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Public Service
Labour Relations Act

Before an adjudicator

BETWEEN

DAVID JENNINGS AND CARL MYERS

Grievors

and

TREASURY BOARD
(Department of Fisheries and Oceans)

Employer

Indexed as

Jennings and Myers v. Treasury Board (Department of Fisheries and Oceans)

In the matter of individual grievances referred to adjudication

REASONS FOR DECISION

Before: [Augustus Richardson, adjudicator](#)

For the Grievors: [Kimberley H. W. Turner, counsel](#)

For the Employer: [Richard Fader, counsel](#)

Heard at Halifax, Nova Scotia,
December 1 and 2, 2010.

REASONS FOR DECISION

I. Individual grievances referred to adjudication

[1] Carl Myers and David Jennings (“the grievors”) are federal employees in the Communications Branch of the Department of Fisheries and Oceans (“the employer” or “the DFO”). Each filed a grievance about the adequacy of the work description that was prepared for their positions in 2007. At issue is whether the work description complies with clause 54.01 of the collective agreement between the Treasury Board and the Public Service Alliance of Canada for the Program and Administrative Services Group; expiry date June 20, 2007 (“the collective agreement”), which reads as follows:

54.01 Upon written request, an employee shall be provided with a complete and current statement of the duties and responsibilities of his or her position, including the classification level and, where applicable, the point rating allotted by factor to his or her position, and an organization chart depicting the position's place in the organization.

[2] The employer stated that the 2007 work description complies with that clause. The grievors stated that it does not comply, primarily because it does not incorporate or reference key activities described as “media relations,” “strategic media relations” or “proactive media relations.” (The grievors listed a number of other inadequacies in the work description, including a change to the position title from “Communications Manager” to “Communications Advisor.”)

[3] At the commencement of the hearing, the parties agreed that I had jurisdiction to hear the grievances as long as I restricted myself to the question of the adequacy of the work description. It was agreed that I had no jurisdiction to determine issues related to their IS-04 classification.

[4] Both grievances were heard together. The Public Service Alliance of Canada (“the bargaining agent”) first adduced evidence on behalf of the grievors. The employer’s evidence followed.

[5] The grievors’ positions were titled at different times, “Communications Manager” or “Communications Advisor,” both positions are classified at the IS-04 group and level. At all material times, Mr. Jennings worked out of the DFO’s regional office in Dartmouth, Nova Scotia. Mr. Myers was assigned to, and worked out of, the Bedford Institute of Oceanography (BIO), also in Dartmouth.

[6] In June 2006, management circulated a draft document entitled, “National Model Work Description - IS-04.” The description was intended to cover IS-04s working as Communications Advisors at headquarters in Ottawa, as well as in regional offices such as Dartmouth. Recipients were advised that the work description was “only a model.” The description was not intended to depict each and every task or activity of a particular communications advisor classified IS-04. Rather, the idea was “[t]o capture all significant elements of the work—those elements that have indeed a true impact on the level of the position” (Exhibit U2, page 50).

[7] In December 2006, the new work description for the Communications Advisor position was finalized (Exhibit U2, page 52). (A complete copy of the work description is annexed as Appendix “A” to this decision.) Management then moved to finalize a work description for the IS-05 group and level (Exhibit U2, page 52).

[8] Mr. Myers became aware of the new work description in early 2007. He was concerned that it failed to adequately capture his job duties. He raised those concerns with Kathleen Kieley, at that time Regional Director of the Communications Branch of the Maritimes Region of the DFO (Exhibit U2, pages 60 to 65). Mr. Myers went so far as to provide an amended version of the work description, incorporating changes he thought necessary to reflect the job being performed in regional offices by communications advisors (Exhibit U3). His concerns were not accepted. Mr. Jennings also became aware of the new work description. He had concerns similar to those of Mr. Myers.

[9] In the end, neither Mr. Myers nor Mr. Jennings was satisfied with the new work description. On June 11, 2007, their bargaining agent gave them approval to file their grievances, and on June 12, 2007, they both signed grievances using the identical wording, as follows:

I grieve that the work description presented to me does not accurately reflect the duties of my position.

That the work description reflect more completely and accurately the level of knowledge/expertise/judgment and complexity of my job and include the variants in this position regional as opposed to nationally, i.e., the fact that my position requires that I provide strategic media relations as part of my duties, whereas nationally, i.e., NHQ, not all IS-04 level positions require that activity.

[Sic throughout]

[10] The employer rejected both grievances on the following grounds, which it then maintained consistently throughout the grievances process:

- a. The DFO was implementing national-model work descriptions;
- b. The descriptions were intended to be generic and to be based on the DFO's requirements as an organization and not on the particular individuals currently in the positions;
- c. They were meant to simplify the classification process and to facilitate staffing in response to the move to a national job application process; and
- d. It was not necessary that the work descriptions contain the details of all the activities performed by persons in the position; it was sufficient that the description capture the activities of the position in general terms.

[11] The two grievances were heard before me in Halifax, Nova Scotia, on December 1 and 2, 2010.

II. The evidence and findings

[12] To establish its position that the work description did not satisfy the requirements of clause 54.01 of the collective agreement, the bargaining agent called both grievors to testify, along with Jon Stone, currently Director of Communications for the Atlantic Region, Citizenship and Immigration Canada, Halifax. A number of exhibits were also adduced.

[13] On behalf of the employer, I heard the evidence of David Millar, currently Regional Director of Communications for the Atlantic Region of the DFO, Dartmouth.

[14] Most if not all of the evidence was about the work performed by the grievors as communications advisors (or, as they had formerly been called, communications managers) at the IS-04 group and level, how management evaluated that work over the years and whether the new work description captured that work. Mr. Millar for his part did not really challenge the evidence concerning the duties and responsibilities of the grievors. His basic position was not that their evidence was incorrect. Rather, it was that the work description adequately captured the basic elements of that work.

[15] Given that the dispute had little to do with the facts and more to do with how those facts were characterized and in particular, whether those facts were covered by the work description I see no point reproducing in detail the testimonies of the witnesses. I will focus instead on the facts as I find them to be, based on the testimony and the exhibits.

III. The work, duties and responsibilities of the grievors

[16] As noted, both grievances were heard together. While their actual assignments as communications advisors within the DFO were different, the grievors' duties and responsibilities were largely the same. The hearing proceeded on the basis that the evidence of one grievor was applicable to the other, at least insofar as the gist of their grievances were concerned.

[17] In 1991, Mr. Jennings' position was titled, "Manager, Media & Community Relations" and was classified at the IS-04 group and level. A description of his position at that time indicated that, among other things, the incumbent was responsible for establishing and maintaining "[c]ontacts with representatives of the media, in particular, as well as industry, special interest groups, other institutions and the general public to promote departmental activities and foster communications among all concerned" (Exhibit U2, page 32). In 1995, a performance evaluation for Mr. Jennings noted that the responsibilities and activities of what was then called a "manager, media and community relations" (still classified IS-04) included "[m]aintaining smooth and constructive media relations" and getting "[o]ur stories out so as to shape the media agenda" (Exhibit U2, page 35). That same evaluation stated that Mr. Jennings had "met or exceeded goals." He had "[c]ontinuously improved media relations and is well regarded by media" (Exhibit U2, page 35). It concluded with the comment that he "[h]as very good skills at interpersonal relations and almost always leaves reporters and others more than satisfied" (Exhibit U2, page 38).

[18] Mr. Myers was assigned to the BIO in 1998. The BIO is Canada's largest oceanographic institute, employing between 600 and 700 scientists and technical support personnel. Mr. Myers' duties and responsibilities were and are focused on promoting the BIO and its work to the public, ensuring that the public knows of and appreciates the types of research it carries on.

[19] As a communications manager, Mr. Myers' duties and responsibilities at the BIO at all material times included those described in the following paragraphs.

[20] One of his tasks was to understand the different types of research being carried out at the BIO and to determine the particular discoveries or topics that should be communicated to the public and how that communication might best be accomplished. It required determining which scientist or researcher would be the best spokesperson, training that person to communicate the information to the media, arranging for and monitoring the interview or media event, and then monitoring the resulting publicity.

[21] Some of that work was reactive, in the sense that the communications officer would determine how best to react to hot issues that might suddenly develop. An example is the recent oil spill in the Gulf of Mexico, which resulted in a large number of media requests for interviews with several BIO scientists about oil spills and their impact on ocean life and ecology.

[22] Other times, the work was proactive, in the sense that the communications officer would decide that a particular topic on which BIO scientists were working might be interesting to the public. The officer would seek approval from management (and, more recently, from headquarters in Ottawa) to pitch the story to the media. Once the approval was obtained, the officer would approach the reporter or media that he or she felt might be interested, pitch the story, identify and train the BIO scientist who could serve as spokesperson, and then arrange and monitor the resulting media interview and story.

[23] Mr. Myers is and was responsible for developing media lines, fact sheets, news releases, newsletters, displays, speeches, brochures and other communication products, all of which are designed to communicate key messages to target audiences. A media line is a document, hopefully prepared in advance, of a particular issue or story that is becoming hot that provides background for the issue or topic and the key message that the designated spokesperson is expected to deliver. Of course, it is not possible to generate media lines for unknown future events that suddenly erupt in the news. Hence the need for reactive communication strategies that may be developed more or less on the fly.

[24] Mr. Myers would analyze the public and other media for developing trends or issues that the BIO might need to get ahead of before they became hot button issues or

to identify openings for positive stories concerning the BIO's work. He would also provide advice, suggestions or recommendations to the DFO as a whole (and in particular to headquarters for eventual use by the Minister) concerning how best to respond to or deal with events or issues within the DFO's target service audience as they became media stories.

[25] Mr. Myers explained his work as follows:

On a daily basis I seek out news stories . . . I discuss with BIO scientists their work to look for good news stories . . . decide and promote the media that would be the best sources to give the story to . . . then put in a request through the regional director to headquarters in Ottawa for authorization to proceed . . . then if approval is given I negotiate or pitch the story to reporters, and then follow through by identifying and training the appropriate spokesperson and then monitoring the resulting coverage.

[26] Mr. Jennings's testimony about the nature of his work and responsibilities was similar to that of Mr. Myers. The differences that did exist had more to do with the fact that, while Mr. Myers was working for a scientific institution that did not receive much public flak, Mr. Jennings was working within the DFO proper, and the witnesses agreed that it took only one unhappy fisherman to generate a hot story that required delicate handling. At the time the grievances were filed, in June 2007, Mr. Jennings was working as a generalist within the Communications Branch at the DFO's Dartmouth office. Before that appointment, he had been assigned under a service agreement between the DFO and the Canadian Coast Guard to act as the latter's spokesperson.

[27] I pause to note that all the witnesses, including Mr. Millar, testified to an increasing level of control being exerted over the regional communications advisors by Ottawa headquarters since 2007, if not earlier. As of the date of the hearing, it appears that virtually every media line, whether reactive or proactive, must be vetted and approved by Ottawa before it is undertaken by the Atlantic regional office. That control is exercised regardless of whether the story concerns the risk of oil spills on George's Bank, the use of egg-sniffing dogs in the lobster fishery or recent discoveries in the life cycle of snow crabs.

[28] As already indicated, neither Mr. Myers nor Mr. Jennings thought that the 2007 work description captured the full extent of their duties and responsibilities. For both, the main concern was that to them the work description did not specify as a key

activity what they termed “strategic media relations,” “media relations” or “proactive media relations.”

[29] Mr. Myers described his issue with the work description in the following way:

The media activity section [of the work description] deals with developing products . . . just responsive things . . . it didn't capture the depth of what media relations does . . . media relations is bigger than just a news release, it is engaging beforehand with spokespersons, it is contacting the media, it is strategic.

Before moving to Nova Scotia, he had worked as a communications manager in Ottawa. He testified that, in Ottawa, communications managers tended to work on only one file and that they did not generally deal directly with the media. However, most of the DFO's work is conducted in the regions, so “[m]any media calls go to the regions, not Ottawa headquarters.”

[30] Similarly, Mr. Jennings' reaction after reading the work description was that “whoever had drafted it had decided that external contacts . . . proactive media relations . . . was a higher level activity” than that associated with communications managers.

[31] On that point, Mr. Myers observed a number of times in his evidence that if he “waited for people from the media to call about science stories [he] wouldn't be very busy.” Instead, he “selectively contacted reporters . . . in order to convey our message to the public.” He did not “just randomly call reporters.” He used media contacts that he had “nurtured through the years . . . [he] built up a resource of reporters that would understand the issues and would spend time to report on science-related issues.”

[32] Mr. Myers testified that it was important to nurture and contact the right reporters, in part to get the message out effectively and in part to ensure that the BIO scientists did not get upset if the story was not reported correctly. Mr. Myers explained that getting the BIO's message out to the public involved massaging and juggling the interests and attitudes of the BIO's scientists as well as the public. He stated the following:

Communicating science is complicated . . . you have to be able to take a complex topic and explain it to the media in such a way as to lure them in, to get them to report it in the way that you want them to report it . . . but also to report it

in a way that is accurate and consistent with the science . . . but you also have to show the scientists that it's important not just to get the message out but how to get it out . . . that their work is not being trivialized in the press . . . that it is in their own interest to do deal with the media, without at the same time giving them the impression that they are being muzzled.

[33] Mr. Jennings provided another example. Several years before the grievances were filed, he had been assigned to act as the spokesperson for the Canadian Coast Guard. An issue arose about stationing a helicopter in Yarmouth, Nova Scotia, which could be used for search and rescue operations. The local community was insistent that the helicopter not be removed. Mr. Jennings, by working with several agencies, and by organizing a demonstration using a helicopter from Canadian Forces Base Shearwater, was able to calm community fears, which enabled the department to remove the helicopter, thereby saving both money and the department's reputation in Yarmouth.

[34] The important role that media relations plays in the work of communication managers was supported by Mr. Stone's evidence. Mr. Stone was familiar with the communications manager positions across the country. In cross-examination, he testified that, in the context of regional work, some communications managers focused on strategic media relations because "the reason the job exists is to exploit relations with the media in order to generate good visibility for the department." He defined "strategic media relations" as follows:

Proactively dealing with the media as well as building relations with the media, and determining what the department's current agenda was, and finding ways that the current activities can respond to that agenda, all with the goal of finding proactive chances to raise the profile of the department and provide the public with information regarding the department's actions and services.

[35] In cross-examination, Mr. Stone also testified that strategic media relations included elements of both reactive and proactive media relations, but with an increased emphasis on the latter. He stated that it was:

essential that you understand what is happening in the department so that you can identify chances to develop contacts with the media . . . contact reporters you know to be good and tell them we have some interesting science . . . or a good story . . . which is pitching a story.

He pointed out that the kind of relationship with a reporter that enables that approach:

builds over time . . . you don't just pick a reporter at random, there is an intelligence side of strategic media relations . . . you have to build that up, become a known commodity to reporters, and they to you, so that you can develop a story that will satisfy both sides, and achieve both the reporter's and the communication manager's operational objectives.

[36] As already noted, Mr. Millar in his evidence did not contest the grievors' or Mr. Stone's evidence. He generally agreed that the grievors have used contacts with local media in performing their work. He agreed that those contacts (and using contacts) were a useful part of their work and that contacts enable them to do their work more effectively. His objection was that the 2007 work description did adequately cover such work and that there was no need to alter or amend it. He also testified that the increasing control exercised by Ottawa headquarters over the media activities of the Atlantic Region reduced if not eliminated a large part of the kind of media relations that the regional communications managers had performed before 2007. Media relations now consume little of the grievors' time.

IV. Summary of the arguments

A. For the bargaining agent

[37] Counsel for the bargaining agent conceded at the outset (as she had to) that not every task or duty had to be set out in a job description. Generic descriptions were sufficient as long as they captured the core duties of an employee. But generic descriptions that were too generic failed to satisfy the requirement of clause 54.01 of the collective agreement. Counsel for the bargaining agent submitted that the activity referred to as "proactive media relations," "strategic media relations" or "media relations" was a key part of the grievors' work and duties and that the 2007 job description did not reflect it.

[38] In perhaps a recognition of the difficulty in determining when an otherwise acceptable generic job description became too generic, counsel for the bargaining agent submitted as a minimum position that at the very least the "Key Activities" listed in the 2007 job description should include the following: "Provides proactive and responsive media relations activities in support of the goals and objectives of the

department.” She nevertheless submitted that the deficiencies in the 2007 job description extended beyond that minimum position. In doing so she relied primarily on Exhibit U3, a revision of the 2007 work description which had been prepared by Mr. Myers. These revisions (which included the “minimum position” relied upon by counsel for the grievors) inserted and emphasized various aspects of the strategic media relations (SMR). So, for example, “provides strategic advice and recommendations” became “provides proactive strategic advice.” Or, to take another example, it was submitted that the words “May act as a spokesperson for the department by responding to questions from the media and the public on programs and policies, and supports staff and senior managers in responding to the media” ought to be added after the existing activity of “provides departmental spokespersons with analysis and strategic advice on key messages to be delivered.” (The emphasized word “strategic” was another suggested addition to what was already in the job description.) Also, as set out in para 2, the grievors objected to the change in job title.

[39] The bargaining agent’s counsel also referred to the employer’s manuals and job performance evaluations. Counsel for the bargaining agent submitted that, if media relations or strategic media relations was, as of 2007, a goal of the employer, and if it had been used as a criteria to evaluate the job performances of the grievors (as in the case of Mr. Jennings), then it was surely important enough to warrant a specific reference in the job description. The fact that strategic media relations might have fallen somewhat into disfavour since 2007, and the fact that Ottawa headquarters had tightened its control and direction of media relations since then, did not mean that media relations was no longer a necessary or important part of what the grievors did.

[40] On that point, the bargaining agent’s counsel submitted that the diminishment in the grievors’ autonomy as media relations advisors since the grievances were filed in 2007 ought not to count against them. It was not their fault that it had taken so long to hear the grievances. The grievors had complained about a 2007 job description and, at the very least, were entitled under the collective agreement to a job description that was a complete and current statement as of 2007. If the situation has changed since 2007, then the employer is entitled to change its job description if it wishes, but that cannot take away the grievors’ right in 2007 to a job description that was a complete and current statement as of that date of their duties and responsibilities.

B. For the employer

[41] The employer's counsel submitted (and I agree) that the burden was on the bargaining agent to show that the 2007 job description failed to satisfy the requirements of clause 54.01 of the collective agreement.

[42] The employer's counsel also submitted that a job description was not intended to describe the experience, expertise or personal attributes of the particular person filling the position. Rather, its purpose was to describe a position. It was important to recall that the employer's workforce was national and that employees could apply for jobs across the country, not just in one place. Generic job descriptions played a valuable role in such a system, by

- a. maintaining consistency across the country;
- b. enabling employees to apply for positions in other parts of the country or in other departments; and
- c. improving efficiency by reducing the number of specific or particularized job descriptions.

[43] Job descriptions based on the duties and responsibilities of the particular individual holding a position in a particular region, and not on the general duties and responsibilities of employees in particular positions, would frustrate that function. No two people bring the same talents, experience or expertise to the duties and responsibilities of a particular job. A job description focused on an individual's attributes would make it difficult if not impossible to describe the basic or key duties and responsibilities of the position.

[44] In essence, the submissions of the employer's counsel on that point were threefold.

[45] First, counsel for the employer submitted that the grievors' focus on media relations was in essence a focus on their own personal experience and expertise. The grievors both, over the years, had developed a detailed knowledge of and relationships with members of the local media. That knowledge and those relationships were useful in assisting them to perform their duties and responsibilities, but they were not an essential part of those duties and responsibilities. They were learned along the way but were not crucial to starting out on that path.

[46] Second, counsel for the employer submitted that, if media relations was a core duty, then it took up only a relatively small percentage of the grievors' time. Much more of their time, indeed a majority, was taken up with preparing media lines, preparing spokespersons and monitoring news developments rather than dealing directly with the press. All those activities were already set out in the third bullet of the Key Activities of the job description (see Appendix "A"). And, indeed, with the current government's increasingly centralized control of media relations of any kind, it could not be said that media relations played much if any real role in the grievors' day-to-day activities.

[47] Third, counsel for the employer submitted that media relations or strategic media relations was just a label. It had no intuitive meaning. To the extent that it had any, meaning it could be found within the following Key Activities, set out in the 2007 work description:

...

Prepares and implements communications strategies in response to issues or to promote and inform various audiences of changing and new departmental policies, programs, services and requirements.

Manages the production of communication tools (news releases, questions and answers, fact sheets, brochures, website, media lines etc.) and the co-ordination of activities in order to communicate key messages to target audiences.

...

[48] Counsel for the employer pointed out that the 2007 job description listed, under "Work Characteristics-Skill," the requirement "[o]f professional communications (including media relations) practices, techniques, policies, principles, theories and methods." He went through the job description in detail, pointing out the different descriptions of activities that could be said to fall within the label of media relations, even though the term itself was not used.

C. The bargaining agent's rebuttal

[49] In reply, counsel for the bargaining agent submitted that clause 54.01 of the collective agreement was concerned not with any employee in a position, but with the particular employee holding the position. In other words, and contrary to the submissions made on behalf of the employer, the job description was to describe the

individual employee's duties and responsibilities. The employer might be entitled if it wished to change the duties and responsibilities assigned to the employee under a particular job description, but that was a different issue. The employee was entitled under clause 54.01 to a description of what he or she was to do and not of what the duties might become in the future.

[50] With respect to the employer's submission that references to media relations under "Skills" in the job description was sufficient, counsel for the bargaining agent submitted that, if a responsibility was a skill, it must also surely be a key activity. Nor were the Key Activities relied upon by the employer (and noted at para. 47 of this decision) sufficiently focused to cover the specific tasks associated with media relations. The words "[p]repares and implements communications strategies in response to issues or to promote and inform various audiences of changing and new departmental policies, programs, services and requirements" are so broad and so generic that they could apply as equally to a back-room clerk preparing press releases as to someone directly managing the media.

V. Analysis, findings and decision

[51] An employee's job description is the cornerstone of the employment relationship. In *Breckenridge et al. v. The Library of Parliament*, PSSRB File Nos. 466-LP-225 to 233 and 241 to 245 (19960912), the adjudicator stated the following: "It is a fundamental, multipurpose document which is referred to with regard to classification, staffing, remuneration, discipline, performance evaluation, identification of language requirements, and career planning." In *Currie v. Canada (Canada Customs and Revenue Agency)*, 2006 FCA 194, at para 26, the Federal Court of Appeal wrote that a work description "...must reflect the realities of the employee's work situation since so many aspects of the employee's rights and obligations in the workplace are bound to his or her Work Description." Its importance is such that, under the collective agreement, any employee is entitled to request a complete and current work description.

[52] What is a complete and current statement of the duties and responsibilities of an employee? The parties and the arbitral authorities on which they rely agree that a work description must contain enough information to accurately reflect what the employee does. It must not omit a "... reference to a particular duty or responsibility which the employee is otherwise required to perform"; see *Taylor v. Treasury Board*

(*Revenue Canada — Customs & Excise*), PSSRB File No. 166-02-20396 (19901221). A job description that contains broad and generic descriptions is acceptable as long as it satisfies that fundamental requirement. In *Hughes v. Treasury Board of Canada (Natural Resources Canada)*, 2000 PSSRB 69, at para 26, the adjudicator wrote the following: “A job description need not contain a detailed listing of all activities performed under a specific duty. Nor should it necessarily list at length the manner in which those activities are accomplished.” See also *Currie et al. v. Canada Revenue Agency*, 2008 PSLRB 69, at para 164; *Jaremy et al. v. Treasury Board (Revenue Canada - Customs, Excise & Taxation)*, 2000 PSSRB 59, at para 24; and *Barnes et al. v. Canada Customs and Revenue Agency*, 2003 PSSRB 13. The employer is not required to use any particular form of wording to describe the duties and responsibilities of an employee and “. . .it is not the adjudicator’s role to correct the wording or the expressions that are used,” so long as they broadly describe the responsibilities and the duties being performed (see *Jarvis et al. v. Treasury Board (Industry Canada)*, 2001 PSSRB 84, at para 95; and see *Barnes*, at para 24.

[53] The question for me to decide is whether the 2007 job description provided a complete and current statement of the duties and responsibilities of the grievors and, if not, what such a complete and current statement would include.

[54] After carefully considering the evidence, including the several exhibits filed at the hearing, I have decided that the 2007 job description omits one Key Activity — that of strategic media relations. I have reached this conclusion for the following reasons.

[55] First, I was satisfied on the evidence that being a communications manager (as it used to be titled) or a communications advisor (as it is now titled) involved more than simply developing media lines, whether proactively or reactively, when getting the message out. Media lines may be the product, but media relations are the equally important delivery system. In my opinion, it is not enough to have a well-thought-out media line for any potential issue that might develop or for a new DFO or BIO initiative or research report. A well-reasoned media line might get distorted if it is reported by a reporter who doesn’t understand the issue or who doesn’t care about it or who has his or her own axe to grind. It might not get any play at all if it is given to a reporter after a deadline or at a time when its newsworthiness is at a low ebb. Those risks to the DFO’s communications goals necessitates knowledge by the communications managers or advisors of to whom to give the media lines, how and when they should be provided

and how best to get the media to deliver what the DFO most wants — a positive public impression of the work and services it provides and, ultimately, of the government in office.

[56] Second, I was also satisfied that strategic media relations — that is, active and engaged relations with the media — was a key activity of a communications manager or advisor. On that note, I should say that, in my opinion, whether an activity is key to a particular position does not depend on whether it occupies 60% of an employee's time (as claimed by the grievors) or 5% (as suggested by Mr. Millar). A linchpin constitutes only a minuscule amount of the mass of a moving wagon train, yet its loss would entirely disrupt that train. And, in my opinion, the evidence established on a balance of probabilities that effective communications requires effective media relations as well as effective media lines. Effective and well-written brochures, media lines and news releases are important, but if the media cannot be made interested in them, nothing will come of their fine words and the work put into creating them.

[57] Nor was I convinced that the growing centralization of communication strategies has detracted from the importance of media relations. No matter how centralized the decision-making process becomes, it remains the case that the media line whatever Ottawa decides it to be must still to a large extent be delivered out of the regional offices. And, based on the evidence, the communications advisors must use all their tact, skills and knowledge of the media to get messages out in the way that Ottawa wants them. In my view, that conclusion makes common sense. Headquarters may know what it wants to say on a particular topic, but it cannot hope to know how to say it in a particular region or to whom to say it - to ensure that the message is conveyed and received in the most favourable light. That task must be for the regional communication advisors, who know how to properly communicate with the media and who have formed relationships with the local media.

[58] Third, I was satisfied that the employer recognized both the key importance of media relations and the fact that media relations was a key part of what communications advisors do. That recognition is found in part in the evidence of Mr. Millar concerning a proposed designation, classified IS-04, of "Strategic Media Relations Officer."

[59] Mr. Millar testified that the intent of the position was to have one person focus on the media relations aspect of the work normally performed by employees, such as

the grievors. It was to be an enhanced media relations position. As he explained it, “we have lots of riflemen, and the idea was to have a sniper.” He went on to add that:

a lot of what Karl [Myers] and David [Jennings] do deals with the media, but it also deals with background work of forecasting, coordination and so on. This [the proposed Strategic Media Relations Officer position] was to be much more focussed on interaction with media and media relations.

[60] The work description for the Strategic Media Relations Officer position was entered into evidence (Exhibit E6). Included in the Key Activities were the following:

...

Anticipates media and public reaction to departmental programs and policies.

Proactively positions targeted key media issues and foster [sic] relations with the media.

...

[Emphasis added]

[61] As it turned out, the new position was “largely an idea that didn’t pan out in the regions. To extend the analogy the riflemen were working alright in the regions, they didn’t need snipers.” Mr. Millar testified that the position was “never mapped to one in our region. Other regions that did institute the position later abandoned it.” As he noted, “having one person focus on media relations [to the exclusion of other aspects of a communications advisor’s work] was not the best use of our resources . . . it was better to have someone who was involved in the background work as well.” In short, it was “better to have a slightly more generalized IS-04” than a specialized IS-04.

[62] In my opinion, that evidence supported the grievors’ position in two ways. First, it constituted in effect an acknowledgement that their work included proactive or strategic media relations. Second, it also constituted a recognition that media relations were important enough to warrant an attempt to develop a separate position, classified IS-04, which would focus on that activity. But if media relations was important enough or central enough to the employer’s plans that it could consider and indeed attempt to carve out that function and dedicate it to a position separate and distinct from that of communications advisors and classified IS-04, then surely it may be considered a key

activity. Not all riflemen may be snipers, but the ability to handle a rifle is a key activity for both positions.

[63] Further support for that point is found in the employer's "Communications Renewal" policy, prepared in February 2004 (see Exhibit U2, pages 97 to 106). The policy noted that DFO Communications "[h]as the overall mandate for media relations and coordinates efforts across the country with departmental staff." The purpose of the policy was "[t]o guide DFO in its public affairs operations, specifically media relations [emphasis added]" (Exhibit U2, page 97). It went on to state that, while DFO Communications had "lead responsibility for media relations," all DFO employees shared at least some responsibility "[f]or the implementation of effective media relations as coordinated by DFO Communications" (Exhibit U2, page 98). To achieve that goal, DFO Communications was to perform the following:

... builds, nurtures, and maintains open and professional relations with media. It cultivates proactive relations with the media to promote public awareness and understanding of DFO's policies, programs, services and initiatives.

[64] Mr. Millar testified that that policy reflected a vogue in the mid-2000s for SMR. As I understood it, the objective was to build opportunities for the coverage of under-reported issues, get ahead of the curve on potential hot-button issues and to "challenge media to balance their coverage" (Exhibit U2, page 6).

[65] For example, a "Guiding Document and Work Plan for 2006-2007" for SMR in the Maritimes Region explained the underlying principle as follows (Exhibit U2, page 206) :

Media Relations: Key to the success of managing media relations effectively is establishing a solid relationship with the media representatives that cover DFO issues in this region. A concerted effort to meet their needs, within their deadlines, and to direct them to the best spokespersons will go a long way towards the SMR manager becoming the first point of contact for a journalist. Failure to achieve this may mean that DFO loses an opportunity to forward its own perspective on an issue. Developing a relationship with key journalists should be the SMR manager's first priority."

[66] However, according to Mr. Millar, SMR is no longer much talked about or used, especially given the increasingly centralized control being exercised over media communications by headquarters.

[67] Counsel for the employer built on that evidence, submitting that evidence of the DFO's communications plans from before 2007 or indeed after 2007 ought not to be relied on to determine the key activities of the grievors as of June 2007. In this regard, I agree that the relevant period in time for purposes of this grievance is June 2007, the date the grievances were filed. However, it is in my opinion going too far to say that I cannot receive or consider anything that they did before or after that date. Evidence of what the grievors were doing before 2007 provides context or background that helps me understand the evidence of what they were doing in 2007. In addition, past and future evidence, in this case at least, was also relevant inasmuch as both demonstrated that no matter whether SMR played a larger role in their duties and responsibilities (as it did before June 2007) or a smaller role (as it may have after June 2007), it perforce remained a key element in any position that required communicating a particular position or idea to the public through the media—which is what the position in 2007 entailed. All of this evidence satisfied me that a key element of what the grievors did in 2007 was composed of interaction with the media in such a way as to ensure that media coverage remained as positive as possible. In other words, it is not enough simply to fire off an email to local reporters. Relations with those reporters have to be built and managed over the years to ensure the best possible coverage.

[68] And indeed, the DFO's "Communications National Integrated Business and HR Plan" for 2008-2009 (which was written well after the alleged decline of strategic media relations as a concept) specifically lists strategic media relations as part of the department's ongoing activities (Exhibit U2, page 225). The plan in fact describes strategic media relations as including "responding to media inquiries, proactively developing positive relations with journalists, pitching stories, providing background and correction on hot issues, and working to earn balanced news coverage" [emphasis added]. In addition, Mr. Millar acknowledged in cross-examination that strategic media relations were part of the grievors' work, as follows: "They wouldn't be able to achieve their goals and key activities if they didn't do it; it's a component of their jobs."

[69] Counsel for the employer, as well as Mr. Millar, argued that media relations could be fit within one or both of the bulleted key activities of the grievors' work description. The difficulty with that position is twofold.

[70] First, the key activities are so general as to apply to virtually anyone. For example, to state that a person "prepares and implements communications strategies"

does not state how to achieve that implementation. It could be implemented simply by sending out a press release or a Twitter “tweet.” Or it could be implemented by “. . . proactively developing positive relations with journalists. . .,” to use the words of the DFO’s own plan. However, I was satisfied on the evidence that the latter more accurately captured what the grievors did.

[71] Second, if media relations is indeed subsumed within the words “prepares and implements communications strategies” or “manages the production of communication tools,” it remains the case that the DFO considered that particular subset important enough to warrant focusing on it by creating the position of Strategic Media Relations Officer, as discussed at paragraph 60 of this decision. With respect, it does not make sense that an activity that was not key could nevertheless support the creation of a position dedicated to that activity. If the activity in question is important enough to support experimenting with a position focused on that activity, then, in my opinion, that activity is sufficiently important to the work description to warrant an express reference to it.

[72] In short, I am satisfied that the bargaining agent has at least established that the failure of the 2007 work description to refer expressly to media relations whether proactive or strategic as a key activity means that it did not provide a complete and current statement of the duties and responsibilities of the positions of the two grievors.

[73] On that point, I do not accept the submission made on behalf of the employer that including such an activity in a work description that is intended to be generic and national in scope would defeat that purpose. The fact that a communications advisor in Halifax must develop effective relations with the local media does not mean that, for example, an employee located in Vancouver could not seek to fill that position. It means only that he or she would know and understand that, if he or she obtained the position, they would be expected to develop those relations and not just sit in the office preparing and implementing strategies.

[74] Beyond that, I was not convinced that the grievors’ other criticisms or suggested revisions of the 2007 work description represented anything more than variations of their basic complaint: the work description failed to emphasize or identify the importance that the media relations role played in their day-to-day duties and responsibilities. The only exception to this conclusion lies in their grievance

concerning the change in the name of the position from “communications manager” to “communications advisor.” I was not persuaded that this change breached clause 54.01 of the collective agreement. First, clause 50.01 gives a right to a statement of the employee’s duties and responsibilities, not to a particular title for those duties and responsibilities. Second, and in any event, while the grievors do in a sense “manage” issues or stories, they do not as a rule “manage” people. In my view “advisor” more accurately describes the bulk of what the grievors did in 2007.

[75] Accordingly, I am satisfied, and so find that the Key Activities of the 2007 work description ought to be amended to include the following: “Provides proactive and responsive media relations activities in support of the goals and objectives of the department.” Such a description captures a key activity of what the grievors do, whether it is called “strategic” or “proactive” media relations or simply “media relations.”

[76] For all of the above reasons, I make the following order:

(The Order appears on the next page)

VI. Order

[77] The 2007 IS-04 Communications Advisor work description of Mr. Myers and Mr. Jennings is amended by adding, under the heading “Key Activities,” the following:

*Provides proactive and responsive media relations activities
in support of the goals and objectives of the department.*

February 14, 2011.

**Augustus Richardson,
adjudicator**

Annex A**WORK DESCRIPTION - DESCRIPTION DE TRAVAIL**

Position Number - Numéro du poste 2414	Position Title — Titre du poste Communications Advisor
Position Classification — IS-04	National Occupation Code — Code national des professions
Department/Agency Ministère/organisme Fisheries and Oceans	Effective Date — Date d'entrée en vigueur
Organizational Component — Composante organisationnelle	
Geographic Location — Lieu géographique Various regions	Job/Generic Number — Numéro d'emploi / de générique NMWD #675
Supervisor Position Number — Numéro du poste du surveillant 21642	Supervisor Position Title — Titre du poste du surveillant Regional Director, Communications
Supervisor Position Classification — Classification du poste du surveillant EX-01	
Language Requirements — Exigences linguistiques	Linguistic Profile — Profil linguistique English
Communication Requirements — Exigences en matière de communication	
Office Code — Code de bureau Various	Security Requirements — Exigences en matière de sécurité

CLIENT SERVICE RESULTS I RESULTATS AXES SUR LE SERVICE A LA CLIENTELE

Strategic communications advice, planning, products and services for departmental business lines and/or corporate clients in the Region or at National Headquarters, and the Minister's Office, in support of departmental objectives.

KEY ACTIVITIES / ACTIVITÉS PRINCIPALES

- *Provides strategic advice and recommendations on communications approaches, tools and actions to management on departmental (corporate and operations) programs and initiatives or in crisis situations.*
- *Prepares and implements communications strategies in response to issues or to promote and inform various audiences of changing and new departmental policies, programs, services and requirements*
- *Manages the production of communications tools (news releases, questions and answers, fact sheets, brochures, website, media lines etc.) and the co-ordination of activities in order to communicate key messages to target audiences.*
- *Monitors public issues, trends and developments through the analysis of public opinion, news media coverage and consultative relationships to identify opportunities, develop plans or strategies to promote the Department's objectives.*
- *Leads or participates in various committees, working groups, and outreach activities.*
- *Provides departmental spokespersons with analysis and advice on key messages to be delivered and may act as a spokesperson.*

...

WORK CHARACTERISTICS / CARACTÉRISTIQUE DU TRAVAIL SKILL I HABILITÉ

The work of a Communications Advisor requires knowledge of professional communications (including media relations) practices, techniques, policies, principles, theories and methods. This includes an ability to think and act strategically, assess the public environment and its implications in order to assess strategic considerations and develop objectives and messages. Expertise in convincing/negotiating with senior officials and in researching, writing, and editing is also essential.

This position also requires knowledge of the mandate, structure, capabilities, services and resources of Fisheries and Oceans Canada and its communication function as well as the operations of the Government of Canada (especially central agencies) and stakeholders. Advisors must also be aware of the issues, concerns and objectives of assigned programs or the region for which they provide communications advice, guidance and planning. The position also requires knowledge of the Government of Canada Communication Policy and related policies and legislation. Such knowledge is necessary in order to guide the planning and implementation of work activities and to ensure products and activities meet government standards. In addition, this knowledge ensures sufficient information sharing, coordinated communication activities and advice that is relevant and consistent with departmental and Government of Canada objectives.

Strong leadership skills and public speaking skills are needed to lead committees, outreach events, and when dealing with media. Communications advisors must keep current with new and developing communications approaches and technologies. This position requires knowledge of new technologies, including electronic and web-based formats as well as traditional methods of communication in order to provide information in multiple formats to accommodate diverse needs.

EFFORT**Intellectual / Effort Intellectuel**

This position requires intellectual effort to determine the information needs of the department's various publics and, in turn, the communications needs of the program and corporate branches or a region. It also requires initiative, judgment and creativity to address challenges, propose solutions to complex communications issues and projects, and deal with conflicting, multiple and unpredictable demands.

Such effort is needed to undertake and manage the development and implementation of communications strategies. There is a need to exercise a high degree of judgment and consideration of the needs of the Minister, the department and the Government of Canada regarding strategies. This involves anticipating needs and developing and recommending appropriate products and messages. There is a requirement to coordinate related work with other communications officers either in the Branch or among regions, and with other officials of the Department.

Intellectual effort is needed to analyze and evaluate media and public opinion research emerging and crisis issues and environmental trends, public opinion studies, media reports, product and evaluation and other data, and interpret the impacts and requirements in relation to the development of products and initiatives, to advise Departmental managers and staff, and to provide tools with which to address these issues and to counter these trends. Intellectual effort is also necessary to interpret legislation, apply policies and introduce improved work processes.

Advisors must exercise effort to summarize and synthesize written materials and prepare formal documents for external distribution to varied audiences, while ensuring that the writing style is consistent and can be understood by the intended audience.

It is important to maintain composure and professionalism in order to perform a challenge function as an objective and independent communications advisor. This involves questioning traditional or narrow perspectives and identifying alternative views. The positions being challenged are often those held by specialists in the field and are often at a senior level. There is no control on the duration or the frequency of these events. Effort for all of an Advisor's activities and responsibilities is increased due to restricted budgets, tight deadlines, conflicting views and priorities, and lengthy and complex approval processes.

Physical / Effort Physique

The work is primarily intellectual in nature with long periods of sitting using a computer. It may, on occasion in the regions, require such physical activity as lifting and carrying boxes, displays, audiovisual equipment and other supplies in the set up of off-site meetings. It may also require setting up and dismantling displays.

RESPONSIBILITY /RESPONSABILITÉ

An advisor prepares requests for proposals for communications products or services; manages the performance of contracted communications specialists; and ensures all communications products and services prepared by communications and program staff, as well as contractors and external service providers, comply with all applicable government policies. An advisor may also manage junior advisors and co-operative education students.

An advisor often estimates costs of projects, produces cost-benefit analyses, advises program managers on allocating resources for communications products or services and approves work done in order to authorize payment for services. Advisors may also be involved in negotiating contracts.

Technical / Ressources techniques

The advisor position requires expertise in preparing news releases, feature stories, brochures, website material and other communications products requiring knowledge of specific techniques. An advisor is also responsible for advising departmental clients on publishing techniques as well as quality of language.

The impact of strategies implemented, advice provided and the quality (i.e. writing and presentation) of products distributed affects the department's ability to provide the public with timely, accurate, clear, objective and complete information about its policies, programs and services. Furthermore, an Advisor's work significantly impacts the perceived image of the department, and in turn, the Government of Canada.

WORKING CONDITIONS / CONDITIONS DE TRAVAIL

This position consists of working in an open office environment with noise and frequent interruptions and includes prolonged exposure to glare from a computer and long periods of sitting in meetings and using a keyboard and mouse.

An advisor may also be required to travel occasionally to other regions, National Headquarters or other locations for the purpose of meetings, press conferences, or focus group testing for example.

Psychological / Environnement de travail psychologique

An advisor deals with multiple projects and sensitive or secret information and works under the pressure of short time frames, political considerations, information gaps, availability of resources, conflicting and rapidly changing priorities, lack of detailed information, restricted budgets, lengthy approval processes, and the difficulty in reaching consensus among a broad variety of stakeholders.

The demands of senior management and the Minister's Office combined with the relatively high profile nature of the work done by communications advisors poses a level of psychological stress.

ADDITIONAL INFORMATION / INFORMATION ADDITIONNELLE