



Office of the
Commissioner of
Official Languages

Commissariat
aux langues
officielles

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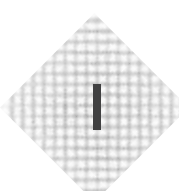
For Rent

In Search of Bilingual
Services from Businesses
in NCR Federal Buildings

*E*XECUTIVE SUMMARY

The Government of Canada is committed to fostering the full recognition and use of English and French in Canadian society, as well as enhancing the bilingual character of the National Capital Region (NCR). This has implications for owners of federal lands and property, such as the National Capital Commission (NCC) and Public Works and Government Services Canada (PWGSC). They must ensure that their commercial tenants in the NCR communicate with and serve the public in both official languages. The Department of Canadian Heritage must also encourage and help the business community to provide services in both languages.

The Office of the Commissioner of Official Languages carried out a study between April and November 2003 that evaluated the bilingual services provided by businesses that lease premises from the federal government in the NCR. It found that, despite recent efforts in some areas, many commercial tenants of federally owned buildings in the NCR do not provide enough service in both official languages.



In more than half of our spot-checks in Ottawa, written material appeared in English only. Although the results were better for telephone and in-person services (70 and 60% respectively), there is still plenty of room for improvement. These results are disappointing, particularly since the Standing Joint Committee on Official Languages looked into this issue back in 1997.

In Gatineau, telephone and in-person services were provided in both languages in all cases, although written material is not always available in English.

Only 41% of the 207 businesses evaluated in this study have language clauses for signage and service in their lease. Of those, 30% have signage in both official languages. The situation is better when it comes to bilingual telephone and in-person services (74% and 64% percent respectively).

To address these shortcomings, adequate measures must be taken by the institutions involved to ensure that language clauses on signage and service are included in commercial leases and that tenants understand and respect official languages obligations. Moreover, they must put in place monitoring and follow-up measures to ensure that commercial tenants respect these obligations.

NCC

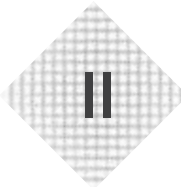
The NCC has taken positive steps to monitor bilingual services provided by businesses. Furthermore, 61 of the 78 businesses located on NCC property that we visited had both language clauses in their lease. We expect that the Commission will ensure that the situation continues to improve dramatically during the next year. The NCC should also monitor all new commercial leases to ensure that they contain both language clauses. It should continue to inform commercial tenants of their linguistic obligations and of the concrete measures they need to take to meet these obligations. It should in particular do so when tenants sign their leases. The NCC should also do more to enforce compliance with official languages requirements.

PWGSC

PWGSC, on the other hand, has a lot of work to do if it is to comply fully with the *Official Languages Act*. We are concerned that the majority of its tenants on both sides of the Ottawa River only have a service clause in their agreement (88 or 68 percent of the 129 businesses located in PWGSC buildings that we visited). Although a signage clause will be added as leases are renewed, this shortcoming has persisted for too many years, especially since the Standing Joint Committee on Official Languages made a recommendation to this effect in 1997. Furthermore, PWGSC has done nothing to inform commercial tenants of their linguistic obligations. PWGSC has put no formal monitoring mechanism in place, nor has it taken any steps to ensure that businesses are complying with the language clauses in their leases. This situation is unacceptable and the department should correct it. PWGSC must also make clear exactly what it expects of businesses in terms of bilingual signage and services.

Canadian Heritage

Canadian Heritage funded various organizations under its official languages support programs. In some cases these funds were used to promote linguistic duality in the NCR. The contribution agreement with the City of Ottawa is one example. However, we believe the department should have a program or activities designed specifically to promote linguistic duality in Canada's National Capital Region. The department must take a lead role in reaching out to the business



community and solicit the cooperation of the NCC and PWGSC. It must also work with the various levels of government and the private sector to find new ways of encouraging and helping business owners to provide services in both languages in the NCR, as required by the *Official Languages Act*.

Other initiatives

The NCC has asked the mayors of Ottawa and Gatineau to promote the bilingual character of the NCR and it has asked for the cooperation and suggestions of the business community in both cities. The business community is especially concerned by translation costs and, to a lesser degree, by a perceived shortage of qualified bilingual staff. We believe that the NCC and PWGSC ought to help their commercial tenants to acquire the tools they need to meet these challenges successfully.

Initiatives in the City of Ottawa have been worthwhile, but we need a more coordinated and concerted effort to promote linguistic duality in the NCR, under the leadership of Canadian Heritage. Not only will the cooperation of Canada's two official language business communities produce a capital region of which we can all be proud, but doing so is also good business sense. In fact, it is clear from the comments of those we interviewed that offering services in both official languages allow businesses to expand their share of the market and that the overall benefits outweigh the costs.



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B BACKGROUND

The concept of a bilingual national capital region dates back before the first *Official Languages Act* (OLA) of 1969 to the Royal Commission on Bilingualism and Biculturalism. It recommended to the Government that, “for the present federal capital and areas to be designated as part thereof, the French and English languages have full equality of status and that the full range of services and facilities be provided to the public in both languages throughout the area.” It also stated that the national capital, as a symbol of the country, should not reflect the dominance of one language over another.

In April 1997, the Standing Joint Committee on Official Languages tabled its report in Parliament on the application of the *Official Languages Act* in the NCR. The report considered language requirements in commercial leases signed by businesses located in federally owned buildings in the NCR. The Committee was of the opinion that the responsibility for enforcing clauses requiring bilingual signage and service contained in commercial leases negotiated by the NCC and PWGSC flows directly from the federal government’s commitment to foster the full recognition and use of both English and French in Canadian society and to enhance the bilingual character of the NCR.

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In its report, the Standing Joint Committee on Official Languages made a series of recommendations on the use of English and French in the NCR (See Appendix A for the complete list). A federal election took place shortly after the report was tabled, and with the exception of one case (addition of a language clause for signage in PWGSC’s commercial leases), no follow-up action was taken.

Parliamentarians and the general public expressed concern about the apparent failure to provide bilingual signage and services in federally owned buildings. The issue also drew much media attention during the first part of 2003.

In April 2003, the Commissioner of Official Languages informed the NCC, PWGSC and Canadian Heritage that a study was to be conducted on their promotion of linguistic duality in the NCR. This study focused on the core area of the NCR (the cities of Ottawa and Gatineau for the most part), and examined the issue of the language requirements of businesses leasing premises from the government (even though these businesses do not provide services on behalf of the federal government).

L LEGISLATIVE FRAMEWORK

Canadian Charter of Rights and Freedoms

The Government of Canada's commitment to foster the full recognition and use of English and French in Canadian society has its roots in section 16 of the *Canadian Charter of Rights and Freedoms* which enshrines both the principle of equality of status and use of English and French and the principle of advancement toward substantive equality.

Official Languages Act

The OLA of 1988 was Parliament's way of implementing these two fundamental principles. More particularly, the preamble of the OLA explicitly recognizes the Government of Canada's commitment to advance the equality of status or use of English and French. At the same time, the preamble recognizes the Government's commitment to enhance the bilingual character of the NCR¹ and to encourage the business community, labour organizations and voluntary organizations in Canada to foster the recognition and use of both official languages.

Part IV of the OLA covers communications with, and services to, the public. It stipulates that any member of the public has a right to communicate with and receive available services from federal institutions in the official language of his or her choice, including third parties acting on their behalf. In our study, Part IV applies to Minto Properties Ltd. and Brookfield Lepage Johnson Control which act on behalf of the NCC and PWGSC respectively.

Part VII of the OLA sets out the federal government's commitment to enhance the vitality of the English and French linguistic minority communities in Canada and to foster the full recognition and use of both English and French in

¹Since 1969, Ottawa and Gatineau (two cities facing each other on opposite sides of the Ottawa River) and the surrounding urban and rural communities have been formally recognized as Canada's "National Capital Region."

Canadian society. Part VII also includes a mandate to the Minister of Canadian Heritage to encourage and cooperate with the business community, labour organizations, voluntary organizations and other organizations or institutions to provide services in both English and French and to foster the recognition and use of those languages. In this study, we took into account Part VII when we looked at the various activities of the NCC, PWGSC and Canadian Heritage as they relate to businesses located in federally owned buildings.

In keeping with the Government of Canada's commitment under Part VII of the OLA to foster the recognition and use of English and French within Canada, owners of federal lands and property, such as the NCC and PWGSC, have included language requirements in their leases with commercial tenants in the NCR. While they have the authority, as well as the obligation, under Part VII of the OLA to include such language clauses in leases, the NCC and PWGSC also have to ensure that they take into account provincial regulations regarding language used on commercial signage in implementing such clauses. We have to bear in mind that legislative authority regarding commercial signage rests with provincial governments. We have therefore taken into account the applicable legislation in this case, namely the Quebec *Charter of the French Language*. According to the Charter, the use of languages other than French is allowed as long as French predominates. By enforcing language clauses contained in their commercial leases, the NCC and PWGSC are abiding by the constitutional principle of advancement toward the equality of status for English and French and the constitutional principles pertaining to the sharing of legislative authority by Parliament and the provincial legislatures.

METHODOLOGY

The purpose of this study was to:

- ◆ determine if businesses that lease premises from the federal government on both sides of the Ottawa River are providing services in both official languages;
- ◆ evaluate the quality of such services;
- ◆ examine the means used by the NCC and PWGSC, such as the presence of language clauses in commercial leases, to ensure that tenants are respecting these clauses;
- ◆ examine the steps taken by Canadian Heritage to promote the use of English and French within the NCR business community; and
- ◆ help the relevant federal institutions in their efforts to enhance the bilingual character of the NCR.

For the purpose of this study, we visited all commercial businesses (a total of 207) located in federal buildings or on federal land on both sides of the Ottawa River (173 in the Ottawa area and 34 in the Gatineau area). These included restaurants, retailers, fast food restaurants, recreational organizations and certain service-related businesses such as barbershops, parking lots and travel agencies. Excluded from this study were offices offering specialized services (e.g., lawyers' offices, development companies, research facilities, farms) and offices that are not commercial in nature (e.g., schools, various community associations, a bird sanctuary).

In carrying out this study, we did a spot-check for each business. Each spot-check focused on two elements: written material (e.g., signage, Web sites, menus and promotional material) and telephone and in-person services. The purpose was to determine if both were available in English and French. It is important to note that spot-checks of telephone and in-person services were only carried out in the language of the local minority. In Gatineau, our auditors, posing as members of the public, addressed the personnel of each business in English; in Ottawa, they addressed them in French. We assumed, for purposes of this study, that obtaining services in the language of the local majority was not going to be an issue.

We also reviewed the relevant literature (described in Appendix B) and conducted interviews with representatives of the three federal institutions, as well as those of organizations listed in Appendix C.

Finally, we interviewed the managers or owners of 20 of the above-mentioned businesses to obtain their views on the availability of services in both official languages.

OBSERVATIONS

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A Provision of bilingual services and language requirements in commercial leases

1 Availability of services in both official languages

In this section, we present the results of our spot-checks, both in terms of the physical elements of service (signage, menus, promotional material and Web sites) and the human elements (telephone and in-person services).

1.1 Physical elements of service in the two official languages

Table 1 shows that the majority of businesses located on government property in the Gatineau area had signage and other means of communication in place to indicate to the public that services were available in both official languages. More specifically, 4 out of 5 businesses had signage and menus in both official languages and 9 out of 10 businesses had bilingual promotional material. By contrast, the performance of businesses located on government property in the Ottawa area leaves much to be desired. Results range from a low of 14% for Web sites for all businesses to a high of only 39% for restaurant menus.

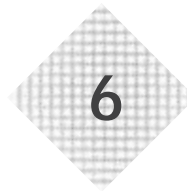
We noted that more businesses located on NCC property in Ottawa displayed exterior signage and had menus in both official languages than businesses located in PWGSC buildings (41% versus 30% for exterior signage; 47% versus 32% for menus). On the other hand, businesses located in PWGSC buildings generally did better with regard to bilingual window and interior signage (39% versus 22% for window signage; 29% versus 9% for interior signage). We were not able to do a similar comparison for businesses located in Gatineau because the number of audited businesses located on NCC property was too small (7 out of 78).

Table 1 - Degree to which the physical elements of service were in both official languages

Elements of service	Ottawa area (173 businesses)			Gatineau area (34 businesses)		
	Number that met requirements	Total number ¹	%	Number that met requirements	Total number ¹	%
Exterior signage	54	157	34	27	34	79
Exterior publicity	38	149	26	22	30	73
Window signage	27	90	30	9	10	90
Menu	17	44	39	10	13	77
Interior signage	30	140	21	23	30	77
Promotional material	10	27	37	10	11	91
Web site	7	50	14	4	6	67

Note: ¹Some businesses do not have any exterior, interior or window signage, publicity material or Web sites. Therefore, they were removed from the total number of businesses for each physical element of service that did not apply to them.

Despite the shortcomings noted in the Ottawa area, our spot-checks showed that the linguistic quality of the posted signage and other written material in the NCR was generally good.



1.2 Human elements of service in the two official languages

For businesses located in the Ottawa area, service on the telephone and in person in both official languages was better than for signage and written material. As shown in Figure 1 below, two thirds of the businesses provided telephone services in both official languages, while three out of five merchants were able to provide in-person service to the clientele in the official language of their choice. However, much needs to be done in order to reach the same level of bilingual services currently being provided in the Gatineau area, where bilingual telephone and in-person services were provided during our spot-checks in all cases.

In Ottawa, telephone service in both official languages was slightly better for businesses located on NCC property. In fact, 77% of them were able to serve clients in both languages, compared with 64% of businesses located in PWGSC buildings. The NCC and PWGSC had similar results for bilingual in-person services.

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During the spot-checks, the auditors also evaluated the linguistic quality of the service provided to them in both languages (English in Gatineau and French in Ottawa) on the telephone and in person. When such services were provided, they were found to be satisfactory or better in nearly all cases.

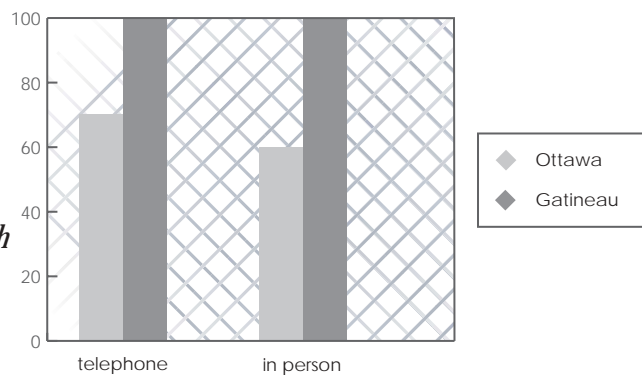


Figure 1 - Degree to which businesses provided telephone and in-person services in both official languages

In the next two sections, we will examine what steps the NCC and PWGSC take to ensure that services are provided in both official languages.

2 Presence of language clauses in the leases

The NCC's standard commercial lease contains two language clauses in the lessee's operations section of the document. The first clause deals with service to the public while the second one has to do with written material.

The general retail lease agreement used by PWGSC since 2001 contains two languages clauses: one for service and the other for signage. The signage requirement applies to external signage, permanent displays and signs providing lists of items for sale. The general retail lease agreement that the department uses when leasing space in Gatineau differs slightly from the one used in Ottawa; specifically, it stipulates that "the tenant shall erect and maintain an identification sign (or signs) in the official languages of Canada and in accordance with all applicable federal, provincial and municipal statutes..." . Provincial statutes in the case of Quebec include the *Charter of the French Language*.

Although the standard commercial lease for both federal institutions contains two language clauses, they are not always discussed or clarified with business owners when they sign or renew their lease. As a result, some tenants may not be aware of what should be in both official languages. The NCC and PWGSC must ensure that all commercial tenants are fully aware of their linguistic obligations and of the concrete actions that must be taken in order to respect these obligations when they sign or renew their lease.

The Commissioner therefore recommends that the National Capital Commission and Public Works and Government Services Canada:

1. take the necessary measures to ensure that the content of the language clauses is discussed and clarified with commercial tenants when they sign or renew their lease and inform them of the concrete actions that must be taken in order to meet their linguistic obligations.

The NCC informed us that it informally discusses the content of the linguistic clauses with commercial tenants but that it will now formalize these discussions.

In response to this recommendation, PWGSC indicated that when it negotiates with private sector tenants, it emphasizes that the clauses relating to signage and service are pertinent requirements of the lease. However, it has agreed to review its process in order to implement this recommendation.

Some leases have no language clauses (12% of the businesses visited) because the NCC and PWGSC only recently purchased the properties. Since the current leases were negotiated with the previous owners of the buildings, they have no choice but to respect the terms of the leases. It was also noted that the majority of tenants located in PWGSC buildings (88 or 68% of the 129 businesses visited) only had a single service clause in their agreement. In fact, although the service clause has been present in commercial leases for approximately 20 years, the one having to do with signage was only added to new commercial leases in 2001 in response to the recommendation of the 1997 Standing Joint Committee on Official Languages. Both institutions intend to change this practice when leases are renewed or signed with new owners. A monitoring mechanism should be put in place to ensure that all new or renewed commercial leases contain both language clauses.

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The Commissioner therefore recommends that the National Capital Commission and Public Works and Government Services Canada:

2. put in place, within two months of receiving this report, a monitoring mechanism to ensure that both language clauses are automatically added to any new or renewed commercial lease and provide the Office of the Commissioner of Official Languages with the results of this activity by December 31, 2004.

PWGSC informed us that in July 2003 the Minister approved an action plan to promote both official languages, which will require all commercial leases to include language clauses regarding signage and services in the NCR.

According to the NCC, such a mechanism has already been in place there for many years. Both language clauses are automatically included in any new or renewed commercial leases. As such, no further action is required by the NCC to implement this recommendation. We believe that the Commission ought to ensure that this mechanism is also in place for long-term NCC leases, to which both language clauses are not necessarily added.

In certain cases involving the NCC, long-term leases (often called ground or development leases) have been negotiated with development companies. These institutions have agreed to renovate or build a structure on the premises at no cost to the NCC. Once the building is complete, the development firm usually leases space to commercial tenants and in turn, pays rent to the Commission. Since these companies do not always want to assume responsibility for enforcing language clauses, the NCC often agrees to modify the relevant clauses in the leases it signs with them. In our opinion, this practice contravenes the spirit and intent of Part VII of the OLA. Furthermore, paragraphs 10(2)(a) and 10(2)(b) of the National Capital Act allow the NCC to include clauses it deems necessary in its leases. They stipulate that “the Commission may, for the purposes of the Act, a) acquire, hold, administer or develop property; b) sell, grant, convey, lease or otherwise dispose of or make available to any person any property, subject to such conditions and limitations as it considers necessary or desirable.”

The Commissioner therefore recommends that the National Capital Commission:

3. ensure the addition and enforcement of language clauses for service and written material in any new or renewed long-term leases negotiated with development companies and ensure that commercial tenants renting space from them are informed of their linguistic obligations.

The NCC has agreed to review the process currently in place and to provide us with the results of this review.

3 Monitoring and control measures

Minto Properties Ltd. (MPL) is responsible for the day-to-day management of NCC property. It leases properties, collects rent and maintains the properties on behalf of the NCC. There is a language clause in the contractual agreement between MPL and the NCC that requires all MPL services offered to NCC tenants and the public to be available in both official languages.

All administrative staff and three of the four MPL managers who deal with businesses located on NCC property are bilingual and aware of their obligations. Vacant NCC properties are often posted on the Minto Web site. A visit to this site showed that the properties were advertised in both official languages.

Prior to February 2003, MPL informally inspected the signage, menus, promotional material and service of businesses to determine whether they were bilingual. MPL sent reminders to those in non-compliance and tenants always agreed to correct the situation. Following the media attention surrounding the lack of menus and service in French by certain NCC tenants in February 2003, MPL, with the approval of the NCC, sent notices to commercial tenants reminding them of the language clauses and informing them of its ongoing monitoring, as well as its intention of taking measures in cases of non-compliance. Between April and June 2003, MPL conducted an inspection of all NCC commercial tenants. Businesses that failed the inspection received a strongly worded letter asking for correction within ten days. MPL has recently begun another series of spot-checks of non-compliant businesses to determine if the situation has been corrected.

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The results of MPL's inspection showed that, in the Gatineau area, signage and in-person services were provided in both official languages in 86% and 100% of cases respectively. This correlated to the results of our own spot-checks. In the Ottawa area, signage and in-person services were bilingual in 32% and 90% of cases respectively. The percentage for in-person services established by MPL is different from our own results, which stand at 60% of cases (rather than 90%).

This 30-point discrepancy can be explained by a difference in methodology. After explaining the purpose of their inspection, MPL officials asked to speak to a bilingual employee. In cases where such a person was available, they concluded that services were provided in both languages. We believe that the actual availability of bilingual services cannot be determined by this method of collecting data because the clientele would not normally insist on speaking to a bilingual employee when entering a given business. MPL ought to modify its methodology to ensure that the data obtained better represent the availability of services in both official languages.

The Commissioner therefore recommends that the National Capital Commission:

4. ensure, within three months of receiving this report, that Minto Properties Ltd. modifies its methodology for evaluating service in person so that the data obtained better reflect the availability of services in both official languages from businesses located on NCC property.

The NCC will meet with Minto Properties Ltd. to discuss how it evaluates the availability of services in both official languages. Once the revised methodology is in place, the NCC will conduct periodic spot-checks.

Brookfield Lepage Johnson Control (BLJC) is responsible for the day-to-day management of a large number of PWGSC-owned buildings in the NCR. The department retains management responsibility for buildings located in Ottawa on the north side of Sparks Street, between Bank and Elgin.

A language clause appears in the contractual agreement between BLJC and PWGSC. It requires BLJC, which acts on behalf of the department, to respect Part IV (Communications with and services to the public) of the *Official Languages Act*. Forty-six of the 69 BLJC employees dealing with businesses located in PWGSC buildings in the NCR are bilingual and aware of their linguistic obligations.

No monitoring or control mechanisms are in place to make sure that merchants are respecting the language clauses of their lease. However, when PWGSC does receive complaints, it takes steps to inform the businesses concerned and asks them to take corrective measures. The merchants usually agree to correct the problem.

The fact that merchants sometimes do not comply with language clauses does not constitute an infraction of the OLA because these clauses do not impose any linguistic obligations on them. However, the failure of a federal institution to require that the language clauses in a lease be respected contravenes the federal government's commitment to foster the full recognition and use of both English and French in Canada. Consequently, PWGSC must correct the situations mentioned above in order to fully comply with Part VII of the OLA.

The Commissioner recommends that Public Works and Government Services Canada:

5. inform, within two months of receiving this report, all commercial tenants in the National Capital Region that have language clauses in their lease of what is expected of them with regard to service and signage.

6. put in place, within three months of receiving this report, monitoring and control mechanisms to ensure that commercial tenants are complying with their linguistic obligations and provide the Office of the Commissioner of Official Languages with the results of these activities by December 31, 2004.

Obligations concerning bilingual service, signage and other written material should be clearly spelled out in language clauses. In order to ensure consistency of service in both official languages among businesses located on federal property in the NCR, we believe that language clauses in PWGSC's commercial leases should include obligations similar to those found in NCC's leases, especially those regarding written material, which are more explicit.

The Commissioner therefore recommends that Public Works and Government Services Canada:

7. take, within three months of receiving this report, appropriate measures to ensure that the language clauses added to any new lease clearly identify what is required in the way of signage and bilingual services and that the elements of service found in the clauses are similar to those used by the NCC.

In response to these recommendations, PWGSC will consult the NCC to review best practices in monitoring processes and specific language clauses in commercial agreements. The information obtained will form the basis for discussion within its property management directorate in order to follow up on the recommendations.

In March 2003, PWGSC conducted informal spot-checks of businesses located in its buildings in the NCR to examine signage and service in both official languages. Although it was pleased with the results, problem areas were not brought to the attention of lease holders. We were also advised that, during informal visits of the premises, BLJC or PWGSC officials sometimes encourage merchants to post signs in both official languages. However, no follow-up is done to determine if the unilingual signage has been actually changed. Premises leased in federally owned buildings should be the subject of formal, periodic monitoring and any problems identified ought to be brought to the attention of lease holders. Failure to take appropriate corrective action must be addressed.

Both institutions are presently examining various measures that could be taken in cases where merchants fail to respect the language clauses of their lease. They are of the view that measures other than legal recourse are preferred to ensure compliance with the language clauses of the leases. However, in cases where merchants continue to violate these clauses, the NCC and PWGSC will consider pursuing the matter through the courts.

We agree that legal recourse should be taken only as a last resort and that other measures are preferable to ensure compliance with the language clauses of the lease. However, in cases where merchants continue to violate these clauses – despite the fact that they have been repeatedly reminded of their language obligations – the NCC and PWGSC might not have any other choice but to seek a court remedy. A court of law could state that the lessee is in violation of an essential condition of the lease and could grant the lesser some legal remedies.

B Promotion of linguistic duality

1 Follow-up to the recommendations of the Standing Joint Committee on Official Languages

Although Canadian Heritage and the NCC appeared before the Standing Joint Committee on Official Languages in November 1996 as part of its study on the *Application of the Official Languages Act in the National Capital Region*, officials from these two organizations were unaware of the Committee's report. A PWGSC official, however, was aware of the recommendation to his department advocating that bilingual signage clauses should be added to leases. A directive was issued to this effect following the appearance before the Committee of the department's Assistant Deputy Minister in November 1996. As noted, however, no clauses on signage were added to new lease agreements until 2001.

2 Measures taken to promote the use of both languages

The Department of Canadian Heritage, the NCC and PWGSC are among 29 federal institutions required to draw up action plans to promote the advancement of English and French in Canada and to support and assist the development of official language minority communities, as set out in Part VII of the OLA. Our examination of the most recent action plans of these three institutions revealed no activities aimed specifically at promoting linguistic duality in the NCR. However, as shown in the following pages, some measures have been taken in this respect.

a) Canadian Heritage

On March 26, 2002, Canadian Heritage signed an agreement with the City of Ottawa for a \$2.5 million contribution spread over five years, toward a project aimed at improving the city's bilingual services. This agreement includes funding of \$250,000, specifically earmarked for assistance to businesses so there can be provision of services and signage in both languages, and to assist with recruiting competent bilingual staff. Tools are being developed such as training sessions, a lexicon of standard expressions, and translation services. Funding was also provided in 2001 to the Regroupement des gens d'affaires for a publicity campaign to promote the importance of doing business in both languages in the NCR.

According to Canadian Heritage, a new feature on its Web site, entitled "Making your organization bilingual," can serve to promote linguistic duality in the NCR. Although this initiative targets non-profit organizations, the information could apply equally to private businesses.

We understand that it is not within the department's mandate to fund private sector businesses directly; however, we believe that Canadian Heritage should review its current programs with a view to including activities designed specifically at assisting non-profit organizations in promoting linguistic duality within the NCR business community, as set out in subsection 43(1)(f) of the OLA.

The Commissioner therefore recommends that the Department of Canadian Heritage:

8. review, by December 2004, its current programs in order to include activities designed specifically at encouraging and assisting private business to offer services in both official languages.

The above reflects the intent of the recommendation made by the Standing Joint Committee on Official Languages on the same issue in its April 1997 report.

b) National Capital Commission

The promotion of linguistic duality in the NCR was on the agenda at a tripartite meeting held in March 2003 between the NCC and the mayors of Ottawa and Gatineau. The objective of the meeting was to gauge willingness to support the NCC's efforts to promote linguistic duality in the region as a matter of good business sense. Both mayors expressed support.

In June 2003, the Chairman of the NCC wrote to the Greater Ottawa Chamber of Commerce, the Regroupement des gens d'affaires de la Capitale nationale and the Chambre de commerce et d'industrie de l'Outaouais, outlining the advantages of bilingualism in terms of attracting business and tourists. He also sought the support of these organizations in promoting linguistic duality in the NCR and asked for suggestions on working together. The Regroupement des gens d'affaires de la Capitale nationale responded by saying that it is very interested in working with the NCC on this matter.

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c) Public Works and Government Services Canada

As previously noted, clauses regarding signage have been added to commercial leases following the Standing Joint Committee's recommendation to this effect. The department contends that it has neither the budget nor the mandate to enforce linguistic duality in the NCR; however, it says it is willing to cooperate in a program for assisting commercial tenants (provided that adequate funding is available). This idea is discussed more fully later on in this report.

3 Issues

In the course of our study, we were able to identify the challenges or issues that the majority of the representatives of associations and businesses interviewed believe could have an impact on the availability or quality of services in both official languages. Our findings are outlined in this section of the report.

a) Cost

Cost is often raised as an issue in providing services in both languages. Translation is the greatest cost concern. Businesses tend to get help with translation from volunteers (family, friends and associates), especially where the information they have to communicate changes regularly. For other more permanent information, such as that found on brochures, they tend to rely on professional translators. Although our sample was small, none of the 20 business owners or managers in Ottawa to whom we spoke (those who lease space from the government) identified any areas in which they require assistance, except for translation. Although a dollar figure cannot be attached to the advantages of bilingual services, it is clear among those we interviewed that offering services in both official languages allows businesses to expand their share of the market and that the overall benefits outweigh the costs. Customer loyalty is more easily established when customers receive service in their language, especially without having to ask for it.

b) Lack of bilingual staff

Some business owners maintain that it is hard to find qualified, bilingual employees. Others believe that there may already be a good supply but, given the high staff turnover, the pool is not large enough to keep up with the demand. The problem in fact may be that businesses do not know how to access the pool of bilingual resources – even though there are numerous sources, such as the Association canadienne française de l'Ontario, French-language school boards and Canadian Parents for French. Several high-profile business associations have suggested that the department of Human Resources and Skills Development should develop a mechanism, such as a bank of bilingual candidates, to provide businesses with ready access to bilingual staff.

c) Lack of public awareness

Raising public awareness is essential, especially to show the private sector the importance and benefits of promoting Canada's bilingual character. The public must also feel at ease in using the language of their choice. Francophones have, through experience, come to expect that service will be available only in English. The City of Ottawa's project coordinating committee is planning an advertising

campaign to encourage francophones to ask for service in their own language. The campaign attempts to reinforce the idea that in Canada's capital everyone has every right to expect to receive service in his or her language of choice from the city and its local merchants.

d) Incentives

Business owners need to know there is a sizeable demand for service in French in Ottawa. According to Statistics Canada census data, in 2001, 32% of the population of the NCR indicated French as their mother tongue and 51% indicated English. According to statistics compiled by the Byward Market Business Improvement Area, 30,000 requests for information are made by merchants and the general public in the market area each year. Between 30 and 40% of these requests are made by French-speaking clients from both the Ontario and Quebec sides of the NCR.

Not only do businesses require assistance in providing services in both languages, they need encouragement. For example, tax breaks were proposed as an incentive. Other interesting incentives could include public recognition programs and prizes.

4 Finding solutions

The approach advocated by the majority of the people interviewed is one of encouragement and support. However, it is important to repeat that the NCC and PWGSC are responsible for fostering the full recognition and use of both English and French in Canadian society.

One way of honouring this responsibility is by including language clauses in commercial leases and by ensuring that tenants meet the requirements. The NCC and PWGSC could provide assistance in recruiting bilingual staff, securing translation and related tools and services, assessing language competence and arranging for language training. In some cases, assistance could take the form of referrals; in others, it may require the direct involvement of the department. As one member of the public service put it, it is far easier to fault tenants for non-compliance if they fail to take advantage of the tools put at their disposal.

PWGSC would be willing to take part in a program to promote linguistic duality if funding were available. It was suggested that a bilingual merchants' association and fund could be set up that would, for example, assist merchants with the translation of menus. We believe that PWGSC is in a good position to assist its own commercial tenants and those of the NCC with translation at a reduced cost. In fact, in her study entitled *French on the Internet: Key to the Canadian Identity and the Knowledge Economy*, the Commissioner recommended that by 2003 PWGSC make available free-of-charge on the Internet a complete suite of technolinguistic tools, including writing and translation aids and terminology banks like *Termium*. The on-line version of the *Grand dictionnaire terminologique*, a bank of more than three million terms in English and French, has been a great success since Quebec's Office de la langue française made it available free of charge on the Internet in September 2000. About 1.3 million visits were recorded in the first month after its launch – proof of the interest generated by this kind of computerized language resource.

The Commissioner therefore recommends that the National Capital Commission and Public Works and Government Services Canada:

9. assist their commercial tenants in meeting the linguistic obligations outlined in the language clauses in their lease through direct action or referral, as appropriate.

The Commissioner further recommends that Public Works and Government Services Canada:

10. provide as soon as possible technolinguistic tools, including writing and translation aids and terminology banks like Termium, at no cost to its commercial tenants, including those of the NCC.

PWGSC mentioned that it is now assessing the budgetary and human resource impact of providing more training to personnel, as well as of providing translation assistance and other technolinguistic tools to commercial tenants. The NCC, meanwhile, has agreed to work closely with PWGSC and Canadian Heritage to find ways to help its commercial tenants respect their linguistic obligations.

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According to the Ottawa Tourism and Convention Authority, federal funding is needed for initiatives to help businesses get started in providing services in both languages. Funding, including strict criteria and measurable results, could be provided as part of a trilateral push to get businesses up to speed on the language front – to everyone’s benefit. The NCC would be willing to prepare a brochure on the use of both languages in serving the public, including the concept of active offer, which would be distributed to business community in the NCR. We believe that the NCC and Canadian Heritage should work together to make the private sector more aware of the importance of promoting Canada’s linguistic identity.

The Commissioner therefore recommends that the Department of Canadian Heritage:

11. determine, in cooperation with the National Capital Commission, the most effective means of sensitizing the private sector in the NCR to linguistic duality and conduct an awareness campaign aimed at encouraging private sector businesses to respect Canada’s bilingual character by providing their services in both official languages.

The NCC has agreed to work with Canadian Heritage on this matter.

It was also suggested that students in the translation programs at the University of Ottawa and at the Université du Québec en Outaouais could be recruited as possible sources of assistance with translation.

These various ideas point to the need for an overall program and funding so that initiatives are not taken in isolation. Canadian Heritage should take the lead on such initiatives with its federal counterparts, in keeping with the coordinating role set out for it in Part VII of the OLA.

The Commissioner therefore recommends that the Department of Canadian Heritage:

12. ensure, by December 31, 2004, that it has met with representatives of provincial and municipal governments to determine the measures that could be taken to encourage the business community to provide services in both English and French.

13. ensure collaboration between the federal, provincial and municipal governments and their private sector partners with a view to promoting the bilingual nature of the NCR as part of an economic development strategy for the Region.

The above recommendations are in keeping with those made by the Standing Joint Committee on Official Languages in its April 1997 report.

Canadian Heritage indicated that the Commissioner's concerns are part of the strategic reflection now underway through a new departmental program called "Enhancement of the Official Languages." The results of the study will help the department determine commitment strategies for the private sector concerning the active offer of services to the public in both official languages.

CONCLUSION

Approximately seven years have elapsed since the Standing Joint Committee on Official Languages tabled its report on the application of the *Official Languages Act* in the NCR. Of particular concern at the time was the use of English and French by commercial tenants located in federally owned buildings. We are equally concerned today because in more than half the cases in Ottawa, signage and other written material still appears in English only. Although our spot-checks showed better results for telephone and in-person service, there is still much room for improvement. In Gatineau, the situation is far better for telephone and in-person services, which were available in all cases, though written material in some cases was only available in French. As far as quality is concerned, the language used on signage and in providing service by telephone and in person on both sides of the Ottawa River was found to be satisfactory or better in almost all cases.

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In order to ensure that services are offered in both official languages uniformly, the NCC and PWGSC will clearly have to play a more pro-active role. They must outline official language obligations in lease agreements and explain these in detail when leases are signed. They will also have to provide their tenants with the tools required to assist them in meeting their official languages obligations, put in place effective monitoring and control mechanisms and ensure that appropriate corrective action is taken in cases of non-compliance. Continued violation of language clauses must be dealt with appropriately, including the use of legal means as a last resort.

The NCC has recently taken appropriate steps to improve monitoring and must take additional steps to enforce compliance with official languages requirements. These steps should also apply in the case of business owners renting space from development companies that have signed long-term leases with the NCC, once the appropriate language of service clauses have been added. PWGSC failed until recently to include a signage clause in its leases with commercial tenants in the NCR. The department has not done enough to ensure adequate compliance with the language clauses and must act now to correct this situation. It should also provide assistance with translation and make its expertise in this area available to the private sector.

The Department of Canadian Heritage has a special role to play in encouraging and cooperating with the business community to provide services in English and French and to foster the recognition and use of both languages. It needs to focus on ensuring that activities are in place for this purpose. A number of stakeholders have put forth various ideas and suggestions that warrant closer examination and, if appropriate, concerted efforts to implement them.

Both English-speaking and French-speaking Canadians ought to feel at home in their country's capital. The President of the Regional Association of West Quebecers summarized the situation by saying that, symbolically, the NCR needs to be officially bilingual and there has been a certain coming of age in this respect. A merchant mentioned in a recent article in *Le Droit*: "At the end of the line, I am a businessman. Being able to communicate with my clients in their language is very important." (*Translation*)

R RECOMMENDATIONS OF THE COMMISSIONER OF OFFICIAL LANGUAGES

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The Commissioner of Official Languages recommends:

- 1 that the National Capital Commission and Public Works and Government Services Canada take the necessary measures to ensure that the content of the language clauses is discussed and clarified with commercial tenants when they sign or renew their lease and inform them of the concrete actions that must be taken in order to meet their linguistic obligations.**

- 2** that the National Capital Commission and Public Works and Government Services Canada put in place, within two months of receiving this report, a monitoring mechanism to ensure that both language clauses are automatically added to any new or renewed commercial lease and provide the Office of the Commissioner of Official Languages with the results of this activity by December 31, 2004.

- 3** that the National Capital Commission ensure the addition and enforcement of language clauses for service and written material in any new or renewed long-term leases negotiated with development companies and ensure that commercial tenants renting space from them are informed of their linguistic obligations.

- 4** that the National Capital Commission ensure, within three months of receiving this report, that Minto Properties Ltd. modifies its methodology for evaluating service in person so that the data obtained better reflect the availability of services in both official languages from businesses located on NCC property.

- 5** that Public Works and Government Services Canada inform, within two months of receiving this report, all commercial tenants in the National Capital Region that have language clauses in their lease of what is expected of them with regard to service and signage.

- 6** that Public Works and Government Services Canada put in place, within three months of receiving this report, monitoring and control mechanisms to ensure that commercial tenants are complying with their linguistic obligations and provide the Office of the Commissioner of Official Languages with the results of these activities by December 31, 2004.

- 7** that Public Works and Government Services Canada take, within three months of receiving this report, appropriate measures to ensure that the language clauses added to any new lease clearly identify what is required in the way of signage and bilingual services and that the elements of service found in the clauses are similar to those used by the NCC.

- 8** that the Department of Canadian Heritage review, by December 2004, its current programs in order to include activities designed specifically at encouraging and assisting private business to offer services in both official languages.
- 9** that the National Capital Commission and Public Works and Government Services Canada assist their commercial tenants in meeting the linguistic obligations outlined in the language clauses in their lease through direct action or referral, as appropriate.
- 10** that Public Works and Government Services Canada provide as soon as possible technolinguistic tools, including writing and translation aids and terminology banks like Termium, at no cost to its commercial tenants, including those of the NCC.
- 11** that the Department of Canadian Heritage determine, in cooperation with the National Capital Commission, the most effective means of sensitizing the private sector in the NCR to linguistic duality and conduct an awareness campaign aimed at encouraging private sector businesses to respect Canada's bilingual character by providing their services in both official languages.
- 12** that the Department of Canadian Heritage ensure, by December 31, 2004, that it has met with representatives of provincial and municipal governments to determine the measures that could be taken to encourage the business community to provide services in both English and French.
- 13** that the Department of Canadian Heritage ensure collaboration between the federal, provincial and municipal governments and their private sector partners with a view to promoting the bilingual nature of the NCR as part of an economic development strategy for the Region.

Appendix A

RECOMMENDATIONS OF THE STANDING JOINT COMMITTEE ON OFFICIAL LANGUAGES, APRIL 1997

- 1 The Committee recommends that, in its next action plan on implementing Part VII of the *Official Languages Act*, the Department of Canadian Heritage give special attention to the advancement of linguistic duality in the National Capital Region.
- 2 The Committee recommends that the National Capital Commission advise its tenants that it intends to require compliance, within a reasonable period of time, with the language clauses in its commercial leases, that in future negotiations it ensure that tenants understand their contractual obligations with respect to official languages, as set down in the lease form, and that it enforce performance of these obligations.
- 3 The Committee recommends that the lease form used by Public Works and Government Services Canada be amended by the addition of the following paragraph to clause 9(a): in the National Capital Region, ensure that the wording on all signs posted by the Tenant be in both of Canada's official languages.
- 4 The Committee recommends that the Minister of Canadian Heritage write to the Chairman of the National Capital Commission and to the Minister of Public Works and Government Services to remind them of the importance she attaches to implementation of Part VII of the *Official Languages Act* and to ensure that they are prepared to cooperate fully on the advancement of French and English, particularly in the National Capital Region.
- 5 The Committee recommends that the Department of Canadian Heritage create programs to encourage and assist private business to offer services in both official languages.

- 6 The Committee recommends that the Department of Canadian Heritage and the National Capital Commission embark on an awareness campaign presenting linguistic duality as a fundamental characteristic of Canadian society that the National Capital Region has a special obligation to reflect. It further recommends that these two federal bodies work with various partners to mount an information campaign whereby the private sector in the National Capital Region will be encouraged to respect linguistic duality and thereby serve their clientele more effectively.

- 7 The Committee recommends that the Minister of Canadian Heritage encourage cooperation among the federal, provincial (Ontario and Quebec), regional, and municipal governments, with a view to formulating a series of actions aimed at making the National Capital Region truly reflect Canada's linguistic duality.

- 8 The Committee recommends that the federal, provincial (Ontario and Quebec), regional, and municipal governments collaborate with their private-sector partners to promote the bilingual nature of the National Capital Region as part of an economic development strategy for the Region.

Source: Third report of the Standing Joint Committee on Official Languages on *The Application of the Official Languages Act in the National Capital Region*, April 1997

Appendix B

DOCUMENTS CONSULTED

- ◆ Royal Commission on Bilingualism and Biculturalism, Book 5 – *The Federal Capital*, 1970
- ◆ Canada, *Canadian Charter of Rights and Freedoms*, 1982
- ◆ Canada, *Official Languages Act*, 1988
- ◆ Canada, *National Capital Act*, 1958 (amended in 1988)
- ◆ Quebec, *Charter of the French Language*, 1977 (last amendment in 2002)
- ◆ Standing Joint Committee on Official Languages, *Third report on The Application of the Official Languages Act in the National Capital Region*, 1997
- ◆ NCC and PWGSC, commercial lease agreement, 2003
- ◆ NCC, PWGSC and Canadian Heritage, Action plan for 2000-2003 regarding the implementation of Part VII of the *Official Languages Act*, 2003
- ◆ Canada, Contribution Agreement between the Government of Canada (Canadian Heritage) and the City of Ottawa concerning the provision of French language services, 2002
- ◆ City of Ottawa, Business Plan for 2002-2003 - French Language Services, 2002
- ◆ Nadeau, Beaulieu & Associés, Report on *Phase I of the Assistance to Businesses project* conducted for the City of Ottawa, 2003
- ◆ Office of the Commissioner of Official Languages, *French on the Internet : Key to the Canadian Identity and the Knowledge Economy*, PWGSC, 2002

Appendix C

ORGANIZATIONS CONSULTED

Association canadienne française de l'Ontario (ACFO Ottawa Inc.)	Fédération des communautés francophones et acadienne
Association touristique de l'Outaouais	Greater Ottawa Chamber of Commerce
Byward Market Business Improvement Area	Ontario Tourism Marketing Partnership
Chambre de commerce et d'industrie de l'Outaouais	Ottawa Tourism and Convention Authority
Chambre économique de l'Ontario	Quebec Community Groups Network
City of Gatineau	Regional Association of West Quebecers
City of Ottawa	Regroupement des gens d'affaires de la Capitale nationale
	Rideau Board of Management
	Sparks Street Mall Business Improvement Area