

**Written Submission for the Pre-Budget
Consultations in Advance of the
Upcoming
Federal Budget**



**Associated
Designers of
Canada**

**ADC
(Associated Designers of Canada)**

- **Recommendation 1 (CERB):** That the government extend the CERB (Canada Emergency Response Benefit) until at least March 31, 2021, but preferably until all crowd prohibitions have been lifted and government allows live performance venues to reopen.

OR: That the government extend the CERB (as above) and restrict the extension to entertainment workers.

AND: That the government extend the CERB (under either of the above scenarios), and increase the \$1,000 monthly non-penalized earnings, with a gradual claw-back of benefits, rather than termination of the benefit if the maximum earnings are exceeded.

- **Recommendation 2 (UBI):** That the government implement a Universal Basic Income.
- **Recommendation 3 (EI Expansion):** That the government expand the Employment Insurance (EI) program to fully include the self-employed, both as contributors and recipients.

Background

The Associated Designers of Canada (ADC) is one of Canada's oldest arts service organizations, officially recognized under the Federal Status of the Artist Act as the representative of all designers for live performance throughout English Canada. The members of our sector encompass designers of scenery, costumes, lighting, sound, and video for live events both large and small. Designers are the artists who bring our stages to life with their creativity and inspiration—who conceptualize the environments in which actors perform—with the support of our technician colleagues. The work of our members can be seen in productions across the country: from the Stratford Festival or Soulpepper Theatre in Ontario, to the Citadel Theatre in Edmonton—and in large events such as the Grey Cup.

As COVID-19 descended, the entertainment industry was the first to shut down and, due to prohibitions on crowds, it will be the last to return – particularly the live performance sector. Other industries - like food & retail, transportation, or tourism – are hurting, but all have at least some movement. People are still ordering takeout food and products, planes are still in the air, and many people are taking vacations closer to home and staying in hotels, etc. This is not the case in live entertainment. We have virtually 100% unemployment. As long as the government has prohibitions on crowds, it must also make supports available for live performance workers who are, by extension, prohibited from performing their work.

Live performance designers are not out of work because they want to be. They are hungry to return. All of the major theatrical producers and venues have announced that the 2020-2021 season is cancelled, meaning the earliest that workers can resume their work is spring of 2021. Entertainment workers almost never choose not to work. You never know when your next gig will appear, but you always know that there will be a slow period coming. When you are a freelancer, you work when there is work.

Designers for live performance are integral to the early development of staged productions, and thus are often among the first contracted: often many months or even years in advance. This gives our members a unique and forward-looking perspective on the damaging effects of cancelled seasons and productions. Our members are eager to resume work, but that work simply doesn't exist: more than 90% of designers have only one—or no—projects left for the entire rest of 2020 (on average, less than \$5,000 in income). For 2021, more than 85% of designers have lost the majority of their work in the first quarter—and 97% are experiencing slower-than-usual bookings. The second quarter is only about 10% better. Our experiences are a clear indicator that, despite our desire to return to work as early as possible, live performing arts organizations are not planning to produce enough in the foreseeable future, and the work simply does not exist.

Why the CEWS and Streaming/Recording Live Performances are Not Viable Income Sources

Live performance designers in Canada are experiencing income losses in the range of \$1 million every month. Virtually all designers are engaged as independent contractors by engagers, not as employees: significant portions of work occur off-site; there are substantial overhead expenditures not covered by engagers; and to protect intellectual property rights for designer. The vast majority of our members also have multiple engagers – an average of 10 per year, and in some cases more than 20. For this reason, less than 10% of our members have been able to find design-related work with the support of the Canada Emergency Wage Subsidy. **While the CEWS program is a good one, it is not an effective support for our industry.**

There has been much discussion about the industry “adapting” during this pandemic, and streaming live performances as a source of income. The industry isn’t unwilling to adapt and stream, or record and broadcast. We’ve been doing it for years. The world has been enjoying *Hamilton* on Disney+ because it was filmed four years ago. But **while streaming might provide some income for venues or producers (assuming people are willing to buy “tickets” or subscribe), that money will not replace the income designers would earn from live performance.** If you record one performance and make it available to view for a year, our members will not be effectively compensated for that ongoing broadcast. The reduction in the number of unique productions staged by companies will result in less work—and at lower wages—for designers. Too many companies have indicated a desire to mitigate smaller audience sizes through wage depression or by engaging fewer designers in the creation of this work.

Potential Income Supports That Work for Arts & Culture Workers

We are very grateful to the Government of Canada for the creation of the CERB. For workers not eligible for EI, it has been a lifesaver. Our members applied immediately and will therefore be maxing out their CERB benefits next month. Support is still very much needed.

Our members possess highly specialized skills that have taken many years to acquire. Some are so unique to our industry it would be impossible to apply them to another industry, and others can be put aside and the underlying basic skills used in securing work elsewhere. If income supports are not in place and these workers are forced to leave the industry to put food on the table, that is a huge loss to Canada’s cultural landscape.

It is arts and culture that define a country and make it rich. Government must ensure that the workers who provide that culture are supported, so that when Canadians are finally able to go to a play, a rock show, or the ballet, there are still designers to make that happen. This can be accomplished through different means.

Recommendation 1 (CERB):

We recommend that government extend the CERB (Canada Emergency Response Benefit) until at least March 31, 2021, but preferably until all crowd prohibitions have been lifted and live performance venues can reopen. If a blanket extension is not possible, we ask that government extend the CERB (for the period above) and restrict the extension to entertainment workers, including designers. Applicants could be required to provide proof that the majority of the previous year's income was derived from the entertainment industry.

Occasionally, live performance designers, are able to work small jobs or have side projects that generate some income. Currently, if a CERB recipient earns even \$1 over the \$1,000 monthly earnings cap, they become ineligible for support that month. Designers are so afraid of losing that CERB lifeline that this cap prevents them from "earning their way" out of needing support as the industry slowly reopens. We would therefore recommend that government increases the \$1,000 monthly non-penalized earnings cap, with a gradual claw-back of benefits, rather than termination of the benefit if the maximum earnings are exceeded.

Recommendation 2 (UBI):

The gig economy is undermining decades of worker protections for unrepresented workers, but arts workers have always been gig workers. Very few are classified as employees and able to access Employment Insurance, so for the vast majority of designers, the CERB has been their only support: and it is about to end. Now is the perfect time to pilot a universal basic income program in Canada.

The world of work is beginning to more strongly resemble the world of cultural work. The implementation of a Universal Basic Income would address the needs of workers, including arts workers, who often fall through the cracks of our outdated income support systems. It would also address the issue of retention, particularly in retaining workers who are just starting out in our industry and whose employment is typically more sporadic. All Canadians, and particularly gig workers, would benefit from a UBI in which, as workers earn income, benefits would be reduced, but not eliminated until a defined ("living wage") threshold is reached.

Recommendation 3 (EI Expansion):

The overwhelming majority of live performance designers are self-employed contractors. Currently, Employment Insurance (EI) offers self-employed workers the ability to opt-in only to a partial system: participants can contribute to EI Special Benefits (i.e. maternity, parental, sickness & compassionate care), but are unable to contribute to—and therefore ineligible for—EI Regular Benefits.

Not allowing self-employed workers to participate fully in the EI program puts gig workers at a disadvantage. As gig and self-employed workers become a larger part of

the workforce, the EI program must also evolve to accommodate them so that they can contribute to and receive the full benefits available to traditional employees through EI Regular Benefits. Those who choose not to opt in and contribute would be ineligible for benefits.

An update to EI will require a transition period, under which all workers can receive benefits (or where some sort of income was still paid to those in need), regardless of their contributions. This would be a temporary measure, until the industry has been open for long enough that workers have been able to fully contribute for a year.

All self-employed workers are already responsible to pay both employee & employer CPP contributions. If a revised EI program requires workers to make both the full employee and employer EI contributions, it will be financial debilitating, especially for arts workers who are already not well paid.

Live performance designers, like many other gig workers, are contracted in unique ways that may not align with the existing EI structure, but which will have to be accommodated. The existing Fisher benefits provide a useful model that could be adapted and expanded to suit the sector.

Many gig workers are not contracted on an hourly or weekly basis but are paid flat fees per contract, regardless of the length of the contract. These contracts include defined residency periods when the worker is obligated to the employer. Calculation of EI eligibility should be established based on contract residency duration. The rate of EI benefits should be established based on eligible earnings within a prescribed period or cumulative contract periods.

Designers, like many contract workers, are often contracted months or even years in advance. This does not mean they begin work immediately and may still encounter significant gaps in employment between contracts. A revised EI system must allow for workers to be eligible for benefits during these gaps in employment, even if they have future work. Equally, workers should not be penalized for small gaps in between contract residencies (but which are not sufficient to be unemployment). Arts workers, like Fishers, should be eligible to receive up to 26 weeks of EI benefit per period of unemployment.

Many designers receive royalty or residual payments for work completed, often months or years later. The receipt of any royalty payments should not affect a worker's EI eligibility or benefits.

Conclusion

More than ever, the pandemic has underscored the importance of the arts in people's lives. Movies, television series, and music are where people have turned for comfort, laughter, and escape. Canadians need the arts, and we have been there for Canadians. We urge government to continue to support arts workers now, when they need you.