



November 30, 2020

The Honourable Scott Simms, MP
Chair of the Standing Committee on Canadian Heritage
131 Queen Street, Sixth Floor
House of Commons
Ottawa, Ontario K1A 0A6
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Dear Mr. Chair:

Subject: Bill C-10: An Act to amend the Broadcasting Act

The Alliance des producteurs francophones du Canada (APFC) is a professional association made up of independent French-speaking producers working in francophone minority communities (FMCs) across Canada, including in Newfoundland and Labrador, Nova Scotia, New Brunswick, Ontario, Manitoba, Alberta, British Columbia and Yukon. Our members and everyone they work with—screenwriters, directors, performers, technicians, set designers, editors and musicians—contribute to the economic well-being, cultural vitality and sustainability of their communities by promoting a diversity of francophone voices across the country.

The APFC welcomes the introduction of Bill C-10, which amends the *Broadcasting Act* to end the current regulatory asymmetry by making online broadcasting undertakings subject to CRTC regulations. This will require them to appropriately and equitably contribute to Canadian expression and the overall objectives of Canada's broadcasting policy.

However, we are deeply disappointed with the lack of any new provisions mandating the Canadian broadcasting system to reflect the situation of official language minority communities (OLMCs) and encourage OLMC-produced programs. Furthermore, we are dissatisfied that Bill C-10 does not have any meaningful provisions, generally speaking, to strengthen the foothold of original French-language programming in the Canadian broadcasting system.

The Speech from the Throne of September 23, 2020, gave us false hope, regarding the following:

Our two official languages are woven into the fabric of our country.

The defence of the rights of Francophones outside Quebec, and the defence of the rights of the Anglophone minority within Quebec, is a priority for the Government.

The Government of Canada must also recognize that the situation of French is unique. There are almost 8 million Francophones in Canada within a region of over 360 million inhabitants who are almost exclusively Anglophone. The Government therefore has the responsibility to protect and promote French not only outside of Quebec, but also within Quebec.

We were convinced that Bill C-10 would be a compelling opportunity to tangibly carry out these two priorities and ensure that they become a central part of the legislative framework for Canadian broadcasting. Unfortunately, this was not the case.

We are also disappointed that the Yale panel agreed with only one recommendation made not only by the APFC, but also by a wide range of associations and federations representing FMCs across Canada. The recommendation was that “reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities” no longer apply solely to the Canadian Broadcasting Corporation, but to the Canadian broadcasting system as a whole.¹

The Yale panel recognized the relevance and necessity of implementing this recommendation in the wording of Bill C-10, specifically in section 3. According to the recommendation, the Canadian broadcasting system as a whole should, inter alia:

- ensure the creation of and access to content by and for Indigenous Peoples, including Indigenous languages content; and
- ensure the creation of and access to content by and for official language minority communities.

However, while the wording of Bill C-10 largely reflects the first recommendation by amending or adding no less than four sections specific to Indigenous Peoples, which are in addition to the existing subparagraph 3(1)(d)(iii), it completely ignores the second.² This is both unacceptable and incomprehensible to us, given the priorities the government had set for itself in the Speech from the Throne.

¹ Subparagraph 3(1)(m)(iv) of the current legislation.

² The priorities being sections 3(1)(d)(iii.1), 3(1)(i)(ii.1)), 3(1)(o) and 5(2)(a), which are in addition to subparagraph 3(1)(d)(iii). These provisions address Indigenous language broadcasting, broadcasting and production of programs (in English, French or Indigenous languages) by undertakings carried on by Indigenous persons, the provision of news and current affairs programs that reflect Indigenous perspectives, more general programming that reflects Indigenous cultures, and lastly, the consideration of the different characteristics and operating conditions of broadcasting in English, French and Indigenous languages.

In terms of strengthening original French-language production and access to French-language broadcasting, the only notable change is the replacement of “as resources become available” in paragraph 3(1)(k) (meaning that the range of broadcasting services in English and French must be gradually offered to all Canadians) with the word “progressively”. This raises the question of how progress will be measured, if not by the availability of resources. Note that in the case of programming that is accessible without barriers to persons with disabilities, there is no “progressively” (see paragraphs 3(1)(p) and 9.1(1)(g)). Their programming is to be made accessible immediately.

Bill C-10 did keep the reference to “linguistic duality” in subparagraph 3(1)(d)(iii), but the addition of new provisions effectively reduces its weight. Furthermore, “linguistic duality” has been in the *Broadcasting Act* since 1991 but has resulted in virtually no real support from large private sector broadcasting groups for the production or provision of FMC-produced programs.

This is evidenced by the production reports submitted to the CRTC in 2018–2019 by the four French-language designated private sector groups (Bell Media, Québecor Media, VMedia and Corus) indicating that these four groups supported a grand total of only two projects by FMC producers. Conversely, the three major English-language designated groups (Bell, Corus and Rogers) collectively supported 163 English-language projects produced in Quebec that same year. These figures prove that it is essential for Bill C-10 to recognize with much greater clarity the unique status of French and the specific needs of people living in FMCs, including the independent producers who work there.

According to the Bill C-10 backgrounder prepared by Canadian Heritage, the minister could eventually recommend the Governor in Council to issue policy directions to the CRTC on key priorities, such as ensuring support for francophone and Indigenous creators and producers and supporting programs created and produced by OLMCs.

If these are indeed key priorities, why are they not featured in Bill C-10 along with the provisions for Indigenous communities? Furthermore, these communities do not require support from policy directions because the *Broadcasting Act* effectively provides it already. Without any assistance in the Act other than a vague reference to linguistic duality, OLMCs will have little guarantee of support and will depend on successive governments, which may or may not issue OLMC-specific directions to the CRTC.

Moreover, some may even consider that the objective of reflecting Canada’s linguistic duality would be achieved by ensuring that French-language programs are produced and presented in Quebec and that English-language programs are produced and presented outside Quebec.

The same is true of the lack of explicit recognition of the unique status of French in the legislation. Everyone remembers the agreement with Netflix. Although the company offers programs in both official languages, that agreement enabled it to devote almost all its share of Canadian program funding to original English-language programs.

We are therefore urging you, Minister Simms, to introduce and pass the following amendments to Bill C-10. There are only a handful of them, but they are essential to us and the communities we come from and serve.

1) Add after subparagraph 3(1)(d)(iii.1):

3(1)(d)(iii.2) ensure the creation of and access to content by and for official language minority communities,

2) Add after paragraph 3(1)(i):

3(1)(i)(i.1) recognize and support Canada's linguistic duality and the unique status of French by giving prominence to the production and presentation of original French-language programs, including those made by French-speaking minorities;

3) Remove "progressively" from paragraph 3(1)(k):

3(1)(k) a range of broadcasting services in English and in French shall be extended to all Canadians;

4) Amend paragraph 5(2)(e) as follows:

5(2)(e) facilitates the provision of Canadian programs created and produced in both official languages, as well as in Indigenous languages, to Canadians;

5) Add after subsection (4) of section 11.1:

Protection of French

11.1(4.1) In the case of online undertakings that offer programs in both official languages, the share of expenditures listed in 11.1(1)(a) that must be minimally allocated to original Canadian French-language programs.

As an association of independent producers, like all other similar associations, and in keeping with the recommendations of the Yale Report, we also ask that you:

6) Add the following provisions to subsection 9(1) after paragraph (f) and to subsection 10(1) after paragraph (f)

9(1)(g) provide a framework for contracting practices between independent producers and licensed broadcasting undertakings.

10(1)(f.1) establishing a framework for contracting practices between producers and broadcasting undertakings;

As noted in the Yale Report, the balance of power between the independent production sector, made up of numerous medium- and often small-scale undertakings, and an increasingly tiny number of large Canadian broadcasting groups that control access to broadcasting, enables the large groups to disproportionately impose their conditions on independent producers. Furthermore, the introduction of online multinational undertakings with even larger revenues will only make the situation worse. It is therefore imperative, in our view, that the CRTC be given the power to regulate commercial relations, including trade agreements, between broadcasting undertakings and content producers.

Other aspects of Bill C-10 certainly raise questions and concerns within the community of Canadian cultural content creators and producers. However, we will leave those issues up to the Coalition for the Diversity of Cultural Expressions, of which the APFC is a member, to address, and we invite you, Mr. Chair, to give them your attention.

However, we wanted to make you directly aware of the disastrous consequences that would ensue if meaningful provisions to strengthen the foothold of original French-language programming within the Canadian broadcasting system are not added to Bill C-10. In addition, Bill C-10's lack of reference to the needs and expectations of FMCs, both in terms of their creators' and producers' access to the system and an acknowledgment of their situation, aspirations and achievements within the programming offered by the Canadian broadcasting system as a whole, would result in significantly adverse impacts.

We hope that we have persuaded you that it is crucial to correct these gaps. We are available to answer any of your questions as part of the Standing Committee on Canadian Heritage's study of Bill C-10.

Yours sincerely,

[SIGNED]

Carol Ann Pilon
Executive Director
Alliance des producteurs francophones du Canada (APFC)

Attached: FR CDEC amendments C10

c. c.: The Honourable Alain Rayes, Vice-Chair of the Committee
The Honourable Martin Champoux, Vice-Chair of the Committee
The Honourable Scott Aitchison, Member of the Committee
The Honourable Lyne Bessette, Member of the Committee
The Honourable Shaun Chen, Member of the Committee
The Honourable Julie Dabrusin, Member of the Committee
The Honourable Anthony Housefather, Member of the Committee

The Honourable Tim Louis, Member of the Committee
The Honourable Heather McPherson, Member of the Committee
The Honourable Martin Shields, Member of the Committee
The Honourable Kevin Waugh, Member of the Committee
Thomas Bigelow, Clerk of the Committee



The APFC participated in the work of the Coalition for the Diversity of Cultural Expressions (CDCE) Special Task Force on C-10 and in drafting the wording of the proposed amendments to Bill C-10. The APFC focused its proposals on the place of French-language audiovisual production in a minority setting in the new Act. Like the FCCF, in some cases we reproduced the CDCE text verbatim. In other cases, we slightly amended the text, without losing any meaning. Sometimes we proposed new wording in a different section for a common cause, or we added an amendment not considered by the CDCE or the FCCF.

The six amendments proposed by the APFC are annotated to clarify the differences between the amendments proposed by the CDCE and the FCCF.

1) **Addition after section 3(1)(d)(iii.1) of the following section:**

3(1)(d)(iii.2) ensure the creation of and access to content by and for official language minority communities.

Commented [CAP1]: Addition by the APFC. The FCCF is also proposing a similar addition to this section.

2) **Addition after section 3(1)(i)(i) of the following paragraph:**

3(1)(i)(i.1) recognize and support Canada's linguistic duality and the special situation of French by emphasizing the production and broadcasting of original French-language programs, including those of francophone minorities;

Commented [CAP2]: Slight amendment, without losing any meaning, to the text proposed by the CDCE and reproduced verbatim by the FCCF.

3) **Deletion of "progressively" in section 3(1)(k)**

3(1)(k) a range of broadcasting services in English and in French shall be extended to all Canadians.

Commented [CAP3]: Addition by the APFC. (Was considered in a preliminary version of the CDCE text but dropped to reduce the number of proposed amendments.)

4) **Amendment of section 5(2)(e) as follows:**

5(2)(e) facilitates the provision of Canadian programs to Canadians created and produced in both official languages as well as in Indigenous languages;

Commented [CAP4]: Reproduced verbatim from the CDCE text, like the FCCF.

5) **Addition after paragraph (4) of section 11.1:**

Protection of French

Commented [CAP5]: Addition by the APFC of a new paragraph for an issue common to the CDCE that is presented in section 9.1(1)(b). The FCCF reproduces the CDCE wording.

11.1(4.1) In the case of online undertakings that offer programming in both official languages, the proportion of the expenditures listed in 11.1(1)(a) that must be allocated to original Canadian French-language programs at a minimum.

6) **Addition of the following paragraphs to section 9(1) after paragraph (f) and to section 10(1) after paragraph (f)**

Commented [CAP6]: Slight amendment to the text proposed by the CDCE, without losing any meaning.

9(1)(g) regulate contractual practices between independent producers and licensed broadcasting undertakings.

10(1)(f.1) establish a framework for contractual practices between independent producers and broadcasting undertakings;