amended to support these productions, by allowing non-Canadian commercial producers a mechanism to gain temporary access to ACTRA talent, by using proxy-NCA signatory status of a payroll company versus becoming full signatories to the NCA or requiring full commitment to ACTRA talent. The problem arose with how this section was administered:

**A NEW NATIONAL COMMERCIAL AGREEMENT (NCA)
ACA/ICA Proposal to ACTRA
September 11, 2023, at 15h00**

Proposals are made without prejudice and are perishable in the event of a labour dispute. ACA/ICA reserves the right to modify, amend and make further or different proposals. E & O excepted.

- ACTRA solely controls the payroll company access to the NCA via contracts agreed with them - neither the advertising agencies nor the advertisers nor ACTRA members have any clear line of sight on when, how or with whom Article 3005 is being applied.
- In addition to permitting access as intended to Canadian performers for non-Canadian commercial producers, since 2008, ACTRA has allowed the payroll companies to provide temporary NCA access to Canadian advertisers, advertising agencies and technology companies. This created a "back door" access to ACTRA talent, allowing non-union Canadian agencies and companies to access ACTRA talent on individual projects, without requiring them to become NCA signatories or fulfilling the same ACTRA obligations as required of NCA signatories. This has had negative competitive consequence for the signatory advertising industry.

The Impact of the “Back Door”

Since 2008, no new Canadian agency has become a signatory to the NCA, they don't need to. They can access ACTRA performers when needed via a payroll company and/or use non-union talent when they choose, having a negative impact on traditional industry participants who lose competitive ability as their NCA signatory commitment restricts their competitive engagement and pricing. Over the 15 years that this back door has been available, work has moved from union performers to non-union performers, following the lower costs as allowed by ACTRA. In turn, this has grown the quality of the non-union talent pool as performers followed the work and expanded their knowledge and experience without union-based skill development.

Prior to the current dispute, it is estimated that non-union commercial work accounted for over 80% in BC*¹ and 50% in Ontario*². With advertisers not being signatory to the NCA, they can choose cost efficiency in the union and non-union financials in their choice of agency. Over those 15 years, advertisers have moved their advertising work from those advertising agencies that became signatory to the NCA prior to 2008 to non-signatory agencies. Today clients ask for the agency's signatory status as part of their pitch process, many ruling signatory agencies out of shortlists.

- It is now a commercial disadvantage to be a signatory to the NCA. This is damaging for agencies, performers and ACTRA.

*1 ACTRA Data reported to ICA and ACA 2017

*2 ACA/ICA research February 2022



**INSTITUTE OF
CANADIAN
AGENCIES**



Driving
Marketing
Success

A NEW NATIONAL COMMERCIAL AGREEMENT (NCA)

**ACA/ICA Proposal to ACTRA
September 11, 2023, at 15h00**

Proposals are made without prejudice and are perishable in the event of a labour dispute. ACA/ICA reserves the right to modify, amend and make further or different proposals. E & O excepted.

Objective of the ACA/ICA

Following extensive industry consultation, the objective is to negotiate a modernized NCA with ACTRA. The ICA, its member agencies and ACA recognize the value of ACTRA performers. The new NCA must provide exclusivity of access to signatories, and a move toward operational consistency and business equity between signatory and non-signatory agencies so that signatory agencies can begin to become financially competitive. The new NCA must also recognize the evolution of the industry challenge and embrace new initiatives determined to deliver both societal and industry benefit.

Proposals

To modernize and bring equity to the market the ACA/ICA makes the following proposals to ACTRA and its members.



A NEW NATIONAL COMMERCIAL AGREEMENT (NCA)

**ACA/ICA Proposal to ACTRA
September 11, 2023, at 15h00**

Proposals are made without prejudice and are perishable in the event of a labour dispute. ACA/ICA reserves the right to modify, amend and make further or different proposals. E & O excepted.

Exclusivity of Access to ACTRA Performers.

Remove Article 3005 Relationship with Non-Signatory from the NCA and replace it with wording that guarantees access to ACTRA Performers and the terms of the NCA to direct signatory commercial clients and advertising agencies only. No access will be granted to the NCA terms or ACTRA member Performers without signing the Letter of Adherence contained in this agreement.

Terms and Remuneration

1. NEW Minimum Fees and Rates: Effective on ratification of this new NCA, there will be a general **increase of eight percent (8%)** in all fees and rates, excluding those new rates detailed below.
2. **Digital Media Rate Increase for Performers**

Digital	Principal	Silent On Camera/Stunt	Voice/Solo Singer	Group Singer
1 Year	\$ 2,000	\$ 2,000	\$ 1,500	\$ 550
6 Months	\$ 1,000	\$ 1,000	\$ 800	\$ 350
13 Weeks	\$ 650	\$ 650	\$ 425	\$ 200
4 Weeks	\$ 450	\$ 450	\$ 250	\$ 150

3. **TV/Digital Media/Out of Home (Video) Bundle Pilot Project**

TV/Digital	Principal	Silent On Camera/Stunt	Voice/Solo Singer	Group Singer
1 Year	\$ 6,000	\$ 4,750	\$ 3,750	\$ 1,850
6 Months	\$ 3,500	\$ 2,500	\$ 1,850	\$ 1,000
13 Weeks	\$ 2,400	\$ 1,770	\$ 1,310	\$ 670
4 Weeks*	\$ 575	\$ 380	\$ 280	\$ 180

*4-Week Use option is for consecutive weeks with no Conflict, and no Dormancy.

**A NEW NATIONAL COMMERCIAL AGREEMENT (NCA)
 ACA/ICA Proposal to ACTRA
 September 11, 2023, at 15h00**

Proposals are made without prejudice and are perishable in the event of a labour dispute. ACA/ICA reserves the right to modify, amend and make further or different proposals. E & O excepted.

4. National Low Budget Digital and Television Pilot Project to drive work to ACTRA.

We are proposing amendments to the low budget pilot project to include low budget television productions. A 2023 survey of the agency sector and production specialists estimated that 20-25% of commercial production for TV in Canada falls below \$300,000. Talent for this level of budget is almost always non-union. The opportunity will be to bring this work to ACTRA members, while at the same time allowing signatory agencies to compete with non-signatory agencies and persuade those agencies to become signatory:

- a. Inclusive of both Session and Media Use
- b. Where production budget is under \$300,000

	1 Year	6 Months
Principal Performer	\$4,500	\$2,650
Seen on Camera / Stunt	\$3,250	\$1,850
Voice Over / Solo Singer	\$2,500	\$1,475

Non-residual categories:

- Demonstrator – \$500
- Background – \$360
- Group Background – \$180

5. National Low Budget Digital Only where production budget is between \$75,000 and \$150,000.

PP –\$1500	1 Year Use
SOC –\$1500	1 Year Use
Voice Over –\$1050	1 Year Use
Demonstrator –\$440	
Group Singer –\$450	1 Year Use
Background –\$360	
Group Background - \$180	



**A NEW NATIONAL COMMERCIAL AGREEMENT (NCA)
ACA/ICA Proposal to ACTRA
September 11, 2023, at 15h00**

Proposals are made without prejudice and are perishable in the event of a labour dispute. ACA/ICA reserves the right to modify, amend and make further or different proposals. E & O excepted.

6. National Low Budget Digital Only where production budget is \$75,000 or less.

PP –\$ 1,020	1 Year Use
SOC –\$ 1,020	1 Year Use
Voice Over –\$ 714	1 Year Use
Demonstrator –\$ 357	
Group Singer –\$ 306	1 Year Use
Background –\$ 294	
Group Background - \$ 146	

In addition, we are proposing some changes to other sections of the NCA to clarify and/or simplify or to address issues that have been under discussion between the parties throughout negotiations.

Extraordinary Circumstances

- The Parties to this Agreement agree that in extraordinary circumstances the conditions provided herein may be modified by mutual agreement. An Engager intending to produce a commercial that requires special consideration, because the nature of the commercial is such that the Agreement provisions were not designed to cover it, may seek this mutual agreement by applying in writing to the Parties in advance of the production. The application will fully outline the circumstances and specific relief sought. One copy of the application will be filed with each the ICA and ACA and one copy will be filed with the National Executive Director of ACTRA. Copies of written decisions respecting the application will also be filed with each the ICA/ACA and the National Executive Director of ACTRA.
- The following will be automatically deemed to be extraordinary circumstances whereby the NCA will not apply:
 - the production is less than \$25,000;
 - the production will only be used on social media, defined as content created solely for the purposes of websites and applications that enable users to create and share content; and/or
 - none of the content for the production has been shot by the Agency.
- The Parties agree that during the Term, productions involving shots requiring 4+ camera moves and/or having 6+ PP and/or SOC roles (not including celebrities) that do not physically interact on-screen with the product will be deemed to be extraordinary circumstances approved by ACTRA and will require a



**INSTITUTE OF
CANADIAN
AGENCIES**



Driving
Marketing
Success

**A NEW NATIONAL COMMERCIAL AGREEMENT (NCA)
ACA/ICA Proposal to ACTRA
September 11, 2023, at 15h00**

Proposals are made without prejudice and are perishable in the event of a labour dispute. ACA/ICA reserves the right to modify, amend and make further or different proposals. E & O excepted.

relief on costs, resulting in National Low Budget Digital and Television Pilot Project Rates applying, as detailed in section 4 above.

Exclusions

The following persons will be excluded from the terms and conditions of the NCA, except for the provisions of Article 1217, Accident on Set Insurance, where applicable.

- Employees of the Advertiser and/or their Agencies.
- Lottery/Contest Winners and members of their immediate families (partner and children).
- Persons appearing as themselves.
- Political Candidates or public officials, including their spouse/partner/children and persons providing unscripted endorsements promoting a candidate or political party.

Members of the Public Waiver

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 will 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) campaign. At least two (2) business days prior to the production of a commercial in which the Engager wishes to shoot undirected/unscripted scenes, including, but not limited to, live events, background scenes, on the street, or hidden camera commercials, the Engager will provide ACTRA with the waiver.

**A NEW NATIONAL COMMERCIAL AGREEMENT (NCA)
ACA/ICA Proposal to ACTRA
September 11, 2023, at 15h00**

Proposals are made without prejudice and are perishable in the event of a labour dispute. ACA/ICA reserves the right to modify, amend and make further or different proposals. E & O excepted.

Diversity, Equity, and Inclusion

Joint Advisory Committee (NEW)

ACTRA and the ACA/ICA will create a joint advisory committee whose composition will be inclusive, reflecting the principal of diversity, and will be made up of an equal number of representatives from ACTRA and the ACA/ICA. Each will bear their own costs associated with the operation of the committee.

ACTRA and the ACA/ICA will create a joint advisory committee of diverse members empowered to review and propose solutions for the NCA. The committee will be comprised of 5 members from ACTRA and 5 volunteers from ACA/ICA. It will also include a third-party DEIB specialist, which will be jointly appointed and funded 50/50 by ACTRA and ACA/ICA.

The committee's objectives will be to:

1. Identify exclusionary provisions, language, and clauses in the NCA and/or systems within the industry and the union that create barriers to equal opportunities for Performers;
2. Recommend steps and solutions for the promotion of inclusion and belonging;
3. Seek to promote commercials that reflect, in the aggregate, the wide and diverse spectrum of Canadian life, portraying individuals of various ages, races, gender expressions, religions, sexual orientations, backgrounds, neuro or physical diverse abilities and appearances;
4. Meet with Casting Directors and Agents to discuss measures to increase casting that better reflects diversity; ACTRA will provide the ACA/ICA with access to its database of diverse members;
5. Report back to the Parties with an action plan within six months after NCA ratification, and regularly thereafter; and
6. Any recommendations approved by the joint advisory committee will be published as Bulletin's to the NCA, with the intent of fully incorporating those changes into the NCA.



**INSTITUTE OF
CANADIAN
AGENCIES**



Driving
Marketing
Success

A NEW NATIONAL COMMERCIAL AGREEMENT (NCA)

**ACA/ICA Proposal to ACTRA
September 11, 2023, at 15h00**

Proposals are made without prejudice and are perishable in the event of a labour dispute. ACA/ICA reserves the right to modify, amend and make further or different proposals. E & O excepted.

Conditions for Makeup, Hairdressing and Wardrobe (NEW)

All makeup, hairdressing devices (e.g., sponges, brushes) and products will be provided and will not be expired or used on more than one individual unless properly sanitized between uses. All wardrobe will be appropriately cleaned between wearings.

Makeup and Hairdressing Professional (NEW)

The Engager will ensure that hair and makeup professionals have the skill and ability to style hair, apply make-up, and provide the appropriate products and equipment for all Performers, particularly for Black, Indigenous and Persons of Colour. Performers will not be required to provide their own hair products, make-up, etc. When a qualified film hair and makeup stylist is not available, the Engager will ensure that the production company will provide a qualified professional from within the general hair and makeup industry.

Equal Opportunity Policy (NEW)

In connection with the engagement and treatment of Performers in all work categories in commercials, Engagers will not discriminate against any Performer based on age, sex, race, creed, colour, national origin, ancestry, citizenship, sexual identity, gender expression, ethnic origin, place of origin, marital status, family status or disability, or any other ground that is prohibited by law.

The Engager will cast Performers in accordance with this policy, in all types of roles and work categories, so that the composition of Canadian society may be portrayed realistically. ACTRA will make every effort to facilitate engagements in accordance with this policy, in all types of roles and work categories, so that the composition of Canadian society may be portrayed realistically. Commercials should reflect the wide spectrum of Canadian life.

Consistent with the foregoing and with the needs of the advertiser, reasonable efforts will be made in accordance with this policy to create equal opportunity in the casting of all work categories in commercials (on and off camera), thereby creating fair, non-discriminatory and non-stereotyped engagement opportunities. In respect of any role that requires a Performer to portray a character with a certain ethnicity and/or race, the Engager agrees to explicitly include these requirements in the casting breakdown, if known, to enhance the opportunity for representative Performers to audition for the role.



**INSTITUTE OF
CANADIAN
AGENCIES**



Driving
Marketing
Success

**A NEW NATIONAL COMMERCIAL AGREEMENT (NCA)
ACA/ICA Proposal to ACTRA
September 11, 2023, at 15h00**

Proposals are made without prejudice and are perishable in the event of a labour dispute. ACA/ICA reserves the right to modify, amend and make further or different proposals. E & O excepted.

Performers living with Disabilities (NEW)

In respect of any available roles that require a Performer to portray a person living with a disability, the Engager or its representative will liaise with ACTRA prior to casting these roles. The Engager will take appropriate steps to ensure Performers with disabilities have a reasonable opportunity to audition for such roles. Both at auditions and in any production, the Engager will take appropriate steps to ensure Performers with disabilities are accommodated in accordance with and to the extent required by the provision of any legislation applicable to disability or accessibility, including the following:

- The Engager will use casting, production facilities, transportation and lodging that are accessible for Performers living with disabilities.
- In respect to any role that requires a Performer to portray a character living with a disability, the Engager agrees to include these facts in the casting breakdown, if known, to enhance the opportunity for Performers living with similar disabilities to audition for the role.
- For any role for which a deaf or hearing-impaired Performer is sought, the Engager will provide a qualified sign language interpreter during the audition. For any role in which a deaf or hearing-impaired performer is cast, the Engager will provide a qualified sign language interpreter throughout the engagement.



**INSTITUTE OF
CANADIAN
AGENCIES**



Driving
Marketing
Success

**A NEW NATIONAL COMMERCIAL AGREEMENT (NCA)
ACA/ICA Proposal to ACTRA
September 11, 2023, at 15h00**

Proposals are made without prejudice and are perishable in the event of a labour dispute. ACA/ICA reserves the right to modify, amend and make further or different proposals. E & O excepted.

Artificial Intelligence

The risk posed by Artificial Intelligence to the entire industry must be taken seriously. Whether this be the use of creative work by agency art directors or copywriters, strategic thinking by agency planners, or the image or voices of performers, this is our craft and livelihood.

Joint AI Action Committee (NEW)

ACTRA and the ACA/ICA will create a joint action committee, the composition of which will be made up of an equal number of representatives from ACTRA and the ACA/ICA. Each will bear its own costs associated with the operation of the committee.

The committee must include legal and lobbying experts, who will be jointly appointed and funded 50/50 by ACTRA and ACA/ICA.

The committee's objectives will be to:

1. Identify how Canadian Copyright and Personal Image laws need to change to protect agencies and performers;
2. Lobby the Canadian Federal Government to insist these identified changes are made to protect Canadian creative and performance talent;
3. Inform the Canadian public of the implications on their ideas and jobs posed by unregulated AI; and
4. Report back to the Parties with an action plan as soon as possible after NCA ratification, and regularly thereafter.



**INSTITUTE OF
CANADIAN
AGENCIES**



Driving
Marketing
Success

A NEW NATIONAL COMMERCIAL AGREEMENT (NCA)

ACA/ICA Proposal to ACTRA September 11, 2023, at 15h00

Proposals are made without prejudice and are perishable in the event of a labour dispute. ACA/ICA reserves the right to modify, amend and make further or different proposals. E & O excepted.

Promoting ACTRA talent

Recognizing the value ACTRA performers bring to great advertising and repairing the damage caused by the back door into the NCA, it is vital that we attract non-union performers into ACTRA.

The ACTRA Virtual Agency (NEW)

The ICA will create a virtual agency to gather around the ACTRA team and develop a creative campaign to encourage performers to join and stay in ACTRA membership. The virtual agency will comprise some of Canada's best and award-winning creatives, media planners, producers, and strategists.

The virtual agency's objectives will be to:

1. Understand the decision-making process of performers in joining or not and staying or not with ACTRA;
2. Create multi-channel messaging and creative that showcases ACTRA membership value; and
3. Identify media partnership possibilities to deliver the messaging.