**Canada Council for the Arts**

**Response to Questionnaire on the Right to Artistic Freedom**

**Special Rapporteur in the field of cultural rights**

**Office of the High Commissioner for Human Rights**

Final 2013-01-18

*The Canada Council received this survey on December 20, 2012 with a note from Sarah Gardner, Executive Director of the International Federation of Arts Councils and Cultural Agencies, stating that the Special Rapporteur was particularly interested in arts agency responses to Questions 8 and 13. Given the short timelines and the lack of relevance of the other questions to the Canada Council’s mandate, we have only responded to those two questions.*

**8. What support is provided by State authorities including public institutions and semi-autonomous bodies to artists, in particular financial support for artistic creations and exhibitions? What are the specific mechanisms to ensure that those benefiting from State support enjoy artistic freedom and that all artists compete equally for State resources, without discrimination based on, for example, gender, ethnic origin, location in State territories, political opinion or belief?**

The Government of Canada has a number of institutions which provide financial support to artists as do the provinces, territories and municipalities; these too employ systems that support artistic freedom of expression in Canada. This response deals solely with the [Canada Council for the Arts](http://www.canadacouncil.ca), as the national arts funder.

The Canada Council for the Arts was created by an act of Parliament in 1957 to support the study, enjoyment and production of works in the arts. As Canada’s national arts funding body, its core business is to provide grants and services and to award prizes to professional Canadian artists and arts organizations throughout Canada, in a wide variety of artistic disciplines and practices.

Two basic operating principles guide the Canada Council’s work:

• its arm’s length relationship with the federal government, which allows the Canada Council to make artistic decisions free from political interference; and

• peer assessment as the basis for the majority of its decisions as to which artists, artistic projects and arts organizations receive support.

The Canada Council for the Arts is a Crown corporation operating at arm’s-length from Government. When the [*Canada Council* *of the Arts Act*](http://laws-lois.justice.gc.ca/eng/acts/C-2/) was enacted, Parliament recognized the necessity to provide the new cultural organization with an important level of autonomy from Government which would protect the Council’s ability to make judgments and to base its funding decisions on the evaluation of artistic quality. Parliament also recognized that the Council’s governance structure needed to be commensurate with the nature and scope of its mandate and role.

In this relationship, Parliament sets over-arching public policy and determines the amount of money the Canada Council receives, and the federal Cabinet appoints the Members of the Board and the Director for fixed terms. Under the *Canada Council* *for the Arts Act* and the Council’s [*By-laws*,](http://www.canadacouncil.ca/NR/rdonlyres/0C6061AF-D851-42A5-A950-B77E56813E71/0/CanadaCouncilBylawsJanuary2012.pdf) Board members are responsible for the conduct and management of the Corporation’s activities. They oversee the Corporation’s ongoing activities and set its strategic directions. In fulfilling its oversight role and governance functions, the Board has to provide advice, challenge management and approve all proposed plans, budgets and future directions.

As a Crown Corporation that administers public funds, the Canada Council has a high degree of responsibility to account fully and openly for its operations. The Canada Council complies with federal legislation and is subject to regular audits by the Auditor General of Canada. Each year, it reports to Parliament through the Minister of Canadian Heritage.

In order to fulfill its legislated mandate, the Council is empowered to set its own priorities, strategic directions, budgets and operational practices. It can independently establish funding programs and make granting decisions free from political interference.

The principle of peer assessment recognizes that “experts” in the arts are the artists themselves and that the recommendations determining the direction, support and aesthetics of art should be made by artists. The Council’s commitment to peer assessment is based on the belief that

• while no system is perfect, peer assessment provides the best possible means of identifying outstanding ability and artistic merit in the arts;

• freedom of thought and expression benefits from a decision-making process that encompasses a very wide range of professional expertise; and

• the use of a large number of peer assessors each year provides the best guarantee of accountability and transparency in the Council’s funding decisions.

The Council has a strong commitment to equity; it is one of the Council’s five directions in its Strategic Plan. The Council has an Equity Office as well as an Aboriginal Arts Office, both of which deliver targeted programs and provide policy analysis and direction. The Council is subject to a number of laws and regulations that relate to equity, notably the [*Official Languages Act*](http://laws-lois.justice.gc.ca/eng/acts/O-3.01/), the [*Canadian Multiculturalism Act*](http://laws-lois.justice.gc.ca/eng/acts/c-18.7/) and the [*Employment Equity Act*](http://laws-lois.justice.gc.ca/eng/acts/e-5.401/index.html).

The Council’s definition of equity:

Equity is a principle and process that promotes fair conditions for all persons to fully participate in society. It recognizes that while all people have the right to be treated equally, not all experience equal access to resources, opportunities or benefits. Achieving equality does not necessarily mean treating individuals or groups in the same way, but may require the use of specific measures to ensure fairness.

The Council has targeted strategies for the following four equity-seeking groups of artists and arts organizations:

* Aboriginal
* Culturally Diverse
* Deaf and Disabled
* Official Language Minority Communities (Francophones outside of Quebec and Anglophones within Quebec)

Additionally, the Council monitors the success of other equity-seeking groups (based on gender, region, age etc.) and occasionally develops strategies to address disparities.

More information on the Council’s governance, peer assessment policies and approach to equity can be found at: [www.canadacouncil.ca](http://www.canadacouncil.ca)

**13. Please provide a short summary of any public debates that may have taken place at the level of legal / policy making bodies relating to the impact of free market policies on artistic freedoms, and/or on achieving the balance between public / private sponsorship.**

The Canada Council for the Arts has not been involved in free market policy debates. However, over the past decade, key issues that have been debated include:

* The development of the Convention for the Protection and Promotion of the Diversity of Cultural Expressions. The Government of Canada was a leader in this regard and was the first country to ratify the treaty in 2005.
* The development of the Canada’s new [*Copyright Act*](http://laws-lois.justice.gc.ca/eng/acts/C-42/index.html)(2012) which addressed issues such as fair dealing and the balance between creators, rights holders and consumers.

In terms of the balance between public and private sponsorship, the Council and other public arts funders across the country are in regular dialogue with the private sector, notably through the organization [Business for the Arts](http://www.businessforthearts.org/) to exchange best practices, examine trends and discuss issues. A recent example is a series of regional roundtables between public and private arts funders; [reports](http://www.businessforthearts.org/research/roundtables/) are available. There is no proscribed balance; rather, there is ongoing work to improve the level and quality of support to the arts through both public and private sources.