ICA FACT CHECKS ACTRA MISINFORMATION
July 18, 2022

ACTRA has had a lot to say about the ICA and its member agencies since our National Commercial Agreement (NCA) expired in April 2022. Much of the ACTRA rhetoric is simply not true. If you are wondering how to separate fact from fiction here are the issues from an ICA perspective.

FALSE: ACTRA says that the NCA is a collective agreement.

FACT: The ICA believes the NCA is a commercial contract that has expired. ACTRA has filed grievances and an application to the Ontario Labour Relations Board (OLRB). The OLRB will begin Case Management on October 12, 2022. If the OLRB determines the NCA is a contract and not a collective agreement, ACTRA's grievances will be found to be without merit.

FALSE: ACTRA says that the ICA wants to “bust the union” with an opt-in/opt-out agreement.

FACT: ACTRA has promoted opt-in/opt-out privileges for non-signatory agencies since 2007 by allowing agencies, clients, and media companies to access the NCA through third party payroll companies. The ICA wants its signatory agencies to have the same fair and equal access to ACTRA performers granted to non-signatories. One set of rules for everyone where everyone wins.

FALSE: ACTRA says the ICA and its member agencies are engaged in an illegal lockout.

FACT: ACTRA refuses to let performers work with ICA agencies. We have been trying to renew commercials and pay performers, but ACTRA leadership is blocking these payments by refusing to accept the money and instructing performers to refuse to participate in renewals.

FACT: ACTRA is blocking ICA access to performers by instructing third-party payroll companies to refuse to accept payment or provide this service which is the path non-signatories take to talent. ICA agencies have no alternative but to cast non-union to meet their client’s schedule. ACTRA has extended this ban beyond former signatories to include all ICA member agencies.

FALSE: ACTRA says the ICA does not care about gig working performers, their pay, and conditions.

FACT: The ICA and its member agencies respect and value ACTRA performers. During negotiations ACTRA rejected many performer-focused proposals by the ICA including an immediate 8% pay rise.
across the NCA, investments in DEI (including expertise in hair and make-up for BIPOC performers) and a $150,000 campaign to attract new members to ACTRA.

**FALSE: ACTRA says that the ICA and its member agencies did not care about what performers had to endure during the heights of the pandemic.**

FACT: ICA members partnered with ACTRA to create safe working conditions during the pandemic. ACTRA actively campaigned to keep commercial production included as an essential service. The ICA worked with ACTRA, the production associations, Government, and health experts to ensure the best of protocols were in place to keep performers, production, and agencies at work.

**FALSE: ACTRA says the ICA declined to come back to the table and work towards a modernized and simplified agreement during the Ontario Labour Relations Board (OLRB) meeting of July 12.**

FACT: ACTRA demanded preconditions to a return to the table, namely the removal of any discussion on providing fair and equal access to the agreement for all agencies. We offered discussion without preconditions from either side, ACTRA refused leaving the OLRB’s Labour Relations Officer no option but to recommend that the parties proceed to Case Management.

For further information or advice, please contact Scott Knox, ICA President & CEO scott@theica.ca.
ICA RESPONDS TO ACTRA STATEMENTS
June 28, 2022

The ICA supports the benefit of a National Commercial Agreement (NCA) with ACTRA that sets the terms of engagement for creative agencies on behalf of advertisers and performing artists.

We regret that ICA and ACTRA were unable to reach agreement in recent negotiations that aimed to modernize the contract and create a level playing field for all Canadian agencies in the way they are permitted to access ACTRA talent.

The NCA that ICA could not agree to renew is unfair to signatory agencies who are obliged to use ACTRA talent on unequal terms compared to non-signatory agencies. Non-signatories can “opt in” and “opt out” of the NCA at will and use ACTRA talent when they wish while retaining the right to work non-union for other productions when it suits them or their clients to do so. These agencies can access ACTRA talent by working through third-party payroll companies who are signatory to the NCA to act as their proxies as needed.

Non-signatories are using a clause that was added to the NCA in 2007 to open opportunities for ACTRA talent to work with international agencies. ACTRA is misusing this clause to permit non-signatories to engage ACTRA talent as convenient without any further obligation to use union talent while at the same time ACTRA requires signatories to only, and always, use ACTRA talent. This double standard enables non-signatories to undercut union rate cards at will to gain competitive advantage. Canadian entities operating this way include non-signatory agencies, in-house client agencies and media companies.

The status quo that ACTRA has enabled is bad for signatory agencies and ACTRA talent. That is why so few new Canadian agencies have become signatory to the NCA since 2007. Why sign an NCA that binds you to using only ACTRA talent when ACTRA lets non-signatories “opt in” and “opt out” at will? Opportunities for signatory agencies and ACTRA talent are declining because ACTRA has created an environment that rewards non-signatory agencies that work non-union. In the past six years union performance in the ad sector has declined 40%.

The ICA’s objective in negotiating a renewed NCA was to close the “opt in” and “opt out” route and ensure more Canadian agencies signed the NCA or, failing that, extend these privileges to all agencies to create a level marketplace. Either outcome would be fairer than the status quo.

ACTRA opted to maintain the status quo in partnership with the ACA and has launched a pressure campaign against the ICA, instead of trying to solve the fundamental problem with the application of
the NCA. That pressure campaign includes spreading misinformation, refusing to permit ACTRA talent to work with ICA agencies and legal challenges that the ICA will defend with the objective of bringing more clarity and transparency to the issues.

ICA agencies value our many long-standing relationships with ACTRA talent and admire the award-winning performances they have delivered for client brands. ICA agencies want to use union talent but are currently blocked from doing so by ACTRA leadership.

There is a way out of this impasse. Since ACTRA has been promoting the use of third-party payroll companies as a gateway to access the NCA, why not negotiate a new NCA with these payroll companies as they now represent the biggest growth channel of income for ACTRA members? Why not permit all clients and agencies to access ACTRA talent only through the signatory payroll companies, in accordance with the terms and conditions of an NCA that is negotiated directly with these companies? This way there is one clear route to using ACTRA performers for Canadian agencies which would be fair for all.

All members of the advertising community – including ACTRA and its members -- would benefit from a modernized NCA that provides fair and equal access to ACTRA talent.

For further information or advice, please contact Scott Knox, ICA President & CEO scott@theica.ca.