Public hearings on Bill 109,
An Act to affirm the cultural sovereignty of Québec and to enact the Act respecting the discoverability of French-language cultural content in the digital environment

Brief submitted by the
Digital Media Association (DIMA)

Submitted to the Committee on Culture and Education
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Dear Members,

On behalf of the Digital Media Association (DIMA) thank you for the opportunity to contribute to the study of Bill 109: An Act to affirm the cultural sovereignty of Québec and to enact the Act respecting the discoverability of French-language cultural content in the digital environment.

DIMA shares the government's goal of celebrating and promoting Québec's unique cultural identity and the French language. Our members already play a vital role in advancing these cultural goals, as reflected in the double-digit annual growth in Francophone listening, millions of hours of monthly consumption of the music of Québec, and strong engagement particularly among younger audiences. Building on these successes through constructive collaboration between government and industry will yield the best results for artists, rightsholders, and audiences alike.

In this brief, we seek to present observations on the bill, its potential effects on the music ecosystem and offer concrete recommendations for the achievement of its objectives while preserving consumer freedom of choice, ongoing innovation, and sustained investment that have helped Québec's culture flourish in the digital age.

We thank the Commission for considering our perspective and look forward to continuing dialogue on how best to support the enduring vitality of Québec's cultural sovereignty and sustained creation and discoverability of French-language content.

Yours faithfully,

Graham Davies
President and CEO
Digital Media Association (DIMA)

About Us

The Digital Media Association (DIMA) is the trade association representing the leading music streaming services in Canada including Amazon, Apple Music, Spotify, and YouTube. Together, our members provide Quebecers with legal access to the music they want to hear, when they want to hear it. DIMA's members offer fans personalized experiences that empower artists to reach new audiences at home and around the world.

Streaming has broken down barriers, providing creators with new opportunities to share their music, grow new fanbases, and connect with listeners. Today, streaming is the main revenue driver for the music industry and the primary source of reinvestment into new talent and new music productions in Québec.

DIMA members are at the forefront of innovation in the music industry. We advocate for flexible and innovative public policies that foster the growth of the digital music economy and allow all stakeholders, artists, creators, rightsholders, streaming services, and listeners, to fully benefit from the opportunities streaming provides.

Executive Summary

From the outset, DIMA recognizes the cultural specificity which is the basis of the government's intent in this bill. Our members have long recognized the importance and benefits of promoting Québec and French-language music, to consumers within Québec and outside of the country. We acknowledge the government's role in protecting and strengthening the interests of the people of Québec and the French language. Our members understand the importance of supporting, developing and promoting music from Québec and have resources dedicated to the province working with the local industry to regularly feature Francophone, including Franco- Québec artists, partnering with local festivals and industry organizations, and developing initiatives that help emerging creators reach wider audiences.

Our members now play a central role in the modern music economy providing simple and quick access to nearly all commercially released Québecois audio material. Streaming has become established as the primary method of music distribution and engagement because it increases the visibility and discoverability of local music of all genres. It is the vehicle through which Québec talent has been propelled onto the global stage.

While we understand and appreciate the intent of the government's objectives, we have concerns with Bill 109. By providing a deeper understanding of how audio streaming works, we hope to address these concerns and encourage the establishment of policies that build on the support streaming currently provides to Québec artists and further increase the engagement of streaming customers in from Québec.

In short, mandating quotas and the discoverability of certain tracks or types of tracks risks altering the business model that has made streaming so attractive and has delivered vital revenues to artists and the music industry. Two decades ago, most online music consumption came through piracy. By building a whole new ecosystem that provides legal access to the world's music, our members have helped transform piracy into prosperity.

If the government intervenes in what choices the streaming consumer makes, it would change how services operate, limit the availability of songs and listener choice, and degrade the user experience. Our fear is that this, in turn, would reduce consumers' willingness to pay and thereby limit the flow of revenue to Francophone artists and rightsholders. This would have long-term negative effects for the very culture the government aims to protect. It could also encourage a return to the dark days of piracy, making the use of illicit services more attractive. Such services pay no revenue to Québec artists and offer no Québec or French-specific curation or promotion, unlike our members' services.

In addition, the framework measures proposed in Bill 109 will be very difficult to implement from an operational perspective. Increasing operational burdens would result in a significant increase in compliance costs that would impact the entire supply chain including the revenues available for artists and rightsholders. And by creating a new "right to discoverability" in the Charter of Human Rights and Freedoms without defining what discoverability means or how it interacts with Bill 109, the legislation opens the door to potential individual lawsuits and class actions against streaming services whenever discoverability objectives are perceived as unmet. In the absence of clear definitions, procedures, or oversight mechanisms to guide the exercise of this proposed right, it is impossible to predict what compliance will look like without this concept being shaped through future litigation. There is a real risk of fragmented enforcement and inconsistent judicial interpretations. Moreover, the bill grants broad discretionary powers over implementation measures

without establishing corresponding accountability or review processes, leaving decisions that could have major commercial and cultural consequences effectively without legal or legislative oversight. In the context of the extensive implementation of the federal Online Streaming Act being undertaken by the Canadian Radio-television and Telecommunications Commission (CRTC) there is a risk of overlapping or inconsistent regulations that will make it difficult or impossible for streaming services to comply with both provincial and federal regimes.

Given the extent of our concerns, we greatly appreciate the dialogue thus far and wish to continue to work collaboratively to establish clear benchmarks and safeguards so that this bill can achieves its cultural objectives without discouraging innovation or harming the ecosystem that currently supports Québec music and artists. To further strengthen these efforts, we would like to propose the government undertake the following actions:

- establish a framework for achievement of the bill's objectives rather than blunt targets/quotas for relative percentages of Francophone versus non-Francophone listenership, and
- focus on an incentive-based regulatory approach that encourage promotion of the music from Québec and French-language content, rather than compelling listeners or services in a prescribed manner.

Personal choice is fundamental to the streaming experience, and Québec's culture is rich, original, and inspiring. DIMA's members are already powerful engines for music discovery, built in ways that connect listeners to new and old music they will love. When Québec songs gain visibility through playlists, editorial promotion, or partnerships, the services' algorithms amplify listener engagement quickly and efficiently. Curated selections highlighting Francophone music regularly achieve strong audience engagement across Canada, showing a clear appetite for local artists. Reports are that globally around 60 percent of listening time on some streaming services[1] now comes from algorithmic recommendations, meaning the existing system already provides strong incentives and effective tools to showcase Québec's creators.

The use of rigid quotas is ill-suited to the online environment. Such measures limit the range of content available to users and thereby encouraging them to use unregulated services which pay no royalties to Québec's artists and rightsholders. In practice, this would undermine both the government's cultural objectives and the revenues that support local creators.

Streaming has become a powerful driver of growth for the music industry, helping to propel Québec creators at home and abroad in ways traditional radio never could. DIMA is eager to work with the government and industry stakeholder to define effective and incentive-based ways to continue promoting Québec and Francophone content—for the benefit of listeners, artists, rightsholders, and local culture.

How Music Streaming Works: Ingestion and Metadata Limitations

To understand the operational challenges associated with Bill 109, it is important to clarify how music streaming works. Unlike traditional broadcasters, streaming services do not classify, or label content before it is made available to the listeners. With streaming, music recordings and other audio works

[1] https://musically.com/2024/02/23/report-explores-how-spotify-algorithms-affect-music-listening/

are ingested into a service's catalogue through a highly standardized and automated process. Record labels, distributors, and aggregators deliver hundreds of thousands of recordings each week using global supply-chain systems governed by international metadata standards.

These metadata standards determine how a song's title, artist, language, rights holder, and other attributes are represented within this worldwide system. Services cannot freely modify this data without creating inconsistencies across the global supply chain. For example, a track identified as "French-language" or "of Québec origin" must be so designated by the rights holders or the distributor at the point of ingestion. Streaming services cannot unilaterally assign or override the determinations of rightsholders. To intervene with such attributes would be to disrupt established international databases and potentially infringe contractual or copyright terms.

As things stand, this global supply chain does not provide streaming services with the metadata necessary to identify a song's nationality or language—there is simply no field for nationality. Music production today is highly collaborative and international in scope, making it even more complex to determine its nationality. While an artist could write, produce and record their music entirely in Québec, it is common for the process to include collaboration with multiple creators, artists and producers from elsewhere. For example, a singer from Québec might work with Canadian, British and Australian songwriters, an American producer, and release the recording through a European label. In such cases, rigid definitions of nationality quickly become unworkable.

To the extent that the government does establish prescriptive definitions, it will be impossible for streaming services to certify what counts as Québécois or French-language across catalogs without standardized industry metadata supplied by rightsholders, which is not available or delivered to streaming services today. Given the place that streaming services sit, at the end of this long and international supply chain, it is vital that any definition of Québécois or French language music content is developed by the music industry, certified at source, and delivered through standardized metadata. Any initiative in this area must be driven by industry experts so that it will work at scale. It must also be a process that is responsive to artists who should be empowered to make decisions on how any labelling should apply to them and their music. Artists should not be penalized for exercising creative freedom, collaborating internationally or choosing labels that do not conform with politically driven mandates.

While the supply chain protocols and structures on which the music industry operates have been many years in the making, the supply of comprehensive and accurate recording and song metadata remains a challenge. When recordings have missing or inconsistent data supply, it is not streaming services responsibility to fill these gaps because they don't have the information or control such recordings. As repeatedly noted in federal proceedings under the Online Streaming Act (Bill C-11), metadata is a shared responsibility across the entire music ecosystem, and meaningful progress requires collaboration among labels, distributors, collective management organizations, and services alike.

For these reasons, any policy framework that seeks to enhance the discoverability of French-language or Québec content must take account of the realities of metadata management and ingestion. Measures based on assumptions that streaming services can alter or supplement metadata on their own would be impractical, technically risky, and potentially contrary to global data-integrity standards. Instead, the government should work with industry stakeholders on ways to

improve metadata accuracy at the source and promote interoperability within existing international frameworks.

The government might consider undertaking an industry consultation including services, labels, distributors, and other supply-chain actors, to consider the current situation and the risks of implementing any province-specific taxonomies or reporting. As such, any requirements should remain interoperable with prevailing industry practices and be limited to what is necessary to achieve the bill's objectives.

Imposing Discoverability Rules

Over the last decade, online music streaming has become the preferred choice for Canadians and Quebecers, to the benefit of rightsholders, audiences and local artists. In this regard, the numbers speak for themselves: According to a study in December 2023[2], around two thirds of the Canadian population engage with music streaming, and among those under 30, the figure rises to over 90%. Overall, the satisfaction rate among these users is around 86%, which reflects both the quality of the experience offered and the relevance of the services made available to them.

Streaming services provide listeners with access to millions of songs. Imposing quotas would be ineffective and unfit for this digital environment.

Streaming's success, both in Québec and globally, is rooted in user choice. Freedom of choice has been the driving force behind listener satisfaction and record-high royalty payments to Québec and Canadian artists. Users enjoy the ability to access a streaming service and listen to any lawful content that suits them, with no government restrictions. Based on users' selections and expressed preferences, streaming services' algorithms automatically suggest other titles, albums, or artists that align with their tastes.

As listeners explore and make choices that reflect their own interests, streaming services help them navigate catalogues, exposing them to new music, genres, and voices. Discovery on streaming services reflects user intent, not imposed design, and this freedom that has enabled the growth of Québec music and the success of Francophone artists in the digital age. For example, on Spotify, listening in Québec has grown by nearly twenty percent year over year since 2019, with engagement among 18–24-year-olds increasing by more than thirty percent in the past year alone.

It is crucial to understand that these algorithms support the discoverability of Québec and Francophone musical content. From the moment a user expresses interest in this content, the user can discover new titles to which they may not have been exposed otherwise. We can see how successful discoverability of Québec music has been from the fact that nearly all commercialized Québec titles are available on our members services.

It is also important to understand that the design and operation of the algorithms that underpin the user experience takes place at the global level. While services have local initiatives to curate playlists and promote local artist campaigns in given regions, they do not have an entirely different service and/or algorithm at the country and province level. The user experience that streaming services

[2] https://sparkadvocacy.ca/insights/2024/01/millions-of-canadians-use-and-like-music-streaming-services#:~:text=Young%20people%20are%20the%20biggest,service%20they%20use%20most%20often.

deliver takes place across multiple jurisdictions, accessed via the internet. It is not geographically confined to a single province or region. This means that if location-specific regulatory requirements are imposed, they will be particularly complex and technically inconsistent with how services currently operate.

At present it is not clear what the government's intention is for discoverability in the audio context. Given the operational challenges outlined above, any move to insert regulatory requirements into playback listening, into search results or mandating the discoverability of Québec/French-language audio titles, would present a very significant operational challenge.

Streaming services already promote and make French-language songs easily discoverable on their services and Québec audiences already engage deeply with Francophone and local music. Measures that override their organic choices risk disrupting that connection. Listeners may feel that the content being promoted no longer reflects their musical tastes, or worse, that preferences are being imposed on them. It is important to recognize that the consumer will ultimately have the final say and there is no guarantee that discoverability measures would result in increased listening to Francophone titles available on streaming services. Maintaining user trust through genuine, user-driven discovery is essential to sustaining both the continued growth of Québec and Francophone music on streaming services and the long-term financial health of the industries that produce it.

Musical taste is something that develops - it does not respond well to being imposed. Whether on our streaming services or elsewhere, the discovery of new songs always stems from a voluntary process: listening to a similar song, following a friend's recommendation, attending a performance, responding to social media, marketing, or simply being curious. In every case, it is the listener who initiates the discovery process. This willingness to engage is not best fostered by artificial generation or through constraints imposed on streaming services. It is best achieved through the user's own interest and openness.

This is why DIMA members are actively engaged in the promotion and organic, natural discoverability of Francophone content, including by Québec artists. Examples of such support include:

Amazon

Amazon Music has made significant investments in promoting Francophone music through playlist curation, original content, and strategic partnerships. Amazon Music hand-curates Francophone playlists and stations, like "*L'or et le Rap*", "*Les Hits du Moment*", "*La Crème Rap Français*", and many more. These showcase an extensive catalogue that features some of the best French language music and podcasts the world has to offer.

In 2025, Amazon Music created performance video content filmed in Saguenay-St. Lawrence Marine Park in Québec with emerging artist Levoy through its *Northern Echoes* program. Amazon Music selected Bromont born *Claudia Bouvette* as an *Artist to Watch* for 2025 and Montreal rapper Parazar for its monthly *Breakthrough* program. Amazon Music created an Amazon Music Original song with *Corneille* feat. ANAÏS *'Nouveau Monde'*, and it has captured content with other French-Canadian artists such as *Pierre Lapointe, Valence, Clay & Friends, Rau_Ze & Arielle Soucy*. Amazon Music also launched an Amazon Music Demo of '*I'm Just a Kid*' by *Simple Plan*, to coincide with their Prime Video documentary launch. In 2024, Amazon partnered with *ADISQ* to sponsor its new R&B Francophone award category.

Apple

Apple Music provides various dedicated playlists to support local artists, for example the playlist *Made in Québec*, an evergreen dedicated collection, *Musique Francophone*, and Francophone content has ongoing support on Apple Music's homepage for all users. Apple Music also promotes French-language content in its most visible editorial programs, such as the "*Up Next*", Apple Music Original content projects and several Apple Music Radio programs. French-language content is also regularly promoted across editorial spaces during key cultural moments, such as *La Fête Nationale Du Québec*.

Spotify

Features more than twenty editorial playlists that include Francophone music, seven of which are dedicated exclusively to Franco-Québécois artists. Its curated *St-Jean Baptiste* playlist ranked among the top five most streamed in Canada during the holiday period, helping drive visibility for local artists. Spotify invests in Québec's cultural ecosystem through partnerships with festivals and events such as the *Francos de Montréal* and the *Francophone Artist of the Year* category at the *Canadian Country Music Awards*. In addition, it supports artist development through programs such as *RADAR*, which highlights emerging Québec creators, and *EQUAL*, which promotes women in music. These initiatives are complemented by wider promotional efforts, including localized billboard campaigns and on-platform editorial features that have helped elevate Québec artists like *Patrick Watson*, whose song *Je te laisserai des mots* became the first Francophone track to enter Spotify's Billions Club after being added to more than 6.6 million playlists worldwide.

Spotify engages with local labels and distributors on a regular basis including Montréal-based like *Bonsound*, *Musicor*, *Audiogram*, *Orchard*, *Musique Nomade*, *7ième Ciel*, *Simone Records, Chivi Chivi, Cult Nation, Believe, Bravo Musique*, and *Ambiances Ambigües* which represent a wide range of Québecois and Indigenous artists. Spotify is in regular communication with music festival organisers across the province including *la Noce, Saguenay, Festival d'Été De Québec* in Qc City, *M pour Mon*tréal and more.

YouTube

YouTube actively showcases Québecois artists to the world through high-impact, global programs. Through the *Black Voices Program*, which aims to amplify emerging Black artists from around the world, Québecois artist Lost received a significant financial grant as well as features in billboards around the world (LA, NYC, Tokyo, London), inclusion in a global social media campaign, and other high-profile features alongside international artists. Additionally, *Roxane Bruneau* was selected as part of YouTube's *Foundry* program, an initiative for independent artists, and was supported by a global campaign highlighting her music. These dedicated programs are complemented by ongoing international billboard campaigns, which have featured a wide range of Québec artists including *Fouki, Souldia, Fredz, Charlotte Cardin, Patrick Watson, Jonathan Roy* and more.

YouTube offers dedicated, on-the-ground support for the Québec creator and artist community through its partnerships team, which includes a dedicated team member in Montréal. This team supports everything from licensing deals with music distributors to sharing best practices for platform success. YouTube's local team has also hosted a series of educational workshops, networking events, and sponsored major conferences like *M for Mon*tréal and *ContenFest* to help French-language content thrive on the platform. Beyond

these concrete actions, our members are also actively involved outside their respective streaming services to support the promotion of Québec's music industry. In the past, they have led numerous marketing campaigns and several partnerships with major cultural events, such as the *Francos de Montréal* and the *ADISQ Gala*.

Québec and Francophone musical culture is already flourishing on streaming services, driven by audience choice and ongoing investment by DIMA members. That said, DIMA and its members remain open to engaging in constructive dialogue with the Government of Québec to identify practical ways to build on these successes—for example, through partnerships, co-marketing initiatives, or industry-led training that further enhance visibility for local artists without compromising the user experience or the integrity of recommendation systems. In short, the most effective path forward is one that continues to strengthen the organic discovery model that already delivers high listener satisfaction and growing engagement with Québec and Francophone content.

Québec Artists Could Lose Twice

In addition to the direct funding of activities made by our members in Québec, the revenues paid to artists, authors, composers, and producers represent one of our members' main areas of support for the Québec music industry. Unlike commercial radio, which only returns a tiny fraction of its revenues to creators (commonly circa 8 percent of revenues) streaming services already play a central role in supporting Québec's cultural ecosystem through a business model that directly and consistently benefits rights holders.

On average, about 70 percent of their revenues are paid out as royalties to artists, songwriters, producers, and other rights holders. This revenue-sharing structure ensures that creators receive ongoing compensation every time their work is streamed, which translates into a stable and predictable source of income. In addition to rewarding existing works, these royalties also help fund new creative projects and sustain the professional networks that make Québec's cultural sector thrive. In practice, this means that streaming services are not simply intermediaries but active financial contributors to cultural vitality in Québec, providing continuous and measurable support to the province's artists and creative industries.

Equally important, streaming has transformed Québec's music industry into an exporter of Francophone culture. For example, on Spotify, Québec's recorded music sector receives five times more royalties from French-Canadian music generated streamed from outside the province. This demonstrates that Québec's cultural influence increasingly extends well beyond its borders. This is a development that benefits artists, producers, and audiences alike and should be a success story celebrated by the government.

A strong export dimension is essential for the long-term vitality of Québec's cultural economy. It reflects the global appeal of Francophone music and shows how streaming services act as a bridge between local creators and international listeners. By opening access to global audiences and generating new income streams from abroad, streaming multiplies opportunities for growth and reinvestment — resources that directly support Québec's music ecosystem and the creation of new works.

DIMA's members are only able to pay such a considerable amount of royalties to artists and rights holders because they are able to convert consumers into satisfied, paying subscribers or satisfied

listeners who spend time on the streaming service. The funding for royalties provided by streaming services provides funding for new music from Québec which drives greater listener interest, which in turn generates more revenue, and so on. The lean structure that makes it possible to maximize the share returned to creators and to provide stable, predictable financial support to Québec's music industry.

This virtuous cycle risks being displaced by the legislative proposal before the Commission which is likely to result in a substantial increase in operating costs for our members including: mandated algorithmic changes, continuous provincial regulatory compliance on top of federal, associated collection, processing, and transmitting of required information, increased technology and human resource costs, and heightened risk of litigation and associated legal expenses. Absorbing these costs will come at the expense of resources currently devoted to paying royalties, promotional campaigns for Québec artists, and festival and other partnerships in the province. Furthermore, a degraded user experience could also result in a decline in subscriptions to and time spent on our services. In both cases, the outcome would be a reduction in revenues and the associated royalties paid to Québec artists. In the end, Québec artists could lose twice over: fewer royalties for local creators, and fewer tools to enhance their visibility and reach.

Implementation Framework

Our members are also concerned about the lack of clarity regarding which digital services would be covered by the Act and which of their operations will be impacted by the new obligations. Several elements that are crucial to the bill will be specified later by regulation.

Given this, we request that clear guardrails be established with respect to the registration process and the information or documentation required by the government. Any information request should be limited to what is necessary for the Minister to confirm that a service qualifies as a 'person or partnership that offers to the public content that is referred to in this Act' (as defined in section 4), and should not extend beyond that scope.

Definitions and implementation mechanisms

The music industry at large, and DIMA's members specifically rely on precise definitions and guidance for any new laws being implemented by government. There are a number of areas where greater definition would be helpful:

1) the notion of French-language original cultural content, which forms the core of the legislative initiative;
2) which services will, or will not, be subject to the Act;
3) the criteria by which the government intends to measure outcomes—whether success will be based on listenership data, catalogue composition, promotional investments, or other undefined benchmarks;
4) the presence and discoverability criteria that certain streaming services would have to meet in order to be accessible;
5) the amount or proportion of French-language content or content available in French that would need to be offered;
6) the standards for content accessibility to persons with disabilities;
7) obligations relating to recommendation, promotion, or display of content.

We request confirmation that non-fulfilment of these obligations constitutes an administrative matter subject to administrative fines, not an offence. Establishing this distinction is essential to ensure proportional enforcement and to avoid unduly penalizing compliance issues that are technical or operational in nature.

Ministerial Discretion and Oversight

It should be noted that the bill grants the Minister the power to enter into agreements allowing certain companies to be exempted from the obligations provided for, without specifying the conditions that would make these companies eligible for such an alternative regime (section 23). This uncertainty is already causing major concern among streaming companies.

The bill should therefore be amended to include clear safeguards, such as defined eligibility criteria, transparent procedures, and a requirement for independent review or parliamentary reporting, to ensure that these agreements are applied consistently, accountably, and in a way that preserves a fair and high-quality consumer experience. Protecting users' freedom of choice and the integrity of their experience must remain at the heart of the government's approach if the bill is to support, rather than hinder, the vitality of Québec's cultural ecosystem.

The bill as currently proposed deprives services of a predictable and stable business environment. It is not clear in advance what compliance will look like and consequently, services are unable to properly plan and budget accordingly. Rules are set out in a regulation, unlike those established through the legislative process, are more likely to change on short notice, giving rise to increased trading instability for those in the industry.

Implications for devices and content diffusion

The scope of the bill is not currently clear to the extent it applies across technologies and devices. As currently drafted, the definition risks encompassing not only digital streaming services but also audio platforms, device manufacturers, and technological intermediaries whose systems merely facilitate the delivery of content. Such an expansive interpretation could lead to unintended consequences and major technical challenges for compliance, since these actors are not, we believe, the intended focus of this cultural content regulation. It is not sufficient to leave such fundamental questions of scope to future regulation.

The National Assembly should clearly define in the Act that any interface or device obligations apply only to television sets and to devices connected to a television set whose primary function is to transmit audiovisual services. This clarification would prevent unintended overreach and ensure that implementation remains practical and technologically coherent.

Substitution Agreements

Beyond the lack of clear guidelines, the bill grants the Minister exceptionally broad discretionary powers, under sections 21 to 28, to conclude substitution agreements that may exempt certain companies from key obligations of the Act. The legislation leaves both the eligibility conditions, procedural steps, and oversight mechanisms for such agreements largely undefined. Substitution agreements as proposed in the bill are also not uniformly available to both digital platforms and device manufacturers, but only to digital platforms. As drafted, this framework concentrates the roles

of rule-maker, negotiator, and decision-maker within the same office, creating a heightened risk of inconsistent, arbitrary, or opaque decisions and providing no clear path for review or appeal. These concerns are amplified by sections 39 to 41, which confer express immunity on the Minister, Bureau staff, inspectors and investigators against judicial challenge when exercising powers under the Act. Together, these provisions create an unbalanced governance model in which decisions with significant commercial, cultural, and consumer implications could be made without independent supervision, transparency, or recourse.

Furthermore, it must be noted that in its current form, the bill's governance design gives the Minister not only the authority to define the eligibility criteria for substitution agreements but also the exclusive power to negotiate with companies and decide whether those criteria are met. In practice, this means that the same authority would both set the rules and determine their application, effectively making the Minister both judge and party.

Such a configuration inevitably opens the door to a lack of uniformity in the application of the Act, or even to arbitrary decisions, depending on the changing orientations or priorities of the executive. It also risks unintended consequences for consumers, as the terms under which digital services operate could vary unpredictably and alter the user experience.

To prevent such outcomes and ensure transparency, DIMA urges legislators to establish a clear and predictable framework governing the Minister's discretionary powers. This framework should include defined eligibility criteria, objective factors guiding decisions, written reasons for approvals or terminations of agreements, and a structured process for review or reconsideration. Substitution agreements should also be available to any regulated entity, including device manufacturers, rather than only digital platforms. Legislators could also consider embedding the eligibility criteria for a substitution agreement directly in the bill, or, failing that, providing for the involvement of an independent third party or parliamentary oversight body to verify compliance with these safeguards.

These measures would promote fairness, accountability, and stakeholder confidence while protecting both competition among streaming services and the quality of the consumer experience. Similarly, the terms and conditions imposed through registration or subsequent regulations should not create unnecessary administrative burdens. Any documentation or reporting obligations should be guided by the principles of proportionality and necessity, ensuring that requirements remain reasonable and directly connected to verifying a streaming service's status under the Act.

Finally, while the government could, under this legislation, exempt a company from some or all its obligations as part of a substitution agreement, it has been suggested that it could also exempt that company from liability arising from the newly introduced right to discoverability and access to original French-language content online. DIMA does not believe the government has the power to do so. Consequently, the significant liability exposure created by this new right cannot be mitigated by a substitution agreement, and this point should be clarified to ensure legal certainty and fairness for all parties concerned.

Jurisdiction and Consistency

There are legal issues raised by the bill the Commission may wish to consider in its study. The regulation of broadcasting and telecommunications has historically been primarily a federal responsibility under the Canadian Constitution. This has been extended to the digital realm via the

Online Streaming Act and other federal legislation with the CRTC's role under that legislation now extending to streaming regulation. As stated previously, we recognize the role of the Québec government to promote and protect the French language and French language content in Québec, however, discoverability of English- and French- language content (including content from Québec) across Canada has been a focus of several separate CRTC consultations this year[3] and the CRTC will be issuing binding decisions based on those consultations imminently. Similarly, accessibility and data sharing in Canada have also been subject to CRTC consultations, just as they are now also being considered under the Québec government's legislation before the Commission.

Beyond these jurisdictional questions, the Bill 109's legal design also raises issues of coherence and predictability. The introduction of a new "right to discoverability" in the Charter of Human Rights and Freedoms highlights the need for Bill 109 to clarify how that right should operate in practice. As drafted, the bill leaves open the possibility that individuals could seek judicial recourse against streaming services or the government whenever they believe discoverability objectives have not been met. Without clear definitions, scoping and procedural guardrails, this ambiguity risks encouraging fragmented or premature litigation, diverting resources from implementation and creating inconsistent interpretations of the Act.

To ensure consistency with the Charter's intent, Bill 109 should specify that this right is to be exercised through the Act's administrative mechanisms, including oversight, reporting, and corrective powers, rather than through immediate private action. Judicial proceedings should be reserved for situations of repeated or systemic non-compliance causing demonstrable and substantial prejudice, and only once the Minister has had an opportunity to assess and address the issue. This clarification would align the bill with the Charter's purpose, preserve citizens' rights, and promote an orderly and effective application of the law.

The parallel existence of two regulatory regimes, one federal and the other provincial, requires alignment so there is no risk of duplication, or even contradictory requirements. There is a very real possibility that compliance with both the federal and provincial regimes is not possible. For example, a service could be required by the CRTC to ensure the spins of a minimum amount of certified English Canadian music, while at the same time, be required to do the same from French music in Québec at a level that cannot allow for the federal floor to be met. Planning for this bill should include a detailed analysis of how compatibility of the provincial and federal regimes is to be achieved so as to ease compliance and lessen jurisdiction confusion.

Audiobooks and the Need for Format Neutrality

Bill 109's explicit inclusion of audiobook services creates an unprecedented regulatory distinction between different formats of the same content. While physical books and e-books remain outside the bill's scope, audiobooks would face mandatory catalogue and discoverability requirements solely

[3] https://dima.org/resource/dima-remarks-before-crtc-audio-policy-consultation-and-discoverability/
https://dima.org/resource/crtc-market-dynamics-consultation-dima-final-written-submissions/
https://dima.org/resource/call-for-comments-broadcasting-and-telecom-notice-of-consultation-crtc-2025-94/
https://dima.org/resource/dima-reply-comments-on-the-path-forward-working-towards-a-sustainable-canadian-broadcasting-system

because of their format. This differential treatment raises significant concerns about regulatory consistency.

The physical book industry in Québec has successfully balanced market dynamics with cultural objectives through voluntary measures. While Québec maintains an optional accreditation program for physical bookstores that includes French language considerations, Bill 109 would impose mandatory obligations on audiobook services that far exceed any existing requirements for other book retailers. This creates an artificial regulatory barrier between identical content based solely on its delivery format.

While audiobook distribution models vary, fundamentally these services operate within established book industry frameworks, where publishers maintain control over content creation, rights management, and release timing. Unlike other digital content, audiobook availability is largely determined by publisher decisions about which titles to produce in audio format.

The unique nature of audiobooks has been recognized by regulators in other jurisdictions. Most notably, when implementing Bill C-11, federal regulators acknowledged the distinct characteristics of audiobook services and their close alignment with traditional book publishing. As a result, audiobook services were not required to register under Bill C-11's broadcasting framework, highlighting how audiobooks occupy a distinct place in the broader digital content ecosystem.

The challenge of French language audiobook availability is better addressed through supportive rather than restrictive measures. Government initiatives like the *Canada Book Fund's Accessible Digital Books* initiative have demonstrated the effectiveness of supporting content creation rather than mandating distribution. Similar programs specifically focused on French language audiobook production would more effectively advance Québec's cultural objectives while respecting established industry structures.

Data Privacy

Article 33 requires services and manufacturers to provide the Minister with information relating to the presence, discoverability, and consumption of cultural content in the French language. Streaming services must already comply with strict privacy frameworks such as the federal *Personal Information Protection and Electronic Documents Act* and Québec's Act respecting the protection of personal information in the private sector. Global frameworks also apply including the European Union's *General Data Protection Regulation*. Imposing additional provincial obligations risks creating inconsistent interpretations of what qualifies as non-personal data.

The broad discretion granted to the Minister regarding the form and timelines of disclosure compounds this uncertainty. Without clear limitations, there is a risk that future requests may become increasingly detailed and intrusive, edging closer to personal information and creating compliance conflicts across jurisdictions.

Any request for data disclosure should therefore adhere to the following principles: of proportionality and technical feasibility, of respect for the confidentiality of commercially sensitive information, and the use of less intrusive methods whenever possible. Establishing these safeguards would align Québec's approach with international best practices and minimize the operational and privacy risks associated with broad or open-ended data demands.

Commercially Sensitive Information
The information contemplated in Article 33 is not simply neutral usage data. It touches the core of services' commercial intelligence, providing insights into market share, consumer preferences, and competitive positioning. For companies operating in highly competitive global markets, this data represents a strategic asset, comparable to intellectual property. Requiring its disclosure to government authorities introduces the risk of exposing commercially sensitive information and can undermine the ability of streaming services to protect their competitive advantage. Services may differ significantly in the operational capabilities and types of data that they collect.

While the bill indicates that information may be shared with the *Institut de la statistique du Québec* (ISQ) for statistical purposes, expanding access beyond the Ministry increases the potential for leaks, mismanagement, or future reinterpretation of the law's scope. Even with good intentions, the more hands this information passes through, the greater the chance that sensitive insights may be used in ways that undermine the competitive environment. This risk is particularly acute in Québec's context, where local competitors may indirectly benefit from intelligence derived from data belonging to international streaming services.

Article 33 also grants the Minister significant discretion to determine how and when information must be transmitted. This flexibility may appear useful for government, but for regulated companies it creates an unpredictable compliance environment. Streaming services operate most effectively when there is certainty. They cannot plan effectively when disclosure requirements can be imposed unilaterally, without standardized criteria or harmonization with existing reporting obligations.

A path forward
This brief has sought to inform the legislative process with insights on how the modern audio streaming market operates. At the core of this successful business model are highly engaged music fans whose satisfaction is predicated on consumer choice. The winning formula has been for consumers to choose what to listen to, and for these decisions to drive discoverability, supported by insights and promotion directed by locally informed, skilled teams at each streaming service.

A top-down, prescriptive approach that may have worked for radio does not align with how audiences engage with streaming services today. Imposing rigid rules will risk undermining the Québec consumer experience and any drop in engagement risks weakening the vibrant musical ecosystem that connects audiences to artists. Even if the most prescriptive framework is imposed, Québec listeners may find ways to circumvent these rules to continue to find ways to listen to what they want to hear. For this reason, the most effective way to promote French-language and the music of Québec is to focus on the real drivers of engagement—sparking curiosity, stimulating cultural pride, responding to cultural events and inspiring the discovery of local talent.

DIMA's members share the broad intent of government's cultural objectives and are ready to be proactive partners in defining policy that seeks to achieve them. The streaming and audio services we represent already play a vital role in advancing francophone cultural goals, as reflected in the double-digit annual growth in francophone listening, millions of hours of monthly consumption, and strong engagement among younger audiences. Building on these successes through collaboration, rather than through restrictive regulation, will deliver the greatest benefit to Québec's artists and audiences alike.

Together, we can continue to develop initiatives that are already proving successful. Streaming platforms can also continue to elevate Québec artists through dedicated playlists and by integrating local talent into global playlists, both at home and abroad. Partnerships like collaborations with Québec festivals such as *Les Francos de Montréal* and programs like *RADAR* and *EQUAL* demonstrate how cooperation can effectively increase visibility for Québec artists.

Further collaboration could involve more structured partnerships between streaming services and cultural events, allowing platforms to sponsor and promote festivals like the *Festival d'été de Québec* or *M for Montréal* through playlists, online campaigns, and artist showcases. Services could also work with the government and industry bodies to further the professional development opportunities already being provided for Québec artists—through workshops, masterclasses, and technical training on how to optimize releases, create compelling visuals, and use integrated promotional tools to maximize reach.

To promote transparency and accountability, the Act should require that any regulatory or administrative decision-making process be open to public consultation, include clear reasoning, and be grounded in the principles of proportionality and necessity. DIMA can engage in a constructive dialogue on this issue.

In short, DIMA and its members believe that the most effective path forward is one of collaboration, not constraint. While the intentions behind Bill 109 are commendable, the bill as drafted does not reflect the realities of the modern audio streaming environment. It risks introducing costly and complex requirements that could reduce the resources available to reinvest in promoting Québec artists and French-language music. By working together—combining the government's cultural vision with the streaming services' reach, expertise, and innovation—Québec can strengthen its creative ecosystem and ensure that its artists continue to thrive both at home and on the global stage.

DIMA and its members thank the Commission for its availability, its openness to dialogue, and its consideration of our views. We look forward to continuing to work together in a spirit of collaboration to achieve our shared cultural objectives.