



IAMA Montreal: Music criticism

A report from the conference session.
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Disputes and Mediation

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IAMA newsletter

IAMA Montreal 2013 – *Dynamics of Discovery*



The first ever IAMA conference outside Europe was held from 6-9 November 2013 at the Maison Symphonique, Montreal (home of the Orchestre Symphonique de Montreal - OSM), in collaboration with local partner, CINARS, who are also a well established organisation holding its own meeting every alternate year. We received very encouraging feedback following the event and in particular, delegates remarked how welcome and intimate the conference felt with a gathering of 250 people – the size the European conference just twelve years ago.

This was a UK Trade & Investment supported meeting and we also received welcome support from the British Council. Our hosts, the Orchestre symphonique de Montréal, were justly proud to show off their new home joining the Place des Arts. Our local support organisations and sponsors were the backbone to making it possible. They include: Canadian heritage, Canada Council for the Arts, Ministry of Culture and Communication, Conseil des arts et des lettres du Québec, SODEC, Conseil des arts de Montréal and Mayor of Montreal, all of whom are gratefully acknowledged.

A big thank you goes to IAMA member, Barbara Scales (Latitude 45) who chaired the conference and was instrumental in compiling

a programme ably supported by IAMA board representative, Monica Felkel (Young Concert Artists, New York) who made countless calls encouraging delegate participation and promoting the new venture. Finally, a big thank you goes to Alain Paré who heads up the CINARS team who were indispensable local sponsors. It was one of the most productive international collaborations the Association has yet undertaken.

It was the first time we have used the peer-to-peer session format within the conference programme and something we aim to try again in the future. Areas of discussion included: Artist Management – doing business locally and globally; A Vision for the Orchestra; The Voice; Presenting Contemporary Music; The Role of Festivals and Chamber Orchestras and Chamber Choirs on which we have a short report from the leader of the group, CEO, Marie-Helene Bernard of the Handel and Haydn Society who moderated a one hour session on the challenges and opportunities for chamber orchestras and choirs.

About 20 participants from ensembles and choirs such as Tafelmusik, the Gabrielli Consort, Australian Chamber Orchestra, the OSM, Salle Bourgie, I Musici and Hazard Chase attended. Overall, participants found that, while smaller

budgets and human resource teams can present important challenges, chamber ensembles and choirs benefit from greater flexibility with programming and ability to adapt to changing environments and audiences. Several participants mentioned that their groups are more nimble, find greater touring opportunities, and emerged stronger from the US recession.

A highlight session for many was the interview by Kelly Rice, Director of Development at the Schulich School of Music of McGill University of Kent Negano, Music Director of the Montreal Symphony. It was cited as one of the most engaging interviews at an IAMA conference with Negano articulating his ideas with an ease and clarity of conviction that had delegates enthralled. A visit to the state-of-the-art, Schulich School of Music of McGill University was an eye-opener for many who had not been to see its range of scientific work and research in music before. Its outstanding roll-call of alumni is testimony to its standards of excellence and many were fascinated. The privately owned Salle Bourgie is a concert hall gem in Montreal as is the Museum of Fine Art adjacent, to which delegates had the chance to visit.

IAMA Montreal: Music Criticism

L-R: Raymond Bisha, Daniel Hathaway, Simon Millward, Jeff Reilly



Music Criticism: moderated by Raymond Bisha of Naxos, USA; with panelists: Daniel Hathaway, ClevelandClassical.com; Simon Millward, Albion Media; Jeff Reilly, CBC Music (as a last minute replacement for John Terauds).

There have been many discussions about the “demise of traditional journalism”, including music journalism. The panel decided from the outset that another such discussion would be pointless and unhelpful. Instead, we attempted to have a frank discussion about the potential, and challenges of journalism in new media.

The potential of new media and new media journalism is obvious. Classical music, to take but one example, is readily accessible to anyone with internet access. Such reach would have been inconceivable even a generation ago. New media also allows the integration of sound, word and images in ways we are only beginning to explore – articles that include audio examples, videos, and links to other enriching content. This is Harry Potter journalism come to life.

The challenge is that new media platforms often value skilled writing at close to zero, while Youtube effectively values the recorded performance at zero, at least in economic terms. Building viable economic models in

such an environment is challenging. Many of today’s most active music writers are not paid, or are so poorly paid that music journalism cannot possibly be their primary source of income (unless they forego food and housing). It is hard to envision attracting the best writers to music journalism to a field without income prospects.

Economic issues aside, the panel noted several exciting initiatives in music journalism. Cleveland Classical (founded by panellist Daniel Hathaway), Musical Toronto (founded by John Terauds) and San Francisco Classical Voice) were all cited as examples of virtual music journalism growing in response to local need. Musical Toronto, for example, now has more than 35,000 unique visitors per month and is becoming an important hub in Toronto’s musical life.

It is interesting to note that while virtual media are by definition global in reach, some of today’s most successful publications, such as the aforementioned, are local in focus (either that, or genre specific such as Opera News).

In the end, two of the main challenges facing music journalism are economic, as outlined above, and learning how to build communities using the virtual space. Global accessibility represents nothing more than

potential. Viable artistic communities will only come about through the cooperative participation of all interested parties.



Raymond Bisha, Naxos

Raymond Bisha began studying French horn at ten, and for the next 20 years, it was his consuming passion. As a professional musician he played some of the world’s greatest orchestral and opera music. Raymond then worked for the Canadian Opera Company and CBC Radio 2. He joined Naxos in 1995 and, since 2010, he has been the Director of Media Relations for North America. He is also curator of Naxos Canadian Classics, a series dedicated to the work of Canadian composers.

IAMA Montreal: Tectonic Plates



L-R: Jeff Reilly, Jing Zhu, Alexander Mickelthwate, Romana Jaroff

Jeff Reilly, artist and CBC Music Producer was moderator of the panel session entitled "Tectonic Plates".

This session which included speakers: Jing Zhu, Deputy General Manager, Beijing Poly Forbidden City Theatre Management; Romana Jaroff, Sr. Vice President, IMG Artists and Alexander Mickelthwate, Musical Director, Winnipeg Symphony Orchestra.

Points that were made:

- that music is a universal phenomenon and a great communicator, and through listening and understanding other cultures

"serious" concert music can continue to be both relevant and meaningful.

- that discoveries still can happen. Jing Zhu entranced us, humbled us, and enlightened us with her description of the depth and scope of musical performances in China that exist outside of the western classical cannon.
- while globalisation seems like a marvellous opportunity to spread the "Cannon" around without consideration for other cultures - it is also an opportunity to allow repertoire to evolve and continue to be relevant and meaningful to successive generations.

- the cannon, while relevant to everything we do - is now evolving into as much a point of departure as it is a source of all of our repertoire choices.

- while there is a concern that globalization means musical homogenization - it really doesn't seem to be the case outside of core pop music.

Finally, musical diversity is alive and well!

Comments from delegates:

As the year comes to a close, I wanted just to send a small note of thanks to IAMA. The Montreal conference was truly a lovely experience for me and for my colleagues and we are excited about the work you are doing. We look forward to future opportunities to connect and wish you all the best for the coming year.

Romana Jaroff, Sr. Vice President, Director of Sales, IMG Artists – New York

I just wanted to thank you and everyone for a great IAMA Montréal. I really enjoyed the conference and found it very useful. I was especially grateful to have a good launch available for meetings with good WLAN access to show delegates our new product.

**Bernhard Kerres, Director, HELLOstage.com
Vienna**

This is a quick note to tell you how much I have enjoyed IAMA last week in Montreal. The size of the conference was superb: it allowed us to make wonderful and significant encounters. We had time and space. The Salon Urbain made unexpected meetings possible and the overall quality of the people who came was truly impressive. And of course, working in the music world, I was more than happy with all the musical components that we found or discussed everywhere: showcases, concerts, workshops, panels, etc.

Marie-Catherine LaPointe, Director, BOULEV'ART inc. Artists' Manager

IAMA Montreal: Watching Music



Edouard Getaz, Producer and Managing Director of Giants are Small (NYC), Véronique Lacroix, Artistic Director of the Ensemble Contemporain de Montréal (ECM+) Pierre Hébert, independent artist and filmmaker and Esther Charron, President, Pôles magnétiques, art et culture.

Two thoughts were marching through my head the morning after November 9th's closing night party at the Loft Hotel: firstly, would people really get up after joyfully celebrating this first North-American meeting to come attend the Watching Music panel I was moderating? And secondly, would I leave a discussion on this controversial subject alive?

I had heard many polarized opinions on adding visual elements to serious music concerts during the previous week. Few were left indifferent - many were for it, many were against it. Some had yet to throw their chips into one pot or the other.

So when I sat down next to Edouard Getaz, Producer and Managing Director of Giants are Small (NYC), Véronique Lacroix, Artistic Director of the Ensemble Contemporain de Montréal (ECM+) and Pierre Hébert, an independent artist and filmmaker also from Montreal, my goal was to introduce the work of three wonderful - albeit very different - artists. What their motivations are, some concrete examples and arguments of their point of view, and thoughts on how this could alter the course of classical music.

This subject gave us the chance to show videos of their work - which we did. The moving images were so stunning that we were struck with thoughts of whether it was even possible to do it differently or not. Of course, the adventure can be a complicated and costly. As such, any intentions would not only have to be convincing, but well defined. The ideas motivating Edouard Getaz and Véronique Lacroix clearly aimed towards audience development.

Giants are Small's goal is not to strengthen the power of music, but to tell a story. By doing so,

they explore new ways of presenting music, all while inventing new ways of producing and financing it. The New York Philharmonic has had such success in collaborating with Giants are Small that a New York Times critic exclaimed: "Exhilarating... spirited... spontaneous... Is this the future of American orchestra? Let's hope so!" With each production costing up to one million dollars, the result had better be there. The experience spoke for itself: a new series, supported by new sponsors, attended by a whole new swath of public.

Véronique Lacroix knew from the very beginning of her career, 25 years ago, that she wanted to make contemporary music more easily accessible. She wanted to try, at least, to reach the ears of those who were not already-convinced experts. To do so, she took a tailored approach and chose a theme for each concert, following up by adding on elements - such as sets, visual projections, dancers, circus art and cartoons - closely inspired by the music itself. The visual elements become much more than a visual layer added to the music; they become a part of an intrinsic artistic whole. And her audience grew, and grew...

Pierre Hébert offered us a totally different perspective. Coming from the world of animation, he developed a new type of performance art involving "live" animation scratched directly onto a film loop already rolling in its projector. Usually associated with improvised music, words and dance, these performances are usually found in eclectic settings: clubs, museums, new music and jazz festivals, the list goes on. He is currently expanding his live animation in collaboration with composer Bob Ostertag by experimenting with interactive computer programs. For him, the way music and images exist are so essentially different that attempts to make

music-sensitive interactive videos will usually end in failure - leading artists to perform live in the spirit of chamber music: you watch me, and you listen to me.

Like it or not, this trend is here to stay - especially with the arrival of the Internet. Moreover, the artist and the producer will not only have to think about the result of going visual in the concert hall, but will have to be concerned with new platforms and therefore new formats which will transfer themselves successfully onto a TV or tablet screen.

We are evolving towards new art forms we're not yet aware of; we're putting together the puzzle pieces one by one every day. What we will gain from them is difficult to say, whether they'll be new challenges or new audiences, our expectations will adapt to face them. So get ready. From now on, we will not only listen to music, we will watch it.

Now if you'll excuse me, it's time for me to go watch my CD player play some Bach...

Esther Charron

Manager and musician, Esther Charron founded in 2006, along with Bernard Gilbert, Pôles magnétiques, art et culture, a consulting firm dedicated to arts management, producing and programming. Among their clients may be found the Place des Arts, the Orchestre symphonique de Québec, the École de cirque de Québec, Ex Machina, the Ministry of Culture and Communications, the Conseil des arts et des lettres du Québec and the Canada Council for the Arts.

Coffee with Monica

This early morning session was a similar peer-to-peer and we had no idea what sort of response would be created by this one-hour session. IAMA Board member, Monica Felkel was equally apprehensive in the planning phase with reservations it might just become an excuse for her to become the agony-aunt of the industry. All apprehension was unfounded and a really useful exchange of information was facilitated. Promoter, Richard Turp (Lachine Festival), artist manager, William Nerenberg (Chesapeake International Artists) and Brian Goldstein (GG Arts Law) being particularly constructive in their advice.



Delegates enjoying "Coffee with Monica"



Pavel Kolesnikov

Our non-profit showcases featured IAMA member, Honens presented pianist, Pavel Kolesnikov and the Canadian New Music Network presented soprano, Janice Jackson. Perhaps because people had more time over the four days, attendance at the showcases were particularly good. Apart from the daily programme, there were a number of off-conference showcases and performances which delegates were given free access to around Montreal in the evenings.



Janice Jackson

More information on the event is available for a limited time on www.IAMAmontreal2013.com

Funding available to attend CINARS, November 17-22.

UK Trade and Investment have offered support to twelve UK companies for CINARS meeting 17-22 November 2014 in Montréal and applications will be open on a first come, first served basis.

NB: All EU member companies:

We are currently exploring the availability of funding schemes equitable to UK Trade and Investment's support for companies in other EU member states. Should you also hold information on schemes that we can jointly approach, please notify the IAMA office.

Selection of delegate photos from Montreal



Benefits of belonging:

A recent board meeting highlighted the fact that we perhaps do not trumpet our background work enough. As a starter, the Association's work is very varied and we interface on a very regular basis with over 50 other network organisations throughout the world. Some of their issues overlap and that is the strength of networks coming together to make a stronger case. A fraction of the issues will be made known to members.

What are the other things we have dealt with over the year?

European Union matters

IAMA is frequently consulted on matters that relate to big-picture regulations within the European Union. This year we lobbied on issues such as: instruments on aircraft; use of precious material (ivory and wood) in instrument making and seizures of instruments at EU customs areas, notably Paris and Frankfurt. In the UK, we had a breakthrough on a tax requirement which was going to be onerous and expensive to members to undertake. The result was a complete reversal of a decision by HM Revenue and Customs to everyone's relief. Newspaper copyright issues continue to worry members in many countries as newspapers seek revenue sources. In the United Kingdom, this matter is far from resolved but action was stalled by IAMA using a cross-association initiative involving over 5000 companies who could have been affected by the Newspaper Licencing Agency's actions. We await the result of the Intellectual Property Organisation's consultation, of which IAMA was a contributor by mid February 2014. We would like to thank the services of Taylor Wessing International for providing legal services to the initiative.

Watch IAMAworld.com news for information on taxes for Russia and Brazil.

Receiving tax advice and what can we expect?

We are grateful to Smith & Williamson who provide the members' tax helpline and through the international Nexia network, are able to source information from all our member countries. If a member has a specific problem, they should contact the IAMA office in the first instance and we will make the assessment whether this is something that is better handled directly with Smith & Williamson or something useful to the membership as a whole. Commissioning tax advice is both expensive and takes time but that is what the association is there for. Most tax situations have more than one factor affecting interpretation and this can often take time to resolve.

Members are advised that a simple yes or no, is often not possible and in most cases, contract terms can mean a fundamental difference to the advice received.

Case submitted in 2013: German taxation on artist fees

Member company:

I wondered if you can explain why some foreign artists get charged 7% VAT for performing in Germany, but most don't.

See extract from fee payment schedule.

"Dieser Betrag ist um die vom Veranstalter geschuldete Umsatzsteuer (7%) in Höhe von - 1.050,00 € gemindert."

Response from Smith & Williamson

From our recent experience in helping another IAMA member it is my understanding that in Germany VAT can be applied to the fees of a performing artist at 19% or at 7%. Furthermore, it is possible to get an exemption for an individual performer as a result of meeting the cultural activities definition (which would not be possible in the UK for an individual performer).

19% is the standard rate of VAT in Germany. The reduced rate of 7% is available to conductors (but I assume it can also apply to other types of performing artist). Here is an extract from the German VAT decree (Umsatzsteueranwendungserlass) concerning conductors – "Dirigenten".

(German VAT law).

12.5.

Eintrittsberechtigung für Theater, Konzerte, Museen usw. (§ 12 Abs. 2 Nr. 7 Buchstabe a UStG)

(1)

1 Begünstigt sind die in § 12 Abs.

2 Nr. 7 Buchstabe a UStG bezeichneten Leistungen, wenn sie nicht unter die Befreiungsvorschrift des § 4 Nr. 20 Buchstabe a UStG fallen. 2 Die Begriffe Theater, Konzert und Museen sind nach den Merkmalen abzugrenzen, die für die Steuerbefreiung maßgebend sind.

3 Artikel 98 Abs. 1 und 2 in Verbindung mit Anhang III Nr. 7 und 9 MwStSystRL erfasst sowohl die Leistungen einzelner ausübender Künstler als auch die Leistungen der zu einer Gruppe zusammengeschlossenen Künstler

(vgl. EuGH-Urteil vom 23. 10. 2003, C-109/02, BStBl II 2004 S. 337, 482).

4 Die Leistungen von Dirigenten können dem ermäßigten Steuersatz unterliegen; die Leistungen von Regisseuren, Bühnenbildnern, Tontechnikern, Beleuchtern, Maskenbildnern, Souffleuren, Cuttern oder Kameraleuten unterliegen dagegen dem allgemeinen Steuersatz.

5 Der Umfang der ermäßigt zu steuernden Leistungen ist ebenso nach den Merkmalen abzugrenzen, die für die Steuerbefreiung maßgebend sind.

6 Die regelmäßig nicht mit den Leistungen von Orchestern, Theatern oder Chören vergleichbaren Leistungen von Zauberkünstlern, Artisten, Bauchrednern, Diskjockeys u.ä. typischerweise als Solisten auftretenden Künstlern sind daher nicht nach § 12 Abs. 2 Nr.

7 Buchstabe a UStG begünstigt. 7 Wegen der Abgrenzung im Einzelnen vgl. Abschnitte 4.20.1 bis 4.20.3.

The recent case I refer to above specifically involved a visiting orchestral conductor. In this particular case my German based VAT expert colleague steered the path to a full exemption. This can be achieved by applying to the local German state authority for a VAT exemption certificate. Apparently there is no specific form for making this application. This presumably accounts for those cases you have come across where VAT does not arise.

Your reference to the fact that the 7% VAT has been deducted from the fee is because in accordance with German civil law, an agreement between two parties will provide for any consideration to be either net (netto) or gross (brutto). If the agreement is silent on this point, then brutto is the default position. Netto means that the agreed amount will be received by the supplier. Brutto means that the agreed amount is a gross amount from which the German client will deduct VAT (and potentially other taxes).

This provision under German Civil Law is also included within the German VAT legislation.

Mark Wingate, Partner, Private Client Tax Services

Smith & Williamson LLP

Member complaints:

1

Do any members have similar problems?

Swedish Social Security deductions on EU nationals: This is an on-going problem as some Swedish promoters continue to apply social security contributions in contravention of the EU regulation. This issue is on the Association's agenda for the last 24 months. A number of Intervention between the member and promoter by IAMA have been successfully resolved but we require more case studies.

2

Money owed to members:

There were a number of reported late/non-payments which were successfully resolved with the total commission value to members of over €100,000.

Special membership rates for North America, South American and Asian companies.

The board have resolved to extend a special rate to both Americas and Asian companies who are less established but have an interest in artist management. The Association is committed to raising standards and helping those wanting to get in to the profession and who seek to get the best advice possible.

Mentorship

We have two types of mentorship open to members:

1. Start-ups can have access to a senior member in the profession which we can facilitate .
2. Established companies can request a mentor for deeper assessment of their company's affairs whereby impartial, professional advice is offered depending on the needs of the member company. IAMA will support some of the costs towards this process

Immigration matters.

The United States and the United Kingdom have some of the most intricate immigration legislation in the world potentially complicating the mobility of artists. We are grateful to Brian Goldstein (GG Arts Law) for helping many members on immigration questions and issues for the United States. In the United Kingdom, we were called upon more than thirty times in the year to intervene on visa timelines with the UK Border agency - all with success. We must stress though, that we are unable to work miracles although some have been just that! We continue to log cases and relay problems to the Border Agency. The most unfortunate case in 2013 was an opera director (US national) having to spend the night on a detention centre floor at Stansted Airport. Fortunately, incidences like this in our sector are rare. IAMA would like to congratulate its members on taking note of all the new regulations which has meant that the Border Agency recognises our sector to be compliant. In particular, we would like to thank Affiliate member, David Jones (Serious Ltd), who has been one of the most constructive influences in dealing with the government on UK immigration matters.

Our new offices means you have a meeting place in London



From September 2013, IAMA moved office to the West Wing of Somerset House on the Strand in a special area of the Palace, once named Denmark House. The Garrick Street offices are now being turned into luxury apartments but there is no nostalgia as we are very much settled into the new premises.

Members should see the new place as theirs so, please come and visit us. Should you need a place to meet your colleagues, we have a board room with all the facilities, a warm welcome and refreshments. Meeting times need to be reserved in advance with Marlena Schroeder (ms@iamaworld.com). Those who have visited Somerset House will know that it a centre of many cultural events and given sufficient notice, we can apply to get you a pass. Jonathan Reekie, formally with Aldeburgh Productions in Suffolk, is now the new Chief Executive of the centre which is proposed to rival the South Bank Centre as a London destination point.

Watchlist: A rise in demand

Q: Our artists are not paying us the commission we are owed – can IAMA place them on a watchlist?

A: This matter has risen up the ladder of requests and soundings from a number of financial directors and board was taken confirming that our only remit is when a non-payment issue involves companies - not individuals and member companies. There are several reasons for this not least an exposure to liable issues. Having said this, we have successfully facilitated artists paying commission to their managers directly. The IAMA board wishes to point out that companies should exercise a duty to enquire with the out-going manager if there are any outstanding issues that they need to be made aware of and that includes making the artist aware of responsibilities to settling outstanding commissions. Leaving such issues vague causes unnecessary frustration and one that can be exploited to members' disadvantage. Some in-coming managers need to realise what goes around, comes around making professional boundaries to their artists clear, acting in a collegial fashion and making sure the artist understands the profession's expectations.

Disputes and Artist Commissions, by Andrew Hildebrand

Disputes are an area of work that any profession finds attractive and although the key area of disputes still involve artists moving between companies, there is an increasing level of artists not paying their management companies. This is something determined, or should be, by a written agreement. It's those instances in which no written agreement exists, problems are escalated and then our engagement is called on more frequently. Disputes between companies do occur from time to time but fortunately, there are becoming less frequent. Cases are dealt with internally by the present IAMA management otherwise an outside IAMA resolution scheme is on hand that has been approved by the board. These details are on-line under our services section.

We have asked Andrew Hildebrand, specialist in mediation and arbitration, to offer some advice which offers practical steps that can be useful in other areas of our work

Managing disputes more effectively

Keeping disputes out of court can save time, money, reputations and relationships. People might consider marriage guidance counselling before getting divorced but when it comes to business disputes they have problems settling, they instinctively reach for a litigator without considering how that will play out, or whether there's even a better option.

The focus, invariably emotionally charged, tends to be about who is right, not what's right. About loss rather than the likely outcome, collateral impact or attendant risks. Mediating is often the smarter option, not least because in 70% of mediations, the dispute gets settled in just a day. The dispute stays private and the cost is

minimal. Whether you settle is up to you (no-one can impose any unwelcome ruling on you at a mediation). If you do, your settlement can be enforceable at court.

What is mediation?

Instead of going to court, mediation is a confidential process with an independent and neutral third party (a mediator) who is engaged to help the parties reach a negotiated settlement. The process is informal. It can be done, with or without lawyers present, as you wish.

How do you decide what's going to work best for you?

First, take a step back. Put emotions and 'principles' to one side. Analyse things objectively. What do you want to achieve? Prioritise your 'must have's', 'wish lists' and 'no-no's'. Find out how feasible these are likely to be if you litigate, arbitrate or mediate, and make sure you understand the risks, costs and time-scales that each involve.

Do you want a public ruling or to keep the dispute private?

If a public ruling is important to you, to fight piracy, for example, litigation is probably the answer but if your dispute involves talent, reputation or a relationship and you would prefer the dispute to stay confidential, go for mediation or arbitration, not least because media organisations routinely check court files for stories.

Does the dispute involve a relationship?

If so, put the relationship in perspective. How much has it been (and could it still be) worth,

and not just financially? How can you reassure the other side that, irrespective of a dispute, you still value them? Probably not by sending a letter that starts with the words 'We are instructed by'.

Offering to mediate shouldn't be seen as a hostile gesture.

Are you worried about a result setting an unfortunate precedent or affecting ongoing business?

If so, mediation is probably the way forward. This is especially true for disputes involving commissions or royalties. Settlement terms can be kept confidential and made 'non-precedential', which can be helpful if any third party could have a similar claim. By mediating, you can reach flexible solutions. Unlike leaving a decision to a judge (or arbitrator), who would be bound by whatever the legal precedents stipulate, you are free to work out whatever deal suits you best, on top of which you can also re-engineer deal terms to suit rights, payment, cashflow and even tax-planning requirements. Whatever you are contemplating, before you take the plunge:

1

Calculate the likely costs and the odds

It is vital you know what your final legal bill could be. If we are talking about litigation, that means through to the end of trial!

Don't get fixated by the size of your claim. Litigation and arbitration are like poker. Your claim is your opening bid.

Statistically, the likelihood of 'winning' a strong case rarely exceeds 60%/65%. Even then you may not see the whole amount. After paying about 30% of your legal costs, your net recovery may come down to 50%. And that's if you win -

but unlike tossing a coin, if you lose, you could be on the hook for considerably more, i.e. your legal costs, 70% of theirs, and any counterclaim. If the odds can change, the stakes nearly always do, so bear in mind that the combined legal costs invariably end up dwarfing the claim and that 'winners' can also end up out of pocket.

Mediation fees, conversely, are usually insignificant compared to the parties' costs or the sums in dispute and are typically shared equally between the parties.

2

Consider what makes commercial sense

If litigation seems like the right answer, make sure it also makes commercial sense. With the high legal costs that tend to be involved, it often won't be below a certain level. What that level is depends on you. I have heard all sorts of suggestions from £50,000 to £400,000. Also, in the current climate of the 'Jackson reforms', the main message coming out of the courts is that legal costs need to be kept proportionate.

3

Consider the likely time-scale

Legal proceedings can easily take two years. Hardly ideal but also impractical if there are cashflow issues or tight deadlines.

Mediations though are quick and simple to arrange.

4

Consider how this is likely to affect you and your business

Like specialists, litigators don't always appreciate what the process feels like. I have been the client. I know how stressful litigation can be - especially when legal costs mount - and how much time litigation can devour that would be better spent running one's business. Against the lottery of litigation, mediation offers certainty. It is also considerably more effective and predictable than suing or enforcing abroad. Mediation is now a mainstream option. Lawyers are legally required to inform clients about alternative dispute resolution early in proceedings and judges encourage it. They can stop proceedings and direct parties to mediate, and they also can impose costs sanctions against anyone who unreasonably refuses to do so. Around 70% of High Court commercial cases end up being mediated and, increasingly, companies insert mediation clauses into their

contracts, often as part of an escalation clause, with litigation as the last resort.

What about the 30% of mediations that don't settle on the day. Why don't they settle - and what do you do next if you don't?

Sometimes, whatever people say beforehand, they don't want to settle. They may be going through the motions, especially if a judge has compelled them to do so and they want to avoid a fine. Sometimes people can't let go, or won't listen. They may have unreasonable expectations, especially where they don't properly understand the industry and what is, or isn't possible. It may be because they feel alienated, so think carefully about how you say something and what tone you adopt.

Make sure the right decision makers will be present, that the balance is right (if they are sending their CEO, don't send your junior), and that they all have full authority to settle. And if that sounds obvious, the other main reason why mediations sometimes fail is down to poor preparation. Sometimes people haven't thought through what they need to do on the day or even sent the mediator the relevant papers more than a day ahead (imagine doing that at court).

What do I do next?

Even if I feel that a mediation is unlikely to settle that day, I generally push each party to make one final offer before I call a halt. I want everyone to see how near they really are - and how far away they will be if they litigate. I check that I can continue to contact them, because I know that as well as the 70% of mediations that settle on the day, there's another 20% that settle over the next few weeks and I want to hit that 20%.

I have also been there as the client, so I know how even a few days later, especially when you've got another year or two of litigation to look forward to, things can feel very different. I make the parties think about the consequences and costs if they don't settle, as well as what any obstacles to settlement may be and how these can be overcome. If they are up against any deadlines, I'll timetable who does what next. It then depends on what I think will be the best way of progressing things but often I will go back and forth with each party on the phone until we are there.

A few brief words about early dispute resolution

Returning briefly to the marriage guidance analogy, it can also be a very effective way to

get a relationship back on a constructive footing, so that it doesn't go off-kilter. In fact, businesses will often turn to a mediator to help them have awkward conversations safely and productively, and not just with other businesses partners. You can use it inside organisations (for partnership, boardroom, or workplace disputes, for example), or between managers; managers and artists; musicians; or clients and their advisors. Basically, anything that could be expensive, embarrassing, or time-consuming. Mediation can often be a highly effective escape route when you are bogged down in litigation. It may not always be the answer but it is certainly worth considering before you think about pressing the litigation trigger.

www.hildebrandmediation.com

E: Andrew@hildebrandmediation.com

T: 020 7286 0272 © Andrew Hildebrand Mediation Limited, 2013



Andrew Hildebrand is a leading UK commercial mediator, who has also specialised in resolving entertainment and brand licensing disputes.

He has spent his career closing multi-party deals and resolving disputes, from both sides of the fence, for companies big and small, often dealing with or representing artist managers and agents. Both as a partner at law firm Mishcon de Reya, and as a top ranked senior in-house counsel, heading up legal and business divisions for media businesses, including at Channel 4 and FilmFour.

He practises independently and also through leading UK mediation providers 'In Place of Strife' and JAMS.



BBC Contract: Changes to what artists can expect

Members should note the members' meeting minutes held on 29 November 2013 considered the contractual changes in the BBC contract for artists but must bear in mind that this is not for commercial exploitation which would always fall under a separate deal.

Changes:

The most significant change is how the BBC asks for Rights. They would like to lessen their administrative load by asking for all rights up front and if some exploitation is decided in the future, then the delay in tracing who they should seek permission from is removed. This sits uncomfortably with our members

represented by the Broadcast and Media committee. It is agreed that lessening any administrative burden is desirable but this could be costly for the artist and not just from a financial point of view. Issues that were agreed to from January 2014 include the right to download a programme for private use which will be available to use for 30 days after which time it will degenerate. Streaming of a programme will also be possible and extended from 7 days to 30 days. For most members, these changes will be noticed in a BBC Proms contract but of particular sensitivity to members is the dilemma if a record deal might be jeopardised - both present and future.

Other plans of the BBC include: **1)** the offer of "visualisation" which is a live-stream relay using the internet – apparently not called television nor defined in the same breath as a broadcast. **2)** Series stacking i.e. in the case of the two month proms, that all broadcasts will be available over the whole period.

Looking ahead: Commercial Exploitation

For most members, these changes will be noticed in a future BBC Proms contract, but a particular sensitivity to members is still the dilemma that a record deal might be jeopardised – both present and future.

Research

IAMA Survey

It is nearly five years from the last IAMA full-member member survey. We hope that when you receive it that you will find some time to complete it. The reflections offered are very important to how we measure your assessment of the sector.

Opera Contract Cancellation clauses

There is an increasing trend in contracts, particularly opera contracts, to include cancellation clauses for example: the Vlaams Opera contract:

a) to annul the contract and pay the artist 50% of their fee should the director and/or conductor be of the opinion that the artist is no longer suitable for the role;

b) to annul the contract and pay the artist no fee should the management and/or conductor be of the opinion that the artist is not suitable due to technical vocal problems.

c) For the soloists

- 25% of their fee if this happens at least one year before the rehearsals were meant to start
- 37,5% of their fee if this happens less than one year before the rehearsals were meant to start
- 50% if this happens once rehearsals have started

Many members have referred to these clauses becoming increasingly apparent in contracts



and have voiced their concern or objection. IAMA is collecting data on these cancellation terms and in 2014, we hope to open discussions with Opera Europa and Opera America.

We need your input – if you find these clauses in your contracts, send them to us with your comments. All information will be treated with sensitivity.

24th IAMA International Conference 10-12 April 2014

24th IAMA International Conference *Time for Change*

Milton Court, London
10 - 12 April 2014



Time for Change: Rebalancing the Music Business Model

Chaired by Stephen Wright, Chairman of International Classical Artists



Those attending the forthcoming conference in London will be introduced to a brand new venue, Milton Court opposite the Barbican Centre in the City of London. A multi-venue

development, it is used by the Guildhall School of Music & Drama and the Barbican Centre to offer the public a diverse and exciting range of programming making the whole precinct the largest in Europe, if not the World.

For the first time, the conference is contained in London City with the day events all taking place at Milton Court, the Ice-breaker at the Barbican Centre and the gala dinner at LSO St Lukes, the outreach centre of the London Symphony Orchestra.

Early booking period closes 28 February.

Two additional features:

Opera and media day: 9 April 2014 in collaboration with Opera Europa.

If opera is your business, then this day is your opportunity to get together with Opera Europa members and discuss issues in the business notably media and the next generation of young artists.

Also held at Milton Court, London a day before the International conference, this event includes the following speakers:

David Pountney, Intendant, Bregenser Festspiele and Chief Executive & Artistic Director, Welsh National Opera ; Eva Kleinitz, President Opera Europa; Operndirektorin and Deputy Intendant Oper Stuttgart; John Berry, Artistic Director, English National Opera; Ann Braathen, Director, Ann Braathen Artist Management; Brian Dickie, Head of Pre-selection Jury NEUE STIMMEN International Singing Competition, Bertelsmann Stiftung; Annilese Miskimmon, General Manager & Artistic Director, Danish National Opera; Barrie Kosky, theatre and opera director and Artistic Director of Berlin's Komische Oper interviewed by John Allison; Kasper Holten, Director of Opera, Royal Opera House Covent Garden; Peter de Caluwe, General Director, La Monnaie/De Munt; James Conway, General Director, English Touring Opera; Peter Maniura, Curator, The Space, BBC Media Centre; Dominique Meyer, Direktor, Wiener Staatsoper; Matthew Shilvock, Associate General Director, San Francisco Opera.

Opera & Media Day

Milton Court, London
9 April 2014



Welcome to new members

Since the last newsletter we have the following members to welcome:

FULL MEMBERS

CANADA

Danielle Lefebvre Artist And Concert Agency

1035
rue des Écoliers
Trois-Rivieres QC G9B 7W1
Canada
danielle@agencedlefebvre.com
www.agencedlefebvre.com

Montreal Classique

680 rue de Courcelle unite 610
Montreal QC H4C0B8
Canada
Tel: +1 514 371 5309
annevalerie.cote@montrealclassique.com
www.montrealclassique.com

ITALY

Cavartists Cavalletti Artists Management

Piazza Grande 13
Montepulciano SI
Italy
Tel: +39 3929364740
cavalletti@cavartists.com
www.cavartists.com

NEW ZEALAND

Vedel Management

St James Theatre
77-83 Curtenay Place
Wellington
6141
New Zealand
Tel: +642 193 3563
mvedel@outlook.com

UNITED KINGDOM

AR Productions

The Old Station House
Sages Lane
Privett
Hampshire
GU34 3NP
United Kingdom
Tel: +44 7802 782543
arproductions@btinternet.com

Emblem Artists

247 Lowestoft Road
Gorleston-on-Sea
Norfolk
NR316JJ
United Kingdom
Tel: +44 203 691 0456
elaine@emblemartists.com
www.emblemartists.com

Musichall Ltd.

The Oast House
Crouch's Farm
Hollow Lane
East Hoathly
East Sussex
BN8 6QX
United Kingdom
Tel: +44 1825 840437
peter@musichall.uk.com
www.musichall.uk.com

AFFILIATE MEMBERS

AUSTRIA

Hello Stage

Mariahilfer Strasse 1c/Top II
A-1060 Vienna
Austria
Tel: +43 1 205 1085 542
bernhard@hellostage.com
www.hellostage.com

CANADA

Pro Musica

3505, Ste-Famille #201
Montreal QC H2X 2L3
Canada
Tel: +1 514 845 0532
Fax: +1 514 845 1500
concerts@promusica.qc.ca
www.promusica.qc.ca

FINLAND

Helsinki Festival

Lasipalatsi
Mannerheimintie 22-24
Fin-00100 Helsinki
Finland
Tel: +358 96126 5100
Fax: +358 400 792 016
soderblom@helsinkifestival.fi
www.helsinkifestival.fi

NORWAY

Norwegian Radio Orchestra

RA 14
N-0340 Oslo
Norway
Tel: +47 2304 9036
Fax: +47 2304 8624
holger.gulbrandsen@nrk.no
www.nrk.no

Membership account issues

Our new on-line service of settling accounts is easy to use and helps us cut administration costs too.

Here's how you do it:

1. Log in to the IAMA website (you can always ask for a password reminder if you need it),
2. Click on to the "Dashboard"
3. On the menu on the left choose: Company Account >> Invoices
4. Click "Pay Online"
5. Click "Print" to print out a copy of the invoice.

The direct link to the invoice page is: <http://www.iamaworld.com/Dashboard/Accounts/Company/Invoices/>

Your other options are:

1. Follow the steps above to your account to locate your invoice
2. Send a cheque (in GBP only), or by direct bank transfer. The details of our bank account are on the invoice you can download.

Please take note of our monthly e-newsletters which we aim to deliver on the last Wednesday each month. This not only contains the news of the month but also any updates you need to know about. Should you have a member of staff move on, keep us informed.

New CMA website launched in 2014

The European Association and IAMA have invested over £5,500 in a new website for www.ClassicalMusicArtists.com (CMA) which will offer members easier access and better service in the future. The IAMA website will also be more integrated to CMA so that information need only be updated once. Added to that, you will be able to use the same passwords for both websites.

Why can't the IAMA news section carry who I have just signed?

It's true we will not list new artist signings on IAMAworld.com news but the new CMA website will carry that facility. Watch the news and re-launch of the site.

The IAMA Newsletter is the journal of the International Artist Managers' Association

West Wing, Somerset House, Strand, London, WC2R 1LA, Tel +44 20 7379 7336, E-mail: info@iamaworld.com Web: www.iamaworld.com

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