



# Investigation Report

**FILE NUMBER** 24-25-189

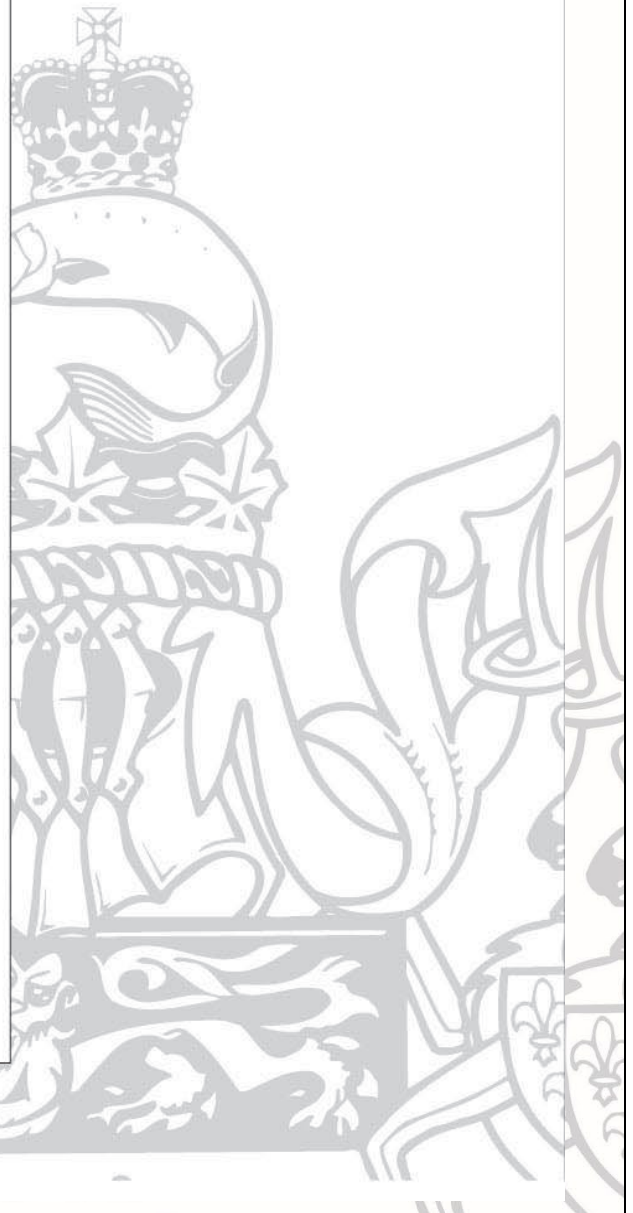
**INSTITUTION CONCERNED** New Brunswick Liquor Corporation

**SUBJECT** Allegations of deficiencies in the active offer of services and provision of services in French

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**REPORT DISTRIBUTED TO THE FOLLOWING PERSONS** President and Chief Executive Officer, New Brunswick Liquor Corporation  
Complainant  
Premier  
Clerk of the Executive Council  
Executive Director of the Secretariat of Official Languages

**ISSUE DATE** May 2026



# Summary

This report was prepared following an investigation of a complaint against the New Brunswick Liquor Corporation (ANBL). Specifically, the complainant alleges that members of the public were unable to communicate in French with employees of the institution's stores displaying the "Agent" banner sign.

Under the *Official Languages Act* of New Brunswick (the OLA), the public has the right to communicate with and receive services from institutions in the official language of their choice. The OLA also provides that this right continues to apply when a third party is engaged to provide services on behalf of an institution.

The investigation established, for the reasons set out in this report, that the complaint is **founded** and that ANBL failed to meet its obligations under the OLA.

Having established that the complaint is founded, the Commissioner makes the following recommendations:

1. **THAT** the institution provide all agents and, where necessary, host retailers with a written directive confirming that the services offered to the public under the institution's banner must be available in the official language chosen and that these obligations apply to agency store points of service identified as authorized points of sale of ANBL;
2. **THAT** the institution implement uniform and minimum measures in agency stores to ensure an effective active offer, compliant bilingual signage and a real, reliable and contextually appropriate mechanism for obtaining service in the official language chosen;
3. **THAT** the institution adopt a progressive compliance plan prioritizing establishments located in regions with a high Francophone presence, those associated with risk indicators such as recurring complaints or concerns, and those with particularly strong visual identification with the ANBL;
4. **THAT** the institution revise the agency store agreement to make explicit the obligation of agency stores to be able to communicate with the public and provide services associated with the institution in the official language of choice, as well as minimum operational expectations (active offer, signage, actual service capacity) and proportionate corrective mechanisms;
5. **THAT** the institution reintroduce, in requests for proposals, clear and applicable language proficiency requirements and evaluation

**criteria related to the actual capacity to provide services in both official languages, so that these obligations are taken into account during the drafting and awarding of contracts; and**

- 6. THAT the institution establish a proportionate and ongoing compliance and quality assurance program that includes support tools, periodic audits, compliance indicators and graduated corrective measures to ensure compliance is maintained over time.**

# Complaint

The details of the complainant's allegations are as follows:

On February 19, 2025, the complainant contacted the Office of the Commissioner of Official Languages of New Brunswick (OCOL) to request information concerning the application of the OLA to the institution. They indicated that they understood that all Crown corporations have obligations under the OLA.

The complainant specifically asked whether the OLA applies directly or indirectly to the institution's agency stores distinguished by the "Agent" banner sign.

On March 3, 2025, the OCOL replied to the complainant by email to advise that the OCOL had previously taken the position that the institution's agency stores were not subject to the OLA. The OCOL also explained to the complainant how to file a complaint with the OCOL.

On March 3, 2025, the complainant filed a complaint with the OCOL. The complaint, as described in the Commissioner's online complaint form, reads as follows:

[Translation]

*On Friday, February 28, 2025, I visited for the umpteenth time Alcool NB Liquor located at 4515 Principale Street in Saint-Antoine de Kent – an Irving Circle K – as clearly indicated by the signs on the establishment and also on the sign on Principale Street in Saint-Antoine de Kent. This is an AGENT store that offers services directly for the Crown corporation Alcool NB Liquor, given that the official Crown corporation logo is prominently displayed.*

*If NB Liquor decides to close all its stores and opt only for the AGENT stores, then does the NB OLA not apply? A response from the Office of the Commissioner of Official Languages seems to confirm this scenario in an email you sent me on March 3.*

*Three employees were on duty around 2:00 p.m. on Friday, February 28, and I specifically requested service in French. I received the following response: "We only speak English." All three employees were visible minorities and at no time seemed to understand why I wanted to be served in French. They did not even have the courtesy to say that they did not speak French.*

*I am filing a formal complaint with the Office of the Commissioner of Official Languages for New Brunswick because Crown corporations are subject to the law, and Alcool NB Liquor stores directly offer a service for NB Liquor. NB Liquor makes profits and sales through these AGENT-type stores just like its other stores.*

# Background

ANBL is a Crown corporation incorporated under the New Brunswick *Liquor Corporation Act* (NBLCA). Its responsibilities include the retail sale of liquor in New Brunswick.

To fulfill this mandate, ANBL uses different distribution methods. These include stores directly controlled by ANBL as well as agency stores controlled by authorized agents in accordance with the applicable legislative framework. These different channels are part of the overall organization of the retail liquor sales network in New Brunswick.

As a Crown corporation, ANBL is clearly an “institution” under the OLA. As such, it is subject to the linguistic obligations set out in the OLA. Under the OLA, members of the public have the right to communicate with and receive services from institutions in the official language of their choice.

# Abbreviations and Terms Used

ANBL	New Brunswick Liquor Corporation
OCOL	Office of the Commissioner of Official Languages for New Brunswick
Agreement	Agency store agreement
Guide	Agency store guide
OLA	<i>Official Languages Act</i> of New Brunswick
LCA	New Brunswick <i>Liquor Control Act</i>
NBLCA	New Brunswick <i>Liquor Corporation Act</i>
Policy	<i>Convenience Agent Channel Policy</i>

# Investigation

## Previous complaints and investigations

### January 2015 complaint

In January 2015, the OCOL received a complaint related to the availability of service in French at an ANBL agency store in Memramcook. As part of its investigation, the OCOL asked ANBL whether its requests for proposals and agency store agreements included language proficiency requirements. ANBL indicated that there were no explicit language requirements in these documents at the time. ANBL reported a compliance exercise carried out by an external consultant, the implementation of certain recommendations, the distribution of cards enabling a bilingual employee to be reached by telephone, and its intention to include references to linguistic capacity in requests for proposals going forward.

In June 2015, the OCOL published its investigation report. In this report, the OCOL concluded that the complaint was founded, finding that agency stores were third parties providing services on behalf of ANBL and that the measures cited did not allow for proactive and equivalent delivery of services in French.

The OCOL made the following recommendation:

*[Translation]*

**THAT** in its requests for proposals, ANBL henceforth specify that successful bidders must comply with the requirements of the OLA.

### June 2015 complaint

In June 2015, the OCOL received another complaint regarding the availability of service in French at an ANBL agency store in Saint-Antoine de Kent. Before investigating, the OCOL conducted a preliminary analysis to determine whether agency stores could be considered “third parties” within the meaning of the OLA. Under the OLA, linguistic obligations apply only to institutions and to the third parties they engage. Accordingly, if ANBL’s agency stores were not “third parties” within the meaning of the OLA, the complaint would be inadmissible.

On December 18, 2015, the OCOL forwarded the results of its preliminary analysis to the complainant. The OCOL concluded that agency stores were not acting as third parties providing services on behalf of ANBL. Instead, they played the role of intermediary in the sale of products. Since the agency stores were not “third parties”, the OCOL ruled that the complaint was inadmissible and did not proceed with the investigation phase.

### Complaint of March 3, 2025 (this complaint)

This complaint was filed on March 3, 2025. The complaint is described above in the “Complaint” section.

### **Preliminary stages of the investigation of this complaint**

#### The OCOL’s notice of investigation (May 15, 2025)

On May 15, 2025, the OCOL notified ANBL of its intention to investigate the complaint, pursuant to subsections 43(10) and 43(13) of the OLA. The OCOL noted that the issue of the application of the OLA to ANBL agency stores had already been examined twice in 2015, leading to differing conclusions. The notice of investigation indicated that the current complaint provided an opportunity to re-examine these contradictory interpretations in order to explain the differing conclusions and avoid any future confusion about the application of the OLA to the institution’s agency stores.

In this notice of investigation, the OCOL asked ANBL to provide it with its assessment of the facts and to answer questions pertaining to:

1. the legal distinction between a corporate store and an agency store;
2. the number of corporate stores and agency stores in New Brunswick;
3. the existence, past and present, of language requirements in request for proposals documents and their impact on the awarding of contracts;
4. the possibility of selecting unilingual bidders;
5. the current use of laminated cards distributed in 2013 and intended to enable agency store employees to provide service in the customer’s language of choice by contacting a bilingual store, and, if so, how telephone service of this nature would be equivalent to in-person service;
6. the steps taken since 2015 to ensure service of equal quality in both official languages in agency stores;
7. the availability of official languages training for agency store owners or employees;
8. ANBL’s current position on the application of the OLA to agency stores; and
9. the submission of relevant documentation related to the agency store program, as updated since 2015.

#### ANBL’s response

On August 26, 2025, ANBL responded to the OCOL’s questions. The institution explained that it had established a convenience agent channel under which agents or representatives are authorized to sell liquor to the public. It specified that the purpose of the channel is to improve accessibility for consumers, generate additional sales and encourage private sector participation, adding that, *[translation]* “in this context, ANBL’s customer is the agent.” It indicated that communications sent to bidders and the successful bidder are available in either official

language, while the other documents and training provided relate to the product and the legislation applicable to its sale.

ANBL indicated it was unable to assess the allegations, as the establishment concerned was not a corporate store and the employees were not employees of ANBL. It stated that it did not exercise authority over their hiring and did not offer language training or customer service training to agency store employees.

ANBL cited the NBLCA to describe its status as a Crown corporation and its mission. It then cited a definition of the term “agent” in the New Brunswick *Liquor Control Act* (the LCA) which means “a person who buys and delivers liquor in accordance with subsection (2)”, specifying that an agent is the entity designated to operate an agency store on behalf of ANBL.

ANBL indicated that it operates 39 corporate stores and has 92 agency stores in New Brunswick.

ANBL explained that following the June 2015 OCOL report, it amended the request for proposals documents to include a section on linguistic capacity. It stated that, following the December 2015 OCOL decision that agency stores were not subject to the OLA, linguistic capacity was not taken into account when awarding agency store contracts. The institution added that in 2020, language proficiency elements were removed from request for proposals documents and resource documentation for agency stores because ANBL felt that it could not enforce this requirement.

ANBL indicated that laminated cards distributed in 2013 are no longer used or distributed.

ANBL clarified that the measures to ensure service of equal quality in both official languages apply only to its corporate stores. It also indicated that no OLA-related training is offered to agency store owners or employees. The training provided to agents and their employees focuses on the product and responsible sales, with the delivery of services being independently provided by the private retailer.

ANBL reiterated its support for the OCOL’s interpretation of the OLA in December 2015, according to which agency stores are not third parties within the meaning of section 30 of the OLA and essentially act as intermediaries for the sale of products.

Finally, ANBL provided the OCOL with the agency store guide (the Guide), the *Convenience Agent Channel Policy* (the Policy) and the agency store agreement (the Agreement).

#### Request for additional submissions (February 24, 2026)

On February 24, 2026, the OCOL sent a letter to ANBL requesting that it submit additional information related to the application of section 30 of the OLA to agency stores. In that letter, the OCOL indicated that the OCOL was reconsidering the issue of the status of agency stores under the OLA. Accordingly, the OCOL asked ANBL to provide additional written submissions specifically related to the application of section 30 of the OLA.

## ANBL's response

On April 15, 2026, ANBL responded to the request for additional submissions from the OCOL. In its response, ANBL reiterated the position taken in its response of August 26, 2025. ANBL indicated that the retail sale of liquor in an agency store is a transaction involving a commercial product, not the provision of an institutional or government service.

ANBL also argued that section 30 of the OLA is not intended to extend institutional linguistic obligations to private retailers engaged in ordinary commercial activity and that the characteristics of agency stores are incompatible with the delegation of institutional service delivery. In particular, ANBL stressed that ANBL does not control the staff, linguistic capacity or day-to-day operations of customer service in agency stores.

On April 27, 2026, in response to a request for clarification from the OCOL, ANBL sent the OCOL another letter correcting an error made in the letter dated April 15, 2026.

## **Summary of the evidence**

This section describes the relationship between ANBL and agency stores based on the documents provided by ANBL, namely the Guide, the Policy, and the Agreement. It also covers changes in language requirements under the agency store program.

## Purpose of the program

According to the Policy, the use of agency stores is intended to ensure the retail sale of liquor where ANBL believes they can better serve the public, such as in smaller or more remote communities, in locations deemed strategic or in lieu of lower-volume ANBL operations. The program is also presented as a means to capture additional sales and support ANBL's operational and financial objectives.

## Operator selection

The Guide describes a structured and centralized selection process. The criteria used by ANBL to select operators include potential sales, site configuration and compliance, storage capacity, hours of operation, parking, business experience and financial viability. The process involves site inspections and due diligence, including background and financial capacity reviews, before a candidate can be selected as an agent.

## Agreement and scope of mandate

Once selected, the operator enters into an agency store agreement for a fixed term. ANBL has the discretion to renew the Agreement in accordance with the terms of the Agreement. The Agreement authorizes the operator to sell liquor as a representative of ANBL, while specifying that this mandate is limited to this activity and does not confer a general authority to bind ANBL beyond the conditions expressly provided for.

### Terms of sale and product control

The agreement establishes that ANBL retains control over the essential parameters of the sale to the public, particularly with regard to the conditions applicable to the sale and the offer of products. To ensure consistency across the network, ANBL sets which products can be sold and prohibits certain types of trade agreements, such as brand preferences or unauthorized promotional relationships.

### Operations, public image and signage

The agreement provides a comprehensive framework for various aspects of day-to-day business, including hours of operation, point-of-sale layout, display and space allocation. It also imposes specific requirements on the use of the ANBL brand and signage and on the identification of the store as an ANBL authorized point of sale, including the posting of an official certificate of designation.

### Oversight and compliance

The framework established by the Agreement provides for extensive oversight and compliance mechanisms. In particular, ANBL reserves the right to inspect premises and products, including without notice, as well as ongoing requirements for record keeping, reporting, audits and insurance. The agreement also provides for measures allowing ANBL to intervene or demand corrective measures in the event of a breach of the applicable conditions.

Overall, the documents describe a model in which ANBL selects merchants, provides a detailed framework for the operation and public image of agency stores, controls product offerings and maintains robust oversight mechanisms to ensure compliance with its standards.

### Evolution of language requirements for agency stores

ANBL corporate stores are required to comply with all requirements set out in the OLA, including the obligation to provide services to the public in the official language of their choice as well as related obligations in terms of the active offer, communications and signage.

Between 2012 and 2015, ANBL implemented certain measures to address concerns about the availability of service in French in agency stores. These measures included the use of an external consultant to assess ANBL's language compliance, the distribution of laminated cards enabling agency store employees to call a bilingual ANBL employee, and the intention to incorporate linguistic capacity considerations into request for proposals documents.

Following the December 2015 OCOL decision, ANBL indicated that it had stopped treating linguistic capacity as a criterion in the selection of agency store operators. The current documents no longer include requirements for the provision of services in both official languages in agency

stores, and ANBL states that it does not offer official languages training to operators or employees of these establishments.

# Analysis

Given that the OCOL has rendered two decisions based on differing interpretations of section 30 of the OLA and has drawn opposing conclusions as to the applicability of this section to ANBL agency stores, it is now responsible for clarifying the scope of this provision to ensure its consistent, predictable application in compliance with the purpose of the Act.

## Overview of obligations and issue examined

The issue being examined is whether agency stores operated by authorized agents are “third parties” within the meaning of section 30 of the OLA so that the ANBL must ensure compliance with the obligations set out in sections 27 to 29 of the OLA at these establishments.

The OLA imposes an obligation on New Brunswick institutions to enable the public to communicate with and receive services from them in the official language of their choice. It also provides that this responsibility continues to apply when a third party is engaged to provide services on behalf of an institution.

The relevant legislative provisions of the OLA are as follows:

### **Communications with government and its institutions**

**27** Members of the public have the right to communicate with any institution and to receive its services in the official language of their choice.

### **Obligations of institutions**

**28** An institution shall ensure that members of the public are able to communicate with and to receive its services in the official language of their choice.

**28.1** An institution shall ensure that appropriate measures are taken to make it known to members of the public that its services are available in the official language of their choice.

### **Posting of signs and publications intended for the public**

### **Communication avec le gouvernement et ses institutions**

**27** Le public a le droit de communiquer avec toute institution et d'en recevoir les services dans la langue officielle de son choix.

### **Obligation des institutions**

**28** Il incombe aux institutions de veiller à ce que le public puisse communiquer avec elles et en recevoir les services dans la langue officielle de son choix.

**28.1** Il incombe aux institutions de veiller à ce que les mesures voulues soient prises pour informer le public que leurs services lui sont offerts dans la langue officielle de son choix.

### **Affichage et publication à l'intention du public**

**29** Institutions shall publish all postings, publications and documents intended for the general public in both official languages.

**29** Tout affichage public et autres publications et communications destinés au grand public et émanant d'une institution sont publiés dans les deux langues officielles.

**Services provided by third parties**

**30** When the Province or an institution engages a third party to provide a service on its behalf, the Province or the institution, as the case may be, is responsible for ensuring that its obligations under sections 27 to 29 are met by the third party.

**Prestation de services pour le compte de la province**

**30** Si elle fait appel à un tiers afin qu'il fournisse des services pour son compte, la province ou une institution, le cas échéant, est chargée de veiller à ce qu'il honore les obligations que lui imposent les articles 27 à 29.

ANBL is an institution within the meaning of the OLA because it is incorporated under the NBLCA and operates, for the purposes of that Act, as an agent of the Crown. One of its essential purposes is to oversee the sale of liquor to the public. The relevant legislative provisions of the NBLCA are as follows:

**New Brunswick Liquor Corporation**

**La Société des alcools du Nouveau-Brunswick**

**2(1)** There is established a body corporate called the New Brunswick Liquor Corporation consisting of those persons who make up the board of directors.

**2(1)** Est constituée la Société des alcools du Nouveau-Brunswick, dotée de la personnalité morale et composée des personnes qui forment son conseil d'administration.

**2(2)** The Corporation is, for all purposes of this Act, an agent of the Crown in right of the Province.

**2(2)** La Société est, aux fins de la présente loi, un mandataire de la Couronne du chef de la province.

**Purposes of Corporation**

**Mission de la Société**

**3** The purposes of the Corporation are

**3** La Société a pour mission :

- (a) to carry on the general business of manufacturing, buying, importing and selling liquor of every kind and description,
- (b) to promote the responsible consumption of liquor,

- a) d'exercer l'activité commerciale générale consistant à fabriquer, à acheter, à importer et à vendre des boissons alcooliques de tout genre ou désignation;

- |  |  |
|--|--|
| <p>(c) to participate in the development of the liquor industry in the Province,</p> <p>(d) to meet the needs of its customers,<br/>[...].</p> | <p>b) de promouvoir la consommation responsable de boissons alcooliques;</p> <p>c) de participer au développement du secteur des boissons alcooliques dans la province;</p> <p>d) de répondre aux besoins de ses clients;<br/>[...].</p> |
|--|--|

In addition, the LCA authorizes ANBL to use agents to sell liquor. The relevant legislative provisions of the LCA are as follows:

**Person appointed as agent of the Corporation**

**Personne nommée à titre de représentant de la Société**

**40.1(1)** Notwithstanding any other provision of this Act, the Corporation may, where it believes the public can be better served, appoint upon such terms and conditions as the Corporation considers appropriate a person as an agent of the Corporation to sell liquor on behalf of the Corporation.

**40.1(1)** Nonobstant toute autre disposition de la présente loi, la Société peut, lorsqu'elle croit que le public peut être mieux servi, nommer selon les modalités et conditions qu'elle estime appropriées une personne à titre de représentant de la Société pour vendre des boissons alcooliques au nom de la Société.

**40.1(2)** The provisions of this Act and the regulations relating to the sale of liquor by the Corporation and to a liquor store established by the Corporation for the sale of liquor apply *mutatis mutandis* to a person appointed as an agent of the Corporation under subsection (1) and to the premises or that part of the premises used by such person for the purpose of the sale of liquor.

**40.1(2)** Les dispositions de la présente loi et des règlements concernant la vente de boissons alcooliques par la Société et un magasin de la Société établi par la Société pour la vente des boissons alcooliques s'appliquent *mutatis mutandis* à une personne nommée à titre de représentant de la Société en vertu du paragraphe (1) et aux locaux ou à la partie des locaux utilisés par cette personne aux fins de la vente de boissons alcooliques.

**Scope of section 30 of the OLA**

Principles for interpreting laws applicable to language rights

The interpretation of section 30 of the OLA falls within the framework of the general principles applicable to language rights, which require a broad, purposive interpretation oriented towards their actual and effective application.

As stated by the Supreme Court of Canada in *R. v. Beaulac*, [1999] 1 S.C.R. 768, at paragraph 25, “Language rights must in all cases be interpreted purposively, in a manner consistent with the preservation and development of official language communities in Canada.” This approach excludes any formalistic or restrictive interpretation that would reduce the concrete scope of language rights.

The Court of Appeal of New Brunswick expressly applied these principles to the language rights provided for in the OLA. In *Charlebois v. The City of Saint John*, 2004 NBCA 49, it acknowledged, at paragraph 32, that the OLA is the province’s statutory response to its language obligations under the *Charter*. It added, at paragraph 33, that the importance of the rights and obligations it establishes gives it special status, specifically acknowledged by its paramountcy clause, and confirmed that it has quasi-constitutional status, like the federal *Official Languages Act*.

Section 30 of the OLA has yet to be interpreted by a court. However, section 25(1) of the federal *Official Languages Act* is substantially equivalent and has been interpreted by courts. The interpretation of section 25(1) of the federal *Official Languages Act* can thus be used to guide the interpretation of section 30 of the OLA.

Section 25(1) of the federal *Official Languages Act* reads as follows:

**Where services provided on behalf of federal institutions      Fourniture dans les deux langues**

**25 (1)** Every federal institution has the duty to ensure that, where services are provided or made available by another person or organization on its behalf, any member of the public in Canada or elsewhere can communicate with and obtain those services from that person or organization in either official language in any case where those services, if provided by the institution, would be required under this Part to be provided in either official language.

**25 (1)** Il incombe aux institutions fédérales de veiller à ce que, tant au Canada qu’à l’étranger, les services offerts au public par des tiers pour leur compte le soient, et à ce qu’il puisse communiquer avec ceux-ci, dans l’une ou l’autre des langues officielles dans le cas où, offrant elles-mêmes les services, elles seraient tenues, au titre de la présente partie, à une telle obligation.

For comparison purposes, section 30 of the OLA reads as follows:

**Services provided by third parties      Prestation de services pour le compte de la province**

**30** When the Province or an institution engages a third party to provide a service on its behalf, the Province or the institution, as the case may be, is

**30** Si elle fait appel à un tiers afin qu’il fournisse des services pour son compte, la province ou une institution, le cas échéant, est chargée de veiller à ce qu’il honore les

responsible for ensuring that its obligations que lui imposent les articles obligations under sections 27 to 29 are 27 à 29. met by the third party.

The scope of section 25(1) of the federal *Official Languages Act* was interpreted by the Federal Court of Appeal in *Desrochers v. Canada (Industry)*, 2006 FCA 374 (confirmed by 2009 SCC 8). In that decision, the Federal Court of Appeal stated, at paragraph 51, that a third party is acting on behalf of an institution when it is providing services with its “accreditation, agreement, confirmation, consent, acceptance or approval”. Such a relationship results in full application of the institution’s linguistic obligations.

The scope of section 30 of the OLA must be interpreted broadly and liberally, given its purpose, in light of the facts and the concrete reality of providing services to the public. Any doubt as to its application must, in accordance with the principles governing language rights, be resolved in favour of the protection of language rights. It is in light of these principles that it is appropriate to examine whether the relationship between ANBL and agency stores falls within the scope of section 30 of the OLA.

### **Application of section 30 of the OLA to ANBL agency stores**

It is not disputed that, when it sells liquor to the public, ANBL provides a service within the meaning of the OLA and is, as such, subject to the obligations set out in sections 27 to 29. The debate therefore does not concern the nature of the activity carried out, but whether, under the agency store program, this service is provided by third parties acting *on behalf* of ANBL within the meaning of section 30 of the OLA.

### **The complainant’s position**

In the complaint, the complainant argues that ANBL’s agency stores provide services directly to the public on behalf of a Crown corporation subject to the OLA. They argue that these establishments sell liquor on behalf of ANBL, use its brand and signage and generate revenue for ANBL. They participate in the exercise of a public service function and, in their opinion, should therefore be subject to the linguistic obligations set out in the OLA.

This position is consistent with that adopted by the OCOL following the January 2015 complaint. In that decision, the OCOL noted that the OLA imposes an obligation on institutions to offer their services in the official language chosen by the public (sections 27 to 29) and specified, in section 30, that this responsibility continues to apply when services are provided by a third party. It relates this provision to subsection 40.1(1) of the LCA, which authorizes ANBL to appoint agents to sell liquor on behalf of ANBL, and considers that *[translation]* “the only possible conclusion is that this section effectively confers on ANBL agency stores the status of ‘third party’ within the meaning of section 30 of the OLA.”

## ANBL's position

ANBL maintains that under the agency store program, the agency store, not the end consumer, is its customer. It expressly states that *[translation]* "in this context, ANBL's customer is the agent" and that the decisive legal relationship is the one binding ANBL to the agent authorized to sell the products. This characterization aims to dissociate the relationship between ANBL and the public from that existing between ANBL and agency stores, and to present interactions with consumers as falling exclusively within the activities of the private retailer.

ANBL relies on the decision rendered by the OCOL in December 2015 to argue that the sale of liquor "on behalf of the Corporation" under subsection 40.1(1) of the LCA does not constitute the provision of a service "on [an institution's] behalf" within the meaning of section 30 of the OLA. According to this position, this conceptual distinction would justify excluding agency stores from the scope of the OLA.

ANBL argues further that the retail sale of liquor through an agency store is a transaction involving a commercial product, not the provision of an institutional or government service. Section 30 therefore does not apply, because the purpose of section 30 is not to extend institutional linguistic obligations to private retailers engaged in commercial activity. ANBL also emphasizes that the characteristics of agency stores are incompatible with the delegation of institutional service delivery.

## Statutory basis for the agency store program

The agency store program is based directly on section 40.1 of the LCA, which gives ANBL broad and explicit authority. These provisions authorize ANBL to provide the service of selling liquor to the public through agents. These agents can only sell liquor to the public under ANBL's accreditation, authorization and guidance.

Both functionally and legally, this type of relationship corresponds to that referred to in section 30 of the OLA.

## **Distinction with the contrary interpretation of section 30 of the OLA**

The contrary interpretation of section 30 (i.e. that adopted by the OCOL in December 2015 and cited by ANBL in the context of this complaint) rests on two distinctions based on the text of the legislation. First, the contrary interpretation distinguishes sales "on behalf of the Corporation" provided for in the LCA from the provision of a service "on [an institution's] behalf" within the meaning of the OLA. Second, it adopts the definition of "agent" provided in section 38.1 of the LCA. Finally, it argues that the relationship between ANBL and agency stores is solely "commercial" and that section 30 of the OLA does not come into play.

## "On behalf of the Corporation" and "on [an institution's] behalf"

The interpretation that distinguishes the sale “on behalf of the Corporation” provided for in the LCA and the provision of a service “on [an institution’s] behalf” within the meaning of the OLA cannot be accepted. It does not take into account the text of the legislative provisions of the English version of the LCA and the OLA applicable to the sale of liquor by third parties.

Section 30 of the OLA reads as follows in both official languages:

**Services provided by third parties**

**Prestation de services pour le compte de la province**

**30** When the Province or an institution engages a third party to provide a service on its behalf, the Province or the institution, as the case may be, is responsible for ensuring that its obligations under sections 27 to 29 are met by the third party.

**30** Si elle fait appel à un tiers afin qu’il fournisse des services pour son compte, la province ou une institution, le cas échéant, est chargée de veiller à ce qu’il honore les obligations que lui imposent les articles 27 à 29.

Section 40.1 of the LCA reads as follows in both official languages:

**Person appointed as agent of the Corporation**

**Personne nommée à titre de représentant de la Société**

**40.1(1)** Notwithstanding any other provision of this Act, the Corporation may, where it believes the public can be better served, appoint upon such terms and conditions as the Corporation considers appropriate a person as an agent of the Corporation to sell liquor on behalf of the Corporation.

**40.1(1)** Nonobstant toute autre disposition de la présente loi, la Société peut, lorsqu’elle croit que le public peut être mieux servi, nommer selon les modalités et conditions qu’elle estime appropriées une personne à titre de représentant de la Société pour vendre des boissons alcooliques au nom de la Société.

The use of the phrases “sell liquor on behalf of the Corporation” in the LCA and “provide a service on its behalf” in the OLA could indicate an intention on the part of the Legislature to create a distinction between the relationship designated in section 30 of the OLA and the one designated in section 40.1 of the LCA. However, the English version of these same provisions includes the same notion to refer to the relationship to section 30 of the OLA (“on its behalf”) and section 40.1 of the LCA (“on behalf of”). The text of the OLA therefore does not contain any ambiguity potentially supporting an interpretation that creates a distinction between the “third party” relationship provided for in the LCA and that provided for in the OLA. Moreover, such an interpretation would have the effect of limiting the scope of the OLA in a manner that would undermine its purpose, contrary to the broad and purposive approach applicable to language rights. The sale of liquor *on behalf of the Corporation* therefore cannot, without artifice, be excluded from the scope of the notion of service provided *on its behalf* within the meaning of section 30 of the OLA so that the OLA does not apply.

## “Agent”

The contrary interpretation is based in part on the definition of “agent” in section 38.1 of the LCA. That provision reads as follows:

### **Purchase of liquor by agent**

**38.1(1)** In this section

[...]

“agent” means a person who buys and delivers liquor in accordance with subsection (2).(*représentant*)

### **Achat de boisson alcoolique par un représentant**

**38.1(1)** Dans le présent article

[...]

« représentant » désigne une personne qui achète et livre des boissons alcooliques conformément au paragraphe (2).(*agent*)

However, this provision does not inform the interpretation of section 40.1 because section 38.1 specifies that its definitions apply “in this section”. Since section 40.1 is not section 38.1, the definition of “agent” in subsection 38.1(1) does not apply to the use of the word “agent” in section 40.1.

On the other hand, this provision does apply to a purchasing agent, that is, a person who acquires and delivers liquor on behalf of a principal. Conversely, section 40.1 establishes a sales agent, authorized to sell liquor to the public, in the name and on behalf of ANBL. The two regimes are distinct and conceptually opposed. Importing a narrowly circumscribed definition to a specific context in order to limit the scope of an autonomous legislative power, formulated in clearly broader terms, is therefore not justifiable.

### On the characterization of the relationship as *[translation]* “strictly commercial”

Finally, the contrary interpretation is based in part on the characterization of the relationship between ANBL and agency stores as “strictly commercial,” with agents acting as mere intermediaries or partners or even as “customers” of ANBL.

Even assuming that such a characterization can be considered, it alone cannot determine the applicability of section 30 of the OLA. The agency store program was created, structured and implemented by ANBL under specific legislative authority. Allowing an institution to exempt services from the application of the OLA by characterizing, on its own, the relationship it establishes would be allowing it to unilaterally define the scope of its own linguistic obligations, which would be incompatible with the object and quasi-constitutional status of the OLA.

That being said, an examination of the actual relationship confirms that this assumption is not consistent with the facts. Agents are selected by ANBL, operate under its brand, exclusively sell the products it authorizes, under conditions it sets, and are subject to extensive supervision, compliance and control mechanisms. They do not determine the nature of the service offered, its normative framework or its public image.

In these circumstances, the relationship cannot reasonably be characterized as strictly commercial or analogous to that of a mere customer or independent partner. Rather, it corresponds to a delegated mode of delivery of a public service, set up and governed by an institution subject to the OLA.

### **Conclusion regarding the applicability of section 30**

In light of the text of the LCA, the bilingual wording of the OLA, the principles governing the interpretation of language rights and the functional reality of the program, it is appropriate to conclude that ANBL agency stores provide a service to the public on behalf of an institution subject to the OLA.

The arguments made to exclude this relationship from the scope of section 30 are based on artificial distinctions, inapplicable definitions and a restrictive reading inconsistent with the quasi-constitutional status of the OLA. As a result, ANBL is still required to ensure that the obligations set out in sections 27 to 29 of the OLA are met in agency stores.

### **Analysis and conclusion**

The complaint highlights a concrete gap in the effective exercise of language rights within a service offered to the public under the banner of an institution subject to the OLA. For the reasons set out in the “Analysis” section, ANBL’s agency stores are deemed to constitute third parties that provide a service to the public *on behalf* of ANBL within the meaning of section 30 of the OLA. It follows that ANBL must ensure that the obligations set out in sections 27 to 29 of the OLA — in particular those relating to language of service, the active offer, communications and signage — are respected at these establishments.

It is also recognized that ANBL generally takes its linguistic obligations seriously, particularly at its corporate stores. The gap in the agency store network is largely explained by the institutional context resulting from the interpretation of “agent” adopted by the OCOL in December 2015 and the ensuing interpretation of section 30 in practice. However, once the scope of this provision is clarified, compliance must be ensured in a structured, proactive and verifiable manner.

# Conclusion and recommendations

Based on its investigation, the Office of the Commissioner of Official Languages is able to establish that, for the reasons set out in this report, the complaint is **founded** and that ANBL (the institution) failed to meet its obligations under the New Brunswick *Official Languages Act* (OLA).

Having established that the complaint is founded, the Commissioner makes the following recommendations:

1. **THAT** the institution provide all agents and, where necessary, host retailers with a written directive confirming that the services offered to the public under the institution's banner must be available in the official language chosen and that these obligations apply to agency store points of service identified as authorized points of sale of ANBL;
2. **THAT** the institution implement uniform and minimum measures in agency stores to ensure an effective active offer, compliant bilingual signage and a real, reliable and contextually appropriate mechanism for obtaining service in the official language chosen;
3. **THAT** the institution adopt a progressive compliance plan prioritizing establishments located in regions with a high Francophone presence, those associated with risk indicators such as recurring complaints or concerns, and those with particularly strong visual identification with the ANBL;
4. **THAT** the institution revise the agency store agreement to make explicit the obligation of agency stores to be able to communicate with the public and provide services associated with the institution in the official language of choice, as well as minimum operational expectations (active offer, signage, actual service capacity) and proportionate corrective mechanisms;
5. **THAT** the institution reintroduce, in requests for proposals, clear and applicable language proficiency requirements and evaluation criteria related to the actual capacity to provide services in both official languages, so that these obligations are taken into account during the drafting and awarding of contracts; and
6. **THAT** the institution establish a proportionate and ongoing compliance and quality assurance program that includes support tools, periodic audits, compliance indicators and

**graduated corrective measures to ensure compliance is maintained over time.**

The Office of the Commissioner would like to thank the institution for its cooperation in this investigation.

Pursuant to subsection 43(16) of the OLA, we submit this report to the President and Chief Executive Officer of the New Brunswick Liquor Corporation, to the complainant and to the Premier. We also submit the report to the Clerk of the Executive Council and to the Executive Director of the Secretariat of Official Languages.

Pursuant to subsection 43(18) of the OLA, if the complainant is dissatisfied with the conclusions presented following this investigation, they may apply to the Court of King's Bench of New Brunswick for a remedy.

Shirley C. MacLean, K.C.  
Commissioner of Official Languages for New Brunswick,  
Signed at the City of Fredericton,  
Province of New Brunswick,  
**This 28<sup>th</sup> day of May 2026**