

NATIONAL COMMERCIAL AGREEMENT

ACTRA Negotiations Status as of September 21, 2023



**INSTITUTE OF
CANADIAN
AGENCIES**



ACTRA

NATIONAL LOW BUDGET DIGITAL AND TELEVISION PILOT PROJECT

- ICA is proposing to **expand the AOPP** (current low budget Digital Pilot Project) to **include Television** and apply to production **budgets up to \$300K**.
- These proposed rates would be **inclusive of Session and Use** for **all media** in Canada for **1 year**.
- **Cuts** to Performers' rates range from **53 to 57%**.

	2023-24 NCA Rates	ICA Proposal	% Cut
1 Year			
Principal Performer	\$10,219.00	\$4,500.00	56%
Seen on Camera/Stunt	\$7,572.92	\$3,250.00	57%
Voice Over/ Solo Singer	\$5,598.19	\$2,500	55%
6 Months			
Principal Performer	\$5,621.75	\$2,650.00	53%
Seen on Camera/Stunt	\$4,298.71	\$1,850.00	57%
Voice Over/ Solo Singer	\$3,162.72	\$1,475.00	53%

- There is **no such thing as low budget television**. Production costs are going up – **Performers should not subsidize inflation or increased production costs**.
- Their proposed rates, **inclusive of Session and ALL MEDIA USE** (TV, Digital, Out of Home) in **Canada** would result in a **53-57% cut to Performers' current rates**.
- These rates are **lower than** those currently being offered to **non-union commercial Performers**.
- **ICA falsely states** that **20-25%** of commercial production for TV in Canada **falls below \$300K**. However, sample commercial budgets provided by the Producers during bargaining indicate the **majority of commercials** would **fall below** the **300K budget tier**. A **300K budget** would **ultimately encompass most commercial productions**.
- It is worth pointing out that the Pass provided by the ICA includes reference to what is typically referred to as **Silent on Camera** to **Seen on Camera**. The intention behind this is unknown and their application is inconsistent throughout their Proposal Pass.

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TWO-TIERED LOW BUDGET DIGITAL PILOT PROJECT SIDE LETTER
(TO REPLACE ACTRA ONLINE OPPORTUNITY PILOT PROJECT - AOPP)

- The ICA has proposed 2 additional tiers in the low budget digital medial pilot project (AOPP):
Tier 1: \$75K to \$150K | Tier 2: \$75K or less

- \$150K is NOT low budget Digital.**
- Performers engaged on commercials produced for **Digital Use** will likely see **these rates**, which **include Session and Use**, as the **new minimum**, and that is **UNACCEPTABLE**.
- While ACTRA could agree to 2 separate low budget tiers – up to \$75K and \$75,001 to \$100K - An increase to **\$150K** would capture **most Digital media production** and eliminate Performers being compensated for Digital Media at the rate they've proposed in their Pass.
- The rates in the Low Budget Digital **\$75K currently exist** in the NCA (**AOPP**) and are **inclusive of Session and Use**.
- We've agreed to add a **second-tier budget amount up to \$100K** to recognize the **increased costs of production**. ACTRA is working with the Engagers but an increase to **\$150K is unreasonable**.

\$75K to \$150K - Low Budget Digital – Session + 1 Year Use

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	

\$75K or Less - Low Budget Digital – Session + 1 Year Use

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	

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DIGITAL MEDIA USE

Digital Only	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

- While the increase in Digital Media Use looks good, the reality is this proposal is **contingent** on the **entire proposal package**. The **Two-Tiered National Low Budget Digital Only*** proposal would **discount** these rates by almost **50%**.

\$2000 = \$1020

**Budget less than 150K, rates inclusive of Session & Use.*

- There is a real concern that if the ICA's proposal on **Low Budget Digital expands to \$150K** that **all Digital Media commercial production** could be covered by these **Low Budget Digital rates** thereby **negating the increased value** of Digital Media rates as they would infrequently be used.

Digital Media Use vs. Low Budget Digital

1 Year Rates	ICA Proposed Digital Rates (Use Only)	Current NCA Session Rates	ICA Proposed Low Budget Digital Tier 1 (Session + Use)	Tier 1 % Cut **	ICA Proposed Low Budget Digital Tier 2 (Session + Use)	Tier 2 % Cut **
Principal Performer	\$2,000	\$868.50	\$1,500	48%	\$1,020	64%
SOC/ Stunt*	\$2,000	\$868.50	\$1,500	48%	\$1,020	64%
Voice Over/ Solo Singer	\$1,500	\$611.50	\$1,050	51%	\$714	67%
Group Singer	\$550	\$274.50	\$50	45%	\$308	63%

**No Stunts allowed in current AOPP*

*** % Cuts include Session + Use*

**** Tier 1 - \$75K to \$150K | Tier 2 - \$75K or less*

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EXTRAORDINARY CIRCUMSTANCES

- The ICA is proposing that the **following scenarios** be 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 **recorded by the Agency**.

- The ICA is also proposing that any **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 **relief on costs**, resulting in **National Low Budget Digital and Television Pilot Project Rates** applying.

- **AKA Opting Out**
- These exclusions ICA are seeking could **exclude Social Media, Lifts and Edits** from any existing Commercial, **Influencers** or any Member or Non-Member **user-generated content, Stock Footage**, etc.
- *Currently **ACTRA** receives **Extraordinary Circumstance** requests to review and **approve**. The **ICA** is asking for **automatic approval** based on **criteria that they control and set** which is **PROBLEMATIC!***

- The only time an Engager would have to pay **minimum rates** is if their budget is **over \$300K** with **less than 4 camera moves**, and it's **produced through an Agency**. The number of commercials providing minimum rates would be so minimal – they would never be paid. Accepting the ICA's proposal would **establish a new minimum rate at 60% less** than the **current NCA rates**.
- This would mean that the ICA's proposed **National Low Budget Digital & TV rates** would apply to **every large cast commercial** (6+ PP or SOC).
- If a commercial qualifies under these EC's, the rates would be cut by **53-57%** from current NCA rates – *See above Low Budget TV Digital Rate Chart*.
- No matter how we have looked at this, the ICA is **proposing significant discounts to Performer rates for all commercials**. **Every scenario and budget** would have a **discount** applied to it. They are **proposing pathways** where **every scenario** of commercial budget would be able to **access rates that result in 60% cuts** to current NCA rates.
- There is a **deal in place with the ACA** that maintains **value** and **compensates performers**

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	<p>fairly. The ICA is looking at rates that are lower than the non-union world.</p> <ul style="list-style-type: none">• Commercials with up to 4 camera moves could capture a lot of commercials. Although this is not information that is shared with ACTRA, industry contacts have shared that it is not uncommon for commercials to have well above 4+ camera moves. Also, industry practice refers to this as “set up” rather than “moves”. This is very problematic as it is impossible to police and very subjective.• We fought hard for an inclusive definition of Digital Media. This would completely eliminate the rates Performers would be paid under articles 1820 / 803 (L&R).• ACTRA is prepared to talk about how to attract large cast commercials, but this is not the way to do it.
EXCLUSIONS	
<ul style="list-style-type: none">• The ICA wants to expand exclusions to include their own Agency staff and Advertiser employees.	<ul style="list-style-type: none">• The NCA currently excludes Advertiser employees such as CEOs to address the industry’s need for <i>Truth in Advertising</i> and employee Testimonials while putting fences in place to preserve the work opportunities for our members.• ICA wants to remove fences and expand the excluded Performers.

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ARTIFICIAL INTELLIGENCE (AI)

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| <ul style="list-style-type: none">The ICA proposes to assemble a committee and postpone discussions about the issue of AI and not implement any protections right now for Performers. | <ul style="list-style-type: none">ACTRA proposes concrete language to ensure that there is consent, control and compensation for Performers' voice or likeness, on and off camera.We don't need a committee – it's here! We need protections in place right now. |
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TERM OF AGREEMENT

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| <ul style="list-style-type: none">The ICA is offering an 8% general increase in all rates, excluding those in their Pass, for an undetermined term and using rates from year three of the 2017-2020 NCA as the base rate for this increase. | <ul style="list-style-type: none">Performers working under the NCA have not received an increase in rates from ICA since July 1, 2019.ICA's proposed 8% increase on the 2020 rates, prior to the lock-out, is equal to 1.4% per year, assuming a 3-year agreement that would expire in 2026.Under the NCA with the ACA, rates increased by 2% in 2022 and 2% again in 2023.As is typical in bargaining, ACTRA suggested discussions regarding the term length and wage increase be saved for the end of negotiations, so the entire package is taken into consideration.Although 8% looks like a big number, when reviewing the terms and details, it means nothing as the 8% doesn't apply to any of the rates in the ICA's pass and is on top of the 59% cuts they are seeking across the board. |
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EXCLUSIVITY OF ACCESS TO ACTRA PERFORMERS

- ICA has proposed the concept of removing **Article 3005** 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.**

- ACTRA has proposed amendments to 3005 which should fully and completely resolve the issue, on the understanding that this language reflects precisely what ICA has communicated is both necessary and acceptable. To date, the ICA has not agreed to the proposed language.
- The **language of 3005** has been the **subject of many sets of negotiations** and is in the agreement and **remains in the agreement** because **both parties** have agreed to it.
- In **2021** when the **ICA raised this language again, ACTRA agreed to tackle it** in bargaining.
- **In negotiations** in January/February of 2022, we **proposed the below language that their lawyer said looked good to them** and then they reneged on it.

3005 Exclusivity of Access to ACTRA Performers. Non-adherent Engagers shall not have access to ACTRA Performers. Adherent third-party payroll companies shall sign the letter attached hereto as Appendix "X" before being granted access to ACTRA Performers. All agreed and executed copies of Appendix "X" must be filed with ACTRA, ICA and ACA. These adherent third-party payroll companies, whether agencies, production companies or advertisers, shall then have the right to access ACTRA Performers for the sole purpose of working with non-adherent foreign Engagers, where the commercial is not intended primarily for the Canadian market. For clarity, non-adherent Engagers and non-adherent foreign Engagers producing commercials primarily for the Canadian market shall not have access to ACTRA Performers. Commercials produced under adherent third-party payroll companies shall not be transferred to any entity that is not an advertiser or a signatory engager.

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ITEMS AGREED TO EARLIER IN BARGAINING

A year ago, the **ICA and ACTRA** had **agreement** on **23 proposals**. The ICA is now coming back to us with language for proposals that were previously agreed to. We are not sure of the status on the other agreed to items.

ACTRA was really proud of the work the Bargaining Committee did to achieve improvements in language in the following areas:

- **DEIB**
 - Equal Opportunity Policy
 - Performers Living with Disabilities
 - Conditions for Make-up and Hair
 - Diversity, Equity, Inclusion & Belonging (DEIB) Committee
- **Auditions**
 - Virtual & Self-Tape Auditions
- **Callback Auditions** (increased Fee by 50%)
- **Additional Work Time (AWT) for Radio** (increased AWT to a 1 Hr Minimum)

SIMPLIFIED NCA

- In response to the **industry's needs**, **ACTRA** continues to be **committed** to building and growing a strong commercial jurisdiction, and a **simplified modernized agreement** is a key component to this work (*Website link to simplified NCA*).
- ACTRA staff, negotiating team, agents and members worked diligently **over the last year** to **simplify** and **modernize** the **language** and **rates**.
- ACTRA **presented** it to the **ICA** for consideration.