



# Canadian Human Rights Commission

## Performance Report

For the period ending  
March 31, 1999

Canada

## **Improved Reporting to Parliament Pilot Document**

The Estimates of the Government of Canada are structured in several parts. Beginning with an overview of total government spending in Part I, the documents become increasingly more specific. Part II outlines spending according to departments, agencies and programs and contains the proposed wording of the conditions governing spending which Parliament will be asked to approve.

The *Report on Plans and Priorities* provides additional detail on each department and its programs primarily in terms of more strategically oriented planning and results information with a focus on outcomes.

The *Departmental Performance Report* provides a focus on results-based accountability by reporting on accomplishments achieved against the performance expectations and results commitments as set out in the spring *Report on Plans and Priorities*.

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## Foreword

On April 24, 1997, the House of Commons passed a motion dividing on a pilot basis what was known as the annual *Part III of the Estimates* document for each department or agency into two documents, a *Report on Plans and Priorities* and a *Departmental Performance Report*.

This initiative is intended to fulfil the government's commitments to improve the expenditure management information provided to Parliament. This involves sharpening the focus on results, increasing the transparency of information and modernizing its preparation.

This year, the Fall Performance Package is comprised of 82 Departmental Performance Reports and the government's report *Managing for Results - Volumes 1 and 2*.

This *Departmental Performance Report*, covering the period ending March 31, 1999, provides a focus on results-based accountability by reporting on accomplishments achieved against the performance expectations and results commitments as set out in the department's pilot *Report on Plans and Priorities* for 1998-99. The key result commitments for all departments and agencies are also included in Volume 2 of *Managing for Results*.

Results-based management emphasizes specifying expected program results, developing meaningful indicators to demonstrate performance, perfecting the capacity to generate information and reporting on achievements in a balanced manner. Accounting and managing for results involve sustained work across government.

The government continues to refine and develop both managing for and reporting of results. The refinement comes from acquired experience as users make their information needs more precisely known. The performance reports and their use will continue to be monitored to make sure that they respond to Parliament's ongoing and evolving needs.

This report is accessible electronically from the Treasury Board Secretariat Internet site:  
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CANADIAN  
HUMAN RIGHTS  
COMMISSION

COMMISSION  
CANADIENNE DES  
DROITS DE LA PERSONNE

# **Canadian Human Rights Commission Departmental Performance Report**

**For the period ending  
March 31, 1999**

The Honourable Anne McLellan, P.C., M.P.  
Minister of Justice and Attorney General of Canada

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## Chart of Key Results

| To provide Canadians with:   | To be demonstrated by:  | Achievement reported in:  |
|--|---|---|
| Recourse where they believe that their rights under the <i>Canadian Human Rights Act</i> have been violated  | <ul style="list-style-type: none"> <li>Complaints from the public are dealt with in a fair, timely and efficient manner</li> </ul>  | <ul style="list-style-type: none"> <li>DPR Section III pages 7 to 9<br/>pages 10 to 19</li> </ul> |
| Greater equality in the workplace for the four target groups under the <i>Employment Equity Act</i> : Aboriginal people, members of visible minorities, women in the labour market and persons with disabilities | <ul style="list-style-type: none"> <li>Employers have employment systems in place that allow them to become more representative</li> <li>Higher representation of designated groups at all levels of the workforce</li> </ul> | <ul style="list-style-type: none"> <li>DPR Section III page 9<br/>pages 20 to 21</li> </ul>       |
| Public education and information on human rights principles  | <ul style="list-style-type: none"> <li>Public understanding of the principles of the <i>Canadian Human Rights Act</i>, the <i>Employment Equity Act</i> and the role and activities of the Commission</li> </ul>              | <ul style="list-style-type: none"> <li>DPR Section III pages 22 and 23</li> </ul>                 |
| Efficient management of the Commission's financial and human resources, and plans to improve services to the public  | <ul style="list-style-type: none"> <li>Better accountability for resources; results measurement; and timely and relevant performance reporting</li> </ul>   | <ul style="list-style-type: none"> <li>DPR Section III pages 24 and 25</li> </ul>                 |

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## Section I: The Chief Commissioner's Message

I am pleased to present the Canadian Human Rights Commission's Performance Report for the period of April 1998 to March 1999.

Last year marked the fiftieth year of the Universal Declaration of Human Rights, and twenty years since the establishment of the Commission. The year saw a number of significant legal decisions which served to advance the principle of equality. Notable among these was a far-reaching decision by the Canadian Human Rights Tribunal on pay equity for federal public servants. Significant amendments to the *Canadian Human Rights Act* were enacted. These changes should lead to improvements in the human rights tribunals system. The amendments also confirmed that employers are required to accommodate — short of undue hardship — the needs of persons with disabilities, religious minorities, and others.

The results of the Commission's first year of employment equity compliance audits are also featured in this Report. Changes to the *Employment Equity Act* that came into effect in October 1996 require the Commission to determine whether four designated groups — women, members of visible minority groups, persons with disabilities, and Aboriginal people — are equitably represented in an employer's workforce.

In his report released September 1998, the Auditor General of Canada identified concerns about delays in the processing of complaints and criticized certain of the Commission's procedures. These findings are being given careful attention as part of a renewal process which the Commission began in early 1998. In an effort to keep pace with changing needs, the Commission has undertaken to modify its complaints process, and has initiated the use of mediation prior to the investigation of complaints.

The review of the *Canadian Human Rights Act* announced in April 1999 is a vitally important initiative. I hope its recommendations will result in a strengthening of the Commission's ability to carry out its mandate to ensure the future of human rights for all Canadians.



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## Section II: Overview of the Commission

### Mandate

The Canadian Human Rights Commission was established in 1978 to administer the *Canadian Human Rights Act*. The purpose of the *Act* is to promote equality of opportunity and to protect people from discrimination based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability, or conviction for an offence for which a pardon has been granted.

The Commission also has a mandate under the *Employment Equity Act*, legislation that seeks to correct disadvantageous conditions of employment experienced by women, Aboriginal people, persons with disabilities and members of visible minorities.

Both the *Canadian Human Rights Act* and the *Employment Equity Act* apply to federal departments and agencies, Crown corporations, and federally regulated private sector companies.

The Canadian Human Rights Commission aims to discourage and reduce discriminatory practices by investigating complaints of discrimination under the grounds prohibited by the *Canadian Human Rights Act*, conducting audits to ensure compliance with the *Employment Equity Act*, conducting research and information programs; and working closely with other levels of government, employers, service providers, and community organizations to promote human rights principles.

### Vision Statement

- We envision the Canadian Human Rights Commission as a dynamic and progressive leader, contributing to a society where people respect human rights and diversity and treat each other with dignity.

### Mission

- We protect and advance human rights by providing a forceful, independent and credible voice for promoting equality in Canada.
- We work to discourage discrimination and disadvantage and ensure compliance with the *Canadian Human Rights Act* and the *Employment Equity Act*.
- We share our experience and cooperate with human rights institutions in Canada and in other countries.

### Operating Environment

The Commission is an agency reporting to Parliament. Its statutory authority covers all areas of federal jurisdiction, including federal departments and agencies, Crown corporations, private companies that regularly transport goods or people across provincial or national borders, chartered banks, companies that handle radioactive

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materials, interprovincial or international pipelines, federally regulated broadcasters, telecommunications, and grain elevators.

### **Objective**

- ❑ To foster the principle that every individual should have an equal opportunity to participate in all spheres of Canadian life consistent with his or her duties and obligations as a member of society.

### **Priorities**

For 1999-2000 and the following years, the Commission will give priority to:

- ❑ Dealing with all complaints in a manner that is transparent, timely and fair, with particular attention given to significantly reducing the number of older cases and to renewing the complaints process.
- ❑ Maintaining a comprehensive audit cycle for federally regulated employers covered by the *Employment Equity Act* in order to ensure their compliance with that *Act*, and to advance the representation in employment of women, persons with disabilities, members of visible minorities and Aboriginal people.
- ❑ Fostering public understanding of the principles of human rights and employment equity, and awareness of the roles and activities of the Canadian Human Rights Commission.

### **Challenges**

There are a number of environmental factors that affect the Commission:

- ❑ The Commission is finding that an increasing number of the complaints it receives deal with systemic issues rather than isolated incidents of discrimination.
- ❑ Both complainants and respondents are increasingly prepared to litigate in order to protect their interests.
- ❑ Canadian demographics are changing. Most notable for the Commission are the general aging of the population, the growth of visible minority communities, and the rapid increase in the number of Aboriginal young people.
- ❑ Significant legal decisions have pushed the boundaries of the general understanding of equality, and there is discussion of a range of related questions, such as what constitutes a family and what is the connection between poverty and human rights.
- ❑ The legal context within which the Commission operates has also evolved significantly. Recent amendments to the *Canadian Human Rights Act* and the enactment of 1995 amendments to the *Employment Equity Act* are important advances. The fundamental review of the *Canadian Human Rights Act* announced by the Minister of Justice in April 1999 could lead to more far-reaching legislative changes.
- ❑ The results from the first round of compliance audits under the *Employment Equity Act* indicate that many employers have a limited understanding of their obligations under the law and are not in compliance with the *Act*. This has required the Commission to devote substantial resources to follow-up audits and imperils the

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Commission's initial objective of auditing all federally regulated employers during an initial five-year cycle.

### **Organization of the Commission**

The Commission consists of a Chief Commissioner, a Deputy Chief Commissioner and a maximum of six part-time members appointed by the Governor in Council. The Chief Commissioner and the Deputy Chief Commissioner are full-time members appointed for a term not exceeding seven years; other members are appointed for a term not exceeding three years.

The Commission delivers its program through the offices of the Chief Commissioner and the Secretary General, and the following headquarters branches: Anti-Discrimination Programs, Employment Equity, Human Rights Promotion, Policy and Planning, Legal Services, the Executive Secretariat, and Corporate and Personnel Services. The Commission also operates regional offices in Vancouver, Edmonton, Winnipeg, Toronto, Montreal, and Halifax. An organization chart can be found in Annex A.

### **Business Line Description**

The Canadian Human Rights Commission maintains four service lines: Complaints, Employment Equity Audits, Human Rights Promotion and Corporate and Personnel Services.

- ❑ **Complaints:** The investigation, mediation and conciliation of complaints, supported by legal advice and policy research, to provide appropriate remedies to victims of discrimination and to eliminate instances of systemic discrimination.
- ❑ **Employment Equity Audits:** The auditing of federal government departments and federally regulated private companies to ensure they take the steps necessary to alleviate obstacles to the employment and career advancement of women, Aboriginal people, persons with disabilities, and members of visible minority groups.
- ❑ **Human Rights Promotion:** The promotion of human rights principles through research, the development of policies as guidelines for employers and service providers, public education, the dissemination of information, and liaison with government, other human rights organizations and advocacy groups.
- ❑ **Corporate and Personnel Services:** The development of policies, procedures and systems for management and decision-making; and the provision of ongoing administrative services in support of the Commission's programs.

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## Section III : Departmental Performance

### Performance Expectations

The Canadian Human Rights Commission provides the following services to Canadians: investigation, mediation and conciliation of complaints; audits of federal government departments and federally regulated private companies to ensure compliance with the *Employment Equity Act*, and the delivery of programs to increase public understanding of the *Canadian Human Rights Act*, the *Employment Equity Act* and the role of the Commission. The Commission is committed to providing transparent, timely and fair services. The Commission has taken measures to improve the quality of its services.

|  |                      |
|--|----------------------|
| <b>Canadian Human Rights Commission</b>              |                      |
| <b><i>Planned Spending (millions of dollars)</i></b> | <b>\$ 14,847,000</b> |
| <b><i>Total Authorities</i></b>                      | <b>\$ 16,275,000</b> |
| <b><i>1998-99 Actuals</i></b>                        | <b>\$ 16,121,184</b> |

### Progress in Achieving Equal Opportunity

During the fiscal year, tribunals and courts made decisions arising out of complaints brought before the Commission which help fill in gaps in federal human rights law, and extend the previous case law on human rights into key new areas.

- ❑ The decision of the human rights tribunal in the federal public service pay equity case, *Public Service Alliance v. Treasury Board of Canada*, sets out the building blocks for an effective application of the principle of equal pay for work of equal value in the federal workplaces.
- ❑ Drug testing is inconsistent with federal human rights law, according to the Federal Court of Appeal in *Canadian Civil Liberties Association v. Toronto-Dominion Bank* especially if it is performed randomly.
- ❑ Guidance on the duty to accommodate employees with learning disabilities is provided in clear terms in *Green v. Public Service Commission*, a decision of the human rights tribunal.
- ❑ In *Chopra v. the Department of Health*, the Federal Court ruled that, even in an individual human rights complaint, a tribunal should be prepared to look at broader patterns of discrimination within a workforce.

At the national level, significant judicial decisions on sexual orientation will permit the Commission to pursue a number of complaints by federal employees denied spousal pension benefits that had been placed on hold pending clarification of the law.

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- ❑ The Supreme Court of Canada in *Vriend v. Alberta* unanimously concluded that the omission of sexual orientation as a prohibited ground of discrimination under the Alberta's *Individual's Rights Protection Act* violated the Canadian Charter of Rights and Freedoms.
  - ❑ The Ontario Court of Appeal has removed a barrier to equal rights for gay men and lesbians in the workplace in *Rosenberg v. Canada (Attorney General)*. In a unanimous decision, the Court held that the definition of "spouse" under the provisions of the *Income Tax Act* had to be expanded to include same-sex couples.

Several other court or tribunal decisions in 1998-1999 will influence the application of the *Canadian Human Rights Act*.

- ❑ In *Bell Canada v. CEP and CTEA*, the Federal Court of Appeal confirmed the Canadian Human Rights Tribunal's role as the primary interpreter of the pay equity provisions of the *Canadian Human Rights Act*.
- ❑ A tribunal decision in *Public Service Alliance v. Government of Northwest Territories* confirmed the independence of the newly created Canadian Human Rights Tribunal. This cleared the way for hearings into a pay equity complaint brought against the Government of the Northwest Territories.
- ❑ The Supreme Court of Canada confirmed that the Commission could continue to seek injunctions from the Federal Court to shut down telephone lines with hate messages pending a hearing by a human rights tribunal. However, *CHRC v. Canadian Liberty Net* establishes a very strict standard for the grant of injunctions, in order to ensure that free speech is not unduly restricted.
- ❑ The cases of *Charlebois v. CHRC and OC Transpo* and *Charlebois v. Amalgamated Transit Union* recognize the Commission's discretion in conducting its own investigation, and establish the extent to which the Commission may rely upon the factual findings of other decision-making bodies.
- ❑ As a result of the decision in *Canada (Attorney General) v. Magee*, and the decision of the Supreme Court in *Bell and Cooper*, the only avenue of recourse for those who have a complaint arising out of a pension plan established by an Act of Parliament before March 1978 is to seek a declaration that section 62 of the *Canadian Human Rights Act* is unconstitutional. The Commission itself does not have the power to determine the constitutional validity of the Act.
- ❑ In *Perera v. Canada*, the Federal Court held that federal employees who have grounds for complaint under the *Canadian Human Rights Act* might also bring equality rights lawsuits under section 15 of the Canadian Charter of Rights and Freedoms. In June 1998, the Federal Court of Appeal confirmed that government employees alleging Charter breaches would not be restricted to the Canadian Human Rights Commission's complaint process.

### **Progress in Conciliation, Mediation and Employment Equity Audit**

Under the *Canadian Human Rights Act*, the Commission has always had the authority to appoint a conciliator to help the parties to a complaint reach a settlement. Traditionally, however, conciliation has only been attempted after an investigation has taken place and where there is evidence to support the complainant's allegations.

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The Commission is also endeavouring to make greater use of mediation at various stages in the complaints process. It participates in mediation efforts to settle complaints that have been referred to a tribunal, with the result that during the year a majority of the cases referred to the tribunal were settled before the hearings began. Mediation is also being used as an alternative to the investigation process in selected cases. The advantages of mediation are significant: it can help to resolve complaints prior to investigation, resulting in more timely redress for complainants and freeing up resources for more complex cases.

1998-1999 was also the first year of implementation of the employment equity compliance audit process under the 1995 *Employment Equity Act*. The Commission's experience with the new law has provided evidence that the legislative changes were necessary and that the majority of employers audited still had considerable work to do to achieve full compliance with the obligations established by Parliament.

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## Performance Accomplishments by Service Line

### Service Line 1: Complaints

The objective is to provide recourse to those in Canada who believe that their rights, as set out in the *Canadian Human Rights Act*, have been violated.

The *Canadian Human Rights Act* empowers the Commission to investigate complaints of discrimination in employment and in the provision of goods and services customarily available to the general public, based on the eleven grounds set forth in the *Act*: race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted. The Commission also has the authority to investigate complaints of wage inequities between men and women in areas under federal jurisdiction. The description of the complaints management process can be found in Annex B.

#### Services Provided in 1998-1999

The Commission received more than 62,000 inquiries<sup>1</sup> from the public. Many of these related to issues outside its jurisdiction. In such cases, the Commission directs people to an appropriate agency, such as a provincial human rights commission, the police, or a social service agency.

Figure 1 Number of inquiries

|                 |                 |
|-----------------|-----------------|
| 1989/90: 47,619 | 1994/95: 36,155 |
| 1990/91: 52,245 | 1995/96: 41,879 |
| 1991/92: 51,758 | 1996/97: 44,806 |
| 1992/93: 50,794 | 1997/98: 50,344 |
| 1993/94: 45,485 | 1998/99: 62,463 |

As illustrated in Figure 2, the Commission completed work on 1,591 complaint files. Some 300 complaints (19 %) were referred to alternate redress mechanisms. 182 complaints (12%) were settled. Of this figure, 42 were settled prior to investigation and a further 140 were settled in the course of investigation or after the appointment of a conciliator. In 21 cases the Commission decided not to pursue the complaints because they were filed more than one year after the alleged act of discrimination, or were, technically, without purpose. 190 complaints (12%) were dismissed because the evidence gathered during investigation did not support the complainants' allegations. Another 78 cases (5%) were not pursued for various reasons, including requests by complainants to withdraw, or abandonment, or because the Commission lacked jurisdiction.

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<sup>1</sup> An inquiry is any initial contact with the Commission by an organization, person or group seeking information or wishing to bring a situation to the Commission's attention.

The Commission referred 31 complaints (2%) for a hearing before the Canadian Human Rights Tribunal. These were cases in which the Commission felt there was sufficient evidence to warrant further examination, and usually followed unsuccessful efforts at conciliation between the parties. The Tribunal has the power to make a finding of discrimination and to order remedies such as reinstatement in a job, changes to policies, and financial compensation. Finally, 793 cases (50%) were discontinued, or closed prior to investigation, either because the complainants did not wish to pursue them or because it was impossible to establish a link between the alleged act and a prohibited ground of discrimination.

**Figure 2 Complaints Outcomes, 1995/1996 to 1998/1999**

| Outcomes   | 1998/99 |     | 1997/98 |     | 1996/97 |     | 1995/96 |     |
|--|---------|-----|---------|-----|---------|-----|---------|-----|
| Early resolution                                       | 42      | 3%  | 42      | 2%  | 66      | 4%  | 157     | 9%  |
| Resolved /settled during investigation or conciliation | 140     | 9%  | 183     | 9%  | 159     | 9%  | 149     | 8%  |
| Referred to alternate redress mechanisms               | 296     | 19% | 285     | 14% | 222     | 12% | 298     | 16% |
| Referred to a tribunal                                 | 31      | 2%  | 27      | 1%  | 9       | 1%  | 49      | 3%  |
| Not dealt with <sup>2</sup>                            | 21      | 1%  | 31      | 1%  | 21      | 1%  | 18      | 1%  |
| Dismissed for lack of evidence                         | 190     | 12% | 241     | 12% | 237     | 13% | 255     | 14% |
| No further proceedings <sup>3</sup>                    | 78      | 5%  | 146     | 7%  | 249     | 14% | 373     | 20% |
| Discontinued <sup>4</sup>                              | 793     | 50% | 1128    | 54% | 835     | 46% | 525     | 29% |
| Total  | 1591    | 100 | 2083    | 100 | 1798    | 100 | 1824    | 100 |

<sup>2</sup> Cases that the Commission decided not to pursue because they were filed more than one year after the alleged act of discrimination, or were, technically, without purpose.

<sup>3</sup> Cases in which the complainants withdrew or abandoned their complaints, the matters were outside the Commission's jurisdiction, or the complaints did not warrant referral to a tribunal.

<sup>4</sup> Cases that were closed prior to investigation because the complainants did not wish to pursue them or because a link could not be established between the alleged act and a prohibited ground of discrimination.



Figure 3 shows that, as in previous years, the three grounds of discrimination most often cited by complainants in 1998-1999 were disability (33 %), sex (19 %), and, taken together, race, colour and national or ethnic origin (20 %). Other complaints received cited age (14 %), family and marital status (7 %), sexual orientation (4 %) and religion (2 %).

**Figure 3 Complaints Received by Ground of Discrimination, 1995/1996 to 1998/1999**

| Grounds of Discrimination | 1998/99 |     | 1997/98 |     | 1996/97 |     | 1995/96 |     |
|---------------------------|---------|-----|---------|-----|---------|-----|---------|-----|
| Disability                | 579     | 33% | 611     | 29% | 680     | 35% | 492     | 31% |
| Sex                       | 342     | 19% | 369     | 18% | 410     | 22% | 393     | 25% |
| Age                       | 254     | 14% | 467     | 22% | 128     | 7%  | 118     | 8%  |
| Race/Colour               | 196     | 11% | 207     | 10% | 235     | 12% | 179     | 11% |
| National or Ethnic Origin | 159     | 9%  | 189     | 9%  | 174     | 9%  | 127     | 8%  |
| Family/Marital Status     | 119     | 8 % | 158     | 8%  | 156     | 8%  | 113     | 7%  |
| Sexual Orientation        | 64      | 4%  | 51      | 2%  | 92      | 5%  | 54      | 4%  |
| Religion                  | 40      | 2%  | 38      | 2%  | 29      | 2%  | 101     | 6%  |
| Pardon                    | 2       | 0%  | 4       | 0%  | 1       | 0%  | 2       | 0%  |
| Total                     | 1755    | 100 | 2094    | 100 | 1905    | 100 | 1579    | 100 |

### ***Improving the Complaints Management Process***

Resource limitations, the increasingly complex and contentious environment in which the Commission operates, and the procedural constraints that stem from tribunal and court rulings — all of these make speedy and satisfactory resolution of complaints a difficult task. When the Auditor General, in a report issued in September 1998, noted that complaints before the Commission were not always dealt with as expeditiously as they might be, this was not surprising. The Auditor General's recommendations about how the Commission might improve the way it handled cases reinforced the Commission's plan – already begun – to improve the complaints process. The Commission has made program changes and redeployed staff to deal with these recommendations.

In recent years the Commission has established a target of completing the investigation phase of each complaint within nine months from the date of filing. Unfortunately, this goal has proven elusive, and in 1998-1999 only 16% of the cases coming before the Commission were completed within the nine-month time frame. Some of the delay can be attributed to workload and investigator turnover. However, a sample review of a third of the cases presented to the Commission in 1998 shows that much of the time taken to complete cases has to do with circumstances beyond the Commission's control.

The review shows that 24% had been stood down for periods of two to three years pending the outcome of court proceedings; sexual orientation complaints were a case in point. Eleven per cent of the sample had been held in abeyance for a period of three months to five years while the complainant pursued alternative redress mechanisms, or

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while the parties attempted to settle the matter. Six per cent had been the subject of judicial reviews of the Commission's decisions, which added one to five years to the process. In some cases, the respondent had objected to the investigation of a complaint because it had been filed outside the one-year time limit. In others, one or both parties had provided new information in their submissions, requiring cross-disclosure of the documentation, and adding several more weeks to the process.

The Commission has launched a process of renewal aimed at improving its complaints management system. Elements in the plan are the reduction of the current backlog of complaints, the refining of existing complaints procedures, and an in-depth examination of the complaints management system.

As a priority, the Commission is aiming at the resolution no later than December 2000 of the 595 complaints older than nine months as of October 1998. During the same period, efforts will be made to ensure that 75 per cent of new cases are investigated and submitted to Commissioners for a decision within the nine-month turn-around time frame. It is not realistic to expect that all cases can be dealt within nine months, since some will always require more time due to their complexity, or because of delays originating with the complainant or respondent. In fact, the Commission sees a need to review this standard, so that a balance between the expectations of complainants and respondents and the level of service that the Commission is able to provide with its current level of resources is achieved.

Specific measures undertaken to date as part of the process of renewal include the following:

- The establishment of a special unit of investigators, conciliators and lawyers tasked with handling the majority of current backlog cases. This unit is supported by other experienced and specially trained Commission staff who are to give priority to the elimination of the backlog. Approximately \$626,000 was reallocated to the special unit from existing Commission resources. At March 31, 1999, 208 backlogged cases (i.e., older than nine months) had been submitted to the Commissioners for a decision.
- A mediation pilot project was launched in the fall of 1998, supported in part with funding from the federal government's Dispute Resolution Initiative. A mediation model was developed that gives parties to a complaint the opportunity to resolve the matter prior to investigation. The model will be evaluated throughout the course of the project, and a decision on its long-term use will be made in March 2000. Initial and advance mediation training has been provided to a core group of 20 staff members.
- The Commission's Compliance Manual is being revised and upgraded, from both an operational and policy perspective. Implementation of improved procedures to ensure the timely updating of the material, including possible development of an on-line version are part of this project.
- The Commission is upgrading its information management systems in order to improve the quality and accessibility of its complaints-related data. Conceptual work and a needs analysis were completed in December 1998 and implementation is currently underway. The upgraded system is expected to be in full operation in late 1999.

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### **Legal representation**

As an element in its efforts to contribute to the advancement of human rights, the Commission continued to represent the public interest in cases before the Human Rights Tribunal and Federal Court. As shown in Figure 4, in 1998-1999 the Commission ensured legal representation in 51 cases which represent a total 191 days of hearings. Of significance is the important human rights tribunal decision of July 1998 in the public service pay equity case which came after more than 250 days of hearings.

*Figure 4*      **Number of Cases and Hearing Days Before Tribunals and Courts**

|                                     | 1995-1996  |              | 1996-1997 |              | 1997-1998  |              | 1998-1999 |              | 1999-2000 |                        |
|-------------------------------------|------------|--------------|-----------|--------------|------------|--------------|-----------|--------------|-----------|------------------------|
|                                     | Cases      | Hearing Days | Cases     | Hearing Days | Cases      | Hearing Days | Cases     | Hearing Days | Cases     | Projected Hearing Days |
| <b>Tribunals</b>                    | 63         | 201          | 63        | 248          | 61         | 221          | 31        | 163          | 45        | 309                    |
| <b>Federal Court/Trial Division</b> | 35         | 42           | 17        | 18           | 26         | 35           | 14        | 21           | 13        | 38                     |
| <b>Federal Court of Appeal</b>      | 8          | 11           | 6         | 8            | 9          | 14           | 5         | 6            | 5         | 6                      |
| <b>Supreme Court</b>                | 2          | 2            | 4         | 6            | 2          | 2            | 1         | 1            | -         | -                      |
| <b>Total</b>                        | <b>108</b> | <b>256</b>   | <b>90</b> | <b>280</b>   | <b>118</b> | <b>272</b>   | <b>51</b> | <b>191</b>   | <b>63</b> | <b>353</b>             |

### **Pay Equity**

Although public attention has focused on specific cases such as that involving the federal public service unions, the Commission continued to implement its mandate regarding pay equity claims and issues. Complaints were investigated, settlements were encouraged, and advice was given.

#### **□ Pay Equity Litigation**

Measured by the number of people potentially affected and the scale of the compensation awarded, the July 29, 1998 decision of a human rights tribunal on the complaints of the Public Service Alliance of Canada against the federal Treasury Board was the largest human rights ruling ever. The tribunal ordered that Treasury Board adjust the salaries of employees in the affected job categories to reflect their value relative to jobs performed mostly by men. The position adopted by the tribunal fell between those recommended by the complainant and respondent, leaving room for the parties to negotiate the finer details. The tribunal ordered that the parties "agree upon the distribution of the aggregate sums of

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the payout” within one year of the decision. On August 27, the government announced that it would seek judicial review of the decision.

#### ❑ **The Universal Classification Standard**

During the fiscal year, the Commission provided advice to the Treasury Board Secretariat in the development of a new job evaluation system for the federal public service, called the Universal Classification Standard, or UCS. This system has gender neutrality as one of its stated goals. The Commission has supported the overall objectives of the UCS, and since 1996 has given feedback from a pay equity perspective on various components of the system with a view to ensuring that the final standard respects the gender neutrality principle as required by the *Canadian Human Rights Act*.

### **Grounds of Discrimination**

The Commission deals with complaints of discrimination based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted.

#### ❑ **Sex Discrimination**

19% of all complaints received by the Commission in 1998-1999 involved allegations of discrimination on the basis of sex. A disproportionate number of these involved either women in non-traditional areas of employment, or women who suffered adverse consequences when their employers became aware that they were pregnant, As shown in Figure 5, in 1998-1999 the Commission completed work on 339 complaints of discrimination on the basis of sex.

**Figure 5: Analysis of the 339 complaints of discrimination on the basis of sex in 1998-1999**

|     |  |
|-----|--|
| 7   | cases were resolved prior to the signature of a complaint  |
| 46  | cases were resolved or settled during investigation or at conciliation   |
| 55  | were referred to alternate redress mechanisms, such as a grievance procedure or an employer's internal complaints procedure  |
| 13  | cases were referred to the Canadian Human Rights Tribunal for a hearing  |
| 4   | cases were not dealt with because they were filed more than one year after the alleged act of discrimination, or were technically, without purpose   |
| 30  | cases were dismissed for lack of evidence  |
| 10  | no further proceedings : cases in which the complainants withdrew or abandoned their complaints, the matters were outside the Commission's jurisdiction, or the complaints did not warrant referral to a tribunal              |
| 174 | discontinued : cases that were closed prior to investigation because the complainant did not wish to pursue them or because a link could not be established between the alleged act and a prohibited ground of discrimination. |

Cases settled illustrate the problems faced by women in workplaces. One indicator of equality is a comparison between the percentage of women and men at various salary levels.

The figures for employees working full time in the federal public service show that as of March 1998, half of the men (51%), but three-quarters of the women (76%) earned less than \$45,000 per year. The figures for more senior positions reveal a similar pattern. As of March 1998, 20% of men working full time earned \$60,000 or more, compared to only 7% of the women working full time. Employment equity data suggest that the situation is similar for women in the federally regulated private sector.

**The issue of sexual harassment:** 36% of the complaints of discrimination on the basis of sex received in 1998-1999 were complaints of sexual harassment. This number represents an increase of more than 40% since 1995-1996. Cases settled in 1998-1999 demonstrate that sexual harassment is a serious workplace issue; it is a factor in hindering women from remaining in the workforce and advancing professionally.

Harassment cases present particular challenges in the gathering of evidence. Subsequent to a study of sexual harassment cases undertaken by a former human rights Commissioner, the Commission provided additional training to its staff members to improve the handling of such complaints.

**Integration of Women into the Canadian Forces:** In February 1989, a human rights tribunal ordered the full integration of women into combat positions in the Canadian Forces within ten years. Based in part on studies prepared by the Forces, the tribunal concluded that women's exclusion from combat-related occupations could not be justified on the grounds of operational effectiveness. Over the years, the Commission endeavoured to ensure that the Forces took the necessary action for full integration to occur. However, full integration had not occurred by the expiry of the ten years provided in the tribunal's order.

#### ❑ **Discrimination on the Basis of Race, Religion, and Ethnic Origin**

22% of all complaints received by the Commission in 1998-1999 involved allegations of discrimination on the basis of race, religion and ethnic origin. As shown in Figure 6, in 1998-1999, the Commission completed work on 372 complaints of discrimination filed on the basis of race, religion and ethnic origin.

| <i>Figure 6</i> <b>Analysis of the 372 complaints of discrimination on the basis of race, religion and ethnic origin: in 1998-1999</b> |  |
|--|--|
| 9  | cases were resolved prior to the signature of a complaint  |
| 17   | cases were resolved or settled during investigation or at conciliation   |
| 79   | were referred to alternate redress mechanisms, such as a grievance procedure or an employer's internal complaints procedure  |
| 3  | cases were referred to the Canadian Human Rights Tribunal for a hearing  |
| 6  | cases were not dealt with because they were filed more than one year after the alleged act of discrimination, or were technically, without purpose   |
| 57   | cases were dismissed for lack of evidence  |
| 16   | no further proceedings : cases in which the complainants withdrew or abandoned their complaints, the matters were outside the Commission's jurisdiction, or the complaints did not warrant referral to a tribunal              |
| 185  | discontinued : cases that were closed prior to investigation because the complainant did not wish to pursue them or because a link could not be established between the alleged act and a prohibited ground of discrimination. |

The latest data from the Treasury Board suggest that the public service's record on the employment of visible minorities is worse than its record for the other designated groups. For 1997-98, the representation of visible minorities was 5.1 per cent, about half of what could be expected based on the number of people qualified and available for work. More than 15,000 people were hired, but the number of visible minority candidates recruited was less than half of those qualified and available.

Last year, the Commission reported on a human rights tribunal's decision on the case of the *National Capital Alliance on Race Relations v. Health Canada*. The Commission is monitoring the department's implementation of the tribunal's order aimed at removing barriers to the advancement of visible minorities into management ranks in the department.

**Hate Messages:** The Commission is pursuing a complaint that deals with the use of the Internet to incite hatred or contempt for others because of their race, religion, ethnic origin, sexual orientation or any other prohibited grounds of discrimination. Since 1997, a human rights tribunal has been looking into allegations that material posted on the Internet by Ernst Zundel could expose Jews to hatred or contempt on the basis of their race, religion and ethnic origin. In May 1998, the Federal Court dismissed two motions filed by Mr. Zundel to stop the tribunal's hearings, which are continuing.

On the legislative front, amendments to the *Canadian Human Rights Act* that came into force on June 1998 allow victims specifically identified in hate messages to receive compensation. The individuals responsible for disseminating hate propaganda may also be ordered to pay a penalty of up to ten thousand dollars.

❑ **Discrimination on the Basis of Disability**

33% of all complaints received by the Commission in 1998-1999 involved allegations of discrimination on the basis of disability. As shown in Figure 7, in 1998-1999, the Commission completed work on 556 complaints of discrimination filed on the basis of disability.

| <i>Figure 7</i> <b>Analysis of the 556 complaints of discrimination filed on the basis of disability in 1998-1999</b> |   |
|---|---|
| 14  | cases were resolved prior to the signature of a complaint   |
| 48  | cases were resolved or settled during investigation or at conciliation  |
| 132   | were referred to alternate redress mechanisms, such as a grievance procedure or an employer's internal complaints procedure   |
| 5   | cases were referred to the Canadian Human Rights Tribunal for a hearing   |
| 6   | cases were not dealt with because they were filed more than 1 year after the alleged act of discrimination, or were technically, without purpose  |
| 46  | cases were dismissed for lack of evidence   |
| 29  | no further proceedings: cases in which the complainants withdrew or abandoned their complaints, the matters were outside the Commission's jurisdiction, or the complaints did not warrant referral to a tribunal              |
| 276   | discontinued: cases that were closed prior to investigation because the complainant did not wish to pursue them or because a link could not be established between the alleged act and a prohibited ground of discrimination. |

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**Duty to accommodate:** Many of the complaints the Commission receives from people with disabilities relate directly to a failure to accommodate their needs. 1998 amendments to the *Canadian Human Rights Act* make it clear to employers and organizations that people with disabilities are full members of society, and that accommodation is central to their full economic, and social integration. The new provision requires employers and service providers to accommodate special needs up to the point of undue hardship.

□ **Sexual Orientation Discrimination**

4% of all complaints received by the Commission in 1998 -1999 involved allegations of discrimination on the basis of sexual orientation. Substantial progress was made in 1998-1999 to ensure that gay men and lesbians receive full rights under the law. As shown in Figure 8, in 1998-1999, the Commission completed work on 85 complaints of discrimination filed on the basis of sexual orientation.

**Figure 8 Analysis of the 85 complaints of discrimination on the basis of sexual orientation in 1998-1999**

|    |  |
|----|--|
| 7  | cases were resolved prior to the signature of a complaint  |
| 12 | cases were resolved or settled during investigation or at conciliation   |
| 12 | were referred to alternate redress mechanisms, such as a grievance procedure or an employer's internal complaints procedure  |
| 6  | cases were referred to the Canadian Human Rights Tribunal for a hearing  |
| 8  | cases were dismissed for lack of evidence  |
| 6  | no further proceedings: cases in which the complainants withdrew or abandoned their complaints, the matters were outside the Commission's jurisdiction, or the complaints did not warrant referral to a tribunal               |
| 34 | discontinued : cases that were closed prior to investigation because the complainant did not wish to pursue them or because a link could not be established between the alleged act and a prohibited ground of discrimination. |

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## □ Age Discrimination

14% of all complaints received by the Commission in 1998-1999 involved allegations of discrimination on the basis of age. While both young and old face their own employment challenges, most age discrimination complaints received by the Commission come from older people. As shown in Figure 9, in 1998-99, the Commission completed work on 190 complaints of discrimination on the basis of age.

*Figure 9* Analysis of the 190 complaints of discrimination on the basis of age in 1998-1999

|     |   |
|-----|---|
| 11  | cases were resolved or settled during investigation or at conciliation  |
| 18  | were referred to alternate redress mechanisms, such as a grievance procedure or an employer's internal complaints procedure   |
| 4   | cases were referred to the Canadian Human Rights Tribunal for a hearing   |
| 5   | cases were not dealt with because they were filed more than one year after the alleged act of discrimination, or were technically, without purpose  |
| 30  | cases were dismissed for lack of evidence   |
| 14  | no further proceedings: cases in which the complainants withdrew or abandoned their complaints, the matters were outside the Commission's jurisdiction, or the complaints did not warrant referral to a tribunal              |
| 108 | discontinued: cases that were closed prior to investigation because the complainant did not wish to pursue them or because a link could not be established between the alleged act and a prohibited ground of discrimination. |



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## *Service Line 2: Employment Equity Audits*

**The objective is to contribute to achieving equality in the workplace for the four designated groups under the *Employment Equity Act* by ensuring that employers identify and remove employment barriers, implement plans, and take appropriate special measures to ensure that the representation of women, Aboriginal people, members of visible minorities and persons with disabilities is consistent with their availability in the Canadian labour force.**

The 1995 *Employment Equity Act*, which came into force on October 24, 1996, established a compliance regime requiring federal employers to ensure that members of the four designated groups constitute a fair share of their workforce. In 1998, the *Act* covered 412 organizations employing 850,708 workers in the following sectors: 333 federally regulated private-sector organizations and Crown corporations with 100 or more employees (the sectors include banking, communications, transportation, and other industries such as grain companies, uranium mines, nuclear power operations, credit corporations and museums); 65 federal public service departments and agencies for which the Treasury Board is the employer; and 14 public-sector separate employers with 100 or more employees.

The Commission hopes to audit all employers within the first five years of its mandate, but success in meeting this objective is contingent on the level of resources available to the Commission and the readiness of employers to meet the requirements of the law. A description of the audit process can be found in Annex C.

### ***Compliance Audits Results***

By the end of 1998, the Commission had surpassed its first-year objective of beginning 82 compliance audits. By March 31, 1999, it had begun 128 audits. During the year, it established cooperative relationships with most employers, and negotiated undertakings to correct cases of non-compliance.

As of March 31, 1999, a total of 86 audit reports had been issued. Initial audit results showed that only two employers were in full compliance with the new law, and 84 employers required undertakings in order to reach full compliance. 69 of them have agreed to undertakings. Work is underway with the remaining 15 employers.

In addition to the 128 audits begun by the close of the 1998-1999 fiscal year, the first 14 follow-up audits had already commenced. During the upcoming year, the number of follow-up audits required will reduce the number of new first-phase audits the Commission would otherwise have initiated.

Figure 10 Status of Audits as of March 31, 1999

| AUDIT STEPS                | Private Sector | Public Service | Separate Agencies | Total |
|----------------------------|----------------|----------------|-------------------|-------|
| Audits begun               | 100            | 26             | 2                 | 128   |
| On-site visits completed   | 74             | 18             | 2                 | 94    |
| Reports issued             | 71             | 13             | 2                 | 86    |
| Follow-up audits required  | 70             | 12             | 2                 | 84    |
| AUDITS CONCLUDED           | 58             | 11             | 2                 | 71    |
| Signed undertakings        | 57             | 10             | 2                 | 69    |
| In compliance              | 1              | 1              | nil               | 2     |
| FOLLOW-UP AUDITS INITIATED | 13             | 1              | nil               | 14    |

The Commission's initial standards envisage that an audit could be completed within four to six months. Because most employers were ill-prepared to meet the requirements of the new law, or had limited understanding of it, in practice it took between nine and eleven months to complete most audits during the first audit year.

In order to complete first-phase audits more quickly, the Commission will continue to encourage employers to meet the original deadline of 30 to 60 days to return acceptable undertakings. A negotiation period, to be used if necessary, has been built into the standard, together with a specified period for finalizing the report and obtaining signatures. The Commission will continue to monitor its operational standards during the second year of its mandate, with the onset of both follow-up and new first-phase compliance audits.

1999 - 2000 will be an important year since, during the follow-up audits, employers must demonstrate that they have fulfilled the substantive undertakings to which they have committed themselves. If a large number of employers fail to fulfil their undertakings, and are still not in compliance at the time of the follow-up audit, the Commission will need to consider possible enforcement measures including the issuance of directions as provided by the *Employment Equity Act*.

The Commission will assess results by the number of audits completed within a reasonable time and by the substantive progress achieved in advancing equity in the workplace. The Commission has established two primary measures for the latter:

- the number of employers who have been audited and found in compliance with the law; and
- quantifiable improvements in the representation of the four designated groups in all occupational groups and categories.

In the first year of its audit mandate, 1998-1999, the Commission emphasized the first measure. The emphasis will shift gradually towards the second measure as the Commission enters the third and fourth year of its mandate under the *Employment Equity Act*.

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### *Service Line 3: Human Rights Promotion*

The objective is to foster public understanding of the *Canadian Human Rights Act*, the *Employment Equity Act*, and the roles and the activities of the Canadian Human Rights Commission.

The Canadian Human Rights Commission has a double mission: the restoring of rights to those who have been deprived of them by discrimination, and the improvement of social systems and public attitudes so as to reduce and eventually eliminate the incidence of discrimination. The Commission is not the only agency involved in the protection and promotion of human rights: other government departments and agencies at all levels as well as non-governmental organizations play important parts.

Assessing the Commission's impact on attitude is not a simple task. On the one hand, an increasing volume of complaints may be an indication that Canadians are more familiar with their rights, and, on the other hand, a decreasing volume of complaints may also be an indication that Canadians in general, and employers and service providers in particular, better understand their responsibilities and implement policies that allow them to better comply with the *Canadian Human Rights Act*.

#### *Promotion of human rights*

The *Canadian Human Rights Act* requires the Commission to develop and conduct information programs to foster public understanding of this *Act*, and of the role and activities of the Commission. In 1998-1999, the renewal of the complaints management process and the reduction of the current backlog of complaints were the Commission's top priority. As a result, the Commission placed less emphasis on human rights promotion and shifted resources to reduce the current backlog of complaints. In 1998-1999, the promotion and education program targeted specific issues.

- During the fiscal year, the Commission focussed on the commemoration of its twentieth anniversary and the fiftieth anniversary of the Universal Declaration of Human Rights, and on the development of links with universities to foster an exchange of views from these groups on the future of human rights in Canada. It also worked with mainstream, specialized and community media to inform Canadians on human rights issues such as pay equity and disability rights and undertook projects, in collaboration with other agencies, on issues such as sexual harassment in the workplace and human rights for Aboriginal people.
- The Commission remained accessible to the public, responding to more than 60,000 inquiries. In the fall of 1998, toll-free telephone lines were introduced across the country in an effort to facilitate access. The Commission's Internet site continued to serve as a source of information on human rights development and the Commission activities. Information available on the site can be translated through software designed for blind and visually impaired people.
- In March 1999, the Commission released its Annual Report, covering a wide range of human rights issues. It included the Commission's second annual report under the *Employment Equity Act* which came into full force in 1996. The report is available as a

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printed book, on the Internet at <http://www.chrc-ccdp.ca>, and as a sound recording, in large print, in braille and on computer diskette to ensure it is accessible to people who are visually impaired. It was distributed to over 2,000 people and to thousands more during the year via distribution at special events, workshops and display booths to mark special days on the human rights calendar.

#### ***Assistance to Human Rights Commissions of Other Countries***

The promotion of human rights goes beyond Canadian boundaries. Because of Canada's reputation as a human rights leader, many countries look to it as an example when they explore how to establish and strengthen their own human rights mechanisms. The Commission is involved in multilateral meetings, receives foreign delegations and interns and maintains bilateral relationship with other bodies abroad involved in the protection and promotion of human rights.

- ❑ The Commission works in partnership with the Canadian International Development Agency to support official development assistance priorities in human rights, principally by working with human rights commissions in other countries. The Commission's role is limited to providing advice and practical assistance to human rights commissions operating at the national level. Technical assistance and cooperation was provided, for example, to Mexico, Cameroon, Cuba, South Africa and Indonesia.
- ❑ One reason for the Commission's success is the increasing recognition given internationally to the importance of supporting the creation and the strengthening of national human rights commissions. At home, in 1998-1999, the Commission received foreign delegations from 15 different countries, including Japan, Korea, Thailand, Cameroon, South Africa, Northern Ireland. It also participated in two major conferences: in November, the conference entitled "Universal Rights and Human Values - A Blueprint for Peace, Justice and Freedom," held in Edmonton; and in December, the Montreal's World Conference on the Universal Declaration of Human Rights where the Chief Commissioner chaired a panel session on globalization.

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## **Service Line 4: Corporate and Personnel Services**

The objective is to improve the efficiency of the management of the Commission's financial and human resources, and of the implementation of the priorities established to improve its services to the public.

The Commission delivers its services to Canadians through its three service lines, Complaints, Employment Equity Audits and Promotion of Human Rights. They are supported by a fourth service line, Corporate and Personnel Services.

### **The Challenge**

As mentioned in the previous sections of the report, the Commission faced a number of issues that had resource implications during the fiscal year. They include the reduction of the backlog of cases; the implementation of initiatives under the Commission's renewal process; the requirement to conduct follow-up audits to ensure compliance with the *Employment Equity Act*; and the increasing demands for assistance in strengthening human rights institutions in other countries.

The Commission has taken the following steps to maximize its efficiency and effectiveness in order to better meet its commitments:

- ❑ The Commission created an information technology environment designed to improve access to information and communication. The Commission's Planning, Reporting and Accountability Structure was approved by the Treasury Board, and work has started on the implementation of the first cycle of result-based management. The Commission negotiated an umbrella agreement with the Canadian International Development Agency that should strengthen the Commission's capacity to provide support to other countries and their national institutions in their endeavour to promote and protect human rights.
- ❑ An action plan was developed to accelerate the renewal process in the Commission to respond to a September 1998 report by the Auditor General of Canada.
- ❑ During 1998-1999, policy research focused on disability issues, sexual harassment, and issues of concern to Aboriginal people.
- ❑ In 1998, the Commission acted to address the issue of sexual harassment more effectively. In cooperation with the Department of Human Resources Development and Status of Women Canada, the Commission prepared model anti-harassment policies for the workplace. Two policies were developed: one for use by medium-sized and large employers, and one for small employers.
- ❑ For the Universal Classification Standards project, the Commission trained 20 employees in work description writing and eight in evaluation, and expects to meet the Treasury Board Secretariat's requirements.

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- The nature of the Commission's mandate means that it has frequent and regular contacts with English- and French-speaking members of the general public. All of the Commission's offices are equipped to serve the public in both official languages. Bilingual staff are available in each office to ensure that service is offered in both official languages in person and on the telephone. The Commission also continued to make sure that both official languages are used in designated bilingual regions, and that employees in bilingual regions can work in the official language of their choice.

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## Section IV: Consolidated Reporting

### Information Technology: Year 2000 Readiness

- The Commission has ensured that its information technology tools and systems will continue to support the delivery of its mandate into the year 2000. The Commission is bringing significant modifications to its Complaints Management System to make it year 2000 compliant, and expects to be fully compliant by November 1999. The Complaints Management System is the repository for all information forming the jurisprudence base and memory of the Commission.

## Section V : Financial Performance

### Financial Table 1 - Summary of Voted Appropriations

#### Financial Requirements by Authority (thousands of dollars)

| Vote                                    |   | Planned<br>Spending | 1998-99<br>Total |               |
|---|---|---------------------|------------------|---------------|
|   |   |                     | Authorities      | Actual        |
| <b>Canadian Human Rights Commission</b> |   |                     |                  |               |
| 10                                      | Program expenditures  | 12,874              | 14,184           | 14,047        |
| (S)                                     | Contribution to employee benefit plan                             | 1,973               | 2,072            | 2,072         |
| (S)                                     | Spending of proceeds from the disposal of surplus<br>Crown Assets | --                  | 18               | 2             |
| <b>Total for the Commission</b>         |   | <b>14,847</b>       | <b>16,275</b>    | <b>16,121</b> |

Total Authorities are Main Estimates plus Supplementary Estimates plus other authorities.

**Explanation of the 1998-99 Total Authorities:** The 1998-99 total authorities represents an increased of \$1,310,700 or 9% over the 1998-99 planned spending of \$14,847,000. This difference represents mainly the funding received for the collective agreements and the 1997-98 carry forward which funded mostly the move to the new building and the professional services related to the Universal Classification Standard.

**Explanation of the 1998-99 Actual:** The 1998-99 actual represents 99% of the total authorities. The difference of \$154,000 between the actual and total authorities represents mainly delays in the Bell Canada case, a pay equity complaint, and delays in professional contracts for complaints investigations.



## Financial Table 2 - Comparison to Total Planned Spending to Actual Spending

### Departmental Planned versus Actual Spending by Service Line (thousands of dollars)

| Service Lines   | FTEs       | Operating     | Capital | Voted<br>Grants<br>and<br>Contri-<br>butions | Subtotal:<br>Gross<br>Voted<br>Expendi-<br>tures | Statutory<br>Grants<br>and<br>Contri-<br>butions | Total<br>Gross<br>Expendi-<br>tures | Less:<br>Respenda-<br>ble<br>Revenue | Total<br>Net<br>Expendi-<br>tures |
|---|------------|---------------|---------|--|--|--|-------------------------------------|--------------------------------------|-----------------------------------|
| <b>Complaints</b>                                     | 80         | 6,807         | -       | -  | 6,807  | -  | 6,807                               | -                                    | 6,807                             |
| <i>(total authorities)</i>                            | <i>84</i>  | <i>7,702</i>  | -       | -  | <i>7,702</i>                                     | -  | <i>7,702</i>                        | -                                    | <i>7,702</i>                      |
| (Actuals)   | <b>84</b>  | <b>7,584</b>  | -       | -  | <b>7,584</b>                                     | -  | <b>7,584</b>                        | -                                    | <b>7,584</b>                      |
| <b>Employment Equity</b>                              |            |               |         |  |  |  |                                     |                                      |                                   |
| <b>Audits</b>   | 23         | 1,886         | -       | -  | 1,886  | -  | 1,886                               | -                                    | 1,886                             |
| <i>(total authorities)</i>                            | <i>21</i>  | <i>1,931</i>  | -       | -  | <i>1,931</i>                                     | -  | <i>1,931</i>                        | -                                    | <i>1,931</i>                      |
| (Actuals)   | <b>19</b>  | <b>1,929</b>  | -       | -  | <b>1,929</b>                                     | -  | <b>1,929</b>                        | -                                    | <b>1,929</b>                      |
| <b>Human Rights</b>                                   |            |               |         |  |  |  |                                     |                                      |                                   |
| <b>Promotion</b>                                      | 48         | 4,080         | -       | -  | 4,080  | -  | 4,080                               | -                                    | 4,080                             |
| <i>(total authorities)</i>                            | <i>42</i>  | <i>3,703</i>  | -       | -  | <i>3,703</i>                                     | -  | <i>3,703</i>                        | -                                    | <i>3,703</i>                      |
| (Actuals)   | <b>39</b>  | <b>3,699</b>  | -       | -  | <b>3,699</b>                                     | -  | <b>3,699</b>                        | -                                    | <b>3,699</b>                      |
| <b>Corporate &amp;<br/>Personnel Services</b>         | 30         | 2,074         | -       | -  | 2,074  | -  | 2,074                               | -                                    | 2,074                             |
| <i>(total authorities)</i>                            | <i>34</i>  | <i>2,939</i>  | -       | -  | <i>2,939</i>                                     | -  | <i>2,939</i>                        | -                                    | <i>2,939</i>                      |
| (Actuals)   | <b>32</b>  | <b>2,909</b>  | -       | -  | <b>2,909</b>                                     | -  | <b>2,909</b>                        | -                                    | <b>2,909</b>                      |
| <b>Total</b>  | 181        | 14,847        | -       | -  | 14,847   | -  | 14,847                              | -                                    | 14,847                            |
| <i>(total authorities)</i>                            | <i>181</i> | <i>16,275</i> | -       | -  | <i>16,275</i>                                    | -  | <i>16,275</i>                       | -                                    | <i>16,275</i>                     |
| (Actuals)   | <b>174</b> | <b>16,121</b> | -       | -  | <b>16,121</b>                                    | -  | <b>16,121</b>                       | -                                    | <b>16,121</b>                     |
| <b>Other Revenues and Expenditures</b>                |            |               |         |  |  |  |                                     |                                      |                                   |
| <b>Non-respendable revenues</b>                       |            |               |         |  |  |  |                                     |                                      | -                                 |
| <i>(total authorities)</i>                            |            |               |         |  |  |  |                                     |                                      | -                                 |
| (Actuals)   |            |               |         |  |  |  |                                     |                                      | -                                 |
| <b>Cost of services provided by other departments</b> |            |               |         |  |  |  |                                     |                                      | 1,785                             |
| <i>(total authorities)</i>                            |            |               |         |  |  |  |                                     |                                      | 1,794                             |
| (Actuals)   |            |               |         |  |  |  |                                     |                                      | <b>1,799</b>                      |
| <b>Net cost of the Program</b>                        |            |               |         |  |  |  |                                     |                                      | 16,632                            |
| <i>(total authorities)</i>                            |            |               |         |  |  |  |                                     |                                      | 18,069                            |
| (Actuals)   |            |               |         |  |  |  |                                     |                                      | <b>17,920</b>                     |

**Note:** Numbers in italics denote Total Authorities for 1998-99 (Main & Supplementary Estimates and other authorities).

**Bolded numbers denote actual expenditures/revenues in 1998-99**

**Financial Table 3 - Historical Comparison of Total Planned Spending to Actual Spending**

Historical Comparison of Departmental Planned versus Actual Spending by Service Line (thousands of dollars)

| Service Lines                    | Actual<br>1996-97 | Actual<br>1997-98 | 1998-99             |                      |               |
|----------------------------------|-------------------|-------------------|---------------------|----------------------|---------------|
|                                  |                   |                   | Planned<br>Spending | Total<br>Authorities | Actual        |
| Complaints                       | 6,658             | 6,857             | 6,807               | 7,702                | <b>7,584</b>  |
| Employment Equity Audits         | 1,170             | 1,620             | 1,886               | 1,931                | <b>1,929</b>  |
| Human Rights Promotion           | 3,522             | 3,688             | 4,080               | 3,703                | <b>3,699</b>  |
| Corporate and Personnel Services | 3,522             | 2,621             | 2,074               | 2,939                | <b>2,910</b>  |
| <b>Total</b>                     | <b>14,872</b>     | <b>14,786</b>     | <b>14,847</b>       | <b>16,275</b>        | <b>16,121</b> |

Total Authorities are Main Estimates plus Supplementary Estimates and plus other authorities.

## Financial Table 5 - Resource requirements by Organization and Service Line

Comparison of 1998-99 Planned Spending, and Total Authorities to Actual Expenditures by Organization and Service Line (thousands of dollars)

| Organization                                | Service Lines |                             |                              |   |  | Total         |
|---|---------------|-----------------------------|------------------------------|---|--|---------------|
|   | Complaints    | Employment<br>Equity Audits | Human<br>Rights<br>Promotion | Corporate<br>and<br>Personnel<br>Services |  |               |
| <b>Executive Offices</b>                    | 473           | 262                         | 509                          | -   |  | 1,244         |
| <i>(total authorities)</i>                  | <i>726</i>    | <i>165</i>                  | <i>586</i>                   | <i>77</i>                                 |  | <i>1,554</i>  |
| (Actuals)                                   | <b>717</b>    | <b>166</b>                  | <b>592</b>                   | <b>77</b>                                 |  | <b>1,552</b>  |
| <b>Legal Services</b>                       | 1,794         | -                           | -                            | -   |  | 1,794         |
| <i>(total authorities)</i>                  | <i>1,801</i>  | -                           | -                            | -   |  | <i>1,801</i>  |
| (Actuals)                                   | <b>1,722</b>  | -                           | -                            | -   |  | <b>1,722</b>  |
| <b>Anti-Discrimination</b>                  | 4,205         | -                           | -                            | -   |  | 4,205         |
| <i>(total authorities)</i>                  | <i>4,450</i>  | -                           | -                            | -   |  | <i>4,450</i>  |
| (Actuals)                                   | <b>4,431</b>  | -                           | -                            | -   |  | <b>4,431</b>  |
| <b>Employment Equity</b>                    | -             | 1,624                       | -                            | -   |  | 1,624         |
| <i>(total authorities)</i>                  | -             | <i>1,726</i>                | -                            | -   |  | <i>1,726</i>  |
| (Actuals)                                   | -             | <b>1,724</b>                | -                            | -   |  | <b>1,724</b>  |
| <b>Human Rights</b>                         | -             | -                           | 1,808                        | -   |  | 1,808         |
| <i>(total authorities)</i>                  | -             | -                           | <i>1,567</i>                 | -   |  | <i>1,567</i>  |
| (Actuals)                                   | -             | -                           | <b>1,555</b>                 | -   |  | <b>1,555</b>  |
| <b>Regional Offices</b>                     | 335           | -                           | 1,006                        | -   |  | 1,341         |
| <i>(total authorities)</i>                  | <i>482</i>    | -                           | <i>1,053</i>                 | -   |  | <i>1,535</i>  |
| (Actuals)                                   | <b>475</b>    | -                           | <b>1,058</b>                 | -   |  | <b>1,533</b>  |
| <b>Policy and Planning</b>                  | -             | -                           | 757                          | -   |  | 757           |
| <i>(total authorities)</i>                  | <i>243</i>    | <i>40</i>                   | <i>497</i>                   | -   |  | <i>780</i>    |
| (Actuals)                                   | <b>239</b>    | <b>39</b>                   | <b>493</b>                   | -   |  | <b>771</b>    |
| <b>Corporate and<br/>Personnel Services</b> | -             | -                           | -                            | 2,074                                     |  | 2,074         |
| <i>(total authorities)</i>                  | -             | -                           | -                            | <i>2,862</i>                              |  | <i>2,862</i>  |
| (Actuals)                                   | -             | -                           | -                            | <b>2,832</b>                              |  | <b>2,832</b>  |
| Totals                                      | 6,807         | 1,886                       | 4,080                        | 2,074                                     |  | 14,847        |
| <i>(total authorities)</i>                  | <i>7,702</i>  | <i>1,931</i>                | <i>3,703</i>                 | <i>2,939</i>                              |  | <i>16,275</i> |
| (Actuals)                                   | <b>7,584</b>  | <b>1,929</b>                | <b>3,699</b>                 | <b>2,909</b>                              |  | <b>16,121</b> |
| <b>% of TOTAL</b>                           | <b>47%</b>    | <b>12%</b>                  | <b>23%</b>                   | <b>18%</b>                                |  | <b>100%</b>   |

**Note:** *Numbers in italics* denote Total Authorities for 1998-99 (Main & Supplementary Estimates and other authorities).

**Bolded numbers** denote actual expenditures in 1998-99.

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## Section VI: Other Information

### Contacts for Further Information and Departmental Web Sites

P. Alwyn Child, Director, Policy and Planning: (613) 943-9146

Michèle A. Bousquet, Chief, Planning and Review: (613) 943-9047

Web site at: <http://www.chrc-ccdp.ca>

### Statutes administered by the Canadian Human Rights Commission

*Canadian Human Rights Act* R.S., 1985, C. H-6 as amended

*Employment Equity Act* 1995, C.44

### Statutory annual reports and other departmental reports

The Commission's Annual Report to Parliament is tabled on or before March 31 of each year. The report is available as a printed book, on the Internet at <http://www.chrc-ccdp.ca>, and as a sound recording, in large print, in braille and on computer diskette to ensure it is accessible to people who are visually impaired.

## Organization of the Commission

Under the overall direction of the Chief Commissioner, the Secretary General, as the Commission's chief operating officer, is responsible for the Commission's operations at headquarters and in the regions.

**The Executive Secretariat** provides administrative services to the executive offices, including coordinating Commission meetings, supporting the Senior Management Committee, managing executive correspondence, and preparing briefing materials. It is also responsible for access to information and privacy.

**The Legal Services Branch** provides advice to the Chief Commissioner, Commission members and staff. Legal officers also represent the Commission in litigation before tribunals and the courts.

**The Anti-Discrimination Programs Branch** is responsible for the mediation, investigation and conciliation of complaints, including pay equity complaints, as well as the monitoring of complaint settlements. The Branch also provides a quality assurance function for cases presented to the Commission, trains staff involved in anti-discrimination activities, and establishes performance standards and operational policies.

**The Employment Equity Branch** conducts employment equity audits with employers in the private and public sectors to assess their compliance with the requirements of the Employment Equity Act.

**The Human Rights Promotion Branch**, which includes staff at headquarters and in the Commission's six regional offices, conducts programs to promote the principles of equality, foster public understanding of the Canadian Human Rights Act, and inform people of the work of the Commission. The Branch is responsible for contacts with the media and for editorial services.

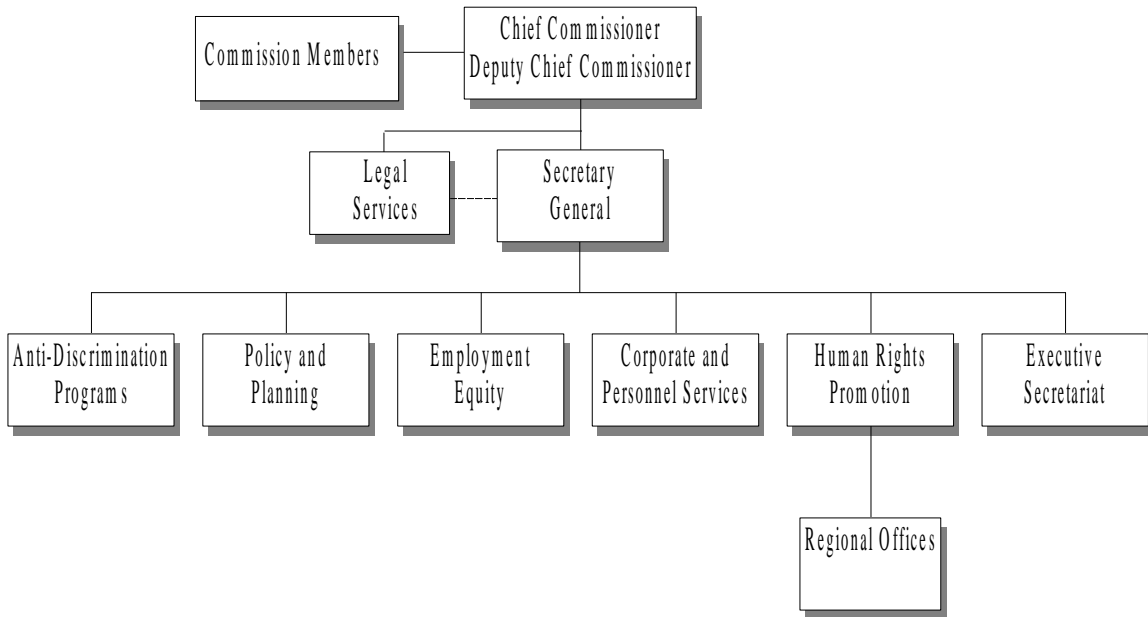
**The Regional Offices** carry out education and outreach activities with community groups, employers, service providers, unions and provincial human rights commissions. They are the first point of contact for people wishing to file complaints of discrimination, and provide assistance in the processing of complaints.

**The Policy and Planning Branch** is responsible for providing policy, planning and review, and research assistance. Human rights issues are monitored by the Branch, and policy proposals, guidelines, and research reports assist Commission decisions and support the operational branches. The Branch also coordinates the Commission's activities to assist human rights institutions outside Canada.

**The Corporate and Personnel Services Branch** provides headquarters and regional offices with support services in assets management, finance, informatics, information management, and library services. It also provides support services in staffing, classification, pay and benefits, staff relations, training and human resources planning, official languages, and health and safety.

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## Organizational Structure by Branch



### **Description of the Complaints Management Process**

The process begins when a person or group contacts the Commission to raise a human rights concern. Staff first determine whether the matter falls within the Commission's jurisdiction, whether there are reasonable grounds for asserting that discrimination has occurred, and whether the person or group has exhausted all alternate procedures to provide a remedy. The Commission must balance the need to be accessible and helpful to the concerned person or group, the requirement to be fair to the respondent, and the obligation to make prudent use of its limited resources.

The Commission normally receives over 50,000 inquiries each year from the public. Many of the problems raised are outside its jurisdiction, or are not, strictly speaking, human rights issues. Only about 1,800 ultimately become complaints. In all other cases, the Commission directs people to an appropriate agency, such as a provincial human rights commission, the police, or a social service agency. When the Commission deals with allegations of discrimination, it attempts to reach an early resolution acceptable to both parties, either before or after a complaint is formally lodged.

In the fall of 1998, the Commission introduced a mediation pilot project under the umbrella of the dispute resolution process. It is a voluntary process offered to complainants and respondents after a complaint is signed but before the investigation begins. If one of the parties refuse to participate or if mediation is not successful, the case is returned to investigation.

When the Commission proceeds with an investigation, its role is to gather and analyse evidence from both parties. The task of evidence gathering is sometimes complicated by the reluctance of fellow employees to become involved in an investigation or the inability of a party to provide information in a timely fashion. It is also important to emphasize that most of the cases investigated by the Commission involve federal government departments or large employers. These organizations commonly have complex management structures that can serve to slow the release of relevant information. In some instances, cases must be put in abeyance as a result of legal action initiated by one of the parties, or pending the release of a tribunal or court ruling that addresses the same issues as those presented by the complaint.

It is necessary to ensure that both sides have an opportunity to make their positions known to the Commissioners. Accordingly, once evidence has been collected and assessed, the investigator prepares a report, which is disclosed to the complainant and respondent for their comments. If, at this stage, either party introduces new facts or legal arguments, their submissions must be cross-disclosed, and additional investigation may be required. The disclosure and cross-disclosure processes alone can add several weeks to an investigation.

The investigation phase ends with the Commission's consideration of the investigator's report, along with any written submissions from the parties. The Commission may approve a settlement reached by the parties, take no further proceedings with respect to a complaint, suspend an investigation pending the outcome of similar cases or litigation,

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dismiss a complaint if there is no evidence to support the allegation, refer a case to conciliation, or request the appointment of a human rights tribunal to examine the allegations.

Cases are referred to conciliation when an investigation has uncovered evidence to support the complainant's allegations. The conciliator is mandated to help the parties reach a settlement and report the results of these efforts to the Commissioners. Where conciliation produces a settlement, the Commissioners will be asked to approve it. When conciliation is unsuccessful, the complaint may be dismissed or referred to a tribunal for a full hearing. It is important to note here that the Canadian Human Rights Tribunal is a separate adjudicative body that — unlike the Commission — has the power to issue binding orders.



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## HUMAN RIGHTS PROCESS

### Canadian Human Rights Commission

#### *When the Commission Receives an Inquiry*

- Employees provide information to people contacting the Commission
- Employees may direct people to another agency if the problem is not within the Commission's jurisdiction

#### *After the Commission Accepts a Complaint*

- When appropriate, officers refer the complainant to another human rights redress mechanism (such as the employer's internal complaints process or a union grievance procedure), if one exists
- Where possible, officers attempt to mediate between the complainant and the respondent
- Officers formally investigate the complainant's allegations to prepare for a decision by the Commissioners

#### *When the Commissioners Make a Decision*

- The Commissioners may approve a settlement between the complainant and respondent
- They may appoint a conciliator
- They may refer a complaint to the Canadian Human Rights Tribunal
- They may dismiss a complaint for lack of evidence, or decide to take no further action because no link could be established between the alleged act and a prohibited ground of discrimination



### Canadian Human Rights Tribunal

- A member of the Tribunal may mediate between the complainant and respondent
- A tribunal panel may conduct hearings on the complaint
- It may then make a decision on the complaint and issue orders



### Federal Court of Canada

- The Federal Court may carry out a judicial review (similar to an appeal) of a decision by the Commissioners
- The Court may also carry out a judicial review of a decision or order of the Canadian Human Rights Tribunal

### **Description of the Compliance Audit Process**

The new 1995 Employment Equity Act retains the core employment equity obligations that have been in existence for some time, including:

- collecting data on the employment status of the four designated groups, reporting to Human Resources Development Canada annually, and analysing these data to identify areas of under-representation;
- reviewing all employment systems to identify any barriers that may contribute to under-representation; and
- implementing an action plan, including the removal of employment barriers, the implementation of positive measures, and the setting of hiring and promotion goals, all designed to ensure that reasonable progress is achieved towards full representation. It is on the achievement of such reasonable progress that organizations will be audited during a second audit cycle.

In addition, employers are required to consult with employee representatives and bargaining agents on the preparation, implementation and revision of an organization's employment equity plan; to monitor its progress; and to ensure that employees are informed on an ongoing basis of the steps taken by the organization to administer various aspects of its program.

The Act clarifies an employer's obligations to implement employment equity, and also makes clear what employers are not required to do. There is no obligation to create new positions, establish quotas, hire or promote unqualified employees, or implement initiatives that would cause undue hardship.

#### **The Audit Process at a Glance**

Within ninety days of an employer receiving notification, a compliance officer formally commences the audit by requesting documentation on the organization's employment equity program. Based on this documentation, the officer prepares an initial assessment of the employer's progress in meeting twelve statutory requirements. This is usually confirmed through an on-site visit. The visit commonly includes briefing sessions with senior officials responsible for employment equity in the organization, and interviews with management, unions, employee representatives and employees from designated groups.

If the employer is found not to be in compliance, an interim report is drafted indicating where undertakings are required. The report is sent to the employer, who is responsible for developing the required undertakings.

Depending on the extent of work required, the employer is given up to one year to implement these undertakings. Once these have been negotiated, the final interim report is jointly signed by the chief executive officer and the compliance officer, and the audit is concluded. However, at the end of the specified period, a follow-up audit is conducted. If the employer is in full compliance at either the initial or follow-up stage, a final report is issued and the file is closed.

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