

ELAN

ENGLISH-LANGUAGE **ARTS** NETWORK

REVIEW
of
Key Documents
on the
English-language Film/TV/Media
Production Industry in Quebec

for the
ENGLISH-LANGUAGE ARTS NETWORK of QUEBEC

March, 2010

MAGNETIC NORTH ASSOCIATES
Rigaud, Quebec



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1. Decline of English-Quebec Production

Responding to anecdotal evidence from their members, the Quebec chapters of ACTRA and DGC commissioned a major study of English-language production in Quebec based on CAVCO data (Appendix I). This 2008 report was titled “Going...Going...Gone: The Decline of English-language Production in Quebec 1996-7 to 2006-7”, and it demonstrated several long term trends in domestic production.

First, it showed that English-language production has been stagnant since 2000 across Canada while French-language production has been growing. It seems likely that this general English-language production stagnation was caused by the CRTC’s 1999 TV policy which eliminated the broadcasters’ minimum expenditure requirement on Canadian content. As a result, hundreds of millions of dollars in production funding was transferred from Canadian TV production to American TV production. This CRTC policy change had no practical impact on French production funding.

Second, this “GGG” Report demonstrated that English-language production in Quebec was especially hard hit, and declined more during this period than in the other major production centres. Since English-language production peaked around the year 1999-2000, Quebec production fell by 40% in dollar volume until 2005-6. This is the steepest decline of any region studied in the report. The drop in English-Quebec drama was 46%- also the steepest in the country.

The “GGG” study concluded that the primary reason for this production drop was the uncompetitive Quebec tax credit compared to other provinces. This drew English-language production out of the province. A confidential survey of major English-Quebec producers by the Bureau du cinéma et télévision du Québec (BCTQ) found approximately 50% of their production volume had moved outside Quebec in 2008.

During the same period, French-language production in Quebec increased by 47%, and drama grew by 66%.

As a result of this report and the subsequent organization of the Ad Hoc Quebec Production Committee, there was a general increase in Quebec tax credit rates in January, 2009. However, these higher rates were quickly matched or surpassed by increases in Ontario and B.C., so it is unclear how much the success of this campaign affected net Quebec production.

2. Unrealized Funding for English-Quebec Production

The respondents to the 2010 ELAN survey reported that a major limitation on work opportunities in English in Montreal was the lack of local or regional television production. The major English-language channels produce little in Quebec except news and sports. There are no English-language regional or educational channels based in Montreal that commission original production.

The financial impact of this problem can be seen in an analysis of English-language production funding prepared for ACTRA-DGC’s Quebec chapters in January, 2010. (See Appendix B) The ACTRA-DGC paper points out that Quebec's two-tier tax credit system gives a ten percent bonus for French-language production. Eliminating this tax credit differential would increase annual revenue for English-language production by \$7.5 million.

The locally-based English-language film and TV industry has argued that CMF compliance with the *Official Languages Act* would give regional status to English-Montreal production. Montreal would then be eligible for regional benefits which would add an estimated \$3 million in CMF funding to English-language production in Quebec.

The ACTRA-DGC paper also argued that Quebec's English-speaking population should be served by an official language minority broadcaster to stimulate local television production. Ontario’s French-language educational channel TFO has an annual production budget of \$14 million. Therefore, an English-language broadcaster comparable to TFO would increase local production in Quebec by up to \$14 million.

Similarly, an English-language local channel on Videotron would add another \$9 million per year to local production, assuming 20% of the Quebec cable industry annual community channel expenditures were spent on an English-language channel.

Other production challenges that could not be estimated financially included SODEC policies, such as the 20% cap on English-language funding, and production lost to other provinces.

The ACTRA-DGC analysis estimates the total cost of these unrealized funding sources for English-Quebec production is roughly \$35 million in annual revenues. Most of this unrealized funding would benefit television production which correlates with the major concern raised by the ELAN respondents.

3. Demographic Trends in the English-Quebec Industry

The ELAN survey summarized in Appendix A shows the human side of the production decline demonstrated statistically in the “GGG” study (Appendix H). Based on union and association memberships, we have estimated the overall size of the English-language film and TV production industry in Montreal at roughly 3,000 people. We don’t know whether the total size of the industry has changed over the last seven years, but we can see a significant shift in its demographic composition compared to surveys in 2003 (Appendices I and J).

The industry seen in the ELAN 2010 survey includes fewer unilingual English-speakers, and fewer immigrants, compared to 2003. Did they leave or increase their linguistic skills? Anecdotal evidence from the open questions in the ELAN survey suggests that a significant number have left the Montreal film industry for Toronto or points west. Cut off from work in the French industry and faced with declining English production, those with poorer French language skills seem to have left town.

At the same time, young English-speaking immigrants who made up an important part of the industry in the 2003 surveys are now largely absent. There are fewer immigrants in the ELAN survey than in the QCGN or FAVEM surveys, and they are older. We believe the decline in young English-speaking immigrants in the Montreal industry reflects larger demographic trends.

The temptation to leave Montreal for better work opportunities elsewhere is strong, whether one is bilingual or not. Vancouver has a relatively strong service industry, and with natural advantages- such as a Los Angeles time zone. It seems B.C. can maintain service work as long as the dollar exchange rate is competitive. Toronto is indeed the cultural capitol of English-Canada, and the national television industry provides a strong backbone to the production in that city.

There is very little national TV work in Quebec since English-language network programming is produced mostly in Toronto, and some in Vancouver. In addition, ELAN respondents complained about a lack of labour mobility. Directors and writers in Montreal are especially concerned that the Ontario tax credit discourages Toronto producers from hiring them. A number of respondents said they can no longer live in Montreal, and they will have to leave to find work.

On the positive side, the English-language industry benefits from a vibrant and growing French-language industry. Leaving aside the “boom or bust” cycle of American service productions, Montreal has a strong infrastructure built on the combined volume of both English and French production. There is work for bilingual technicians who can float across linguistic boundaries. However, those boundaries are not as permeable for other “creative” categories - such as actors, writers, directors, producer/directors, and some producers.

For various reasons explained by respondents to the ELAN survey, they have difficulty crossing the creative language barrier, even if fluently bilingual. Many respondents believe they face difficulty accessing French-language production, and attribute this lack of access to discrimination against anglophones.

This feeling of linguistic discrimination has grown stronger over the last seven years. For example, 25% of ELAN respondents believe speaking English has had a positive impact on their career, down 9% from the 2003 QCGN

survey. Meanwhile, 44% said that speaking English has had a negative impact on their career. This is up from 32% seven years ago.

Most members of the industry are thus restricted to a shrinking volume of English-language production in Montreal. They have fewer and fewer options. Either they find work in French production, as some do; they commute to Toronto, as a few do; or they leave entirely. With a shrinking English-language talent pool, producers find it more difficult to produce top quality films without bringing in more and more outside talent- sometimes former Montrealers like Natalie Brown who starred in the TV series “Sophie”.

Most who have remained in Montreal are underemployed, and underpaid. Two-thirds of survey respondents earn less than \$50,000 per year. Many earn a lot less, and work part-time in other jobs.

For these reasons, we see a greater level of pessimism in the industry now than seven years ago. In the QCGN’s 2003 survey, 59% said they would still be working in Quebec in five years. That has declined to 44% in the 2010 ELAN survey. Those who think they will be working in French five years from now remained the same at 8% in each survey. However, those who think they will be working in English fell by 15%. Likewise, those who think they will be working elsewhere, or are unsure where they will be working, grew by 8%. Those who think they won’t be in the industry at all grew by 7%.

FAVEM commissioned a survey of English-speaking visible minority filmmakers in Quebec in 2003 (Appendix J). The respondents were mostly young immigrants whose mother tongue was neither English nor French, but who worked in English on the margins of the mainstream industry here. They said the National Film Board and Canada Council were most supportive of their projects, and Telefilm was the least supportive. Most believed they faced barriers because they were visible minorities. A few said they felt it easier to get work in Toronto.

4. Regional Reflection of the Official-language Minority in Quebec

Many respondents in the ELAN survey reported a lack of “local” television production as a significant problem. This issue has been raised by ELAN in its September 14, 2009, intervention to the CRTC, and by the CRTC in its March 30, 2009, report on official language minority broadcasting (Appendices A, C, and E).

In fact, the CRTC said in its March 30th report that “All of the official-language minority community representatives who participated in the hearing...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 better meet their needs in terms of local and regional programming.”

The anglophone minority in Quebec doesn’t lack access to English-language programming via satellite channels and cable distribution, but it has virtually no access to programming that reflects local stories and perspectives. As stated in the above documents, “regional reflection” and “local expression” are inadequate and, it seems, decreasing. That is especially the case for the 200,000 anglophones outside the greater Montreal area who have virtually no regional reflection.

The reason, according to ELAN in its September 14th intervention to the CRTC, can be traced to the lack of regional broadcast 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 a regional channel, nor a community channel, for the official-language minority in Quebec.

The CRTC is mandated under the *Broadcasting Act* and the *Official Languages Act*, to support minority programming for both official-language communities. In its March 30th, 2009, report, the CRTC acknowledged the problem of regional reflection for official-language minorities, and stated its belief that solutions lie with the CBC and new media.

These CRTC proposed solutions are problematic. To date, the CBC has demonstrated very little interest in the official language minority in Quebec. We are not aware of any consultation between the CBC and the English-language community here, nor are we aware of any official language reports filed by the CBC for its activities in

Quebec. When the CBC does undertake its responsibility to consult the English-language minority in Quebec, it would seem unlikely that it could solve the problem of regional reflection without applying more resources to English production in Quebec. It is not evident that the CBC has those resources or is inclined to invest them in Quebec.

As for the CRTC suggestion that new media is a potential solution to OLMC problems, it may help deal with the problem of distribution to the widely-dispersed anglophone communities throughout the province. However, new media does not yet seem to offer a business plan that solves the primary problem frequently identified in these documents, and that is production funding.

In the same report excerpted in Appendix E, the CRTC said that it considers the “representation of communities on screen is essential to ensuring a suitable quality of service”, and it will deal with this in the context of licence renewals.

However, the Commissioner of Official Languages (OCOL) does not think current CRTC policies are satisfactory. He recommends in his “Shadows” Report that the CRTC clarify its concept of regional reflection. The Commissioner also asks the CRTC to distinguish between regional programs in the majority language and regional programs in the minority language. He wants the CRTC to encourage all broadcasters to support OLMC production, including English-language production in Quebec. (Appendix F, Recommendation 2)

5. A Case Study: Regional Status and English-Quebec Production

a) Canada Media Fund Regional Definition

In its March 30th Report, the CRTC said that “The CTF considers neither French-language programs from Toronto nor English-language programs from Montreal to be regionally-produced. On the other hand, anglophone groups in Quebec would like the same definition to apply to their linguistic minority community so that English-language programs produced in Montreal may be considered regional productions.”

The Commissioner of Official Languages (OCOL) seems to agree with these Anglophone groups from Quebec. He said in his “Shadows” Report that regionally-produced programs “should make a clear distinction between producing regional programs in the majority official language and producing regional programs in the minority official language”.

ELAN subsequently pointed out (Appendix D) that the Canada Media Fund is subject to the *Official Languages Act* through its Contribution Agreement with the Department of Canadian Heritage and Official Languages. Therefore, ELAN said, the CMF should designate English-Montreal a region with regional benefits.

The *Official Languages Act* gives the English-language minority in Quebec the same status as the French-language minority outside Quebec. However, a growing number of questions, such as the ELAN brief to CMF (Appendix D), have been raised about the CMF’s inadequate recognition of the status of the official-language minority community (OLMC) in Quebec. Specifically, OCOL noted (Appendix F) that there is not a Quebec OLMC production fund similar to the production fund (FLPOQ) available to the French-language minority outside Quebec.

Although the Commissioner of Official Languages stated (above and Appendices E and F) that regional production must be defined by language as well as geography, the CMF regional definition ignores language as a factor in its definition (See Appendix D for the complete definition). Arguably, the CMF regional definition is not compliant with the *Official Languages Act*.

b) CRTC Regional Definition and the Commissioner of Official Languages

Under its current regulations, regional programming as defined by the CRTC in its Public Notices 1999-97 and 1999-205 does not take into consideration the special status of English-language production in Quebec under Section 41 of the *Official Languages Act*.

In his intervention to CRTC PN 2008-12 (Appendix G), the Commissioner of Official Languages (OCOL) pointed out that the regional definition being used by the CRTC was “problematic” because it confused its obligation to support regions with its obligation to support official language minorities.

The CRTC has realized this is a problem. In its March 30th Report, the CRTC said that “according to the interveners, it is essential that changes to the Commission’s definition of regionally-produced programs be made and be accompanied by changes to the CTF’s definition so regional producers can benefit fully from the fund...”

The CRTC then published a draft regional definition that was endorsed by ELAN, APFC, and the Commissioner of Official Languages. (Appendix E)

Since March 30, 2009, the CRTC has been waiting for the CMF to amend its regional definition so it is compliant with the *Official Languages Act*. As we can see from the CMF Guidelines issued on March 26, 2010, the CMF has decided it does not have to amend its regional definition to comply with the *Act*. Therefore, the CRTC must now decide whether to harmonize its regional definition with the CMF or comply with the *Act*. Given OCOL’s endorsement of the ELAN-APFC draft regional definition in Appendix E, it doesn’t seem that the CRTC can do both.

c) CRTC and the Local Programming Improvement Fund

The Local Programming Improvement Fund has been established with a 1.5% fee on broadcast distribution undertaking (BDU) revenues. This will raise over \$100 million to support local television production across Canada, but its definition of LPIF excluded English-Montreal.

In its March 30th report (Appendix E), the CRTC re-stated its position that English-Montreal was ineligible: “The Commission reiterates that the LPIF will be made available to stations operated in markets where the population with a knowledge of the official language of that station (English or French) is less than one million...”

ELAN and OCOL have raised questions about this fund because English-Quebec was deemed ineligible to receive LPIF funding by the CRTC. ELAN’s September 14th intervention to the CRTC included an extensive analysis and critique of the CRTC’s linguistic definition of Montreal’s LPIF eligibility.

ELAN has said that this definition of the anglophone population of Montreal based on “knowledge” of English contradicts 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” .

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

However, the CRTC has not indicated that it will reconsider its original definition, and English-Montreal, in fact all of English-speaking Quebec, will remain ineligible. The *Official Languages Act* provides a route of appeal of this decision to the Commissioner of Official Languages.

6. Resolving the Question of Regional or Linguistic Status

“Regional” status is, of course, a misnomer. We are actually discussing official language rights using the terminology of regionalism that is already in place. One can see that the three “regional” issues described above demonstrate a broader difficulty.

There are a huge number of Federal regulations which do not comply with the *Official Languages Act* in the first place. In the second place, many that do comply have not been applied with equal vigour to both French and English minorities. Therefore, as the English-Quebec minority presses its case to the Canada Media Fund, CRTC, and others subject to the *Act*, the response has been uneven.

For example, CBC has largely ignored the English-Quebec minority. The CMF has reluctantly agreed it is subject to the *Act*, and begun consultations, but has decided it doesn’t need to change its regional definition. The CRTC established a national consultation group with both linguistic minorities following an OCOL audit, and has started to review its regulations for compliance with the *Act*.

Sometimes, the Federal institution and the English-language minority disagree over definitions and applicability of the *Official Languages Act*. Other times, the Federal institution may resist the restriction on policy flexibility that adherence to the *Act* seems to require. Finally, as indicated by CMF and CRTC staff, it seems these disagreements over definitions may also mask a difference over funding.

The question now is how these different perspectives between the English-Quebec industry and Federal cultural institutions will be resolved. The official-language minority in Quebec does not have much political leverage, based on population, but it does have leverage through the *Official Languages Act* should it choose to use it. The Commissioner of Official Languages provides an option for mediation.

The lack of policy coordination between the Canada Media Fund, Department of Canadian Heritage and Official Languages, the Commissioner of Official Languages, and the CRTC on this one subject demonstrates the difficulties faced by the official language minority in Quebec as it attempts to realize the obligations of Federal institutions under the *Official Languages Act*.

7. Considerations for Telefilm

The mandate of Telefilm, according to its Act, is to “foster and promote the development of the audiovisual industry in Canada.” How should it apply such a broad mandate to the official language minority in Quebec?

The first issue Telefilm, and other Federal institutions, must address is developing a meaningful consultative process with representatives of the official language minority in Quebec. That would mean a consultative process that both sides found meaningful, not just one side or merely a translation of programs designed for the French-language minority outside Quebec. Several ELAN survey respondents said Telefilm has not yet achieved this objective.

Some issues raised in the ELAN survey were directed primarily at other Federal agencies, especially CRTC and CMF. These focused on the ongoing problem of television production. This was discussed in the context of a lack of regional TV reflection, lack of dramatic TV production, lack of an English-language TV channel based in Montreal, and production funding problems. However, there is a desire that Telefilm provide leadership among Federal agencies, and help coordinate Federal consultation through its broad mandate.

Many respondents were concerned over the small number of English-language producers or production companies, and wanted Telefilm to help address the problem. One respondent said new companies had still not replaced the work that had been generated by Telescene and Cinar. Others said companies, such as Cineflix, were no longer producing in Montreal. A number of respondents believed Telefilm should play a role in increasing the pool of senior producers, especially those working in drama.

A large number of survey respondents were concerned about their sense of isolation, and the need to improve industry communication and networking opportunities, particularly with producers. Along these lines, there were suggestions that Telefilm support a mentoring program, workshops, a jobs billboard, and industry communication. There were also calls that Telefilm encourage English-French production collaboration.

Some want Telefilm to “encourage” the exhibition of English-Quebec feature films in theatres. There were requests that Telefilm support theatrical documentaries in the Canada Feature Film Fund.

Those who had participated in “Feature It!” or “Multiplatform, Multi-success!” said the networking possibilities had been the best part of those programs, as well as the quality of the guest speakers. Some had also suggested that more could have been gained from these programs if they had been divided into entry and advanced levels.

The support Telefilm has given ELAN to undertake the industry survey and begin organizing its film/TV membership is certainly a step in the right direction. More collaboration along these lines will help deal with the sense of isolation and disorganization that many survey respondents feel.

APPENDIX A

“SURVEY OF THE ENGLISH-LANGUAGE FILM/TV/MEDIA INDUSTRY IN QUEBEC”, for ELAN by Magnetic North Associates, March, 2010

Executive Summary

- Canadian television production is the most important source of revenue for survey respondents. 43% earn the majority of their income from Canadian TV drama, theatrical features, and “other” films. 34% earn most of their income from documentary TV, international co-productions, and U.S. TV drama. 23% from all other production genres, including interactive websites and video games.
- Most respondents work part-time, and 35% receive less than a quarter of their income from media work. This is consistent with the large number of actors, 38%, who took this survey. On the other hand, most directors and producers work full time, or nearly full time, in the industry. Overall, 68% of respondents making less than \$50,000 per year.
- 44% of respondents say that being English-speaking has had a negative impact on their career compared to 25% who felt it had a positive impact. A large majority, 69%, also say that there are fewer job opportunities for them in Montreal compared to Vancouver or Toronto. A significant number say they will have to leave Montreal because there is not enough work in English, and they can’t access work in French even if they are bilingual.
- Most respondents say the biggest problem in the industry is the low level of English-language production. Many said production has been declining for many years. They correlate this to the small size of the English-Montreal market, too few producers working in English, and the paucity of local non-news television production.
- In five years, 44% of respondents believe they will continue working in Quebec, whether in English or French. 26% are unsure where they will be working, 10% believe they will no longer be working in Quebec, and 18% are unsure they will stay in the industry. The most pessimistic are directors; the strategy for many is either to leave Montreal or try to work in the French industry, if they can.
- There has been a significant shift in the demographic profile of the English-Quebec production industry since English-Quebec producer/directors were surveyed in 2003. This survey shows an industry with higher number of women, fewer immigrants, and is much more bilingual. 62% say they speak fluent French. Fewer immigrants and higher levels of French fluency may be caused by the departure of members of the industry with poorer French language skills.
- A large majority, 72%, know something about the Official Languages Act. On the other hand, 62% did not know it could be used to improve production in English-Quebec. A substantial number of respondents, 45%, know something about ELAN.
- Slightly less than half of respondents were aware of the Telefilm programs Feature It! and Multi-platform, Multi-success. Of the 15% of respondents who participated in these programs, they said they gained a great deal from the guest speakers and the networking opportunities.
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APPENDIX B

Estimate of Annual Financial Loss Faced by English-Quebec Production

January 29, 2010

1) Quebec Tax Credit

Problem: The minimum Quebec tax credit rate for French-language films is 22.5% and the rate for other language films is 17.5%. Quebec is the only province which has a two-tier tax credit rate that penalizes its official language minority.

While the domestic Quebec tax credit was increased in 2009, the differential between domestic French and English production was maintained. Shortly after this measure was announced, Ontario and B.C. increased their tax credit rates which reduced or eliminated the advantage of this increase for Quebec English-language producers.

Funding impact: In 2008-9, French-language bonus productions had an effective tax credit rate of 19.6% which amounted to \$21.2m in Quebec tax credits. The equivalent non-bonus productions had a rate of 13.2% which generated \$12.3m in tax credits.

This 6.4% differential in the rate means non-French productions received \$8.7m less in Quebec tax credit funding than French bonus productions, and English-language productions lost about \$7.5m of this amount.

Estimated Annual Loss: \$7.5 million

2) Educational Broadcaster

Problem: Unlike Ontario, Quebec does not have an educational broadcaster for its official language minority. TFO is a mainstay of official language minority Francophone producers outside Quebec, and 38% of their licence fees in the last five year have come from TFO.

Funding impact: The total annual budget of Télé-Québec is approximately \$76m, and the program budget is \$40m. The 2008-9 TFO budget was \$21m (including a base payment from Ontario of \$16m) and its program budget was \$14m.

If we assume that English-language production should be 20% of the TQ program budget, then there is \$8m missing from the English production industry. If Quebec had an official language minority English-language broadcaster with the same budget as TFO, then there is \$14m missing.

Therefore, we can estimate lost production funding is \$8-14m per year. In addition, English-Quebec producers do not have a broadcaster like TFO which is focused on English-Quebec programming, and is able to trigger CMF production funding.

Estimated Annual Loss: \$8-14 million

3) Broadcast Distribution Undertakings

Problem: In 2008, cable companies in Quebec spent \$45.9m on local programming. Most of this programming is professionally produced, but virtually none of this money is spent on English-language production. Videotron serves 93% of the Anglophone community in Quebec, but only has one or two programs in English in its entire system. Surprisingly, Videotron has no English programming on its VOX Montreal community channel.

Funding impact: If we assume that 20% of Quebec BDU local program funding should be spent on English or other minority language programming, than \$9m is missing per year.

Estimated Annual Loss: \$9 million

4) Regional Definition

Problem: The CMF and CRTC regional definitions do not distinguish minority language production from majority language production. This has resulted in lost production for English Montreal producers because CMF considers Montreal to be a center. As a result, broadcasters do not get the regional benefit.

The Commissioner of Official Languages has pointed out this should be changed, and the CRTC has agreed to change its definition to conform to its responsibilities under the Official Languages Act. CMF is unsure about its obligations under the OLA, and we do not know whether it intends to give regional status to English-Montreal production.

Funding impact: It is impossible to know the true financial impact of the CMF definition because an unknown number of productions were not made because English-Montreal is not a region.

According to CMF estimates, the lost CMF funding for actual English Montreal productions was about \$1.5m last year. The true impact is higher because many productions that would have been made in Montreal if it were a region, went elsewhere instead. We believe that doubling this number will provide a conservative estimate of its actual impact on funding. Therefore, we estimate lost funding is about \$3m per year.

Estimated Annual Loss: \$3 million

5) SODEC

Problem: SODEC policy limits non-French production funding to 20% of the total. In 2009, SODEC spent \$35.5m on cinema and television projects. The cap on English production would be about \$7m.

Funding impact: It is not a simple matter to quantify the impact of this SODEC policy. We were unable to identify all English-language productions. The impact of this policy may be seen in terms of projects which were not produced, or not submitted to SODEC.

Estimated Annual Loss: Unknown

6) Lost Quebec Production

Problem: The Bureau du cinéma et de la télévision du Québec (BCTQ) did a survey of 7 major English-language production companies in 2008, and asked them to identify their production schedule for that year. They said they would produce about \$180m outside Quebec. According to the *Going...Going...Gone* report, in 2006-7 there was about \$188m in CAVCO-certified English-language production inside Quebec.

Therefore, it would seem that half of production by English-Quebec producers was being made outside of Quebec. This lost production is not identified in any industry statistics. However, anecdotal evidence indicates some projects are encouraged to move from Quebec by broadcasters, presumably to benefit from the regional bonus elsewhere. One example is *Heartland* which was encouraged to move from Quebec to Alberta by the CBC.

Funding impact: This lost production demonstrates that producers have difficulties working in Quebec, and have competitive advantages working elsewhere. The financial loss is difficult to estimate because these are programs made by English-Quebec producers that are counted as productions of other provinces. Clearly, many creative jobs

inside Quebec are lost, and the English-Quebec industry is diminished when English-language producers move their films outside Quebec.

Estimated Annual Loss: Unknown

7) Conclusion

Based on the above assumptions, the estimated loss in potential funding the English-Quebec production industry suffers every year is at least \$25.5 -33.5m. Including unknown losses identified above, a conservative annual estimate of lost funding would be \$35m.

Most of this estimated financial loss is caused by provincial policies which disadvantage English-language production in Quebec. English-language production outside Quebec, or French-language production inside Quebec, do not face these systemic disadvantages.

Applying the Official Languages Act to Canadian Media Fund policies, such as changing the regional status of English-Montreal or creating a 10% dedicated production fund, would be a significant step helping solve these handicaps. We estimate the average annual benefit from such policies would be about \$3m for the regional definition, plus roughly \$5-7m for a dedicated fund set at 10% of total CMF English-language production funding.

These CMF policies would reduce the funding loss faced by the English-language industry in Quebec from \$35m to approximately \$25m per year.

Estimated Annual Loss: \$35 million

Est. Changes to CMF Policies: \$10 million

Net Annual English-Quebec Loss: \$25 million

Sources: SODEC special data run, TFO, CRTC Financial Reports, CMF, BCTQ survey, ACTRA-DGC report “*Going...Going...Gone*”.

NB- These estimated losses apply to a variety of types of production, and were prepared for ACTRA Montreal and DGC Quebec Council to indicate an order of magnitude for discussion purposes only.

APPENDIX C

CRTC 2009-411 Policy proceeding on a group-based approach to the licensing of television services and on certain issues relating to conventional television

LPIF excerpt from ELAN intervention to CRTC, September 14, 2009.

1) Local Programming Improvement Fund and the Quebec Official-language Minority

40. Considering the mandate of the CRTC under both the *Broadcasting Act* and the *Official Languages Act*, ELAN believes that the CRTC should take into consideration the needs of both official language minority communities in its design of the Local Programming Improvement Fund (LPIF).

a) LPIF Eligibility: Defining English-speaking Montreal

41. The official language minority in Quebec is completely denied access to the LPIF due to the definition of official language that has been adopted. We quote 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 fewer 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”

42. The CRTC confirmed this unusual definition of official languages in 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.” (footnote 2)

43. This definition of the Anglophone population of Montreal as “knowledge” of English contradicts 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).

44. First, while Statistics Canada has several definitions of language understood or spoken which it uses in collecting census data, it considers “knowledge” of a language far too broad and ambiguous 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*.”

45. 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.)

46. 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 me, August 6, 2009.

47. Consequently, the CRTC's definition of “knowledge of” English instead of “first official language spoken” is inconsistent with Treasury Board policy, Statistics Canada policy, Canadian Heritage policy, the *Official Languages Act*, or indeed any position we could find that has been used by the Federal Government on this subject.

b) LPIF Eligibility: Population of English-speaking Montreal

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

49. 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.

50. 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 as 994,725. Their research also identified the Anglophone population of Greater Montreal to be “over 700,000” representing 76% of the province’s Anglophones.

51. On the other hand, the “knowledge of English” population of Montreal is over 2.1 million and would include many people who do consider themselves part of the English-speaking community.

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

52. BBM is the most reliable source of statistics for television audiences. Table 2 shows the TV population defined by BBM as “extended market” Montreal. BBM does not break out English data for Montreal alone, but for the entire province. According to BBM, the “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.

53. If we ignore population, and instead look at the metropolitan markets by actual TV viewing we 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 English 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

54. The data all point to the same conclusion. 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.

55. Therefore, ELAN believes that the CRTC must revise its definition of Anglophones from “knowledge of” English to “first official language spoken”.

c) Funding Official-language Minority Programming: LPIF Envelopes

56. 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)

57. Unfortunately, as Table 1 shows, nearly 200,000 Anglophones in Quebec live outside Montreal and are 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.

58. 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.

59. 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)

60. 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.”

61. ELAN supports the recommendations of the Ministerial Conference and the Commissioner of Official Languages. Dedicated envelopes should be established within the LPIF and other production funds to ensure official language minority access to funding, and balanced funding between the linguistic communities.

62. In Quebec, the OLMCs outside 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.

63. 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.

64. However, the regulations to access LPIF need to be re-designed to meet the real needs of each of the official language minorities.

65. 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 more beneficial Quebec tax credit rate for French-language feature films and documentaries than is available for equivalent English-language productions.

66. 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.

67. The absence of English-language regional or educational broadcasters in Quebec is another major weakness. 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. External interests limit the capacity of English-Quebec producers to tell local stories even when they are producing inside the province.

68. For these reasons, we need flexible OLMC envelopes that are accessible to independent producers for all genres of programming. This flexibility would encourage production and reflection outside Montreal. As currently designed, the LPIF does not have that flexibility since only broadcast news production is eligible. If the LPIF is to support regional reflection throughout Quebec, it should be open to independent producers working in any genre.

69. Furthermore, ELAN supports the current CRTC requirement that 75% of priority programming should be made by independent producers. Thus, it would be consistent if 75% of this proposed OLMC envelope in the LPIF 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 Montreal broadcasters.

70. 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. Unless a higher rate is used, the LPIF should not be used as a revenue source for distribution projects such as Bell's "freesat" proposal.

71. A reasonable target for the OLMC envelope in Quebec is 20% of the total English-language LPIF.

APPENDIX D

“Comments on the Canada Media Fund’s English Regional Production Policies by the English-language Arts Network of Quebec”, by ELAN, September 4, 2009

Executive Summary

The Canadian Television Fund (CTF) has made the English-language regions synonymous with the official-language minority in Quebec. While regional policies overlap with official-language policies in many ways, they are each distinct and need to be addressed differently.

The *Official Languages Act* gives the English-language minority in Quebec the same status as the French-language minority outside Quebec. However, the CTF has not recognized that the official-language minority community (OLMC) in Quebec has the same rights and legal status as the French-language minority outside Quebec. Thus, Montreal production is not given regional status for the BPE, nor is there a Quebec OLMC production fund similar to the production fund (FLPOQ) available to the French-language minority outside Quebec.

ELAN points out in this submission that the Canada Media Fund is directly subject to the “spirit and intent” of the *Official Languages Act* as stated in the Contribution Agreement the CMF signed with the Department of Canadian Heritage on August 18, 2009. The CMF is also indirectly subject to the OLA because CMF operates within the regulatory framework of the CRTC, and the CRTC is subject to the *Official Languages Act*.

ELAN proposes that:

- the CMF modify its definition of region to include the official-language minorities, thereby recognizing the regional status of English-language production in Montreal and French-language production in Toronto and Vancouver.
- a new OLMC regional definition be adopted to harmonize the current regional definitions of both the CMF and CRTC.
- the BPE regional factor be increased to 25%, and that at least half of the broadcaster regional credit be spent on future regional productions.
- an OLMC fund similar to FLPOQ be established for the official-language minority in Quebec.

* * * *

3) The Official Language Minority Mandate

a) CRTC Mandate

The CMF is, for the foreseeable future, largely dedicated to funding television production. Therefore, its policies should be consistent with the *Broadcasting Act* as regulated by the CRTC. The CRTC has the following mandate under the *Broadcasting Act*, 1991:

“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 is also subject to the *Official Languages Act*. The CRTC stated 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)

In his July 29, 2009, intervention to the CRTC re: PN 2009-411, Commissioner of Official Languages Graham Fraser added his thoughts on the application of the OLA to CRTC policy:

“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.”

b) CMF Mandate

The Office of the Commissioner of Official Languages (OCOL) pointed out in its report *Shadows Over the Canadian Television Landscape- The Place of French on the Air and Production in a Minority Context* (January, 2009) that the Department of Canadian Heritage was responsible for ensuring that the objectives of the *Official Languages Act* (OLA) were fulfilled by the CTF.

“The Contribution Agreement between the Department of Canadian Heritage and the CTF is an effective means of ensuring that government funding is used for the development of culturally significant Canadian programming and other special projects.” (p.15)

Is the Contribution Agreement an effective means of ensuring that Government funding is used to support official-language minority production by the CMF?

The Agreement, titled “Contribution by the Department of Canadian Heritage to the Canada Media Fund”, and signed on August 18, 2009, stipulates that:

“... the CTF Program should, among other things, ... encourage production by both majority and minority official-language sectors.” (p.1)

In addition, the Agreement requires that:

“The Corporation [CMF] shall ensure that its communications with and services to the public are provided in both official languages in accordance with the spirit and intent of the *Official Languages Act*.” (p.15)

It would seem that the Contribution Agreement, which applies to both official-language minorities and all the operations of the CMF, whether funded by PCH or not, is indeed clear. The Canada Media Fund is subject to the *Official Languages Act*, and should act accordingly.

* * * *

4) To Be a Region, or Not To Be a Region

Under its current regulations, regional programming as defined by the CRTC in its Public Notices 1999-97 and 1999-205 does not take into consideration the special status of English-language production in Quebec under Section 41 of the *Official Languages Act*.

* * * *

In response to this regional definition, the Commissioner of Official Languages issued a major policy statement in his November 20, 2008, response to CRTC PN 2008-12 – *Review of English- and French-language broadcasting services in English and French linguistic minority communities in Canada*.

The Commissioner pointed out that the regional definition being used by the CRTC was “problematic” because it confused its obligation to support regions with its obligation to support official language minorities. Specifically, OCOL said:

22. The concept of “region” is fundamentally ambiguous. In fact, the CRTC identifies as regional those French-language programs in which the principal photography took place in Canada at a distance of more than 150 km from Montreal, as well as those English-language programs in which the principal photography took place in Canada at a distance of more than 150 km from Montreal, Toronto or Vancouver.
23. Thus, regional production in French may include programs filmed regionally in Quebec, while English-language programs filmed in Montreal do not count as regional. As for English-language television, there are only two stations in Quebec other than the CBC: one that broadcasts Global network programs, and another that broadcasts CTV network programs. Both stations are located in Montreal. Neither Global nor CTV has a license condition dealing with minority community television production. Because they are not regional programs, some programs from Montreal production houses may not be considered priority programming by the CRTC even though these are English-language production houses in a minority setting.
24. In order to ensure regional reflection, some CRTC decisions state that the Commission expects licensees to broadcast programs that reflect all regions of Canada. It also expects producers working outside major production centres to have an opportunity to produce programs for broadcast. However, it does not clearly state whether these regionally reflective programs must come from regionally-located production houses, or even whether a certain percentage of these programs must be made by producers from minority English- or French-language communities.

* * * *

The CTF regional definition also ignores language as a factor in defining regions. The CTF definition is in section 2.1.1. of the BPE Guidelines:

"For the purposes of the BPE Stream “regions” are defined as any part of Canada more than 150 km by shortest reasonable roadway route from Montréal or Toronto. The CTF defines a Regional Production as follows:

- *Principal photography occurs in the regions, with suitable exceptions for documentaries; and*
- *The Applicant is based in the regions (with its head office situated in the regions); and*

- Exercises full control of the creative, artistic, technical and financial aspects of the project, or, in the case of a regional/non-regional co-production, the regional Applicant has such control in proportion to its copyright ownership;
- In the case of a regional/non-regional co-production, the regional Applicant owns at least 51% of the copyright in the production;
- In the case of a regional/non-regional co-production, the regional Applicant shares equitably in fees payable to producers and corporate overhead;
- Initially owns and controls the distribution rights to the project and retains an on-going financial interest in the project or, in the case of a regional/non-regional co-production, the markets and potential revenues are shared equitably in proportion to the financial participation of each co-producer; and
- Has meaningfully participated in the production's development.

Where the control and central decision makers in a project are located outside of the regions, the project is not considered to be a Regional Production.”

* * * *

The CTF defines English-language production in Vancouver as having regional status, but not Montreal. Since the CTF does not define region by language, we believe this definition is not acceptable under section 41 of the *Official Languages Act*.

The CRTC has realized this is a problem. On March 30th, 2009, 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:

“The Commission has taken note of the need to review its definition of English-language regional productions to distinguish between the production of regional programs in the majority official language and the production of regional programs in the minority official language. Given that the broadcast and funding of Canadian programs are closely linked, the Commission also recognizes the need to harmonize its definition of regionally-produced programs with that of the CTF.

Now that the government has made a decision on the governance of the CTF, the Commission intends to address with the Canada Media Fund at the appropriate time the possibility of establishing a common definition of regionally-produced programs. However, the Commission notes that all proposals to modify its definition of regionally-produced programs will be subject to a public process.” (p.10, emphasis in original text)

* * * *

Following this current policy review by the Canada Media Fund, ELAN expects the CRTC will review its definition of English-language regional production and make the necessary changes to conform to the intent of the *OLA*. Therefore, the CMF definition of regional production must be consistent with the *OLA* or it will be unacceptable to the CRTC and a harmonized regional definition will be impossible.

5) CMF and the Official-language Minority in Quebec

Although the CTF is not a Federal institution which is directly subject to the *Official Languages Act*, CTF is subject to the “spirit and intent” of the *Official Languages Act* through the Contribution Agreement and its legal relationship with PCH. As we stated above, CTF is also indirectly subject to the *OLA* through the regulatory regime of the CRTC.

Secondly, under the Contribution Agreement, CTF should “encourage production” by “minority official-language sectors”. It is doing that for the French-language minority through a Special Initiatives stream for “French-language Production Outside Quebec” (FLPOQ). The FLPOQ fund was established under the authority of the Contribution Agreement and dedicates a minimum of 10% of the CTF allocation for all French-language projects to the official-language minority outside Quebec.

On the English-language side, CTF has established a Production Incentive (PI) program to support regional production which has declined from 42% of the English envelope in 2004-5 to 26% in 2008-9. The PI program is designed to support regional production that falls below an average baseline by more than 20% in one year. Thus, Atlantic and Quebec regions received special PI funding last year while Atlantic and B.C. regions are receiving PI funding this year. The PI program may help deal with regional discrepancies, but it is not designed to support official-language minority production.

English-language minority production in Quebec is especially vulnerable to fluctuations since it doesn’t have a dedicated fund along the lines of FLPOQ. For example, Quebec is not eligible for the regional PI fund this year though its percentage of CTF funding remains at roughly the same level. This demonstrates the inability of a regional support program to solve an OLMC problem.

Furthermore, CAVCO-certified English-language production in Quebec has seen an over-all decline of roughly 40% since the CRTC’s 1999 *TV Policy* eliminated minimum expenditure requirements for the off-air broadcasters. For more information, see *Going... Going... Gone: The Decline of English-language Production in Quebec, 1996-7 to 2006-7*, June, 2008, Magnetic North Associates for ACTRA Montreal and DGC Quebec Council.

Although there is no distinction between the rights of the English and French official-language minorities in the *Official Languages Act*, we can see that the English-language minority in Quebec is not supported by CTF with specific programs such as FLPOQ. Other regional programs that exist to support English-language production in Quebec are inconsistent.

For example, on the one hand the English-language minority in Quebec is defined as a region for the Production Incentive, and CTF suggests this fulfills its obligations to this region. But on the other hand, English-language production in Montreal is defined as a centre and not a region for the BPE program, and Montreal producers are unable to benefit from the 20% regional licensing factor.

As we can see, CTF does not have a consistent or coherent policy for the official-language minority in Quebec. Thus, it is not fulfilling the Contribution Agreement to provide its services, e.g. production funding, to both minorities in programs designed to deal with their needs. Put simply, CTF is failing the English-language minority in Quebec through its neglect of the “spirit and intent” of the *OLA*.

The Commissioner of Official Languages (OCOL) identified this problem in its *Shadows* Report:

“The CTF has no permanent funding stream for English-language production in Quebec. English-language producers in the province received 8% of CTF funding in 2007-8. This represents a 31% decline over the previous five years (12%).” (p.15)

In this Report, OCOL made two recommendations that were directed to the Department of Canadian Heritage about the Canadian Television Fund. In Recommendation 1, OCOL said:

“The Commissioner of Official Languages recommends that the Department of Canadian Heritage, working with professional associations and federal departments and agencies that are responsible for television production, strengthen their coordinated strategy in order to better support the production and broadcasting of television products from official language minority communities and overcome the barriers that have been identified.”

ELAN supports this recommendation, and hopes that the Department undertakes such a coordinated strategy with the relevant stakeholders to improve OLMC television production, especially in Quebec.

And in Recommendation 6, OCOL said:

“The Commissioner of Official Languages recommends that the Department of Canadian Heritage ensure there are members who understand the unique issues of production in a minority context on the Canadian Television Fund’s board of directors.”

It is not enough that Board members of the CMF understand these issues. CMF needs to accept the spirit and intent of the OLA under the Contribution Agreement, and that means establishing policies specifically designed for the official-language minority in Quebec.

APPENDIX E



Canadian Radio-television and
Telecommunications Commission

Conseil de la radiodiffusion et des
télécommunications canadiennes

“Report to the Governor in Council on English- and French-language broadcasting services in English and French linguistic minority communities in Canada”, 30 March 2009

Excerpts relevant to English-Quebec Television

p.1

... The Commission concludes that official-language minority communities have appropriate access to television services. The Commission determines that the Canadian Broadcasting Corporation and community radio stations play a most important role in official-language minority communities. The Commission finds that community reflection in the programming of the services available in the Canadian broadcasting system can be improved.

In the medium and long term, the Commission considers that new media represent the best solution for ensuring access to a maximum number of services and for allowing a better reflection of official-language minority communities within the Canadian broadcasting system.

Television services

p.8-10

Reflection of official-language minority communities in television programming

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 Québec -, 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.

Broadcast of regionally-produced programs and expenditures on the acquisition or production of such programs

... With regard to English-language minority communities, the Commissioner of Official Languages, in its report entitled *Shadows over the Canadian Television Landscape*, concluded that anglophone producers in Quebec face specific challenges: "fierce North American competition, lower international labour costs and the exodus of producers to other provinces that offer more attractive tax credits." As a solution, the ELAN advocated that a minimum percentage of programming by English-language stations broadcasting in Quebec be produced by independent Quebec producers.

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.

The definition of regionally-produced programs

Interveners noted that the definitions of the term "regionally-produced program" used by the Commission and the Canadian Television Fund (CTF) are not the same. As set out by the Commission in Public Notice 1999-205, regionally-produced Canadian programs are both English-language programs in which the principal photography occurred in Canada at a distance of more than 150 kilometres from Montréal, Toronto or Vancouver and French-language programs in which the principal photography occurred in Canada at a distance of more than 150 kilometres from Montréal. However, the CTF defines regionally-produced programs as those produced in any part of Canada more than 150 kilometres by shortest reasonable route from Montréal or Toronto.

According to the Commission's definition, French-language programs from Toronto or Vancouver are regional productions, whereas English-language programs from Montréal are not considered to be regional productions. The CTF considers neither French-language programs from Toronto nor English-language programs from Montréal to be regionally-produced programs.

On the one hand, anglophone groups in Quebec would like the same definition to apply to their linguistic minority community so that English-language programs produced in Montréal may be considered regional productions. In *Shadows over the Canadian Television Landscape*, the Commissioner of Official Languages stated that the clarification of the definition of regionally-produced programs "should make a clear distinction between producing regional programs in the majority official language and producing regional programs in the minority official language." On the other hand, according to the interveners, it is essential that changes to the Commission's definition of regionally-produced programs be made and be accompanied by changes to the CTF's definition so that regional producers can benefit fully from the fund, as the funding and broadcast of a program are closely linked.

At the hearing, the Commission asked the interveners to propose a definition of regionally-produced programs. In their final interventions, the Commissioner of Official Languages, ELAN and the APFC jointly filed the following definition for adoption by the Commission and the CTF to account for productions in linguistic minority environments:

English-language programs at least 30 minutes long (less a reasonable amount of time for commercials, if any) a) which are produced by an independent producer whose head office is located in Quebec, or b) in which the principal photography occurred in Canada at a distance of more than 150 kilometres from Toronto or Vancouver. Programs in which the principal photography occurred on Vancouver Island will also be considered regionally-produced programs.

French-language programs at least 30 minutes long (less a reasonable amount of time for commercials, if any) a) in which the principal photography occurred in Canada at a distance of more than 150 kilometres from Montréal, or b) which are produced by an independent producer whose head office is located outside of Quebec and the majority of whose productions are in French, will be considered regionally-produced programs. (Emphasis added)

The Commission has taken note of the need to review its definition of English-language regional productions to distinguish between the production of regional programs in the majority official language and the production of regional programs in the minority official language. Given that the broadcast and funding of Canadian programs are closely linked, the Commission also recognizes the need to harmonize its definition of regionally-produced programs with that of the CTF.

Now that the government has made a decision on the governance of the CTF, the Commission intends to address with the Canada Media Fund at the appropriate time the possibility of establishing a common definition of regionally-produced programs. However, the Commission notes that all proposals to modify its definition of regionally-produced programs will be subject to a public process.

Local Programming Improvement Fund

Several interested parties welcomed the creation of the Local Programming Improvement Fund (LPIF), which aims to improve the provision of news in medium and small markets. 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. The Commissioner of Official Languages proposed that the criteria of the LPIF be expanded so that stations serving official-language minority communities in metropolitan markets can benefit from this fund to produce their programming. The FCFA suggested that stations eligible for the LPIF be subject to an accountability framework with regard to the uses to which they have put these funds to develop and broadcast content reflecting the realities of Francophones living in a minority community. TFO considered that producers of programs destined for provincial educational services should be allowed to access the LPIF. Further, the FFCB emphasized the importance of developing the capabilities of the CBC's French-language regional stations, which should benefit from the LPIF. The APFC would also like its productions to benefit from this fund to better offer communities content that is of interest to them. According to the APFC, because this fund is limited to non-metropolitan markets, Francophones living in urban centres would require an exception to have access to local news in French. The CBC welcomed this initiative, which could support the production of content in French-language minority markets. The CBC regretted, however, that the anglophone minority market of the Montréal Metropolitan Area was excluded.

The Commission reiterates that the LPIF will be made available to stations operated in markets where the population with a knowledge of the official language of that station (English or French) is less than one million. This definition excludes, therefore, the urban markets of Vancouver, Calgary, Edmonton, Toronto and Montréal, as well as the anglophone market of Ottawa-Gatineau; consequently, the stations that serve those markets will not be eligible for LPIF funding. To qualify for LPIF funding, stations must be providing a local programming service that includes original local news.

APPENDIX F



Office of the
Commissioner of
Official Languages

Commissariat
aux langues
officielles

“Shadows over the Canadian Television Landscape: The Place of French on the Air and Production in a Minority Context”, January 2009

Excerpts relevant to English-Quebec Television Production

P.15-6

Canadian Television Fund...

The Special Initiatives Funding stream

The CTF has no permanent funding stream for Englishlanguage production in Quebec. English-language producers in the province received 8% of CTF funding in 2007–2008. This represents a 31% decline over the previous five years (12%).³²

p.18

The Local Programming Improvement Fund (LPIF)

Recently, on October 30, 2008, the new LPIF was established by the CRTC in *Broadcasting Public Notice 2008-100, Regulatory frameworks for broadcasting distribution undertakings and discretionary programming services*. Under this regulation, the CRTC will increase the BDUs’ contribution to Canadian programming by 1%, thereby increasing gross revenues derived from broadcasting activities from 5% to 6%.

The 1997 *Broadcasting Distribution Regulations* require that distribution undertakings contribute 5% of their gross broadcasting revenues to Canadian programming. The way in which this percentage is divided remains the same. In the case of large-scale terrestrial distribution undertakings (those with more than 6,000 subscribers), 2% of the 5% from this contribution may be used to support their community channel, while the remainder must either support Canadian programming through the CTF (at least 80%), or contribute to independent certified production funds (up to 20%).

According to the CRTC, the Vancouver, Calgary, Edmonton, Toronto and Montréal metropolitan markets and the Ottawa–Gatineau Anglophone market must be exempt from the LPIF since the additional percentage point is strictly meant to help improve the quality of local programming in non-metropolitan markets.

Nevertheless, the fact that the CRTC seems to have forgotten this criteria means that OLMCs living in these urban centres are unable to benefit from this extra financial support, estimated at around \$60 million over the course of the first year.

p.19-20

Government support for educational channels and cultural enterprises

The provincial governments of Ontario and Quebec own the French-language educational television channels TFO and Télé-Québec, respectively. In 2005–2006, the Quebec government handed out \$57.5 million in grants to Télé-Québec. In 2006–2007, the broadcaster received \$54.9 million.⁴⁶

Formerly part of TVOntario, TFO, the French-language network in Ontario, became an independent organization on April 1, 2007. TFO is the only French-language Canadian broadcaster whose main operations are outside Quebec. Table 1 (see p.59) shows that, over the 2003–2007 period, TFO's share of broadcasting licences for the APFC was 38% (\$6,210,949 out of \$16,325,564). The Ontario government has committed to an annual subsidy to TFO of about \$15 million to ensure that it meets the specific cultural and educational needs of the Francophone community, and that it fulfills its broadcasting and communications mandate. The total annual budget of TFO was \$21 million in 2007 including federal funding and income from cable television subscribers.⁴⁷

Independent production: An additional stakeholder

While some Canadian broadcasters themselves produce a certain number of programs (notably sports and news), they turn to Canadian independent producers for a large portion of their programming, especially in the priority categories subsidized by governments.

Canadian independent production has arisen primarily from three government initiatives:

- The creation by the federal government in 1983 of Telefilm's Canadian Broadcast Program Development Fund to fund Canadian programs produced by independent companies in the priority categories. This fund became the CTF;
- The CRTC's imposition on Canadian broadcasters of specific obligations regarding priority programming categories, beginning in the 1980s;
- The 1991 amendment of the Broadcasting Act, which for the first time stipulated that programming provided by the Canadian broadcasting system should "include a significant contribution from the Canadian independent production sector."⁴⁸

The *Broadcasting Distribution Regulations* support independent producers by requiring cable distribution undertakings, direct-to-home satellite distribution undertakings and multipoint distribution system undertakings to contribute to Canadian programming in an amount not less than 5% of annual gross revenue from their broadcasting activities. More specifically, at least 80% of this contribution must be paid to the CTF; the rest can be paid to one or more independent production funds.

p.22

3.1 The voice of OLMCs

... In terms of the Anglophone minority in Quebec, two observations: first, producers face international competition as well as the dominant North American English-speaking culture; second, Anglo-Quebec production is very Montréal-centric. The vast majority of Quebec production houses are located in the Greater Montréal Area. Of the 132 members of the APFTQ,⁵⁷ only 17 are located outside Montréal, and only three of these production houses produce English-language programs in addition to their French-language programs.

p.25-7

... Overview of Anglophone production in a minority context

Minority English-language production in Quebec is in a unique situation. North American competition and the exodus of production companies to centres outside Quebec present major challenges. While these factors do have real repercussions on this production, it is useful to look at them in the context of Canadian television production as a whole, which has experienced a decline over the past few years due to the transformation of the market. This transformation is characterized by increased international competition, the availability of inexpensive labour elsewhere in the world and the globalization of production work, especially in animation.

Decrease in English-language Quebec productions as a proportion of English-language production in the country as a whole

A report submitted in June 2008 to the Quebec Council of the Directors Guild of Canada entitled *Going... Going... Gone: The Decline of English-language Production in Quebec*⁷¹ reported that English-language film and television production in Quebec is at risk and that it has decreased more, proportionately, than the rest of Englishlanguage production in Canada. According to the report, “the number of certified English-language productions in Quebec has been relatively stable but has declined as a share of the number of domestic productions in Canada.”⁷²

In terms of production volume, the data presented in this report show a certain degree of variation during this period. In Quebec, while the number of productions increased over a ten-year period, the volume, as a proportion of national production, decreased. From 71 certified projects in 1996–1997 (12% of the total national production volume), production levels fluctuated several times, reaching 99 projects in 2005–2006 (9%), their highest level in terms of number but their lowest in terms of volume, before dropping back to 63 projects in 2007–2008. In Ontario, the number of English-language productions peaked at 337 projects in 2003–2004 (30% of the total volume), then dropped to 211 productions in 2006–2007 (24%). In contrast, British Columbia, the number of projects dropped by 16, from 112 in 2004–2005 (10%) to 96 in 2006–2007, but the volume remained virtually the same (11%). The same phenomenon can be observed in French-language productions in Quebec, where the number of certified projects reached 396 in 2005–2006 (36% of the total volume) and 339 in 2006–2007 (38%).⁷³ While these projects are not all in the television sector, the vast majority of them are.

Factors affecting English-language producers in Quebec

According to *Going... Going... Gone*, while Quebec’s French-language production industry benefits from a number of factors that are specific to the Quebec market, namely, the fact that the language barrier means producers are not competing directly with American producers,⁷⁴ English-language production in a minority context is vulnerable to competition from American productions and English-language productions from the rest of Canada, especially Ontario and British Columbia. These factors have given rise to a lack of work, a shrinking infrastructure and a smaller labour pool.⁷⁵

Some unfavourable factors include the Quebec tax credit’s lack of competitiveness (especially compared to Ontario’s), which results in production companies moving to Toronto and Ottawa.⁷⁶ The CAVCO data presented in *Going... Going... Gone* indicate that the most productive provinces have increased their tax credits. From 1996 to 2006, the credits granted by Quebec to English-language film and television productions in the province largely exceeded those granted by Ontario and British Columbia to productions in those provinces. However, since 2006, these two provinces have substantially increased their grants, making certified English-language Quebec productions the least subsidized English-language productions in the country. Moreover, French-language Quebec productions receive even less than English-language Quebec productions.⁷⁷

In terms of the federal tax credit granted to productions by province, the variations over the past 10 years have been negligible, both from province to province and from year to year. They vary between 9% and 11% among Englishlanguage productions and between 7% and 10% among French-language productions.⁷⁸

There have also been recent changes in Ontario, in December 2007, and in British Columbia, in February 2008, including an increase in the nominal base credit rate from 30% to 35%. In Ontario, this rate increased to 45% because of the 10% regional bonus.⁷⁹

Funding and concentration of English-language Quebec television production

In 2002–2003, English-language television production in Quebec funded by the CTF was worth \$15.7 million. In 2006–2007, the figure was \$16.2 million. A peak of \$24.6 million in funding was reached in 2005–2006—a small increase over 2004–2005 (\$19.7 million).⁸⁰ This amount represents nearly 15% of the \$165.4 million granted by the CTF to all English-language production in Canada. However, despite this increase in funding, English-language Quebec production has been characterized by a loss in overall value,⁸¹ there are fewer projects and production costs are increasing, especially in fiction and documentary productions.

A number of production houses, including those traditionally producing work in French (e.g., Ciné Télé Action and Sphère Média Plus) have successfully produced television programs for an English-speaking public. However, as already indicated, most of these companies are located in the Greater Montréal Area. As shown in [Table 3](#), only a small amount of the money granted by the CTF was for productions outside Montréal. In 2003–2004 and 2004–2005, no funding was allocated by the CTF to such productions.⁸²

Table 3

Funding of English-language television production by the CTF in Quebec (in millions of dollars), 2002 to 2007			
	Outside Montréal	Montréal	Total
2002–2003	0.2	15.5	15.7
2003–2004	0	16.6	16.6
2004–2005	0	19.7	19.7
2005–2006	0.5	24.1	24.6
2006–2007	0.2	16	16.2

Source: CTF, *Stakeholders Report 2007*, p. 28.

Note: Funding varies according to the CTF fiscal year. For interprovincial co-productions, funding is provided to the lead region. The data exclude feature films.

In conclusion, English-language Quebec television production has declined over the past three years, in line with the overall decline in Canadian production. However, a variety of factors, such as the North American market, international competition and incentives in Ontario in particular, have worsened the impact of this decline when considering the fact that English-language production in Quebec takes place in a minority context.

3.2 Canadian television production in a minority context: A multifaceted reality

p.30-2

Importance of better coordination among stakeholders

... The Commissioner of Official Languages believes that a number of elements need to come together in order to provide better coordination among institutional and private stakeholders, in order to promote television production in a minority context and ensure this market is not left out.

In this regard, a protocol for collaboration entitled the *Agreement for the Development of Francophone Arts and Culture in Canada* has been in place since 1998, and it is expected to be renewed shortly, following a thorough evaluation in which the signatories participated in 2008.⁸⁶

...86. An equivalent agreement does not exist for the Anglophone community in Quebec.

[See Recommendation 1 below]

“Regional reflections”: An ambiguous concept

Regional television production occurs within an environment that is regulated and supervised by the CRTC in order to implement the Broadcasting Policy for Canada. However, the CRTC has no policy in place to supervise production in a minority context, preferring to proceed on a case-by-case basis when renewing licences. The obligations imposed by the CRTC are limited to the “reflection” of Canada’s regions in programs, and to regional production. This approach is problematic in several ways.

One difficulty lies in the ambiguity underlying the use of the concept of “region”, as mentioned previously. The CRTC identifies as regional those French-language programs in which the principal photography took place within Canada more than 150 km from Montréal, as well as those English-language programs in which the principal photography took place within Canada more than 150 km from Montréal, Toronto or Vancouver. Thus, regional French-language production can include programs shot in Quebec, while the shooting of English-language programs in Montréal is not considered regional production. It is worth bearing in mind that regional Canadian programs are seen by the CRTC as priority programming.

While this ambiguity does affect the public broadcasters, the Radio-Canada spokesperson who participated in our study said that the aforementioned structural changes within the Corporation aimed at meeting the requirements of two sets of clients, centralized and de-centralized, has encouraged producers outside Quebec to engage in more diversified production. As a result, regional production is more concentrated than it was before on the Radio-Canada network.

The criticism that was directed at Radio-Canada in terms of there being less space available in local time slots, and the slots remaining in Western Canada, for instance, often being available because of the time difference with Toronto or Montréal has already been described. However, Radio-Canada’s spokesperson says that the structural changes have not affected the public broadcaster’s commitment to regional independent production (in Quebec and elsewhere in Canada). As proof, the Corporation cites the ongoing increase in investment in independent production and in the number of hours produced.

To give another example, in its 2006–2007 annual report to the CRTC, RDI said that one-third of the original programs and features that were broadcast came from the regions, but it did not provide details on whether these productions were made outside Quebec.⁸⁸

Regarding English-language television, the same question arises, but in a different way. Besides the CBC, Quebec has two stations: one broadcasting Global network programs,⁸⁹ and the other broadcasting CTV network programs. Both stations are located in Montréal. Neither Global nor CTV has a licence condition relating to television production in a minority context. However, in their reports to the CRTC regarding independent production of priority programming in 2005–2006, Global said that it purchased 42.5 hours of programming produced in Quebec, whereas, in 2006–2007, it purchased only 39 hours. CTV, in 2005–2006, purchased only 6 hours of programming produced in Quebec, and 9.5 hours in 2006–2007.⁹⁰ All the Quebec production houses that made these programs are located in the Montréal area. The licence conditions for Global and CTV mention only the broadcasting of Canadian priority programming.⁹¹ Thus some of the programs made by production houses located in Montréal may not be considered by the CRTC as priority programming, even though they are in the English language and in a minority context, because they are not regional programs.

A second difficulty stems from the question of who is responsible for producing regional programs or programs produced outside the major centres. In order to ensure that the regions are reflected, the CRTC states, in some decisions, that it expects licensees to broadcast programs that reflect all regions of Canada. It also expects producers working outside the major production centres to have an opportunity to produce programs that will be broadcast.⁹² However, it does not clearly state whether these regionally reflective programs must be made by production houses located in the regions or even whether a certain percentage of these programs must be made by producers from minority Anglophone or Francophone communities. A third and significantly more important problem arises from the fact that the expectations of the CRTC are generally not included in the licence conditions for broadcasters. As a result, the broadcasters have no obligation to comply, either financially or in terms of their broadcasting activity.

Lastly, it should be pointed out that additional effort is still required if consideration of official languages is to become a reflex and be fully integrated into all of the CRTC's practices and policies. It should be kept in mind, as was stated in the first section of this report, that, even very recently, in its public notice on new distribution regulations (2008-100), the CRTC did not take into account OLMCs in metropolitan areas when it created the LPIF.

Need for a policy framework for production in a minority context

In 2001, the CRTC recognized the importance of making more use of independent producers from outside Quebec. In *Notice 2001-25*, the CRTC encouraged “the various stakeholders to continue their efforts to increase the number of original productions originating in French-language minority communities and aired by Canadian broadcasters. The Commission encourages the licensees of French-language conventional services, and those of the new specialty services that are to be distributed across Canada in digital mode, to make greater use of independent producers from outside Quebec.”⁹³

The Commissioner is of the opinion that the CRTC should clarify the concept of “regional reflection” by developing a clear policy to this end. The new policy should make a clear distinction between producing regional programs in the majority official language and producing regional programs in the minority official language. The licence conditions of the various Canadian broadcasting services should take into account this distinction.

In addition, the CRTC should encourage all Canadian broadcasting services to make commitments with respect to the development and acquisition of French-language programs produced outside Quebec and English-language programs produced in Quebec, including a certain percentage produced outside of Montréal.

[See Recommendations 2, 3, and 4 below]

p.34-5

The CBC and minority Anglophone production

At the time of renewal of the CBC's licence for English-language television,¹¹³ the CRTC expressed concern about the predominance of programs from Toronto. The CRTC therefore imposed on the CBC, as a licence condition, a requirement to broadcast a weekly minimum average of six hours of regional programming in which the principal photography takes place over 150 km away from Toronto.¹¹⁴ However, the decision made no reference to the production and broadcasting of English-language programs from Quebec.

For its 2004–2005 report to the CRTC, the CBC drew up a list of its achievements in regional programming for each province. In that regard, it mentioned that it had broadcast numerous English-language documentaries made in Quebec.¹¹⁵

The licence conditions for CBC Newsworld do not mention regional programming.¹¹⁶ The decision does however signal CBC Newsworld's commitment to creating a weekly program about the lives of Canada's Francophones and to working with RDI to increase the number of episodes of *Culture Shock*.¹¹⁷

The CBC maintains that it produces, in Quebec, a combination of new English-language programs, documentaries, short films, television series and specials. Although some productions are aimed at regional viewers, others are for broadcast on the national network. For example, Townshippers' Day in the Eastern Townships is featured on programs on the national network (*Canada Now*).¹¹⁸

As for English-language programming in Quebec, the CBC provides the following:

- Local news and public affairs programs that are produced locally and anchored from Montréal;
- Documentaries: the CBC is launching the sixth season of a development initiative with the NFB and communications faculties. Twenty-three short documentaries were produced by Montréal CEGEP and university students as part of an NFB-CBC training initiative called Doc Shop (supported by the CBC's Regional Program Development Fund);
- Non-news programming: *Living Montreal*, produced in Montréal and broadcast throughout Quebec, is a guide to living in Quebec's largest and most cosmopolitan city.

Since June 2003, English-language television has also been producing programming in Montréal for children and for the CBC Kids national programming schedule. The latest initiative is called *Kids Across Canada* and presents short documentaries featuring children from all parts of the country telling young viewers about their lives and communities. This series of 13-minute documentaries is coordinated from Montréal.

Finally, CBC Montréal uses its regional program development fund to support emerging filmmakers. Through initiatives such as the *Sprint For Your Script* competition and in partnership with the Société de développement des entreprises culturelles (SODEC), Télé-Quebec and the Writers Guild of Canada, CBC offers a cash prize for the best English-language short film script. For the past two years, the CBC has also supported the development and authorized the broadcast on *Canadian Reflections* of the grand prize winner of the *Sprint For Your Script* competition.

Program development

CBC Montréal works with independent Quebec producers on project development, pitch support and production. It makes use of its credits from the Regional Program Development Fund to develop a range of projects in the main CBC/Radio-Canada genres, such as documentaries and programs on arts and entertainment.

There is also an online CBC monthly newsletter, *i-Wire*, which provides information to the independent Quebec production community, highlighting programming news, personnel decisions, industry events and other pertinent information.¹¹⁹

That being said, it should be kept in mind that, in all the reports submitted by CBC/Radio-Canada to the CRTC, Canadian Heritage and Parliament, it is difficult, if not impossible, to identify specific expenditures on regional programs in the minority official language, including the \$7 million mentioned previously for independent regional productions.

As a result, the Commissioner is of the opinion that the public broadcaster should show greater transparency in order to fully meet its obligations under the *Official Languages Act*. CBC/Radio-Canada's reports on the implementation of section 41 of the *Official Languages Act* and its reports to the CRTC should include a breakdown of expenditures for official language programs in a minority context and include the number of hours of programming. CBC/Radio-Canada should also indicate whether these programs are broadcast during peak hours and identify those which are broadcast over the national network.

[See Recommendation 5 below]

Summary

Television production in a minority context is a multifaceted reality that must be taken into account by decision makers.

Francophone producers have made real progress in recent years thanks to the financial support of the CTF and Canadian Heritage. It is important that they be able to build on this momentum.

In order for the television landscape to give the expression of OLMCs its rightful place, the Commissioner is proposing that certain key players take a variety of actions. He recommends the following:

That the Department of Canadian Heritage

- Review its coordinated strategy in order to better support the production and broadcasting of television products produced by OLMCs. This review should be carried out in cooperation with the other federal stakeholders and producer representatives.
- Ensure the CTF's board of directors includes members who understand the issues involved in official language production in a minority context.

That the CRTC

- Develop a policy aimed at better defining the minimum commitments that the major media conglomerates should make in order to adequately reflect OLMCs and meet their needs. These commitments should be included in licence conditions.
- Develop a clear policy that clarifies the distinction between the production of regional programs in the majority official language and production from the OLMCs.
- Monitor licensees more rigorously when renewing their licences if these licensees have commitments or licence conditions related to the development and acquisition of programs produced in the minority official language.

That CBC/Radio-Canada

- More clearly present the expenditures that are related to regional official language programs in a minority context.

The Commissioner believes that the implementation of these recommendations would increase the production and broadcasting of television products and provide a better overview of productions from OLMCs, allowing them to fully contribute to the Canadian television landscape.

[Note- Six out of eleven recommendations in this report that are relevant to English-Quebec]

Recommendation 1

The Commissioner of Official Languages recommends that the Department of Canadian Heritage, working with professional associations and federal departments and agencies that are responsible for television production, strengthen their coordinated strategy in order to better support the production and broadcasting of television

products from official language minority communities and overcome the barriers that have been identified.

Recommendation 2

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 of Montréal.

Recommendation 3

The Commissioner of Official Languages recommends that the Canadian Radio-television and Telecommunications Commission formulate a policy in order to define the minimum commitments to be made by major media conglomerates (those authorized to operate in several provinces with a potential reach of more than 70% of the audience in their language of operation) in order to reflect the reality of official language minority communities and meet their needs. These commitments should be included in licence conditions.

Recommendation 4

The Commissioner of Official Languages recommends that, at the time of licence renewal, the Canadian Radio-television and Telecommunications Commission monitor licensees more rigorously when they have commitments or licence conditions with respect to developing and acquiring programs produced in the minority official language.

Recommendation 5

The Commissioner of Official Languages recommends that CBC/ Radio-Canada provide a more detailed report to the Canadian Radio-television and Telecommunications Commission on its expenditures for official language programming in a minority context. The report should include a breakdown of expenditures for official language programs in a minority context, the number of hours of programming and information on whether these programs are broadcast during peak hours and whether they are broadcast over the national network. This information could be repeated in its report to Canadian Heritage on the implementation of section 41 of the *Official Languages Act*.

Recommendation 6

The Commissioner of Official Languages recommends that the Department of Canadian Heritage ensure there are members who understand the unique issues of production in a minority context on the Canadian Television Fund's board of directors.

APPENDIX G

Excerpt from Intervention by the Commissioner of Official Languages to the CRTC, PN 2008-12, November 20, 2009:

“Television production and the definition of “regional reflection”

22. Regional television production takes place within an environment that is regulated and supervised by the CRTC with a view to implementing the *Broadcasting Policy for Canada*. However, the CRTC has no policy on production in minority communities; it prefers to operate on a case-by-case basis when the licenses in question are renewed. The obligations imposed by the CRTC are limited to the “reflection” of Canada’s regions in television programs. This approach is problematic in several ways.
23. The concept of “region” is fundamentally ambiguous. In fact, the CRTC identifies as regional those French-language programs in which the principal photography took place in Canada at a distance of more than 150 km from Montreal, as well as those English-language programs in which the principal photography took place in Canada at a distance of more than 150 km from Montreal, Toronto or Vancouver.
24. Thus, regional production in French may include programs filmed regionally in Quebec, while English-language programs filmed in Montreal do not count as regional. As for English-language television, there are only two stations in Quebec other than the CBC: one that broadcasts Global network programs, and another that broadcasts CTV network programs. Both stations are located in Montreal. Neither Global nor CTV has a license condition dealing with minority community television production. Because they are not regional programs, some programs from Montreal production houses may not be considered priority programming by the CRTC even though these are English-language production houses in a minority setting.
25. In order to ensure regional reflection, some CRTC decisions state that the Commission expects licensees to broadcast programs that reflect all regions of Canada. It also expects producers working outside major production centres to have an opportunity to produce programs for broadcast. However, it does not clearly state whether these regionally reflective programs must come from regionally-located production houses, or even whether a certain percentage of these programs must be made by producers from minority English- or French-language communities.
26. Finally, since the CRTC’s expectations are generally not included in broadcasting license conditions, broadcasters have no real obligation to comply, either financially or in terms of their broadcasting activity.
27. The CRTC must therefore clarify the notion of “regional reflection” by developing a specific policy on this matter. The new policy should clearly distinguish between regional production in the majority official language and regional production in the minority official language. Moreover, when individual licenses are renewed, the CRTC should insist that license conditions are obligations rather than mere expectations. “

APPENDIX H

“Going... Going... Gone: The Decline of English-language Production in Quebec, 1996-7 to 2006-7”; for ACTRA-Montreal and DGC-Quebec Council by Magnetic North Associates, June, 2008

Executive Summary

- English-language production in Quebec has fallen by 40% since the peak production years ended in 2000.
- Total certified English-language production in Canada has been stagnant or declining since peak production ended in 2000. From 1999-0 to 2005-6, total English production in Canada fell by 10%. English-language production in Quebec has suffered the most dramatic decline during this period.

Total production from 1999-0 to 2005-6 (English only):

Canada	↓ 10%
Ontario	↑ 6%
B.C.	↓ 22%
Quebec	↓ 40%

The single most important reason for this decline in Quebec is the increasingly uncompetitive provincial tax credit. British Columbia, Ontario, Manitoba, Nova Scotia, and other provinces, faced with the general malaise in English production, have raised their tax credit rates to attract new production. Quebec has not done that, and is suffering the consequences.

- Total certified English fiction production has declined by 21% across Canada during this period, and again Quebec production suffered the sharpest drop of 46%

Total fiction from 1999-0 to 2005-6 (English only):

Canada	↓ 21%
Ontario	↓ 16%
B.C.	↓ 20%
Quebec	↓ 46%

Producers are moving their high-budget domestic production out of Quebec at an accelerating rate. Already Quebec has seen the disappearance of major production companies and the loss of nearly half of its high-value fiction production.

- During the same period, certified French-language production has increased.

Total Quebec production and fiction from 1999-0 to 2005-6 (French only):

Quebec Production	↑ 47%
Quebec Fiction	↑ 66%

The French-language industry in Quebec is healthy and shown strong growth over the period. It benefits from a number of conditions unique to the Quebec market. The English-language industry does not benefit from these factors and is increasingly vulnerable to competitive pressures which are driving it out of the province.

- Effective provincial tax credits have risen steeply across Canada, especially during the last two years. Quebec has been the exception. Now English-language production in Quebec has the lowest effective tax credit rates among the major producing provinces.

Effective provincial tax credit rates during 2005-6 (Fiction only):

Ontario	17.6%
B.C.	16.9%
Quebec (French)	16.0%
Quebec (English)	14.1%

Note: These production percentages reflect the effective provincial tax credits prior to recent nominal rate changes in B.C. and Ontario which have increased the base rate in from 30% to 35% in both provinces, and the regional bonus in B.C. up to 18.5%.

The English-language production industry in Quebec is on a downward spiral: the uncompetitive tax credit leads to loss of major English-language productions, which leads to loss of work. Loss of work leads to loss of infrastructure and reduction in the labour pool. The uncompetitive tax credit and shrinking labour pool increase the cost of production which again reduces the economic competitiveness of English-language production in Quebec. That leads to loss of major companies, productions, jobs, infrastructure, and production capacity shrinks further.

Unless the Quebec domestic tax credit becomes competitive, especially compared to Ontario, we risk losing this high-value segment of Quebec's symbiotic industry. The skills required to produce the largest English-language fiction productions is highly mobile. If they disappear, it will be difficult, if not impossible to re-build this industry in today's more competitive global environment.

APPENDIX I

“Survey of English-speaking Film and TV Producers in Quebec” for Quebec Community Groups Network by Kirwan Cox, October, 2003

EXECUTIVE SUMMARY

Section One: Producer Profile

English Quebec producers are a very experienced population including few younger producers. They are working in two largely distinct groups. The largest group earn a relatively low income making documentaries and low-budget productions on their own or in small companies. Many are bilingual and produce in French as well as English. A smaller segment make drama and higher budget productions in larger companies, often using international co-production treaties. They earn a relatively higher income.

Most producers believe it is less advantageous making English films in Quebec than elsewhere in Canada and a significant minority are not sure they will be producing in Quebec in five years.

* English Quebec producers are very mature. 38% are over 50 years old and 65% have more than ten years experience in the industry. There are relatively few young producers. Only 9% of respondents are under 30 years old.

* At least 38% of respondents are bilingual and work to some degree in French, especially documentary producers. 12% also speak a third language at home.

* Most English Quebec producers make documentaries. Therefore, it isn't surprising that DOC (Documentary Organization of Canada) is the association that represents the largest number of respondents. 39% belong to DOC followed by 19% who are members of CFTPA (Canadian Film and Television Production Association). 27% do not belong to any organization.

* 33% of producers are female. This is a slightly lower ratio compared to film industry surveys that include both directors as well as producers.

* Most respondents work full-time in production, but do not earn a very high income. 38% make less than \$30,000 per year and 23% make over \$75,000.

* 78% are owners or partners in their own company, but about half of these are one person operations. Most of the other companies have less than five full-time employees.

* 38% are immigrants. They are somewhat younger than native-born producers.

* Most younger producers learned film production at university while most older producers learned at the NFB or by apprenticeship. 44% received film training or education at university, 34% trained by apprenticeship, and 28% at the NFB. 26% said they had no formal film training.

* A relatively high percentage of English Quebec producers work at an international level, especially those who work in drama. 36% have produced an official international co-production or co-venture. However, 22% of documentary producers have made international co-productions compared to 70% of TV drama producers. 30% of respondents have worked on foreign location shoots in Canada.

* 45% said being anglophone has had a positive impact on their career and 42% said it has had a negative impact. Most who see it as a positive factor speak French, and most who see it as negative do not.

* 54% believe it is less advantageous producing English programs in Quebec compared to 20% who believe it is more advantageous. Disadvantages are: lower funding for English programs in Quebec, lower tax credit, isolation from English broadcasters and decision-makers, and smaller English talent pool. Advantages are: less anglophone competition, more opportunities to produce in both languages, and benefit of working with SODEC.

* Overall, the majority of English producers expect to continue working in Quebec, though a significant minority are unsure. 86% of respondents believe they will be producing in five years and 59% say they will be producing in Quebec. However, 28% say they will be producing, but don't think they will be working in Quebec. Interestingly, they do not think they will be working in the U.S.

Assessment of Producer Needs

Without doubt, the biggest challenge these producers face is production funding. They want an improved funding system and more work opportunities. That means different things for different producers. See Roundtable Discussion below.

* 78% want improved production funding in one form or another. This includes 11% who want changes in the application process, 10% who have problems with broadcasters, and 8% who believe the funding system is biased against them.

15% believe their biggest challenge is in the marketplace. 4% say creative issues are their biggest challenge, and 3% are concerned about inadequate industry information.

* Asked to choose three options to further their career, 50% want increased work opportunities, 33% want an international exchange program, 27% want a funding workshop, 23% a production workshop, and 22% better industry information.

* Asked to choose three options to expand their business, 55% said they need better access to federal funding, 53% need support for creative development, 53% need an easier application process, 44% need better access to broadcasters, and 42% need better access to provincial funding.

Section Two: Company Profile

Most companies are small and specialize in documentaries or new media. Larger companies tend to cross-subsidize their operations by working in many different genres, or specialize in high-budget production, mainly fiction. The largest companies are quite large by Canadian standards and usually work on an international level.

While production volume has increased for about half these companies over the last five years, they must increasingly struggle to keep their heads above water. In terms of the funding system, they are most satisfied with the provincial tax credit and SODEC and least satisfied with broadcasters, Telefilm, and the Canadian Television Fund-LFP.

*38% of companies are one person operations. Another 38% have 2-4 full-time employees. Only 24% have 5 or more full-time employees.

* These companies operate in a variety of international markets. A small minority operate entirely outside Canada. 80% earn revenue within Quebec, 76% earn revenue from English Canada, 59% from the U.S., 49% from Europe, and 41% from the rest of the world.

* The size of respondent companies is quite diverse. 50% of the companies surveyed earned less than \$100,000 in gross revenue last year. These were mostly one person operations. 28% earned between \$100,000 and \$1 million. 16% earned between \$1 million and \$10 million and 6% earned more than \$10 million.

* English Quebec companies produced more than 245 films/videos worth more than \$45 million and 84 new media worth approximately \$3.4 million in the last two years. 82% of these films were in English and 18% were in French. 69% of new media were in English and 31% were in French. (See Questions 24/25)

* Most companies made documentaries followed by TV drama and feature films. Documentaries made up 36% of production volume in both languages in the last two years. At least 25% of the total dollar value of production was devoted to documentaries.

* Documentaries are the genre with the highest percentage of original French language production: approximately 30% of all docs produced by these companies are in French.

* The most important purchasers of English Quebec productions over the last 3 years have been: Canadian distributors, foreign broadcasters, and foreign distributors. Among broadcasters, CBC, U.S. specialty channels, and Radio-Canada have been the most important.

* Production volume has increased over the last 5 years for 48% of these companies while 29% report a decline in production volume. The larger companies tended to see their production increase.

* The most important funding sources for English Quebec production companies are the tax credits. 65% used the provincial tax credit, 61% used the federal tax credit, 60% used personal sources, 55% used deferrals, 41% used the NFB, 41% used SODEC, 41% specialty TV broadcasters, 39% Canadian Television Fund-LFP, 37% Canadian distributors, and 36% Canadian Television Fund-EIP.

* Respondents said they were most satisfied with the provincial funding system. 65% said they were very or somewhat satisfied with the provincial tax credit, 63% with SODEC, 48% with the federal tax credit, and 47% with the NFB.

* Respondents said they were least satisfied with Telefilm (51% very or somewhat dissatisfied), CBC/SRC (49%), private broadcasters (47%), and the Canadian Television Fund-LFP (46%).

Roundtable Discussion

Although respondents to the questionnaire were most satisfied with the provincial tax credit and SODEC, it was clear from the Roundtable discussion that many are unhappy with the recent changes to the provincial tax credit. Also, Roundtable participants want to eliminate the inequality English productions face with provincial funding policies. There was wide consensus that the federal funding system needed to be improved.

In the opinion of the producers participating in the Roundtable discussion:

- * English Quebec producers are at a disadvantage raising funds in Quebec because SODEC and provincial tax credit policies favour French production. However, on-line respondents were generally satisfied with SODEC and the provincial tax credit.

- * The market has been shrinking for English Quebec producers because of increased competition. Specifically, they said francophone Montreal producers are making more films in English, and Toronto producers are increasingly making French versions of their own films themselves.

- * With increased competition, English Quebec producers are at a disadvantage because they do not have access to mainstream television production which is the “bread and butter” of French producers in Montreal and English producers in Toronto. The participants at the roundtable felt isolated from, or unacceptable to, the major TV broadcasters in each city for reasons of culture or propinquity.

- * Some of the larger producers were especially concerned with the decline of English TV drama produced in Montreal by the major TV broadcasters.

- * There was criticism of Telefilm which, in their opinion, has an envelope that is too small for English Quebec production. Some also noted the lack of fluently bilingual staff at Telefilm.

Some solutions to these problems were offered in the exit questionnaires:

- * Concern was raised that measures designed to support this official language minority in Quebec should be based on the language of production rather than the language of the producer. For example, support reserved for producers who produce at least 2/3rds of their productions in English, regardless of their own mother tongue.

* Funding envelopes should be increased for English Quebec production, especially for POV documentaries; TV licence fees should be increased; the application process for funding should be easier; and development funds should be increased.

* The Quebec tax credit should be made more competitive with some other provincial tax credits (as it was before recent changes by the new government).

* Major broadcasters need to increase the production of English TV drama and POV documentaries in Quebec.

* English Quebec production should receive a regional bonus equivalent to the bonus given for regional production elsewhere in English Canada.

* English Quebec producers need to become better organized and more supportive of younger filmmakers.

APPENDIX J

“Survey of English-speaking Visible Minority Filmmakers in Quebec” for Filmmakers’ Association of Visible and Ethnic Minorities, by Kirwan Cox, June, 2003

EXECUTIVE SUMMARY

Key points from Section One of the on-line survey of visible minority producers.

- * 85% of English-speaking visible minority producers in Quebec have annual gross revenue of \$50,000 or less. The combined annual production budget of the 13 visible minority producers who responded to the survey is approximately \$850,000 per year.
- * 75% of visible minority producers have been in business for 4 years or less.
- * The National Film Board and Canada Council are the most important sources of public funds for visible minority producers. 57% of producers received funding from the NFB and 46% from the Canada Council.
- * Self-financing is the next most important source of funds. 50% of producers used personal sources to finance their films, and 45% deferred fees.
- * 89% of productions are in English and 11% are in French.
- * 11% of productions are in new media (CD-ROM, internet, or multi-media).

Key points from Section Two of the on-line survey of all members of the visible minority production community including producers and non-producers.

- * Most respondents are immigrants. 78% of visible minority filmmakers were born outside Canada.
- * 61% of respondents are male and 39% are female.
- * Visible minority filmmakers are relatively young with 39% under 30 years of age. This is a much larger percentage of younger filmmakers than exists in the documentary filmmaking community.

* 84% of respondents work primarily in English and 16% in French.

* 31% of respondents claim English as their mother tongue, and 9% claim French. 60% have a third language as their mother tongue: Spanish 21%, Persian 9%, and Korean 9%. Seven other languages were by individual respondents.

* 35% of respondents usually make or work on documentaries, 19% on shorts, and 13% on feature films. Most say they would eventually like to make feature films.

* 78% of respondents received some film training or education in university, 56% attended seminars or workshops, and 38% received some training from the NFB. However, most did not receive apprenticeship training.

* 57% of all respondents feel being a visible minority has had a negative impact on their career. This view is stronger among older male respondents.

* Visible minority filmmakers are isolated from the general production community. 58% of respondents do not belong to any associations, and most of those earn less in production than respondents who are better connected through association memberships.

Among the solutions suggested by the on-line respondents to overcome the barriers they face as linguistic and visible minorities:

* 54% believe they could best further their career through “better training/development”, 32% through “better funding/work opportunities”, and 14% through “better communication/information”.

In addition:

* fundors should establish incentives to improve the work opportunities for visible minorities such as a production quota or funding envelope at Telefilm and Canadian Television Fund-License Fee Program (CTF-LFP); tax benefits for productions using visible minorities before and behind the camera, and/or bonus points for Telefilm/CTF-LFP funded production;

* broadcasters and fundors should hire more visible minorities to be part of the decision-making process in those institutions;

* broadcasters should dedicate time on the prime-time broadcast schedule for visible minority production;

* broadcasters and funders should set up networking sessions or regular meetings for visible minorities to connect with the broadcasters and funders; and

* an organization should be established to provide support and guidance to visible minorities.

Key points from the roundtable discussion and exit questionnaire :

* Many roundtable participants believe racism within the industry has a negative impact on their ability to finance projects.

* Most roundtable participants believe significant access barriers exist for visible minorities among broadcasters (90%), distributors (80%), and Telefilm (60%). Most believe such barriers do not exist at the NFB (80%) and the Canada Council (70%). Most (70%) say they have not had enough experience with the Canadian Television Fund-LFP to form an opinion.

* Roundtable participants said that their rate of success securing financing from public funders was highest with the Canada Council (78%), followed by the NFB (71%), Société de développement des entreprises culturelles de Québec (SODEC) (50%), CTF-LFP (50%), and lowest with Telefilm (20%).

* 70% of roundtable producers expressed concern that script readers and commissioning editors did not understand or value their cultural perspectives. Often, they said, their material was not seen as “Canadian content” although the producer, writer and director were Canadian.

* Producers who were able to present their proposals in French were more successful raising funds, on average, than unilingual English-speaking producers.