

JOINT SUBMISSION OF

THE ASSOCIATION DES COMMUNAUTÉS FRANCOPHONES D’OTTAWA AND
THE UNIVERSITY OF OTTAWA CANADIAN FRANCOPHONIE
RESEARCH CHAIR IN LANGUAGE RIGHTS AND
RESEARCH CHAIR IN CANADIAN FRANCOPHONIE AND PUBLIC POLICIES

TO THE STANDING SENATE COMMITTEE ON OFFICIAL LANGUAGES

AS PART OF ITS STUDY ON CANADIANS’ VIEWS ABOUT MODERNIZING
THE *OFFICIAL LANGUAGES ACT*

JULY 31, 2018

I. Introduction: addition to the *Official Languages Act* of a part on the National Capital Region and the City of Ottawa

[1] The Association des communautés francophones d’Ottawa (ACFO Ottawa) and the University of Ottawa Canadian Francophonie Research Chair in Language Rights and Research Chair in Canadian Francophonie and Public Policies have joined forces to submit this brief on equal recognition for Canada’s official languages in the National Capital Region and the City of Ottawa. This matter should be specifically addressed in a separate part of the *Official Languages Act* (OLA).

[2] **ACFO Ottawa** is a not-for-profit organization that works to promote the francophone community, in all its diversity, and advance its collective interests throughout the nation’s capital. During the summit of the États généraux de la francophonie d’Ottawa in November 2012, the francophone community set as its top priority the transformation of the City of Ottawa into an officially bilingual municipality. Since then, ACFO Ottawa has played a key role in the initiative to make the City of Ottawa officially bilingual. It was with great enthusiasm and pride that, in 2017, ACFO Ottawa welcomed Bill 177, passed by the Legislative Assembly of Ontario, formally recognizing the City of Ottawa’s bilingual character. ACFO Ottawa remains steadfast in its efforts to promote French across the National Capital Region, in the wake of the initiatives undertaken by the Bilingual Ottawa round table and the Movement for an officially bilingual Capital of Canada. Ever since, ACFO Ottawa has been raising the issue of the national capital’s official bilingualism with a variety of stakeholders and eagerly awaits the initiatives provided for in the *Action Plan for Official Languages 2018-2023: Investing in Our Future*.

[3] Led by **Professor François Larocque**, the **Canadian Francophonie Research Chair in Language Rights** will work to broaden knowledge in the field of language rights and develop legal standards aimed at strengthening the way in which Canada’s language space is managed. The research chair will explore ways of protecting minority language communities and their institutions, particularly with respect to the development and interpretation of constitutional, legislative and judicial norms governing the status of French, English and aboriginal languages, as well as related language rights.

[4] Led by **Professor Linda Cardinal**, the **Research Chair in Canadian Francophonie and Public Policies** will work to broaden knowledge relating to the creation of public policies and explore ways to empower linguistic minorities, particularly Canada’s French-speaking communities. Since 2004, Professor Cardinal has been studying the key role of the state in Canada’s language landscape and developing related theories. She has also examined the issue from an international standpoint, focusing on such areas of public policy as higher learning, gender equality, community governance, justice, mental health and translation. She measures the impact of public policy on linguistic minorities and contributes to governance models and tools to support their preservation. In 2014, together with Jacques de Courville

Nicol and Gérard Lévesque, she founded the Movement for an officially bilingual Capital of Canada (MOCOB), a citizens' initiative calling for the official bilingualism of the City of Ottawa. In 2017, Professor Cardinal was awarded the Order of Canada for her work on public policy and language rights.

[5] The purpose of this brief is to inform the current discussion on the modernization of the OLA, and it is our recommendation that a new part be added to the OLA to address the equality of English and French in the National Capital Region and the City of Ottawa. Over 50 years ago, the Royal Commission on Bilingualism and Biculturalism conducted an excellent analysis of the subject. In Book V of its final report,¹ released in 1970, the Commission examined the then legal, sociological and political context in which English and French were being used in the National Capital Region and put forward recommendations in which every level of government had a role to play.

[6] We wish to highlight and applaud the federal government's recently renewed commitment to promote and support the bilingual character of Canada's capital, further to the *Action Plan for Official Languages 2018-2023*.² This commitment reflects the fact that the vast majority of Canadians support the bilingualism of our nation's capital.³ Unfortunately, the type of bilingualism that prevails in Ottawa does not place both languages on equal footing, as regularly reported in the media.⁴ In our view, this is a serious issue that warrants stricter control in a modernized OLA.

(A) Role and authority of the federal government in relation to the National Capital Region

[7] Under federal law, the designation "National Capital Region" refers to the territory within which the National Capital Commission (NCC) exercises the powers conferred upon it. The NCC is a federal Crown corporation empowered by the Government of Canada to perform a number of functions related to the development and improvement of the National Capital Region.⁵ The exact boundaries of the National Capital Region are set out in the Schedule to the *National Capital Act*.⁶

[8] Although the administration of the municipalities located in the National Capital Region, including the City of Ottawa, falls under provincial jurisdiction,⁷ the federal government plays an essential role, nonetheless.

[9] To begin with, the National Capital Region has symbolic importance for both Canadians and international visitors. It must reflect and express the values of the country as a whole, which, in our view, include the equal status of English and French. In fact, the Royal Commission on Bilingualism and

¹ Royal Commission on Bilingualism and Biculturalism. *Report of the Royal Commission on Bilingualism and Biculturalism, Book V: The Federal Capital*, Ottawa: Queen's Printer, 1970.

² Government of Canada. *Action Plan for Official Languages 2018-2023: Investing in Our Future*, Officially recognizing the bilingual character of Canada's capital. Accessed online: <https://www.canada.ca/en/canadian-heritage/services/official-languages-bilingualism/official-languages-action-plan/2018-2023.html#a11a>.

³ Gaboury, Paul, "87% des Canadiens favorables à une capitale bilingue," *Le Droit*, August 31, 2016. Accessed online: <https://www.ledroit.com/archives/87-des-canadiens-favorables-a-une-capitale-bilingue-3f0b691d03432b04b862a5f9139a1039> [French only].

⁴ St-Pierre, Guillaume, "Ottawa, une capitale bilingue? 'Sorry, I don't speak French,'" *Journal de Montréal*, June 23, 2018. Accessed online: <https://www.journaldemontreal.com/2018/06/23/sorry-i-dont-speak-french> [French only]; Office of the Commissioner of Official Languages, *Annual Report 2011-2012*, Chapter 2, Ottawa: A truly Canadian symbol. Accessed online: http://officiallanguages.gc.ca/html/ar_ra_2011_12_p7_e.php.

⁵ *National Capital Act*, 1958 (Can), c. 37. This act was replaced by the *National Capital Act*, R.S.C., 1985, c. N-4 [*National Capital Act*]. Today, the National Capital Region is defined in the schedule to the 1985 act. Pursuant to subsection 10(1) of the act, "[t]he objects and purposes of the Commission are to prepare plans for and assist in the development, conservation and improvement of the National Capital Region in order that the nature and character of the seat of the Government of Canada may be in accordance with its national significance."

⁶ *National Capital Act*, *supra*, Schedule.

⁷ *Constitution Act, 1867* (U.K.), 30 & 31 Vict., c. 3, s. 92(8), reprinted in R.S.C., 1985, App. II, No. 5.

Biculturalism stated that the federal government was “best situated to view the capital in the context of Canada as a whole.”⁸

[10] In addition, the National Capital Region is the seat of the Government of Canada as well as federal institutions and Crown corporations such as Library and Archives Canada, the National Arts Centre and national museums, which play a key role in spreading culture throughout the region.

[11] Lastly, the role of the federal government in the nation’s capital is constitutionally entrenched, in part, in section 16 of the *Constitution Act, 1867*,⁹ and, according to the Supreme Court of Canada, in the preliminary words of section 91, relative to “laws for the peace, order and good government of Canada.”¹⁰ Under this section, it is within the power of Parliament to develop, conserve and improve the National Capital Region “in order that the nature and character of the seat of the Government of Canada may be in accordance with its national significance.”¹¹

(B) Federal enactments pertaining to Canada’s capital region and official languages

[12] The federal government’s involvement in the National Capital Region is subject to a number of enactments, including the OLA.

[13] Part IV of the OLA sets out two measures that stem from recommendations made by the Royal Commission on Bilingualism and Biculturalism. First, section 22 of the OLA provides for the right of members of the public to communicate with, or receive services from, any office or facility of a federal institution “within the National Capital Region” in the official language of their choice. Second, Part IV of the OLA lays out the obligations of any office or facility of a federal institution in the National Capital Region with respect to bilingual signage:

Signs identifying offices

29 Where a federal institution identifies any of its offices or facilities with signs, each sign shall include both official languages or be placed together with a similar sign of equal prominence in the other official language.¹²

Signalisation

29 Tous les panneaux et enseignes signalant les bureaux d’une institution fédérale doivent être dans les deux langues officielles, ou placés ensemble de façon que les textes de chaque langue soient également en évidence.

[14] Furthermore, the *National Capital Act* governs the role of the NCC, which is defined as follows:

Objects and purposes of Commission

10 (1) The objects and purposes of the Commission are to prepare plans for and assist in the development, conservation and improvement of the National Capital Region in order that the nature and character of the seat of the Government of Canada may be in accordance with its national significance.¹³

Mission de la Commission

10 (1) La Commission a pour mission d’établir des plans d’aménagement, de conservation et d’embellissement de la région de la capitale nationale et de concourir à la réalisation de ces trois buts, afin de doter le siège du gouvernement du Canada d’un cachet et d’un caractère dignes de son importance nationale.

⁸ Royal Commission on Bilingualism and Biculturalism. *Report of the Royal Commission on Bilingualism and Biculturalism, Book V: The Federal Capital*, Ottawa: Queen's Printer, 1970, p. 51; National Capital Commission. *The Plan for Canada's Capital, 2017-2067*, p. 20. Accessed online: <http://capital2067.ca/>.

⁹ *Constitution Act, 1867* (U.K.), 30 & 31 Vict., c. 3, s. 16, reprinted in R.S.C., 1985, App. II, No. 5: “16. Until the Queen otherwise directs, the Seat of Government of Canada shall be Ottawa.” For a detailed legal analysis of the scope of this provision, see Larocque, François and Bourgeois, Maxime. “‘Jusqu’à ce qu’il plaise à La Reine d’en ordonner autrement...’ ou l’obligation positive du gouvernement du Canada de favoriser et de promouvoir l’égalité des langues officielles à la Ville d’Ottawa.” *Revue du Nouvel-Ontario* 41 (2016), 311 pp. 317-340 [French only].

¹⁰ *Munro v. National Capital Commission*, [1966] S.C.R. 663.

¹¹ *Ibid.*, 672.

¹² OLA, *supra*, s. 29.

¹³ *National Capital Act, supra*, s. 10(1).

[15] In order to carry out its mandate, the NCC was given the following powers under the *National Capital Act*:

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| (a) acquire, hold, administer or develop property; | a) acquérir, détenir, gérer ou mettre en valeur des biens; |
| (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; | b) prendre, à l'égard de biens, toute mesure compatible avec les conditions et restrictions qu'elle juge utiles, et notamment les vendre, les concéder, les transférer, les louer ou encore les mettre à la disposition de qui que ce soit; |
| (c) construct, maintain and operate parks, squares, highways, parkways, bridges, buildings and any other works; | c) construire, entretenir et exploiter des parcs, places, voies publiques, promenades, ponts, bâtiments et tous autres ouvrages; |
| (d) maintain and improve any property of the Commission, or any other property under the control and management of a department, at the request of the authority or Minister in charge thereof; | d) entretenir et améliorer ses propres biens ou, à la demande du titulaire ou autre responsable d'un ministère, d'autres biens placés sous l'autorité de ce ministère et gérés par lui; |
| (e) cooperate or engage in joint projects with, or make grants to, local municipalities or other authorities for the improvement, development or maintenance of property; | e) collaborer ou participer à des projets conjoints avec les municipalités locales ou d'autres autorités, ou leur accorder des subventions, en vue de l'embellissement, de l'aménagement ou de l'entretien des propriétés; |
| (f) construct, maintain and operate, or grant concessions for the operation of, places of entertainment, amusement, recreation, refreshment, or other places of public interest or accommodation on any property of the Commission; | f) aménager, entretenir et exploiter — ou accorder des concessions pour exploiter —, sur toute propriété de la Commission, des lieux d'intérêt ou d'usage public, notamment des lieux de divertissement, de loisir et de rafraîchissement; |
| (g) administer, preserve and maintain any historic place or historic museum; | g) administrer, préserver et entretenir tout lieu ou musée historique; |
| (h) conduct investigations and researches in connection with the planning of the National Capital Region; and | h) mener des enquêtes et recherches sur la planification de la région de la capitale nationale; |
| (i) generally, do and authorize such things as are incidental or conducive to the attainment of the objects and purposes of the Commission and the exercise of its powers. ¹⁴ | i) d'une façon générale, accomplir et autoriser les actions pouvant contribuer, directement ou indirectement, à la réalisation de sa mission. |

[16] The mandate of the NCC was previously to “organize, sponsor or promote such public activities and events in the National Capital Region as [would] enrich the cultural and social fabric of Canada,” but that power was transferred to the Department of Canadian Heritage in 2013.¹⁵ Since then, under the Department of Canadian Heritage Act, the department has had jurisdiction over

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| (k.1) the organization, sponsorship and promotion of public activities and events, in the National Capital Region as defined in section 2 of the <i>National Capital Act</i> , that will enrich the cultural and social fabric of Canada, taking into account the federal character of Canada, <u>the equality of status of the official languages of Canada and the heritage of the people of Canada</u> ; and ¹⁶ | k.1) l'organisation, le parrainage et la promotion, dans la région de la capitale nationale au sens de l'article 2 de la <i>Loi sur la capitale nationale</i> , d'activités et de manifestations publiques enrichissantes pour le Canada sur les plans culturel et social, compte tenu du caractère fédéral du pays, <u>de l'égalité du statut des langues officielles du Canada ainsi que du patrimoine des Canadiens</u> ; |
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[17] The *Department of Canadian Heritage Act* also sets out the actions the department must take in carrying out those activities:

¹⁴ *National Capital Act*, supra, s. 10(2).

¹⁵ *Economic Action Plan 2013 Act, No. 1*, S.C. 2013, c. 33.

¹⁶ *Department of Canadian Heritage Act*, S.C. 1995, c. 11, s. 4(2)(k.1).

General duties

5 In exercising the powers and performing the duties and functions assigned to the Minister by section 4, the Minister shall

(a) initiate, recommend, coordinate, implement and promote national policies, projects and programs with respect to Canadian identity and values, cultural development and heritage; and

(b) with respect to the Minister's jurisdiction referred to in paragraph 4(2)(k.1), coordinate the policies and programs of the Government of Canada respecting the organization, sponsorship or promotion by departments of public activities and events related to the National Capital Region as defined in section 2 of the *National Capital Act*.¹⁷

Tâches

5 Dans le cadre de ses pouvoirs et fonctions, le ministre a pour tâche :

a) d'instaurer, de recommander, de coordonner et de mettre en œuvre les objectifs, opérations et programmes nationaux en matière d'identité, de valeurs, de développement culturel et de patrimoine canadiens et d'en faire la promotion;

b) en ce qui a trait à ses domaines de compétence visés à l'alinéa 4(2)k.1), de coordonner les orientations et les programmes du gouvernement du Canada en ce qui concerne l'organisation, le parrainage ou la promotion, par les ministères, d'activités et de manifestations publiques liées à la région de la capitale nationale au sens de l'article 2 de la *Loi sur la capitale nationale*.

[18] Finally, it is worth noting that the actions undertaken in the national capital on behalf of the federal government, by the NCC and the Department of Canadian Heritage alike, are also subject to Part VII of the OLA, which sets out the federal government'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."¹⁸

(C) Provincial and municipal enactments pertaining to official languages in the National Capital Region and the City of Ottawa

[19] Like the Parliament of Canada, the Ontario legislature and the City of Ottawa passed legislation on the status of English and French in the National Capital Region and the City of Ottawa.

[20] To begin with, the *French Language Services Act* (FLSA), a quasi-constitutional act,¹⁹ stipulates that a person has the right to communicate in French with, and to receive available services in French from, a government agency or institution of the Ontario legislature, and has the same right in respect of any other office of such agency or institution that is located in an area designated in the schedule to the FLSA.²⁰ In addition, a large segment of the Ontario portion of the National Capital Region—as defined in federal legislation—is located in designated areas under the FLSA, including all of the City of Ottawa and part of the County of Russell.²¹ This consistency in territory between the federal and Ontario language regimes ensures continuity in the delivery of services in both official languages at every level of government.

[21] Second, the City of Ottawa has practised a certain degree of official bilingualism since 2001, when it passed a bylaw on bilingualism,²² in which the City's Bilingualism Policy²³ was incorporated by reference. Pursuant to these instruments, the City of Ottawa recognizes the bilingual character of the City, asserts that "both official languages have the same rights, status and privileges"²⁴ and commits to providing Ottawans with a quality and level of service that is equal in both English and French.

¹⁷ *Department of Canadian Heritage Act*, S.C. 1995, c. 11, s. 5.

¹⁸ OLA, *supra*, s. 41(1).

¹⁹ *Lalonde v. Ontario (Commission de restructuration des services de santé)* [2001] 56 O.R. (3d) 505 (C.A.).

²⁰ *French Language Services Act*, R.S.O. 1990, c. F.32, s. 5.

²¹ *Ibid.*, Schedule.

²² City of Ottawa, Bilingualism (By-law No. 2001-170).

²³ City of Ottawa, Bilingualism Policy, No. ACS2001-CMS-OCM-0002.

²⁴ *Ibid.*

[22] Lastly, in November 2017, the Ontario legislature amended the *City of Ottawa Act, 1999*, to put official bilingualism in the nation’s capital on a firmer foundation. The full amendment to the City of Ottawa’s enabling legislation bears reproducing:

Preamble

The City of Ottawa is the capital of Canada, a bilingual country that has English and French as its two official languages.

The City of Ottawa has a by-law that recognizes its bilingual character and has adopted a languages policy to provide services in the two official languages and recognizes both official languages as having the same rights, status and privileges.

1 Section 11.1 of the *City of Ottawa Act, 1999* is repealed and the following substituted:

Bilingualism

11.1 (1) The city’s bilingual character is recognized.

By-law respecting use of English and French languages

(2) The city shall pass a by-law under subsection 14 (1) of the *French Language Services Act*.

Same, board of health

(3) The by-law applies with respect to the administration of the board of health and the provision of services by the board.

Scope and content of by-law

(4) The scope and content of the by-law shall be as determined by the city.

Existing by-law

(5) For greater certainty, City of Ottawa By-law No. 2001-170 (Bilingualism) meets the requirement of subsection (2).²⁵

Préambule

La ville d’Ottawa est la capitale du Canada, pays bilingue dont les deux langues officielles sont le français et l’anglais.

La ville d’Ottawa a un règlement municipal qui reconnaît son caractère bilingue. En plus d’avoir adopté une politique linguistique qui prévoit la prestation de ses services dans les deux langues officielles, la ville d’Ottawa reconnaît les mêmes droits, statuts et privilèges aux deux groupes de langues officielles.

1 L’article 11.1 de la *Loi de 1999 sur la ville d’Ottawa* est abrogé et remplacé par ce qui suit :

Bilinguisme

11.1 (1) Le caractère bilingue de la cité est reconnu.

Règlement municipal traitant de l’utilisation du français et de l’anglais

(2) La cité adopte un règlement municipal en vertu du paragraphe 14 (1) de la *Loi sur les services en français*.

Idem : conseil de santé

(3) Le règlement municipal s’applique à l’égard de l’administration du conseil de santé et à la prestation de services par celui-ci.

Portée et contenu du règlement municipal

(4) La cité établit la portée et le contenu du règlement municipal.

Règlement existant

(5) Il est entendu que le Règlement n° 2001-170 (Bilinguisme) de la ville d’Ottawa satisfait à l’exigence énoncée au paragraphe (2)

[23] In practical terms, what this legislative amendment does is bolster the language rights the City of Ottawa has undertaken to uphold, not only by enshrining them in the legal framework of the FLSA, but also by subjecting the City to the authority of the Office of the French Language Services Commissioner of Ontario.

[24] These provincial and municipal instruments are aligned with the OLA, as well as other federal legislation previously mentioned. They strengthen and complement the Parliament of Canada’s official languages objectives as they relate to the National Capital Region, by requiring Ontario’s and Ottawa’s public institutions to function, and serve members of the public, in both official languages. We therefore recommend that the new OLA part being proposed to address the National Capital Region and the City of Ottawa recognize, enshrine and, ipso facto, strengthen the cross-jurisdictional legal framework ensuring

²⁵ *Stronger, Fairer Ontario Act* (Budget Measures), 2017, S.O. 2017, c. 34, Schedule 5; *City of Ottawa Act, 1999*, S.O. 1999, c. 14, Schedule E, s. 11.1.

the delivery of federal, provincial and municipal services in both of Canada's official languages, as well as the development and vitality of official-language minority communities.

II. Proposed amendments to the OLA to reflect the unique importance of officially recognizing the equal status of English and French in the National Capital Region and the City of Ottawa

[25] In light of the foregoing analysis, we are proposing three amendments to the OLA that are essential to modernize the act, govern the status of both official languages in the National Capital Region and the City of Ottawa, and achieve greater consistency across government initiatives related to official languages in Canada's capital and the City of Ottawa.

[26] **First**, we recommend that a new part be added to the OLA to distinctly address the bilingual character of the National Capital Region and the City of Ottawa. The new part should contain previously discussed federal provisions pertaining to the bilingual signage of, and use of official languages in communications with, federal institutions in the National Capital Region. It should also include the role and authority of both the NCC and the Department of Canadian Heritage in promoting the equal status of official languages and the development and vitality of official-language minority communities.

[27] We also submit that this new part of the OLA must recognize both Ontario's and Ottawa's legal frameworks governing the status of official languages in the City of Ottawa and other FLSA designated areas. This is essential in order to highlight their complementary relationship with the OLA and to capture the intergovernmental cooperation required to meet the objectives of the Canadian Constitution in the official languages arena.

[28] Indeed, the addition to the OLA of a part enshrining the equality of English and French in the National Capital Region and the City of Ottawa would have a positive impact. As previously shown, no single enactment provides for the equality of status of the official languages in the National Capital Region in a clear, consistent and comprehensive manner. Rather, this status is set out indirectly or implicitly in a patchwork of legislative provisions. In that context, it is not possible to affirm, in a clear and precise manner, the singular importance of language equality in the National Capital Region and the City of Ottawa. Bear in mind that, nearly a half-century ago, the Royal Commission on Bilingualism and Biculturalism determined that responsibility for spreading that message fell on the federal government. The only level of government with jurisdiction over the entire capital area is the federal government. It is therefore best placed to ensure that the linguistic and cultural character of the National Capital Region and the City of Ottawa reflects the aspirations of the entire country.²⁶

[29] **Second**, we recommend that the OLA stipulate that the federal government has an obligation to adopt a language policy for the National Capital Region and the City of Ottawa. In Book V of its report, the Royal Commission on Bilingualism and Biculturalism made the following determination:

The federal government could achieve much in the capital area by adopting a comprehensive, well-planned linguistic policy for activities within its present jurisdiction. It could do more by extending such a policy through its contractual relations with other governments and with the private sector. Most of all, it is in a position to set a firm, consistent example of linguistic equality in the capital.²⁷

Le gouvernement fédéral pourrait faire beaucoup dans la capitale, s'il adoptait une politique linguistique large et bien conçue pour les activités de son ressort. Il pourrait même étendre cette politique à ses relations contractuelles avec d'autres gouvernements ou avec le secteur privé. Surtout, il peut donner, dans la capitale, un exemple précis d'égalité linguistique.

²⁶ Royal Commission on Bilingualism and Biculturalism. *Report of the Royal Commission on Bilingualism and Biculturalism, Book V: The Federal Capital*, Ottawa: Queen's Printer, 1970, p. 51.

²⁷ Royal Commission on Bilingualism and Biculturalism. *Report of the Royal Commission on Bilingualism and Biculturalism, Book V: The Federal Capital*, Ottawa: Queen's Printer, 1970, p. 63, para 217.

[30] In order for the federal government to truly assume its responsibility of promoting linguistic equality in a direct and positive way, we recommend that the first provision of the proposed new part of the OLA require the federal government to adopt a language policy on the National Capital Region and the City of Ottawa. This policy should

- a. affirm the federal government's commitment to, and central role in, linguistic equality in the national capital area;
- b. support the Ontario legislature's recent initiative to officially recognize the bilingual character of the City of Ottawa; and
- c. define, in a consistent manner, the activities within federal jurisdiction to promote the equality of English and French in the federal capital in all respects.

The policy should extend to the federal government's contractual relationship with other governments, as well as with the private sector in the National Capital Region. The policy should also be implemented in cooperation with the Province of Ontario, the City of Ottawa and its main partners, particularly in the economic arena, and should include an obligation to consult leading francophone and francophile groups.

[31] **Third**, we recommend that a provision be included to address the active offer of services in both official languages in the national capital area. Currently, section 28 of the OLA sets out a general requirement regarding the active offer of services in both official languages by federal institutions.

[32] The active offer of services in both official languages is especially important in the National Capital Region. As mentioned, the nation's capital must be an expression of the country's values and identity. Both citizens from across the country visiting the capital and visitors from other countries should be able to attest to the equality of English and French throughout the nation's capital.²⁸

[33] As reported by the Commissioner of Official Languages, in spite of the progress made on the Ontario side of the National Capital Region with respect to the active offer of services in both official languages, there is still significant room for improvement. The Commissioner's 2011-12 annual report indicated that "[m]ost federal institutions serving visitors to the capital did not systematically make an in-person active offer."²⁹ The Commissioner went on to make the following observation:

The only ones that seemed to have difficulty with the in-person active offer and availability of service in both official languages were third parties hired by the Canadian Air Transport Security Authority (i.e., screening officers) and the Ottawa International Airport Authority (i.e., retailers and concessionaires).³⁰

Seuls les tiers embauchés par l'Administration canadienne de la sûreté du transport aérien (par exemple des agents de contrôle) et par l'Administration de l'aéroport international d'Ottawa (par exemple des détaillants et des concessionnaires) semblent éprouver d'importantes difficultés en ce qui concerne l'offre active en personne et la disponibilité du service dans les deux langues officielles.

[34] Furthermore, even though restaurants and businesses occupying commercial space under the jurisdiction of the NCC in Ottawa's Byward Market are required to provide service in French, as well as French-language menus, they apparently have trouble meeting the requirement.³¹ The Commissioner's finding regarding the importance of the active offer in the National Capital Region and the related

²⁸ Royal Commission on Bilingualism and Biculturalism. *Report of the Royal Commission on Bilingualism and Biculturalism, Book V: The Federal Capital*, Ottawa: Queen's Printer, 1970, p. 3.

²⁹ Office of the Commissioner of Official Languages, *Annual Report 2011-2012*, *supra*, Chapter 2.

³⁰ *Ibid.*

³¹ Orfali, Philippe, "Le français n'est pas au menu," *Le Droit*, February 6, 2014. Accessed online: <https://www.ledroit.com/actualites/le-francais-nest-pas-au-menu-81d71677f57d0e9341871f42f5bd1f7f> [French only]; Office of the Commissioner of Official Languages, *Annual Report 2011-2012*, *supra*.

deficiencies is in line with the recommendation made by the Royal Commission on Bilingualism and Biculturalism in 1970 that “in all activities of federal agencies in the capital area, services in French be freely and publicly offered on the same basis as services in English, and not merely be made available exceptionally or on request.”³² It is our view that the proposed new part of the OLA on the nation’s capital and the City of Ottawa should include a provision specifically addressing the active offer of services in English and French by federal institutions in the region.

III. Conclusion

[35] The National Capital Region and the City of Ottawa hold tremendous symbolic and social importance for all Canadians. Therefore, the federal government must take positive measures to ensure that public spaces in the nation’s capital reflect the bilingual character of the country and the true equality of its two official languages.

[36] To that end, we recommend that a **new and distinct part be added to the OLA to address the National Capital Region and the City of Ottawa**. This new part of the OLA should contain the following elements:

- i. all existing federal provisions pertaining to official languages in the National Capital Region and the related roles and powers of the NCC and the Department of Canadian Heritage;
- ii. a provision to formally recognize the Ontario–Ottawa legal framework ensuring the officially bilingual character of the City of Ottawa and the other FLSA designated areas;
- iii. a provision to require the federal government to adopt a linguistic policy on official languages in the National Capital Region, to be implemented in cooperation with the Province of Ontario, the City of Ottawa and its main partners, particularly in the economic arena, as well as leading francophone and francophile groups; and
- iv. a provision to address the active offer of services in English and French by federal institutions in the National Capital Region and by the City of Ottawa.

³² Royal Commission on Bilingualism and Biculturalism. *Report of the Royal Commission on Bilingualism and Biculturalism, Book V: The Federal Capital*, Ottawa: Queen's Printer, 1970, p. 63.