

**APPENDIX “K”  
NEGOTIATION PROTOCOL FOR  
THE NATIONAL COMMERCIAL AGREEMENT**

ACTRA

“ACTRA”

and

The Institute of Communications and Advertising

“ICA”

\_\_\_\_\_  
the “Engager”

**Agreement to Follow Terms of Protocol**

1. The undersigned Parties agree to the provisions of this Negotiation Protocol, which is attached as Appendix K to, and forms part of, the National Commercial Agreement (“NCA”). The provisions of this Negotiation Protocol shall apply to the Parties, including the Engagers, who are or shall become bound to the terms of this Negotiation Protocol or who have provided an Authorization under Paragraph 4. The terms of this Negotiation Protocol shall govern the process of collective bargaining for the renewal of this Agreement.
2. The terms and conditions of this Negotiation Protocol come into effect as of the date of execution of the NCA and shall remain in effect following expiry of the term of the NCA, in accordance with the terms herein.
3. ACTRA recognizes the Institute of Communications and Advertising (“the Association”) as the sole and exclusive bargaining agent for its Engager–members who execute this Negotiation Protocol at any time during the term of the NCA or who provide a signed Authorization.

**Written Authorization to Bargain**

4. The Institute of Communications and Advertising shall take concrete steps to obtain from its Engager–members executed Authorizations to bargain on their behalf with respect to the renewal of this NCA.
5. By June 1, 1999, ACTRA and the ICA shall send a jointly prepared letter to each Engager member to explain the terms of this Negotiation Protocol and the reasons why it is in the best interest of all Parties to provide same in the interest of industry stability. The said letter shall include a request that the Engager consider providing executed Authorizations.

6. The Authorization that each Engager shall be asked to execute shall include
  - 6.1 a requirement that each Engager–member agree that the ICA shall be its exclusive bargaining agent, authorized to bargain on its behalf in respect of the renewal of the National Commercial Agreement, and
  - 6.2 a requirement that each such member shall be bound by the terms and conditions of the Agreement, which is the result of collective bargaining between the ICA on the one hand and ACTRA on the other hand, subject to ratification in accordance with the bylaws or practices of each Party.
7. Each member providing such Authorization shall, as a condition of giving such Authorization, be bound by the decisions relating to the collective bargaining process made by the ICA on its behalf.
8. Once such Authorization is given, such member shall be precluded from negotiating separately with ACTRA or from entering into any agreement with ACTRA different from the NCA negotiated by the ICA and ratified by its members. Similarly, ACTRA shall be precluded from entering into any negotiations or reaching any agreements, with respect to any matters that are the subject of negotiations between the ICA and ACTRA, with any members of the ICA that have authorized the ICA to act on their behalf.
9. Except by prior agreement with the ICA, ACTRA agrees that for the term of the renewed NCA, and for the freeze period set out in Paragraph 13, it shall not enter into any agreement with any Engager that is bound by the NCA as a result of this Negotiation Protocol, at rates or terms more favourable to the Engager than those set forth in the renewed NCA. ACTRA has agreed to this provision in consideration of the fact that each signatory Engager and “any companies that it now or in the future controls and manages” (see Article 3001) shall be bound by the National Commercial Agreement. In the event that ACTRA does enter into such agreement, then the Engager(s) signatory to this Negotiation Protocol shall have the option of replacing the term so agreed upon with the similar term contained in the NCA.
10. Upon Notice to Bargain being given by either Party pursuant to Article 3502 (either party desiring to renegotiate shall give notice to the other party at least eight [8] months prior to the expiration date), the ICA shall deliver to ACTRA a list of all members on whose behalf the ICA has been

authorized to bargain. In like manner, ACTRA shall deliver to the ICA a list of Engagers that have executed this Protocol. Such list shall be delivered by the ICA within thirty (30) days of such notice having been given.

### **Negotiating Team**

11. ACTRA agrees to recognize the negotiating team appointed by the ICA as the sole bargaining agent for all Engagers that have authorized the ICA to act on their behalf in accordance with this Protocol.

### **Agreement to Bargain in Good Faith**

12. The Parties agree to meet within forty-five (45) days of notice having been given and to commence to bargain in good faith and to make every reasonable effort to enter into a new Agreement.

### **Freeze of Terms and Conditions of Expired NCA**

13. While bargaining continues, and until the right to strike or to lock out has accrued pursuant to this Protocol, the terms and conditions of the current NCA shall continue in full force and effect, and neither party shall threaten to alter any of the terms thereof. In particular, without limiting the generality of the foregoing, the Engagers shall not alter any rates or any other term of the current NCA or any right or privilege of the Performers in the bargaining unit or any right or privilege of ACTRA until the requirements of Paragraph 15 have been met, unless ACTRA consents to the alteration in writing.

### **Conciliation**

14. Where a Party to the NCA considers that reasonable efforts have been made to enter into a new NCA, the said Party may request the assistance of a conciliation officer. Such a request shall be made by the Party giving written notice to the other Party or Parties of its desire to obtain the assistance of a conciliation officer. Such notice shall contain the names of three persons whom the Party giving notice is prepared to accept as a conciliation officer. The proposed officers shall be neutral persons who have no direct interest in the subject matter of the negotiations, and who have not acted as employee, agent or advisor for either of the Parties or for an interested Party in any previous proceedings between the Parties or their members.
15. The Party receiving such notice shall reply in writing within ten (10) days, accepting the appointment of one of the conciliation officers suggested by the other Party or indicating that none of the suggested conciliation officers are acceptable. The Party responding may suggest alternative conciliation officers as part of its written response, and the Party giving

original notice of a request for conciliation shall either accept such alternative suggestion or, within ten (10) days of receipt of the notice, request the Federal Minister of Labour to appoint a conciliation officer as per the relevant provisions of the Canada Labour Code, as amended.

16. Where a conciliation officer has been agreed to by the Parties or appointed by the Federal Minister of Labour, such officer shall forthwith confer with the Parties and endeavour to assist them in entering into a new Agreement.
17. The Parties agree to cooperate with such conciliation officer and to make every reasonable effort to enter into a new Agreement.
18. After the Parties have met with such officer and have made every reasonable effort to enter into a new Agreement without success, either Party shall have the right to request a report from the conciliation officer. Such report shall be sent to all Parties and to the Federal Minister of Labour to advise the Parties that a new Agreement has not been made.
19. The Parties agree that the fees and expenses of such conciliation offer, if not paid by the Federal Department of Labour, shall be paid fifty percent (50%) by ACTRA and fifty percent (50%) by the ICA.

#### **No Strike or Lockout**

20. The Parties agree that neither ACTRA nor any ACTRA agent shall declare or authorize a strike against any Engager on whose behalf the Association has been authorized to negotiate, until the term of the Agreement has expired and until fifteen (15) days have elapsed from the date on which the conciliation officer sent the report to the Parties and the Minister of Labour, as set out in paragraph 18.
21. The Parties agree that neither the ICA, nor any agent of the ICA, nor any Engager on whose behalf the Association has been authorized to negotiate, shall declare or cause a lockout until the term of the Agreement has expired and until fifteen (15) days have elapsed from the date on which the conciliation officer sent the report to the Minister of Labour, as set out in paragraph 18.
22. ACTRA agrees that there shall be no strike against any Engager, and the ICA and ACA agree that there shall not be any lockout by any Engager on whose behalf the Association has been authorized to negotiate, unless there is a strike against all Engagers or a lockout by all Engagers on

whose behalf the Association has been authorized to negotiate.

23. The Parties to this Agreement and all of the Engagers that have authorized the ICA to bargain on their behalf agree that ACTRA shall be authorized and permitted to call a strike in compliance with the terms of this Negotiation Protocol, notwithstanding that ACTRA may not have complied with the statutory provisions of any particular labour legislations in any province or territory of Canada. The Parties further agree that ACTRA and its Members shall be entitled to legally strike in any such province or territory, so long as the provisions of this Appendix have been adhered to.
24. The Parties to this Agreement and all of the Engagers that have authorized the ICA to bargain on their behalf agree that the ICA shall be authorized and permitted to declare a lockout in compliance with the terms of this Appendix, notwithstanding the fact that the Engagers may not have complied with the statutory provisions of any labour legislations in any province or territory of Canada, and further agree that the ICA and its members shall be entitled to legally declare such lockout in any such province or territory, so long as the provisions of this Appendix have been adhered to.
25. The Parties to this Negotiation Protocol agree that “strike” and “lockout” shall have the same meaning as those terms have under the Canada Labour Code. For further clarity, the Parties agree that a refusal by Performers, in concert, in combination, or in accordance with a common understanding, to enter into contractual relations with an Engager shall constitute a strike within the meaning of this Negotiation Protocol.

Date \_\_\_\_\_

The Institute of Communications and Advertising, per:

\_\_\_\_\_  
\_\_\_\_\_

The Engager, per:

\_\_\_\_\_

ACTRA, per:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(print name)

**APPENDIX “K1”**

Agreement between:

ACTRA

“ACTRA”

and

The Association of Canadian Advertisers

“ACA”

The ACA agrees with ACTRA that it shall undertake to take the following steps:

1. The ACA shall make its members aware of the negotiation process relating to the National Commercial Agreement (“NCA”) and the terms of the Negotiation Protocol attached as Appendix K, and how the said negotiation process is to the mutual advantage of ACTRA and the membership of the ACA.
2. Prior to commencement of the next round of negotiations for the renewal of the NCA, the ACA shall submit to ACTRA a list of its members that have provided Authorizations to the ACA to negotiate the renewal of the National Commercial Agreement under the terms of the Negotiation Protocol.

The Association of Canadian Advertisers,  
per:

ACTRA, per:

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