

Oral Submission to the Changing Workplaces Review

CWA Canada Associate Members – Presented by Katherine Lapointe

Thank you for the opportunity to present to this review. I am here on behalf of CWA Canada Associate Members.¹ CWA Canada is an all-media labour union. Through our associate member program, we represent nearly five hundred student, youth and emerging media workers. Our union works with these members to support their career development, raise awareness of their employment rights and improve their working conditions. Over the past months, we have spoken with members to learn about the challenges they are encountering as they enter Ontario's labour market.

We know that entry-level media workers are facing very different working realities than their colleagues did in the past. They are no longer landing permanent, full-time work with a high school diploma. Instead, they are entering the workforce with multiple post-secondary degrees and high levels of student debt. They then face un- or underemployment, part-time or contract jobs, freelance work and unpaid internships.

While there have recently been significant shifts in the media sector, many companies continue to make significant profits. Employers like TC Media continue to earn revenues of over \$2 billion a year,² while relying on unpaid interns and paying freelancers low rates. These employment practices significantly disadvantage workers, yet are allowed under current provincial law.

We need a sustainable media sector in Ontario that can continue to effectively inform the public and hold those in power to account. To achieve this, workers need basic employment rights and standards, and the ability to collectively advocate for fair working conditions. Since a large number of media workers are currently excluded from labour legislation, we feel that significant changes need to be made to both the ESA and the LRA.

We support the recommendations made by the Workers' Action Centre, the Ontario Federation of Labour, the Toronto and York Region Labour Council, the Canadian Intern Association and the Migrant Workers Alliance for Change, as is detailed in our written submission. Today, we would like to focus on six areas of recommendations that are most urgent in addressing the situation facing emerging media workers.

¹ CWA Canada Associate Members, <http://www.emergingmediaworkers.ca>.

² "Investor Presentation,"

http://tctranscontinental.com/documents/10180/3171187/Investor_presentation_April_2015_78173.pdf.

RECOMMENDATIONS

1. Unpaid Internships

Completing one if not several internships is now widely considered a prerequisite for finding an entry-level job in the media. An increasing number of media workers now enter the workforce through positions where they work for free, with virtually no rights or protections.

This disproportionately impacts those who do not have access to financial resources. As one young journalist explained:

“While in school, I completed 6 or 7 unpaid internships. My perception was that I needed extensive experience outside of school to even be noticed. The amount of mental and emotional hardship I underwent doing unpaid internships wrecked me. During my six-week non-academic internship at a magazine, I had to be on leave from my part-time job and spend the money to commute downtown. I got some compensation, but it wasn't enough. I would feel anxious and really emotionally unstable because I sometimes wouldn't know if I had money for lunch the next day or fare to get home from work.” – M.T.

We are very concerned that the rise of unpaid work in the media is putting a downward pressure on working conditions throughout the sector and is making journalism inaccessible to people from less wealthy backgrounds.

We have four recommendations to address the challenges presented by the increase in internships in Ontario:

- a. We recommend that it is made mandatory for universities and colleges to have experiential learning policies or that the six-part test currently in section 1(2) the ESA be applied to academic internships.**

While unpaid academic internships are technically legal, we find it is too common for these interns to receive little training or benefit. As one member told us:

“I was mostly fetching coffee and writing blog posts. I did not pick up any new skills, I was not given any training.” – M.T.

b. We recommend that unpaid internships not linked to academic study be prohibited.

Employers are using the exemptions in the ESA to replace entry-level jobs with unpaid internships. As an example from one of our members:

“As an intern at [a daily newspaper], I participated in a 6 week internship in which I did not have a mentor or a contract, did not receive compensation, or school credit. I was replacing regular, paid employees of the paper who had gone on summer vacation. I was treated as the full-time employees were—held to the same standards, given the same responsibilities,—but was unpaid.” – K.P.

c. We recommend that all interns be given a contract and be covered by non-monetary protections and standards in the ESA.

Including, regular work day, eating periods, holidays, etc. Interns deserve the same protections and standards as all other workers.

d. We recommend that the ministry should play a more proactive role in informing and monitoring.

Specifically, by requiring employers to display a poster about intern rights and provide written notice when they take on unpaid interns.

2. Freelancers and Independent Contractors

a. We recommend that the definition of who is covered by the ESA be expanded so that all workers, regardless of their classification, are covered by minimum standards.

Most media organizations are coming to rely on freelancers. While many of our members enjoy the autonomy of freelance work, they worry about the sustainability of their careers. Since they are excluded from all protections under the ESA, they face low wages, long hours of work and no security.

b. We recommend that a reverse onus is established, so that a worker is assumed to be an employee unless employer and/or employee demonstrates otherwise.

Employers currently have an incentive to misclassify their employees as independent contractors as a way to shift costs onto their workers. These misclassified workers lose out fundamental standards including decent wages, pension, health benefits, paid vacation, and sick days.

We hear from our members that this happens to them frequently. To give you one example:

“I was working as the Assistant Video Director. All 'employees' except for the heads of the company were independent contractors. I was doing work that made the company money and content for their show. I wasn't granted the rights I deserved.” – P.D.

3. Differential Treatment of Precarious Workers

- a. We recommend that there should be no differential treatment in pay, benefits and working conditions for workers who are doing the same work but are classified differently, such as part-time, contract, temporary or casual.**

This differential treatment particularly disadvantages young and other vulnerable workers and should not be allowed under the ESA.

4. Exemptions and Special Rules

- a. We recommend that the numerous exemptions and special rules in the ESA be removed.**

Many emerging media workers are excluded from basic protections in the ESA, in particular because of the exemptions based on size of employer and on hours of work for film and TV workers.

5. Enforcement of the ESA

Under the current system, there is little incentive for employers to comply. For example, if an employer is found guilty of wage theft, they are not penalized and only have to pay all or some of the wages owed.

It is currently up to the worker to assess if their rights are being violated and to file a complaint against their employer. Yet it is not easy for workers, especially those at the start of their career, to enforce their rights. Employer abuses of the ESA go unchallenged, and substandard working conditions are normalized.

To address these enforcement problems, we recommend:

- a. Allow for anonymous and third party complaints.**
- b. Increase use of proactive enforcement and inspection blitzes.**
- c. Damages should be trebled, when an employer is found guilty of wage theft.**
- d. Anti-reprisal protections need to be strengthened.**
- e. Create a mandatory training program for employers and workers.**

6. Access to Labour Rights and Protections

Workers form unions to rectify the power imbalance and to create more equitable workplaces. Yet it is virtually impossible for many emerging media workers to join or form a union. They often work at small companies, are on short-term contracts or are classified as independent contractors.

- a. We recommend that freelancers be given real access to bargaining under the LRA. Currently, freelancers have little negotiating power to improve their conditions.**
- b. We recommend that a framework for sectoral bargaining be established to give workers in non-standard work relationships a say in setting fair standards across the industry.**
- c. We recommend that non-unionized workers should have the right to work together to improve their working conditions, and to protections from reprisals.**

The adoption of these recommendations would give emerging media workers meaningful access to collective representation, and would therefore improve working conditions across the sector.

These oral submissions are expanded upon in our written submission. Thank you for this opportunity to contribute to the review.