

MOVING TOWARDS BARRIER-FREE SERVICES

Final Report on the Restaurant Accessibility Initiative

**ONTARIO
HUMAN RIGHTS
COMMISSION**

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Introduction

For the past five years, the Ontario Human Rights Commission (“the OHRC”) has been working closely with the restaurant industry to improve accessibility for persons with disabilities, older individuals, and families with young children. This is the OHRC’s final public report on this initiative.

Persons with disabilities have a right, under the Ontario *Human Rights Code* (“the *Code*”) to equal treatment with respect to services, goods and facilities. This means that they have the right to access premises and services in the same manner as others, with dignity and without impediment. Despite this right, persons with disabilities continue to face daily obstacles in going about their lives, including when they are accessing restaurant services. The OHRC has hoped that, through this initiative, significant change could be effected in the accessibility of the restaurant industry, and a model could be developed for promoting change in other industries.

The purpose of this Report is to:

- Fulfil the commitment the OHRC made in its previous report on this initiative, *Dining Out Accessibly*, to report back on the status of activities and advancements respecting restaurant accessibility;
- Recognize advancements towards full accessibility and showcase best practices in the restaurant industry;
- Point the way for continued advancement towards full accessibility in the restaurant industry.

The *Code*, Disability, and Accessibility

The *Code* has prohibited discrimination on the basis of disability for over 20 years. Persons with disabilities have the right to equal treatment in accessing services such as those provided by restaurants, shops, hotels, movie theatres and other public places. Businesses have an obligation to make their facilities accessible. A failure to provide persons with disabilities with equal access to a facility or equal treatment in a service would constitute discrimination under the *Code* and can be the subject of the human rights complaint to the OHRC. A restaurant would have to demonstrate as a defence to such discrimination that providing access or accommodating services would amount to undue hardship with regard to cost, outside sources of funding, or health and safety.

The OHRC’s *Policy and Guidelines on Disability and the Duty to Accommodate* (“the *Policy*”) makes it clear that services and facilities must be built or adapted to accommodate individuals with disabilities in a way that promotes their integration and full participation. When constructing new buildings, undertaking renovations, setting up new policies and procedures, and offering new services, design

choices should be made that do not create barriers for persons with disabilities. Where barriers exist, whether physical, attitudinal or systemic, organizations should actively identify and remove them. Where immediate barrier removal would cause undue hardship, interim or next-best measures should be put in place until more ideal solutions can be attained or phased-in, where possible.

The Accessibility for Ontarians with Disabilities Act, and the Building Code

With the recent passage of the *Accessibility for Ontarians with Disabilities Act*¹ (“the AODA”), accessibility issues in Ontario are now governed by three pieces of complementary legislation: the *Code*, the AODA, and the *Ontario Building Code* (“OBC”).

The AODA replaces the previous *Ontarians with Disabilities Act* and is expected to spur significant advances in the accessibility of Ontario’s goods, services, facilities, accommodation, employment, buildings, structures and premises. As the OHRC, among many others, had advocated for a number of years, the AODA creates a positive mechanism for developing and implementing accessibility standards in both the public and the private sectors.² The AODA sets out a process for the development of accessibility standards for specific industries, economic sectors, or classes or persons or organizations. Standards development committees will be established, consisting of persons with disabilities, industry or sector representatives, and representatives of relevant government ministries. These committees will determine long-term accessibility objectives to be achieved by January 1, 2025, and the measures required to meet these objectives. The committees will develop plans for progressive implementation of measures to meet the long-term objectives.

The committees will also develop initial proposed standards, which will set out measures, policies, practices and requirements for the identification and removal of barriers. The proposed standards will be made public, and the public will have the opportunity to submit comments. The finalized standards will then be established by regulations. Objectives, proposed measures, and standards will be reviewed every five years.

An Accessibility Standards Advisory Council will be established to advise the Minister on matters related to the AODA. The majority of the members of the Council must be persons with disabilities. The Accessibility Directorate under the Ministry of Community and Social Services will have the responsibility for advising on the establishment and composition of the standards committees, providing training materials and guidelines for members of the standards committees, examining and reviewing the standards, advising on accessibility reports, and

¹ S.O. 2005, c. 11. The AODA received Royal Assent and came into force on June 13, 2005

² See, for example, the OHRC’s *Submission of the OHRC Regarding Consultations to Strengthen the Ontarians with Disabilities Act*, March 31, 2005, www.ohrc.on.ca.

consulting with persons and organizations who have reporting obligations under the Act. The Directorate will make an annual report on the implementation and effectiveness of the Act.

The AODA does not supersede the *Code*. The AODA states that nothing in it diminishes the legal obligations of the Government or any other person or organization with respect to persons with disabilities that are imposed by law, and that where the AODA or an accessibility standard conflicts with another Act or regulation, the provision providing the highest level of accessibility shall prevail. That is, organizations that provide services, facilities, housing or employment will continue to be required to accommodate persons with disabilities to the point of undue hardship. The AODA does not create a new complaint mechanism for individuals who encounter barriers to accessibility. Persons with disabilities who encounter barriers to services, facilities, housing or employment will continue to be able to file complaints under the *Code*, and the *Code* remains the key enforcement mechanism for individuals with disabilities. The OHRC will continue to have a broad mandate, and a vital role to play, in ensuring the rights of persons with disabilities in the province of Ontario.

However, insofar as the Accessibility Directorate will be overseeing the development of accessibility standards and plans, there is an opportunity for the OHRC to re-focus its efforts. For example, rather than taking on sector-specific initiatives encouraging the identification of barriers and the development of plans as it has done with the transit and restaurant sectors, the OHRC may focus its resources on addressing the source causes of inaccessibility. As well, while the OHRC will continue to take an active role in promoting accessibility, it will also be able to place greater emphasis on other issues affecting the disability community.

The OBC sets minimum standards for the construction of buildings, including standards related to accessibility issues. The OHRC has, for a number of years, identified deficiencies with the OBC's barrier-free requirements that are hindering the development of an accessible built environment. For example,

- the barrier-free provisions of the OBC emphasize mobility-related disabilities, and provide insufficient guidance on non-mobility-related issues;
- the provisions regarding upkeep and renovation require accessibility improvements only in limited circumstances; and
- compliance with the technical requirements of the OBC does not necessarily result in substantive equality for users with disabilities.

A comprehensive discussion of the OHRC's concerns regarding the OBC is set out in its submissions to the 2002 public consultations on building code reform.³

The *Code* has primacy over the OBC, and human rights tribunals have affirmed that compliance with the OBC is no defence to a complaint of discrimination

³ *Submission of the Ontario Human Rights Commission Concerning Barrier-Free Access Requirements in the Ontario Building Code*, March 2002, www.ohrc.on.ca.

under the *Human Rights Code*.⁴ However, it is the experience of the OHRC that many businesses, even large and sophisticated ones, are under the incorrect impression that by complying with the OBC they are meeting all of their legal obligations. As a result, the barrier-free provisions of the OBC may have the unintended effect of reinforcing existing barriers for persons with disabilities. Indeed, many business owners have expressed to us frustration regarding the confusion caused by the discrepancies between the requirements of the OBC and the *Human Rights Code*.

The OHRC has publicly expressed its concerns regarding the accessibility provisions of the OBC on a number of occasions over the years, including in its report on age discrimination, *A Time For Action*; the 2002 submissions on the OBC; the earlier report on accessibility in the restaurant industry, *Dining Out Accessibly*; and the submissions on strengthening the *Ontarians with Disabilities Act*. In December 2005, the OHRC wrote to the Minister of Municipal Affairs and Housing, reiterating its concerns with the OBC.

The Ministry of Municipal Affairs and Housing has very recently announced amendments to the accessibility provisions of the OBC. The OHRC will review these amendments in light of its previously expressed concerns. The OHRC believes that it is essential that any reform to the OBC bring the provisions of the OBC into harmony with those of the *Code* and would welcome the opportunity to assist the Ministry in this regard, in keeping with the OHRC's broad mandate under section 29 of the *Code*.

The OHRC's Restaurant Accessibility Initiative

Following the launch of the *Policy* in March 2001, the OHRC initiated an inquiry under section 29 of the *Code* into accessibility in the restaurant industry. The objectives of the inquiry were to:

- To increase awareness and report back to restaurant industry leaders and the general public on the nature of existing barriers that prevent persons with disabilities from accessing restaurants in their community.
- To work cooperatively with restaurant industry leaders and seek their commitment to voluntarily take steps to identify, remove and prevent barriers and accommodate the needs of customers with disabilities in order to meet their obligations under the *Code*.

Restaurant Survey

At that time, the OHRC wrote to 29 major restaurant chains requesting information regarding the standards and objectives set for achieving accessibility,

⁴ *Quesnel v. London Educational Health Centre*, (1995), 28 C.H.R.R. D/474 (Ont. Bd. Inq.)

and the current level of accessibility in their premises. As well, the OHRC asked how the accessibility of franchised premises was monitored and if this was a part of franchise agreements. Despite a follow-up letter in September 2001, many of the chains failed to respond. As well, when the OHRC reviewed the responses it did receive, it became clear that restaurant chains were setting their standards for accessibility based only on the OBC that was in effect at the time of construction or renovation. It was learned that, for the most part, neither the *Code*, nor the *Policy*, nor other available barrier-free design standards were being considered in setting standards for accessibility in restaurants. This has also been the OHRC's own observation based on inquiries received and complaints filed regarding this issue.

Accessibility Audit

In August 2002, the OHRC engaged an expert consultant on disability issues and barrier-free design to conduct an accessibility audit. The audit focussed on the physical premises and services of seven select restaurant chains of the original 29 restaurants contact. These chains were: McDonald's, Country Style Donuts, Pizza Hut, Starbucks, Subway, Swiss Chalet and Tim Hortons. Four locations were audited for each chain, totalling 28 locations across the province.

Completely inaccessible locations were avoided so that the auditors who use wheelchairs could access the premises to complete the balance of the accessibility audit.

A checklist was developed to identify critical accessibility indicators for different disabilities that would provide a quick, reliable and accurate assessment of restaurant facilities based on criteria from CSA Standard B651-M95 "Barrier Free Design" and with the OBC. It was applied only to the public areas of the restaurants audited and did not include areas used only by employees. Persons with disabilities conducted the assessment of sites.

A detailed summary of the results of the audit is set out in the OHRC's publication, *Dining Out Accessibly*. Although the locations varied widely in accessibility, all of the restaurant chains audited revealed some accessibility issues. These included

- lack of an obvious and safe pedestrian route into the facility;
- inadequate accessible parking spaces;
- entrance doors that are too narrow, don't open fully or don't have automatic door openers;
- entrances approached by steps or with high thresholds;
- lack of well-contrasted signage, menu boards and menus;
- inadequate interior routes and maneuvering space for persons using wheelchairs;
- inaccessible washrooms; and
- high takeout or self-serve counters.

These results were shared with each of the seven chains in June 2003 to ascertain their plans and seek their commitments for achieving and ensuring accessibility in the future.

Accessibility Commitments

During the fall of 2003, the OHRC met with each of the seven chains audited. The OHRC asked the chains to commit to the following five steps in order to move towards meeting their obligations under the *Code*:

- 1. Develop an accessibility policy and customer complaints procedure.** Create no new barriers to access. Accommodate needs where barriers exist, short of undue hardship.
- 2. Review and identify accessibility barriers** across corporate-owned and franchisee facilities.
- 3. Develop a standardized accessibility plan for future locations** that is based not just on the current Ontario *Building Code*, but also in respect of the requirements for accessibility under the Ontario *Human Rights Code* and the OHRC's *Policy and Guidelines on Disability and the Duty to Accommodate*, as well as upon current standards and best practices in barrier-free design.⁵ This standardized plan should be mandated for all new locations and part of all franchisee agreements, and should clearly stipulate that the requirements of the accessibility plan must be met as a condition of the agreement. Avoid opening new restaurants in inaccessible premises.
- 4. For existing facilities, develop a plan, and remove barriers** to achieve accessibility. Immediately take steps to fix problems that can be easily addressed and/or are relatively inexpensive. For more complex barriers, implement interim solutions and phase in remaining changes that are needed to achieve full accessibility. Prioritize the changes, set specific deadlines, and assign responsibilities.
- 5. Monitor progress toward achieving accessibility and report back** to the OHRC in one year's time on achievements.

In April 2004, the OHRC reported publicly on the results of the audit and the commitments made by the seven chains, in *Dining Out Accessibly*. At that time, the OHRC itself made the following commitments:

1. The OHRC will continue a multi-faceted and systemic approach to pursuing the issue of restaurant accessibility by engaging the restaurant industry through professional associations, as well as raising concerns with government in regards to the OBC and the Government's initiative to review the scope of the *Ontarians with Disabilities Act*.

⁵ CSA Standard B651-M95 "Barrier Free Design" and CSA Standard B480-02 "Customer Service for People with Disabilities" (www.csa.ca)

2. The OHRC will continue to receive, mediate and investigate complaints involving inaccessible restaurants and other services, and where appropriate, will refer unresolved cases to a Human Rights Tribunal.
3. The OHRC will report back in 2005 on the status of activities and advancements made in all these areas.
4. The OHRC will disseminate these findings to other major restaurant chains and will also ask them to report back on the accessibility of their chains as well as seek their commitment to the five steps listed above.

Immediately following the public release of *Dining Out Accessibly*, the OHRC took steps to share this information with the restaurant industry. In partnership with the Ontario Restaurant, Hotel & Motel Association, copies of the Report were sent out to 109 restaurant businesses.

In June 2004, the OHRC took steps to contact the remainder of the 29 restaurant chains that it initially contacted in May 2001.⁶ The OHRC provided these restaurant chains with information about the OHRC's restaurant initiative and the commitments made by the seven audited restaurant chains. The OHRC requested that these restaurants agree to the five steps agreed to by the seven chains that were audited. Meetings and discussions were held with these restaurant chains over the course of 2004/2005. The OHRC received commitments to the five steps from all but one of the restaurant chains that it contacted. A Commission Initiated Complaint was filed against that chain, which has now entered into a negotiated settlement with the OHRC.

Achievements

A total of 26 restaurant chains have now committed to the five steps towards accessibility. These restaurants are:

1. Burger King
2. Coffee Time Donuts
3. Country Style Food Services Inc.
4. Cultures Fresh Food Restaurants
5. Darden Restaurants (Red Lobster)
6. Druxy's
7. Great Canadian Bagel
8. Harvey's

⁶ The OHRC initially contacted 29 restaurant chains. Seven chains were audited and made commitments in 2003. Nineteen of the original 29 chains were re-contacted in 2004. During the period of this initiative, some of the restaurants initially contacted ceased to operate in a substantial way in Ontario. As well, some of the organizations contacted by the OHRC operate a number of brands, and made commitments for more than the brand initially identified by the OHRC. The numbers of restaurants contacted and making commitments therefore do not add up.

9. Java Joe's
10. Kelsey's
11. Kentucky Fried Chicken
12. Montana's Cookhouse and Milestones
13. McDonald's Restaurants
14. Mr. Submarine
15. Pizza Hut
16. Pizza Pizza
17. Pizzaville
18. Second Cup
19. Select Sandwich
20. Starbucks Coffee Canada
21. Subway Franchise Systems of Canada
22. Swiss Chalet
23. Taco Bell
24. Tim Hortons (TDL Group)
25. Timothy's World Coffee
26. Wendy's Restaurants of Canada

The individual commitments and achievements of each of these restaurant chains are outlined in Appendix 1 to this Report.⁷ Some best practices from the various restaurants are highlighted below.

Despite numerous requests and reminders, Java Joe's failed to provide the OHRC with information regarding the steps it has taken to meet its commitments, providing only a brief letter indicating that it remained committed to accessibility, without further details. The OHRC was gravely disappointed by this response, and will continue to take all necessary steps to ensure that Java Joe's meets its commitments and takes steps to bring its premises into compliance with the *Code*.

On the whole, the OHRC was impressed by the commitment that the restaurants it contacted brought to addressing restaurant accessibility. There was, however, a wide range in the extent and nature of the initiatives these restaurants undertook, with some making a much more serious and substantial commitment to the issue than others.

The 26 restaurant chains represent a wide variety of sizes and business models. Some operate in freestanding "build-to-suit" premises, while others operate in leasehold premises. Some are mainly corporate owned, while others are mainly franchised. Some have mostly older locations, which may pose significant accessibility standards, while others are newer. Some are self-serve, others are take-out, and others provide sit-down dining. Some are very large; others are

⁷ Please note that Second Cup is not included in Appendix 1. As Second Cup's commitments were received late in 2005, Second Cup had not yet had an opportunity, at the time of this Report, to make substantial progress on those commitments.

relatively small. All have made commitments to improving accessibility. This range indicates that *all* businesses can take steps towards improving accessibility, regardless of size or business model, although of course the nature and speed of the changes will vary.

The OHRC is pleased by the positive response it has received from the restaurant industry, and the commitment to real change that these restaurants have demonstrated. The OHRC believes that these initiatives can, over time, make a significant impact on the accessibility of the restaurant industry, and hopes that other restaurant chains that have not been a part of this initiative will follow the leadership of these restaurants and take steps to assess and improve their own accessibility.

Best Practices and Next Steps in Achieving Accessibility

Many of the restaurants that the OHRC corresponded and met with emphasized that removing barriers for persons with disabilities, older persons, and families with young children was not only a matter of complying with the law, or of corporate social responsibility: it was also good business practice. They emphasized that persons with disabilities, older persons, and families with young children are their customers and their potential customers; they cannot afford to make their services inaccessible or inconvenient to such a significant demographic. The OHRC shares the view that accessible services ultimately benefit everyone, and that we all pay the price when persons with disabilities, older persons, or families with young children are marginalized or excluded.

In reviewing the achievements of the various restaurants that have participated in the Restaurant Accessibility Initiative, the OHRC wishes to draw attention to some of the positive practices that have been adopted and that may be useful as examples or a source of ideas for other restaurants seeking to achieve accessibility. This is not meant as a complete compendium of best practices, or even as a complete list of all of the positive practices adopted by the participating restaurants, but as a sample of ideas.

Franchise Agreements

- Cara Operations, which franchises and operates Harvey's, Kelsey's, Montana's Cookhouse and Milestone's Grill and Bar, amended its standard franchise agreements to require that each individual restaurant be constructed in accordance with their standard building plan.
- Select Sandwich has amended its franchise agreement and disclosure document to include its Accessibility Policy and Plan.

Planning

- McDonald's developed a comprehensive barrier-free access manual. The manual deals with issues including signage, seating, reach ranges, washrooms, doors, and accessible routes, and provides information on common barriers and solutions, and a review checklist. This is provided to franchisees as a resource in barrier removal.
- McDonald's has developed a comprehensive five year plan dealing with barriers in all of its restaurants across Canada, and will be implementing its accessibility initiatives across the country.

Practical Solutions:

- Great Canadian Bagel developed practical solutions to some accessibility barriers: for example, since lowered condiment counters were awkward for customers to deal with, Great Canadian Bagel used higher condiment counters, but sloped them so as to be more accessible for those using wheelchairs. The size of menu boards was increased and the amount of text decreased: catering menus are provided for those who cannot read the overhead signs.

Leasehold Arrangements

- Pizzaville has amended its standard lease agreements to alert landlords to their responsibility to provide premises that are accessible and barrier free.
- As each location lease expires, Cara Operations (Harvey's, Kelsey's, Montana's and Milestones) undertakes renovations as commercially reasonable to include accessibility features, or closes the location and rebuilds pursuant to the standardized accessibility plan.
- Subway includes language in the master lease that requires the landlord's best efforts to remove barriers inside the leased premises and on any path of travel to the leased premises controlled by the landlord. In existing locations, Subway works with its franchisees to seek the landlord's assistance on removing barriers on leased property and common areas on the path of access to the shop.
- Upon completion of its barrier review at each location, Select Sandwich will advise the landlord of each location of any accessibility barriers that are under the landlord's sole control, and request that they be removed. In the event that the landlord refuses to remove barriers, Select Sandwich will report this to the Commission.

Training and Education

- Coffee Time raises restaurant accessibility issues at its semi-annual meetings with franchisees.
- Timothy's developed a training program on service standards for persons with disabilities, which will be provided to all corporate and franchise staff.
- Druxy's trained all franchisees on its new accessibility policy, and committed to continued training of staff and franchisees.

- Culture's amended its training manual to include information about disability and accessibility issues.
- Subway trains its franchisees on means of providing alternative service to persons with disabilities where complex barriers to accessibility exist.
- McDonald's has developed formal, standardized employee sensitivity training, with advice from the Canadian Standards Association.

Monitoring

- Pizza Pizza conducts an annual review of accessibility enhancements and renovations, in order to highlight improvements implemented, and to set goals for the upcoming year.
- Red Lobster's Facilities Manager conducts accessibility audits twice once a year, as a means of identifying issues and developing solutions across the chain.

Other Features

- Many restaurants took steps to ensure that their restaurants had Braille menus, as well as Braille or tactile signs on washroom doors.
- Wendy's is a partner with the Canadian Standards Association in their "Building Champions" program, focussing on accessibility for people with disabilities.
- Tim Hortons and McDonald's indicated that they would be implementing their accessibility plans across Canada.

Some of the restaurants involved in this initiative are relying heavily on staff training, education, and improved customer service to achieve accessibility. It is true that greater awareness of the needs of persons with disabilities, older persons and families with young children, and the accompanying improved service to individuals belonging to these groups are essential to achieving equality. However, it is equally true that education and customer service will not on their own resolve the significant accessibility issues in the restaurant industry, and others like it. Customer service and training will not by themselves remove barriers, ensure equal access, and bring organizations into compliance with the *Code*. These types of initiatives must be part of a larger commitment to universal design and barrier removal, leading ultimately to barrier-free services.

It is important to reaffirm that, under the *Code*, the ultimate standard is that of undue hardship. Restaurants, like other service providers, must take steps to the point of undue hardship to ensure that their restaurants are accessible to persons with disabilities. Where services are provided unequally to persons with disabilities because of accessibility barriers, the service provider must show that the barrier could not be removed without incurring undue hardship in terms of costs, health and safety, and outside sources of funding. The undue hardship standard is a high one. As is stated in the *Policy*, business inconvenience is not a defence to a failure to accommodate. Nor can contractual arrangements act as a bar to providing accommodation.

The restaurants involved in this initiative are ultimately responsible for ensuring that their accessibility plans will bring them into compliance with the *Code* and are in harmony with the undue hardship standard. It has been the OHRC's role to educate the restaurant industry about the requirements of the *Code* and to provide the information and support necessary for the industry to begin moving towards compliance with the *Code*.

All of the restaurants involved in this initiative must continue to build on their successes, plan for accessibility, and implement and monitor their plans, until all barriers have been removed, or the undue hardship standard has been reached.

Moving Forward

The restaurants that have reached voluntary agreements with the OHRC have become leaders in planning for, and moving towards accessible services for all Ontarians. They have demonstrated that accessibility can be achieved, and in a way that is positive both for business owners and operators, and for their customers.

Many of the restaurant owners and managers with whom the OHRC has met over the past few years have emphasized the importance of a "level playing field" – that is, that the restaurant industry must move forward towards accessibility as a whole. The OHRC hopes that others in the restaurant industry will follow in the steps of these restaurants, both as a "best business practice" and in recognition of their legal responsibilities under the *Code*.

Given these concerns, and the OHRC's experience with the restaurant industry, it is our belief that this sector will benefit from the development of accessibility standards under the AODA that will build on the work that has been done, and will ensure that the industry moves forward together as a whole.

Restaurant owners and operators who have premises in leased buildings emphasized the difficulties that they face in obtaining cooperation from their landlords in removing accessibility barriers in the landlords' areas of responsibility and control. This, in their view, creates a significant obstacle in any attempt to achieve full accessibility. Landlords, as providers of services and facilities, have a duty under section 1 of the *Code* not to discriminate on the basis of disability, and are therefore required to provide barrier-free premises, unless to do so would cause them undue hardship. Landlords who have failed to take a proactive approach to accessibility, and especially those who have been alerted to barriers in their premises and have failed to take steps to assess and remove them, may be in violation of the *Code*.

The achievement of full accessibility requires a cooperative approach from a number of actors: restaurant owners and franchisees, landlords, architects, the construction industry, and government, including the OHRC.

Restaurant Owners and Operators must follow the lead of these 26 restaurant chains by:

- Setting as a goal full accessibility for their services;
- Developing accessibility policies and plans;
- Identifying barriers to accessibility;
- Developing and implementing plans for removing barriers; and
- Monitoring progress towards full accessibility.

Commercial Landlords must also take responsibility for meeting their obligations under the *Code* by:

- Setting as a goal full accessibility for their premises;
- Developing accessibility policies and plans;
- Identifying barriers to accessibility,
- Developing and implementing plans for removing barriers; and
- Monitoring progress towards full accessibility.

Government must:

- Provide guidance and assistance for the restaurant and commercial leasing industry in setting standards for the achievement of accessibility, through the mechanisms established under the AODA;
- Ensure that the minimum accessibility standards set by the OBC support the achievement of full accessibility for persons with disabilities, and that these provisions of the OBC are interpreted in harmony with the *Code*; and
- Ensure that the barrier-free provisions of the OBC are adequately communicated and enforced.

The **OHRC** will:

- Continue to raise concerns with government regarding the OBC, and the importance of harmonizing the various laws currently governing accessibility issues;
- Continue to receive, mediate, investigate and where appropriate initiate complaints involving inaccessible restaurants and other services, and where appropriate, refer unresolved cases to a Human Rights Tribunal; and
- Disseminate these findings to the restaurant industry and commercial landlords, as well as to architects and those who provide training to architects.

In closing, the OHRC wishes to extend its thanks to the restaurant service providers that have partnered with us in improving the accessibility of the restaurant industry. The OHRC has appreciated their cooperative and positive

approach to improving the accessibility of their services for customers with disabilities. These have provided positive examples of the type of policies progressive organizations can adopt to promote the equality of persons with disabilities, and improve their customer service.

Appendix: Restaurant Accessibility Commitments and Results

	COMMITMENTS AND RESULTS				
Chain	Corporate Accessibility Policy	Accessibility Barrier Identification	Standard Accessibility Plan for Future Locations	Existing Barrier Removal	Notes
Burger King	No data provided.	No data provided.	Accessibility reviews mandated on all remodels, rebuilds, and new locations.	Washrooms enlarged at one location; added accessible features at one other. A wheelchair lift was also installed in one location.	Most washrooms are barrier-free and have braille on the doors and grab bars.
Coffee Time Donuts	Coffee Time monitors customer complaints for accessibility issues.	Conducted a random audit of locations to find accessibility issues. Most problems discovered were not under the company's control.	Reviewed design plan to ensure that all newly built location are complaint with the <i>Human Rights Code</i> .	Will be communicating with all franchisees beginning January 2006 on identified barriers that need to be addressed.	Accessibility issues are an agenda item at the biannual franchisee meetings.
Country Style	Working with a disability consultant to prepare a corporate accessibility policy, which will be in place by the end of 2006.	Accessibility surveys completed at 80% of locations.	Created a design committee to review all store designs for compliance with the <i>Building Code</i> and <i>Human Rights Code</i> . Will attempt to work with landlords to promote accessibility at all leased locations.	Up to 50% of locations will be renovated during the next 4 years, during which time any accessibility problems that can be addressed economically will be looked after.	Country Style believes that governments must find a way to harmonize <i>Building Code</i> and <i>Human Rights Code</i> concerns with other building permit issues so that all developers are aware of their responsibilities in this area before construction.

	COMMITMENTS AND RESULTS				
Chain	Corporate Accessibility Policy	Accessibility Barrier Identification	Standard Accessibility Plan for Future Locations	Existing Barrier Removal	Notes
Cultures	Training manual emphasizes the importance of assisting disabled customers.	Detailed accessibility survey carried out for all locations.	No data provided.	No data provided.	Cultures reports that as most of their restaurants are in public locations (i.e. malls, public buildings) they do not have a lot of control over certain aspects relating to accessibility (i.e. parking, entrances, etc...)
Druxy's	Accessibility Policy prepared and shared with franchisees.	Accessibility review completed; identified stairways in two restaurants as potential problems; one restaurant has since closed.	All new restaurants are being designed with the results of the accessibility review in mind, including changes to signage, entrances, interior routes, and menu boards.	New menu boards and signage introduced in all locations with larger font and better contrast; as restaurant leases are renewed and renovations undertaken, accessibility issues will be dealt with.	Future plans include creating Braille menus, as well as the release of the formal Accessibility policy to all employees and staff training. Druxy's emphasized the central importance of training for staff and franchisees as part of its approach.

	COMMITMENTS AND RESULTS				
Chain	Corporate Accessibility Policy	Accessibility Barrier Identification	Standard Accessibility Plan for Future Locations	Existing Barrier Removal	Notes
Great Canadian Bagel	Created a corporate complaints procedure; instructed all franchisees to comply with the overall spirit of OHRC's Dining Out Accessibility checklist.	Detailed accessibility survey carried out for all locations.	The checklist from the <i>Dining Out Accessibly</i> Report has been incorporated into new site location analysis. Will address most of the items identified in survey in future construction and renovations.	Franchisees notified of accessibility issues immediately after audit; and changes were made within days for easily corrected problems.	Handheld menus available for customers who cannot read overhead signs; some additional signage added for the benefit of customers in wheelchairs. Have increased the size of menu boards, and have developed a new style for condiment stands.
Harvey's	Corporate accessibility policy developed, as well as customer complaints procedure.	Each Ontario location evaluated as to accessibility, relying on OHRC Accessibility Survey to identify barriers.	Developed standard building plan incorporating <i>Human Rights Code</i> and <i>Building Code</i> provisions, and require all new locations to meet this plan.	As location leases expire, renovations undertaken as commercially reasonable to improve accessibility and remove barriers, or location closed and reconstructed in accordance with new building plan.	Installed Braille and other tactile features on every washroom door; vertical signs for designated parking spaces installed where possible.
Java Joe's	The Commission has received a letter from Java Joe's reiterating their commitment to accessibility at all existing and new locations. No further details were provided.				

	COMMITMENTS AND RESULTS				
Chain	Corporate Accessibility Policy	Accessibility Barrier Identification	Standard Accessibility Plan for Future Locations	Existing Barrier Removal	Notes
Kelsey's	Corporate accessibility policy developed, as well as customer complaints procedure.	Each Ontario location evaluated as to accessibility, relying on OHRC Accessibility Survey to identify barriers.	Developed standard building plan incorporating <i>Human Rights Code</i> and <i>Building Code</i> provisions, and require all new locations to meet this plan.	As location leases expire, renovations undertaken as commercially reasonable to improve accessibility and remove barriers, or location closed and reconstructed in accordance with new building plan.	Installed Braille and other tactile features on every washroom door; vertical signs for designated parking spaces installed where possible.
KFC	Corporate accessibility policy developed, as well as customer complaints procedure.	Renovation of current facilities done on the basis of identifying and removing barriers.	Communication with franchise partners on importance of complying with human rights legislation when upgrading facilities.	Closes older facilities that are too costly to upgrade to meet human rights standards.	
McDonalds	Developed a comprehensive accessibility plan.	Conducted an accessibility survey of all Ontario locations.	Revised plans to meet the requirements of federal / provincial building codes, US ADA, and related OHRC policies and guidelines.	Developed a detailed manual for franchisees and store managers showing common accessibility problems and their solutions.	Accessibility program will start in Ontario before expanding across the country.

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Montana's / Milestones	Corporate accessibility policy developed, as well as customer complaints procedure.	Each Ontario location evaluated as to accessibility, relying on OHRC Accessibility Survey to identify barriers.	Developed standard building plan incorporating <i>Human Rights Code</i> and <i>Building Code</i> provisions, and require all new locations to meet this plan.	As location leases expire, renovations undertaken as commercially reasonable to improve accessibility and remove barriers, or location closed and reconstructed in accordance with new building plan.	Installed Braille and other tactile features on every washroom door; vertical signs for designated parking spaces installed where possible.
Mr. Sub	No data provided.	No data provided.	Accessibility concerns taken into account for new and renovated locations. This includes new designs for washrooms, seating, counters and passageways.	No data provided.	
Pizza Hut	No data provided.	Performed accessibility review using OHRC survey for all restaurants.	Issues identified in accessibility review categorized into immediate vs. longer-term fixes	Some inaccessible facilities were closed; menu boards were redesigned; working on renovating a fully accessible "prototype" location.	Planning to implement Braille menus.

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Pizza Pizza	Restaurant accessibility policy developed for all locations, including both corporate and franchise locations.	Ongoing audit of all locations to identify accessibility barriers.	All new construction will consider accessibility and barrier-free design concerns.	Steps taken to address problems that can be addressed cost-effectively; others addressed in phases, in accordance with the <i>Code</i> 's undue hardship standard.	Annual summary of accessibility enhancements and renovations will be prepared, highlighting improvements and establishing new goals and targets for the upcoming year.
Pizzaville	No data provided.	Barrier review conducted; identified counter fixtures as a potential barrier.	Amended offers of lease to include adherence to <i>Human Rights Code</i> ; revised designs so future locations are larger to accommodate new accessible fixtures and washrooms.	Two new stores opened in 2005 included accessibly designed counters.	Braille menus produced and distributed; looking at options for a TTY phone system; working on developing a lease clause mandating accessibility.
Red Lobster	Complete. Accessibility issues directed to Facilities Manager for investigation and coordination of any recommended action.	Conducts Facility Standards Audits to identify accessibility issues. Audits identified need to ensure that pathways are clear and to address barrier safety concerns.	Plans completed.	Barrier removal in parking lots complete at 70% of locations; 7 more washrooms to be renovated by May 2006. Current construction plan is to continue with remodelling process, into next fiscal budget.	Worked with a third-party consultant to complete and test two prototype accessible washrooms.

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Select Sandwich	Corporate Accessibility Policy and accessibility complaints procedure developed. Policy and procedure incorporated into franchise agreements	Will complete a full barrier review of all locations no later than June 30, 2006. Where barriers are within landlord's sole control, landlord will be requested to remove barrier.	Accessibility Plan for future locations developed, and included in Franchise Agreements.	Will develop a barrier removal plan by August 31, 2006. All barriers will be removed by October 16, 2016, unless it would be undue hardship to do so.	Amended offer to lease to include provisions that lease will adhere to the <i>Human Rights Code</i> . Training on Policy, Procedure, Barrier Review and Code to be provided to all franchisees.
Starbucks	In 2004, Starbucks indicated to the OHRC that it had largely achieved accessibility and that effective procedures were in place for addressing <i>ad hoc</i> issues as they arose. Starbucks therefore did not see a need for additional monitoring or reporting, and elected not to provide any further information to the OHRC for this Report.				
Subway	Completed. Continuing to monitor and respond to customer comments regarding accessibility.	Accessibility reviews performed for all stores.	Searches out accessible locations for future stores; work to include accessibility language in future leases; existing stores continue to be designed for maximum accessibility.	Equipment and hardware added to increase accessibility (i.e. doorbells); barrier removal during renovations; working with landlords on common area barriers. Works with franchisees to remove barriers without hardship, such as reasonable construction and modification; remaining barriers addressed during mandatory seven-year re-model.	

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Swiss Chalet	Corporate accessibility policy developed, as well as customer complaints procedure.	Each Ontario location evaluated as to accessibility, relying on OHRC Accessibility Survey to identify barriers.	Developed standard building plan incorporating <i>Human Rights Code</i> and <i>Building Code</i> provisions, and require all new locations to meet this plan.	Approximately 10% of restaurants were renovated or replaced in their entirety to meet accessibility standards.	Installed Braille and other tactile features on every washroom door; vertical signs for designated parking spaces installed where possible.
Taco Bell	Corporate accessibility policy developed, as well as customer complaints procedure.	Renovation of current facilities done on the basis of identifying and removing barriers.	Communication with franchise partners on importance of complying with human rights legislation when upgrading facilities.	Closes older facilities that are too costly to upgrade to meet human rights standards.	
Tim Hortons	Developed corporate accessibility policy.	Now required as part of the accessibility plan for future locations.	Plan includes considerations, within the context of available real estate, for automatic doors, barrier-free washrooms, curb ramps, recessed waste receptacles, more barrier-free parking spaces, and training sessions or front-line and design staff.	Braille signage added to washrooms, increased interior and exterior lighting levels, large-print menus, accessible complaint card receptacles, audible and visual safety alarms, reduced counter heights, changed to less-slippery floor cleaner.	Changes to be made nationally.

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Timothy's	No data provided.	Barrier review conducted for all locations.	Landlord scope of work in offer to lease document revised to include standardized accessibility features such as accessible door entrance hardware and sloped entrance thresholds for all main entries.	Major barriers in existing locations, including accessible washrooms, will be removed as the leased premises are renewed. New menu boards have been developed, along with hand out menus. Braille menus are under consideration.	A new training program on service standards for persons with disabilities has been developed for all corporate and franchise staff.
Wendy's	Internal steering committee convened to address accessibility issues.	Sampled 15 locations of various ages and designs using OHRC checklist to identify accessibility issues; reviewed new store plans for further issues.	Accessibility upgrades are now considered for all remodelled locations.	Regular maintenance duties will now include refreshing of disabled washrooms, as well as inspection of ramps and installation of designated parking spaces.	Wendy's is a partner with the Canadian Standards Association in their "Building Champions" program; focussing on accessibility for people with disabilities.