



Missed Messages

Investigation Report – July 12, 2024

Opening Remarks – Carl Bouchard, French Language Services Commissioner

Hello, bouzhou and bonjour to everyone here in person and watching online.

We are honoured to gather on the traditional territory of the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee, and the Wendat peoples, who have stewarded these lands for generations. It is our duty to recognize, respect, and honour the treaties that have shaped our shared history and continue to guide our path towards reconciliation, a commitment central to our Office's mission.

I am here today to present the report of the investigation we conducted into the Ontario government's out-of-home advertising.

Thank you for being here to listen to the observations, conclusions and recommendations contained in the report, which can also be found on our website, www.ombudsman.on.ca.

In July last year, I notified Cabinet Office, the Ministry of Health and the Ministry of Francophone Affairs of my intention to launch an investigation "on my own initiative" into the application of the *French Language Services Act* to the Ontario government's out-of-home advertising.

Out-of-home advertising includes, for example, billboards in public places, on the side of the road and on public transit.

Why did I decide to investigate this on my own initiative?

Over the years, we received several cases where Francophones told us they saw English-only government advertisements in public places. We intervened in individual cases and resolved them.

During the pandemic, my team and I noticed more and more English-only Ontario government advertising in public places.

Also available in English

The ads in question provided essential public health information about COVID-19, social distancing and vaccination, for example.

This was not surprising: The government is increasingly using outdoor advertising to communicate with Ontarians.

According to the Office of the Auditor General of Ontario, the government spent more than \$58 million on advertising for the 2021-2022 fiscal year.

Fifteen per cent of this amount was allocated to outdoor advertising.

At the time the investigation was launched, the amounts allocated to outdoor advertising had more than tripled since 2017. Expenditures increased from nearly \$3 million to nearly \$9 million for 2021-2022.

During the pandemic, information that was communicated by the Ontario government on behalf of the Ministry of Health in public places was essential public health information.

This information was available almost exclusively in English.

The *French Language Services Act* gives Francophones the right to expect communication in French from provincial government agencies.

This contradiction between what the Act says and the government's practice led me to launch, on my own initiative, an investigation to assess how the government takes the *French Language Services Act* into account when it communicates with Ontarians in public places.

The investigation focused on essential public information communicated by the government at the height of the pandemic, between April 1, 2020, and March 31, 2023, and the role played by Cabinet Office and the Ministry of Health – as well as, of course, the Ministry of Francophone Affairs, which is responsible for the application of the *French Language Services Act* by the public service.

That said, the observations contained in the report broadly apply to practices established by the public service whenever out-of-home advertising is developed.

As part of the investigation, the team from the Office of the Ontario Ombudsman, which includes the French Language Services Unit, looked into 17 campaigns developed by or on behalf of the Ministry of Health, which included out-of-home advertising.

Only three of these campaigns included any outdoor advertising in French.

Our investigation revealed that Cabinet Office's centralized process for developing advertising campaigns does not contain any direct reference to the *French Language Services Act*, the obligations it contains, or how to meet them.

Instead, Cabinet Office has an unwritten rule according to which 5% of the overall budget of each campaign must be used to reach Francophones. As a result, the distribution of advertisements in French is guided by a budgetary rule.

However, the application of the *French Language Services Act* is not dependent on administrative convenience and vague funding concerns (as indicated by the Court of Appeal in the context of the Montfort decision), and is not limited to 5% of the population of Ontario nor 5% of Ontario's territory.

We noticed that most of the officials involved in developing the government's out-of-home advertising were not aware of the *French Language Services Act* or the tools developed by the Ministry of Francophone Affairs and Cabinet Office to supervise communications in French, namely the *Communications in French Directive* and its guidelines.

Those who were familiar with these tools told us that they provided neither clarity nor precision on how they apply to the use of French in out-of-home advertising.

These practices and lack of knowledge have major consequences for services in French.

Cabinet Office and the other two ministries are systematically failing to fulfill their obligations under the *French Language Services Act* when they communicate only in English in public places through out-of-home advertising – and ultimately, it is all those who speak French who miss out on this information from the Ontario government.

And during the time period we looked at, this was information about how to stay safe and healthy during a health crisis.

In light of these findings, 7 recommendations are therefore necessary to improve the way in which out-of-home advertising is developed. These recommendations will help improve the way in which Cabinet Office, the Ministry of Francophone Affairs and other involved ministries communicate their information in French and promote compliance with the *French Language Services Act*.

We recommend in particular that Cabinet Office develops all advertisements that will be displayed in public places in a bilingual format; that the public service tools that govern communications, such as the *Communications in French Directive* and its guidelines, be updated by the ministries to reflect this practice; and that staff involved in developing out-of-home advertising be trained to use these tools.

The three ministries mentioned in this investigation will have to report to us every six months, in individual reports, on their progress in implementing my recommendations.

Although the investigation covered a specific period, that of the pandemic, the observations contained in the report affect the public service's standard approach to developing out-of-home advertising.

The recommendations therefore apply to all out-of-home advertising developed by Cabinet Office for the Ontario government going forward.

This report was shared in advance with the three ministries. According to their response, 5 of the 7 recommendations were accepted. However, Cabinet Office has not committed to systematically developing bilingual out-of-home advertising as stated in Recommendation 1. According to the response submitted to us, Cabinet Office commits to evaluating how it can continue to increase the visibility of French-language messages and media, while maintaining best practices in advertising in order to ensure “value for money.”

The Ministry of Francophone Affairs also indicated that Recommendation 2, which aims to integrate specific standards for out-of-home advertising into the *Communications in French Directive*, is “under review.”

As we established in our investigation, the *French Language Services Act* requires government out-of-home advertising to be available in French as well as English.

As I mentioned earlier, the judgment of the Ontario Court of Appeal in the context of the Montfort case tells us that language rights are not dependent on “administrative convenience and vague funding concerns.”

Without accepting all of the recommendations, the government will not be able to adequately implement the recommendations and meet its obligations under the *French Language Services Act*. We will therefore continue our proactive work with the government to ensure that all of the recommendations are accepted and implemented correctly. We will assess the progress made by the three ministries in progress reports every 6 months, and we will report publicly when it is appropriate to do so.

I am ready to take your questions.

Please check against delivery

Aussi disponible en français