



**Association of  
Canadian Port  
Authorities**

**Association des  
administrations  
portuaires canadiennes**

*The leading voice of Canadian ports  
La voix principale des ports canadiens*

## **SUBMISSION TO THE STANDING SENATE COMMITTEE ON OFFICIAL LANGUAGES REGARDING BILL C-13**

September 14, 2022

### **INTRODUCTION**

The Association of Canadian Port Authorities (ACPA) is pleased to submit the following brief to the members of the Standing Senate Committee on Official Languages for its study of Bill C-13, *An Act to amend the Official Languages Act (OLA), to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts*.

ACPA is the voice of the 17 Canada Port Authorities (CPAs) that were established under the *Canada Marine Act (CMA) of 1998* and comprise our National Ports System (NPS). CPAs are mandated with supporting Canada's competitiveness and trade objectives while also operating safely and securely. Unlike many federal institutions, CPAs must operate at arms-length from the federal government, are governed by an independent board of directors, do not receive public funds, and must satisfy user needs at a reasonable cost. CPAs have existing obligations under both the *OLA* and the *CMA*, that any communications to the general public be in both official languages.

This communication can include information on port operations or community engagement initiatives, such as public consultation, and public notices for Annual General Meetings. As you may appreciate, there can be a tremendous amount of information that CPAs provide to meet their mandate of commerce, safety and security. ACPA recognizes the importance of the *OLA* and its objectives. To that end, our members constantly strive to meet their obligations under the *Act*, taking into consideration local factors such as their location, their size, or the linguistic makeup of their port city or municipality, as well as operating budget.

Given the current reporting efforts, our members are raising concerns about the proposed powers in bill C-13 and the lack of clarity for the additional proposed reporting requirements. The new powers proposed may negatively affect operations and create unnecessary costs for CPAs while also undermining their ability to meet their obligations under the *OLA*.

### **APPLICATION AND ENFORCEMENT**

CPAs are concerned about the proposed Administrative Monetary Penalties (AMPs) in bill C-13 and lack of clarity around enforcement by the Office of the Commissioner of Official Languages (OCOL). Over the years, our members have been subjected to countless vexatious complaints that do nothing to support the protection of official languages. These complaints are often made by individuals who are not dealing with Canada's ports. Unsurprisingly, managing these complaints creates an unnecessary burden on CPAs and undermines their ability to meet their obligations under the *CMA* and *OLA*.

As such, ACPA recommends that C-13 be amended to properly define the OCOL's powers and discretion when dealing with unreasonable and unfounded complaints. Furthermore, that this discretion be further clarified with regards to the AMPs. These punitive tools can unjustly impact operations and compliance at Canada's ports in light of bad faith complaints and uneven application.

## **SERVICES TO THE TRAVELLING PUBLIC**

As previously mentioned, CPAs are defined as "federal institutions." However, they do not report to Parliament and are run as independent businesses. This distinction has been recognized by the Commissioner of Official Languages. This definition and distinction have led to a lack of clarity over the application of some provisions of the *OLA*. Specifically, our members are concerned about Section 37 of bill C-13 and the proposed Section 65.2 which refers to providing or making available "services to the travelling public."

While the cruise industry begins to recover from the impacts COVID-19, the overall trend over the last number of years has been one of tremendous growth. As such, Canada's ports have invested in dedicated infrastructure to support visiting cruise ships and the "travelling public" that enjoy cruise tourism. CPAs provide communications to these passengers, such as directions to a hotel or a shuttle.

Consequently, bill C-13 must provide further clarity to whether Canada's ports are subject to these provisions and, if so, clearly define "services to the travelling public" so that CPAs know and understand their obligations under the Act.

## **CHANGES TO OTHER OBLIGATIONS**

Section 54 of the *Canada Marine Act* defines the application of the *OLA* on Canada's ports as though they are "federal institutions." Therefore, Part VII of the *OLA* applies, which outlines the Government of Canada's commitment 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."

This is a laudable goal that ACPA and its members fully support. However, given the previously described distinction of Canada's ports as arm's length and independent businesses despite being defined as federal institutions, these additional OLA requirements will put Canada's ports at a disadvantage compared to others in similar sectors. For example, Canada's airports, who also have official languages obligations and operate in a similar sector are not subject to Part VII. Given the specific mandate of CPAs, the circumstance of airports and the lack of federal funding, we do not believe CPAs should be subject to this provision of the *OLA* and recommend amending the *CMA* accordingly.

In addition, CPAs cannot litigate in the language of their choice. This is yet another example where airports, despite being in a similar industry, are not subject to the same requirements. We believe CPAs

should also be able to litigate in the official language of their choice as this obligation does nothing to protect minority language rights but will facilitate matters for Canada's ports.

## **CONCLUSION**

As has been noted, CPAs support the objectives of the *OLA* and will continue to strive to meet our obligations. Through this submission, we have outlined the challenges that currently exist and may be exacerbated by C-13. A lack of clarity and overly punitive measures undermine the ability of Canada's ports to meet their obligations and can negatively impact operations and finances. We are ready to work with members of this Committee and the Government of Canada to make the necessary changes to modernize the *OLA* but that allow our members to remain competitive, communicate and consult effectively, and continue to make essential contributions to our country.