



February 25, 2024

Minister of the French Language
Mr. Jean-François Roberge
800, rue D'Youville, 13e étage,
Québec (Québec)
G1R 3P4

VIA Written Mail

Dear Minister Roberge:

Re: Draft Regulation – Charter of the French Language – Commerce & Business Amendments

On behalf of the Canadian Toy Association and the U.S. Toy Association we are writing in response to the draft amendment for the *Regulation respecting the language of commerce and business (Chapter C-11 r9)*, issued on January 10, 2024. We appreciate the opportunity to comment on the Québec Government's efforts to further promote the use of French across the Québec nation. Since Bill 96 was introduced, our member companies have sought clarity to understand the corresponding impact to ensure product and retail compliance. The release of the draft regulations by the Office Québécois De La Langue Française (OQLF) has provided some clarity; however, it has affirmed several significant concerns and introduced several new ones that will negatively impact the availability of toys across Québec.

As background, the Canadian Toy Association has over 100 members consisting of manufacturers, importers and distributors of toys generating over \$2 billion in Canadian toy sales. Most CTA members are small and medium enterprises operating across Canada. We have over 20 member companies that have operations in Québec. CTA also works very closely with The Toy Association in the U.S. The Toy Association is a not-for-profit trade association for producers and importers of toys and youth entertainment products sold in North America. It represents over 900 businesses – including toy designers, inventors, manufacturers, importers, retailers, and testing laboratories – that operate and sell toys internationally. The toy sector is a global industry of more than US\$ 90 billion annually, and our members account for more than half this amount.

We recognize and respect the Québec Government's objective to enhance the use of French within Québec; however, the proposed regulations present several legal administrative concerns and will trigger several manufacturing and supply chain challenges. Were the regulations to be implemented as drafted, there will be significant economic implications from this proposal of which the OQLF may not be fully aware. In addition to the costly implications for product manufactures, the proposed compliance date fails to fully consider the product manufacturing process and corresponding timeline. Due to the scale of challenges presented, we anticipate many toy companies will unwillingly find it necessary to withdraw from the Québec market due to the increased cost burden and the continued regulatory uncertainty for compliance as it relates to the *Charter of the French Language*. Inevitably, this will have a direct effect on reducing the supply of toy products in Québec and most likely force Québec consumers to independently source products through online marketplaces from outside of Québec, undermining OQLF's overall objective for the regulations. Further, we believe several of proposed regulatory measures undermine the Quebec Ministry of the Economy and Innovation's efforts to ease regulatory barriers in support of economic growth and international trade for companies contributing to the Québec economy.

Since the release of OQLF's consultation, the CTA and The Toy Association have been working with other like-minded organizations, including International Trademark Association (INTA). INTA is a global association of brand owners and professionals dedicated to supporting trademarks and related intellectual property (IP), and has been actively involved with Bill 96 since it was first introduced. With support of Québec legal counsel and other Canadian organizations, INTA has prepared a detailed assessment of the proposed regulations and has identified several significant challenges for companies that operate in Québec. The toy industry shares INTA's concerns and fully supports the position that has been submitted to the OQLF in response to this consultation.

In addition to INTA's submission, we have detailed below several pressing observations and concerns for our industry:

- **Lack of Clarity of Terminology:** Bill 96 requires product labels and packaging of brands containing non-French words to be translated into French if the non-French words are considered “generic” or “descriptive” portions of the trademark, even if the trademarks are federally registered. A major concern for our member companies is that the regulations fail to explain the concepts of “descriptive” and “generic” within a registered trademark. Many trademarks are composed of or utilize words that could be interpreted as being either generic or descriptive (or both). Ensuring a clear understanding of OQLF interpretation of these terms is critical to ensure compliance. The draft regulations unfortunately fail to address these points. The continued regulatory uncertainty will frustrate the supply of toys to the Québec market as member companies will simply not want to speculate on being compliant and withdraw from the market.
- **Permanent On-Product Markings and Scope for Compliance:** As understood, the regulations propose that all embossed/inlaid/engraved information applied to a product that relates to its use must be translated. This requirement involves a significant change to the manufacturing process, and we do not believe OQLF fully appreciates the scale of impact. There are many imported consumer products on the Quebec market that include instructions such as “ON/OFF” or “twist to open” that have molds that would need to be recreated with the French language. The cost associated with that escalates very quickly when you must replace these molds or change the manufacturing line. Further to this point, it is also unclear if OQLF is proposing that all engraving of a trademark on a product must also be translated. Some product manufacturers will have their trademark embossed into their products through the mold making process. The cost and manufacturing challenges to make changes would be significant. For many toy companies, they will simply be forced to forgo supplying the Québec marketplace. We strongly recommend OQLF amend the regulations to exclude the translation requirements for imported products that have embossed engravings and clarify what is and is not considered to be instructions.
- **Commercial Publications and Scope for Compliance:** Under the draft regulations, OQLF has proposed that commercial publications include social media and websites; however, this interpretation is not listed in the definition of “commercial publications” under the French Charter. We are very concerned by this proposed new interpretation as it significantly pushes the compliance expectations beyond the boundaries of Québec. Based on OQLF's proposal, all international companies that supply products to the Québec market must now have all their social media and websites translated to French. This is a very concerning proposal for our member companies as this, would, in effect, require a re-building of the complete global social media framework and the cost to ensure compliance would be prohibitive even were it to be technically feasible. It is important to understand that our members already provide extensive instructions for use and other supplementary materials, such as sales and service support, in French in compliance with the Charter. If, however, OQLF's intent is to only apply these provisions to social

media sites that are Québec based, then this needs to be expressly stated. Our member companies already work to ensure that applicable materials are translated for the Québec market.

- **Proposed Timeline for Compliance:** We are concerned that OQLF may not fully appreciate the scale of business impact these regulations will have for a product manufacturer and the timeline that it takes to make changes to a production process. Even with a minor labelling change, the process is lengthy and costly. It involves creative and marketing teams, legal counsel, followed by new production and printing, along with logistic coordination for stock to manufacturing facilities. Changes to the embossing process of a product will be burdensome and complicated, and even applied markings can require significant time to implement, even before considering the flow-through of product already in the supply chain pipeline. Typically, an on-product labelling change can take between 8-12 months for a company to fully implement when even a simple change is being effected, with potentially longer implantation timelines for more complex revisions, especially where process, space or placement limitations come into effect. The direct cost for a business to make these changes will be significant and to do so prior to June 2025 is simply unrealistic. In application, member goods that are currently either in production or will be in transit to Québec may already be in a state of non-compliance based on OQLF's draft regulations.
- **World Trade Organization - Regulatory Notification Obligation:** If implemented as drafted, OQLF regulations will be considered a trade irritant and therefore conflict with Canada's obligations under the WTO Trade Agreement. We strongly encourage the Québec Government to notify the WTO of its proposed regulatory amendments, consistent with Canada's obligations under the World Trade Organization's Agreement on Technical Barriers to Trade. The toy industry operates across a well-established global supply and manufacturing network, and it is paramount that the international community be made aware of the proposed regulatory changes by OQLF.

We appreciate your consideration of our comments. As OQLF reviews the feedback on its draft regulations, please do not hesitate to contact us if you have any questions about our comments.

Yours sincerely,



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