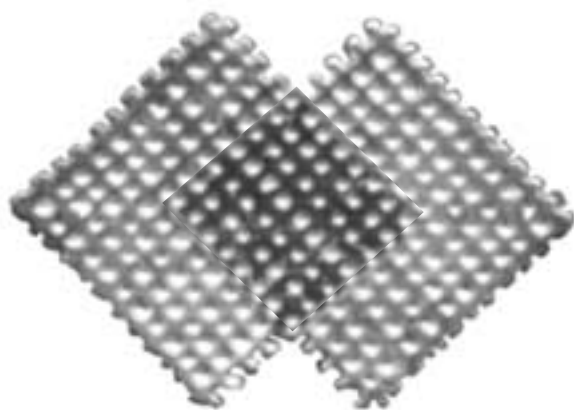


**THE TEXTURE
OF CANADA**

*A fabric is woven of
many threads.*

*Those of us who
speak English and
those of us who speak
French – ourselves
made up of many
different elements –
have joined together
to weave a social
fabric called Canada.*



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*Wearers of the emblem of
the Office of the Commissioner
of Official Languages are
signifying their commitment
to fostering the best possible
human relations between the
English-speaking and
French-speaking components
of Canada's social fabric.*

THE SPEAKER,
SENATE, OTTAWA

Mr. Speaker,

Pursuant to
Section 66 of the
Official Languages Act,
I hereby submit
to Parliament, through
your good offices,
the twenty-ninth
Annual Report
of the Commissioner
of Official Languages,
covering the period between
January 1st, 1999, and
March 31st, 2000.

Yours respectfully,



Dyane Adam
October 2000

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PREFACE

1999 • 2000

This 29th Annual Report of the Office of the Commissioner of Official Languages appears at a time of transition. It reports a change first of all in leadership, since Dyane Adam succeeded Victor Goldbloom as Commissioner in 1999. A change also in the period covered by the report, since it will now cover the fiscal year rather than the calendar year. To make the transition, this report covers a 15-month period, from January 1, 1999, to March 31, 2000.

But the most noticeable change for our readers is no doubt the new format chosen for this report. Breaking away from the nearly encyclopedic style of the past, when it attempted to report on all activities and events relating to the official languages in Canada, the report will now focus specifically on the activities of the Office of the Commissioner. Since 1988, several other federal institutions, including Canadian Heritage and the Treasury Board Secretariat, have had to account for their annual activities under the Official Languages Act (the Act), and we have noted considerable duplication of information. Moreover, details about the administration of the Office of the Commissioner can be found in two public documents: the Report on Plans and Priorities and the Performance Report. These reports are part of the budget planning cycle and are tabled in Parliament every year.¹

With this streamlined format, which is intended to be it more accessible to the general public, the new Annual Report presents a limited number of significant issues of particular interest to the Commissioner. The focus is not so much on describing situations as on the changes brought about, the principles at issue, the corresponding actions taken by the Office of the Commissioner, and the results obtained. While national in scope, most of the issues discussed are illustrated by specific examples from certain regions. A few selected complaints are examined, for example, to show how certain complaints addressed to the Office of the Commissioner can lead to changes.

This report constitutes a summary of actions taken by the Office of the Commissioner illustrated by a few examples. A more detailed list of these actions is found in the Appendix. Much additional information previously included in the Annual Report, such as the reports of investigations and studies, is available in other publications of the Office.² In the near future, the Office's Internet site will be considerably expanded and will provide specific details of activity by region and government institution. It will offer links to minority community associations and other official languages stakeholders and, for example, include data by province and territory on school enrolment in mother tongue and second-language programs.

¹ The reports are available on-line on the Treasury Board Secretariat site at the following addresses: <http://www.tbs-sct.gc.ca/tb/estimate/pub3e0001.html> and <http://www.tbs-sct.gc.ca/tb/estimate/p3b9900e.html>

² To consult the electronic versions of the publications, see: <http://www.ocol-clo.gc.ca/>

While the report's appearance has changed, one thing remains constant: the mandate given the Commissioner by the Official Languages Act. By recognizing linguistic duality in Canada, the Act provides: that both official languages will be used as languages of work and languages of service in federal institutions; and that the minority official language communities will receive concrete support to foster their development and vitality. The Commissioner therefore has the mandate to ensure that the equality of status of English and French in Canada is recognized, to ensure compliance with the Act, and to inform Canadians of their rights.

In carrying out this mandate, the Commissioner takes all the measures required. On the basis of her research and analysis, she informs and advises institutions and citizens alike with a view to revitalizing Canada's linguistic duality. She monitors the advancement of English and French in society and, in particular, the vitality of the official language minority communities.

She also conducts audits and studies to evaluate the performance of federal institutions with regard to the Act. She conducts investigations either after receiving complaints or on her own initiative and recommends corrective measures or changes as required. The Commissioner appeals to the Governor in Council or, as a last resort, to the Federal Court, on her own initiative or with the consent of one or more complainants.

This report therefore provides a concise but representative summary of the activities conducted and the results obtained by Commissioners Goldbloom and Adam in 1999-2000. But to begin, the new Commissioner will give an outline of the general environment in which her mandate is carried out.

SUMMARY

1999 • 2000

The Commissioner of Official Languages, Dyane Adam, is submitting her first Annual Report. In addition to reporting on the principal activities that she and her predecessor, Victor Goldbloom, engaged in during the 15 months from January 1999 to March 2000, this report sets out the new vision that the Commissioner intends to bring to the fore during her term as ombudsman, but also as an agent of change, in the area of official languages.

The Commissioner feels that, on the whole, the track record of the past year in relation to the official languages of Canada is disturbing. Although linguistic duality is a fundamental value of Canada's identity, guaranteed and promoted for over 30 years thanks to the Official Languages Act (hereinafter the Act), once again this year the Commissioner has had to investigate some 1,800 complaints under this legislation. Her report shows a considerable number of recurring deficiencies in offices designated to provide service in both official languages. The recent government transformations have had a negative impact on respect for language rights. There is a chronic lack of in-depth follow-up by federal institutions on recommendations made by the Commissioner.

The picture therefore is clear: there is insufficient commitment and a flagrant lack of leadership by the federal government with respect to the full implementation of the Act. Commissioner Adam notes that, at the end of his term, Commissioner Goldbloom accurately observed that, while the Office of the Commissioner's recommendations led, in federal institutions, to a few changes by way of follow-up, these were superficial and not lasting. If the deficiencies and inertia observed are so widespread and persistent, it is because the government, at its highest level, does not provide the leadership it should to affirm linguistic duality. Yet this is a critical element for the success of Canadian federalism. Above and beyond legislation and general principles, elected officials and senior public servants must embody the value of the official languages. They must set an example through their own actions and initiate vigorous consultation among all federal institutions to implement these laws and principles which are enshrined in the Canadian Constitution.

Currently, a veritable vicious circle seems to operate with respect to federal action on official languages. The denial of language rights gives rise to complaints, which lead to investigations by the Office of the Commissioner, which in turn lead to certain conclusions that may be accompanied by recommendations. Federal institutions respond to these by making superficial changes that do not affect the structural nature of the problems, and the problems recur.

We want through this report to contribute to the implementation of lasting changes with regard to official languages. To achieve such changes, a different cycle must be instituted: 1) responsible commitment and leadership by the federal government must be re-affirmed; 2) a framework for application of the Act that guarantees the achievement of its objectives must be clearly defined and put in place; 3) the accountability of federal institutions must be strengthened; 4) their performance must be evaluated on the basis of lasting results and in terms of quality service. In short, it is time for accountability at all levels of government.

The past year has provided a number of incentives in this direction. The Supreme Court of Canada confirmed and clarified the scope of language rights in two judgments on remedy cases in which the Office of the Commissioner intervened. In its judgment in the Beulac case, the Court, among other things, stated that the language rights of official language minorities “can only be enjoyed if the means are provided.” Then, in its judgment in the case of the French-speaking parents of Summerside (Arsenault-Cameron), it reconfirmed the right to exclusive governance in the minority language. It also emphasized the need to take local needs into account when making policy decisions in this regard. These recent judgments reinforce a series of others that, for some 20 years, have clarified the scope of language rights in Canada.

The Office of the Commissioner, for its part, has closely monitored and made recommendations concerning government transformations, the quality of services provided to the official language minority communities, and the opportunity of federal employees to truly work in their preferred language. The Commissioner has also examined a number of issues such as municipal amalgamation, the reduction in services provided by Hôpital Montfort in Ottawa, the reform of New Brunswick’s education system, the restructuring of the air transport industry, the regulation of television broadcasting by the CRTC, the use of French on the Internet, the school choices made by parents to have their children educated in the minority official language, and the place of the two official languages in high-performance sport, to mention just a few.

In contrast to these numerous deficiencies and cases of inertia on the part of the government, the Commissioner wishes to point out a few promising breakthroughs. The revision of the Transportation Act should clarify the difficult issue of the linguistic obligations of Air Canada and its regional carriers. Via Rail finally provided bilingual service capability in the Montreal-Ottawa-Toronto triangle, and this made it possible to withdraw a number of legal proceedings against the Corporation. Human Resources Development Canada and Health Canada, acquiescing to the requests of the official language minority communities and the Office of the Commissioner, created coordinating committees to jointly determine strategic approaches. Finally, the Committee of Deputy Ministers Responsible for Official Languages was given a broader mandate and identified its strategic priorities.

This progress, however, is not equal to the challenges that remain if the Act and the Charter are to be fully implemented in the area of official languages.

To actively encourage renewal in this area, the Commissioner intends to redirect the focus of her activities. While continuing to accept and investigate complaints from the public about federal institutions, she will extend her field of action by specifically targeting the transformation of the organizational culture of the public service. To her role as ombudsman she will add the roles of agent of change and educator. Accordingly, she will not only investigate contraventions and deficiencies with regard to official languages, but will also look into recurrent problems and ways to solve them. It goes without saying that this effort will have to be made with the commitment and co-operation of federal institutions and, in particular, of the central agencies and the Committee of Deputy Ministers Responsible for Official Languages. The latter alone are responsible for and capable of transforming the organizational culture of the public service.

Seen in this new light, a number of issues have already been assigned priority at the Office of the Commissioner: the delivery of quality government services in both official languages, the use of both official languages in federal employees' workplaces, public service renewal in accordance with Canada's linguistic duality, the strengthening of tools for enforcement of the Act (policies, evaluation frameworks, etc.), the development of the minority communities under Part VII of the Act, the adaptation of social and health services to the needs of the minority communities, the inclusion of young people familiar with bilingualism into Canadian society, the review of immigration policies to integrate into them the principle of linguistic duality, and use of the Internet as an increasingly indispensable tool for the development of the linguistic communities.

The overall challenge this report poses for Canadian society and its governments is a substantial one. Linguistic duality is one of the mainstays of Canadian identity, and it is a critical mission of the federal government to assume its role as guardian of this fundamental value. It alone, it should be borne in mind, can play this role. The Commissioner, for her part, will do everything in her power to ensure that this challenge is met, in consultation with the communities, federal institutions and all the stakeholders in Canada's official languages.



OUR NEW
PERSPECTIVE

1999 • 2000

Chapter 1

IN 1999, DYANE ADAM TOOK UP THE POSITION OF COMMISSIONER OF OFFICIAL LANGUAGES. IN ADDITION TO TAKING OVER THE MAJOR ISSUES TIRELESSLY DEFENDED BY HER PREDECESSOR, VICTOR GOLDBLOOM, THE NEW COMMISSIONER ALSO SET NEW OBJECTIVES FOR THE PROMOTION OF LINGUISTIC DUALITY IN CANADA. THIS FIRST CHAPTER OUTLINES HER PRIORITIES AT THE OUTSET OF HER MANDATE.

1.1 AN UNACCEPTABLE SITUATION

CANADA'S OFFICIAL LANGUAGES ACT HAS BEEN IN EFFECT FOR OVER 30 YEARS. SINCE 1970, THE OFFICE OF THE COMMISSIONER HAS BEEN RESPONSIBLE FOR ENSURING COMPLIANCE WITH THE ACT, SAFEGUARDING THE RIGHTS IT SETS OUT, AND INFORMING THE PUBLIC OF THESE RIGHTS. IN 1982, THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS PROVIDED CONSTITUTIONAL GUARANTEES, AMONG OTHER THINGS, OF MINORITY LANGUAGE EDUCATION RIGHTS, OF THE RIGHT TO USE EITHER OFFICIAL LANGUAGE IN COMMUNICATIONS WITH THE FEDERAL GOVERNMENT, AND OF THE RIGHT TO COURT REMEDY. THESE PILLARS OF CANADA'S LANGUAGE POLICY CLEARLY REAFFIRM THAT THE PRINCIPLE OF EQUALITY OF THE TWO OFFICIAL LANGUAGES IS AT THE VERY HEART OF OUR COUNTRY. IN THE LAST 20 YEARS, THE COURTS HAVE REPEATEDLY CONFIRMED AND CLARIFIED THE SCOPE OF THE LANGUAGE RIGHTS AND OBLIGATIONS ARISING FROM THIS POLICY.

How can it be then that the Office of the Commissioner must, year after year, present the government with a lengthy list of shortcomings identified in the implementation of this policy? How can it be that many government institutions are still characterized by an at best passive, if not defensive, attitude with regard to their obligations, and that they all too often take action only in response to court injunctions or threats of court remedy? Actions relating to the Act are therefore carried out one by one, rather than arising from a comprehensive plan, shared responsibilities and strong leadership. This responsibility is apparently regarded as a simple exercise in compliance with the law. The Commissioner, like the official language minority communities, believes there have been enough court decisions to clarify the scope of language rights and that it is now time for concrete political and administrative accountability.

The lack of overall government commitment to implementation of the Act is distressing. Implementation of the Act is not the responsibility of the Office of the Commissioner of Official Languages, but very much the government's responsibility. The federal government is the guardian and advocate of the fundamental values of Canadian identity, including linguistic duality and the protection of the official language minorities. This is its proper role and constitutes a critical condition for the country's integrity. To play this role properly, the government must provide both political and administrative leadership by adopting a clear and renewed vision of the Canadian linguistic future to be achieved, developing a comprehensive plan based on consultation with all stakeholders, and ensuring that this plan is effectively implemented.

It is time to look at things differently. This is why the Commissioner intends from now on to devote her attention to the transformation of the public service culture to ensure that the fundamental value embodied in the official languages policy is disseminated throughout the public service and throughout Canadian society in general.

1.2 NEW MANDATE, RENEWED METHODS

To achieve this goal, and in view of her new mandate, the Commissioner intends to redirect her team's efforts to make it more of an agent of change. The traditional watchdog role with respect to language rights has not been sufficient to fulfill the mandate. It is time for action within federal institutions to facilitate change and, in some cases, to overcome the prevailing resistance. What must change is the culture in federal institutions. Thus far they have to often shown a lukewarm commitment to the values underlying the country's linguistic duality. We must therefore go to the source of this laxness and promote change at the very roots of government culture.

To meet this challenge, the Commissioner intends to diversify her methods of action. She will of course continue to conduct investigations of complaints received from citizens and employees who feel their rights have been violated by institutions subject to the Act. As an ombudsman, she will also play a greater role in the resolution of major linguistic issues. The Commissioner will work with institutions and communities to find faster more lasting and effective solutions to remedy the shortcomings identified. In this way, the Office of the Commissioner should be more accurately perceived as working alongside the Act and with both the communities and institutions.

Although central to the Official Languages Act, the investigation of specific complaints is not the Commissioner's sole recourse. She intends to take action on problem issues earlier by conducting studies, proposing avenues of action and facilitating organizational change. This ongoing work with the institutions will require her to establish continuing relationships with the management of these organizations and develop action plans. If necessary, she will not hesitate to use the other methods at her disposal, such as reports to the Governor in Council and court remedy.

In the long term, everything points to the need to strengthen linguistic duality as an aspect of Canadian culture. To this end, the Commissioner plans to undertake educational activities targeting the various components of Canadian society, especially young people.

During the first year of her mandate, to ensure that her analysis and objectives are in line with those of her partners, the Commissioner undertook national consultations with the leaders of both official language communities and various levels of government in each province and territory. She will report on the results of these consultations in her next annual report and will take the points of view she heard into account in developing her program of action. In short, what the Commissioner is proposing here is a new vision; while several aspects of it have already been implemented, it remains a work in progress.

1.3 LEADING ISSUES

The Commissioner's new perspective and approach will be applied to a number of topical issues. Already, she has identified certain priorities in the exercise of her mandate, issues fundamental to ensuring the vitality of the official language communities in Canada and the equality of status of English and French.

Quality services. Serving people in their preferred language is an aspect of quality service sometimes not fully appreciated by federal institutions. We can no longer continue to point out the long lists of persistent deficiencies in the quality of government services and access to those services. Institutions must regard linguistic duality as part of their performance, rather than as a series of actions taken simply

to comply with the law. The proactive offer of service in the minority language and the effective use of these services by the minorities should serve as performance indicators. It is a question of accountability. This aspect will from now on be approached as a matter of changing organizational culture. The Commissioner will not restrict herself to identifying contraventions of the Act, but will evaluate the institutional circumstances that give rise to them and propose solutions.

Language of work in the federal public service. Employees' right to work in their preferred language must of course be guaranteed as the Act stipulates, but a longer view is required to ensure that the public service represents the living culture of linguistic duality. Public service managers should, for example, be encouraged to work in official language minority communities during their careers.

Public service renewal. Over the coming years, today's public servants will be gradually replaced by a new generation. This new generation of public servants, many of whom learned both official languages at school, represents an exceptional opportunity to revitalize the culture of linguistic duality in federal institutions. In particular, young people who benefited from immersion and second-language instruction programs will provide an attractive pool of candidates for the public service. In view of the change in culture to be anticipated, public servants at all levels must receive training to encourage understanding and management of Canada's linguistic duality.

Implementation of the Act. Our review of government transformations in the 1990s showed that they have profoundly altered the institutional landscape. They have also resulted in a significant erosion of Canadians' language rights. The existing implementation scheme for Canada's official languages policy has been unable to prevent this erosion. The tools for applying the Act, such as government policies and the program evaluation framework, fall short of the mark. They are incomplete and ineffective. Since, today, change is the only constant, it is of the utmost importance to identify what is not working and put in place the tools required to implement the Act in a way that will ensure the attainment of its fundamental objectives.

Right to minority language education. It is now clear that full implementation of section 23 of the Charter will require corrective measures with respect to minority communities deprived of their rights in the past. Such measures should include identifying students entitled to minority language education and attracting them to the schools in these minority communities, whether English-speaking or French-speaking, and providing those schools with additional resources. Early childhood education in these communities must also be provided to achieve equality in education.

Community development. Twelve years after the current Act took effect, Part VII, which pertains to the equality of English and French in society and the vitality of the minority communities, is still far from achieving the legislators' intent. On the contrary, government transformations have resulted in a transfer of responsibility for the recognition of language rights to individuals and the communities. The aim of Part VII is to change the status quo in the way federal government programs are designed and implemented. All federal institutions must develop the implementation tools required to ensure that their contribution to achieving the fundamental objectives set out by Parliament in Part VII is fully consistent with their mandate, programs and resources. The majority of them have regrettably not yet taken any measures in this regard. The federal government must provide leadership and the required management framework to ensure that this statutory policy is effectively implemented government-wide. It must also, under section 43 of the Act, ensure that the other levels of government respect the language rights of Canadians.

Equality of English and French in society. The government of Canada is also required to actively advance the full recognition of English and French as Canada's official languages and their equality of use in all regions and sectors of Canadian society. This applies to every federal institution, to the full extent of its mandate, programs, resources and influence. This provision has seemingly been largely forgotten. It must therefore be actively promoted throughout Canadian society. For this purpose, immersion and second-language instruction programs should be strengthened to increase their contribution to Canada's linguistic duality.

Health and social services. The central place that health holds in all Canadians' lives is undeniable. The Commissioner is delighted with the decision by the Committee of Deputy Ministers Responsible for Official Languages to include community health as one of its four working priorities. Communication, and hence the language in which quality health and social services are provided, is of fundamental importance. The institutionalization of official language minority services is not only indispensable to the growth of minority communities; it is also a matter of human dignity.

Youth. Young people entering the labour market bring with them a new experience of Canada's languages and culture. For many of them, linguistic duality is a given. We must therefore find ways of connecting with these young people in order to facilitate their entry into the labour market, strengthen their hold on linguistic duality, and offer them access to the public service. The Internet and educational measures will be of crucial importance in this regard.

Immigration. Canada will pass a new immigration act in the coming year, and the Commissioner feels this is the time to promote Canada's linguistic duality. Canada's approach should be consistent with a demographic policy that respects the government's commitments set out in Part VII of the Act. Immigration policy should not, as at present, be based solely on economic considerations. It must contribute to consolidate the social fabric of our society.

Internet. A communication and development tool, the Internet is vital to the development of Canada and its French-speaking community. The Commissioner attaches great importance to this issue, which will play a central role in the future.

The capital of Canada. The City of Ottawa has recognized the linguistic duality of Canada since 1970. When the Parliament of Canada established English and French as Canada's official languages by adopting the Canadian Charter of Rights and Freedoms in 1981, the City of Ottawa adopted equivalent provisions regarding municipal services. It is imperative that the capital of Canada continue to reflect the status of English and French as the country's official languages.

It is with these elements of a new vision that Commissioner Adam took up her mandate in 1999. The following chapters will report on the issues addressed by the Commissioner and her predecessor and the results achieved.



English
Français

GOVERNMENT TRANSFORMATIONS

1999 • 2000

Chapter 2

THE GOVERNMENT TRANSFORMATIONS IN RECENT YEARS HAVE TO A GREAT EXTENT UNDERMINED EXISTING LANGUAGE RIGHTS. IN THE STUDY IT PUBLISHED IN 1998, THE OFFICE OF THE COMMISSIONER OF OFFICIAL LANGUAGES CONCLUDED THAT THESE TRANSFORMATIONS HAD RESULTED IN A SUBTLE BUT CUMULATIVE EROSION OF LANGUAGE RIGHTS AND WEAKENED THE OFFICIAL LANGUAGES PROGRAM IN THE FEDERAL ADMINISTRATION. IN THE PAST YEAR, THE COMMISSIONER HAS CLOSELY MONITORED SEVERAL SECTORS IN THIS REGARD.

GOVERNMENT SERVICES. THE COMMISSIONER HAS MADE SPECIFIC RECOMMENDATIONS TO THE TREASURY BOARD SECRETARIAT REGARDING THE PRESERVATION OF LANGUAGE RIGHTS IN GOVERNMENT TRANSFORMATIONS. ITS RESPONSE WAS GENERALLY POSITIVE BUT WARRANTS ONGOING FOLLOW-UP.

CONTRAVENTIONS. THE OFFICE OF THE COMMISSIONER HAS CONDUCTED SEVERAL INVESTIGATIONS CONCERNING THE PROVISIONS OF THE CONTRAVENTIONS ACT, ITS REGULATIONS AND AGREEMENTS ON THEIR IMPLEMENTATION. THE COMMISSIONER HAS FILED A REMEDY APPLICATION IN FEDERAL COURT IN THIS REGARD.

MUNICIPALITIES. THE TREND TOWARD THE CONSOLIDATION OF MUNICIPALITIES HAS HAD AN IMPACT ON THE VITALITY OF THE OFFICIAL LANGUAGE COMMUNITIES, WHICH MAY BE A MINORITY IN A PROVINCE BUT A MAJORITY IN A PARTICULAR MUNICIPALITY.

Airports. The privatization of airports has resulted in a number of complaints about service and signage in both official languages. The Commissioner has conducted investigations of this issue.

2.1 GOVERNMENT SERVICES AND THE MINORITY COMMUNITIES

Government transformations have had widely varying legal and practical effects, depending on the situations in which they have been introduced. These include the delegation of authority or service delivery to various levels of government, the withdrawal of the federal government from areas of jurisdiction shared with the provinces, privatization, and the sale or abolition of certain services. In all cases, these transformations concern the Commissioner to the extent that they can have an impact on services provided in the official language of the minority, reduce the capacity of federal employees to work in their preferred language, or fail to take the vitality and development of the minority communities into account.

- Problem:** Recent history shows that government transformations have adversely affected the quality of services provided to the official language minority communities.
- Principle:** The constitutional principle of progressing toward the equality of English and French must guide any government transformation.
- Action:** The Commissioner encourages the Treasury Board Secretariat to implement the recommendations of the task force on government transformations. She encourages joint initiatives by Human Resources Development Canada and the communities. In addition, the Commissioner has conducted a study of the forms of delegation of government service delivery to the communities.

FIVE GUIDING PRINCIPLES

In its 1998 study entitled *Government Transformations: The Impact on Canada's Official Languages Program*, the Office of the Commissioner formulated five guiding principles that should be applied to government transformations from the point of view of official languages:

1. the preservation of the public's existing language rights;
2. the establishment of remedy and redress mechanisms;
3. the establishment of accountability mechanisms;
4. the securing of a formal commitment to protect and promote the development of the official language minority communities;
5. the consideration of the language rights of federal employees affected by these transformations.

These principles embody the approach of the Commissioner, who advocates the preservation of the existing rights of Canadians to be served in their preferred official language when service is the responsibility of a federal institution, regardless of the type of government transformation involved.

The principles were designed to prevent any further erosion of language rights. However, the overriding principle that must guide the actions of the Parliament and government of Canada goes well beyond the preservation of existing rights. This great constitutional principle is that of the advancement toward equality of English and French and the vitality of the official language communities, particularly those in a minority situation.

Another problem arising from government transformations is the federal government's increasing lack of accountability for the recognition of language rights. The devolution of powers to various levels of government, or outright privatization, often results in a relaxation of linguistic obligations. It then becomes the responsibility of citizens and the communities, at their expense, to demand respect for their rights. This burden is added to the other difficulties facing the minority communities. This is indeed an unacceptable transfer of responsibility from the federal government to ordinary Canadians. It is therefore up to the federal government to shoulder its responsibilities and ensure, as section 43 of the Act prescribes, that the other levels of government respect existing language rights.

“NO TURNING BACK”

In the conclusion of his 1998 study, the Commissioner recommended that a task force be created to identify the problems caused by government transformations from the perspective of official languages and find solutions to them. The President of the Treasury Board quickly agreed and appointed a task force that submitted its report in January 1999.

Entitled *No Turning Back: Official Languages in the Face of Government Transformations*, the report of the task force headed by Yvon Fontaine confirmed the Commissioner's analysis and made a host of recommendations designed to integrate the issue of official languages into any government transformation.

The Treasury Board Secretariat (TBS) seems to have accepted the task force's recommendations, since it has set about developing a policy to take official language requirements into account when developing large-scale government initiatives and

programs. According to the TBS, "It is government policy that institutions subject to the Act and contemplating initiatives or transformations must analyze the effects on institutional bilingualism and on the development of official language minority communities, to ensure that official languages objectives are met."¹ The TBS also added a section devoted to government transformations to its annual official languages report.

The Commissioner is pleased with the renewal of these commitments but remains vigilant with regard to the effectiveness of the measures that will be taken, since the process has barely begun. She notes that no clear and obvious change has yet occurred and that the draft policy circulated by the TBS at the end of the year does not respect all of the five guiding principles set out in the 1998 study. In addition, various privatizations of public services continue to take place without the provisions of the Official Languages Act being taken into account. For example, local and regional airports are being ceded without the establishment of official languages control mechanisms (see section 2.4 below), and Via Rail is privatizing certain routes without ensuring that linguistic obligations are met. The Commissioner has intervened with the TBS and the Department of Transport in these two cases.

HUMAN RESOURCES DEVELOPMENT

The human resources development sector received special attention from the Commissioner in 1999. She conducted an investigation following complaints about the federal-provincial agreements on labour market development. These agreements, negotiated by Human Resources Development Canada (HRDC), provide for the transfer of the management of various labour training and education programs to the provinces. The complaints concern the lack of services available in the minority language under these agreements. The Commissioner will report on this investigation in her next Annual Report.

In the coming year the Commissioner will also conduct a follow-up on the 1997 study on the Employment Insurance Act and the labour market development agreements. In its previous investigation, the Office of the Commissioner recommended that HRDC, Canadian Heritage and the Treasury Board Secretariat ensure that existing language rights are maintained in this type of agreement. The Commissioner will therefore report on the extent to which her recommendations have been followed and on the changes that have taken place.

Finally, with regard to human resources, the Commissioner wishes to cite as examples two initiatives that illustrate how federal institutions and the official language minority communities can work together. In Quebec, the Human Resources Regional Table of the English Language Community and, elsewhere in Canada, the National Committee for Canadian Francophonie Human Resource

¹ Treasury Board of Canada Secretariat, *Official Languages Full Sail Ahead*, Ottawa, March 2000.

Development are joint initiatives of HRDC and the communities. These joint bodies seek to identify the economic needs of their communities through consultations and studies and to bring them to the attention of government institutions. In each province and territory, they establish economic development and employability groups that set priorities and make joint economic development plans. In return they provide information on federal government services and programs.

In a speech to the Human Resources Regional Table of the English Community in Quebec City, on November 16, 1999, the Commissioner stated that this new planning body should be able to meet such challenges as the under-representation of Anglophones at various levels of the public service, continuing education, distance training and language instruction, the integration of new information technologies into community development, and tourism development.

DELEGATION TO THE MINORITY COMMUNITIES

Since the Commissioner is very supportive of this approach taken by the human resources development committees, she has ordered a study on existing methods of co-operation in Canada between government and the communities. In addition to itemizing the various types of co-operation, the study will identify the conditions that must be met to ensure compliance with the spirit of the Official Languages Act.

The results of this study will appear in the next Annual Report. However, it already appears from the examples studied, such as the National Committee for Canadian Francophonie Human Resource Development, that the procedures adopted on the whole guarantee real equality in the delivery of services. A series of recommendations will be made, both to the federal government and to community groups that plan to enter into such agreements on the delegation of government services. They will be based on the principles of the preservation of existing rights, equality of service to the majority and the minority, the monitoring and evaluation of results, the multi-year and sustainable nature of the agreements, and a smooth transition.

The Community Table and the Joint Steering Committee of the National Human Resources Development Committee for the English Linguistic Minority produced a needs assessment study which evaluated the human resources development needs in eight regional English linguistic minority communities across the province of Quebec. The study produced eight reports and a province-wide summary of human resource and economic development opportunities. The needs assessment study was a product of the Memorandum of Understanding between Human Resources Development Canada (HRDC) and the English minority language communities signed in May 1998.

The Commissioner intends to promote such a co-operative approach through all the means available to her. As one example, she cites the single-window concept developed by the Assemblée communautaire fransaskoise, with the endorsement of Canadian Heritage and the Federal Council. In addition, she looks favourably on the development, in Manitoba, of three government service centres for Francophones which will open during the next year.

2.2 THE CONTRAVENTIONS ACT CHALLENGED

The federal Contraventions Act was amended in 1996 to enable the Government of Canada, by regulations, to authorize a province, territory or municipality to issue tickets and conduct prosecutions for contraventions of federal Acts or regulations under the specific criminal procedure of the province or territory. These amendments to the Contraventions Act also provided that the Department of Justice might enter into agreements with provincial, municipal or regional authorities to specify the procedures for handling such prosecutions. However, the changes made to this Act and the agreements made under these new provisions did not include a linguistic guarantee similar to that found in the Criminal Code of Canada. This situation is being challenged by the Commissioner in the Federal Court.

Problem: The Contraventions Act, as amended in 1996, as well as its regulations and the agreements made under these new provisions, do not provide for language rights similar to those guaranteed by the Criminal Code and the Official Languages Act.

Principle: The Commissioner believes that Parliament should amend the Contraventions Act to incorporate in it language rights similar to those set out in the Criminal Code and ensure that the agreements reached with provincial, territorial, municipal or regional authorities guarantee respect for these rights.

Action: The Commissioner pursued the remedy application filed by her predecessor in November 1998.

The Office of the Commissioner noted in its Annual Report 1998 that it had applied for a remedy against the Department of Justice, with the complainant's consent, in the context of the Contraventions Act. This action was taken following a complaint filed in February 1997 by the Association des juristes d'expression française de l'Ontario (AJEFO), which alleged that the Department of Justice had not complied with the Official Languages Act (Parts IV and VII) in the adoption and implementation of the Contraventions Act, as amended in 1996. The hearing of the case began on January 24, 2000, and will continue in October 2000.

The issue in this case involves government transformations in that the Contraventions Act, as amended, allows the prosecution of federal offences under a provincial criminal justice system and provides for the possibility of concluding agreements in this regard. In the specific case of Ontario, the general draft agreement contains no language guarantee, with the result that Ontario provincial legislation on procedures applies. This provides no assurance with regard to respect for language rights. While the Courts of Justice Act provides for language rights similar to those guaranteed by the Criminal Code, it is not applicable in all cases to the municipalities, and the Government of Ontario chose, under its Bill 108, to empower municipalities to conduct such prosecutions. The application in Ontario of the Contraventions Act, as amended in 1996, therefore results in a significant loss of rights which is unacceptable to the Commissioner.

The Department of Justice has also concluded two specific agreements with the municipality of Mississauga, on the one hand, and one specific agreement with the city of Ottawa, on the other, whereby it delegates to them the handling of parking violations and the collection of fines. The first agreement made with the municipality of Mississauga makes no reference to language rights and obligations. The agreement with the city of Ottawa and the second agreement with the municipality of Mississauga, for their part, contain language clauses, but they are not adequate.

The first agreement with the municipality of Mississauga gave rise to an additional complaint against the Department of Justice by AJEFO in December 1997. After investigating, the Commissioner made recommendations similar to those made in 1997 concerning the first complaint. These recommendations are reproduced in the Annual Report 1998.

The Commissioner recommended that the Department of Justice incorporate into the Contraventions Act the rights set out in the Criminal Code and the Official Languages Act and make its agreements with the provinces and municipalities subject to these provisions. In addition, the Commissioner recommended that the

Department of Justice consult with the official language minority communities before initiating any project.

The Commissioner notes that the Department of Justice has still not indicated its intention to implement these recommendations. It instead stated in its response to the preliminary report on the second complaint that the issues raised in the report and three of the recommendations made in it are already the subject of litigation in the Federal Court. The Commissioner intends to monitor this issue, as well as the outcome of her remedy application, very closely.

2.3 SMALL MUNICIPALITIES, GREATER VITALITY?

The Office of the Commissioner is carefully monitoring municipal transformations, seeking to ensure the preservation of language rights. In many cases, the official language minority community of a province constitutes a majority in the municipal context. The municipality is therefore a focal point and bulwark for minority rights, and its elected officials act as leaders of the community. This advantageous situation tends to be disrupted by the amalgamation of municipalities into large regional entities. This year the Commissioner intervened in particular in municipal amalgamations in Quebec, in Ontario and in the capital of Canada.

Problem: Municipal amalgamations sometimes result in the disappearance of small municipalities where the minority communities were actually a majority.

Principle: Part VII of the Act encourages governments to strengthen the minority communities; one way of doing this is not to deprive them of the few institutions available to them, including municipal services.

Action: The Office of the Commissioner supported minority communities calling for the preservation of existing rights when municipal restructuring takes place.

IN QUEBEC

Commissioners Goldbloom and Adam both intervened with Quebec provincial authorities to point out the deficiencies of the Bédard report on taxation and local government as regards language rights. Like many municipal councillors of the English-speaking community, the Office of the Commissioner asked authorities to ensure the preservation of the bilingual status of English-speaking districts following a possible merger of Greater Montreal. English-speaking councillors also adopted resolutions providing for conditional municipal referendums on mergers and calling for better services in English from the Montreal Urban Community. Quebec government officials in general responded that

services in English will continue to be provided to English-speaking Quebecers after any merger.

THE WEIGHT OF THE FRANCOPHONE COMMUNITY OF RAYSIDE-BALFOUR

The municipality of Rayside-Balfour has some 16,000 inhabitants, 57 percent of whom are Francophones. The city of Sudbury has nearly 90,000 inhabitants, 23 percent of whom are Francophones. The Regional Municipality of Sudbury has over 161,000 inhabitants, 29 percent of whom are Francophones.

THE WEIGHT OF THE ANGLOPHONE COMMUNITY OF WESTMOUNT

The city of Westmount has some 20,000 inhabitants, 60 percent of whom are Anglophones. The city of Montreal has nearly a million inhabitants, 11 percent of whom are Anglophones. The Montreal Urban Community has 1.7 million inhabitants, 18 percent of whom are Anglophones.

In Quebec, section 29.1 of the Charter of the French Language recognizes certain rights to English-language services and the use of English as an internal language of work when 50 percent of a municipality's inhabitants are Anglophones. Twelve municipalities on the Island of Montreal are in this category and they demand preservation of this right in the event of a merger into Greater Montreal.

Outside Montreal, the Commissioner also concerned herself with the issue of mergers affecting English-speaking villages. An example is the situation in the Magdalen Islands, where two villages with an Anglophone majority might be amalgamated with six largely French-speaking villages into a single maritime community. Yet the inhabitants of one of the two villages, Grosse-Île, have voted against this proposed merger in a referendum.

IN ONTARIO

In Ontario, a number of French-speaking communities in the Ottawa and Sudbury regions, which are covered by Bill 25 on municipal amalgamations, submitted briefs demanding the preservation or improvement of French-

language services following any amalgamations. The Commissioner discussed the protection of language rights after municipal amalgamations with the board of the Association française des municipalités de l'Ontario. She submitted briefs to Glen Shortliffe and Hugh Thomas, advisers to the Minister of Municipal Affairs who are responsible for studying the restructuring of the Ottawa and Sudbury regions. When Bill 25 creating the restructured cities was tabled in the Ontario legislature in December 1999, the Commissioner contacted the Minister of Municipal Affairs, Tony Clement, and Premier Mike Harris to reiterate the importance of preserving existing language rights and recognizing the official status of English and French in the restructured cities of Ottawa and Sudbury. The Commissioner intervened again when the Ottawa and Sudbury transition boards were put in place to emphasize the importance of bilingualism at the municipal level.

BILINGUAL**OTTAWA:****A MUST**

“Like the Parliament Buildings, the Supreme Court of Canada and the War Memorial, the bilingual dimension of the National Capital is an extremely important symbol for millions of Canadians across the country, in addition to enhancing Canada’s image abroad.”

— Dyane Adam,
Commissioner of Official Languages

IN THE CAPITAL OF CANADA

The Commissioner has intervened several times with regard to municipal amalgamation in Ottawa. She attaches crucial importance to the case of Ottawa because it is the capital of Canada, and it would be inconceivable for the two official languages not to have equal status there. She accordingly met with the committee responsible for developing municipal language policy to draw attention to the spirit of Part VII of the Act (section 43(d)), which sets out the federal government’s commitment to take measures to encourage other levels of government to provide municipal services in both English and French. In this regard, she sought and received the support of the Prime Minister of Canada.

2.4 TRANSFERRING AIRPORTS WITHOUT ABANDONING LANGUAGE RIGHTS

Since the early 1990s, Transport Canada has been privatizing the operation of airports under the Airport Transfer Act. Transfers have taken place through sale, in the case of local and regional airports, and through lease, in the case of major airports. Complaints have been received to the effect that the provisions of the Official Languages Act are not always respected, and the Commissioner has investigated these complaints. In addition, she intervened regarding the amendment of the regulations under the Aeronautics Act to guarantee respect for language rights in pre-boarding passenger and luggage screening.

LOCAL AND REGIONAL AIRPORTS

- Problem:** Certain local and regional airports transferred by Transport Canada do not meet their linguistic obligations because no control is exercised by the latter. In addition, at the end of 10 years, these obligations may be abolished.
- Principle:** Airport transfer agreements must provide not only for the preservation of linguistic obligations but also for control mechanisms and penalties.
- Action:** The Commissioner investigated and recommended that Transport Canada actively promote the enforcement of linguistic obligations.

The Office of the Commissioner decided to conduct an investigation after complaints were received about the failure to respect clients' language rights in certain regional airports sold by Transport Canada to private interests. The investigation showed that the operating agreements with the new owners contained provisions on the availability of certain services and on communications in both official languages. However, Transport Canada has not put mechanisms in place to ensure compliance with these provisions. In addition, at the end of the 10 years covered by these agreements, there is nothing to oblige the airport owners to maintain services in both official languages.

The Commissioner finds this situation unacceptable. A number of regional airports are affected by this oversight: Sudbury, Timmins, Sept-Îles, Windsor, Yarmouth, Val d'Or, Charlo, North Bay and Sault Ste. Marie. The Commissioner has recommended that Transport Canada develop mechanisms to audit the implementation of the language provisions contained in the transfer agreements. Given that the new owners are not bound by such mechanisms under the agreements signed, Transport Canada should offer its active co-operation to support their implementation. The Commissioner also recommended that measures be taken to ensure that language rights are respected after the 10-year period provided for in the initial agreements.

Transport Canada responded without delay to the Commissioner's recommendations by affirming its desire to do everything in its power to ensure the enforcement of the language provisions, although the airport facilities that have been sold are no longer "offices" under its responsibility, in the terms of the Official Languages Act.

The Commissioner will remain watchful to ensure that the language provisions are implemented under the 10-year agreements and that services in both official languages are established firmly enough to compensate for the possible loss of legal obligations in this regard upon expiration of the agreements.

PRE-BOARDING SCREENING POINTS

- Problem:** Certain screening services at boarding points, provided by Transport Canada or third parties, do not comply with the prescribed linguistic obligations.
- Principle:** Transport Canada must ensure that screening services are provided in both official languages.
- Action:** The Commissioner recommended improvements that were introduced by Transport Canada, particularly the adoption of the right to impose fines on operators.

After many complaints, in 1998, the Office of the Commissioner carried out a special study on the language of communication at pre-boarding passenger security screening points at airports. The recommendations of this study were concerned with improving screening mechanisms and with guidelines for air carriers responsible for pre-boarding security.

Transport Canada then undertook, among other things, to revise the regulations adopted under the Aeronautics Act to impose fines on airlines when passengers' language rights are not respected at security screening points. Previously, the Department had to rely on voluntary compliance and had no other recourse than referral to the courts. In addition, the Department improved its screening mechanisms and clarified its guidelines on pre-boarding security.

The Office of the Commissioner supported Transport Canada's efforts to strengthen enforcement of the provisions of the Official Languages Act. It is pleased with the Department's efforts to improve the provision of service in both official languages at airports. The Commissioner will conduct a follow-up on the 1998 study in the coming year to verify the effectiveness of the measures taken.

CONCLUSION

The effort to achieve a “zero deficit” in the federal government has resulted in many government transformations, whose impact is already contributing to the erosion of available services. With regard to official languages, the Commissioner finds that existing rights are often infringed by these transformations. The many complaints received in this regard and the studies conducted by the Office of the Commissioner and other groups indicate that these transformations continue to erode the language rights of Canadians.

More than a year after receiving the recommendations of the Fontaine Report, after the discouraging findings of the Savoie Report and, finally, following the Supreme Court decision in the Beaulac case, there are more words than deeds. Unfortunately, we are still waiting for concrete actions to reverse the current. Clearly, the senior levels of the public service and the political machinery have not fully integrated the primary objective of the Official Languages Act into their operations.

In all her dealings with the various federal departments and other levels of government, the Commissioner has always advocated the five guiding principles that officials should take into account when government transformations occur. The primary objective is to preserve existing rights and ensure the advancement and development of the minority communities. In addition, governments must put in place redress, remedy and accountability mechanisms so that persons with rights can make their views known. Existing rights and redress mechanisms constitute democratic counterweights to the government’s right of management, in whatever manner it may be exercised. Finally, the language rights of employees affected by these transformations must be taken into account.

Underlying this more incisive approach, there must be renewed leadership by elected officials and senior federal bureaucrats. The official languages, as a fundamental value of Canada, must be integrated into their vision and practices. Officials must use the two languages. They must not only give pride of place to procedures that promote the official languages but must also give an accounting of the results achieved.



TIME TO FOCUS ON COMMUNITY DEVELOPMENT

1999 • 2000

Chapter 3

GIVEN THEIR MINORITY SITUATION AND THE FACT THAT THEY HAVE NOT ALWAYS RECEIVED FAIR TREATMENT IN THE PAST, THE OFFICIAL LANGUAGE MINORITY COMMUNITIES ARE ENTITLED TO BENEFIT FROM REMEDIAL MEASURES WHERE REQUIRED TO RE-ESTABLISH THE EQUALITY OF THE TWO OFFICIAL LANGUAGE COMMUNITIES. THE ACTIVE SUPPORT OF FEDERAL INSTITUTIONS AND THEIR OPENNESS TO COLLABORATION WITH THE COMMUNITIES ARE OF VITAL IMPORTANCE. DURING THE PAST YEAR, THE OFFICE OF THE COMMISSIONER INTERVENED ON A NUMBER OF OCCASIONS RELATING TO SUCH COLLABORATION, MAINLY IN RELATION TO PART VII OF THE OFFICIAL LANGUAGES ACT, WITH RESULTS WHICH MIGHT WELL HAVE LONG-TERM IMPACT. THERE ARE THREE ASPECTS TO THE REPORT ON THE YEAR'S COMMUNITY-DEVELOPMENT RELATED ACTIVITIES:

GOVERNMENT CONTEXT: THE FEDERAL GOVERNMENT APPROACHES ITS OBLIGATIONS UNDER PART VII OF THE ACT TIMIDLY. THE COMMISSIONER IS CONSTANTLY REMINDING IT OF THIS, WHILE POINTING OUT TO THE MINORITY COMMUNITIES THAT THEY NEED TO USE THIS TOOL TO ATTAIN THEIR FULL DEVELOPMENT.

HEALTH: ONE OF THE HIGH POINTS OF THE YEAR WAS THE ONTARIO DIVISIONAL COURT DECISION IN FAVOUR OF MAINTAINING SERVICES TO FRANCOPHONES BY OTTAWA'S HÔPITAL MONTFORT. THE COMMISSIONER IS PLEASED WITH THIS INITIAL VICTORY, BUT THE BATTLE IS NOT OVER BECAUSE THE PROVINCE HAS APPEALED THE DECISION. SHE ALSO ENCOURAGED THE GOVERNMENT OF QUEBEC TO RENEW THE FEDERAL-PROVINCIAL AGREEMENT ON HEALTH SERVICES FOR ITS ENGLISH-SPEAKING COMMUNITY.

Language of instruction: If contemporary history shows one thing, it is that the development of the minority communities requires quality education in their language. The present Commissioner, and her predecessor, intervened on several occasions in court proceedings in support of minority language education rights.

3.1 FEDERAL AMBIVALENCE ABOUT PART VII

For the official language minority communities, as well as for the Office of the Commissioner, Part VII of the Official Languages Act has particular importance. This is more than a mere legal reference; it is a development tool that will help shape the future. Part VII is an instrument used by the communities and the Office of the Commissioner to enforce existing rights with respect to full community life in both official languages.

Problem: Federal institutions are not entirely fulfilling their obligations with respect to the development of the official language minority communities and the recognition of English and French.

Principle: Central federal government agencies need to take a stronger lead role in requiring all federal institutions to contribute actively to the development of the minority communities.

Action: The Commissioner called upon the government to take concerted action. She welcomed the announcement of the expanded role of the Committee of Deputy Ministers Responsible for Official Languages.

At the time it was enacted in 1988, the Official Languages Act marked a major milestone in the establishment of language rights and the protection of Canada's minorities. It sanctioned a new type of rights, the collective dimension of which opened up a new perspective. The legislators used active verbs and terms that could not have been more stringent, such as "enhancing vitality" and "full recognition." The intent was to make it clear that the purpose of Part VII was not to maintain the status quo but instead to change the way the federal government's programs are designed and implemented.

Like the Supreme Court of Canada, which affirmed the remedial nature of language rights in its decision in the Beaulac case (see section 4.2), the Commissioner believes that implementation of Part VII of the Act needs to reflect the remedial character of this provision, which is intended to remedy, on a national

scale, the historic and gradual erosion of the rights of minorities. This is the only way that all Canadians will be able to live in English or in French in their country and that Canada's specific identity can be strengthened.

For this reason, the Commissioner places a high priority on implementation of Part VII in fulfilling her mandate. Since 1988, the federal government has been monitored in terms of its obligation to change its structures and approach. Every federal institution has an obligation to put in place an "appropriate implementation scheme" in order to help achieve the objectives of the Act, having regard to the institutions' particular mandates, programs, resources and influence.

In the past year, the Office of the Commissioner has concentrated on directly increasing awareness at the highest levels of government of the requirements of Part VII and the need to update the way it is being applied. This has resulted in numerous interventions with institutions having responsibilities in this area. As the year winds down, the Commissioner is pleased with some of the progress made, but feels it is important to stress that much is yet to be done.

SOME PROGRESS

In his Annual Report 1988, the Commissioner clearly stated that each department was to appoint a senior executive reporting directly to the Deputy Minister to act as an official languages champion. This year, the Commissioner took it upon herself to meet with the departments and Crown corporations in order to focus on their contribution and determine their expectations. Finding that the "champions" were now in place, she made it clear that they would be expected to fulfil their roles completely in the future. The impact of this approach has yet to be determined, and the Commissioner will be examining it closely this year.

The Office of the Commissioner has repeatedly said that the implementation scheme for Part VII is not up to the mark in terms of the commitments made and that government leadership is therefore required at the highest possible level. The Commissioner proposed that the central government agencies adopt a concerted approach in order to extend the implementation of Part VII to the government as a whole.

The Clerk of the Privy Council formally approved the recommendations of the Office of the Commissioner by announcing, in February 2000, an expansion of the mandate of the Committee of Deputy Ministers Responsible for Official Languages (CDMOL). Equipped with a permanent secretariat, the committee plans to "provide integrated leadership and constitute a high-level forum on official languages issues within Canada's machinery of government." In addition to evaluating the general

PART VII

The Government of Canada is committed to:
(a) enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development; and (b) fostering the full recognition and use of both English and French in Canadian society.

- Official Languages Act, Part VII, section 41 (1988)

official languages situation, the committee will adopt annual priorities and strategic objectives in order to guide all federal institutions in the following three sectors: institutional bilingualism, the promotion of linguistic duality, and the development of the official language minority communities. The committee plans to initiate dialogue with representatives of the minority communities and of national organizations working in the area of official languages. The Commissioner is particularly pleased that the CDMOL adopted four strategic priorities as early as February 2000: renewed vision, French on the Internet, the health sector, and language of work.

Direct collaboration between federal institutions and the communities is essential in implementing Part VII. To this end, the Commissioner wishes again this year to draw attention to the progress that has been made by Human Resources Development Canada in forging closer ties with the communities. The National Committee for Canadian Francophonie Human Resources Development and the Human Resource Regional Table of the English Language Community in Quebec are exemplary in this regard.

By participating in these joint committees with the communities, the federal government is demonstrating a common approach to the development of a sector that should be adopted elsewhere. The Commissioner recommends greater use of this approach, which has to date been restricted to the human resources development sector.

The new advisory committee on minority Francophone communities to be appointed by the Minister of Health in the spring of 2000 seems to be somewhat along the same lines. This committee is being struck as a response to the brief submitted by the Fédération des communautés francophones et acadienne du Canada, which stressed the importance these communities attach to the health sector. The Commissioner will be following the impact of this new joint body with interest.

INERTIA PERSISTS

Given the scope of the challenge involved in totally fulfilling its commitment to enhance the vitality of the minority communities, whatever activities the federal government has undertaken have not been broad enough to counterbalance the continuing inertia. In his Annual Report 1998, the Commissioner pointed out that only 27 of the 200 or so federal institutions were required to report on their responsibilities under the Official Languages Act. This represents less than 20 percent of federal institutions, while the rest remain an unknown quantity. The present Commissioner notes that there has been virtually no change in the situation and again points out the inadequacies of this approach. She proposes that institutions examine their own performance against the six quality indicators developed by the Office of the Commissioner in 1998 to evaluate action plans relating to Part VII.

As far as these 27 designated institutions are concerned, one of the difficulties has been to assess how much impact their actions have had on the communities. Their action plans and reports continue to focus more on their activities than on their impact on the minority communities. Yet results-based management is now an integral part of the federal public service culture and ought not to be dissociated from the official languages question. In rigorously measuring their performance, the designated institutions ought generally to be contacting the communities themselves in order to determine whether they have achieved the expected results.

The designated federal institutions often raise the point that their current programs meet the needs of Canadians and thus are fulfilling their responsibilities toward the minority communities. However, the Commissioner finds that, more often than not, these programs do not dovetail with the specific needs of the minority communities. It is in fact rare to see ingenuity in the creation of tailor-made programs for these communities, yet this is what should be encouraged by Part VII of the Act.

In this regard, the Commissioner wishes to highlight the worthwhile initiative by Western Economic Diversification in making the effort to set up Francophone community development organizations in each of the four western provinces. These have permanent funding and administer funds to assist small and medium-sized businesses.

The Commissioner underlines that it is advisable for federal institutions to work in close co-operation with the communities to properly identify their requirements and review their programs for these communities in light of those requirements.

In all, some progress was recorded in 1999-2000, and a number of praiseworthy principles now appear to be in place, but federal institutions still have a long way to go before their responsibilities under Part VII are fully met. They can be sure that the Commissioner will be monitoring them closely and encouraging them to explore new ground.

QUALITY INDICATORS

The Commissioner plans to assess the action plans of federal institutions against the following six indicators:

- *suitable policy framework and leadership;*
- *appropriate implementation strategy;*
- *results achieved and targeted impact;*
- *management systems and performance monitoring;*
- *accountability and reporting framework;*
- *integration of Part VII into the institutional culture.*

3.2 MOBILIZATION FOR HEALTH

The threatened closure of Hôpital Montfort has stirred up public opinion and mobilized the Franco-Ontarian community since 1997. The Office of the Commissioner intervened on several occasions, and a temporary solution was

reached in 1999. In Quebec, the Commissioner also sought to encourage the governments to renew a federal-provincial agreement on health and the English-speaking minority.

- Problem:** The Government of Ontario was at first contemplating the closure of Hôpital Montfort and, later, cutbacks to the services it provides to the Franco-Ontarian community.
- Principle:** Hôpital Montfort is an institution of pivotal importance to the vitality of the Franco-Ontarian community and must be preserved, in accordance with Part VII of the Act.
- Action:** On a number of occasions, the Commissioners have added their support to the movement to save the Montfort.

In February 1997, the Health Services Restructuring Commission of Ontario recommended the closure of Ottawa's Hôpital Montfort. Commissioner Goldbloom immediately intervened with the Ontario Minister of Health, while acknowledging that health falls under provincial jurisdiction. During the Franco-Ontarian community's lengthy battle to keep the services provided by the Montfort untouched, the Commissioner remained actively involved in pointing out the pivotal importance of this health care institution for the Franco-Ontarian community. He stated that in so doing he was fulfilling his mandate under Part VII of the Official Languages Act.

The arguments made by the Commissioner were that Montfort is the region's only hospital providing a full range of health services in French and that it is important for patients to be able to communicate in their own language, particularly since Montfort serves a population pool that extends far beyond Ottawa and includes unilingual Francophones. Given the shortage of French-speaking health professionals in Ontario, Montfort plays an essential training role as well. The Commissioner also emphasized the attachment Franco-Ontarians have to this institution, as well as the national significance of this case under the Canadian Charter of Rights and Freedoms.

Opponents of the closure and service cutbacks at Montfort filed an action on April 7, 1997, in the Ontario court. Commissioner Goldbloom was summoned to appear by counsel for the applicants and testified. On November 29, 1999, the Ontario Divisional Court acknowledged the merits of the application and accepted the argument that the existence of such a hospital is essential to preservation of the

**SOS
MONTFORT**

*Close
Montfort?
Never!*

culture of the Franco-Ontarian minority as well as to the delivery of medical services and medical training in French. According to the Court, the Commission did not respect one of the fundamental principles underlying the Canadian Constitution, namely, the protection of minorities. The Commission's directives were therefore invalidated.

The Health Services Restructuring Commission has filed an appeal of the decision, which should be heard in 2000. In this connection, the Commissioner will, like her predecessor, keep abreast of new developments and their impact upon the vitality of the Franco-Ontarian community.

In Quebec, the Commissioner intervened in the context of changes to the health system in order to encourage the provincial government to renew the federal-provincial agreement on health and social services for the English-speaking community. Among other things, this agreement would make it possible to implement programs and a co-ordination structure appropriate to the needs of the English-speaking community.

3.3 EDUCATION IN THE MINORITY COMMUNITIES

The Canadian Charter of Rights and Freedoms entrenched what minority communities had been asserting from the outset: that schools are the cornerstone of their development. In fact, section 23 of the Charter recognizes the right to instruction in the minority language. There is, however, a long process fraught with political and legal obstacles between recognition of this right and its full application, one which the minority communities are still in the process of negotiating with the support of the Office of the Commissioner.

The new Commissioner has taken up the challenge with enthusiasm and determination. She sees the mission of the schools as a clear one: to remedy the gradual erosion over the years of the minority communities and to encourage their full development. To meet the challenge imposed by this mission, the Commissioner notes that it must first be understood that this erosion is the result of past injustices, including ongoing inequalities on the national level between the French-language and English-language education systems. It must also be acknowledged that this erosion is detrimental to these communities not only on the institutional, economic and demographic levels, but also psychologically and culturally.

When the Commissioner spoke to the French-Language Early Childhood Summit in Toronto on January 29, 2000, she took advantage of the opportunity to call upon those active in this area within the communities to work together on developing a plan to implement minority language education rights. The clock has been ticking since 1982, and prompt action is required, with realistic plans that

match the scope of the resources to be brought to bear. The Commissioner has three priority concerns:

1. the difficulty that French-language minority schools experience in identifying and attracting pupils eligible for minority language instruction under the Charter;
2. the urgent need to address issues of early childhood;
3. the necessity of reconciling young people's fascination with global culture, with its heavy American influence, and an attachment to their own language and culture.

These points will be explained in greater detail below, followed by the key legal issues raised by section 23 of the Charter.

ATTRACTING PUPILS ELIGIBLE UNDER THE CHARTER

Problem:	Close to half the pupils eligible for minority language instruction under the Charter do not attend French-language schools.
Principle	Education of these pupils in French is a condition for ensuring the vitality of Canada's linguistic duality.
Action:	The Commissioner conducted two studies clarifying this complex issue.

SCHOOLS

"A school is the single most important institution for the survival of the official language minority."

Arsenault-Cameron v. Prince Edward Island, 2000 SCC 1, p. 5

Parents who meet the requirements of section 23 have the right to have their children educated in the minority language. The Office of the Commissioner wished to make a contribution to meeting the challenge posed by the education of these pupils in the minority language by outlining the profile and history of this group since 1982 and by exploring the motives behind the school choices made by their parents. It is a major challenge to attract the missing half of this group of eligible pupils to French-language schools, so that they do not lose their family heritage, and thus to strengthen the communities. To this end, French-language minority schools must find a way to convince parents who hold educational rights that they offer as much as, if not more than, their English-language counterparts. This requires schools to truly be centres of excellence providing quality education, enjoying active support from their immediate community and reflecting that community.

WHAT DETERMINES THE SCHOOL CHOICES OF PARENTS?

The study entitled *Motivations for School Choices by Eligible Parents Outside Quebec* was released in January 1999. According to its findings, more parents are likely to choose a French school if it is associated with a French-speaking community perceived as a vibrant one. Parents who responded believed that the feeling of belonging to the French-speaking community, the integration of academic and community activities and the geographic proximity of the school to the place of residence are all motivating factors. As well, the fact that non-Francophone parents are also welcome in the school and that the curriculum accommodates the learning of English are other motivating factors. The Commissioner feels that this study offers an analytical model usable by minority communities to gain a better idea of the specific challenges facing them.

PROFILE OF ELIGIBLE PUPILS SINCE 1982

The Commissioner undertook to draw up a profile of the changes in the population of pupils entitled to be educated in French since 1982, the date the Charter was adopted, with its section 23 relating to the right to minority language education. According to the study, the number of children whose parents exercised their rights declined steadily between 1986 and 1996. More frequent recourse to section 23, however, appears to have slowed this decline in recent years, while increasing the number of schools and their staff. The objectives of section 23 are far from being achieved. We must re-emphasize the need for remedial action at all levels of the education system. The study is to be completed and released during the coming year.

MAJOR INTERVENTIONS REQUIRED IN EARLY CHILDHOOD

- Problem:** Minority communities do not have the necessary resources to ensure early childhood development (ages zero to five).
- Principle:** Early childhood is the crucial time in personal development, and society must commit to providing minority communities with the means of dealing with it properly.
- Action:** The Commissioner has taken a position on a number of occasions in favour of a strategic government commitment concerning early childhood.

At the time of the Early Childhood Summit, the Commissioner applied to the children of the linguistic minority communities in Ontario the conclusions of the Mustard-McCain Report, which sounds the alarm regarding the fundamental importance of the first years of life, particularly the first three. She suggested that the conditions for positive development are directly related to the family environment, of course, but also involve education and the community. The school can have a direct influence on this critical stage of development by making adolescents aware of the importance of their future role as parents and by becoming part of the network of community parenting resources.

This is a very ambitious undertaking, but the problem is a major one, and it is clear that the minority communities are often the least well equipped with the resources and services to address it. This is why the Commissioner believes that it falls within the scope of Part VII of the Official Languages Act and of section 23 of the Charter. In her speech to the Summit, she concluded that an adequate network of day-care facilities, additional preschool services and appropriate early childhood programs for official language minority communities are all indispensable resources for enhancing their development

In her speech in Ottawa to the Forum Femmes Francophones du 3e Millénaire, on March 2, 2000, the Commissioner went still further, calling upon the participants to ensure that the new National Children's Agenda takes into consideration the specific needs of children living in minority communities. She reiterated her support for Team Francophonie, composed of the heads of provincial and national associations, in its involvement in this issue.

Once again, the Commissioner noted that it is up to the federal government to provide the resources the official language minority communities require to fully enjoy their language rights.

DUALITY: NOT A GIVEN, IN THE CONTEXT OF GLOBALIZATION

- Problem:** With the attraction of American culture, Canada's young Francophones, and their Anglophone counterparts as well, are at risk of identifying less and less with Canadian duality.
- Principle:** Individuals require solid roots if they are to make an optimum contribution to global diversity.
- Action:** The Commissioner calls upon governments to ensure that young Canadians have a good command of their own language and culture.

Her first public speech after becoming Commissioner, delivered on August 6, 1999, to the Association canadienne d'éducation de langue française, provided Dr. Adam with the opportunity to share her reflections on the education and identity of young people in Canada in an era of globalization. Situating her role in the overall Canadian context, she stated that linguistic duality is without a doubt one of the qualities that distinguishes Canada, a characteristic shared by only a handful of other countries. This duality, however, cannot be taken for granted. To support this view, she analyzed the increasing trend for young Canadian Francophones to identify with the English language and the American culture. To some extent, Americanization affects their English-speaking counterparts as well. In her opinion, this represents a neglect of something that is central to cultural identity. As she put it, "It is only when their linguistic, community and cultural roots are solid that our young people will be able to extend the branches of their knowledge, skills and support in all directions toward the big, wide world."

The Commissioner's conclusion as it relates to fulfilling her mandate is that Canada must do everything required to ensure that our young people may reconcile their fascination with a pluralistic, multilingual, dynamic and open world culture with an attachment to their own language and culture. The vitality of both of the country's official languages depends on it.

THE SUPREME COURT RECONFIRMS THE RIGHT TO SCHOOL GOVERNANCE

- Problem:** The Prince Edward Island Minister of Education contested the decision of that province's Court of Appeal directing that a French-language school be opened in the community of Summerside.
- Principle:** The application of section 23 of the Charter requires respect for the decisions taken by minority school boards.
- Action:** The Commissioner intervened before the Supreme Court, and its ruling was in favour of the parents.

Once again, the Supreme Court of Canada confirmed the right of minority language parents to schools in their language and to the exclusive management of instruction in the language of the minority in its judgment in *Arsenault-Cameron v. Prince Edward Island* in January 2000. It confirmed the right of French-speaking

parents in Summerside, P.E.I., to have their children educated in that city in French. In this case, the parents were challenging the decision by the Minister of Education to bus their children to a neighbouring village for schooling in French, although their numbers warranted the opening of a school in Summerside, with the agreement of their school board.

SECTION 23

LANGUAGE OF INSTRUCTION

(1) Citizens of Canada

- (a) whose first language learned and still understood is that of the English or French linguistic minority of the province in which they reside, or*
- (b) who have received their primary school instruction in Canada in English or French and reside in a province where the language in which they received that instruction is the language of the English or French linguistic minority population of the province, have the right to have their children receive primary and secondary school instruction in that language in that province.*

Continuity of language of instruction

- 2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary language instruction in the same language.*

Application where numbers warrant

- (3) The right of citizens of Canada under subsections (1) and (2) to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province*
- (a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and*
- (b) includes, where the number of those children so warrants, the right to have them*

receive that instruction in minority language educational facilities provided out of public funds.

Canadian Charter of Rights and Freedoms, section 23 (1982)

The Commissioner intervened in this case, focusing on his interpretation of section 23 of the Charter. In his view, the Minister must always take section 23 into consideration where minority language instruction is concerned. In particular, the Minister must consider the impact of such decisions on the language and culture of the minority community. The Minister must in addition respect the decision of the French-language school board, acting as the representative of parents who hold minority language educational rights, and must not substitute any decision for that of the French-language school board on grounds that are not pertinent to the application of section 23 of the Charter.

The judgment re-emphasized the fact that language rights cannot be dissociated from concerns about the culture conveyed by that language. It reaffirmed that the purpose of section 23 is to remedy past injustices and that true equality may, under certain circumstances, require official language minorities to be treated differently in order to provide them with a standard of education equivalent to that of the official language majority. As well, the right to education in the minority language exists everywhere in the province, and the Court took local needs into account, finding that the number of students in Summerside was sufficient and that the Minister had not respected the exclusive right of the minority to administer its schools. The Court stated that the costs of the planned services ought not to have been taken into consideration by the Minister and that he therefore ought not to have turned down the parents' request.

This decision has had considerable impact. It will be used to support court proceedings already under way (in Manitoba and British Columbia, for instance) or in preparation (in Nova Scotia, New Brunswick and Alberta). The Commissioner is pleased with this outcome and will continue to provide support when respect for and the advancement of minority language rights are at stake.

OTHER ACTIONS BY THE OFFICE OF THE COMMISSIONER

The present Commissioner and her predecessor were in contact, either in person or through correspondence, with a variety of political and community figures in order to promote enhanced respect for the constitutional provisions and those of the Official Languages Act. Among the issues addressed were the following:

NOVA SCOTIA TEACHERS' UNION V. LE CONSEIL SCOLAIRE ACADIEN PROVINCIAL

Problem: The Conseil scolaire acadien of Nova Scotia wished to negotiate in French with the union representing its employees. The union, however, insisted on negotiating in English.

Principle: The right of parents to exclusive management in the language of the minority includes the negotiation of collective agreements between the school board and the union representing its employees.

Action: The Commissioner made his point of view known and was satisfied with the decision by the arbitration board.

In October 1998, the Commissioner of Official Languages appeared as an expert witness at the arbitration board hearing on the dispute between the Nova Scotia Teachers' Union and the Conseil scolaire acadien provincial of Nova Scotia. The issue in dispute related to the language to be used in negotiations and in the collective agreement between the new school board and the union representing its employees. While the latter cited precedent for the use of English, the school board insisted on operating totally in French.

The Commissioner made it clear that the purpose of section 23 of the Charter is to give parents the right to educate their children in French if they so desire and that, in his opinion, the board must be entitled to operate wholly in French in order to preserve Francophone culture and French as the language of communication. Thus, negotiation of a collective agreement is part of the management of a school system.

The arbitration board felt that the evidence justified the use of French and of English but did not in any way require the exclusive use of one or the other. Consequently, it ruled that each party may use French or English at the negotiating table, with cost-shared interpretation services as required, and that the collective agreement will be printed in both official languages, with both versions having official status. The Commissioner stressed the significance of this decision as the first to establish the right of French-language school boards to negotiate a collective agreement in French because of their particular mandate within provinces that are mainly English-speaking. There was no legislation governing language requirements for collective agreements.

NEW BRUNSWICK'S *EDUCATION ACT* IN QUESTION

- Problem:** The 1997 New Brunswick Education Act abolished school boards and does not give parents of eligible students a real right of governance.
- Principle:** The exclusive right of governance of parents of eligible students is guaranteed by section 23 of the Charter.
- Action:** The Commissioner agreed to intervene in *Jean Giroux-Gagné et al. v. Province of New Brunswick* before the Court of Queen's Bench of New Brunswick and the Select Committee on Education.

In February 2000, the Commissioner was granted leave to intervene as *amicus curiae* in the case of *Jean-Giroux Gagné et al. v. Province of New Brunswick*. The plaintiffs had filed an application calling upon the Court of Queen's Bench of New Brunswick to declare invalid and inoperative the New Brunswick Education Act on the grounds that it contravenes section 23 of the Charter. In her application for intervenor status, the Commissioner indicated the arguments she will use at the hearing. These in large part reiterate the position of her predecessor as set out in his brief at the time this legislation was enacted in 1997.

According to the Commissioner, the present Education Act and the system it creates do not comply with section 23 of the Charter. The problem does not lie with the existing three-tier administrative structure (school advisory committees, district committees and provincial board), but rather with the fact that, on two of these levels, parent representation is only indirect, while on all levels parents or their representatives have no exclusive right of governance affecting the minority language and culture. It is the province's responsibility to put in place the most appropriate structure that respects the rights set out in section 23. As well, the Commissioner believes that the fact that the government treats the majority and the minority equally, through a dual structure in the Department of Education, does not necessarily mean that it is respecting the rights set out in section 23. The date for the hearing is not expected to be announced until the fall of 2000. The Commissioner considers this a significant case and hopes that the province will make a commitment to respect the principle of the official language minority's exclusive right of governance.

As well, the Commissioner has responded in writing to an invitation to take part

in the public hearings of the Select Committee on Education in New Brunswick, which was extended on February 1, 2000. The purpose of these hearings is to collect public comments on the working paper *Let's Discuss Public Education Governance*. In her letter she reiterates the arguments given above and answers the questions asked in the working paper regarding the existing system of governance, the elements of a new structure, the characteristics of proper governance and the roles and responsibilities of the various players.

Through her numerous interventions, the Commissioner wishes to emphasize the importance of section 23 rights. She therefore supports any initiative aimed at strengthening school governance and meeting the real needs of the linguistic minorities. Although there has been progress in implementing section 23, particularly as a result of legislative and regulatory measures, school governance by minority school boards and court decisions, there is still much to be accomplished. There are ongoing or newly initiated court proceedings in British Columbia, Manitoba, Ontario, New Brunswick, Alberta and Nova Scotia. At present, close to half of eligible pupils outside Quebec are still receiving their schooling in the school systems of the English-speaking majority. The Commissioner is joining forces with community and government stakeholders to attain the objective of section 23 before its 25th birthday is celebrated!

CONCLUSION

The Constitution and the Official Languages Act give minorities collective rights which are remedial in nature. Whether in the areas of health, early childhood services, education, culture or any other area of government intervention, there is an obligation to ensure that the minority communities benefit from the same rights and the same access to resources as the majority communities.

The Commissioner believes that, with the many clarifications contributed by decisions of the Supreme Court of Canada in recent years, the scope of language rights is no longer in any doubt. It is high time to implement the necessary means to ensure the development of the minority communities. To that end, the federal government must forge strong partnerships with the communities themselves to ensure that their needs and priorities are respected. It must also work closely with the provincial governments in order to encourage them to support the linguistic minorities.

The purpose of the Official Languages Act is to implement the language rights guaranteed by the Constitution Act, 1982. In the Commissioner's view, the achievement of this objective involves not only the federal government, but also all of Canadian society and, in particular, the provincial and territorial governments. The Commissioner regrets that the minority communities must still, in the year 2000, resort to the courts to ensure respect for rights that the provinces are

committed to implement under section 23. All levels of government must be encouraged to make Canada's linguistic duality one of their core values.

The Commissioner is therefore making full implementation of Part VII of the Act one of the key components of her mandate which she approaches with both vigilance and enthusiasm.

VIVA



BILINGUALISM AND QUALITY OF GOVERNMENT SERVICES

1999 • 2000

Chapter 4

UNDER THE OFFICIAL LANGUAGES ACT, THE GOVERNMENT OF CANADA IS COMMITTED TO PROVIDING CANADIANS WITH QUALITY SERVICES IN ENGLISH AND FRENCH. TO DO SO, IT MUST ENSURE THAT BILINGUAL CAPACITY IS ADEQUATE IN THE FEDERAL PUBLIC SERVICE. APPROXIMATELY A THIRD OF POSITIONS ARE DESIGNATED BILINGUAL IN ORDER TO PROVIDE SERVICE TO THE PUBLIC IN BOTH LANGUAGES AND ENABLE FEDERAL EMPLOYEES TO WORK IN THEIR LANGUAGE IN REGIONS THAT ARE DESIGNATED BILINGUAL. THE COMMISSIONER FINDS, HOWEVER, THAT THE DISTRIBUTION OF BILINGUAL STAFF DOES NOT CORRESPOND TO THE REQUIREMENTS IN OFFICES DESIGNATED BILINGUAL. IN ADDITION, A NUMBER OF AGENCIES OR UNITS FOR WHICH THE PUBLIC SERVICE IS NOT RESPONSIBLE BUT THAT ARE SUBJECT TO THE OFFICIAL LANGUAGES ACT DO NOT COMPLY WITH ITS PROVISIONS. DURING THIS YEAR, SIX ISSUES IN PARTICULAR ENGAGED THE COMMISSIONER'S ATTENTION, INCLUDING THE FOLLOW-UP ON ALL GOVERNMENT POINTS OF SERVICE.

GOVERNMENT POINTS OF SERVICE. THE OFFICE OF THE COMMISSIONER PURSUED ITS SYSTEMATIC FOLLOW-UP ON OFFICES DESIGNATED TO PROVIDE SERVICE IN BOTH OFFICIAL LANGUAGES ACROSS THE COUNTRY TO EVALUATE THE PROGRESS MADE SINCE ITS 1994 STUDY. GOVERNMENT TRANSFORMATIONS HAVE HAD THE EFFECT OF REDUCING THE NUMBER OF OFFICES DESIGNATED BILINGUAL.

BEAULAC CASE. THE SUPREME COURT OF CANADA HANDED DOWN ITS JUDGMENT IN THE BEAULAC CASE AND INTERPRETED THE SCOPE OF THE RIGHT OF AN ACCUSED TO HAVE A TRIAL IN HIS OR HER LANGUAGE UNDER SECTION 530 OF THE CRIMINAL CODE.

Air transport. Canada's air transport industry has seen major shakeups in the past year. The Commissioner took this opportunity to draw attention to the problems experienced by Canadians in obtaining adequate service in both official languages. She also attempted to obtain additional guarantees in this regard, specifically by stating her concerns in the context of the adoption of the transportation bill. Her efforts bore fruit since the bill clarified Air Canada's linguistic obligations.

VIA Rail. In view of the progress achieved to date, the court remedy proceedings against VIA Rail initiated in 1991 were withdrawn by the Commissioner.

RCMP. The Royal Canadian Mounted Police carried out a major administrative reorganization that gave rise to numerous complaints about failure to comply with the Official Languages Act. The Commissioner investigated several specific problems and cites here, by way of example, the case of Manitoba. (Other complaints against the RCMP are also cited in Chapter 6, section 6.8.)

Sport. Following the conclusions of the Parliamentary Sub-Committee on the Study of Sport in Canada, and at the request of two federal Members of Parliament, the Commissioner conducted a study on the equitable use of the official languages in sport in Canada.

4.1 ENGLISH / *FRANÇAIS* AT GOVERNMENT POINTS OF SERVICE?

Under the Official Languages Act, a number of federal offices are designated to provide services in both official languages. An exhaustive study of the application of this provision was carried out by the Office of the Commissioner in 1994 and, since 1996, follow-up studies have been conducted progressively, province by province. This year, the Northwest Territories, British Columbia, Quebec and Ontario were the subjects of follow-ups. Upon seeing the results, the Commissioner expressed dissatisfaction with the limited progress and the slippage in certain regions. On the whole, the situation remains quite unsatisfactory.

Problem: Numerous deficiencies with regard to service to the public in both official languages persist at government points of service designated bilingual.

Principle: The bilingual service criteria are clear: exterior signage, interior signs, documentation, forms, pictograms, greeting on the telephone and in person, adequate bilingual capacity.

Action: The Commissioner has made recommendations to the institutions concerned and has asked the Treasury Board Secretariat to be more vigorous in monitoring enforcement of the Act.

In the past year, the Commissioner of Official Languages has completed four follow-up reports dealing with the provision of service in both official languages by federal offices designated bilingual in the Northwest Territories, British Columbia, Quebec and Ontario. These provincial reports are the last four in the series of follow-ups on the exhaustive study carried out in 1994, which showed that the provision of service in both official languages left much to be desired. Table 1 (see p. 60) shows the comparative results for 1994 and 1999 for all the regions of Canada. The specific results for the four regions audited this year show that there has been very little improvement since our initial study which revealed many deficiencies. These results are discussed below.

SIGNAGE AND DOCUMENTATION

In all four regions, the physical elements required for the provision of service in both official languages, such as signs, notices, documentation and forms, are generally available in both official languages. We also noted the increased presence, in offices designated bilingual, of the pictogram to inform members of the public of the availability of service in both official languages. Considering the ease with which a pictogram can be displayed, it might be expected that all federal offices designated bilingual would have one.

BILINGUAL RECEPTION ON THE TELEPHONE AND IN PERSON

Employees must greet members of the public who telephone or visit a federal office designated bilingual in both official languages to indicate that service is available in English and in French. The follow-up reports show a slight improvement with regard to this practice, both on the telephone and in person, except in designated offices in the Northwest Territories, where members of the public are greeted in English only. The lack of a greeting in both official languages on the telephone and in person can only discourage clients from exercising their language rights. This practice reduces the volume of demand for service in the minority official language in every province and territory.

SERVICES ON THE TELEPHONE AND IN PERSON

Services in person in the two official languages have improved in each of the regions visited. However, services in the two languages on the telephone have slipped significantly in the Northwest Territories and British Columbia, while they have improved in Quebec and Ontario.

DISTURBING RESULTS IN THE NORTHWEST TERRITORIES AND NUNAVUT

The physical elements required to provide bilingual service are generally in place in the Northwest Territories and Nunavut. Signs, notices and documentation are available in both official languages, and nearly seven out of 10 offices display the pictogram indicating that they provide service in English and in French. Reception on the telephone in the two official languages has shown a slight improvement, but designated offices greet members of the public who visit them in English only. The overall bilingual capacity of the designated offices is unchanged. Service in person in both official languages has improved only very slightly, while service on the telephone has suffered significant slippage. The fact that federal institutions use receptionists' services less and less to handle telephone communications no doubt has something to do with this fact.

SITUATION STILL UNSATISFACTORY IN BRITISH COLUMBIA

The managers of federal offices designated bilingual in British Columbia seem to experience problems in managing the physical elements required to provide service in both official languages. We found deficiencies with regard to bilingual signage and the availability of documentation and forms in both official languages. One-quarter of the designated offices still do not display the pictogram to indicate that they provide service in English and in French. Moreover, it is still difficult to obtain service in French on the telephone, and such service has even deteriorated since 1994. However, the situation with regard to service in person has improved significantly. There has been progress in terms of the overall capacity of offices to provide bilingual service. Reception in both official languages on the telephone and in person has also improved, but still not enough on the whole.

SITUATION VERY GOOD, IN GENERAL, IN QUEBEC

In federal offices designated bilingual in Quebec, signs, notices, documentation and forms are generally present in both official languages. A little over 80 percent of offices display the pictogram to indicate that they provide service in English and in French. Service on the telephone is available in both official languages in nearly all the offices designated bilingual, while service in person is available in all of them. The high bilingual capacity of nearly all the designated offices is the explanation for

this very good performance. However, bilingual reception on the telephone has shown little progress since 1994, and bilingual reception in person is stagnant at under 20 percent.

DESPITE SOME PROGRESS, PROBLEMS PERSIST IN ONTARIO

Signs, notices and documentation are generally in both official languages in offices designated to provide bilingual services in Ontario. We also found that 80 percent of the offices display the pictogram to indicate that they provide service in English and in French. However, there is bilingual reception on the telephone in a little over 50 percent of cases, while bilingual reception in person has improved only slightly and is provided a little over two times out of 10. As in a number of other regions, we found that bilingual service on the telephone is less available than in 1994, while bilingual service in person has improved considerably. The managers of offices designated bilingual are no doubt making more judicious use of their resources, because we found that the bilingual capacity of the offices has not increased a great deal.

OVERALL NATIONAL PICTURE

These four reports conclude the series of follow-ups undertaken in 1996. In its 13 reports, the Office of the Commissioner has made 1,368 specific recommendations on the deficiencies found. In addition, the Treasury Board Secretariat was alerted in 1998 to the findings of the studies, especially to persistent, systemic problems. The Commissioner will submit a new comprehensive summary report which will emphasize the key role of managers in the organization in assigning bilingual resources to strategic positions and in increasing employees' awareness regarding service to the public.

The Commissioner will continue to monitor the progress made in fulfilling commitments to rectify the deficiencies noted. She will intensify her contacts with senior officials. Finally, she will ask the Treasury Board Secretariat to play to the full its role in monitoring the application of official languages policies and principles in federal institutions. She believes that it has not shown sufficient leadership in this regard.

4.2 THE BEAULAC CASE: A BROAD AND LIBERAL INTERPRETATION OF LANGUAGE RIGHTS

The Supreme Court of Canada handed down its judgment in the case of *Beaulac v. The Queen (British Columbia)*, which involved the interpretation of language rights in criminal cases. The decision went in favour of the arguments made by the Commissioner at the hearing before the Supreme Court.

- Problem:** A Canadian citizen was not tried by a judge and jury who spoke both official languages, although he had so requested.
- Principle:** The language provisions of the Criminal Code of Canada must be interpreted in a broad and liberal manner, having regard to their purpose.
- Action:** The Commissioner intervened in this case. He advanced his interpretation of the language rights of the accused as set out in section 530 of the Criminal Code, and the Supreme Court, in large part, accepted his interpretation.

The accused, Mr. Beaulac, had appealed his case to the Supreme Court, on the grounds that his right to a trial before a judge and jury that spoke both official languages had been denied him because he understood English sufficiently. In this case, the Commissioner contended that the language provisions of the Criminal Code should be interpreted broadly and liberally, having regard to their purpose, the objective of the equality of the two official languages, and the development of language rights in Canada. Specifically, with regard to the language right in question in this case, the Commissioner stated that, in his opinion, “the official language of the accused” should not be restricted to the accused’s mother tongue or usual language but should rather be, at the choice of the accused, either the official mother tongue or the other official language. This choice had nothing to do with the fact that the accused understood another language or might be more comfortable in one or the other of the official languages; otherwise bilingual persons would no longer be able to avail themselves of their language rights.

The Supreme Court ruled in favour of the accused and ordered a new trial before a judge and jury that could speak both official languages. The Court, in large part, accepted the Commissioner’s arguments and stated that language rights “must in all cases be interpreted purposively, in a manner consistent with the preservation and development of the official language communities in Canada.” The Court specifically stated that the purpose of section 530 of the Criminal Code is to give equal access to the courts to accused who speak one of the official languages in order to help the official language minorities preserve their identity. Applying subsection 530(4) of the Criminal Code, the Court then ruled that the “official language of the accused” is “either official language to which that person has a sufficient connection,” meaning that it is not necessarily the accused’s dominant language.

The Commissioner greeted this decision with satisfaction. It provides a new framework for the interpretation of language rights. It recognizes not only the language rights of accused persons, but also those of official language minorities, because the judgment states that their rights “can only be enjoyed if the means are provided.” The judgment also states that the objective of all language rights is indeed the vitality of the official language minority communities and clearly outlines the policy direction that governments should adopt.

4.3 AIR TRANSPORT: CHANGE IN THE AIR!

While Canada’s air transport industry was undergoing massive transformation, the Commissioner took vigorous action to successfully resolve complaints concerning Air Canada outstanding for a number of years. In February 2000, a bill to amend the Canada Transportation Act (C-26) tabled in the House of Commons addressed the Commissioner’s essential demands.

Problem:	Many complaints against Air Canada and its regional carriers, which were the subject of recommendations by the Office of the Commissioner, had remained unaddressed.
Principle:	As a body subject to the Official Languages Act (the Act), Air Canada must be compelled to meet its obligations.
Action:	The Commissioner intervened to ensure that the new Canada Transportation Act would clarify the bearing of the Act on this industry.

CANADA TRANSPORTATION BILL (C-26)

Last year saw the restructuring of the air transport industry. This prompted the Government of Canada to review the legislation concerning this industry.

Concerned about the risks this restructuring entailed for the Canadian public, the Commissioner was the first to emphasize the importance of protecting the public’s right to be served in either official language by air carriers. She intervened

with Air Canada, the Minister of Transport, the minority communities, the Standing Committee on Transportation and other parties. Even after the tabling of Bill C-26, the Commissioner intervened with the Minister of Transport to have the linguistic obligations that apply to Air Canada's subsidiaries clarified.

Bill C-26 amends several statutes relating to air transport, such as the Air Canada Public Participation Act, and clarifies the scope of linguistic obligations in this industry. It states that the Act applies to Air Canada and adds a number of provisions specifying the linguistic obligations that apply to the corporation's subsidiaries. It provides that Air Canada must ensure that subsidiaries of which it owns 50 percent or more of the shares must comply with Part IV of the Act with respect to "air services, including incidental services." Parts VIII, IX and X of the Act concerning investigations and court remedy will also apply in this context.

In reading the bill, the Commissioner noted that the expression "air services" clearly covered the in-flight services provided by Air Canada's subsidiaries. She noticed, however, that the concept of "incidental services" was not defined in the bill and proposed that the Department of Transport clarify this concept. Accordingly, "incidental services" provided by Air Canada's subsidiaries were subsequently defined to include: a) ticketing and reservation services; b) information about fares and routes, including notices and announcements, that subsidiaries publish or cause to be published to inform their customers; c) services that subsidiaries provide to their customers at airports, such as the control of passengers boarding and disembarking aircraft, announcements made to customers and counter services; d) services related to baggage or freight claims and client relations.

In the past, Air Canada's poor performance in French has caused a great deal of dissatisfaction. Having received some 900 complaints in the past five years, the Office of the Commissioner had to initiate four court remedy proceedings. The first two date back to 1996 and concern the corporation's ground services at Halifax International Airport and Lester B. Pearson International Airport in Toronto. The third is an application for reference filed in the Federal Court in 1997 to determine whether the Act or part of it applies to Air Canada's subsidiaries (Air Nova, Air Ontario, Air BC). The fourth remedy application was also filed in 1997, along with the reference, and deals more specifically with the in-flight services provided by the regional carrier Air Ontario. This remedy was, however, suspended from the outset, pending the Court's decision on the reference as to whether the Act applies to the regional carriers.

More recently, in view of Bill C-26, the Commissioner obtained a suspension of the other three remedy proceedings until June 30, 2000, to allow for analysis of the impact of the amendments that the bill will make.

COMPLAINTS FIND A HOME

Still in the air transport sector, the Office of the Commissioner reached an agreement with Transport Canada whereby the two institutions will co-operate in resolving complaints about safety briefings aboard aircraft.

This subject has given rise to a number of complaints in the past, and the agreement should result in more effective handling of them. The Commissioner, as an ombudsman, receives the complaints and reports on the actions taken on them. For its part, Transport Canada is responsible for the development and implementation of regulations and conducts its own investigation of complaints brought to its attention by the Office of the Commissioner.

The Commissioner is pleased with this partnership and expects that a second agreement will soon be reached with the same department on pre-boarding security screenings.

4.4 VIA RAIL ON THE RIGHT TRACK

VIA Rail has been the subject of numerous complaints in the past and, in 1991, court remedy proceedings against it were taken by the Office of the Commissioner. The progress noted this year convinced the Commissioner to withdraw these legal proceedings.

Problem:	The complaints that have been the subject of the Office of the Commissioner's court remedy application since 1991 are not reflected in the current situation.
Principle:	What is vital is that VIA Rail's services be provided in compliance with the corporation's linguistic obligations.
Action:	The Commissioner withdrew her court remedy application in the Federal Court following an agreement with VIA Rail.

A third follow-up, conducted at the end of 1998, on the availability of service in French aboard VIA Rail trains operating in the Montreal-Ottawa-Toronto triangle, showed improvement in the provision of service in both official languages on this route. The reduction in complaints was also revealing in this regard.

Since the court remedy action against VIA Rail was taken in 1991, a series of measures has helped to rectify the deficiencies with respect to the Official Languages Act. For example, VIA Rail has made major changes to its operations by creating a new bilingual position of service manager and by designating a certain number of bilingual positions on its routes. In view of the changes in the situation and the impact of the measures taken by VIA Rail, the Commissioner decided to withdraw her legal proceedings and issued a notice of discontinuance to the Federal Court.

The Office of the Commissioner will, however, continue to monitor the implementation of VIA Rail's commitments to the improvement of its French-language services aboard trains operating in this triangle.

4.5 IN THE SADDLE WITH THE ROYAL CANADIAN MOUNTED POLICE

Since 1994, the Royal Canadian Mounted Police (RCMP) has carried out a restructuring marked by amalgamations and reductions of detachments, a reorganization of divisions and the increased use of patrol cars as "offices." These changes have been prejudicial to the equity of client service in both official languages, particularly in Manitoba and New Brunswick, where the Commissioner conducted an investigation.

- Problem:** The restructuring of RCMP services gave rise to complaints from French-speaking members of the public who see in this a reduction of services in their language.
- Principle:** Although there have been major reorganizations, the RCMP must continue to meet the requirements of the Act.
- Action:** The Commissioner obtained a suspension of the proposed changes and the implementation of a process of consultation with the community in Manitoba.

After receiving a number of complaints against the RCMP, the Commissioner conducted a special study in the Red River corridor in Manitoba. The investigation report published in July 1999 validated the complaints that the major changes in

the detachment's organization contravened the Official Languages Act with respect to communications with the public (Part IV) and support for the development of minority communities (Part VII). The Commissioner made recommendations on a suspension of the changes under way, a review of the bilingual capacity of RCMP units in Manitoba and consultation with the Franco-Manitoban community.

The RCMP agreed to implement these recommendations. A committee of federal, provincial and community representatives was created. Representatives of the Office of the Commissioner sit on this committee as observers. A task force is responsible for recommending solutions to meet the community's needs more effectively. Unfortunately, the Commissioner finds that this committee is having difficulty making progress. One problem stems from the fact that the requirements of the Act and Manitoba's French-language services policy are not in agreement.

A court remedy application filed by the Association des juristes d'expression française du Manitoba was suspended at the applicant's request to allow the consultation to lead to concrete solutions. The Commissioner is continuing to promote a rapprochement between the RCMP and the Franco-Manitoban community so that the task force might regain its footing and speedily propose lasting and acceptable solutions to this situation.

4.6 SPORT: FAIR PLAY IN BOTH LANGUAGES?

In 1999, the Commissioner began work on a study on the use of the two official languages in high-performance sport. Its purpose is to determine whether training organizations that receive public funding allow athletes to pursue training using their preferred official language.

- Problem:** A concern that French-speaking athletes do not receive support equivalent to that given to Anglophones from associations that receive public funding.
- Principle:** Athletes of both language groups must be able to fully develop their talents under Canada's sport system.
- Action:** The Commissioner conducted a study on the use of the two official languages in high-performance sport.

The conclusions of the Sub-Committee on the Study of Sport in Canada, as well as requests from Members of Parliament resulting from hearings of the sub-committee, prompted the Commissioner to conduct this study. It seemed to some that French-speaking athletes were victims of discrimination in terms of the services provided to them and their opportunities to be selected for national teams.

The investigation, begun in September 1999, involved a thorough study of the parliamentary, government, media and association documents relating to sport. In addition to conducting interviews with government representatives, researchers and sports association representatives, the Office of the Commissioner mailed a survey to a sample of English-speaking and French-speaking athletes in Canada to determine their attitudes, values and experience in sport. Finally, on-site visits were made to a number of Canadian cities.

The preliminary results reveal the complexity of Canada's sport system: some 100 national bodies, including Sport Canada; some 30 multi-sport associations; some 60 national sport associations; and the provincial and territorial governments. While it is true that the federal government must ensure compliance with the Official Languages Act, its intervention seems increasingly limited. The Commissioner nevertheless believes that the sport environment is conducive to promoting positive and equitable relations between the two language communities in Canada. The next annual report will contain the complete results of this study.

On a positive note, the Commissioner was pleased with the performance, in terms of bilingualism, of the organizers of the XIII Pan-American Games, which were held in Manitoba in 1999. The linguistic review prepared by the Commissioner's Winnipeg office notes that 2,800 of the 18,000 volunteers at the Games were bilingual.

CONCLUSION

While the Official Languages Act sets out the federal government's commitment to provide quality service in both official languages in Canada, there are still many deficiencies at government points of service, mainly with respect to French-language services. Yet the Supreme Court judgment in the Beaulac case reiterated, among other things, the scope of Canadians' right to receive government services in their language.

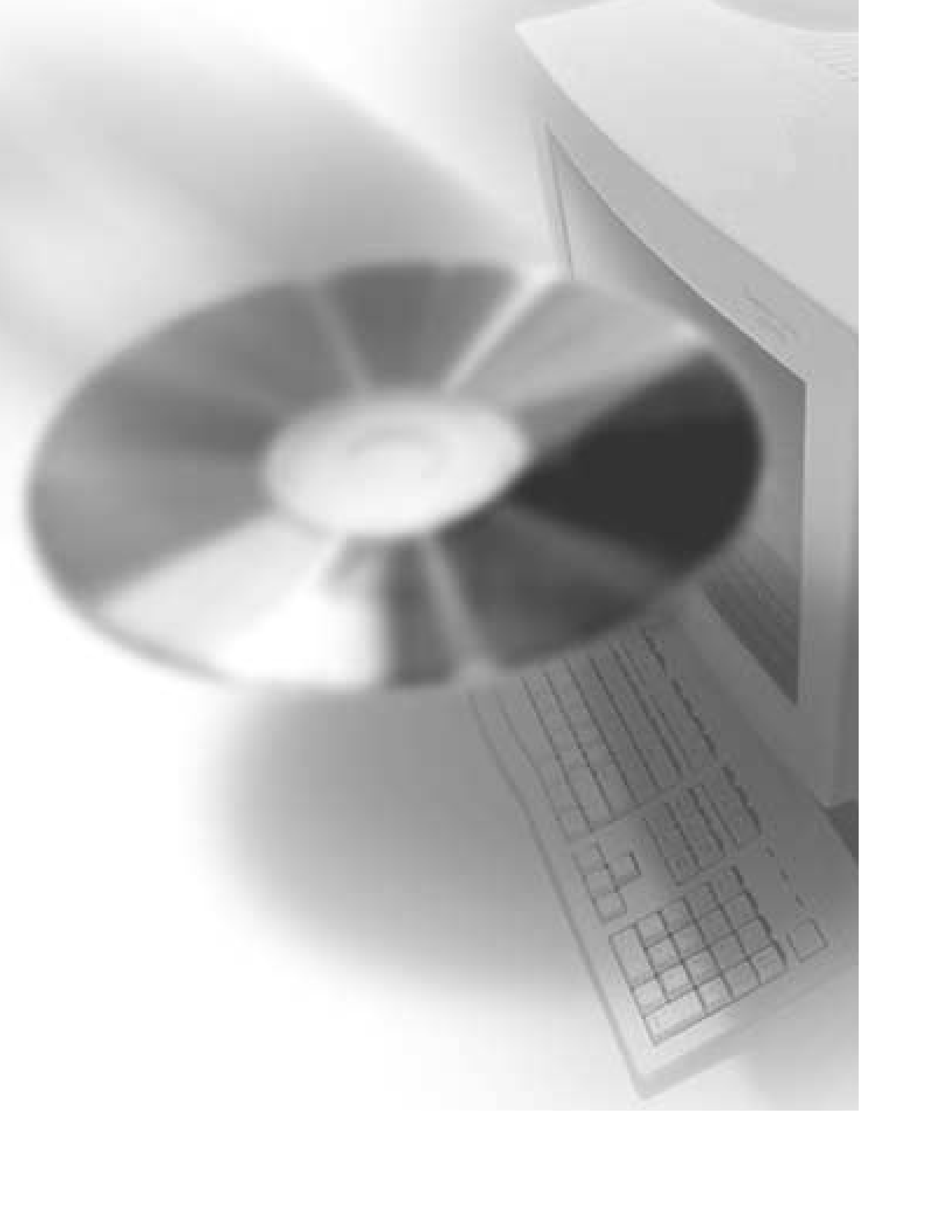
On the other hand, there is progress worth noting, such as the amendments to the Canada Transportation Act, which should compel Air Canada and its regional carriers to comply with the Official Languages Act. Via Rail has made long-awaited changes to its client service in both official languages. The Department of Transport has reached an agreement with the Office of the Commissioner to co-operate on investigations of complaints of a linguistic nature involving airports.

The Commissioner's investigations in other sectors, such as high-performance sport and RCMP services, indicate that much still remains to be done.

Table 1 Comparative results of the 1994 study and the 1998-1999 follow-up in offices designated to provide service in both official languages

ELEMENT	Northwest Territories		Yukon		British Columbia		Alberta		Saskatchewan		Manitoba		Ontario**		NCR*		Quebec**		New Brunswick		Nova Scotia		Prince Edward Island		Newfoundland	
	Study %	Followup 1999 %	Study %	Followup 1996 %	Study %	Followup 1998 %	Study %	Followup 1997 %	Study %	Followup 1997 %	Study %	Followup 1996 %	Study %	Followup 1999 %	Study %	Followup 97/98 %	Study %	Followup 1999 %	Study %	Followup 1997 %	Study %	Followup 1998 %	Study %	Followup 1996 %	Study %	Followup 1996 %
Exterior signage	100	93	85	56	94	92	96	90	91	100	96	100	94	100	94	92	98	100	99	98	93	98	94	80	100	94
Interior signage	89	85	85	77	61	75	88	90	81	88	81	96	83	90	73	97	94	94	93	92	92	93	80	70	80	100
Documentation	-	100	75	67	73	61	91	84	73	76	87	90	88	92	100	100	98	100	91	83	96	84	79	55	100	100
Forms	50	-	100	86	88	80	92	94	70	74	96	85	95	100	100	100	99	100	100	90	97	100	89	80	100	100
Pictogram	-	69	46	61	55	75	53	79	57	88	74	84	50	80	51	80	68	82	71	82	72	86	58	80	100	100
Bilingual greeting on the telephone	50	55	47	62	44	50	52	50	52	53	57	50	51	52	81	81	45	59	62	62	43	67	49	65	41	59
Bilingual greeting in person	17	0	14	12	4	19	8	12	18	24	43	39	12	22	56	41	16	18	19	16	8	11	36	6	0	7
Service on the telephone	100	57	91	66	90	64	84	62	60	67	76	56	70	68	92	97	96	96	84	77	78	73	69	65	70	47
Service in person	64	69	42	61	73	89	63	66	45	61	76	78	69	76	78	92	99	100	85	78	73	72	72	90	42	56
Bilingual capacity	50	50	37	48	62	80	75	60	59	38	71	63	64	66	74	92	98	92	81	77	77	60	62	72	74	50

* National Capital Region
 ** Outside the National Capital Region



THE NEW INFORMATION AND COMMUNICATION TECHNOLOGIES

THE NEW INFORMATION AND COMMUNICATION TECHNOLOGIES (ICT) HAVE A PROFOUND IMPACT ON SERVICE DELIVERY BY THE FEDERAL GOVERNMENT, ON THE DEVELOPMENT OF THE KNOWLEDGE ECONOMY, ON COMMUNICATIONS, IN SHORT, ON CANADIAN SOCIETY AS A WHOLE. FAR FROM BEING NEUTRAL, THESE TECHNOLOGIES INVOLVE LANGUAGE, AND THE FRAGILE BALANCE OF LINGUISTIC DUALITY IS NOT SPARED THEIR EFFECT. THIS UBIQUITOUS TREND HAS LED THE COMMISSIONER TO MAKE ICT A TOP PRIORITY. THE COMMISSIONER HAS FOCUSED HER EFFORTS ON THREE ELEMENTS OF THIS PHENOMENON.

INTERNET. A VAST SPACE FOR THE EXCHANGE OF INFORMATION AND TRADE, THE INTERNET OFFERS 80 PERCENT OF ITS CONTENT IN ENGLISH WORLDWIDE. IS IT A TROJAN HORSE THAT POSES A THREAT TO CANADA'S LINGUISTIC DUALITY, OR CAN IT BE USED AS A WINDOW ON THE WORLD? THE COMMISSIONER HAS TAKEN MEASURES TO ENSURE GOVERNMENT ACTION IN THIS REGARD.

FRENCH-LANGUAGE TELEVISION BROADCASTING. IN RESPONSE TO THE PROFUSION OF COMMUNICATIONS NETWORKS AVAILABLE, TELEVISION BROADCASTERS MUST ADJUST THEIR TARGET MARKETS. SOMETIMES, THOUGH, AS THE COMMISSIONER POINTS OUT, LINGUISTIC DUALITY PAYS THE PRICE.

Digital technologies. ICTs increase the dissemination of cultural content. New media, such as the digital video disc (DVD), are now available to bring this content to consumers. But vigilance is required if French is not to be left behind.

5.1 THE INTERNET: A WINDOW ON CANADA'S LINGUISTIC DUALITY OR A TROJAN HORSE?

The Internet is linking ever more Canadians to each other and is transforming Canadian society and the government of Canada at a rapid pace. These transformations must reflect the equality of status of English and French stipulated in the Canadian Charter of Rights and Freedoms and must be consistent with the development of the official language minority communities as set out in Part VII of the Official Languages Act. The major challenge for Canada's Francophones today, as for the international Francophonie, is to make the Internet, such a powerful tool for communication and cultural economic development, their own.

The 1999 Speech from the Throne stated that Canada would be the first G7 country to offer all its services to the public on-line, by the year 2004. The Commissioner accordingly believes that we must redouble our efforts to ensure the full implementation of the Official Languages Act. Linguistic duality must be real and alive, in the virtual universe as well. She has therefore drawn attention in several forums to the need to increase the critical mass of French-language content on the Internet and to the government of Canada's key contribution in this regard.

In particular, the Commissioner gave a speech to the Cercle canadien of Toronto in which she outlined the Internet's growing impact on the rapid changes in Canada's economy and culture. This speech was an appeal to the government of Canada to play a more active role in promoting the use of French on the Internet. This role is crucial to ensure that the Internet is a tool to promote the French language and culture in Canada and around the world, rather than a new Trojan Horse.

The Commissioner also noted that French-language content on the Internet is increasingly becoming a key area of co-operation and co-ordination among the governments of Canada, Quebec and New Brunswick.

In particular, two aspects of Internet use have been the subject of studies and recommendations to the government of Canada this year, namely, the use of the Internet by government institutions and the place of French on the Internet.

USE OF THE INTERNET BY THE FEDERAL GOVERNMENT

- Problem:** The widespread use of the Internet in government services has been detrimental to the adequate use of French.
- Principle:** The government must comply with the Act by adopting and implementing standardized communication policies that include the Internet.
- Action:** The Commissioner conducted a follow-up study and made recommendations to the Treasury Board Secretariat.

In opting for the widespread use of the Internet, the federal government considerably expanded its field of communication and opened up the risk that the services it offers might not be of equal quality in both official languages. The Office of the Commissioner accordingly identified, in a 1996 study, numerous technical problems faced by Francophones wishing to use government services over the Internet. To measure the progress made and the persistent problems in this regard, the Commissioner conducted a follow-up study in 1999.

This report, *Use of the Internet by Federal Institutions*, happily reveals that these technical problems have in large measure been resolved, thanks in particular to the technical solutions the Commissioner offered in his report. Above all, the study shows that, with respect to official languages, the Internet is now a means of communication unto itself. The nature of the complaints received by the Commissioner with respect to the Internet also confirms this, as they pertain to the unequal status of English and French, the poor quality of the French-language content and the failure to provide information simultaneously in both official languages.

The technical problem is that government Internet addresses do not comply with the Official Languages Act. Moreover, some of the translated information posted on government Internet sites is of inferior quality. Finally, government employees do not always receive an active offer of computer software in the official language of their choice, information about Internet policies is not always provided to them, and help, support and technical training services are not always of equivalent quality in both official languages.

The Commissioner brought these matters to the attention of the Treasury Board Secretariat and of federal institutions. The Treasury Board Secretariat acknowledged the problem and undertook a study in this regard as part of its “common look and

feel standards” project. The Commissioner will follow up on the other recommendations during the coming year in the context of her general observations on government communication with the public.

FRENCH ON THE INTERNET

- Problem:** The predominant use of English on the Internet is detrimental to Canada’s linguistic duality.
- Principle:** The government should create an integrated support plan for the development of tools, content and access to the Internet in French, in keeping with Part VII of the Act.
- Action:** The Commissioner published a special study on this subject and received concrete commitments from the government in response to her recommendations.

LANGUAGES USED ON THE INTERNET

French accounts for less than 3 percent of all content on the Internet. Over 80 percent of all content is in English, although only 10 percent of the world’s population speaks that language.

UNDP, Report on Human Development 1999

In view of the undeniable predominance of English on the Internet, there is a need to ensure that French has an equitable place in order to strengthen Canada’s linguistic duality. The Commissioner therefore asked the government of Canada to reiterate linguistic duality as one of the guiding principles in the development of the information highway in Canada. A coherent strategy is required, and specific investments must be made for this purpose.

To guide the government in this process, the Commissioner published a study entitled The Government of Canada and French on the Internet. As the Commissioner noted when she presented this study at the Initiatives 99 symposium in Edmundston, the study is intended as an urgent appeal for immediate and more targeted action by the government of Canada to increase French-language content on the Internet. Quoting the researcher Michel Cartier, the Commissioner stressed that “The information highway leads us here and there, but without content, it leads us only there.”

The study was based on a review of current government actions and practices, interviews and focus groups. A total of about 40 federal institutions and Internet specialists were consulted. The recommendations made in the study are intended to encourage the government to reaffirm linguistic duality and provide an international showcase for it. To achieve this, greater investment in the translation and digitization of documents and in content

production will be required; portals should be created and advertised to highlight French-language resources, be they from the government, non-governmental sources or the private sector, and access to language tools and government databases should be enhanced.

At the Commissioner's request, the government responded promptly to these recommendations and made a commitment to develop a coherent action plan with time frames, monitoring mechanisms and regular progress reports on the efforts to increase French-language content and services on the Internet.

This response is highly encouraging and shows the government of Canada's commitment to increasing French-language content and services on the Internet, in accordance with Part VII of the Official Languages Act. The Committee of Deputy Ministers Responsible for Official Languages and the sub-committee on information management will monitor this government commitment.

In view of her concerns about the government response on this matter, the Commissioner is delighted that the Committee of Deputy Ministers has already selected the Internet as one of its four strategic priorities for the current year. Moreover, the government made a commitment in its last budget to invest over \$75 million in the digitization of federal collections of heritage interest. The Minister of Canadian Heritage has indicated that half of that amount will be allocated to French-language collections. This will remain an urgent monitoring priority for the Commissioner over the coming year.

5.2 TELEVISION PROGRAMMING IN BOTH OFFICIAL LANGUAGES

Paradoxically, the proliferation of digital modes of dissemination and of television services tends to reduce the proportion offered to French-speaking clients. The Commissioner reiterates that linguistic duality must be strengthened in this context and, for this reason, she supports an expansion of the French-language services available to Canada's French-speaking communities.

Problem: Through new technologies, the television programming available internationally is increasing, to the detriment of services offered in French.

Principle: The CRTC should promote the development of French-speaking minorities by expanding the definition of a bilingual market and guaranteeing adequate blocks of television services in both official languages.

Action: The Commissioner intervened with the CRTC in its review of the definition of bilingual markets, advocating mandatory TVA service and distribution of TFO in Quebec. She is also investigating the availability of the Canadian Parliamentary Affairs Channel (CPAC) in both official languages.

THE COMMISSIONER'S APPEARANCE BEFORE THE CRTC

Commissioner Goldbloom responded to the Canadian Radio-Television and Telecommunications Commission's (CRTC) call for submissions regarding the rules of access to specialized services and pay television in bilingual markets. He stressed the importance of redefining the concept of a bilingual market, which designates regions where cable broadcasters are required by the CRTC to offer television services in both official languages.

NATIVE SPEAKERS OF FRENCH VERSUS SPEAKERS OF FRENCH IN CANADA

Native speakers of French

6 979 715

Speakers of French

8 920 390

Statistics Canada, 1996 Census

The Commissioner proposed that the number or percentage of speakers of French, as opposed to native speakers of French, be used to determine the entire pool of potential consumers of French-language television services. With the rapid growth in bilingualism, using the number of speakers would provide a basis for offering more adequate services. Statistics Canada censuses provide data on the number of speakers of French.

The Commissioner also drew the CRTC's attention to the fact that the greater number of channels offered significantly reduces the proportion of French-language services. He accordingly recommended that the CRTC prescribe an adequate block of services in both official languages in bilingual markets. This would require cable broadcasters to study the specific demands of minority communities by consulting the associations that represent them.

The CRTC considered these recommendations and tabled for comments a proposed television distribution policy for bilingual markets that is innovative in two respects. First of all, it is based on the number of people in the cable broadcaster's service area with a knowledge of both official languages, rather than the number of those whose first language is French. Second, it suggests that at least one of the 10 new specialized digital networks to be offered to Canadians be in the French language. The Commissioner is very pleased to see these steps in the right direction.

The government of Canada has also asked the CRTC to table, no later than December 31, 2000, a report on the French-language television services offered outside Quebec. In the course of this exercise, the Commissioner will reiterate the need to increase French-language television services outside Quebec, in the interest of development of the official language communities.

TFO, TVA ...

In October 1999, TVOntario (TVO) submitted to the CRTC an application for mandatory carriage of its educational French-language television programming service (TFO) in Quebec, as part of a discretionary analog service. The Commissioner wrote to the CRTC in support of TVO's application. The CRTC nevertheless refused the application, arguing that an additional pay-TV educational channel would have unduly taxed television viewers in Quebec, who already pay for and receive the Télé-Québec educational service.

The Commissioner also wrote a letter in support of the French-language TVA network's application to become a national network for mandatory carriage throughout the country. She therefore welcomed the CRTC's decision in 1999 to award TVA that status. The Commissioner remains vigilant with respect to TVA's commitments to Canada's French-speaking communities, as they have not yet been fulfilled.

THE HOUSE OF COMMONS ON TELEVISION

Some Canadians have complained that they do not have access to the proceedings of Canada's House of Commons in their preferred official language. The debates and proceedings of the House of Commons are broadcast live on the Canadian Parliamentary Affairs Channel (CPAC), using one video signal and three audio signals (one in English, one in French and another, live, in the language used by the speaker). CPAC distributes these signals via satellite to cable broadcasters throughout Canada.

The cable broadcasters, for their part, often broadcast only one of these three audio versions, thereby depriving many Canadians of this tool, which is a symbol of a healthy democracy. These complaints raise an important problem, and an investigation is under way to determine whether the House of Commons is required to ensure that its debates are televised in both official languages. The results are expected in the coming year.

5.3 DVDS: WHAT ABOUT THE FRENCH-LANGUAGE VERSION?

The convergence of all means of communication into digital format will facilitate the advent of a world based on instant and global interaction. Together with the globalization of the economy and of entertainment, which favours English, this trend will continue to threaten the fragile balance of Canada's linguistic duality. The recent example of film distribution on digital video disc (DVD) illustrates the danger we face.

- Problem:** The new DVD medium is gaining in popularity, but the films are sometimes not available in French.
- Principle:** Canada should take action to ensure that cultural products offered in the Canadian market include a French-language version whenever possible.
- Action:** At the Commissioner's request, the Minister of Canadian Heritage intervened with the major distributors of films on DVD, and they have agreed to offer the French-language versions.

DVDs are increasingly common in the distribution of films in North America. The DVD technology promises to offer several versions of films (English, French, Spanish, etc.). The Commissioner has responded to complaints about the lack of French-language versions of the DVDs distributed in Canada. The investigation conducted by the Office of the Commissioner showed in fact that some studios, such as Columbia/Tristan, Miramax and Dreamworks, decided to drop the French-language version of DVDs offered in the North American market.

The Commissioner referred this constraint on the principle of Canadian linguistic duality to the Minister of Canadian Heritage. This is an important issue, since DVD films are increasingly popular and are gradually replacing traditional videotapes. At present, four of the six titles with the highest sales in Canada are not available in French. This lack of availability of a French-language version is detrimental to the influence of the French language in Canada. The Commissioner has therefore requested that the government of Canada intervene vigorously with the studios in question to correct this situation.

The Commissioner is pleased that the studios have promptly agreed to once again offer the French version of DVDs distributed in Canada and Quebec. Vigilance is clearly essential to ensure that the growing use of new technologies in Canadian society is not detrimental to our country's linguistic duality.

CONCLUSION

The advent of the Internet and of new information and communication technologies is changing the world of television and film, of information and of the entertainment industry. The Commissioner notes that, in spite of their positive effects, these new tools can jeopardize the vitality of Canada's linguistic duality.

This is why the Internet has become one of the key issues being monitored closely by the Office of the Commissioner. Some studies and investigations have been completed this year, but increased vigilance on the part of the Commissioner is to be expected in coming years. Moreover, the Commissioner expects to take full advantage of these new media to promote Canada's official languages.



THE CONCERNS
OF CANADIANS

1999 • 2000

Chapter 6

ONE OF THE ROLES OF THE COMMISSIONER IS TO RESPOND TO COMPLAINTS AND INFORMATION REQUESTS FROM CANADIANS REGARDING THE OFFICIAL LANGUAGES ACT. THIS CONTACT IS ESSENTIAL IN ORDER TO DEAL WITH THOSE FEDERAL INSTITUTIONS THAT DO NOT RESPECT THEIR OBLIGATIONS WITH REGARD TO CANADA'S LINGUISTIC DUALITY. ACCOUNTS FROM CANADIANS EXPRESSING THESE CONCERNS ALSO SERVE AS A BAROMETER TO ASSESS DEVELOPMENTS WITH RESPECT TO THE MAJOR ISSUES BEING MONITORED BY THE OFFICE OF THE COMMISSIONER.

THIS CHAPTER PROVIDES A STATISTICAL PROFILE OF THE CONCERNS EXPRESSED BY CANADIANS TO THE COMMISSIONER AND OUTLINES SIGNIFICANT TRENDS. WE HAVE ALSO CHOSEN SEVEN RECURRING THEMES WHICH ILLUSTRATE THE PROBLEMS THAT BESET CANADIANS WHO ARE CONCERNED ABOUT THEIR LANGUAGE RIGHTS. EACH THEME IS ILLUSTRATED BY REVEALING EXAMPLES.

PROFILE OF COMPLAINTS. THE OFFICE OF THE COMMISSIONER WAS CONTACTED SOME 3,000 TIMES – INCLUDING 1,800 COMPLAINTS. MANY OF THESE COMPLAINTS ARE CURRENTLY UNDER INVESTIGATION. AS WELL, LETTERS TO THE EDITOR IN NEWSPAPERS ARE READ AND INTERPRETED BY THE COMMISSIONER AS A REFLECTION OF THE CONCERNS OF CANADIANS.

LINGUISTIC MINORITY COMMUNITY PRESS. WHILE THE FEDERAL GOVERNMENT IS REQUIRED TO INFORM ALL MEMBERS OF THE PUBLIC THROUGH THE USE OF LINGUISTIC MINORITY COMMUNITY MEDIA, IT OFTEN CONTRAVENES THIS OBLIGATION.

Service to the public. There must be no exceptions in the application of the Official Languages Act. A number of federal institutions that claim mitigating circumstances as an excuse have been reminded of this fact by the Commissioner.

Third-party services. Federal institutions must ensure that third parties contracted to provide services respect the language rights of their clients.

Addressing standards. Some government services seem to forget that addressing may be done in English or in French.

Language of work. Are federal government employees able to work in their preferred official language in prescribed regions, as stipulated in the Act?

Equitable participation. Despite significant improvements, there are still problems with regard to the participation of members of both official language communities in the federal public service.

Language requirements. A number of complaints concern the language requirements of certain positions.

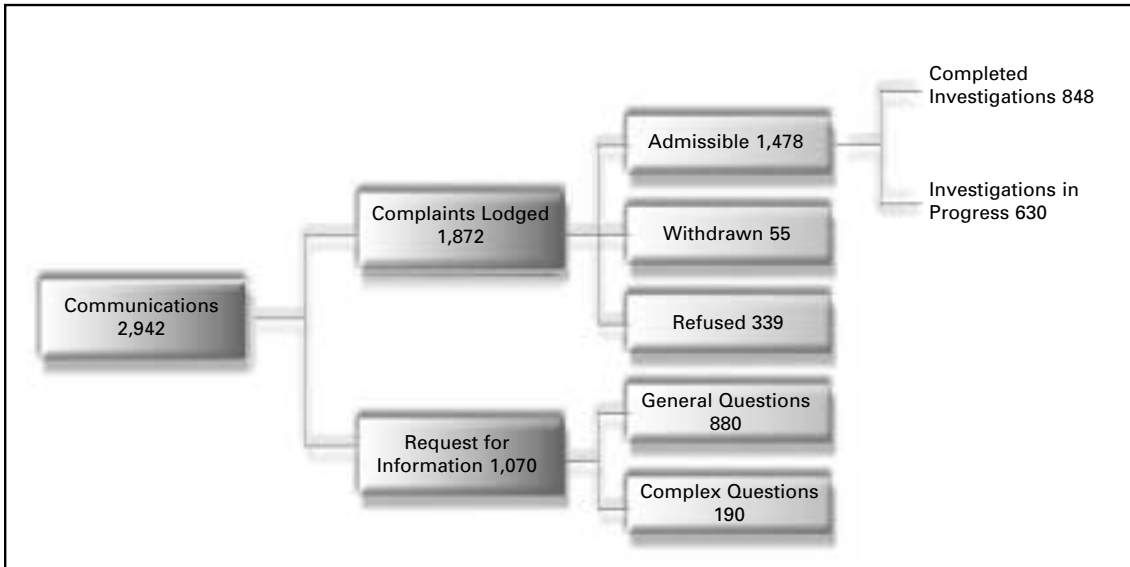
6.1 PROFILE OF COMPLAINTS RECEIVED BY THE OFFICE OF THE COMMISSIONER

Each year, Canadians who are concerned about their rights under the terms of the Official Languages Act contact the Commissioner. A significant number of these communications are considered complaints, and if they are deemed admissible, investigators from the Office of the Commissioner begin an investigation. The parties involved are contacted for the purpose of collecting the information and evidence required for the investigation. At the close of the investigation, the Commissioner may issue recommendations and conduct a follow-up to verify whether they have been implemented. In addition to investigating complaints, the Commissioner also carefully monitors what is reported in Canadian media about the official languages.

CONTACTS WITH THE OFFICE OF THE COMMISSIONER

The Office of the Commissioner was contacted some 3,000 times during the period covered by this report – including approximately 1,800 complaints and hundreds of information requests regarding investigations. A significant number of the complaints (1,478) were deemed admissible and gave rise to investigations (see figure 1).

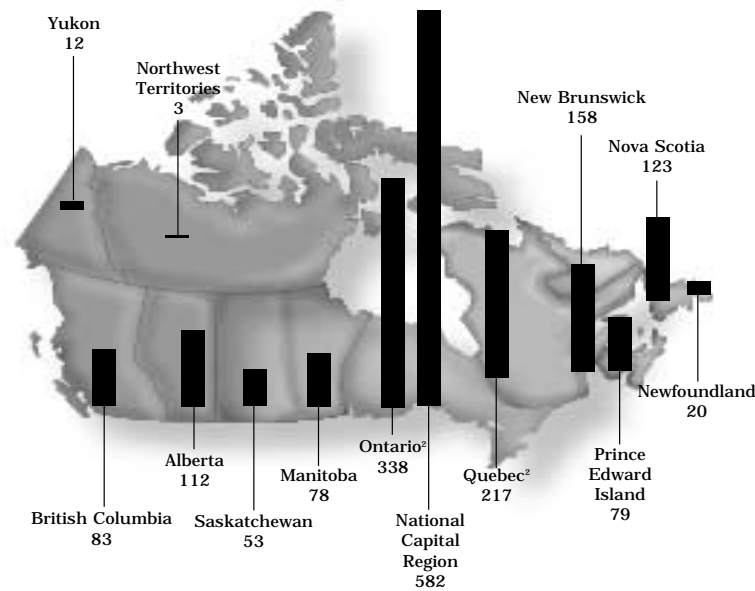
Figure 1 Communications



In line with demographics, 60 percent of the deficiencies were in central Canada: Ontario, Quebec and the National Capital Region (see figure 2). Usually, nearly 80 percent of the incidents brought to the Commissioner's attention are related to service to the public. The other most frequent type of complaint concerns the violation of employees' language rights in their place of work (see figure 3).

While approximately 100 federal institutions are implicated, two-thirds of all admissible complaints, around 1,200 of them, involve some 20 institutions. The other one-third of the complaints target just over 80 institutions (see figure 5). The list of institutions named in the greatest number of complaints, with occasional exceptions, varies little from one year to the next. Any changes are due to the nature of

Figure 2 Distribution of the 1,872¹ complaints lodged by province and territory



¹ Including 14 complaints dealing with services offered outside Canada and 582 complaints in the National Capital Region, 515 from the Ontario side and 67 from the Quebec side.

² Excluding the National Capital Region.

Figure 3

Distribution of admissible complaints (1,478)

Notices	30	2%
Language requirements	74	5%
Language of work	160	11%
Advancement	15	1%
Service to the Public	1,154	78%
Other	45	3%
Total	1,478	100%

some of the departments' activities. Figure 4 indicates the breakdown of the complaints by region while figures 6 and 7 show the distribution of complaints by subject.

This brief outline shows that, even after 30 years, much remains to be done before we can talk of real progress in the full implementation of the Official Languages Act.

Figure 4 Breakdown of the 1,872 complaints lodged, by region

Region	Complaints lodged	DISPOSITION			NATURE OF ADMISSIBLE COMPLAINTS					
		Refused/ withdrawn	Admissible	Notices	Service to the public	Language of work	Advance- ment	Language requirements	Other	Information requests
Newfoundland/ Labrador	20	2	18	0	16	0	0	2	0	1
Prince Edward Island	79	12	67	1	62	0	2	1	1	4
Nova Scotia	123	32	91	5	79	5	0	0	2	4
New Brunswick	158	27	131	2	94	17	1	14	3	8
Quebec ¹	217	81	136	1	93	21	0	4	17	48
NCR (Quebec)	67	20	47	0	20	23	1	2	1	10
NCR (Ontario)	515	100	415	1	287	85	5	22	15	58
Ontario ¹	338	68	270	1	258	8	1	1	1	29
Manitoba	78	16	62	1	32	0	1	27	1	4
Saskatchewan	53	3	50	9	39	0	2	0	0	7
Alberta	112	12	100	5	92	0	0	0	3	6
British Columbia	83	18	65	1	61	1	0	1	1	8
Yukon	12	0	12	1	11	0	0	0	0	2
Northwest Territories	3	0	3	2	1	0	0	0	0	0
Foreign	14	3	11	0	9	0	2	0	0	1
TOTAL	1,872	394	1,478	30	1,154	160	15	74	45	190

¹ Excluding the National Capital Region (NCR).

Figure 5 Institutions with more than 15 complaints and linguistic distribution by complainants

INSTITUTION	Total	Complaints		Investigations		Francophones	%	Anglophones	%
		Founded	Un-founded	Completed	In progress				
Human Resources Development Canada	161	102	12	114	47	148	92	13	8
Industry Canada	154	16	3	18	136	114	74	40	26
Air Canada	147	39	9	35	112	145	99	2	1
Canada Post	119	75	14	91	28	88	74	31	26
Revenue Canada	69	60	5	61	8	56	81	13	19
Royal Canadian Mounted Police	52	27	7	29	23	42	81	10	19
Correctional Service Canada	50	24	9	33	17	32	64	18	36
VIA Rail Canada Inc.	49	15	0	15	34	15	31	34	69
Public Works and Government Services Canada	38	29	4	30	8	32	84	6	16
Canadian Heritage	36	22	3	22	14	32	89	4	11
Fisheries and Oceans Canada	36	17	11	30	6	29	81	7	19
National Defence	36	19	7	23	13	32	89	4	11
Nav Canada	30	20	10	29	1	30	100	0	0
Foreign Affairs and International Trade	29	12	1	16	13	28	97	1	3
Agriculture and Agri-Food Canada	27	19	1	20	7	27	100	0	0
Canada Customs and Revenue Agency	27	12	2	14	13	25	93	2	7
Canada Investment and Savings	27	26	1	26	1	26	96	1	4
Citizenship and Immigration Canada	24	15	2	15	9	21	88	3	12
Parks Canada	23	15	4	20	3	18	78	5	22
Transport Canada	20	6	2	10	10	16	80	4	20
Canadian Broadcasting Corporation	18	8	5	13	5	17	94	1	6
Justice Canada	15	7	4	11	4	14	93	1	7
TOTAL	1,187	585	116	675	512	987	83.2%	200	16.8%

Figure 6 Service to the public: Admissible complaints (1,154)

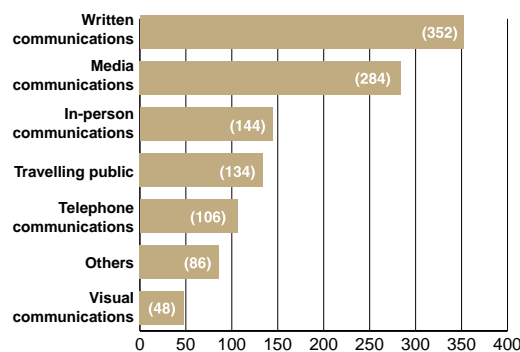
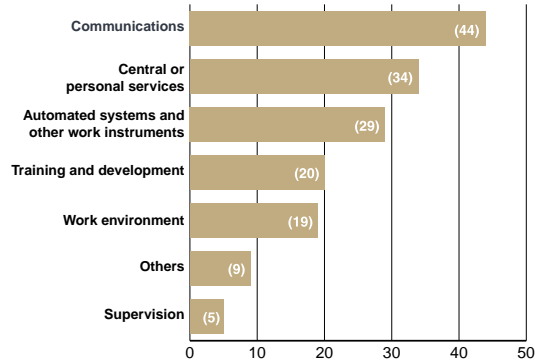


Figure 7 Language of work: The 160 admissible complaints by subject



READERS' OPINIONS: A REFLECTION OF THE GENERAL PUBLIC

From time to time, newspapers publish letters to the editor on the subject of official languages. When this occurs, the Commissioner informs those involved on the principles and realities of Canada's linguistic duality. A number of the questions raised in letters this year touch on issues dealt with in this report: the Supreme Court's decision in favour of French-speaking parents in Summerside, bilingualism in the context of municipal amalgamation in the Ottawa region, Hôpital Montfort, etc. We present here a few examples of other concerns that were expressed by readers.

OFFICIAL LANGUAGES, AN INVESTMENT

It was argued that official languages cost Canadians close to \$50 billion annually and that this was the main reason for the national debt. The Commissioner informed the public that, according to official figures, the federal government spent approximately \$439 million on official language programs in 1997-1998, or less than 1 percent of its expenditures. These costs include translation services, language training, bilingualism bonuses and transfers to the provinces for education in the minority official language and second language teaching.

These costs are justified, in that they are prescribed under the Charter of Rights and Freedoms and the Official Languages Act. However, it is even more important to highlight the advantages that they provide in terms of satisfying Canadians by providing them with service in the language of their choice. And that is not to mention the growing number of young Canadians who are bilingual in this, the age of the knowledge economy and global trade. Moreover, a recent poll conducted by Canadian Facts (September 1998) shows that two-thirds of Canadians support our country's linguistic duality and value the idea that young Canadians are learning their second official language.

ARE UNILINGUAL APPLICANTS EXCLUDED FROM THE FEDERAL PUBLIC SERVICE?

There are some who contend that unilingual Anglophones are discriminated against because federal government jobs and promotions are subject to bilingualism criteria.

The Commissioner reminded Canadians that the Official Languages Act recognizes the existence of two linguistic communities in Canada and aims to provide both communities with government services in their own language. As a result, some federal public service positions (33 percent in 1999) are designated bilingual to various degrees. Fifty-five percent of positions are designated English essential, 6 percent are designated French essential, and 4 percent are French or English essential. Therefore, a majority of public service positions are open to unilingual Anglophones, without their having to learn the other official language. As well, a unilingual person may apply for a number of positions that are designated as bilingual, provided that he or she agrees to learn the other official language within a predetermined time, using resources provided by the Public Service Commission. The Commissioner also pointed out that bilingualism is considered an asset to any employee and that the public service recognizes it as a professional skill that adds to, but does not take the place of, employees' other professional skills.

In the sections that follow, we illustrate the nature and scope of the complaints received with important and revealing examples that indicate systemic problems, inadvertent errors, ignorance of the Act, as well as the adverse effects of government transformations.

6.2 LINGUISTIC MINORITY COMMUNITY MEDIA IGNORED

Officials in charge of communications for federal institutions have the responsibility, under the Act, to inform both official language communities of their organizations' activities and programs. Given their minority status, some communities rely on weekly papers or regional media for information. Therefore, these media must be included in federal communications strategies. The number of complaints received regarding this issue demonstrates an unacceptable level of apathy on the part of federal institutions.

Problem: Some government notices are published only in the media of the dominant language and never reach the official language minority communities, which have their own media.

Principle: Federal institutions must adopt communication strategies that include, where the Act requires it, the use of the minority language communities' media.

Action: The Commissioner is encouraging federal institutions to use minority community media systematically and will publish a special report on the issue of advertising in newspapers.

DISAPPOINTING FINDINGS

The Office of the Commissioner again received a number of complaints decrying the fact that institutions used only the media in the dominant language in various parts of the country, without any equivalent in publications whose readership is made up of official language minority communities. The 300 or so cases in this category make up one-fifth of the admissible complaints received.

Despite the fact that many managers, once informed of specific deficiencies, do try to make the required changes in order to comply with the requirements of the Act, there seems to be a certain level of apathy in this regard. For example, Air Canada alone was cited approximately 70 times for this type of oversight.

Given the systemic nature of this problem, the Commissioner is planning to conduct an enhanced investigation and publish a special report in 2001 on the issue of newspaper advertising. The following are a few more specific examples of complaints that were handled.

ADVERTISING BILATERAL EMPLOYMENT AGREEMENTS

As a result of the broad scope of its activities, the Department of Human Resources Development Canada (HRDC) has been cited for a number of failures to comply with the Act with regard to communicating information on labour market training programs. From the Atlantic to the Pacific, some 40 founded complaints of this type were received against HRDC. During the investigation of these complaints, officials attempted to use the complexity of government transformations as an

excuse to justify the deficiencies brought to light. However, from the standpoint of the affected client or the Commissioner, the complexity of the changes does not justify the department's failure to meet its language requirements.

SAVINGS BONDS ... AND SAVING THE LANGUAGE

An investigation of over 20 complaints, following the media campaign on the Canada Savings Bonds and Premium Bonds issue, led the Commissioner to urge Canada Investment and Savings (CIS), acting on behalf of the Department of Finance, to review its annual communications plan. According to the allegations, despite a business agreement, the owners of newspapers in French-speaking minority communities did not benefit from CIS's advertising campaign on changes in interest rates.

The managers of the organization involved accepted the Commissioner's suggestion that it purchase additional advertising space in the French-speaking communities' publications. They also made a commitment, at the outset of the campaign, to produce camera-ready copy without mention of the interest rate, which would allow them to publicize the basic information to the target audience when warranted by fluctuations in financial markets.

6.3 HOW TO SERVE THE PUBLIC?

The government offers many services, some of which involve complex procedures. The result is that Canadians' language rights are often not fully respected. However, the Commissioner is vigilant when it comes to ensuring that violations of the Act, as reported in complaints, are quickly corrected. The following are some examples of problems that have been raised and the solutions that were found.

- Problem:** Some Canadians maintain that equivalent government information is not provided in both official languages.
- Principle:** Special circumstances must not be used as an excuse to waive the responsibility to serve Canadians in both official languages.
- Action:** All too often, the Commissioner must remind federal institutions that provide a wide variety of services to the public of their responsibilities under the Act.

MASS MAILING BUGS

Mass mailings are common practice for federal institutions. In the following example, information officials learned that it is not enough to delegate this responsibility to advertising agencies and post office services if it is to be properly fulfilled.

On the eve of the new millennium, the Department of Industry developed an initiative to deal with fears surrounding the Y2K bug, which resulted in hundreds of complaints from Canadians from across the country. They were complaining that they had received the Millennium Bug Home Check guide in only one official language, and not their preferred language.

During the investigation, the Commissioner learned that more than 10,000 people had called the toll-free line provided to obtain a version of the publication in their preferred language, as they had been sent a version in the other language. However, a number of Anglophones were not able to use this service because the message in English was typeset differently. It was reproduced in smaller characters than the one addressed to Francophones. This was explained by a lack of space in the French version of the guide. These requests, along with the numerous complaints lodged with the Office of the Commissioner or directly with Canada Post, reflect the magnitude of the problem when it comes to the dissemination of information.

HRDC: LARGE BUT VULNERABLE

There have been some 160 complaints filed against the Department of Human Resources Development (HRDC) citing lack of service, mostly in French, with regard to recorded telephone messages, information requests by telephone, the receipt of documents, on-site visits, and consultation of job banks and Web sites. Gaps in service were identified at a number of service points across the country, including Victoria, Calgary, Saskatoon, Steinbach, Sudbury, Hull, Ottawa, Gaspé, Bathurst, Yarmouth, Summerside and St. John's. The following are a few examples.

RIGHT NUMBER, BAD SERVICE

Rather than asking for help from a bilingual colleague, an employee with the Human Resource Centre of Canada (HRCC) in Toronto hung up three times on a client who spoke French when calling the number provided to her by another officer in the department. A bilingual assistant to the director of the employment centre in question, to whom the incident was reported, ensured that the client was served in French. The manager reminded employees in unilingual positions of the rules of common courtesy. He also asked them to be more careful to respect the client's preferred language when transferring calls to a colleague.

FEWER JOBS FOR FRANCOPHONES IN THE TELEMESAGE SYSTEM?

A complaint from a woman in Ontario revealed that the job offers in the Telemesage system differed from one language to the other. The French Telemesage service indicated that there were no available jobs, whereas in the English version, 59 office jobs were advertised. The investigation conducted by the Office of the Commissioner not only confirmed this problem but showed that, in some cases, the solutions applied were also inequitable. Rather than correcting the situation, a recorded message asked French-speaking clients to visit the employment centre nearest them to obtain the information requested.

In December 1999, the Ontario region of HRDC made a commitment to rectify the situation, but audits by the Office of the Commissioner indicate that the problem persists, despite a number of unsuccessful attempts to correct the situation, including the assignment of a bilingual officer to answer French-speaking clients' requests personally. The Commissioner is continuing to work on this issue to ensure that the required measures are implemented.

AND AT JOB BANKS?

A similar situation exists at the HRDC job banks. Having compared the content of the French and English sites, clients of employment centres in the Atlantic provinces, Ontario and Alberta noted that the information provided in French was incomplete and often erroneous. As well, the quality of the French left much to be desired.

This situation can be explained in part by the fact that there are not enough bilingual employees with the required skills to check job offers in both languages, and it is compounded by limitations in the translation software used. Given that it will be impossible for HRDC to remedy the problem quickly, the Commissioner has grouped similar complaints together in order to reassess the problem in the near future. In the meantime, the department has made a commitment to find a permanent solution to this systemic problem.

These examples, and many others, reflect the extent of the obstacles that remain to be overcome before the national employment services system can respond equitably, in English and in French, to the needs of all Canadians. The Commissioner will monitor this situation closely.

6.4 THIRD-PARTY SERVICES

It is commonplace for managers to contract out programs and activities that are part of their organization's mandate. Under the terms of the Official Languages Act, it is nevertheless the managers' responsibility to ensure that these third parties provide services in both official languages. The oversights described below provide insight into situations where the Act is not respected.

- Problem:** Some Canadians complain that they do not receive services in their preferred official language when government services are contracted out.
- Principle:** Federal institutions that contract out certain services must ensure that the contracting party that supplies the service is aware of its linguistic obligations.
- Action:** The Commissioner is urging certain federal institutions to take more vigorous action with third parties to make sure that they are aware of their linguistic obligations.

CANADA POST: RESPECTING THE ACT TO THE LETTER

Canadians living in minority linguistic communities are less likely to be satisfied with service in their language if they have to deal with clerks in Canada Post franchises. This is what complaints about the corporation have indicated for over 10 years. Despite efforts to improve the situation, it persists, and complaints regarding language of service still represent two-thirds of all complaints lodged by users of the corporation's postal outlets.

Whether they are in Prince Albert, Penetanguishene, Ottawa, Montreal or Beresford, Canada Post clients complain about the lack of active offer and of service in English and in French, the unavailability of forms in one of the two official languages, and sometimes even the lack of courtesy shown by some employees. In a Sudbury outlet, a woman who asked to be served in French was told curtly, "If you want services in French, you have to get a bilingual customer in the store to translate to [sic] you."

The corporation has already attempted to rectify the situation by sending several reminders to franchise operators. However, the Commissioner believes that Canada Post will need to take concerted action to foster awareness among franchise operators of their linguistic obligations as third-party service providers.

HOW DO I INSTALL GENET?

A woman who wanted information in French on installing GENet software was required to make several phone calls to a Public Works and Government Services Canada call centre before receiving satisfactory service.

This call centre, a Maritime Tel help desk office located in Prince Edward Island, was available via a toll-free line. Given the centre's inability to properly answer requests in French, the department arranged to have the service provided from a Bell Canada branch office in Hull, Quebec. Audits of the Bell Canada call centre by the Office of the Commissioner confirmed that services were available in both official languages.

6.5 ADDRESSING STANDARDS

Addressing in both official languages constitutes a systemic problem that has been brought to the attention of the Office of the Commissioner repeatedly for many years now. Some institutions, such as Canada Post Corporation and Elections Canada, are often cited in this regard, and the Commissioner encourages the creation of a special working group to look into this problem.

Problem:	Recurrent use of the English addressing standard for mail, regardless of the language of the addressee.
Principle:	Canadians have the right to receive correspondence addressed according to the specific standards of their preferred language.
Action:	The Commissioner intervened to find a solution to the issue and recommends the creation of an interdepartmental working group to solve this recurrent problem.

INTERDEPARTMENTAL TEAM TACKLES PROBLEM

The Office of the Commissioner investigated complaints regarding the translation of the generic element of various public thoroughfares in addresses and other documents. Since then, generic translation conventions have been established for street, avenue and boulevard. However, there remain a number of terms for which equivalents have not yet been determined. The Commissioner advocates the creation of an interdepartmental task force that would bring together representatives from the Treasury Board Secretariat, the Translation Bureau, Elections Canada, Canada Post, the Department of Natural Resources and the Office of the Commissioner to ensure progress on this issue.

"911" IN NEW BRUNSWICK

A plan to standardize addresses for the introduction of a 911 emergency system led to an unpleasant surprise for some French-speaking New Brunswickers when they received address change notices from Canada Post in English only. They mobilized in response to this denial of their language rights. These residents of unincorporated localities in rural areas appealed to the Commissioner after sending Canada Post a petition with 75 signatures.

New Brunswick's Department of Municipalities and Housing was in charge of this program. Following representations by the Commissioner, Canada Post intervened with the department. Acknowledging this denial of rights, it apologized to the persons concerned and informed them that their addresses would henceforth be written in accordance with their linguistic preference.

In order to raise awareness among municipal authorities about the issue of addressing standards and to avoid repeating the problem, Canada Post modified the form to be used in future to carry out similar address standardization projects.

6.6 LANGUAGE OF WORK: IS THERE REALLY A CHOICE?

This question still remains: in regions designated bilingual for language of work purposes, is it possible for employees to work in their preferred language? The numerous complaints on this issue indicate clearly that the answer is no. Twenty-seven federal institutions have been investigated by the Commissioner. The following are a few examples.

- Problem:** Some federal employees in regions designated bilingual for language of work purposes complain that they are not able to work in their preferred language.
- Principle:** Under the Act, every federal institution located in a designated region must provide all employees with the tools and working conditions that allow them to exercise their right to work in their preferred language.
- Action:** The Commissioner is investigating numerous founded complaints and is taking part in a project together with the Treasury Board Secretariat to follow up on this issue, which was deemed a priority by the Committee of Deputy Ministers Responsible for Official Languages.

MISSED OPPORTUNITY AT TREASURY BOARD

The Commissioner received nearly 200 complaints this year, 160 of which were admissible, regarding language of work. The deficiencies reported generally have to do with a lack of training sessions, administrative meetings, central services, work instruments (documents, directives, notices, software, Web site content, standardized computer keyboards), electronic messages, recorded greetings, etc., in one of the two official languages. Most of the employees who highlighted these deficiencies work in the following institutions: Nav Canada, Canada Post, Public Works and Government Services Canada, Correctional Service Canada, Human Resources Development Canada, National Defence, Canada Customs and Revenue Agency, and Industry Canada.

Given this persistent problem, the Commissioner deplores the fact that the Treasury Board Secretariat did not decide to include questions on this topic for public service employees in the survey it conducted a few months ago. Given that confidentiality was guaranteed, it would have been useful to assess the results from a different angle than that of complaints. However, Treasury Board has since made a commitment to consider these concerns during the next survey, a commitment that has been confirmed to the Commissioner in writing.

BON VOYAGE!

Federal employees frequently use the services of a private travel agency with which Public Works and Government Services Canada (PWGSC) has a contract. The Commissioner's investigation confirmed the allegations that the agency does not consistently provide quality service in French. Given the systemic nature of the problem, the Commissioner issued three recommendations to PWGSC. They can be summarized as taking the required measures to ensure that:

- * the travel agency provides active offer of service in both official languages, and that the French service is of the same quality as that provided to English-speaking employees;
- * future contracts signed by the government with travel agencies stipulate more clearly and in greater detail the services which must be provided in both official languages;
- * all information found on travel itineraries provided to federal employees is in both official languages or in the employee's preferred language.

With respect to the first recommendation, call services have been reorganized between the agency's Ottawa, Montreal and Halifax branches in order to increase bilingual capacity, and the client's preferred language has been integrated into the system. While the second recommendation did not pose any problems, the third one did present some technical challenges, which can nonetheless be overcome. The Commissioner will monitor this issue closely to verify to what extent the recommendations are implemented.

6.7 EQUITABLE PARTICIPATION

The principle of equitable participation of the English-speaking and French-speaking communities in federal institutions is outlined in Part VI of the Official Languages Act. The application of the Act is intended to provide access to the public service to both English-speaking and French-speaking Canadians and ensure that both groups have equal opportunities for employment and advancement.

To reach these goals, managers must take into consideration the specific circumstances in all sectors of the administration at the national, regional, hierarchical and professional levels.

Problem:	Some institutions do not seem to be able to recruit employees while respecting the equitable participation of the two official language communities.
Principle:	Federal institutions must provide transparent employment opportunities to members of the majority and minority linguistic communities alike and, in cases of inequitable participation, they must take steps to attract members of the minority group.
Action:	The Commissioner is investigating complaints, actively encouraging concerted efforts with minority communities to attract employees, and maintaining pressure to require that some institutions increase transparency where equitable participation is concerned.

It is important to clarify that employee selection methods must be based exclusively on the merit principle. Managers cannot establish quotas that favour one language group or the other. However, in order to respect the government's commitment, they must take the necessary measures to attract candidates from both communities and ensure that they may use their preferred language during the staffing process.

GENERAL PROFILE

In its annual report on official languages, the Treasury Board Secretariat publishes a breakdown of the data on equitable participation by job category in the various regions across the country (see figure 8). At the national level, thanks to significant improvements in the participation of French-speaking employees over the years, the two language groups are fairly well represented in most sectors of activity in federal institutions as a whole.

Figure 8 Data on participation of Anglophones and Francophones in institutions subject to the Official Languages Act (federal departments and agencies, Crown corporations and other organizations)

Institution	Total	Francophones	Anglophones	Unknown
Agriculture and Agri-Food Canada	4 668	1 068 22.9 %	3 600 77.1 %	-
Air Canada	22 000	3 663 16.7 %	10 043 45.7 %	8 294 37.7 %
Atlantic Canada Opportunities Agency	398	101 25.4 %	297 74.6 %	-
Atlantic Pilotage Authority Canada	59	0 0.0 %	59 100.0 %	-
Atomic Energy of Canada Limited	3 410	47 1.4 %	3 363 98.6 %	-
Bank of Canada	1 262	493 39.1 %	769 60.9 %	-
Business Development Bank of Canada	1 114	427 38.3 %	687 61.7 %	-
Calgary Airport Authority	136	0 0.0 %	136 100.0 %	-
Canada Council for the Arts	135	66 48.9 %	69 51.1 %	-
Canada Customs and Revenue Agency	41 764	11 114 26.6 %	30 650 73.4 %	-
Canada Deposit Insurance Corporation	92	30 32.6 %	62 67.4 %	-
Canada Economic Development for Quebec Regions	229	224 97.8 %	5 2.2 %	-
Canada Industrial Relations Board	70	44 62.9 %	26 37.1 %	-
Canada Information Office	47	30 63.8 %	17 36.2 %	-
Canada Lands Company	97	20 20.6 %	77 79.4 %	-
Canada Mortgage and Housing Corporation	1 794	599 33.4 %	1 192 66.4 %	3 0.2 %
Canada Post Corporation	54 769	12 917 23.6 %	41 852 76.4 %	-
Canadian Broadcasting Corporation	7 839	3 470 44.3 %	4 369 55.7 %	-
Canadian Centre for Management Development	53	44 83.0 %	9 17.0 %	-
Canadian Centre for Occupational Health and Safety	72	9 12.5 %	63 87.5 %	-
Canadian Commercial Corporation	87	25 28.7 %	62 71.3 %	-
Canadian Dairy Commission	65	36 55.4 %	29 44.6 %	-
Canadian Environmental Assessment Agency	81	42 51.9 %	39 48.1 %	-
Canadian Food Inspection Agency	4 521	1 169 25.9 %	3 352 74.1 %	-
Canadian Forces Personnel Support Agency	2 861	479 16.7 %	2 382 83.3 %	-
Canadian Grain Commission	685	42 6.1 %	643 93.9 %	-
Canadian Heritage	4 848	1 557 32.1 %	3 291 67.9 %	-
Canadian Human Rights Commission	190	85 44.7 %	105 55.3 %	-
Canadian Intergovernmental Conference Secretariat	19	16 84.2 %	3 15.8 %	-
Canadian International Development Agency	1 004	608 60.6 %	396 39.4 %	-
Canadian International Trade Tribunal	73	44 60.3 %	29 39.7 %	-
Canadian Museum of Civilization	512	313 61.1 %	199 38.9 %	-
Canadian Museum of Nature	132	54 40.9 %	78 59.1 %	-
Canadian National Railway Company	18 385	3 384 18.4 %	11 797 64.2 %	3 204 17.4 %
Canadian National Railway Company (Subsidiary)	254	61 24.0 %	193 76.0 %	-
Canadian Nuclear Safety Commission	420	107 25.5 %	313 74.5 %	-

Figure 8 (continued)

Institution	Total	Francophones		Anglophones		Unknown
Canadian Polar Commission	6	2	33.3 %	4	66.7 %	-
Canadian Race Relations Foundation	7	2	28.6 %	5	71.4 %	-
Canadian Radio-television and Telecommunications Commission	323	166	51.4 %	157	48.6 %	-
Canadian Space Agency	323	186	57.6 %	137	42.4 %	-
Canadian Transportation Accident Investigations and Safety Board	203	64	31.5 %	139	68.5 %	-
Canadian Transportation Agency	230	105	45.7 %	125	54.3 %	-
Canadian Wheat Board	551	9	1.6 %	542	98.4 %	-
Cape Breton Development Corporation	1 657	3	0.2 %	1 654	99.8 %	-
Citizenship and Immigration Canada	3 864	1 023	26.5 %	2 841	73.5 %	-
Competition Tribunal	7	4	57.1 %	3	42.9 %	-
Correctional Service Canada	14 032	4 311	30.7 %	9 721	69.3 %	-
Defence Construction Canada	219	41	18.7 %	178	81.3 %	-
Department of Finance	752	287	38.2 %	465	61.8 %	-
Edmonton Regional Airports Authority	199	8	4.0 %	191	96.0 %	-
Enterprise Cape Breton Corporation	55	3	5.5 %	52	94.5 %	-
Environment Canada	4 465	1 287	28.8 %	3 178	71.2 %	-
Export Development Corporation	767	222	28.9 %	545	71.1 %	-
Farm Credit Corporation Canada	914	206	22.5 %	708	77.5 %	-
Federal Court of Canada	386	187	48.4 %	199	51.6 %	-
Fisheries and Oceans Canada	9 260	2 026	21.9 %	7 234	78.1 %	-
Foreign Affairs and International Trade Canada	3 360	1 142	34.0 %	2 218	66.0 %	-
Freshwater Fish Marketing Corporation	137	7	5.1 %	130	94.9 %	-
Great Lakes Pilotage Authority	85	38	44.7 %	47	55.3 %	-
Greater Toronto Airports Authority	725	0	0.0 %	725	100.0 %	-
Greater Moncton Airport Authority Inc.	40	9	22.5 %	31	77.5 %	-
Halifax Port Corporation	56	2	3.6 %	54	96.4 %	-
Hazardous Materials Information Review Commission	10	1	10.0 %	9	90.0 %	-
Health Canada	5 641	1 396	24.7 %	4 245	75.3 %	-
Human Resources Development Canada	20 469	6 674	32.6 %	13 795	67.4 %	-
Immigration and Refugee Board	834	319	38.2 %	515	61.8 %	-
Indian and Northern Affairs Canada	2 890	560	19.4 %	2 330	80.6 %	-
Indian Oil and Gas Canada	63	1	1.6 %	62	98.4 %	-
Industry Canada	4 811	1 928	40.1 %	2 883	59.9 %	-
International Centre for Human Rights and Democratic Development	26	19	73.1 %	7	26.9 %	-
International Development Research Centre	272	106	39.0 %	166	61.0 %	-
Justice Canada	2 743	1 008	36.7 %	1 735	63.3 %	-

Figure 8 (continued)

Institution	Total	Francophones		Anglophones		Unknown	
Laurentian Pilotage Authority	51	50	98.0 %	1	2.0 %	-	
Law Commission of Canada	4	1	25.0 %	3	75.0 %	-	
Marine Atlantic Inc.	992	6	0.6 %	986	99.4 %	-	
Medical Research Council of Canada	89	34	38.2 %	55	61.8 %	-	
Montreal Airport	589	571	96.9 %	18	3.1 %	-	
Montreal Port Corporation	337	322	95.5 %	15	4.5 %	-	
NAFTA Secretariat - Canadian Section	6	3	50.0 %	3	50.0 %	-	
National Archives of Canada	630	241	38.3 %	389	61.7 %	-	
National Arts Centre	773	336	43.5 %	437	56.5 %	-	
National Battlefields Commission	71	70	98.6 %	1	1.4 %	-	
National Capital Commission	420	238	56.7 %	182	43.3 %	-	
National Defence	59 658	16 496	27.7 %	43 162	72.3 %	-	
National Defence (Civilian personnel only)	17 210	3 399	19.8 %	13 811	80.2 %	-	
National Energy Board	255	34	13.3 %	221	86.7 %	-	
National Farm Products Marketing Council	8	4	50.0 %	4	50.0 %	-	
National Film Board	447	280	62.6 %	167	37.4 %	-	
National Gallery of Canada	280	108	38.6 %	172	61.4 %	-	
National Library of Canada	431	186	43.2 %	245	56.8 %	-	
National Museum of Science and Technology	239	109	45.6 %	130	54.4 %	-	
National Parole Board	258	100	38.8 %	158	61.2 %	-	
National Research Council Canada	3 261	870	26.7 %	2 289	70.2 %	102	3.1 %
National Round Table on the Environment and the Economy	19	8	42.1 %	11	57.9 %	-	
Natural Resources Canada	3 908	1 175	30.1 %	2 733	69.9 %	-	
Natural Sciences and Engineering Research Council	223	105	47.1 %	118	52.9 %	-	
Nav Canada	5 516	972	17.6 %	4 544	82.4 %	-	
Office of the Auditor General of Canada	539	217	40.3 %	322	59.7 %	-	
Office of the Chief Electoral Officer	232	137	59.1 %	95	40.9 %	-	
Office of the Commissioner of Official Languages	112	80	71.4 %	32	28.6 %	-	
Office of the Correctional Investigator	17	9	52.9 %	8	47.1 %	-	
Office of the Governor General's Secretary	129	74	57.4 %	55	42.6 %	-	
Office of the Superintendent of Financial Institutions	343	85	24.8 %	258	75.2 %	-	
Offices of the Information and Privacy Commissioners of Canada	80	42	52.5 %	38	47.5 %	-	
Old Port of Montreal Corporation Incorporated	187	181	96.8 %	6	3.2 %	-	
Ottawa International Airport Authority	106	37	34.9 %	69	65.1 %	-	
Pacific Pilotage Authority	62	1	1.6 %	61	98.4 %	-	
Passport Office	640	237	37.0 %	403	63.0 %	-	
Patented Medicine Prices Review Board	29	10	34.5 %	19	65.5 %	-	

Figure 8 (continued)

Institution	Total	Francophones		Anglophones		Unknown	
Prairie Farm Rehabilitation Administration	333	1	0.3 %	332	99.7 %	-	
Prince Rupert Port Corporation	15	0	0.0 %	15	100.0 %	-	
Privy Council Office	551	298	54.1 %	253	45.9 %	-	
Public Service Commission of Canada	1 191	726	61.0 %	465	39.0 %	-	
Public Service Staff Relations Board	38	23	60.5 %	15	39.5 %	-	
Public Works and Government Services Canada	10 693	4 641	43.4 %	6 052	56.6 %	-	
Quebec Port Corporation	47	47	100.0 %	0	0.0 %	-	
Royal Canadian Mint	711	294	41.4 %	417	58.6 %	-	
Royal Canadian Mounted Police	15 858	3 109	19.6 %	12 680	80.0 %	69	0.4 %
Royal Canadian Mounted Police (Civilian personnel)	3 002	697	23.2 %	2 305	76.8 %	-	
RCMP Public Complaints Commission	28	13	46.4 %	15	53.6 %	-	
RCMP External Review Committee	6	4	66.7 %	2	33.3 %	-	
Saint John Port Corporation	25	2	8.0 %	23	92.0 %	-	
Seaway International Bridge Corporation Ltd.	20	4	20.0 %	16	80.0 %	-	
Security Intelligence Review Committee	14	7	50.0 %	7	50.0 %	-	
Social Sciences and Humanities Research Council	132	58	43.9 %	74	56.1 %	-	
Solicitor General Canada	199	64	32.2 %	135	67.8 %	-	
St. John's Port Corporation	14	0	0.0 %	14	100.0 %	-	
Standards Council of Canada	60	16	26.7 %	44	73.3 %	-	
Statistics Canada	5 069	2 084	41.1 %	2 985	58.9 %	-	
Status of Women Canada	99	44	44.4 %	55	55.6 %	-	
Supreme Court of Canada	118	65	55.1 %	53	44.9 %	-	
Tax Court of Canada	112	71	63.4 %	41	36.6 %	-	
Telefilm Canada	137	85	62.0 %	52	38.0 %	-	
The Jacques Cartier and Champlain Bridges Incorporated	36	35	97.2 %	1	2.8 %	-	
The St. Lawrence Seaway Management Corporation	623	249	40.0 %	374	60.0 %	-	
Transport Canada	4 117	1 078	26.2 %	3 039	73.8 %	-	
Treasury Board of Canada (Secretariat)	630	271	43 %	359	57 %	-	
Vancouver International Airport Authority	313	2	0.6 %	311	99.4 %	-	
Vancouver Port Corporation	157	2	1.3 %	155	98.7 %	-	
Veterans Affairs Canada	3 342	1 459	43.7 %	1 883	56.3 %	-	
VIA Rail Canada Inc.	3 238	1 256	38.8 %	1 982	61.2 %	-	
Western Economic Diversification Canada	280	31	11.1 %	249	88.9 %	-	
Winnipeg Airports Authority Inc.	122	8	6.6 %	114	93.4 %	-	
TOTAL	404 008	109 312	27.0 %	283 024	70.0 %	11 762	2.9 %

However, as we have pointed out on numerous occasions over the years, there remain some problem areas. These include the low rate of participation of Anglophones in Quebec in departments and agencies subject to the Public Service Employment Act, outside of the National Capital Region. Another recurrent problem is the refusal of Air Canada and Canadian National Railways to provide complete data on the linguistic make-up of their staff under the terms of the Act.

ENGLISH-SPEAKING EMPLOYEES IN QUEBEC

The under-representation of Anglophones in federal institutions in Quebec has been an issue with the Office of the Commissioner for many years. Since the recommendations made by the Commissioner to the Governor in Council, the Treasury Board Secretariat and the Public Service Commission had no discernable impact on the situation, these were followed up by additional representations to the organizations concerned. As a result, administrators commissioned a study, which resulted in a report published last spring entitled *Anglophone Participation in the Federal Public Service in Quebec*.

According to the report, English-speaking Quebecers are not interested in job categories other than the scientific and professional level job categories. The language requirements were one of the factors cited to explain why Anglophones displayed low levels of interest in technical, support and operational positions. A joint working group made up of federal institutions and representatives from the minority community proposed a series of measures to inform Anglo-Quebecers of job opportunities in federal institutions. The Commissioner is currently conducting investigations of Canada Post and Transport Canada in response to complaints regarding equitable participation, and she is counting on the co-operation of the working group to find concrete solutions.

FLYING IN FRENCH

A complaint has been filed against Air Canada by the Association des gens de l'air du Québec (AGAQ), which alleges once again, after more than 20 years of similar complaints, that French-speaking pilots are discriminated against in the air transportation industry. For far too long, Air Canada has been cited for neglecting its responsibilities under Part VI of the Act by failing to provide complete data on its employees' first official language. In her investigation, the Commissioner is requesting the help of the Treasury Board in order to obtain specific data from Air Canada on the percentages of English-speaking and French-speaking employees.

6.8 LANGUAGE REQUIREMENTS

Positions are assigned a linguistic designation to ensure that service of comparable quality is available to the public in English and French and to create a work environment conducive to the use of both official languages. Many employees consider the profiles for their positions too high or not high enough and file complaints to this effect with the Commissioner. Dozens of investigations have been conducted this year in order to respond to approximately 100 complaints. Most of these complaints were deemed founded. The following is an example.

- Problem:** Some institutions lower the language requirements of positions without taking into account the conditions that require the provision of service to members of the public from minority communities.
- Principle:** Language requirements for positions must be set in accordance with real communications needs.
- Action:** The Commissioner has reaffirmed the meaning of the Act and is attempting to obtain action plans from the institutions in question indicating their intention to comply before proceeding with legal action.

THE RIGHT PROFILE FOR THE RCMP

The Commissioner was required to staunchly defend her position in order to convince certain managers with the Royal Canadian Mounted Police (RCMP) to interpret the Official Languages Act properly. In the Atlantic region the RCMP adopted measures that would change the language profile of a number of constable positions, based on a study conducted by a consultant.

The consultant had recommended lowering the requirement for oral interaction in a number of constable positions from the C to the B level. He justified this recommendation by the fact that this change would allow for greater flexibility in human resources management. Furthermore, unilingual constables had argued that the language requirement set at the C level precluded them from obtaining certain regional promotions and transfers.

Some complainants, including some from the Acadian community, believed that the RCMP's decision to reduce the language requirements might compromise the effective delivery of service to members of the public in their preferred official language.

After investigating, Commissioner Goldbloom initially indicated that he disagreed with the RCMP's decision and believed that the consultant's reasoning in his review of the issue was based on an erroneous interpretation of the application of section 91 of the Act. Later, Commissioner Adam had to convince the RCMP of the cogency of her recommendations by demonstrating beyond any doubt that, when determining the language requirements for positions, it is necessary to make a distinction between sections 39 and 91 of the Act. No direct links must be made between the principle of equitable participation of employees, both English-speaking and French-speaking, and obligations regarding the objective staffing of bilingual positions. Furthermore, the Commissioner insisted that staffing action must be taken for each specific position or situation, rather than collectively.

The Commissioner therefore requested that the RCMP suspend the implementation of the recommendations contained in the consultant's report and establish a community consultation process. She is pursuing her efforts to obtain an equitable and long-term resolution for these complainants, in accordance with the provisions of the Official Languages Act.

CONCLUSION

One of the principal mandates of the Commissioner is to receive complaints from the public and investigate them in order to propose solutions. Once again this year, a considerable number of complaints were filed. For the most part, they dealt with service to the public, but the language rights of public service employees were also cited. A wide variety of institutions are targeted, but some of them show more deficiencies than others, namely: Human Resources Development Canada, Industry Canada, Air Canada and Canada Post Corporation.

A veritable vicious circle seems to operate with respect to federal action on official languages. The denial of language rights gives rise to complaints, which lead to investigations by the Office of the Commissioner, which in turn lead to certain conclusions that may be accompanied by recommendations. Federal institutions respond to them by making superficial changes that do not affect the structural nature of the problems, and the problems recur.

To bring about lasting changes with regard to official languages, a different cycle must be instituted: 1) responsible commitment and leadership by the federal government must be affirmed; 2) a framework for application of the Act must be clearly defined; 3) the accountability of federal institutions must be strengthened; 4) their performance must be evaluated on the basis of lasting results in terms of quality service.

The Commissioner plans to turn to managers to find solutions. In order to rectify the situation, they must include in their action plans ways to heighten employee awareness at all levels and on a regular basis. To this end, the Commissioner anticipates intervening in the organizational culture of the public service. This culture must integrate the fundamental value represented by Canada's official languages. It must generate the conviction that linguistic duality is an asset, a broadening of professional perspective and a wider window on the world. To be sure, this cultural change will not take place of its own accord. The public service must actively promote this vision to its members and train its managers to deal with the specific management challenges that bilingualism poses.

SECTION 39 OF THE ACT**Commitment**

39. (1) *The Government of Canada is committed to ensuring that:*

- a) English-speaking Canadians and French-speaking Canadians, without regard to their ethnic origin or first language learned, have equal opportunities to obtain employment and advancement in federal institutions; and*
- b) the composition of the workforce of federal institutions tends to reflect the presence of both the official language communities of Canada, taking into account the characteristics of individual institutions, including their mandates, the public they serve and their location.*

Employment opportunities

(2) In carrying out the commitment of the Government of Canada under subsection (1), federal institutions shall ensure that employment opportunities are open to both English-speaking Canadians and French-speaking Canadians, taking due account of the purposes and provisions of Parts IV and V in relation to the appointment and advancement of officers and employees by those institutions and the determination of the terms and conditions of their employment.

Merit principle

(3) Nothing in this section shall be construed as abrogating or derogating from the principle of selection of personnel according to merit.

SECTION 91 OF THE ACT**Staffing generally**

91. Nothing in Part IV or V authorizes the application of official language requirements to a particular staffing action unless those requirements are objectively required to perform the functions for which the staffing action is undertaken.

CONCLUSION

1999 • 2000

During this long reporting period (15 months), the fifth Commissioner of Official Languages, Dyane Adam, assumed office. Together with her predecessor, Victor Goldbloom, the Commissioner received some 1,800 complaints, most of which proved to be founded. In duly carrying out their mandate, the Commissioners also intervened in several court cases relating to language rights and had some exemplary successes, as in the Arsenault-Cameron case and the Beaulac case. They launched several special studies on problems such as the choices of parents to have their children educated in French, French in high-performance sport and French on the Internet.

Some significant progress was noted with regard to the bilingualism of government services. The transportation bill, for example, could clarify several matters relating to the linguistic obligations of Air Canada and its subsidiaries as regards their service to the public. VIA Rail has finally reorganized its resources to better serve its clientele in both official languages. Human Resources Development Canada and Health Canada forged closer ties with official language minority communities by creating consultative committees. And, at the highest level of the federal government, the Committee of Deputy Ministers Responsible for Official Languages seems to want to make its mark and is promising to exercise active and sustained leadership.

In spite of all of this, the implementation of the Official Languages Act has not been a glowing success. Thirty years after it was passed by the Parliament of Canada, it is unacceptable that the Office had to investigate about 1,500 complaints regarding its implementation. Moreover, the Commissioner noted a considerable number of deficiencies in offices designated to provide service in both official languages. That is in addition to the chronic lack of in-depth action by federal institutions on the recommendations made by the Commissioner following her investigations. Government transformations, motivated by the zero deficit goal, have hit minority communities that are still far from achieving equality of status and service in both official languages for which they are entitled according to the Act. In view of such a host of deficiencies, the Commissioner can only conclude that there is a lack of political leadership in the federal government with regard to linguistic duality.

Meanwhile, year after year, the world continues to change, and Canada is facing new challenges that are of some concern to the Commissioner. The Internet is expanding rapidly, attracting the majority of government institutions, non-governmental organizations and private enterprises to offer their services to Canadians on-line. This is clearly detrimental to the use of French, since English predominates on the Internet. On

another front, Canada should review its immigration policy, and this review should place greater emphasis on considerations other than economic ones. A true immigration policy must be part of a demographic policy which, in the Canadian context, must respect the principle of linguistic duality.

In view of these new challenges and the older ones on which there has been little apparent progress, the Commissioner intends to add new methods of action. The investigation mechanisms and the threat of court remedy seem to have fostered some resistance, which must be broken down by a change in the culture of federal institutions with regard to linguistic duality. The responsibility in this regard must be assumed at all levels of the administration and of the government. The Commissioner will continue to employ these two mechanisms that are central to her mandate, but will also intend to diversify her approaches in the coming years.

APPENDIX

1999 • 2000

**INTERVENTIONS BY THE OFFICE OF THE
COMMISSIONER OF OFFICIAL LANGUAGES
IN 1999-2000**

The following are the principal interventions of an official nature made by the Commissioner and her predecessor in 1999-2000. This list, of course, does not include the many other interventions by staff of the Office of the Commissioner, at both the regional and national levels.

POLITICAL INTERVENTIONS

- Some 60 meetings with deputy ministers of elected officials
- Four appearances before parliamentary committees

COMMUNITY INTERVENTIONS

- Some 30 meetings with representatives of associations
- Some 200 persons consulted in approximately 20 sessions organized in 10 Canadian cities in February and March 2000
- Some 15 speeches/talks given

ADMINISTRATIVE INTERVENTIONS

- Some 200 letters and 800 notices of intention sent to government bodies
- Approximately 10 studies conducted

INTERVENTIONS TO RAISE AWARENESS / PROVIDE INFORMATION

- Some 185 interviews
- Some 10 news releases
- Some 25 letters to the editor
- Some 600 references to the Commissioner or the Office of the Commissioner in the media
- Approximately 10 speeches
- Approximately 10 meetings with heads of federal institutions

LEGAL INTERVENTIONS

- Some 15 court remedy proceedings under way
- Intervention in two school governance files
- Participation in two jurists' conferences

COMPLAINTS HANDLING

- Over 1,800 complaints received
- Nearly 1,500 complaints found admissible

