

**Local Television Support
for the
Official-language Minority in Quebec**

**A Report
for the
Department of Canadian Heritage**

August, 2009

Magnetic North Associates
5 St-Anselme
Rigaud, Quebec
J0P 1P0
450-451-4664

Executive Summary

The Anglophone minority doesn't lack access to English-language channels via satellite and cable distribution, but it is underserved in "regional reflection" and "local expression". That is especially the case for the 200,000 Anglophones outside the greater Montreal area who have virtually no "regional reflection".

The reason for this inadequate regional programming can be traced to the lack of regional services available to the official language minority community (OLMC) in Quebec. There is no English-language educational channel, similar to TFO in Ontario, nor is there an English regional channel, or community channel.

The CRTC has the means, and the mandate under the *Broadcasting Act* and the *Official Languages Act*, to support official-language minority programming, including the Anglophone minority inside Quebec. The CRTC has recently acknowledged the problem of regional reflection, and stated that it believes the solutions lie with the CBC and new media.

As we can see from the comments quoted in this report, the primary problem is lack of OLMC regional reflection in Quebec. The CBC is unable to solve that problem unless its budget is significantly increased. New media may help deal with the problem of distribution to the widely-dispersed Anglophone communities throughout the province, but new media does not currently provide a significant solution to the primary problem, e.g. funding production of regional reflection.

We examine potential solutions in this report that are available through the CRTC by establishing OLMC envelopes within broadcast distribution undertaking (BDU) production funds. These would include (a) envelopes for existing cable industry funds supporting "local expression" or community channels, (b) envelopes in the newly established Local Programming Improvement Fund (LPIF), and (c) funding from satellite community channels proposed by the BDUs. As much as \$15-20 million could be raised for Quebec OLMC regional reflection if envelopes equivalent to 20% of these English-language and/or Quebec funds were established.

In addition, distribution of this programming could be achieved through a regional English-Quebec category 1 satellite channel. This channel might use BDU facilities from the community channel recently proposed by the satellite industry, or distribution of this channel might be paid out of the proposed BDU contribution for "local expression".

At this time, the policy opportunities to achieve OLMC regional reflection through the CRTC public process have never been greater. The OLMCs need to pursue those opportunities at each relevant hearing if the potential of the *Broadcasting Act* and the *Official Languages Act* to support the official-language minorities is to be realized.

Table of Contents

A. CRTC Mandate for Official Language Minority Communities	4
B. Regional Reflection	5
1) Canadian Broadcasting Corporation	6
2) Private Over-the-Air Broadcasters	7
3) Videotron	8
C. Options to Fund Official-Language Minority Production in Quebec	9
1) Local Programming Improvement Fund	9
a) LPIF Eligibility of English-speaking Montreal- by Definition	9
b) LPIF Eligibility of English-speaking Montreal- by Population	11
c) LPIF Official Language Minority Community Envelopes	13
2) Terrestrial Broadcast Distribution Undertakings	15
3) Satellite Broadcast Distribution Undertakings	16
D. Regulatory Opportunitites	17

A. CRTC Mandate for Official Language Minority Communities

The CRTC mandate to support official language minority communities (OLMCs) is well established in the *Broadcasting Act* and the *Official Languages Act*.

The *Broadcasting Act*, 1991, says:

“5. (2) The Canadian broadcasting system should be regulated and supervised in a flexible manner that

(a) is readily adaptable to the different characteristics of English and French language broadcasting and to the different conditions under which broadcasting undertakings that provide English or French language programming operate;

(b) takes into account regional needs and concern;”

The CRTC says in its *Communications Monitoring Report*, August, 2009:

“Pursuant to section 41 of the *Official Languages Act* (OLA), the Commission has the responsibility to take positive measures to enhance the vitality of the Anglophone and Francophone linguistic minority communities in Canada and support and assist their development as well as foster the full recognition and use of both English and French in Canadian society. In addition, because the Commission is a designated agency under section 41 of the OLA, it files a three-year plan to implement section 41 of the OLA and an annual achievement report. The Commission intends to continue its efforts, within the limits of its mandate, in promoting linguistic duality and in strengthening the vitality and fostering the development of the English- and French-language minority communities in Canada.” (p.13)

However, the “limits” of the CRTC’s mandate to support official language minority communities are not clearly established. On March 30th the CRTC released its report on PN 2008-12, *Report to the Governor in Council on English- and French-language broadcasting services in English and French linguistic minority communities in Canada*. The CRTC said it must find a balance in its mandate:

“The Commission’s role is to strike a balance between the various objectives set out in the *Broadcasting Act*. The Commission’s regulatory framework does not enable it to give priority to factors related to official-language minority communities or to any other factor it must consider.” (P.16, emphasis in original text)

In his July 29, 2009, intervention to the CRTC re: 2009-411, Commissioner of Official Languages Graham Fraser said:

“During my previous interventions, I mentioned that Part VII of the *Official Languages Act* (OLA) applies to all activities and decisions of the CRTC, and I am encouraged by your efforts to address the interests and needs of the OLMCs. I still think that the requirements of section 41 of the *Official Languages Act*, which concerns linguistic minorities, are much more explicit than the requirements of the *Broadcasting Act*, and that the former should therefore be taken into consideration during the CRTC’s policy – and decision-making process.”

The CRTC seems sensitive to the position Parliament has given official language minorities within the broadcasting system. This is not a matter of preference, but a matter of legal obligation to support both the French-language minority outside Quebec and the English-language minority inside Quebec. How OLMC objectives are balanced against other objectives in the CRTC's mandate is the key issue, and the revelation of that balance must await Commission decisions on a case by case basis.

B. Regional Reflection

Clearly, the official language minority in Quebec does not lack access to English-language TV channels on cable or satellite. Videotron subscribers with digital service can receive 69 English-language channels out of the 700 channels that the CRTC has licensed in Canada. Yet, they are starved for local reflection because they do not have any Quebec educational, specialty, or community channels in English.

Therefore, the 1:10 rule set out in CRTC Public Notice 2008-100 that will require BDUs to distribute one Canadian specialty service in the minority language for each ten services distributed in the majority language, does not address the needs of Anglophones in Quebec. Their need is "regional reflection", and that has been demonstrated in various policy reviews.

In the report of the Commissioner of Official Languages, *Shadows Over the Canadian Television Landscape: The Place of French on the Air and Production in a Minority Context*, January, 2009, Recommendation 2 states:

"The Commissioner of Official Languages recommends to the Canadian Radio-Television and Telecommunications Commission that it:

a) develop a specific policy which will:

- Clarify the concept of regional reflection;
- Distinguish between the production of regional programs in the majority official language and the production of regional programs in the minority official language;

b) encourage all Canadian broadcasting services to make commitments regarding the development and acquisition of French-language programs produced outside Quebec and English-language programs produced in Quebec, including a certain percentage produced outside Montreal." (emphasis added)

Several months later on March 30, 2009, in its *Report to the Governor in Council on English- and French-language broadcasting services in English and French linguistic minority communities in Canada*, the CRTC pointed out the importance all the OLMC interveners assigned to regional reflection.

"All of the official-language minority community representatives who participated in the hearing- the Ad Hoc Quebec Production Committee, the Alliance des producteurs francophones du Canada (APFC), the English-language Arts Network (ELAN), the FCFA, the FCCF, the Fédération des francophones de la Colombie-Britannique (FFCB), the Quebec Community Groups Network and the Voice of English-speaking Quebec- as well as TV5, TFO, the

Commissioner of Official Languages and the delegated ministers from the MCCF, consider regional reflection to be the barometer for the quality of minority television services available to minority communities. They demanded that measures be implemented to expand the representation of these communities within the Canadian broadcasting system, in news and in all other types of programming, and to better meet their needs in terms of local and regional programming.” p.8 (emphasis added)

On page one of this report, the CRTC summarized its conclusion that it “finds that community reflection in the programming of the services available in the Canadian broadcasting system can be improved”.

The CRTC then said it would “study” OLMC issues on regional reflection in the context of future public licensing hearings.

“The Commission considers that the representation of communities on screen is essential to ensuring a suitable quality of service. The Commission intends to study this issue, among others, and where appropriate, in the context of licence renewals for Canadian English- and French-language services, and more particularly for the CBC and major Canadian broadcasting groups.” p.9 (emphasis in original text)

In the general conclusion to this report, the CRTC said:

“Moreover, the challenges regarding equitable representation of these communities in the programming of services available within the broadcasting system are set out in this report, as are possible solutions, from which emerged the importance of supporting, acquiring and broadcasting regionally-produced programs.” P.22 (emphasis added)

Exactly how are regionally-produced OLMC programs going to be acquired, broadcast, and most importantly- supported or funded? The CRTC suggests possible solutions to OLMC problems of regional reflection would be greater use of new media and better funding for the CBC. Do these options address the fundamental and immediate problem of inadequate funding of OLMC regional reflection programming?

New media may help deal with the problem of distribution, but they do not currently provide a significant solution to the problem of production funding.

1) Canadian Broadcasting Corporation

Can the CBC provide a solution to the problem of regional reflection as the CRTC suggests?

Not unless there is a sea change in Government attitude towards funding the public broadcaster. The CBC has been reducing the extent of its English-language coverage of Quebec as it has come under increasing financial pressure, and like all broadcasters, it has centralized its English program decision-making in its head office in Toronto. The Montreal station is no longer able to make the programming decisions it once did.

The CRTC commented on this problem in PN 2008-100:

“370. The CBC has, over the past two decades, been unable to maintain - much less make significant improvements to - local television programming. Following its last licence renewal in 2000, ³³the CBC significantly reduced the quantity of local programming in markets across the country. The government, through its contributions to the CTF, has made earmarked funding available for the CBC to acquire independently produced priority programs such as drama. No such earmarked funding has been made available to support CBC-produced local programming.

³³< See Decisions [2000-1](#) and [2000-2](#).”

Unfortunately, the CBC no longer has earmarked funding from the Canada Media Fund (as the CTF is now called). The gradual and long running starvation of the CBC by Governments of both parties is well known. It has led to increasing commercialization of the schedule, and has had a disproportionate and negative impact on official language minorities.

Another example of the impact of CBC’s declining budget on OLMCs is the CBC’s request for a revised mandate for its “bold” channel (CRTC PN 2009-437). As “Country Canada”, this channel was licensed to originate programming for rural audiences, such as the 200,000 Quebec Anglophones outside Montreal. Now, the CBC is asking for an amended license which will continue to aim this channel at rural audiences, but the CBC says “bold” can no longer afford to produce programs for this channel’s audience. A CBC channel of rural reflection, even on a national scale, is not able to support original programming.

Despite these continuing cutbacks in service, the official language minority communities remain dependent on CBC services in television, internet, and radio.

The CRTC said in its March 30th report that the Federal Government must increase its support of the CBC if it is to fulfill its mandate to the official language minorities. It is very hard to disagree with this assessment. Unless the CBC is given sufficient funding to fulfill its parliamentary mandate, the Federal Government could be accused of undermining the objectives of the *Official Languages Act* as well as the *Broadcasting Act*.

2) Private Over-the-Air Broadcasters

Official language minorities cannot turn to commercial broadcasters for a solution to the problem of regional reflection either. The priority of the commercial broadcasters is advertising revenue generated by American programs. Since the minimum Canadian expenditure requirement was eliminated by the CRTC in its 1999 *TV Policy*, these foreign costs have skyrocketed. As we can see below, domestic production has been cut back to pay for foreign programs.

In the long run, it is evident that the funding problems of English-language Canadian content, whether regional or national, will not be solved until the loss of production dollars to Hollywood is brought under control. Again, we quote from CRTC PN 2008-100:

“342. The Commission's own data demonstrate that private broadcaster spending on local programming has been flat since 1998. Between 1998 and 2007, the spending on local programming by English- and French-language commercial broadcasters increased by 22.8%. However, as the growth in the consumer price index (CPI) during this period was 22.1%, there was no real increase in local spending. This contrasts with spending on non-Canadian programming, which, after adjusting for CPI growth, increased by 61%, as well as spending on other Canadian programming, which increased by 8.3% over the same period. The data indicate an inability or unwillingness on the part of OTA [over-the-air] broadcasters to invest in their local stations. ...

345. It is clear that the business case for local OTA television has changed significantly through the expansion of Canadian and non-Canadian viewing choices offered by DTH [direct-to-home] undertakings, digital terrestrial BDUs and other digital media. This fragmentation of viewing and advertising revenues is a major reason for the increased consolidation of the industry over the past decade as the owners of OTA services have acquired more profitable specialty services and have explored ways to monetize viewing through the Internet and other new media platforms. However, one of the consequences of consolidation appears to have been that the larger ownership groups have achieved operating synergies through concentrating production resources in major centres, at the expense of smaller local markets.”

The same trend is true for medium-sized markets. Broadcasters are not concentrating production resources in English-speaking Montreal. In addition, the Anglophone population off-island has never had the demographic density to justify over-the-air local broadcasting. With the exception of CBC re-broadcast transmitters, they depend on terrestrial and satellite broadcast distribution undertakings to receive TV programs. They should also depend on BDUs to generate program funding for regional reflection.

3) Videotron

We wish to focus on Videotron in this discussion of terrestrial BDUs because, according to the CRTC's Brynaert Report, Videotron offers cable service to every English-language community in Quebec with more than 20,000 population by census division. It also serves many smaller communities. A total of 919,000 Anglophones, or about 93% of the total English FOLS population of Quebec, fall within the service area of Videotron.

While we do not know the amount of money that Videotron is required to spend on Canadian content, we do know that in 2008 cable companies in Quebec contributed \$49.4 million to Canadian programming. Out of this amount, \$24.8 million was contributed to the Canadian Television Fund and independent production funds, and another \$24.6 million was spent on “local expression” or community channels.

In the case of Videotron, that would presumably mean its share of this \$24.6 million was spent on the VOX community channel. This channel is entirely in French across the province with the exception of three programs. *English Essentials Globish* and *Township's Talk* are on the Sherbrooke VOX channel. The VOX channel on the south shore of Montreal presents a program on school life called *Riverside Television* produced by students at Heritage Regional High School.

There is no English program on the Montreal VOX channel, much less an English-language community channel anywhere in Quebec. There are no OLMC requirements for community channels in the CRTC's *Broadcasting Distribution Regulations*.

While these three programs on regional VOX channels show the energy and initiative of the volunteers behind them, this is insufficient Anglophone reflection on a cable system with 1,729,000 subscribers in Quebec serving 93% of the Anglophone population.

C. Options to Fund Official-Language Minority Production in Quebec

There are several options available through established CRTC policy to find funding for OLMC regional reflection. These include

- an OLMC envelope within the newly established \$100 million Local Programming Improvement Fund (LPIF). This will require changes in the CRTC definition of OLMCs discussed below;
- an OLMC envelope within the \$116 million spent by cable companies, or terrestrial BDUs, on "local expression" or community cable channels; and
- an OLMC envelope within the funding for "local expression" or community channels that the satellite BDUs have asked the CRTC to allow them to establish.

1) Local Programming Improvement Fund

Considering the mandate of the CRTC under both the *Broadcasting Act* and the *Official Languages Act*, it would seem that the CRTC should take into consideration the needs of the official language minority communities in its design of the Local Programming Improvement Fund (LPIF). Unfortunately, this has not been done in the case of the Quebec OLMC.

a) LPIF Eligibility of English-speaking Montreal- by Definition

The official language minority in Quebec is completely unable to access the LPIF as it is now designed. We quote paragraph 360 from CRTC 2008-100:

“360. The fund will be made available to stations serving markets in which the population with a knowledge³² of the official language of the station (i.e., English or French) is less than one million. Accordingly, the metropolitan markets of Vancouver, Calgary, Edmonton, Toronto, anglophone Ottawa-Gatineau, and Montréal do not qualify, and stations serving those markets will therefore not qualify for funding from the LPIF.

[32](#) According to the definition by Statistics Canada”

The CRTC confirmed this definition in footnote 2 of CRTC 2009-406 which says:

“² The definitions of metropolitan and non-metropolitan markets are the same as those set out in Broadcasting Public Notice [2008-100](#). Accordingly, metropolitan television markets are those television markets in which the population with a knowledge of the official language of the station (i.e., English or French), as defined by Statistics Canada, is one million or more and non-metropolitan markets are those television markets in which the population with a knowledge of the official language of the station is less than one million.”

This definition of the Anglophone population of Montreal as people with a “knowledge” of English contravenes longstanding Federal Government policy and the *Official Languages Act*. The only definition approved by the Federal Government for communications or services to official language minority communities is “First Official Language Spoken” (FOLS).

First, while Statistics Canada has several definitions of language understood or spoken which it uses in collecting census data, it does not consider “knowledge” of a language as appropriate for purposes of the Official Languages Act. In the Census Dictionary, Statistics Canada notes that “First Official Language Spoken” is a derived variable based on census questions 13, 15 and 16 and that “this variable was derived within the framework of the application of the *Official Languages Act*.”

Second, the Treasury Board of Canada Secretariat issued directives in 1991 that the “First Official Language Spoken” should be the standard definition used by the Federal Government to identify official language minorities. See *Regulations respecting communications with and services to the public in either official language*, registered on December 16, 1991, in accordance with section 85 of the *Official Languages Act*, R.S.C., c. 32 (4th suppl.)

Third, the Department of Canadian Heritage “uses the First Official Language Spoken definition, based on the information people give in Stats Can Census data”. This explanation of PCH policy is quoted from ADM Hubert Lussier’s communication to ELAN Executive Director Guy Rodgers, dated August 6, 2009.

Consequently, the CRTC cannot use the definition “knowledge of” English instead of “first official language spoken” and remain consistent with Treasury Board policy, Statistics Canada policy, Canadian Heritage policy, the *Official Languages Act*, or indeed any position known to have been taken by the Federal Government on this subject.

b) LPIF Eligibility of English-speaking Montreal- by Population

If the CRTC follows Federal Government policy and changes LPIF eligibility to metropolitan areas with fewer than one million people by “first official language spoken”, than English-speaking Montreal becomes eligible to access the Fund.

As we can see from Table 1 below, the English-speaking population of metropolitan Montreal is 800,600 according to the 2006 census for first official language spoken. This calculation includes an adjustment for bi-lingual or multi-lingual respondents. Otherwise, the FOLS population of Montreal is closer to 700,000.

In fact, the CRTC uses the FOLS definition for its own research on OLMCs. It commissioned a report on TV, radio, and internet services available to OLMCs from Brynaert and Associates last year for its 2008-12 hearing. Brynaert’s research was entirely based on “first official language spoken” statistics for both English and French minorities. Their report defined the Anglophone population of Quebec in 2006 was 994,725. Their research also identified the Anglophone population of Greater Montreal to be “over 700,000” representing 76% of the province’s Anglophones.

On the other hand, the “knowledge of English” population of Montreal is over 2.1 million and would include people who do not actually understand English well enough to watch English television.

Table 1

		First Official Language Spoken (English adjusted)		Mother Tongue (English adjusted)		Knowledge of English	
Region	Total population	number	% of total population	number	% of total population	number	% of total population
Quebec	7,435,905	994,723	13.4%	606,971	8.2%	3,354,650	45.1%
Montréal	3,588,520	800,600	22.3%	448,298	12.5%	2,124,740	59.2%
Quebec, less Montreal	3,847,385	194,123	5.0%	158,673	4.1%	1,229,910	32.0%

Source: Statistics Canada, 2006 Census of Canada

Note: "Adjusted" means that multiple responses have been assigned equally among declared languages

If we assume the CRTC is using this definition of Anglophones to capture cross-over Francophone viewers of English stations, than we should look instead at the television market rather than the census population of metropolitan Montreal.

Table 2 below shows the TV population defined by BBM as “extended market” Montreal. It is actually the entire English-speaking population of Quebec over two years old. BBM does not break out English data for Montreal, but the entire province only. According to BBM, that “extended market” population of Quebec Anglophones is 960,000, which is

still smaller than Kitchener or Quebec City. Yet, these cities are eligible for the LPIF and English Montreal is not.

If we ignore population, and instead look at the metropolitan markets by actual TV viewing, we would capture cross-over viewing of English channels by Francophones. In that case, we see in Table 2 that viewing of all English-language TV stations available in Montreal is smaller than total viewing in Quebec City, Kitchener, and Winnipeg. Yet, these cities are eligible for the LPIF and Montreal isn't.

Table 2

Extended Television Markets 2008-09			
Extended TV Market Area by Population 2+		Total Weekly TV Hours by Viewers 2+	
Toronto-Hamilton	7,037,000	Toronto-Hamilton	135,634,000
Montreal (French)	3,578,000	Montreal (French)	78,046,000
Vancouver-Victoria	3,355,000	Vancouver-Victoria	62,049,000
Edmonton	1,553,000	Edmonton	30,073,000
Calgary	1,495,000	Calgary	28,011,000
Quebec City	1,048,000	Quebec City	23,964,000
Kitchener	1,000,000	Kitchener	19,378,000
Ottawa-Gat (Eng)	985,000	Winnipeg	19,118,000
Montreal (Eng)	960,000	Montreal (Eng)	18,443,000
Winnipeg	933,000	Ottawa-Gat (Eng)	18,081,000

Source: BBM TV Extended Market Statistics, Fall, 2008

The data is unambiguous. English-speaking Montreal, defined as “first official language spoken”, has a population substantially less than one million. In fact, in all Quebec,

there are fewer than one million Anglophones. To define an Anglophone as someone “with a knowledge of English” includes millions of Francophones, and contravenes established Federal Government policy.

Therefore, it would seem that the CRTC must revise its anomalous definition of Anglophones from “knowledge of” English to English as “first official language spoken”. If they don’t, then PCH or the Commissioner of Official Languages may be called by interested parties to intervene.

Application of the FOLS definition will mean the population of English-speaking Montreal is less than one million, as it is; and Montreal becomes eligible for LPIF, as it should be under CRTC criteria.

c) LPIF Official Language Minority Community Envelopes

The Standing Committee on Canadian Heritage report *Issues and Challenges Related to Local Television*, June, 2009, said:

“ Recommendation 1 The Committee recommends that any programs designed to assist local broadcasting be open to both private and public broadcasters, including CBC/Radio-Canada, Aboriginal broadcasters, educational broadcasters, community television, and small broadcasters representing official language minority communities.” (emphasis added)

Unfortunately, as Table 1 shows, nearly 200,000 Anglophones in Quebec are outside Montreal and unserved by local broadcasters. In addition, the entire English speaking population of Quebec is unserved by an educational broadcaster similar to TFO in Ontario, nor is there an English-language specialty channel or community channel in Quebec. Local reflection is inadequate, and for Anglophones outside Montreal, it is non-existent.

Despite this obvious need for local reflection, the current design of the LPIF means the official language minority in Quebec is completely cut off from this source of local programming support. There are no LPIF-eligible “small broadcasters representing official language minority communities” in Quebec, to use the hopeful language of the Parliamentary Committee.

The Ministerial Conference on the Canadian Francophonie (MCCF) represents every provincial and territorial government. As the CRTC March 30, 2009, report says:

“The MCCF recommended that a part of the money available in the funds overseen by the Commission, including the new LPIF, be reserved for productions from official-language minority communities.” (p.12)

The Commissioner of Official Languages Graham Fraser again raised this issue in his letter of July 29, 2009, to the CRTC. He said:

“It is my opinion that the LPIF allocation process should ensure a fair distribution of funding between Canada’s Anglophone and Francophone OLMCs. I therefore suggest using a mechanism that would allocate funding according to the regional needs of OLMCs. The funding could be divided into two envelopes intended for Anglophone and Francophone OLMCs, respectively. . . .

“Regarding services available to Quebec Anglophones, upon reviewing the LPIF eligibility criteria, I notice that the new funds will not benefit any of the English-language minority community television stations. . . . I would recommend that the CRTC include Anglophone minority communities in its criteria for LPIF eligibility and to help these stations and any future English-language stations in Quebec as they reflect and reach out to the province’s entire English-language minority.”

We believe the recommendations of the Ministerial Conference and the Commissioner of Official Languages make sense. There should be dedicated envelopes established within the LPIF and other production funds to ensure official language minority access to funding, and balanced funding between the linguistic communities.

In Quebec, that means the OLMCs outside of Montreal need a means to access this funding for local reflection. Clearly, local reflection for the entire official language minority in Quebec cannot be achieved through in-house Montreal broadcast news production only.

While emphasizing the importance of local news, the CRTC said in PN 2008-100, #359, that the objective of the LPIF is to “improve the quality and diversity of local programming” broadcast in smaller markets. It would seem that the CRTC considered the need for flexibility when it established the LPIF by naming it the “programming” improvement fund, and not simply the “news” improvement fund.

The regulations to access LPIF need to be re-designed to meet the real needs of each of the official language minorities. This is the subject being considered by the CRTC in its hearing on television policy PN 2009-411 which has a deadline of September 14, 2009.

In addition to equity and balance between OLMCs, a Quebec OLMC envelope may be justified by the limitations in production funding faced by English-language producers at the provincial level. For example, we note that there is a 20% ceiling on total non-Francophone production funding by SODEC. We also note that there is a higher Quebec tax credit for French-language feature films and documentaries than is available for equivalent English-language productions. In fact, a survey of English-language Quebec producers by the Quebec Film and Television Council in 2008 discovered that half of their production was being produced outside of Quebec due to the uncompetitive structure of provincial support for English production.

Another problem is the absence of English-language regional or educational broadcasters in Quebec. The importance of a provincial or educational broadcaster can be seen by the experience of Francophone producers outside Quebec. Over 40% of

their total television license fees in the last five years were paid by TFO. Since there is no regional or educational broadcaster in Quebec, nearly all English-language television production must be “green lit” by national broadcasters in Toronto, or producers or co-producers in the U.S. or Europe. Unsurprisingly, English-Quebec producers rarely tell local stories even when they are producing inside the province.

For these reasons, it would seem that OLMC envelopes need to be accessed by independent producers for all genres of programming, as well as broadcast news, if the LPIF is to support regional reflection throughout Quebec.

Furthermore, using the current CRTC requirement that 75% of priority programming should be made by independent producers, it would be consistent if 75% of this LPIF envelope is used to support and encourage regional reflection by independent producers in all genres, and 25% is used to support regional reflection and news by eligible broadcasters.

With the needs of the official language minorities in mind, at a minimum, the LPIF should continue to be funded at 1.5% of eligible BDU revenues.

Considering provincial policy that a maximum of 20% of cultural funds such as SODEC be set aside for non-Francophone production, the lack of local or regional reflection in English-language broadcasting services available in Quebec, and the roughly 20% population of Quebec which is Anglophone and Allophone, it seems reasonable if the OLMC envelope in Quebec were funded from 20% of the total English-language LPIF. Since the English Fund is estimated to be \$70 million at 1.5% of eligible BDU revenues, the proposed Quebec OLMC envelope would create a regional reflection programming envelope of approximately \$14 million.

2) Terrestrial Broadcast Distribution Undertakings

Broadcast Distribution Undertakings (BDUs) have special responsibilities under the *Broadcasting Act*, 1991, which says:

“3. (1) It is hereby declared as the broadcasting policy for Canada that

(t) distribution undertakings

(i) should give priority to the carriage of Canadian programming services and, in particular, to the carriage of local Canadian stations,

(ii) should provide efficient delivery of programming at affordable rates, using the most effective technologies available at reasonable cost,

(iii) should, where programming services are supplied to them by broadcasting undertakings pursuant to contractual arrangements, provide reasonable terms for the carriage, packaging and retailing of those programming services, and

(iv) may, where the Commission considers it appropriate, originate programming, including local programming, on such terms as are conducive to the achievement of the objectives of the broadcasting policy set out in this subsection, and in particular provide access for underserved linguistic and cultural minority communities.” (emphasis added)

Subsection (iv) says the BDUs “may” originate local programming and “in particular provide access for underserved linguistic and cultural minority communities”. However, this OLMC mandate for BDUs is left up to the initiative of the BDU and the oversight of the CRTC.

The BDUs are among the most profitable elements of the Canadian broadcasting system, and Quebec BDUs reached a profit margin before interest and taxes of 30.5% last year. There would seem to be financial room for the CRTC to exercise its powers in this section of the *Broadcasting Act*.

Thus, the CRTC could require the Quebec BDUs allocate 20% of the \$24.6 million spent on “local expression” for OLMCs. This would raise about \$5 million. An amount could be deducted from this 20% to reimburse BDUs for English-language programs that they present on VOX or other community channels. The balance of this \$5 million could be contributed to an OLMC Quebec regional reflection envelope discussed below.

3) Satellite Broadcast Distribution Undertakings

In addition to the cable industry’s long-standing obligation to community channels, there are proposals from the satellite industry to establish their own community channels. These proposals will soon be under consideration by the CRTC, and they are potentially of great importance to OLMCs.

In 2008 the direct-to-home satellite industry (MDS/DTH) contributed \$93.2 million for CTF and other program funds, but spent only \$20,000 for “local expression”. The CRTC has not required that these national services support community channels. However, last year these BDUs requested permission from the CRTC to offer their own national “community” channels.

The CRTC referred this issue to the community television policy review now scheduled for early 2010. We quote CRTC PN 2008-100:

“215. During the proceeding, DTH undertakings proposed that they be permitted to offer community channels under similar terms and conditions as terrestrial BDUs.

216. The Commission recognizes the advantages of harmonizing, as much as possible, the rules for DTH undertakings and terrestrial BDUs. Nevertheless, it considers that the question of DTH undertakings operating a “community” channel should be considered in the broader context of

the Commission's community media policy. The Commission will therefore consider this proposal as part of its review of community media policies.”

A 20% Quebec OLMC envelope established from MDS/DTH funding for “local expression” on these services, could generate millions of additional dollars for regional reflection.

This money could be put into the OLMC envelope of LPIF. Alternatively, the MDS/DTH industry could use some of this money to provide the technical means for distribution of an English-language Quebec OLMC satellite channel on their facilities. This would be part of their contribution to “local expression” and “regional reflection”.

Therefore, if the CRTC authorizes an OLMC envelope equivalent to 20% of the English-language expenditures of the LPIF, and allocates 75% of this amount to independent production in any genre, that would raise about \$10 million for regional reflection programming (excluding 25% for broadcast news). If the CRTC authorizes 20% of the Quebec cable industry’s “local expression” program fund for the official language minority, that would generate roughly \$5 million. Together, this would create a \$15 million fund for OLMC programming in Quebec which is roughly equivalent to the \$17 million production budget of TFO.

It would be possible to establish a Category A (or Category 1) English-language channel of regional reflection in Quebec equivalent to TFO based on the \$15 million or more raised from the above BDU sources. In addition, as part of its request to establish its own community channels, the satellite industry could contribute funding and/or distribution facilities.

D. Regulatory Opportunities

The CRTC pointed out in its March 30th report that it would deal with these OLMC issues on a case by case basis. The Commission told official language minorities:

“As the Commission committed to address certain issues at future public hearings, it reminds interested parties of the importance of participating in the Commission’s public proceedings so that it may take into account their views, situations and needs in making its decisions.” (p.22)

The CRTC agenda presents a huge opportunity to the official language minorities with hearings scheduled for television policy and community radio in 2009, and community television, group broadcast licenses, regional production, and CBC expected in 2010. However, this case-by-case approach to policy means that OLMC associations and other interveners must dramatically increase their research, consultation, and travel budget to participate at each relevant hearing. There is not much time to deal with all of this and other OLMC policy issues such as the Canada Media Fund consultations.

Small, largely volunteer organizations are at a disadvantage preparing their interventions because of the cost of basic data and research. Even larger organizations

have difficulty keeping up with the Commission's broadcasting timetable, and unlike proceedings under the *Telecommunications Act*, there is no financial support for *Broadcasting Act* interventions.

Relevant information from both the CRTC and CBC is not always accessible. The CRTC especially should make aggregate financial information on broadcast revenues and expenditures available by language. That is not now the case, and that causes great difficulty for submissions by an official language minority community.

The funding and distribution of Quebec OLMC regional reflection programming is now clearly feasible. However, the case has to be made, and the CRTC convinced over the course of these hearings. It remains an open question whether the OLMC associations have the resources to make a persuasive and consistent case. The CRTC timetable is set, and if this opportunity isn't grasped, a second chance may not be possible for many years, if ever.