

**A Report for ELAN  
on  
OLMC Opportunities in a Changing Broadcast Policy Landscape  
by  
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**August 4, 2025**

**MANDATE-** “An assessment of the current situation with the status of Canadian official languages and broadcasting legislation as it pertains to Quebec’s English-speaking OLMC.”

Answer these three questions:

- 1) What are C-11 and C-13?
- 2) What “teeth” do C-11 and C-13 now have?
- 3) What are our next steps?

**1) What are C-11 and C-13?**

Legislation can be introduced in either the Senate or the House of Commons. Draft bills introduced in the Senate are identified with the letter S and given a number (such as Bill S-6), while those introduced in the House of Commons start with the letter C (such as Bill C-56). The letter “C” stands for “Commons”. If there is an election, all legislation working its way through Parliament dies on the order paper. That happened to the revised *Broadcasting Act* changes which began as C-10 and then became the *Online Streaming Act* as C-11.

So, these are the draft legislation numbers for the revised *Broadcasting Act* (C-11) and the *Official Languages Act* (C-13). These numbers have no significance following passage of these bills by the Commons, the Senate and Royal Assent in 2023.

C-11 and C-13 are sometimes used as shorthand to identify the relevant legislation as amended in 2023, and as they apply to the official language minority communities (OLMC/CLOSMs)<sup>1</sup>.

#### **a) C-11**

C-11, the *Online Streaming Act*, has amended the *Broadcasting Act* to bring the large online streamers (or “tech giants” like Netflix, Apple, Spotify, or Amazon) within Canada’s broadcasting policy framework. In other words, a long-overdue and needed extension of Canada’s cultural sovereignty to the internet.

The American “tech giants” are resisting the application of Canadian sovereignty and the CRTC’s attempt to regulate them through CRTC 2024-121. In that regulation, CRTC is requiring streamers who are not associated with Canadian broadcasters, and with revenues in excess of \$25 million/yr, to spend at least 5% of their Canadian revenues on “Canadian content”, including the news. This Cancon percentage is lower than that usually applied to Canadian broadcasters of 30%.

“Canadian content” is now being re-defined by CRTC 2024-288. CRTC is still considering its new definition of “Cancon” and has yet to publish its decision.

The CRTC has estimated this 5% of online revenues will generate roughly \$200 million for Canadian content and news per annum. Despite their complaints, these streamers can keep most of this 5% if they spend it on “Canadian content” programming themselves. This “loophole” raises questions about cultural sovereignty in advance of the 2024-288 decision.

Nevertheless, foreign streaming companies are appealing the CRTC’s 2024-121 order that mandates these contributions. The American companies are arguing that the CRTC lacks the authority to impose these levies which they say disproportionately targets them.

The authority of the CRTC to manage the internet is currently before the Canadian Court of Appeal. The Court has yet to make a decision.

#### **b) C-13**

Bill C-13 is officially titled "An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts" It amends the existing *Official Languages Act* and introduces new legislation

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<sup>1</sup> That acronym is usually written as “OLMCs” in English and “CLOSMs” in French.

From the English-OLMC perspective, C-13 is advantageous because it applies similar consultation powers (in Sec.9.1 of the OLA) as the English OLMC receives in Sec. 5.2 of C-11. The Commissioner of Official Languages (OCOL) also gets new powers, including the power to mediate disputes if both parties are willing to accept mediation.

OCOL can now ask the complainant (who filed a complaint) and the respondent (or object of the complaint) to mediate the complaint. This means an investigation is not necessary if both parties accept OCOL mediation. In that case, the dispute doesn't have to be investigated by OCOL with a huge saving of time.

If mediation fails, then a more time-consuming investigation by OCOL can follow. In 2010, QEPC filed its first complaint against PCH<sup>2</sup>. Three years later, in 2013, OCOL published its decision (in QEPC's favour). That decision led to the creation of the Anglophone Minority Incentive fund (AMI) by the Canadian Media Fund (CMF).

Aside from its advantages for the English OLMC, C-13 is disadvantageous because it provides rights for the French minority that it doesn't provide for the English minority. Therefore, the two minorities no longer have equal OLMC status. Furthermore, Quebec's Bill 96 is enshrined within C-13 conferring on that "anti-anglophone" provincial legislation Federal recognition.

Before C-13 was passed, QEPC tried to speak to the Minister of Official Languages, Ginette Petitpas Taylor, about C-13, but without success. In fact, without acknowledgement or a word of reply.

For those reasons, QEPC and QCGN/TALQ lobbied against C-13. Despite that, C-13 amendments provide the English OLMC with valuable new powers, i.e. "teeth". Most importantly, those powers apply to over 200 Federal institutions, including the Department of Canadian Heritage itself. C-11 applies only to the CRTC.

## **2) What "teeth" do C-11 and C-13 now have?**

The status of the official language minorities is changing dramatically as a result of C-11 (*On-line Streaming Act*) and C-13 (amendments to *Official Languages Act*). Both came into effect in 2023. As a result, the legal obligations of the Federal Government and its 200+ institutions to the official language minorities have significantly increased.

That is especially true of the CRTC since both Acts apply to the Commission. From the perspective of the English-OLMC, that means the CRTC is subject to the much more rigorous Sec.5.2 of C-11.

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<sup>2</sup> PCH refers to the previous name of the Department of Canadian Heritage (adopted in 1979). The new name is Department of Canadian Identity and Culture.

On the other hand, Sec.9.1 of C-13, which is based on Sec. 5.2 of C-11, is noticeably weaker. However, Sec. 9.1 will have the immense advantage of applying to the entire Federal Government and all its agencies when Treasury Board has finished its work.

See relevant sections of C-11 and C-13 below, with potential “teeth” highlighted in yellow and/or underlined, notably Sec. 5.2 (C-11) and Sec. 9.1 (C-13)<sup>3</sup>.

**a) Broadcasting Act  
C-11 Section 5.2**

**“Consultation**

5.2 (1) The Commission shall consult with official language minority communities in Canada when making decisions that could adversely affect them.

**Objectives of consultations**

(2) When engaging in consultations required by subsection (1), the Commission shall

- (a) gather information to test its policies, decisions and initiatives;
- (b) propose policies, decisions and initiatives that have not been finalized;
- (c) seek the communities’ opinions with regard to the policies, decisions or initiatives that are the subject of the consultations;
- (d) provide them with all relevant information on which those policies, decisions or initiatives are based;
- (e) openly and meaningfully consider those opinions;
- (f) be prepared to alter those policies, decisions or initiatives; and
- (g) provide the communities with feedback, both during the consultation process and after a decision has been made.” (Emphasis added)

In order to meet its obligations under Sec.5.2, the CRTC has undertaken at least one public process, CRTC 2024-202. We have not yet seen that decision. Other public processes, such as 2024-288, could have a major impact on OLMC media production

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<sup>3</sup> Section 5.2 is verbatim the wording presented to Minister of Canadian Heritage Steven Guilbeault on December 2, 2020, by ELAN, QCGN, and QEPC. This legal wording was based on “duty to consult” legislation concerning the Maori in New Zealand and the Haida in Canada. It was written by Darius Bossé, legal counsel to QEPC. In addition to the English OLMC, this proposal was supported by FCCF and APFC representing the CLOSM. MP Anthony Housefather (Mt-Royal), worked tirelessly as Chair of the Standing Committee on Canadian Heritage to get this wording incorporated into C-10, and later C-11, which he did successfully. A weaker version of this Section 5.2 was then incorporated into C-13 as Section 9.1. Watering down Sec.9.1 was a decision of the Department of Justice which accepted the wording of Sec. 5.2 because it applied only to the CRTC. Since C-13’s Sec.9.1 applied to the entire Federal government, the Department of Justice was concerned that C-11’s Sec. 5.2 obligations would be difficult for many Federal institutions to implement. PCH (under Pablo Rodriguez) and CRTC (under Ian Scott) fought against Sec.5.2 when it was in the Senate. Sen. René Cormier (New Brunswick) led its passage by the Standing Senate Committee on Transport and Communications. C-11 received Royal Assent and became law on April 27, 2023. C-13 became law on June 20, 2023.

because it may change the definition of an OLMC production and producer. A forthcoming decision, 2025-94, could be very important to OLMC funding and capacity-building.

Meanwhile, the CRTC continues its “OLMC/CLOSM Discussion Group” meetings which now have simultaneous translation. These began as a result of an investigation into the CRTC by OCOL over 15 years ago. In addition, an OLMC/CLOSM consultation team has been established. More changes may be expected when the 2024-202 decision is released.

## **b) Official Languages Act C-13 Part VII, Section 41**

### **PART VII**

#### **Advancement of Equality of Status and Use of English and French**

##### **Commitment — enhancing vitality of communities and fostering English and French**

**41 (1) The Government of Canada is committed to**  
**(a) enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development,** taking into account their uniqueness, diversity and historical and cultural contributions to Canadian society; and  
**(b) fostering the full recognition and use of both English and French in Canadian society.**

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##### **Duty of federal institutions — positive measures**

**(5) Every federal institution has the duty to ensure that the commitments under subsections (1) to (3) are implemented by the taking of positive measures.**

##### **Positive measures**

- (6) Positive measures taken under subsection (5)**  
**(a) shall be concrete and taken with the intention of having a beneficial effect on the implementation of the commitments under subsections (1) to (3);**  
**(b) shall respect**  
    (i) the necessity of protecting and promoting the French language in each province and territory, taking into account that French is in a minority situation in Canada and North America due to the predominant use of English, and  
    (ii) the necessity of considering the specific needs of each of the two official language communities of Canada, taking into account the equal importance of the two communities; and  
**(c) may include measures, among others, to**  
    (i) promote and support the learning of English and French in Canada,

- (ii) foster an acceptance and appreciation of both English and French by members of the public,
- (iii) induce and assist organizations and institutions to project and promote the bilingual character of Canada in their activities in Canada or elsewhere,
- (iii.1) restore and increase the demographic weight of French linguistic minority communities,
- (iv) support the creation and dissemination of information in French that contributes to the advancement of scientific knowledge in any discipline, and
- (v) support sectors that are essential to enhancing the vitality of English and French linguistic minority communities, including the culture, education — from early childhood to post-secondary education — health, justice, employment and immigration sectors, and protect and promote the presence of strong institutions serving those communities.

### **Potential to take positive measures and negative impacts**

(7) In carrying out its mandate, every federal institution shall, on the basis of analyses,

- (a) consider whether positive measures could potentially be taken under subsection (5);
- (a.1) subject to the regulations, take the necessary measures to promote, when negotiating agreements with the provincial and territorial governments, including funding agreements, that may contribute to the implementation of the commitments under subsections (1) to (3), the inclusion in those agreements of provisions establishing the parties' duties under the agreements respecting official languages; and
- (b) consider the possibilities for avoiding, or at least mitigating, the direct negative impacts that its structuring decisions may have on the commitments under subsections (1) to (3).

### **Dialogue and consultation activities, research and evidence-based findings**

(8) The analyses referred to in subsection (7) shall be founded, to the extent possible, on the results of dialogue and consultation activities, on research and on evidence-based findings.

### **Objective of dialogue and consultation activities**

(9) The objective of the dialogue and consultation activities carried out for the purposes of subsection (8) is to permit the priorities of the English and French linguistic minority communities and other stakeholders to be taken into account, including in relation to the duty under paragraph (7)(a.1).

### **Dialogue and consultation activities**

(9.1) In carrying out this objective, every federal institution shall  
(a) gather relevant information;

- (b) seek the opinions of English and French linguistic minority communities and other stakeholders about the positive measures that are the subject of the consultations;
- (c) provide the participants with relevant information on which those positive measures are based;
- (d) openly and meaningfully consider their opinions; and
- (e) be prepared to alter those positive measures.

### **Evaluation and monitoring mechanisms**

**(10) Every federal institution shall establish evaluation and monitoring mechanisms** in relation to the positive measures taken under subsection (5) and in relation to the duty under paragraph (7)(a.1). For greater certainty, these mechanisms shall take into account the obligations set out in subsections 41(7) to (9) and the provisions with respect to dialogue and consultation activities.”  
(Emphasis added)

As stated above, Section 9.1 and other OLMC obligations highlighted in yellow in the *Official Languages Act* excerpted above apply to the entire Federal Government, and not only the CRTC.

## **3) What are our next steps?**

The following English OLMC policy objectives are immediate “next steps”. Once the CRTC has made its decisions for 2024-202, 2024-288, and 2025-94, more OLMC policy opportunities will become apparent. It is important to note that OCOL mediation could apply to the CRTC, Treasury Board, and other Federal agencies as well as PCH itself.

In any event, OLMC associations need to allocate resources for lobbying over the next 2-3 years as much as possible. Afterwards, we hope these costs will be included in “OLMC capacity-building” expenses of the Federal Government and agencies as the implications of C-11 and C-13 become increasingly apparent.

Next steps.

1) Change definition of OLMC producer to exclude or reduce non-OLMC producers in the following areas:

- (a) CBC 6% OLMC quota,
- (b) CMF’s Anglophone Minority Incentive Fund;
- (c) CRTC definition of OLMC producer in all media;
- (d) NFB’s new OLMC Collaboration Agreement; and
- (e) Telefilm’s definition of OLMC producer was changed in its OLMC Collaboration Agreement released July 29, 2025.

2) Follow up, or intervene in these CRTC decisions

- (a) Follow up 2024-202 “Call for comments – Guidelines regarding consultation and engagement practices in proceedings relating to official language minority communities and official languages”;
  - (b) Follow up 2024-288 “The Path Forward – Defining “Canadian program” and supporting the creation and distribution of Canadian programming in the audio-visual sector”; and
  - (c) Intervene on Sept.9, 2025, in 2025-94 “Call for comments – A new approach to funding public interest participation in Commission proceedings”;
- 3) Follow-up on QEPC request for mediation with PCH, filed July 29, 2025, with OCOL; and
- 4) Objectives of QEPC mediation with PCH
- (a) Minimum OLMC quota of 10% of total Canada Media Fund English envelope like French CLOSM receives;
  - (b) English OLMC-PCH Collaboration Agreement, including definition of OLMC producers, OLMC research, etc;
  - (c) PCH funding for OLMC CIPF to maintain minimum \$15 million fund split 60/40 English/French OLMC/CLOSM; and
  - (d) PCH funding for OLMC capacity building including research, analysis, training, etc..