

November 25, 2016

The Honourable Mélanie Joly Minister of Canadian Heritage House of Commons Ottawa, Ontario K1A 0A6

Hon.melanie.joly@canada.ca

Re: Public Consultation on Canadian Content in a Digital World

Dear Minister Joly,

The English Language Arts Network (ELAN) was conceived in 2004, when more than 120 artists and other representatives of the English-speaking arts milieu, as well as government officials, came together to discuss ways to support artists and cultural workers in Quebec's official language minority community (OLMC). With the support of sister organizations the Quebec Drama Federation (QDF), the Quebec Writers' Federation (QWF), and the Association of English-Language Publishers of Quebec (AELAQ), ELAN was created to give a united voice to minority English-language artists of all backgrounds, working in all disciplines, and living in all regions of Quebec. ELAN has worked to create a thriving community for Quebec's minority language artists and to promote their work through numerous initiatives listed in Appendix 1 on page 15 of this brief.

Of greatest pertinence to this consultation, ELAN represents Quebec's English-speaking community in the realm of broadcasting, and plays a major role in representing Quebec's English-speaking community at CRTC hearings, a role that the Quebec Community Groups Network (QCGN) has delegated to ELAN. The Quebec English-Language Production Council (QEPC) represents industry concerns for Quebec's minority language producers. ELAN represents the interests of individual directors, writers, composers, etc., as well as Quebec's minority language arts communities. In preparation for this brief, ELAN consulted with its members and community, and held a public consultation event on November 16, 2016 that

was attended by creators and cultural workers from the film/television, music, video games, and community media sectors.

Introduction

The issues affecting Quebec's English-speaking creators are not drastically different than for creators across the country, although we share some specific challenges inherent in being a linguistic minority with la Fédération culturelle canadienne-française (FCCF). Quebec's English-speaking minority community faces unique challenges in accessing quality content that reflects its identity and tells its stories. English-speakers in Quebec have access to abundant content in the English language but face a serious lack of content that reflects their own community and interests. When the rest of Canada thinks of Quebec, they see little evidence that an English-speaking community still lives here. Quebec's French-speaking media is also inclined to ignore the English-speaking community. This situation of invisibility is amplified in rural, regional, and remote communities.

A message that came through loud and clear during ELAN's consultations was the importance of giving a voice and face to our diversity, which is one of Canada's and Quebec's great strengths and treasures. One of the key ideas in the #DigiCanCon briefing materials is to "Reflect and support Canada's incredible diversity in the content that we produce." ELAN's members are entirely in agreement. In the laudable effort to brand our content and create platforms to better showcase and export our creations, we need to ensure that we do not homogenize or "internationalize" our stories so that they lose their individual identities.

One reliable measure of a nation's vitality is the strength and diversity of its cultural sector. Great nations have great stories to tell about their successes, aspirations and dreams. Canada has powerful stories to share with the world about how we are striving to build a democratic and just society, at a time when so much of the world is struggling not to fall backwards into repression and injustice. Canada is blessed with story-tellers gifted in expressing these stories in images, music and words. These creators wish to receive fair remuneration for their work, while citizens want access to the broadest range of content at the lowest cost. These competing desires do not need to result in a zero sum conflict. Citizens know that every product and service has a cost that someone must pay. Creators are keenly aware that new economic models and revenue streams can be developed.

The English Language Arts Network (ELAN) and its members applaud your Government for recognizing that Canadians must join together to take decisive action to deal with a

cultural crisis that has affected every cultural creator and every citizen. This joint national conversation should enable us to devise mutually beneficial innovative strategies, which will help us face the global challenges that have rapidly transformed the way that cultural products are created, financed, regulated, distributed and consumed.

In this submission, our comments and related recommendations are grouped under three thematic headings:

- 1. Connect Creators and Consumers Through Quality Canadian Content
- 2. Equip Creators and Consumers for the Digital World
- 3. Revise Funding Models for the Creation of Canadian Content

1. Connect Creators and Consumers Through Quality Canadian Content

As an artists' network, ELAN knows that incredible content is produced every day by Canadian creators. ELAN's members and community are also consumers themselves, who cherish the sense of excitement and pride in finding and sharing great work by their peers. Quebec has produced a parade of critical and commercial successes whose work has inspired audiences around the world, from the Arcade Fire's rousing music, to Louise Penny's gripping mystery novels, to the words and melodies of the dearly departed Leonard Cohen. Nonetheless, we see two major challenges in connecting creators and consumers: first, growing barriers to the production of quality Canadian content, and second, a discoverability gap between creators and consumers that prevents audiences from celebrating content in the way it deserves.

Increased Demands, Falling Revenues

At ELAN's November 16 #DigiCanCon public consultation, creators in multiple disciplines told us that falling budgets and rising precarity have impeded their ability to create quality work. Artists are increasingly offered less time and less pay, yet are expected to produce work of equal or greater quality. In some ways, digital production and consumption have exacerbated this problem rather than providing solutions.

The film, television, and music sectors have abundantly documented how they are impacted by these difficulties, but other sectors also struggle to create work of world class excellence with fewer resources. ELAN also represents performing artists (in collaboration

with the Quebec Drama Federation), writers (with the Quebec Writers' Federation), publishers (with the Association of English-Language Publishers of Quebec), visual artists and other Quebec creators who are struggling to connect with audiences and situate their work in a digital environment. Creators in all disciplines want to use technology to reach audiences, but some – like performing artists – face specific challenges in helping their work translate to a digital context.

A Strange Bind

Audiences want content, and creators want audiences, but the role of digital tools and platforms in helping each group fulfill its desires is not as straightforward as it might seem. The digital age puts artists in a strange bind. On one hand, digital technologies offer unprecedented tools for creating and marketing artistic work. On the other, traditional income streams have dried up, and creators have trouble cutting through the online noise to reach audiences, despite their thirst for original, innovative, quality creations. This produces a gap in discoverability.

The existence of this bind was strongly reinforced in the findings of ELAN's 2014 Digital Shift¹ research project (funded by the Canada Council for the Arts). Through surveys and focus groups, ELAN consulted almost 250 official language minority artists, arts organizations, journalists, and publicists on the status of arts and culture coverage, promotion, and events listings in the digital era. Artists are increasingly forced to distribute and promote their own work through digital platforms. The Digital Shift project demonstrated that many creators are finding it difficult to gain a foothold in a digital environment that is constantly shifting.

Despite these and other challenges, there is a clear, strong desire on the part of both creators and citizens to take pride in Canadian artistic creation and help it succeed, both locally and globally. This includes the hope expressed by many ELAN members that institutions like CBC and the NFB, which have long histories of supporting and promoting quality Canadian work, can be refreshed as champions of Canadian content in a new digital era. If Canadian content is to thrive, creators need adequate support to invest in producing good work, and consumers need clear pathways to discover and enjoy the results.

¹ ELAN Quebec, "Digital Shift Project Final Report," December 2014, http://guebec-elan.org/portfolio-item/digital-shift/

Recommendations:

- **1.1 Promote Canadian content** through a recognizable branding or entity.
 - 1.1.1 Recognize the complex reality of what counts as Canadian content, and who counts as Canadian creators.
 - 1.1.2 Celebrate niche and local stories as a strength of our cultural production. Other countries' quality content attracts global interest by celebrating their local authenticity rather than disguising it as generic anywhere/nowhere-land. Countries like Britain and Australia succeed at presenting a national brand in part because the funding of public broadcasting institutions (BBC, \$97 per capita; Australia, \$53) far outstrips Canada's \$33 per capita.
 - 1.1.3 ELAN echoes FCCF's call to encourage existing platforms to feature Canadian and OLMC content, perhaps as a specific branded section highlighting new and existing content.
- **1.2 Encourage active consumer participation** in creating buzz around Canadian content.
 - 1.2.1 This could occur through a specific hashtag, website, sharing tools, or other participatory online platforms.
- 1.3 Build innovative bridges between live and digital experiences.
 - 1.3.1 Stimulate public appreciation of art as a product or "content" via real world experiences. Live music performances often stimulate (online) sales, as do film and festivals (among other types) where art lovers can meet directors and authors. We should not think of the digital world as a separate or self-sufficient universe, but as an opportunity to facilitate connections between creators and audiences in both worlds.
 - 1.3.2 Use digital content to ignite audience interest in live performance and in-person artistic experiences. During ELAN's consultations, Metropolitan Opera Live in HD (transmission of live New York Metropolitan Opera performances to movie theatres in other cities) was cited as an excellent example of using technology to greatly expand audiences for traditional art forms.
- **1.4 Support institutions like the NFB and CBC** to carry their long tradition of championing Canadian content into the digital age.
 - 1.4.1 Digitize the NFB archives, along with other potential reserves of Canadian cultural production, and make them accessible to Canadian creators and consumers. This will foster a greater appreciation of Canada's cultural legacy, and provide raw material for creators to reinterpret and reimagine.

2. Equip Creators and Consumers for the Digital World

Cost, Speed and Accessibility

Digital tools and platforms have produced changes whose scope and scale is difficult to grasp, even for those already fully immersed in the digital world. We must remember, however, that some Canadians face significant barriers to participation.

ELAN's province-wide mandate, exercised through projects like the Arts Alive! Québec community festival series and the ACE (Arts, Community, Education) Initiative, frequently brings us into contact with artists working in rural and remote areas where telecom service is difficult to access or non-existent. Talented and committed creators have to go out of their way to pick up cell phone service and collaborate at the pace of dial-up modems.

Cost is another barrier that must be considered. Canadians already pay among the highest rates in the world for internet access.² According to data from the Organization for Economic Co-operation and Development's Digital Economy Outlook 2015, Canada ranks 17th out of 34 countries in terms of price per megabit per second of advertised speed.³ Canada also ranks poorly in the OECD's assessment of broadband connections with speeds of 102.4 Mbps and above. At ELAN's November 16 consultation, attendees expressed the opinion that Canadian ISPs charge such high fees that they must not be permitted to pass increased levies on to consumers.

Recommendations:

2.1 Ensure all Canadians have access to the internet.

- 2.1.1 To the extent possible, regulate against rising consumer costs.
- 2.1.2 ELAN echoes FCCF's recommendation to ensure that rural OLMC communities have adequate access to digital infrastructures. We also recognize that poor, Indigenous, and economically disadvantaged consumers and creators must have the tools and knowledge to participate in the digital world.

² Nordicity Group Ltd. study commissioned by CRTC and cited by Christine Dobby, "How Canada's Internet, wireless rates compare with international prices," *Globe and Mail*, August 11, 2016, http://www.theglobeandmail.com/report-on-business/how-canadas-internet-wireless-rates-compare-with-international-prices/article31379589/

³ Michael Shulman, "How Canada's high-speed internet prices compare to the rest of the world," *Yahoo Finance*, July 7, 2016, https://ca.finance.yahoo.com/blogs/insight/comparing-canada-s-high-speed-internet-prices-190038958.html

Training and Collaborating

Even when digital tools and platforms are available and affordable, training and familiarization are required to use them effectively. Participants in ELAN's Digital Shift project, including artists, cultural workers and journalists, expressed the need for specialized social media and new media training to better understand how to reach new audiences and retain existing ones. Social media workshops for artists emerged as ELAN's first recommendation following this research. In its capacity as public broadcaster, CBC Montreal has delivered several free workshops on Getting Media Attention to ELAN members, and feedback has been overwhelmingly positive.

Even artists with a good grasp of social media and proficient skills at writing press releases are stymied by the rapid-fire changes characteristic of digital tools and platforms. Artists are eager to use technology to push boundaries and spread their work, but don't always know how. What's more, many artists are curious about collaborating directly with the technology sector to develop innovative solutions and create groundbreaking work. Pathways and supports for these types of collaborations, however, are often unclear. Meanwhile, many consumers are flooded with information and may not have the time, energy, or expertise to locate the quality content they seek within the almost-infinite reaches of the internet.

Despite these very real challenges, the digital world provides exciting opportunities for creators and consumers alike. If Canadian culture is to realize its full potential in the digital world, we must ensure access and education for all Canadians – including those who live in remote and rural areas and Indigenous communities, and those who are economically disadvantaged.

Recommendations:

2.2 Develop and deliver social media and digital marketing workshops for creators to promote their content.

2.2.1 This recommendation echoes one made by FCCF in its #DigiCanCon brief with respect to the French-speaking official minority language community. The Cultural Human Resources Council (CHRC) has also called for increased training for arts professionals.⁴

⁴ Cultural Human Resources Council, *Culture 3.0: Impact of Emerging Digital Technologies on Human Resources in the Cultural Sector,* 2011, http://www.culturalhrc.ca/research/digitalimpact/Culture3.0_Executive_Summary_and_Recommendations.pdf

2.3 Provide pathways and supports for creators to connect to the tech sector.

- 2.3.1 Encourage discussions with software developers, the video game industry, etc. to keep artists and cultural creators abreast of current trends and best practices, and to open possibilities for collaboration.
- 2.3.2 Support creators and the tech sector to explore alternative structures for distribution of content, like platform cooperativism.

3. Revise Funding Models for the Creation of Canadian Content

The Foreign-Owned Challenge

ELAN's colleagues at the Quebec English-Language Production Council (QEPC) have extensively researched the film and television production sector. Many of the same challenges exist in the music, video game, publishing, community media, and visual arts sectors, and the potential solutions are often analogous.

One of the major problems in Canada and around the world is the rise of unlicensed, unregulated and "exempt" foreign corporations that charge Canadians for content and/or collect advertising revenues. Revenues that leave Canada weaken Canadian companies, and "exempt" companies do not pay taxes in Canada or contribute to funds that help create quality Canadian content. This loss of revenue is a serious problem for Canadian creators and the fees or royalties that these foreign companies pay to Canadian artists for their intellectual property are often derisory.

Most Canadians are aware of the problem. A national Leger poll showed that 61% of Canadians believe that multinational OTTs (Over The Top content broadcasters) such as iTunes, Spotify and Netflix should contribute to financing Canadian culture. It is important to note, for a forward looking policy review, that the youngest respondents, aged 18-24, were most strongly in favour (73%).

Another important revenue factor is the transfer of money from domestic advertising (television, radio, newspaper, magazine etc.) toward internet advertising, which currently receives about \$3.8 billion (or 34%) of the total ad market – and this percentage is growing.

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⁵ Leger Web survey, *Résultats du sondage Léger-Tout le monde en parle sur les plateformes numériques*, conducted with 1,468 Canadians between October 17-20, 2016, http://s.radio-canada.ca/television/tout-le-monde-en-parle/TLMP_Plateformes-numeriques-diffusion-culturelle_Octobre2016.pdf

Approximately 65% of digital advertising in Canada is spent on two foreign "exempt" corporations: Google and Facebook. ⁶

The Domestic Challenge

Internet Service Providers (ISPs) do not currently pay any fees to support Canadian content because of a Supreme Court decision that ISPs do not control the content they carry, therefore should be exempt. ISPs are an important link in the distribution chain. As noted above, they generate high revenues for their owners entirely because of the content they carry. As important players involved in the distribution of audio-visual content in Canada, all ISPs, distributors, amalgamators, or similar entities operating on any platform should contribute to the production of Canadian content.

Recommendations:

- 3.1 Foreign companies taking revenue from Canadians should pay sales tax and income tax.
 - 3.1.1 These additional revenues collected from foreign corporations should be used to fairly compensate Canadian artists and digital creators for their work.
- 3.2 In addition, these companies should pay a levy of at least 5% to contribute to the creation of Canadian content.
- 3.3 ISPs operating in Canada should pay a levy of at least 5% to support Canadian content.
 - 3.3.1 Canadian ISPs charge such high fees that they must not be permitted to pass increased levies on to consumers.

Reliable News

One of the key ideas in the #DigiCanCon briefing documents is "to support the production of news information and local content that is credible and reliable." As the recent American presidential election demonstrated, it is difficult to engage in a national dialogue in the absence of news that is credible in the eyes of all, or at least most, citizens. Reliable data is a cornerstone of democracy.

A multitude of conflicting, unverified social media sources can never replace professional

⁶ John Anderson, *An Over-The-Top Exemption- It's time to fairly tax and regulate the new internet media services*, Canadian Centre for Policy Alternatives, June 21, 2016, Tables 1 and 2, https://www.policyalternatives.ca/publications/reports/over-top-exemption

news reporting. ELAN agrees with QEPC that the Canadian content tax credit should be expanded to include local news, and that definition of local news for purposes of tax credit support should be carefully defined.

We also believe that CBC/Radio Canada is a news source with a solid reputation for reliability and credibility. Other media can provide entertainment – or re-distribute foreign-produced content – but CBC/Radio Canada has a unique role to play in reflecting Canada back to Canadians by providing high quality news, current affairs, cultural programming, and regional reflection.

Recommendation:

3.4 Sufficient resources must be allocated to enable CBC/Radio Canada to provide reliable and credible local, national and international news reporting.

Quality Canadian Content and Exporting to the World

The CanCon broadcasting quota created soon after the CRTC was established in 1968 has been an immense success, particularly in the realm of music. Support for Canadian artists initially contributed to a dynamic domestic market during a period of cultural nationalism. Canadians began to buy recordings by Canadian artists, who began to compete with American and other foreign artists. Then Canadian artists began to outsell foreign artists domestically and the stage was set for them to begin crossing borders and exporting Canadian music to the world.

The existence of a highly developed domestic industry made possible the international careers of artists such as: The Guess Who, Leonard Cohen, Anne Murray, Gordon Lightfoot, Bryan Adams, Alanis Morissette, Shania Twain, Céline Dion, Avril Lavigne, Arcade Fire, Rufus Wainwright, Justin Bieber, to name just a few of the Canadian artists who have established international careers.

This national reflection on digital challenges provides a unique opportunity to rethink and rebuild our domestic industry so that we can invest in Canadian talent and Canadian stories that we can share with, and export to, the world. This is a welcome occasion to think big and to unite expertise and resources (public and private) in new and creative ways to meet the daunting challenges created by the digital age.

Recommendations:

- 3.5 Introduce measures to encourage investment in the creation of high quality Canadian content.
 - 3.5.1 The primary market will be Canadian consumers, but the content, due to its originality, distinct perspective(s), and high quality will appeal to audiences around the world.
- **3.6 Introduce incentives for Canadian content producers** (from individual artists to entities like production companies and record labels) to collaborate in new ways to produce, promote and distribute high quality content to Canadians and to audiences around the world.

Conclusion

Enormous challenges face Canada and its citizens as we are drawn ever deeper into the uncharted digital jungle. Building a railroad across the prairies and over the Rocky Mountains, all the way to the Pacific Ocean, was the project of the 19th century that shaped Canada as a nation and defined our borders. The great national projects in the 20th century revolved around communication, the control of our airwaves, and our identity. We applaud your government for recognizing that Canadian content in the digital world is the first great challenge of the 21st century and for having the courage to take action and lead a national discussion.

As Daniel Leblanc wrote in the Globe and Mail on April 25, 2016, "The cultural sector is facing an unprecedented level of upheaval, as foreign websites that offer everything from movies to music to information shake up Canada's broadcasters, producers, publishers and video-game developers. There is a growing consensus that Ottawa's 'cultural-policy toolkit' can't keep up."

A problem of this magnitude will require unconventional partnerships and collaborations. It will require innovative, precedent-setting laws, levies and incentives from legislators. Canadians, in their role as tax-payers, will need to empower government to invest in experiments that entail risk – and failure. As six months of consultations have repeatedly expressed, there are no sure solutions, no guaranteed winning strategies. We must be

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⁷ Daniel Leblanc, "Everything's on the table," *Globe and Mail*, April 25, 2016, http://www.theglobeandmail.com/news/national/exclusive-canadian-heritage-announces-sweeping-canconreview/article29722581/

willing to think big and take strategic, calculated risks in order to find solutions that work for Canada's creators and consumers.

We do not expect the consultation which concludes today to produce immediate results. It will be a good start just to have a clearer idea about how a 21st century "cultural-policy toolkit" should look. However, creators and citizens do expect to participate in the ongoing debate about proposed changes. We expect to see regular reports so that we can continue to give voice to our ideas. It is probable that very large tools will need to be created. The greatest danger in this process would be that big solutions endanger the multitude of small, individual voices and the richness of cultural diversity that is so important to Canadians. ELAN and its members will continue to reiterate the importance of Canada's official language minority communities and their contributions to Canadian culture.

Recapitulation of Recommendations

1. Connect Creators and Consumers Through Quality Canadian Content

- **1.1 Promote Canadian content** through a recognizable branding or entity.
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 - 1.1.2 Celebrate niche and local stories as a strength of our cultural production. Other countries' quality content attracts global interest by celebrating their local authenticity rather than disguising it as generic anywhere/nowhere-land. Countries like Britain and Australia succeed at presenting a national brand in part because the funding of public broadcasting institutions (BBC, \$97 per capita; Australia, \$53) far outstrips Canada's \$33 per capita.
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- **1.4 Support institutions like the NFB and CBC** to carry their long tradition of championing Canadian content into the digital age.
 - 1.4.1 Digitize the NFB archives, along with other potential reserves of Canadian cultural production, and make them accessible to Canadian creators and consumers. This will foster a greater appreciation of Canada's cultural legacy, and provide raw material for creators to reinterpret and reimagine.

2. Equip Creators and Consumers for the Digital World

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2.3.1 Encourage discussions with software developers, the video game industry, etc. to keep artists and cultural creators abreast of current trends and best practices, and to open possibilities for collaboration.

⁸ Cultural Human Resources Council, *Culture 3.0: Impact of Emerging Digital Technologies on Human Resources in the Cultural Sector,* 2011, http://www.culturalhrc.ca/research/digitalimpact/Culture3.0_Executive_Summary_and_Recommendations.pdf

- 2.3.2 Support creators and the tech sector to explore alternative structures for distribution of content, like platform cooperativism.
- 3. Revise Funding Models for the Creation of Canadian Content
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- 3.2 In addition, these companies should pay a levy of at least 5% to contribute to the creation of Canadian content.
- 3.3 ISPs operating in Canada should pay a levy of at least 5% to support Canadian content.
 - 3.3.1 Canadian ISPs charge such high fees that they must not be permitted to pass increased levies on to consumers.
- 3.4 Sufficient resources must be allocated to enable CBC/Radio Canada to provide reliable and credible local, national and international news reporting.
- 3.5 Introduce measures to encourage investment in the creation of high quality Canadian content.
 - 3.5.1 The primary market will be Canadian consumers, but the content, due to its originality, distinct perspective(s), and high quality will appeal to audiences around the world.
- **3.6 Introduce incentives for Canadian content producers** (from individual artists to entities like production companies and record labels) to collaborate in new ways to produce, promote and distribute high quality content to Canadians and to audiences around the world.

Thank you,

Bettina Forget President bettina@visualvoicegallery.com

Guy Rodgers
Executive Director
guyrodgers@quebec-elan.org

Appendix 1

ELAN has worked to create a thriving community for Quebec's minority language artists, and to promote their work by:

- Building ongoing relationships with French-speaking organizations such as Culture Montréal, Diversité Artistique Montréal (DAM), and MAI (Montréal arts interculturels).
- Launching Made au Québec⁹, a website that gathers and translates media coverage of English-speaking artists' successes for a French-language audience. Its launch received extensive positive coverage from English and French media (e.g. *Le Devoir, La Presse*, and *VOIR*, SRC/CBC, The Gazette).
- Creating and distributing *Minority Report: An Alternative History of English-Language Arts in Quebec*, a book documenting the evolving roles and relationship of English-speaking artists in Quebec.
- **Bringing community arts to the fore** with Arts Alive! Québec¹⁰ festivals in Hudson, Québec City, Knowlton, Huntingdon, Wakefield and Montreal's West Island, in the summers of 2015 and 2016. Sellout crowds and town-wide parties have paved the way for ongoing collaboration between participating communities.
- **Bridging the arts and education sectors** and creating links throughout Quebec, and across Canada with projects such as YEAH! (Youth, Education, Arts, Health) and the ACE (Arts, Communities, Education) Initiative.
- Connecting with decision-makers. ELAN is often called to meet with government and community leaders on issues that matter to artists such as market access, community broadcasting, and cultural diversity as well as official languages issues and federal, provincial and municipal cultural policy. For the past seven years ELAN and the Quebec office of the Department of Canadian Heritage have organized an annual Arts, Culture and Heritage Working Group that brings together 25 arts community leaders and 25 senior representatives of federal institutions with an interest in culture: PCH, Canada Council, NFB, Telefilm, CBC, Industry Canada and others. In 2015 ELAN and the Quebec English-Language Production Council (QEPC) signed a collaboration agreement with the NFB.

⁹ www.made-au-quebec.ca

¹⁰ www.arts-alive-quebec.ca