



**National Workshop on the Implementation of the *Official Languages Act*
Employment and Social Development Canada - April 26th, 2016**

Ensuring the delivery of French language services in the digital era

Good day!

Let me begin by thanking the organizers of this workshop for inviting me. It was proposed that I speak to you about the delivery of French language services in the digital era, and I'm particularly delighted to do so, because it's a theme that I do not address often enough. And yet it's clear that, like other public services, French language services have had to adapt to the many technologies now omnipresent in our daily lives.

Before I broach that topic, a quick snapshot of the situation of Francophones in Ontario would seem in order. The province now has 612,000 Francophones. That's 5% of the population — the largest Francophone community outside Quebec. As you can see from this slide, a large share of this group is concentrated here in Eastern Ontario. Roughly 80% of the Francophone population live in one of 25 (soon 26) designated areas.

From the next slide, one can see that 14% of Franco-Ontarians were born outside Canada. In Toronto, one of every two Francophones was born abroad. According to projections, Ontario's Francophone population will grow in coming years, thanks in part to immigration.

One reason for the increase in the number of Francophones is the Ontario Government's adoption, in 2009, of a new Inclusive Definition of Francophone, following my very first recommendation as Commissioner. Under the criteria set out in the Inclusive Definition, people whose mother tongue is neither English nor French, but who know French and speak it at home, are also considered Francophone. This Inclusive Definition has allowed 50,000 more Francophones to be counted.

A quick overview of the country's language laws will also be helpful. As you know, our federal, provincial and territorial governments each have jurisdiction over linguistic matters. As you also know, in New Brunswick, an *Official Languages Act* has been in place since 1969. There are laws of its kind in Nova Scotia and Prince Edward Island. And the three territories also have official language, or language legislation.

In Ontario, *the French Language Services Act* was unanimously adopted in 1986 and came into force in 1989. Although French is not an official language of Ontario,

- All laws are enacted in English and French and are equally authoritative under the law;
- Most regulations are translated into French;
- Under the *Courts of Justice Act*, English and French are the official languages of Ontario's courts; and
- The public can receive services and communicate with the provincial government in French almost everywhere in Ontario.



**National Workshop on the Implementation of the *Official Languages Act*
Employment and Social Development Canada - April 26th, 2016**

Ensuring the delivery of French languages services in the digital era

The preamble of the *Act* recognizes that “the French language is an historic and honoured language in Ontario and recognized by the Constitution as an official language in Canada”, and that “the Legislative Assembly recognizes the contribution of the cultural heritage of the French speaking population and wishes to preserve it for future generations.”

Subsection 5(1) states: “A person has the right in accordance with this Act to communicate in French with, and to receive available services in French from, any head or central office of a government agency or institution of the Legislature, and has the same right in respect of any other office of such agency or institution that is located in or serves an area designated in the Schedule.”

Much like the federal *Official Languages Act*, the intent of the *French Language Services Act* is to advance the equality of status and use of French and English. However, it does so from the standpoint of protecting the Franco-Ontarian minority’s right to receive services in its language. And there are some notable differences between the two statutes.

The *French Language Services Act* has no Part V (on language of work), no Part VII (on the development and advancement of Francophone communities) and no Part X (providing for a court remedy). In short, we are comparing an Act containing 14 sections, with an Act containing 110 of them.

That said, my Office regularly works with the Office of the Commissioner of Official Languages on a number of matters. We have produced joint reports on access to justice and immigration, and we cooperated on the linguistic monitoring of the Pan Am Games last summer. In 2012, Graham Fraser and I formalized our cooperation in a Memorandum of Understanding that seeks to maximize the support available to citizens, communities and all other stakeholders to whom we deliver services.

This brings me to the concept of services. The Supreme Court’s 2009 decision in *Desrochers* confirmed that, depending on the nature of the service, substantive equality in service delivery might require distinct content, as well as the community’s involvement in developing and delivering the service.

In its decision, the Court held that ministries and other government bodies must:

- Know who their Francophone clientele are;
- Understand that they might have specific needs;
- Ensure that measures are taken to understand those needs well; and
- Provide programs and services adapted to these specific needs, and characteristics, of the Francophone communities.



National Workshop on the Implementation of the *Official Languages Act* Employment and Social Development Canada - April 26th, 2016

Ensuring the delivery of French languages services in the digital era

The *Desrochers* decision is about federal institutions, but its teachings have a direct impact on the application of the *French Language Services Act*. The decision tells us that in order to be equal, services must meet the needs of the communities served. This means, for example, that translations alone are not sufficient to meet the needs of Francophone communities, and do not in any way reflect the principle of substantive equality.

This is true of translation, and it is sometimes true of services delivered online. These days, online services are commonplace. There is no denying that they often make our lives easier. What can be simpler than renewing an official document, ordering a book, or even filing a tax return while comfortably seated at a home computer desk?

In the 2012 Drummond Report on the reform of Ontario's public services, Recommendation 16-2 encourages the government to direct clients to more convenient and less expensive channels, such as online service delivery for birth registration. However, the wording contains a qualifying statement which I feel is worth emphasizing. It reads: "As long as the move **does not compromise service delivery — such as the provision of service in both official languages** — the government should use the lowest-cost platforms."¹

This wording makes two specific points: service delivery must not be compromised; and it must be done in both languages.

The first point is worth considering for a moment. If you're experiencing any kind of physical suffering, would you feel that obtaining information on the Web is the same thing as consulting your primary-care physician in person? I suspect not. Under such circumstances, online service is not equal to service in person.

For Francophone populations in vulnerable situations, not only is it crucial to receive services in person, those services must be in their language. In cases like this, language fulfils a role beyond communication: it becomes the way for one person to relate to another. Thus, language has an impact on the quality of the relationship, and the quality of the service. This quality is what we expect from governments, whether they be federal, provincial or municipal; and from community services.

The presence of government offices outside major cities remains essential if the public is to receive optimal services. Before closing a local office and replacing it with online services, I would hope that governments will have assessed the impacts of the closure on the local population. Many members of a community can be affected. My earlier reference to vulnerable

¹ Commission on the Reform of Ontario's Public Services, *Public Services for Ontarians: A Path to Sustainability and Excellence*, 2012, p. 388.



National Workshop on the Implementation of the *Official Languages Act* Employment and Social Development Canada - April 26th, 2016

Ensuring the delivery of French languages services in the digital era

populations includes seniors, youth, unemployed workers and immigrants, but there are so many others. And there is one very real variable that we tend to forget: not everyone has Internet access, or knows how to use it.

Social media often play a role in delivering French language services in the digital era. They've become an essential component in the communications toolkits of government departments, agencies, and bodies of other kinds. Government entities use websites, blogs, Facebook, Twitter, and other such vehicles, to reach out to large audiences quickly. Thanks to all these platforms, they can communicate directly with citizens.

In recent years, my Office has received several complaints about the way government ministries have used French in the social media. Several of the matters were settled thanks to solutions put in place by the government institutions involved. However, these solutions are often temporary, and therefore do not permanently rectify the contraventions of the Act.

Naturally, when the legislation was enacted in 1986, lawmakers were not anticipating the advent of social media. Nonetheless, in all government communications, both the spirit and the letter of the Act must be adhered to.

Too often, the government and its institutions do not produce a French version of their social media communications. Or, they use machine translation, which produces completely inadequate results. The urgency of these communications is by no means a valid excuse. In fact, the opposite is true. We have seen Amber alerts released on Facebook in English only, or translated poorly on Twitter. Can the Francophone population not help find a missing child too? Imagine if Environment Canada posted a snowstorm or extreme-cold warning for the Ottawa area in English only!

In 2010, further to an investigation I conducted with respect to an English-only flyer published by the Ministry of Health as part of its H1N1 flu awareness campaign, the government implemented a new *Communications in French Directive*. The directive is mandatory for ministries and other government bodies, and contains guidelines that are equally mandatory.

Those guidelines are unequivocal: in the social media, all government communications must be published in both languages or in bilingual format. The content can differ by language, to make it better suited to the target clientele, provided the message is of the same nature.

Unfortunately, the directive is silent about the politicians themselves. This is why we have suggested a concept called "nature of the communication." If the message is of a governmental nature, then it must be available in both languages.



**National Workshop on the Implementation of the *Official Languages Act*
Employment and Social Development Canada - April 26th, 2016**

Ensuring the delivery of French languages services in the digital era

My opinion on the question is quite clear: if a message that is governmental in nature is worth issuing, the issuer must ensure that it's available to the entire public, including the Francophone public.

If ministers and other government representatives do not speak French, their statements should at least be accompanied by a French-language summary, together with a statement that any member of the public is entitled to request a full translation, even though, in my opinion, this does not constitute equal service.

Often, ministers and heads of government agencies post both professional and personal content in social media. Must they translate it all? As I said earlier, it all depends on the nature of the communication. It goes without saying that if they are referring to their vacation, or their favourite sports team's most recent game, I would not expect their message to be translated into French.

As for the government's interlocutor — that is, the public — it is clear that the advent of social media has changed its expectations. Members of the public who ask questions to an institution over Twitter or Facebook expect much quicker responses. But the fact that we live in an age of immediacy cannot be taken to mean that the public should suffer because of it. Avoiding incomplete answers is a must.

Moreover, just as it's desirable, especially in front-line situations, for there to be designated bilingual positions within government ministries and agencies, digital platform community managers must be able to answer Anglophone *and* Francophone members of the public.

Obviously, there are several benefits to using social media. These media have helped open communication channels between governments, their representatives, and citizens. Communication is much more direct, simple and quick. In coming years, social media will likely evolve. It will be interesting to see how governments adapt to the constantly changing landscape. One thing is certain, however: governments should never lose sight of the fact that their primary mandate is to serve the public.

Thank you.