



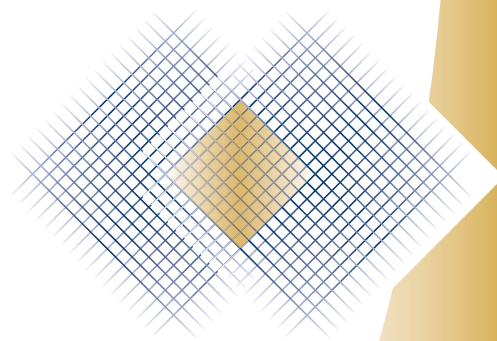
Office of the
Commissioner of
Official Languages

Commissariat
aux langues
officielles

Use

of the Official Language
Minority Press by Federal Institutions

Follow-up



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EXECUTIVE SUMMARY

The Government of Canada communicates with Canadians in a variety of ways. Often this communication is done through notices or advertisements published in the media.

The *Official Languages Act* sets the rules on communicating in English and French. In any given region, if the message is authorized by an act of Parliament, the government must print its notices and advertisements in at least one publication in general circulation. The Act also says there should be separate English and French messages in separate English and French publications where possible. Where this is not possible, a bilingual message should appear in a general circulation publication. For all other communications, the Act requires that a federal institution “communicate with members of the public by using such media of communication as will reach members of the public in the official language of their choice in an effective and efficient manner that is consistent with the purposes of the Act”. The Act’s preamble states the government’s commitment to enhance the vitality of the English and French linguistic minority communities in Canada and to foster the full recognition and use of both English and French in Canadian society.

After receiving a large number of complaints, the majority of which were founded, the Commissioner of Official Languages published a study in November 2002 on the use of the official language minority press by federal institutions. The complaints had indicated that federal institutions were not placing messages in minority language newspapers as they do in mainstream newspapers. The number of complaints was significant, accounting for 19 percent of all complaints received by the Office of the Commissioner of Official Languages (OCOL) between 1998 and 2001.

Based on the study findings, the Commissioner made 18 recommendations designed to ensure that Canadians receive communications from the Government of Canada in the official language of their choice. OCOL has followed up on the implementation of the recommendations, and the results are published in this report, *Use of the Official Language Minority Press by Federal Institutions: Follow-Up*.

The status of each recommendation was evaluated through interviews with key federal institutions responsible for policies and guidelines on communications as they relate to advertising, as well as the study of evidence and the analysis of advertising-related complaints received in 2002 and 2003.

Of the 18 recommendations addressed to the federal institutions concerned, five have been fully implemented, three have been partially implemented and nine are still in the process of being implemented. One has not been implemented.

There has been some progress in providing clearer direction on policies and guidelines as they relate to official language requirements in advertising, though the work is incomplete. For example, the Treasury Board Secretariat (TBS) has not yet published communications guidelines on advertising and partnering, collaborative arrangements and sponsorships. Public Works and Government Services Canada (PWGSC) has not yet finalized the official languages component of its advertising guidelines.

Another step forward is the decision to include clauses on official languages obligations in agreements with advertising or placement agencies. In the coming months, PWGSC will be offering to federal institutions, as well as to advertising and placement agencies, a series of training sessions on the new advertising management process to address the requirements of the *Official Languages Act*.

However, much remains to be done. Newspaper associations need to be part of consultations on the matter of publication deadlines. A definition of the concept of “equivalent publication” is needed to ensure that both official languages are used and presented equally in all advertising.

The Commissioner is also concerned that the Public Service Human Resources Management Agency of Canada (PSHRMAC) and the Department of Canadian Heritage do not do sufficient monitoring to ensure respect of official languages policies as they relate to the use of the media. In our view, this activity is essential to verifying expected results.

An encouraging sign is a 42% drop in the number of advertising-related complaints received by OCOL from 2002 to 2003. The decrease is significant but does not mean the problem has disappeared. The investigation for the follow-up report was unable to tell whether the complaints decreased because the number of newspaper advertisements also went down or because the law was being respected. Nova Scotia had the highest number of complaints in 2003, followed by Prince Edward Island.

We are disappointed that actions required for improving the advertising management framework in some cases are still incomplete. Although restructuring within the Government of Canada changed responsibilities, the restructuring was announced in December 2003, well after our November 2002 report was published. It is time to pick up the pace on implementing recommendations through a more concerted effort.

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INTRODUCTION

The *Official Languages Act* sets out specifications on how the Government of Canada is to communicate a notice or advertisement to the general public. Section 11 states that if the message is required by an Act of Parliament, it must appear in at least one publication in general circulation within each region where the subject matter applies. Where possible, the message should appear separately in both English- and French-language publications. In cases where a region has only one publication in general circulation, the message should appear in both languages.


For all other communications, section 30 of the Act requires that a federal institution “communicate with members of the public by using such media of communication as will reach members of the public in the official language of their choice in an effective and efficient manner that is consistent with the purposes of the Act”. The Act’s preamble states the government’s commitment to enhance the vitality of the English and French linguistic minority communities in Canada and to foster the full recognition and use of both English and French in Canadian society. This commitment is also outlined in Part VII of the Act.

Although only one official language is in majority use in many regions of Canada, most have media communicating in the other official language (referred to in this report as minority language media). The *Communications Policy of the Government of Canada* includes official languages requirements among its policy requirements and sets out guidelines for advertising.

Many official language minority newspapers have complained that federal institutions often did not place advertisements in their publications. From 1998 to 2001, minority press-related complaints accounted for 19 percent of all language-use complaints deemed admissible by OCOL during this period.

In November 2002, OCOL published a study examining how federal institutions use the official language minority press with a series of 18 specific recommendations aimed at providing the government with a more effective framework for managing its advertising process.

This follow-up report evaluates the implementation status of each of the Commissioner’s recommendations. In preparing the report, OCOL conducted interviews with responsible officials from the institutions concerned and examined the documentary evidence they submitted. Several officials said a number of actions to implement the Commissioner’s recommendations were already under way or planned for implementation in the coming months. OCOL also met with the Association de la presse francophone (APF) and the Quebec Community Newspapers Association (QCNA) to hear their views concerning implementation of the recommendations.



As part of the follow-up, OCOL reviewed a new federal advertising management framework being developed by the Treasury Board Secretariat (TBS), the organization mainly responsible for government communications policy. OCOL also analysed all advertising-related complaints received in 2002 and 2003.

The final step by OCOL was a review of the moratorium on all Government of Canada advertising activities announced by the Minister of Public Works and Government Services Canada on March 15, 2004. The moratorium was to remain in effect until June 1, 2004. This moratorium was accompanied by a 15% reduction in media placement expenses from the 2002–2003 level (approximately \$83 million). The lower expenditure ceiling was to be maintained at approximately \$70.55 million a year until fiscal 2006–2007.

The OCOL assessment of the implementation status for each recommendation in the November 2002 Commissioner's report is outlined in the following pages.

IMPLEMENTATION STATUS

Responsibility for implementing OCOL recommendations has been affected by a restructuring announced by the Government of Canada on December 12, 2003. Recommendations 6, 7 and 8, initially addressed to Communication Canada, now apply to Public Works and Government Services Canada (PWGSC). Recommendations 3, 4, 10 and 14 now apply to the Public Service Human Resources Management Agency of Canada (PSHRMAC) rather than to the Treasury Board Secretariat (TBS).

Government of Canada Communications Policy, Procedures and Guidelines

Recommendation 1

The Commissioner of Official Languages recommends that the Treasury Board Secretariat ensure that, by March 31, 2003, the government communications policy, procedures or guidelines place greater emphasis on official language obligations by referring to sections 11 and 30 of the *Official Languages Act*, that is, by stipulating linguistic obligations according to the mode of communication used and by citing the right of Canadians to receive communications from the federal government in the official language of their choice.

In replying to our initial study of November 2002, TBS officials underlined that Policy Requirement 23 of the *Communications Policy of the Government of Canada* embraces obligations under sections 11 and 30 of the *Official Languages Act*, and specifies the requirement to buy federal advertising space in media that serve the linguistic minority. Furthermore, Policy Statement 2 and Policy Requirements 1a and 4 refer to linguistic provisions in the *Canadian Charter of Rights and Freedoms*, including the right of the public to communicate with the government in either language. These obligations also spell out the need to comply with Treasury Board official languages policies.

We found these assertions to be accurate. We understand that the Communications Policy is not an official languages policy. Rather, it supports and complements policy by leaving the authority where it properly belongs, in the more explicit official languages policies themselves. Based on this explanation, we consider the intent of the above recommendation to be satisfied.

Status of Recommendation 1: implemented.

Recommendation 2

The Commissioner of Official Languages recommends that the Treasury Board Secretariat ensure that, by March 31, 2003, where linguistic obligations are cited, its government communications policy, procedures or guidelines refer the reader to the

relevant sections/chapters/guidelines of Treasury Board policies, the *Official Languages Act*, or the Official Languages Regulations.

Policy Requirement 23 of the Communications Policy refers the reader to the relevant sections of the *Official Languages Act*. It also states that media buys must include the purchase of advertising space and time in organs serving a community's official language minority.

The Secretariat is reviewing its approach to the Communications Policy guidelines as part of its efforts to renew and consolidate the Treasury Board policy suite. The Secretariat will factor official language considerations into future guidelines, as appropriate.

Status of Recommendation 2: partially implemented.

Treasury Board Official Languages Policies

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Recommendation 3

The Commissioner of Official Languages recommends that the Treasury Board Secretariat, by March 31, 2003, revise the Policy on Communications with and Services to the Public to include more details about the obligations arising from sections 11 and 30 of the *Official Languages Act* and directly discuss media use.

Responding to our initial study of November 2002, TBS officials pointed out that the Policy on Use of Media specifically deals with the obligations under sections 11 and 30 of the *Official Languages Act*. In commenting on this follow-up report, the Privy Council Office confirmed the view of PSHRMAC that Treasury Board responsibilities do not extend to Part II (section 11) of the Act as suggested by our report. We wish to point out that the current Policy on Use of Media, which forms part of the Official Languages Component of the Treasury Board Manual, in fact deals with the obligations set out in section 11 of the Act in addition to those of section 30. We were informed by PSHRMAC, the body now responsible for implementing recommendation 3, that this policy will be included in the official languages policy on communication with and services to the public, which is currently being revised. Sections 11 and 30 are of particular importance with respect to use of the media. We believe that PSHRMAC ought to consult the Department of Justice on this question as part of its review process.

PSHRMAC officials explained that the Agency is looking to simplify its policy documents and make them shorter, more accessible, and adapted to Web presentation. The focus is on clarity. Details of how to implement the policies will be appended to them through hyperlinks to various tools, such as Notes to Reader.

PSHRMAC indicated that policies on Communication with and Services to the Public, the Use of Official Languages on Electronic Sites and the Use of Official Languages in Electronic Communications are undergoing revision. Policy drafts have been prepared. A consultative process that included on-line and personal consultation with other federal institutions, including OCOL, was undertaken as part of phase 2 of the policy review process. It covered, among other things, recommendations contained in our November 2002 study and in other OCOL studies. The review process was undertaken as part of the Government of Canada's five-year *Action Plan for Official Languages*. The work has involved prioritizing needs, and phase 1 addressed the need for policy changes in human resources management, including policy revisions in the area of language of work, among others.

Status of Recommendation 3: implementation under way.

Recommendation 4

The Commissioner of Official Languages recommends that the Treasury Board Secretariat, by March 31, 2003, develop audit measures to see to the application of the advertising component of Treasury Board official languages policies and conduct periodic audits.

PSHRMAC officials stated that the Agency is developing performance indicators and tools to help institutions gauge their own performance in implementing official languages policies with an emphasis on expected results. An internal committee is working on this. The first step was to obtain policy approval regarding where and how to measure results, and the next step is to develop performance indicators and evaluation methodologies. A database has been set up that encompasses all recommendations addressed to federal institutions by parliamentary committees and OCOL. It will provide the information necessary for follow-up. Once the review process is completed, the adopted measures will ultimately depend on final policy approval. Both the policy review process and the improved audit capability exercise arose from the government's *Action Plan for Official Languages*.

We believe the Agency is responsible not only for providing performance indicators and measurement tools for federal institutions, but also for ensuring that recurring problems are identified and corrected through effective monitoring and control. In our view, the Agency has a role to play in this respect, and must ensure that the policies produce the expected results.

PSHRMAC points out that it has an audit program for official languages and that it will monitor compliance with section 30 of the *Official Languages Act*. The Agency, however, did not specify when it will carry out this activity.

Status of Recommendation 4: implementation under way.

Recommendation 5

The Commissioner of Official Languages recommends that the Treasury Board Secretariat, by March 31, 2003, encourage federal institutions to develop internal procedures to help their managers apply the *Communications Policy of the Government of Canada* to institutional operations.

In reply to our November 2002 study, TBS officials reiterated the Communications Policy's procedures that federal institutions are expected to follow. As for internal procedures within departments, officials considered this question to be the responsibility of each institution concerned, provided that procedures developed for the institution's own operations address the procedural requirements of the Communications Policy. They maintained the TBS position that the Secretariat does not have authority to act in this regard.

TBS considers that institutions need to determine for themselves whether internal procedures are required to help their managers apply the Communications Policy (or any other Treasury Board policy) to institutional operations. The Secretariat encourages good management practices on an ongoing basis.

Our initial report agreed that the issue of internal procedures is properly left to individual institutions. We nonetheless believe that TBS ought to encourage institutions to develop procedures tailored to their particular situation. In this way, managers may be more likely to identify with the policies.

The Commissioner maintains the above recommendation.

Status of Recommendation 5: not implemented.

Advertising Guide

Recommendation 6

The Commissioner of Official Languages recommends that Communication Canada, by March 31, 2003, make the required corrections to the Advertising Guide, drawing on Treasury Board Secretariat guidelines on media use, to make the distinction between obligations pursuant to section 11 and those pursuant to section 30 of the *Official Languages Act*.

By the time Communication Canada received our initial study report of November 2002, the Advertising Guide was already being revised. Officials said they would pursue the matter in co-operation with OCOL and TBS. They would also take into account TBS guidelines on advertising to be issued within the framework of the Communications Policy.

The Advertising Guide is now the responsibility of PWGSC and is still in the revision process. An updated version, titled *Advertising in the Government of Canada: An Orientation Guide 2003–2004*, now distinguishes between sections 11 and 30 of the *Official Languages Act*. Both the electronic version, which forms part of PWGSC's Advertising Tool Kit, and the department's extranet site on advertising make the same distinction. The reference to section 30 states, "where warranted by demand, the media must provide for effective communication with members of the public in their preferred official language."

We believe a reference to the Official Languages Regulations should be added in the Advertising Guide to clarify the notion of "demand" and thereby preclude misinterpretation. There should also be a reference to section 23 of the Communications Policy concerning the need for media buys to include the purchase of space and time in media that serve the official language minority in a given community. PWGSC informed us that it would update its extranet site to include these references, as well as any future guide to be released by the department.

Status of Recommendation 6: implemented.

Recommendation 7

The Commissioner of Official Languages recommends that Communication Canada, by March 31, 2003, define, in its Advertising Guide, the concept of "equivalent publication". (See status of recommendations 7 and 8)

Recommendation 8

The Commissioner of Official Languages recommends that Communication Canada, by March 31, 2003, change its interpretation of "equivalent publication" to include weeklies.

When print media are used, OCOL considers that minority language weekly newspapers are an effective and efficient means of communicating because of the relative permanence and continuing accessibility of printed announcements, and because of the wide market penetration and high readership of the weekly press.

Communication Canada officials responded to our November 2002 study by promising to define the concept of equivalence in co-operation with OCOL and TBS. PWGSC is now the department responsible for implementing the above recommendations. It has been

working on defining the concept and has had meetings on the subject with the new Agency of Record (the agency authorized to purchase media space or air time on behalf of the government). The department has also had exchanges with the APF, the Association des radios communautaires (ARC) and OCOL to better define the concept of equivalence in publication. OCOL has also consulted PSHRMAC.

The APF submitted a document to PWGSC outlining its position on equivalence in advertising. Its position is that institutions using the majority press to communicate with the general public should also use the minority press to communicate with the official language minority population and should not automatically assume the official language minority reads the majority press.

The APF is also concerned about advertising that specifically targets the official language minority community. Beyond the specific obligations arising from sections 11 and 30 of the *Official Languages Act*, Part VII of the Act outlines the Government of Canada's commitment to enhance the vitality of Canada's English-speaking and French-speaking minorities and to support their development. Federal institutions may therefore undertake specific communication initiatives aimed at official language minority communities without having to communicate with the official language majority population. The APF believes the government should have flexibility to buy advertisements about programs or activities specifically targeted to Francophones in French-language newspapers or on French radio only, without an English equivalent.

The APF also prepares material in French only for distribution as inserts in French-language weeklies. In our meeting with the APF, representatives cited the refusal of some federal institutions to place advertisements in the supplements, without an English equivalent.

In our view, no English-language counterpart is required where it can be clearly demonstrated that a communication targets a specific population whose language preference is French. Such an exemption applies when the message of the federal institution is of specific interest to French-speaking persons (i.e., destined only for this specific public) and does not contain a message of a general nature. The same holds true when the communication targets a specific public whose language preference is English. However, in either situation, caution must be exercised in making this determination.

We also met with a representative of the Quebec Community Newspapers Association (QCNA), who said that placement agencies are sometimes at a loss to find an equivalent to a daily newspaper. Agencies therefore tend to place bilingual notices in a majority newspaper. He pointed out that media associations can act as an effective go-between in helping placement agencies select the newspapers most likely to reach the target population.

Status of Recommendations 7 and 8: implementation under way.

Contracts with Advertising and Placement Agencies

Recommendation 9

The Commissioner of Official Languages recommends that Public Works and Government Services Canada, by March 31, 2003, develop a language-related clause to be included in all future contracts signed with advertising or placement agencies.

A review of the department's National Standing Offer for Advertising shows that official languages requirements are taken into account. Annex A – Statement of Work and Annex C (Appendix 1 – Procedures for Call-Ups against a Standing Offer) oblige contractors to respect the relevant sections of the *Official Languages Act*, among other policies and acts, when providing services and producing materials for the Government of Canada. The section on Media Services in Annex A insists that copy writing and copy editing for media must be provided in both official languages. It also specifies that media plans must be developed in compliance with the Act. Annex C (Appendix 1) requires media plans to respect sections 11 and 30 of the Act.

The contract with the Agency of Record includes among its Operating Rules the requirement to provide an equal balance of English and French services and to reflect public sector sensitivities. The Scope of Work section requires the Agency of Record to provide services in both official languages as needed by the Government of Canada, the media and creative advertising agencies.

We appreciate that spelling out official language requirements may not be appropriate in this context. We note that the department plans to hold training sessions for federal institutions, as well as advertising and placement agencies.

Status of Recommendation 9: implemented.

Recommendation 10

The Commissioner of Official Languages recommends that the Treasury Board Secretariat, by March 31, 2003, encourage federal institutions for whom Treasury Board is not the employer and privatized institutions subject to the *Official Languages Act* to include a language-related clause in all future contracts signed with their advertising and/or placement agencies.

In response to our November 2002 study, TBS officials stated that the Secretariat is not authorized to specify the procedures to be followed in these cases. They believed that TBS was

not in a position to follow up on this recommendation as formulated. However, TBS's Official Languages Branch was prepared to remind these institutions of their responsibility for taking necessary measures to comply with the principles set out in Treasury Board policies.

We have been informed by PSHRMAC, the new agency responsible for this matter, that the revised policies are focussed on results. The Agency considers that the spirit of the above recommendation will be met in that the revised policy on Communications with and Services to the Public will focus on what institutions have to do to meet their official languages obligations.

Status of Recommendation 10: implementation under way.

Recommendation 11

The Commissioner of Official Languages recommends that Public Works and Government Services Canada, by December 31, 2002, amend its contract with Média I.D.A. Vision to include a clause stipulating that the agency must keep an updated list of English-language and French-language newspapers across the country and of the regions served by these newspapers.

The contract with the current Agency of Record contains a clause that reads as follows: "The Agency of Record will be responsible for maintaining a full list, in both official languages, of advertising publications that will be made available upon request to the Program Authority and the planning agencies."

We believe this means the list will include publications of both official language groups. We suggest that PWGSC amend the clause to be more explicit.

Status of Recommendation 11: implemented.

Recommendation 12

The Commissioner of Official Languages recommends that Communication Canada inform institutions listed in Schedule III of the *Financial Administration Act* that a list of newspapers is available to them and explain how they can obtain it.

Information on available newspapers will be provided through the new Agency of Record, which is currently in a period of transition, and the required information is being transferred from the former Agency of Record. As the current lists are out of date, PWGSC informed us that updated lists could be made available as part of the information session it plans to hold on the new advertising management framework.

PWGSC points out that although the institutions listed in Schedule III of the *Financial Administration Act* are encouraged to abide by the principles of the Communications Policy, they are not required to comply with the obligations set out in the policy nor with those of the Common Services Policy. These institutions are therefore directly responsible for the planning of their advertising initiatives, including the selection of advertising agencies that already maintain lists of domestic and international newspapers.

Status of Recommendation 12: implementation under way.

Partnership

Recommendation 13

The Commissioner of Official Languages recommends that the Treasury Board Secretariat, by March 31, 2003, ensure that the policy, procedures or guidelines on government communications assign greater importance to the issue of advertising partnerships and to official language obligations by referring to sections 11 and 30 of the *Official Languages Act*, that is, by specifying linguistic requirements according to the medium of communication used.

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TBS officials informed us in November 2002 that communications guidelines for Partnering, Collaborative Arrangements and Sponsorships would be issued under the Communications Policy well before March 31, 2003. Advertising guidelines were also to be issued before this date. The new guidelines would address the official languages obligations under sections 11 and 30 of the *Official Languages Act*. However, they would not replace the Policy on Media Use, which is part of the official languages policy framework now administered by PSHRMAC.

As already mentioned, the Secretariat is reviewing its approach to the Communications Policy guidelines as part of its efforts to renew and consolidate the Treasury Board policy suite. The Secretariat will factor official language considerations into future guidelines.

Status of Recommendation 13: implementation under way.

Recommendation 14

The Commissioner of Official Languages recommends that the Treasury Board Secretariat, by March 31, 2003, revise the Policy on Communications with the Public to specify the obligations of federal institutions participating in partnerships.

In November 2002, TBS officials agreed that the obligations of federal institutions in partnership situations should be more specific. They proposed incorporating this measure into the official languages policy review process.

As mentioned above, a review process is currently under way within PSHRMAC. TBS is also taking this issue into account in developing its Communications Policy guidelines for Partnering, Collaborative Arrangements and Sponsorships.

Status of Recommendation 14: implementation under way.

Impact of Advertising Deadlines at Various Newspapers

Recommendation 15

The Commissioner of Official Languages recommends that the federal institutions dealing with advertising deadlines at various newspapers, by March 31, 2003, arrange exploratory meetings with representatives of the Association de la presse francophone and the Quebec Community Newspaper Association in order to find solutions that would allow them to meet, at all times, their linguistic obligations under sections 11 and 30 of the *Official Languages Act*.

No meetings have been held to date to specifically address this recommendation.

Although not solely responsible for implementing the above recommendation, PWGSC is taking a leading role to facilitate its implementation by co-ordinating information and training sessions on the new advertising management process. PWGSC plans to invite the APF to one of these sessions to make a presentation to federal public servants on advertising in the official language minority media. This presentation will allow federal institutions to better understand the Francophone minority newspaper network and to become aware of the advantages of placing advertisements in the minority press. We believe that PWGSC ought to extend a similar invitation to the QCNA. The Department agrees that invitations to the APF and the Association des radios communautaires (ARC) to participate in advertising training sessions should also be extended to the QCNA.

Before the training sessions can be held, the Privy Council Office must finalize the new funding approach for advertising and TBS must approve the new Procedures for Planning, Contracting and Evaluating Advertising. The procedures outline the requirements of the Communications Policy. They include a requirement that advertising designs and presentations conform to the rules of the Federal Identity Program and the *Official Languages Act*.

PWGSC's Advertising Coordination Directorate plans to address official languages requirements as part of the training sessions in co-operation with OCOL. Also planned are outreach sessions on the advertising management process and procedures for suppliers who have recently been awarded standing offers and supply arrangements for advertising services. We believe these sessions ought to include an overview of official languages responsibilities outlined in contractual agreements.

The Directorate is also in the process of hiring a media planner specialist. This official will provide federal institutions with impartial and experienced advice as they develop their advertising media plans. In our view, this official ought to be well versed in matters of official languages.

Status of Recommendation 15: implementation under way.

PART VII of the *Official Languages Act*

Recommendation 16

The Commissioner of Official Languages recommends that the Department of Canadian Heritage, by December 31, 2002, create a committee composed of representatives from Communication Canada, the Treasury Board Secretariat, communications officials from a few key departments, and representatives of English-language and French-language minority newspapers in order to make managers more aware of the needs of official language minority communities.

Canadian Heritage informed us that it has set up a working group to examine ways of promoting the use of the official language minority media within the government's advertising management framework. The first meeting was held in October 2003 to review the current situation, bring participants up to date and pave the way for future meetings. The meeting brought together officials of the federal institutions responsible at that time for management of the advertising management framework: the Privy Council Office, TBS, PWGSC and Communication Canada. Participants included representatives of the following key federal institutions that advertise in the media: Human Resources Development Canada, Industry Canada, Health Canada, Canada Post Corporation and Canadian Heritage. A representative of Justice Canada also attended. The second meeting, planned for June 2004, was to include members of the APF, the ARC and the QCNA but was postponed because the new advertising management framework was not yet well defined.

The APF informs us that the tools and mechanisms for ensuring conformity with the *Official Languages Act* are not fully understood by those involved in the advertising process.

The viability of the minority press is undermined by placing a bilingual advertisement in a majority newspaper, instead of a unilingual one in an equivalent official language minority newspaper. According to the APF, it is possible the public will find nothing of value or interest in official language minority newspapers if federal institutions do not use these media for their advertising. The APF believes the interdepartmental study group on media use ought to provide a forum for discussing irritants and interpreting the requirements of the Act.

The QCNA attributes its resource problems in part to inequity in federal funding. The Association believes it needs to provide more service to its members and has a goal of working with the APF and the ARC. The Association would like to see more research on the Anglophone market in Quebec, including the newspaper and community radio markets. The QCNA believes the situation could be improved by providing federal institutions with better planning tools.

Status of Recommendation 16: partially implemented.

Recommendation 17

The Commissioner of Official Languages recommends that the Department of Canadian Heritage, by March 31, 2003, add a component on media use to its guide on the implementation of Part VII of the *Official Languages Act*.

Canadian Heritage was already updating its Coordinators' Guide on Implementation of sections 41 and 42 of the *Official Languages Act* (September 2003) at the time of our November 2002 study. The revised guide now includes a component on the use of the official language minority media. The section on Official Languages and Communications sets out the requirements of sections 11 and 30 of the Act, explains the government's Communications Policy and includes references to the *Canadian Charter of Rights and Freedoms*. The subsection on Publicity refers to sections 11 and 30 and highlights the requirement to ensure that media purchases of space and time include media buys that serve the Anglophone and Francophone minority communities.

Status of Recommendation 17: implemented.

Recommendation 18

The Commissioner of Official Languages recommends that the Department of Canadian Heritage, by March 31, 2003, implement a monitoring system to ensure that federal institutions comply with the provisions of Part VII of the *Official Languages Act* in their communication activities.

Part VII of the Act deals with the advancement of English and French. Canadian Heritage officials believe their mandate does not extend to ensuring compliance with the provisions of Part VII of the *Official Languages Act* in the communication activities of federal institutions. The Department requests that institutions responsible under the ministerial accountability framework for implementing Part VII report to it annually on results achieved, including use of the minority media. Summaries of the achievements are presented in the report that the Department tables each year to Parliament. By placing the emphasis on anticipated results, Canadian Heritage helps equip responsible institutions with the necessary follow-up mechanisms to strengthen the fulfillment of their commitments. Moreover, the Department encourages these institutions in various ways to use the minority media.

This assertion notwithstanding, we believe the responsibility for co-ordination assigned to Canadian Heritage under Part VII of the *Official Languages Act* also includes monitoring to ensure that federal institutions respect the government's commitment to enhance the vitality of official language minority communities by using the minority media.

Status of Recommendation 18: partially implemented.

COMPLAINTS ANALYSIS

Our November 2002 report included data on complaints received by OCOL from 1998 to 2001. The study has now been updated to include complaints received in 2002 and 2003 (see Appendix Tables).

Table B shows that the number of admissible advertising-related complaints received was higher in 2002 (166 complaints) than in 2001 (121 complaints). Figures for 2003 are encouraging, showing 42 percent fewer advertising-related complaints (96) than in 2002. Advertising-related complaints are also decreasing as a proportion of all admissible complaints. The number received in 2003 represented 13 percent of all admissible complaints, compared with 22 percent in 1998, when they were at their highest level. Although data for the first half of 2004 show a continuing downward trend, we are unable to tell whether the complaints decreased because the number of newspaper advertisements also went down or because the *Official Languages Act* was being respected.

Table C shows that Nova Scotia remains the province having the highest number of overall advertising-related complaints.

Table D indicates that Air Canada, the Halifax International Airport Authority and Human Resources Skills and Development Canada (formerly Human Resources Development Canada) are the institutions most frequently cited in advertising-related complaints.

Table E shows complaints filed under section 11 of the *Official Languages Act*. The number is significant, considering that section 11 requires the use of print media whenever possible.


CUTBACKS AND MORATORIUM ON GOVERNMENT OF CANADA ADVERTISING

On March 15, 2004, the Minister of Public Works and Government Services Canada announced a moratorium on all Government of Canada advertising activities until June 1, 2004. As well, there was to be a 15% reduction in media placement expenses from the 2002–2003 level, amounting to some \$83 million. The lower expenditure ceiling was to be maintained at approximately \$70.55 million a year until fiscal 2006–2007.

We do not question the government's decision to adopt these measures. Our interest in this matter is to highlight the impact of such decisions on the government's commitment outlined in section 41 of the *Official Languages Act* to enhance the vitality of official language minority communities.

Following the government's announcement, the APF, the ARC and the Fédération des communautés francophones et acadienne du Canada (FCFA) made a presentation to the House of Commons Standing Committee on Official Languages. They were concerned about the negative impact of the government advertising management review on advertising revenues as well as on the very survival of their member newspapers and community radio stations. The QCNA wrote the Committee expressing the same concerns. In response, Committee members expressed the view that this action by the government jeopardized the survival of the official language minority media. They believed the minority media should not be treated according to the same rules as mainstream media, adding that the government's review of its advertising management framework should not be detrimental to official language minority communities. The Committee recommended that the Government of Canada set aside a minimum of 5.4 percent of its media buys for the official language minority media—a figure that corresponds to the relative weight of the minority Anglophone and Francophone communities in Canada. The Committee further recommended that PWGSC comply fully with the *Official Languages Act* and the requirements set out in the Communications Policy by accounting for its purchase of space and time in the official language minority media.

It is almost impossible to attach a dollar figure to the impact of the moratorium on the official language minority press, because other factors also contribute to the plight of official language minority newspapers. Some were already suffering losses prior to the moratorium. Faced with this difficulty, Canadian Heritage and the APF agreed that the Department would offer its support by reviewing the operation of official language minority newspapers. Canadian Heritage, in co-operation with the APF, wants to understand the full extent of the problem and work on solutions. The same approach is being used in addressing the concerns of the ARC. The primary objective in both cases is to help maintain the viability of the media, and Canadian Heritage has funded projects to meet this goal.



Canadian Heritage points out that the support it provides to the official language minority media is not related to the moratorium. Within the context of its Official Language Communities Development Program, the Department has worked for several years with the minority media groups so that they can equip their members with the necessary administrative and organizational tools to help them avoid the financial difficulties caused by local market fluctuations. Also, certain official language minority weeklies receive additional support through the Publications Assistance Program.

The importance of the media's contribution to the vitality of the official language minority communities should not be underestimated. In imposing the moratorium, the government failed to assess the potential impact of its decision on the very survival of media outlets serving these communities—a government commitment in Part VII of the *Official Languages Act*.

CONCLUSION

Of the 18 recommendations addressed to the federal institutions concerned, only five have been fully implemented to date. One has not been implemented, three have been only partially implemented, and implementation of the remaining nine is under way. Section 23 of the Communications Policy specifies which sections of the *Official Languages Act* apply to advertising and provides greater clarity by stipulating that media buys must include the purchase of advertising space and time in media serving a community's official language minority. There is now an official languages clause in PWGSC's contract with the Agency of Record and in the National Standing Offer for Advertising, while Canadian Heritage's guide to implementation of Part VII now contains a component on media use.

The nine outstanding recommendations are aimed at ensuring that responsible managers have the information and tools they require to carry out their official languages responsibilities. PWGSC's Advertising Guide has been amended to distinguish between sections 11 and 30 of the Act, but has yet to include a definition of "equivalent publication". In our view, PSHRMAC and the Department of Canadian Heritage do not do sufficient monitoring to ensure respect of official languages policies as they relate to the use of the media.

We are disappointed the actions required for improving the advertising management framework are still ongoing in some cases. The changes in responsibilities stemming from government restructuring took place well after our November 2002 report was published.

In some ways, the moratorium on government advertising and the reaction of the official language minority media associations have helped increase movement on these issues. We believe that actions currently under way are steps in the right direction and, once completed, should serve to improve the advertising management framework.

The road to recovery has been slow. It is time to pick up the pace and ensure that those responsible for advertising are adequately informed of their official languages responsibilities and have the resources to meet their obligations.

APPENDIX TABLES

Complaints filed with the office of the Commissioner of Official Languages regarding advertisements not placed in official language minority press, 1998–2003

A - By Language and Year

| Year | French language | English language |
|-----------|-----------------|------------------|
| 1998 | 273 | 11 |
| 1999 | 256 | 8 |
| 2000 | 170 | 9 |
| 2001 | 111 | 10 |
| 2002 | 158 | 8 |
| 2003 | 92 | 4 |
| 1998–2003 | 1,060 (95.5%) | 50 (4.5%) |
| Total | 1,110 | |

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Note:

The total number of complaints (1,110) concerning this issue represents 17% of all admissible complaints received between 1998 and 2003. Of the total number, 736 (66.3%) complaints were deemed founded, 218 (19.6%) unfounded and 77 (6.9%) are still under investigation. The investigation for the remaining complaints were interrupted for various reasons.

B – By Year and Language, as share of total

| Year and language | Number | Share of total (%) |
|-------------------|--------|--------------------|
| 1998 | 284 | |
| Francophone | 273 | 96.1 |
| Anglophone | 11 | 3.9 |
| 1999 | 264 | |
| Francophone | 256 | 97.0 |
| Anglophone | 8 | 3.0 |
| 2000 | 179 | |
| Francophone | 170 | 95.0 |
| Anglophone | 9 | 5.0 |
| 2001 | 121 | |
| Francophone | 111 | 91.7 |
| Anglophone | 10 | 8.3 |
| 2002 | 166 | |
| Francophone | 158 | 95.2 |
| Anglophone | 8 | 4.8 |
| 2003 | 96 | |
| Francophone | 92 | 95.8 |
| Anglophone | 4 | 4.2 |

C - Origin of Complaints by Province

| Year and province | Number | Share of total (%) |
|--------------------------|--------|--------------------|
| 1998 | | |
| Ontario (excluding NCR*) | 75 | 27.5 |
| Nova Scotia | 64 | 23.4 |
| Saskatchewan | 53 | 19.4 |
| Prince Edward Island | 41 | 15.0 |
| Alberta | 21 | 7.7 |
| 1999 | | |
| Nova Scotia | 61 | 23.8 |
| Ontario (excluding NCR) | 52 | 20.3 |
| Prince Edward Island | 46 | 18.0 |
| Alberta | 39 | 15.2 |
| Saskatchewan | 29 | 11.3 |
| 2000 | | |
| Nova Scotia | 60 | 35.3 |
| Ontario (excluding NCR) | 34 | 20.0 |
| Prince Edward Island | 21 | 12.4 |
| Alberta | 21 | 12.4 |
| Saskatchewan | 13 | 7.6 |
| British Columbia | 13 | 7.6 |
| 2001 | | |
| Nova Scotia | 47 | 42.3 |
| Ontario (excluding NCR) | 43 | 38.7 |
| Prince Edward Island | 10 | 9.0 |
| Alberta | 8 | 7.2 |
| 2002 | | |
| Nova Scotia | 52 | 31.0 |
| Prince Edward Island | 30 | 18.0 |
| Alberta | 15 | 9.0 |
| Ontario (excluding NCR) | 15 | 9.0 |
| Quebec | 10 | 6.0 |
| 2003 | | |
| Nova Scotia | 38 | 40.0 |
| Prince Edward Island | 25 | 26.0 |
| Alberta | 8 | 8.0 |

*NCR = National Capital Region

D - By Institution (Most Frequently Cited)

| Year and agency | Number | Share of total (%) |
|---|--------|--------------------|
| 1998 (total of 284 complaints) | | |
| Air Canada (including regional carriers) | 90 | 32.0 |
| Human Resources Development Canada | 24 | 8.4 |
| Fisheries and Oceans Canada | 15 | 5.3 |
| Business Development Bank of Canada | 14 | 4.9 |
| National Defence | 12 | 4.2 |
| Public Works and Government Services Canada | 11 | 3.9 |
| Agriculture and Agri-Food Canada | 9 | 3.2 |
| Canadian National | 7 | 2.5 |
| 1999 (total of 264 complaints) | | |
| Air Canada (including regional carriers) | 61 | 23.1 |
| Human Resources Development Canada | 44 | 16.7 |
| Canada Investment and Savings | 24 | 9.1 |
| Atlantic Canada Opportunities Agency | 11 | 4.2 |
| Business Development Bank of Canada | 7 | 2.7 |
| Fisheries and Oceans Canada | 7 | 2.7 |
| 2000 (total of 179 complaints) | | |
| Air Canada (including regional carriers) | 32 | 17.9 |
| Halifax International Airport Authority | 17 | 9.5 |
| Human Resources Development Canada | 13 | 7.3 |
| Canada Post Corporation | 11 | 6.1 |
| Canada Mortgage and Housing Corporation | 8 | 4.5 |
| Canadian National | 8 | 4.5 |
| National Defence | 8 | 4.5 |
| Elections Canada | 7 | 3.9 |
| 2001 (total of 121 complaints) | | |
| Human Resources Development Canada | 17 | 14.0 |
| Halifax International Airport Authority | 15 | 12.4 |
| Industry Canada | 9 | 7.4 |
| Air Canada (including regional carriers) | 8 | 6.6 |
| Solicitor General of Canada | 5 | 4.1 |
| 2002 (total of 166 complaints) | | |
| Air Canada (including regional carriers) | 25 | 15.1 |
| National Defence | 11 | 6.6 |
| Canadian Tourism Commission | 9 | 5.4 |
| Health Canada | 7 | 4.2 |
| Halifax International Airport Authority | 6 | 3.6 |
| Human Resources Development Canada | 5 | 3.0 |
| Natural Resources Canada | 5 | 3.0 |
| 2003 (total of 96 complaints) | | |
| Air Canada (including regional carriers) | 9 | 9.3 |
| Halifax International Airport Authority | 9 | 9.3 |
| Human Resources Development Canada | 7 | 7.3 |
| Agriculture and Agri-Food Canada | 6 | 6.3 |
| Export Development Canada | 5 | 5.2 |
| Parks Canada Agency | 5 | 5.2 |

E. By Pertinent Provision of the *Official Languages Act*

| Provision | Complaints concerning failure to publish in the minority Francophone press | Complaints concerning failure to publish in the minority Anglophone press |
|------------------|--|---|
| 1998 | | |
| Section 11 | 51 | 5 |
| Section 30 | 220 | 6 |
| Section 11 or 30 | 2 | 0 |
| Total | 273 | 11 |
| 1999 | | |
| Section 11 | 18 | 2 |
| Section 30 | 237 | 6 |
| Section 11 or 30 | 1 | 0 |
| Total | 256 | 8 |
| 2000 | | |
| Section 11 | 16 | 3 |
| Section 30 | 152 | 6 |
| Section 11 or 30 | 2 | 0 |
| Total | 170 | 9 |
| 2001 | | |
| Section 11 | 19 | 1 |
| Section 30 | 92 | 9 |
| Section 11 or 30 | 0 | 0 |
| Total | 111 | 10 |
| 2002 | | |
| Section 11 | 17 | 4 |
| Section 30 | 131 | 3 |
| Section 11 or 30 | 10 | 1 |
| Total | 158 | 8 |
| 2003 | | |
| Section 11 | 12 | 2 |
| Section 30 | 74 | 2 |
| Section 11 or 30 | 6 | 0 |
| Total | 92 | 4 |

Note:

The provisions of sections 11 and 30 are outlined in the introduction.