



SCGC
SCREEN COMPOSERS
GUILD OF CANADA

Screen composers are the only key creatives in the Canadian content certification system not protected by a collective agreement with Canada's independent media producers

HERE'S WHAT THAT MEANS FOR OUR INDUSTRY ...



1. OUR INTELLECTUAL PROPERTY IS UNFAIRLY TAKEN

Hiring a Canadian screen composer to provide original music for an audiovisual production triggers one point under the current CRTC and CAVCO Canadian content certification system. This is important for regulatory accreditation and for the production's access to funding bodies.

Despite this central role in the current framework, Anglophone screen composers are the only points-earning key creators without a collective bargaining agreement with the Canadian Media Producers Association (CMPA). As a result, both independent and affiliated media producers exploit this situation by laying claim to Canadian screen composers' rights and revenues.

In our survey, more than 60% of SCGC members reported that they transfer ownership of copyright or publishing rights to clients always or most of the time. Only 11.5% reported entering co-publishing arrangements always or most of the time.

On Canadian productions, only 28% of respondents reported that they never have to surrender ownership of their sound recordings. By contrast, 38% stated that it happens often or in the majority of cases.



70%

70% of screen composers have had to give up ownership of their music on Canadian productions

Unfair and culturally damaging

In SCGC's view, taking a creator's intellectual property rights as a non-negotiable condition of engagement is both unfair and unjustifiable in commercial terms. Particularly where, unlike every other key creatives in our industry, composers are not even compensated for the rights taken from them. These demands are inconsistent with Canadian copyright law which provides that independent creators are the first owners of their works.

Such practices are also out of step with Canadian cultural and economic policy.

Various studies including Telefilm Canada's 2022 strategic plan and the Government of Canada's own innovation agenda have noted that the ability to monetize creators' intellectual property over the longest possible time frame is key to cultural and economic success in a digital economy.

Protecting the rights of all rights holders, including composers, is an essential component of success on this front. It also helps to ensure sustainable living conditions for creators.

"I believe I should always have the right to retain copyright in my compositions and recordings. However, I have been confronted by lawyers taking the position that assignment of score rights was non-negotiable and that I would lose the engagement if I did not agree to the assignment of my copyright."

SCGC MEMBER

"This feels totally unacceptable but my hands always seemed tied."

SCGC MEMBER

"On some features and series, I've had to assign the rights. I don't feel I have bargaining power to retain these."

SCGC MEMBER

2. WITHOUT PROTECTION, WE FEEL FORCED TO ACCEPT BUYOUTS

Historically, Canadian composers were not asked to surrender their copyright as a condition of engagement. Rather, they provided licenses for the compositions and sound recordings comprising the score. This was all the producer needed in order to market a production at home and abroad.

While this fact remains true today, unjustified demands to take ownership of composers' copyrights have become frequent in recent years. At the same time, producers are increasingly adopting the position that ownership of their copyrights should not be taken by commissioning broadcasters and online platforms.

Despite the seeming hypocrisy of this position, SCGC agrees that producers should retain ownership of their works when they are greenlit, just as composers should retain ownership of the works they create. Why? Because this is what the *Copyright Act* says.

This issue of forced buyouts is illustrated in our survey. 26% of respondents had been asked by Canadian content producers to accept a full buyout of future revenues if they wanted the job.



26%

26% of composers have been asked to accept a buyout as a condition of engagement by an independent Canadian producer

This type of “take it or leave it” offer can often place the composer in an impossible situation, so it’s reasonable to ask why they don’t simply hold out for a better deal.

The reality is that the enormous imbalance of negotiating leverage between an independent creator and a well-funded producer holding all the power makes this impossible.

Every other points-generating “key creative” in the Canadian content certification system is protected by a collective agreement that redresses this imbalance.

By contrast, the commissioning environment for screen composers continues to be a ruleless “wild west”.

Composers have no guarantee of equitable pay or ongoing participation in the revenue their works generate. When those revenues are seized by producers and platforms, the viability of a sustainable career becomes questionable, even for established composers.

Worse still, emerging composers and those from diverse or economically disadvantaged backgrounds are disincentivized from even beginning their careers.

“Generally, music composition has been continually devalued in the industry and our relationship with producers seems increasingly transactional in nature.”

SCGC MEMBER

“I’m at a point in my career where I don’t feel established or secure enough to turn it down.”

SCGC MEMBER

“I felt coerced and bullied.”

SCGC MEMBER

“Big producers generally have all the power in our negotiations and I feel we’ve been taken advantage of these past few decades.”

SCGC MEMBER

3. WE WORK FOR FREE OR HAVE TO SPLIT OUR WRITERS SHARE

Writing and producing music for the screen is time-consuming and complex. It requires a unique skill set which may take years to acquire, and significant ongoing investment in instruments, software and recording tools. Composers commit large amounts of time to individual projects which makes working to a regular (and reasonable) timetable difficult.

Because gigs and fee payments are equally irregular, royalty income has been an important revenue source for composers. Even where a composer has assigned their publishing rights to a client, they have been able to rely on writer's share royalties as a quarterly lifeline. Unfortunately, the SCGC survey shows that the writer's share is increasingly under threat today.

Even more disturbingly, it is clear from the survey that many composers are being asked to provide their services for free.

The writer's share

Performance royalties are generated when a composition is performed, recorded, played or streamed in public. They are generally split on a 50:50 basis between the writer's share and the publisher's share.



44%

44% have been asked to work without any upfront fees and 24% have been asked to split the writer's share with a non-writing party

Under Canadian copyright law, the composer has the first right to collect both the writer's and publisher's share of public performance royalties. While publishing rights may be assigned to another party, SOCAN's distribution rules make it clear that the writer's share may only be paid to the composer(s) of a work.

However, abuse of this rule occurs when non-writing parties such as music supervisors insist on being credited as a co-composer.

When this happens, a portion of the writer's share royalties which are supposed to be paid to the true composers are unfairly diverted to an imposter.

In our survey, 24% of respondents had been asked to split their writer's share with a non-writing party. Astonishingly, 74% of the composers who faced this issue were given the impression that they would lose the work engagement if they refused.

SCGC believes that such practices are coercive, violate SOCAN rules, and may run afoul of the Canadian Creative Industries' *Code of Conduct*.

"A lot of music houses want ~50% of my writer's share. They don't write the music. Sometimes, once the music is visible in my SOCAN catalogue, I see names of people that I have never met taking a small portion of the writer's share along with the producers at the music house."

SCGC MEMBER

"No other key creative has to work for free."

SCGC MEMBER

"I wish it was illegal for non-writers to take any of the writer's fee. I feel like that is the only way it would stop."

SCGC MEMBER

4. WE ARE NOT HOPEFUL FOR THE FUTURE OF THE PROFESSION

In recent years, composers have come under increasing pressure to give up some or all of their copyrights and revenue. At the same time, without the benefit of minimum rates that a collective agreement could provide, composers continue to receive lower rates than other key creatives. All against the backdrop of significant yearly cost of living increases.

Composers also lack the fringe benefits, such as contributions to health insurance and pension funds, that other key creatives (e.g, writers, directors, editors, actors, production designers, etc.) receive under the terms of their agreements with the Canadian producers.

In light of these challenges, it's not surprising that the working conditions section of our survey makes for such difficult reading.

The headline is that fewer than half of SCGC member respondents believe that their working conditions have improved in the past five years. Worse still, 37% feel that their careers have not advanced at all over the same period.



47%

47% of surveyed screen composers are not hopeful for the future of their profession

Bear in mind that this is a highly representative group. Almost two thirds of replies come from full-time composers and the same percentage have over ten years' experience in the industry. Their opinions are based upon more than 480 contracts completed over the past half-decade.

Unfortunately, the takeaway statistic is that almost half of the screen composers surveyed are not hopeful for the future of their profession.

SCGC believes something must be done to address these issues.

“Starting out you are told a lot of exciting things about being a film composer that are not true. The upfront fees are okay at best (often terrible), the back end is taken away from you, and a living is possible but incredibly challenging. The world has changed since 15-20 years ago, the working conditions must improve to match the changing times.”

SCGC MEMBER

“Conditions have worsened; we have to keep fighting to retain our rights for less pay that hasn't kept up with inflation.”

SCGC MEMBER

“Fees are the same or lower than when I started in 1999.”

SCGC MEMBER

5. WHAT DO SCREEN COMPOSERS NEED TO DO?

As the only key creatives in the Canadian audiovisual content industry without a collective agreement, Canada's Anglophone screen composers and audiovisual music producers have long faced a challenging commissioning environment.

In the absence of any rules of engagement (such as minimum rates for the use of their services and IP rights) many screen composers face a difficult choice when an audiovisual producer presents them with an unreasonable offer.

Take it or leave it.

The majority of our community consider the insistence on unreasonable terms by some producers to be coercive. They also consider improper demands from music supervisors for participation in our writer's share royalties to be abusive.

The results of this survey confirm what we have long known from discussions with our fellow composers; that these practices are all too prevalent.

Now more than ever we must push back against unfair working conditions, unfair pay and unjustified demands for our valuable intellectual property. If we do not, it is likely that our fees, rights retention and revenue participation will continue to deteriorate towards a point of no return. In addition, we must also continue to lobby for much needed copyright reform.

Section 13.1 of Canada's *Copyright Act* provides that authors, including screen composers, "shall be the first owners of the copyright" in the works they create. As such, they should have the right to decide whether they wish to retain that ownership.

Unfortunately, this legislative intent is often ignored by producers who take advantage of their strong bargaining position to coercively take ownership of our works as a condition of engagement. They misuse the “work made in the course of employment” exception to this rule to undermine the Act’s intent.

Other producers impose US-style “work made for hire” language on Canadian composers or worse still, demand full buyouts of all future revenues that our works generate.

In so doing they ignore the fact that most audiovisual screen composers are independent contractors.

Screen composers deserve protections and benefits similar to those enjoyed by all other key creatives in our industry via their collective agreements.

Our pledge

The *Copyright Act* is likely to be next reviewed by government in 2024. Ahead of this point, SCGC intends to propose specific revisions to ensure that the authors’ rights the *Act* provides cannot be stripped from creators by unscrupulous engagers.

“This should serve as a wake up and a call to action for our community.”

JOHN WELSMAN
SCGC PRESIDENT

“Screen composers deserve the same fair treatment all our fellow key creatives already enjoy. It is high time that we demand it.”

JOHN ROWLEY
SCGC VICE PRESIDENT

ABOUT THE SCGC SURVEY

This survey was conducted by the Screen Composers Guild of Canada in April 2023. It comprised a voluntary online survey of the SCGC membership and drew responses from more than 100 screen composers. Of these, 57% were based in Toronto, 29% in British Columbia and the remainder in Alberta, Manitoba, Newfoundland and Labrador, Nova Scotia and Quebec. Two respondents were US based.

Only 14% were in the first five years of their career. 20% had between five and ten years of experience and 45% had 20 years or more composing experience. More than 40% of respondents had also been a member of SCGC for over a decade. 62% were full-time composers; the rest needing to supplement their music income by other means. In terms of the type of productions worked on, feature films were most common but short films, documentaries, animation, episodic TV and video games were all well represented.

Regarding the improvement of working conditions, a number of key themes appeared repeatedly. These included a cultural shift away from the 24/7 availability which is frequently expected today, increased fees to keep pace with costs of living, higher retention of copyrights, and better education for producers on the issues of buyouts versus licensing. Protection of rights and working conditions also featured strongly with 63% of respondents stating that they have a positive impression of unions.

SCGC is a national association of professional music composers and music producers for film, television and media. Founded in 1980, SCGC works to maintain the high quality of Canadian screen music through professional development, mentoring and workshops. It also advocates at the highest level by promoting and protecting the rights of members with producers, broadcasters, government agencies and lawmakers.

“I’m not proud of accepting a deal in which I gave up a portion of my writers share to a party that did zero writing. But I’m at a point in my career where I don’t feel established or secure enough to turn down great opportunities for the principle of rights ownership, as important as that principle is.

Nobody wants to give up their rights, it doesn’t feel good. But we also want good work and good credits, and that can seem impossible without first accepting a bad deal on a big project.

I would also like to say how grateful I am for all the advocacy work the guild is spearheading. Thank you.”

SCGC MEMBER

“There is increasing pressure from producers for composers to assign copyrights, work for lower upfront fees, allow partial or full royalty buyouts, etc.

At the same time, intermediary gatekeepers such as music houses and music supervisors have increasingly acted in a predatory manner. Especially with emerging and BIPOC composers who may lack the knowledge or resources to adequately protect themselves from abusive practices.

These include demands for participation in writer’s share royalties for non-writers (i.e. music supervisors) and grabbing a portion of upfront composing fees”

SCGC MEMBER



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