



To Book or Not to Book

Navigating Through Musician's Contracts

By Zis Parras

Music is a universal language, one that transcends time, place and language. It speaks to our souls with “charms to soothe the savage beast”. On a more practical level, it also entertains our guests and sells tickets, beer & food!!

Behind the magical elixir of every successful concert, lay months of planning, negotiating and of course, paperwork!

What does it take to get the artists and musicians you want for your audience?

Here is an overview of our experience at the Canadian National Exhibition:

The Canadian National Exhibition (CNE)

The Canadian National Exhibition (CNE) in downtown Toronto is Canada's largest annual fair, lasting 18 days from mid-August to Labour Day Monday

every year. In 2016, we hosted more than 1.54 million guests on our 192 acre site. How do you keep them occupied and happy? How do you appeal to all demographics, because the CNE draws everyone...across all age groups, cultural, and socio-economic categories!

We have seven stages featuring music throughout the grounds, from jazz trios at our Wine and Craft Beer Garden, to Canada's mid-range country bands at our Northern Comfort Saloon, to headline acts at our 80 year-old outdoor Bandshell Stage modeled after the Hollywood Bowl, with capacity of just under 10,000 people. All our entertainment and attractions are free with admission to the fair.

The Planning Cycle

We start our planning before the

end of each year's event. We evaluate the attendance, crowd reaction, ancillary revenue (food and beverage, merchandise, etc.) and any other indicators we observe. As an organization, we will decide which demographic(s) we will target to help boost attendance. We watch demographic trends including which cohorts are most highly populated, where they live, and how they attend our event (with friends, family etc.).

Once our demographic road map is in place, we start to meet with all the agencies ... face-to-face if they have an office in Toronto ... or by phone or at a convention, if they don't. Like everything else, booking artists is about trust and relationships. Our success at staging concerts at the Bandshell is based on this “trust”, as well as on our

first class treatment of the artists while they are at the CNE, make conducting future business much easier.

Agencies are looking for long term relationships and want the best for their artists as well as for your venue. While it's important to tread carefully, trust your booking agent or band manager, you must also look out for the best interests of your organization.

Sometimes you take the plunge on an artist/band you aren't sure of, because the agent knows they are putting out a new album, or they are getting more play on radio stations or a label is starting to show interest in them.

We also work closely with local radio station partners to ensure that the artists we are booking are on their current playlists so that there is a natural fit and the individual stations can help promote the concert leading up to the event.

With our demographic road map in hand, the CNE seeks to offer a variety of genres over the 17 nights at the Bandshell. We categorize our offering into themes: Nostalgia (Seniors), Classic Rock (Boomers), Country, Indie, (Millennials), Youth Bands (Generation Z) and '80's or '90's Retro (Generation X).

The Offer Sheet

It all starts with the Offer Sheet. Get a sense from the booking agent what the fee is and how much flexibility you have, don't be afraid to ask for a price range. And don't be afraid to offer at the lower end, but remember, this is a business, and everyone wants to make a buck. If you are going to offer at the lower end of the range, be sure you can justify that offer, again, the artist wants to make money and the agent wants his cut. Do you charge a separate gate admission for the shows, or is entry to the concert included in the Admission to your event? The fact that the CNE shows are free with admission is advantageous to us; we don't have to negotiate percentage of gate in our offer. It can also work against us however, since some artists insist on a percentage of the ticket revenue; in this case, it can be difficult to achieve a deal.

What time of the year is your event? Can you be part of a routing? These circumstances can affect your offer. We often remind agents that the exchange rate between the U.S. dollar and the Canadian dollar is 25% - 30%.

Also, importantly, is that artist/band worth the money? You have to make that decision based on the performer, your community, your audience and your needs. The music industry has always had "one-hit" wonders. We begin contracting in January for an August event. What's "hot" in January may

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disappear off the map by August. At the same time, an artist or band that is just making its way through the charts in the winter or spring may win an award and take off. We've been affected once with the "one-hit-wonder" phenomenon, but more than a few times with the "up-and-comers" success story. The latter will come to you at a better price and you can look like a "forward-thinking" event that could foresee the rise of this star!

Add Your Own Rider

We also add our own rider to the offer sheet, noting that our rider is part of the offer, and if the offer is accepted, so is our rider. Our Rider includes:

- Fees (see notes above)
- Accommodations & Travel (flights and local transportation)
 - You can usually negotiate accommodation requirements. If you have a deal or sponsorship with a local hotel, make that hotel part of your offer. You may shake your head when a four-piece band needs eight rooms, but remember there is usually an entourage of tech/production managers, tour manager, merchandise seller, roadie and more if the artist is more established or very popular. If the number seems way out of whack, ask (respectfully) for a breakdown. If you are part of a routing, sometimes the needs change because the crew may have to leave immediately after a show and not need accommodation.
 - Covering travel is not usually fun. Performers who are touring on a routing will either bus in or make a direct flight as a group. Bands that are picking up a gig may be coming in from different parts of the continent. The drummer may live in California and wants to come in a day earlier to adjust to the time change, while the bassist lives in Texas and can only come in on the day of the show, and the vocalist insists on a specific airline, although they don't fly directly to your town. More and more we offer a bit more but insist on the band booking their own travel. It is one less headache for you or your staff person who looks after the bands.

- Backstage Access & Complimentary Passes
 - Be clear on Backstage Access (can anyone come backstage or do you limit access to the band and their entourage, and what about their cousin who lives nearby and wants to hang out with his relative, or the local sponsor?);
 - Specify the number of complimentary passes/tickets allocated to each performer.
- Billing
 - Clarify a hierarchy in terms of artist billing. Confirm who the headliner is, if there is more than one band/artist on stage and what does that mean?
- Merchandising:
 - Our standard agreement for "merch" sales is: we offer a secure tent by the stage, they sell and we get 25% of gross sales.
- Radius Clause:
 - Do you need a radius clause? The City of Toronto hosts hundreds of events and festivals all year, especially in the summer. The CNE wishes all artists well, but if they take a booking every weekend across the Greater Toronto Area, we are less likely to book them because they have been seen all summer long. While we are stricter about acts appearing before our dates, we do make exceptions. You need to know how this will affect your sales.
- Legal Jurisdiction
 - Regardless of where the agent's office or the band's home base is, we insist on operating within the laws of the Province of Ontario. That is where the show is taking place and where a potential incident that may happen, therefore the laws of California, for instance, have no relevance in this jurisdiction.
- Cancellation Policies:
 - Every agreement has cancellation policies that favour the artist. Don't be afraid to stand up for yourself. If the artist is at the venue ready to perform and it rains, yes we will pay them. As an outdoor venue we know we can't control the weather, and it's not the artist's fault. If they get

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- drunk or eat too much at the rib fest and can't perform, that is on them. Stand up for yourself, but be fair.
- **Marketing & Media Requirements** (types of photo, video, audio clips, meet & greets etc.).
 - All artists or their management want to sign off on promotional material and advertising, because naturally they want to control the artist's image. But what does that mean for your advertising and media partnerships? If you can't get sign off in time, what might you lose out on? Try to negotiate a reasonable time frame and what recourse do you have if they don't respond within the agreed timeframe. If we don't get sign off in time to get into an important publication and miss out, this could potentially affect our attendance. If we go ahead without artist sign off, what recourse does the artist have? Don't be afraid to ask for time lines that make sense for you, or that you need to hear within a certain time or else you are free to go ahead.
 - Determine if the artist is willing to do "meet & greets" and if so, whether they will take place before or after the show.
- **Insurance**
 - Lawyers are taking over our business, and so insurance becomes more important. We insist on a liability insurance certificate from the artist. Some artists also look for a certificate from the venue or festival, this cost is minimal if anything at all.
- **Labour Agreements:**
 - We operate on a unionized site and must conduct business accordingly. We must ensure that all artists and their parties are aware of the terms and conditions of these agreements.
- **Technical Set Up:**
 - Our technical set up is very high end, but offered as a festival set up. We will negotiate additional components if we feel it adds to our guests experience...if we can create magic for a few thousand dollars more, then it's worth it.
 - Not all bands travel with all the instruments they require. You may need to supply them. Backline is backline. We get the

- best overall price we can and do our best to accommodate the needs of the bands.
 - We are in an outdoor open venue, so we can't promise private, unattended sound checks.
 - Since we have two large screens on either side of the Bandshell stage with three camera positions – two cameramen and a stationery camera and a director and cutter, we have negotiated, for a small upcharge, with the tech crew the right to keep the final aired performance for our use. We include the right to keep the recording in the artist's agreement.
- **Hospitality:**
 - There is third-party fine-dining restaurant right behind the Bandshell stage, so we have negotiated a very good menu at a very good price. The performers can go into a secluded dining area to get away from the stage; alternatively, the food is brought to the Green Room if they prefer.
 - Since the backstage area is not licenced for alcohol, we do not allow drinking or alcohol backstage, regardless of what their rider requests.

Other Things to Keep in Mind

Security

Security is becoming more important and we've seen more contracts with security clauses. If you have a security plan or rider, attach it. If you don't have one, create one or have a plan you can fall back on. You will be hosting thousands of guests, often in an outdoor venue. What if the weather changes? How do you control the crowds? Do you offer food and beverage and if you do what is your policy on the following:

- Age limit?
- Bottles or cans or pour in a glass?
- Plastic or glass?
- How close to the stage?
- Number of guests allowed in the venue? etc.

Taxes & Dues

We try to keep in mind our specific circumstance while we go through the agreement and rider. For example, in

Canada, we are obliged to withhold 15% of the fee as a tax (there is a tax treaty between Canada and most other countries so that if a professional pays a tax in one jurisdiction, it is recognized as being paid in their home country), so the "tax clause" is struck out.

Also specify who is covering taxes, fees, local fees, dues etc. and what does that mean to you and any precedent you may be setting.

The Red Pen

After years of learning our lessons, we take out our red pen and cross out many sections of the artist's contract and rider and we approach our offers and negotiations like this: Everything is negotiable!! Be honest and upfront!!

There are certain things you can't do, so say so up front, there is usually a simple solution or compromise. If you have to take a request off the table, be prepared to offer something similar, or something else. If the other side rejects one of your requests, expect the same efforts to compromise.

The Devil & the Deal Breakers

Ultimately, every so often, some terms are deal breakers. You may try to change or add clauses that the band management insist on retaining. They may have had a bad past experience, or saw another band affected by certain clauses, or their lawyer won't change it. You have to decide what is most important to you and your event. If a certain clause will cost a few dollars more, but you know this artist will be a big draw, weigh the difference and make a decision. But if you can't fulfill a clause or your organization's policies don't allow something, you may need to stop pursuing this particular performer. We can't win them all.

There will always be additional clauses. Read the contract through carefully, or have your lawyer do so for you. Communicate with your marketing and media teams so they are clear on what and when they can promote. The artists appreciate that you make the effort, and you may catch things that you can change to your benefit. You can't take any of the negotiations personally so don't be afraid to speak out.

Enjoy the Show!

After months of negotiating and piles of paperwork, it is finally time to enjoy the show! It is worth all the effort when you see the crowds at your concert swaying to the music and having fun!

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