



FETCO submission

RELATING TO

Bill C-13 (An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts)

June 9, 2022

Introduction

FETCO is pleased to provide comments on Bill C-13 – *An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts.*

FETCO (Federally Regulated Employers – Transportation and Communications) has existed as an employers' association for over 30 years. FETCO members are generally large employers in the federal sector, encompassing over 500,000 employees, and representing well-known firms, as outlined below:

- Air Canada
- Air Transat
- BC Maritime Employers Association
- Bell Canada
- Brinks Canada Limited
- Canada Post Corporation
- Canadian National Railway
- Canadian Nuclear Laboratories
- Canadian Pacific Railway
- Canadian Trucking Alliance
- CATSA
- FedEx Canada
- GardaWorld
- Jazz Aviation
- J.D. Irving
- Logistec Corporation
- Maritime Employers Association
- National Bank
- NAV CANADA
- Ontario Northland
- Purolator
- Rocky Mountaineer
- Rogers
- SaskTel
- Shaw Communications
- St. Lawrence Seaway Corporation
- Sunwing Vacations
- Swissport Canada Inc.
- TELUS
- UPS Canada
- VIA Rail Canada
- Western Grain Elevators Association
- WestJet

FETCO is a principal voice of employers within the federally regulated sector. Please note, however, that FETCO is not one voice. FETCO tries to present positions on issues that accommodate the collective concerns of members but this is not always possible. As such, please accept these comments as a collection of thoughts from many of the FETCO member organizations. Please also note that there are other important employer voices in the federal sector who should also be consulted on this matter.

Background

FETCO members support the protection and promotion of Canada's two official languages, both within and outside Quebec. Our members support these concepts both in communications with consumers and also in the workplace. Many FETCO members, those with substantial corporate presence in Quebec, have voluntarily adopted the Quebec Charter of the French Language for their operations within the province.

By asserting its rightful constitutional authority, the Government of Canada is introducing Bill C-13 to codify language obligations on federally-regulated private sector businesses. For FETCO members operating in the Province of Quebec, this bill will oblige them as employers to meet a series of standards that they generally already meet. There is some risk that these new requirements will pose new reporting obligations on these employers to a standard they are already achieving within the province. Our members provide services to Quebecers in both official languages, and the language of the workplace is typically bilingual.

This bill will also create new obligations on these same employers on operations outside the Province of Quebec, where there is a strong Francophone presence. How this will be defined will be the subject of a regulatory consultation to follow. The bill requires that the Minister of Canadian Heritage consult fully with stakeholders, including employers across the federal private sector.

In both cases, the bill will provide the Commissioner of Official Languages, and possibly the Canada Industrial Relations Board, the authority to monitor and enforce compliance. Administrative monetary penalties may also be used along the compliance and enforcement continuum.

FETCO Feedback

FETCO believes that Bill C-13, as currently written, strikes a reasonable balance between the protection of the French language while acknowledging specific challenges faced by many federally regulated employers, many of whom operate across provincial and international borders. Our members do not support a major re-write of this legislation. If such a development occurs, FETCO believes government must undertake consultation with stakeholders before proceeding, in order to avoid unintended consequences.

At a high level, FETCO members see the following strengths of the bill:

- It will raise the bar on the use of both of Canada's Official Languages within federally-regulated organizations, in the world of work and in communications with consumers.
- It will promote greater use of French in some workplaces, where gaps currently exist, both within and outside Quebec.
- It will require a comprehensive consultation with stakeholders to determine the most appropriate reach of the legislation/regulations outside Quebec.
- It will allow grand-fathering, in extraordinary circumstances, especially where older English-speaking workers could not practically be expected to become fluent in French.
- It explicitly lays out the rights of employees, including a complaints process, including the requirement of a workplace committee to ensure compliance with the law.
- It properly allows employers who voluntarily subscribe to the French Charter of Language to opt out of all requirements under Bill C-13.

Yet, there are some challenges with the current legislation that FETCO believes should be addressed prior to it be finalized by Parliament and brought into force:

- The bill gives extensive investigative powers to the Commissioner of Official Languages. Among other powers, the Commissioner would have the ability to, on his/her own initiative, launch an investigation into a federally regulated private business' communications with and services to consumers. The lack of parameters on this authority - and in particular the failure to specify a triggering event for an investigation - is disconcerting. FETCO believes more clarity should be placed on the extent of these powers and should consider a role for the Minister of Canadian Heritage or the Minister of Official Languages in this process.

- The bill provides an open-ended and confusing employee complaints process. Employees could make complaints directly to the Commissioner. On the consent of an employee, the Commissioner would be permitted to refer the complaint to the Board. The Board would have extensive powers to provide remedies to employees if it determines that a complaint is well-founded. Further, the bill would not affect or suspend a civil remedy against an employer. As a result, it is possible – and seemingly likely – that some employees will attempt to bring complaints in multiple forums in respect of the same or similar issues. FETCO believes the complaint process should be more tightly defined, and that additional safeguards against litigation that is vexatious or made in bad faith are necessary.