

August 29, 2006

EMAIL CORRESPONDENCE

The Honourable Vic Toews
Minister, Justice Canada
239 Kent Street, 306 Justice Building
Ottawa, Ontario K1A 0A6

Dear Mr. Minister:

Subject: The Federal Court of Canada Decision No. 971

(The Canadian Association of the Deaf, James Roots, Gary Malkowski, Barbara LaGrange and Mary Lou Cassie vs. The Queen)

On August 11, 2006, the Decision 2006 FC 971 by The Honourable Mr. Justice Mosley was issued. On behalf of the Canadian Hard of Hearing Association (CHHA), we are pleased and applaud Justice Mosley's decisions and; congratulate the applicants for their successful challenge. This decision will benefit many people who are deaf and is looked upon very positively by all of us. However, I write this letter using the decision as a basis for a deficiency affecting an even bigger population in Canada. It is generally estimated that over three million Canadians or 1 in 10 Canadians have some degree of hearing loss (hard of hearing and late-deafened); whereas, approximately .01% approximately 300,000 people in Canada are identified as Deaf of which many, not all, use sign language such as ASL, LSQ, etc as their primary method of communications.

This decision does not recognize the people of Canada who face communication barriers, and who require assistive listening devices and other visual interpretation services (Communications Access Realtime Translation [CART], captioning and realtime print reporting technologies). We have the same opinion as Ms. Kelly Duffin, President and CEO of The Canadian Hearing Society who said "*We are also extremely pleased to see the inclusion of written and electronic media which presumably would extend to captioning, a text accommodation often required by deafened and hard of hearing Canadians who don't use sign language.*" The Canadian Hard of Hearing Association works closely with the public/private sectors and depends on technology to allow participation at various functions and presentations. The decision handed down by Justice Mosley is indeed a break through for person in the community of the Deaf; however, a similar situation is crucial for the hard of hearing and late-deafened community when considering full citizenship in Canada.

The Court's order in the decision identified two points: (1) addressing the professional sign language interpretation service and the resource responsibility for the requested service where the person who is deaf receives services from or participates in programs administered by the Government of Canada and the nature of communication between the government and the person requires such services; (2) this must be looked at in all fairness, "where the Government of Canada engages in public or private consultations with non-governmental organizations in the development of policy and programs in which deaf and hard of hearing Canadians have identifiable interests and the nature of communications requires such services, visual interpretation services (as described above) are to be provided and paid for by the Government of

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Canada to allow the meaningful participation of organizations representing the deaf and hard of hearing communities”.

In evaluating the impact of this decision, a question comes to mind: “*What is the difference between people who are deaf and people who are hard of hearing or late-deafened?*” It is not about the degree of hearing loss but rather about the person’s choice of language and communication skills. Persons who are deaf may use sign language as their primary language; whereas, people who are hard of hearing or late-deafened primarily use the spoken language and technological strategies to receive communication.

People who are hard of hearing or late-deafened want equal access to effective communication and to be part of Canada’s mainstream society. In other words, they are an integral element of Canada’s social fabric as are all citizens in Canadian society. We do not use sign language as our primary language, many of us do not use or understand signing in any form thus depend on other avenues for accessing communication.

We are disappointed with the decision and yet at the same time delighted with the Court’s support to the .01% of Canadians who are Deaf. The decision has confused us with persons who are Deaf. Our identity is different and our needs are different. We ask for your understanding and support to ensure that people who are hard of hearing and late-deafened are also included when enforcing this very important decision. While the Berlin Wall may have come down as stated by Mr. Gary Malkowski of CHS and an applicant of the legal original challenge, it’s still as high as ever for the rest of us. Our elation over this ruling is tempered but its failure to make realtime captioning an explicit and equal access tool for full access, to all people including people who are hard of hearing /late-deafened is worrisome.

Canada needs professional service providers who are formerly trained to communicate effectively with people who are hard of hearing or late-deafened. We need them to provide us with Assistive Listening Devices (ALD) including CART (realtime print interpretation) in meetings and consultations. In essence, we need and expect full access.

Your attention to this matter is appreciated. Should you require additional information or wish to meet with me or my colleagues at the Canadian Hard of Hearing Association, it would be our pleasure. Our website www.chha.ca to Canada’s only national consumer-based organization representing people who are hard of hearing and late-deafened may be of further assistance.

Yours truly,



Colin J.S. Cantlie
Chair, Government Relations Committee

c.c. Mr. Ian Hamilton, Vice President
Ms. Janice McNamara, Executive Director
Mr. Jason Kenney, M.P. Calgary Southeast, Parliamentary Secretary to the Prime Minister