

**AWARENESS PROJECT: TOWARDS UNIVERSAL ACCESS TO GOODS AND SERVICES
IN PHARMACIES AND SUPERMARKETS**

Summary

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Over the past few years, the Commission des droits de la personne et des droits de la jeunesse has seen a considerable increase in the number of complaints filed against retailers based on disability or the means to palliate a disability, which are prohibited grounds of discrimination. This is an important point as disability discrimination remains the leading ground for human rights complaints brought before the Commission

In order to respond to this situation in a systematic way, the Commission undertook a field study, independent from the complaints investigation process, to evaluate the accessibility of pharmacies and supermarkets operating under a number of banners in Québec. Data was collected in partnership with the Confédération des organismes de personnes handicapées du Québec (COPHAN).

The businesses were evaluated by people with a visual or mobility impairment, most of whom represented COPHAN, in collaboration with Commission employees. In all, 52 businesses associated with the following corporations, companies or groups (hereinafter referred to as "chains") were visited between December 2010 and June 2011: Les Compagnies Loblaw limitée, Groupe Jean Coutu (PJC) inc., Groupe Uniprix (Uniprix inc.), Metro Richelieu inc., Shoppers Drug Mart and Sobeys inc.

The businesses were visited anonymously, that is, without the chains being informed of the project. Consequently, they were not able to prepare for the evaluators' visit—by de-cluttering the aisles, for example—which would certainly have influenced the quality of the data.

The main objective of this initiative was to raise awareness among the chains about the exercise of the right to equality for people with disabilities as well as the principle of universal accessibility that guarantees it. It also aimed to convince the chains of the need to implement non-discriminatory standards and practices consistent with universal accessibility. Furthermore, the Commission wanted to make society as a whole aware of the importance of giving greater consideration to the rights and needs of disabled people. The objective was not to rank businesses according to accessibility, since the limited number of businesses visited and the range of business models involved made it impossible.

The findings of the field study identified several potentially discriminatory barriers in different supermarkets and pharmacies. These barriers were related to the built environment, design or layout, operations as well as to the customer service. These findings were submitted to representatives of the chains in order for them to respond with concrete commitments for change, not only for the businesses visited during the field study but for all of their stores.

The Commission chose to evaluate these retail outlets because pharmacies and supermarkets offer goods and services of basic necessity. However, they were not selected on the basis of their good or bad accessibility rating.

Legal obligations

Several chain representatives mentioned they consider universal accessibility solely in terms of design standards and mainly—if not exclusively—cited Building Code and Québec Construction Code requirements. However, in accordance with its mandate, the Commission based this initiative on the Charter of Human Rights and Freedoms. There is a clear legal framework in this matter. For nearly 40 years now, the Charter has engaged all of Québec society in tackling discrimination against people with disabilities and eliminating the barriers they face, notably in access to means of transportation and to public spaces, such as commercial establishments, and to the goods and services they offer.

Moreover, the Régie du bâtiment du Québec considers the Code requirements as a “minimum threshold”.^[1] Furthermore, the Code does not set out standards for the diversity of mobility-related disabilities nor disabilities that can be defined as such within the meaning of the Charter. The Charter therefore provides broader protection to people living with disabilities or who must use various means to palliate a disability.

In presenting its main findings to the chains, the Commission reminded them of their legal obligations relating to the right to equality guaranteed by the Charter, including the duty of reasonable accommodation. A service provider facing a situation of discrimination is required to

^[1] RÉGIE DU BÂTIMENT, *Normes de conception sans obstacles. Guide d'utilisation*, [online] <https://www.rbq.gouv.qc.ca/fileadmin/medias/pdf/Publications/francais/ConceptionSansObstacles.pdf> (Consulted on March 25, 2013), p. 3.

make every attempt to accommodate the person, provided there is no undue hardship. Accommodation measures must be evaluated on a case by case basis.

Without presuming the results of such an evaluation, the Commission urged the chains to make changes in keeping with the principles of the right to equality and of universal accessibility.

The main findings

During the field study, the needs of people with disabilities were assessed from an architectural, organizational and relational perspective. The path-to-purchase—from parking lot to entrance, from entrance to aisles, from aisles to products, from products to checkout, and from checkout to exit—was analyzed in order to obtain a realistic picture of the barriers generally faced by disabled persons.

The results thus obtained were unequivocal and led to three general observations: 1 – without exception, there were barriers to accessibility in all the businesses visited; 2 - the barriers encountered were very often similar; and 3 - not all the barriers were related to the built environment, but rather were often related to operations or customer service.

The following zones were evaluated: area surrounding the building, entrance, traffic flow within the store, access to products, service counter, washrooms, checkout, and customer service. By way of illustration, here are a few findings based on an analysis of the results for the 52 businesses:

- Entrances: Certain problems were due primarily to the built environment, such as sharp-angled vestibules, a pillar in front of the entrance, or stairs leading to the entrance.
- Access to products: In 24 supermarkets, the refrigerator and vertical freezer doors were difficult to open because the handles were too high.
- Washrooms: Of the 41 businesses with washrooms, 25 presented major challenges in terms of accessibility (doors difficult to open or locked, insufficient manoeuvring space, poor layout, inadequate lighting).
- Checkout: In 15 supermarkets and 3 pharmacies, there was not enough or barely enough space to enable movement. A prevalent problem, even with so-called "adapted"

checkouts, was the lack of user-friendliness. Several problems were due to the height of counters (ability to see the cash register screen, access to the pay terminal). There were also several problems with pay terminals (fixed in place, too high, locked/key missing, too short connecting wires).

- Customer service: Problems frequently arose when help was requested. Help was hard to obtain in a significant proportion of the businesses visited. Several factors may account for these problems during our visits, including inadequate staff training on the rights and needs of people with disabilities or a shortage of staff.

The chains' commitments

The Commission met with representatives of the chains to explain this initiative, remind them of their obligations under the Charter and inform them that it would be releasing a report on its findings. It also asked them to make commitments to improve accessibility in all of their associated businesses. More specifically, the Commission made six requests:

1. Establish a policy on accessibility of stores and customer service.
2. Examine the barriers to accessibility in all the chains' stores and develop a plan to adapt the premises and services.
3. Develop a plan for immediate measures to eliminate barriers that can be easily dealt with.
4. Develop a training program for current employees, ensure initial training and professional development, and assess its impact.
5. Create an accessibility plan for new stores.
6. Monitor progress in terms of accessibility and report to the Commission in a year.

The six chains made commitments aimed at improving accessibility to varying degrees.

Three chains made commitments relating to the 6 requests of the Commission, and the three others' commitments related to 5 out of 6 requests. In this respect, the Commission considers that it achieved the goals of the project, namely, to make these chains aware of the exercise of the right to equality for people with disabilities and convince them to make the necessary changes to that end.

The Commission considers that several of the proposals voluntarily submitted by the different chains are promising. Some of these measures have the potential to concretely improve standards and practices related to universal accessibility. The measures might, if applied adequately, also enable employees to better understand the notion of universal accessibility and to better recognize the barriers in their work environment, which is also a service environment.

For example, commitments related to staff training can, to varying degrees, improve how the needs of people with a disabilities or age-related impairments can be taken into account.

More broadly, the Commission urges the retail sector as a whole, even the businesses not targeted by this initiative, to take note of this report's findings and to make the necessary changes to improve accessibility

The main focus of this initiative was discrimination based on a disability or the use of any means to palliate a disability. Note, however, that the notion of accessibility also applies to other grounds set out in the Charter, such as age and pregnancy. As the population is aging, more and more people will live with some type of limitation. In this respect, the purpose of the Commission's project is to bring about changes that will benefit the population as a whole.

In closing, the Commission undertakes to release the results of the first annual evaluation carried out by the chains in a follow-up report. At the same time, the Commission will continue fulfilling its mission to protect the human rights and freedoms enshrined in the Charter and, to that end, will continue to help complainants defend their rights when they have been violated.