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## **Standing Committee on Finance**

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**EVIDENCE**

**Wednesday, June 7, 2006**

**Chair**

**Mr. Brian Pallister**

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• (1530)

[English]

**The Chair (Mr. Brian Pallister (Portage—Lisgar, CPC)):** Welcome, ladies and gentlemen, members of the committee. It's nice to see you.

Pursuant to Standing Order 108(2), we are here with regard to the annual report 2004-05 of the Financial Consumer Agency of Canada.

We will have about an hour and 10 minutes with our guests, and then we'll move to committee business before we conclude.

I believe Mr. Knight is going to present for the Financial Consumer Agency. We'll move to questions thereafter.

Thank you for being here, sir.

**Mr. Bill Knight (Commissioner, Financial Consumer Agency of Canada):** Thank you, Mr. Chairman.

I want to begin by thanking you and your committee for the Financial Consumer Agency's first opportunity to come before the House finance committee—and to renew old friendships and to meet new people, in some cases.

We are very pleased to be here. I brought my deputy commissioner, Jim Callon, with me. From time to time he might jump in when the commissioner gets carried away. As well, Susan Murray is our director of consumer education and public affairs. She didn't want me to say this, but this is Susan Murray of the credit union system and Queen's University, not the CBC.

This is our first appearance. What I would like to do is talk about, just quickly, who we are and what we do.

We have provided you collectively with a briefing note. We invite visits to our websites, or just pick up the phone and we'll definitely share any basic information we have with members of the committee, or through the chair to the committee, whatever you deem appropriate.

What's the history, and why do we exist? In summary, in 1996 a major task force on financial services did an overview of financial services in Canada, in shorthand the MacKay task force, and in essence outlined that there was an imbalance between the concentration and the power in the banking system—which may be related to the big five, about 80% of the assets out there—and the rights and services to consumers. Out of that, several bills flowed that decided to address the fundamental issue of that imbalance.

Parliament, I may say, when it went to deal with the imbalance, was very clear about separating out, in what was then called Bill C-8, the enforcement of the law—that's me—and consumer redress—that's the “ombuds” network. So we're into regulatory business and consumer education. Redress is in the hands of the ombuds network as it relates to the banks in particular and to, indeed, insurance companies, etc.

Our mandate outlines and empowers us through legislation to supervise financial institutions, to determine whether they are in compliance with consumer provisions applicable to them; to promote, by the adoption by financial institutions, the policies and procedures to implement consumer provisions applicable to them, in other words a compliance framework; to monitor the implementation of financial institutions' publicly available voluntary codes of conducts, such as the code of conduct as it will relate to how they deal with small business; and to monitor and review those public commitments that the institutions make from time to time. A very important component is that we promote consumer awareness about the obligations of financial institutions under the consumer provisions applicable to them. Finally, and this is very important, we foster an understanding of financial services and issues relating to financial services in cooperation with any department, agency, or agency corporation of the Government of Canada or of a province, financial institutions, consumers, and other organizations.

• (1535)

In short, we protect and we inform consumers at the federal level when it comes to deposit-taking institutions. How do we go about it? When we find, in our processes of inquiries and obtaining complaints...through our call centres, e-mails, by mail, and second-level reporting of the institutions. We have a case-by-case function in which we seek to find if there is or isn't a violation. We can take action, with the tools and the authority given by Parliament, to do a number of approaches with the difficulties: enter into agreements with financial institutions to further comply with the law; issue notices of violation; impose monetary penalties; and, where necessary, name the financial institution that violated the law.

The impact of FSAC supervision is significant. A single compliance case can mean changes industry-wide and improvements for thousands, even millions, of Canadians.

That's part one of the mandate. Part two of the mandate is related to consumer education. There we provide a unique value to Canadians.

You will note some significant acknowledgment in the report just tabled in the other place yesterday by the banking committee of the innovative work we're doing in supplying Canadians with educational tools to make their choices in the financial marketplace.

When I took this spot, after having been in the credit union system, I targeted a number of approaches. To be quite clear with the committee, I wasn't sure how they would turn out. One of them was to ensure that we could put the tools and the materials before consumers so that they could make choices and inform themselves to be more effective and more confident in dealing with an individual financial institution.

Those interactive tools that help Canadians now are available to help choose a bank account, as there are low-cost bank accounts available; to choose between credit cards to meet the need and convenience of an individual consumer; to find a complaint-handling process for their particular financial institution; to find answers to the most frequently asked questions that we get in our call centres; to research branch closures in Canada in any area, including your constituencies; and to find the impacts that have happened. We have tools now that help calculate the monthly payments when it comes to mortgages.

In short, we're a third-party spot where people can come for what they believe—and rightly so—is objective information. We're finding that not just the consumer but others in the financial services business are using the material to ensure that customers and consumers can get that basic information. First-time homebuyers find the mortgage product very effective.

We're doing other outreach and innovative approaches. We're working with community groups, NGOs, across the country, whether it be the United Way or a group called SEDI. We are out there approaching in partnership for the delivery of the mandate. We offer, through many of those groups, "train the trainer" programs to assist with assisting consumers.

We're operating on an expenditure budget of about \$7.25 million. I think that was 2004-05. Just to update you, 2005-06 is around \$7.3 million.

In terms of the demand for services, last year we had requests for more than 400,000 publications that ended up going out to consumers. Our website visits—these are not hits, but visits—increased by at least 69% per year. Last year alone we had over 750,000 visits to the website.

• (1540)

Mr. Chairman, through you to the committee, we are following on the track of the two-tiered notion of our mandate—one, to enforce the law; and two, to ensure that consumers are aware of their rights in that marketplace.

Thank you very much. I look forward to questions.

**The Chair:** Thank you very much, Mr. Knight.

We'll begin with Mr. McCallum, seven minutes.

**Mr. John McCallum (Markham—Unionville, Lib.):** Thank you, Mr. Chair. I'll share my time with my colleague Mr. Savage.

Mr. Knight, it's good to see you again. We worked together in different times.

**An hon. member:** Yes, happier times.

**Mr. John McCallum:** Well, different times—perhaps happier, as my colleague suggests.

I have just two questions. I may have known this in earlier times, but I can't remember. In terms of helping consumers with these publications, such as *Credit Cards and You* and *Cost of Banking Guide*, I see that the approval rates are very positive. Do you actually go through individual bank credit cards and interest rates offered so that consumers know what the Bank of Montreal is doing relative to the Royal Bank?

**Mr. Bill Knight:** Yes, we do. We actually have a comparison product on our website that allows consumers to go through what their requirements are and work through which card would best suit their needs. We allow a cost comparison. Needless to say, the competitive players all want to be in on the action and try to prove they have the best product.

**Hon. John McCallum:** I would imagine, having worked for one.

I'm impressed that the response is so good and that you go into each individual bank or company's individual credit cards or deposit rates and so on. Consumers can get all of that through you, right?

**Mr. Bill Knight:** Yes.

**Hon. John McCallum:** Okay.

My last question is on the distinction between your role and the ombudsman's role. Anything to do with an individual complaint is not your domain but their domain, right?

**Mr. Bill Knight:** Yes.

**Hon. John McCallum:** I wonder if that very explicit division of labour works. I forget; are the ombudsmen all bank or private sector centred, or do we also have a government one?

**Mr. Bill Knight:** Mr. Chairman, we do not have a government one. What happened at the time of the last legislative package was that from a policy point of view, the administration at the time responded to the industry in terms of the industry setting up their own self-reporting, self-regulatory ombuds network. That's what's in place today with banks, insurance companies, and others.

Quite frankly, we work very well with them from the standpoint of our call centres. If I were back in the private sector, my call centre would be flipping the calls in 30- to 60-second turnovers in sales. But when you are responding to individuals with a problem or an issue from around the country, it's about a two- to three-minute function.

We are determined...and so far it's been very successful. We go out and do customer satisfaction tests. We have been able to get that consumer to where they need to be. Often it's a straight redress issue, not a legislative regulatory issue—i.e., "I think they're off \$20 on this, and they don't think they are." We get them into the ombuds network, where a lot of that gets resolved.

**Hon. John McCallum:** My last, last question.

Having been there for a number of years and having observed this private sector ombuds network working, are you satisfied that it serves the consumer well, or do you think it would be better if there were a government-owned or government-sponsored ombudsperson as well?

• (1545)

**Mr. Bill Knight:** I'm going to really try a yes-no answer; it's my western roots, you know—yes, no, or whatever.

That really is in the policy realm of finance. There are a couple of factors. I think the ombuds network is evolving, as is this agency. It's hitting year four, five. If we move forward on the finance department side of that, with a white paper, etc., it would become part of those discussions, but clearly, from my vantage point, we have done all the referrals.

I am empowered to review the complaint-handling processes at some point, so I may be able to better answer that question then, but at this stage the cooperation is very good.

**Hon. John McCallum:** Thank you.

**The Chair:** Mr. Savage, you have a couple of minutes, but perhaps I can interject.

Therefore, with the private ombudsman you referred to, you have the ability to ascertain exactly what number of complaints they are dealing with, the nature of those complaints, and so on and so forth?

**Mr. Bill Knight:** Yes. At a certain point, I think, I could review their complaint-handling mechanisms. I should quit using the word “network”, because the network of ombudsmen disappeared. It's the OBSI, the bank ombudsman network. It starts with individual banks and then it works up to one key ombudsman for the whole system. It's like the courts.

**The Chair:** Just to be clear, then, with banks or the insurance industry, you're able to evaluate the nature of the complaints they're dealing with and report back in respect of that? If the committee wished, we would be able to get a handle on the nature of the ombudsman's work in these private sector industries as well?

**Mr. Bill Knight:** They each provide an annual report. They outline the number of complaints and cases. All of that is available. They certainly could meet with you as to where their standing is. What I'm allowed to do under the law is to review their complaint-handling process, to make sure the process is in order. The substance of the cases, I don't get into.

**The Chair:** Okay.

Mr. Savage, you have a couple of minutes.

**Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.):** Whenever I share time with Mr. McCallum, I end up with very little time. I've made a note never to share a pizza with him in the future.

I notice that in your annual report you talked about continuing to work with international colleagues and sharing best practices as regulators of the financial services industry. I wonder if you would give us a sense of how we're doing internationally. How does Canada do? Is there a world leader in terms of financial services, consumer protection? Have we modelled against anybody? You've been going since 1996 or whenever that was.

Just how do we do with our protection of consumers in Canada versus other nations?

**The Chair:** Mr. Knight, you have about a minute to answer that.

• (1550)

**Mr. Bill Knight:** Mr. Chairman, we do very well. The reason we do very well is that, in wonderfully Canadian fashion, we combine a little bit of everything into the mix. We oversee codes, but we have always been empowered to change codes to regulations if required. If not required, we don't do it. Other countries just have a code.

Then we have a regulatory regime, but it's not burdensome in comparison with some other market economies within the world.

Thirdly, we have investigative powers that we would use in terms of market conduct. Three years ago we called a meeting of market conduct regulators from other countries. We had eight or ten show up. In the last meeting there were 55.

We have an exciting world economy in terms of globalization, growing at the point that now you will see in those emerging market economies, where they look to some of our models, particularly on the consumer education side, the codes and the regulations, as models to go forward. Some of them face, in aggregate, between 75 million and 150 million new consumers a year in their markets.

**The Chair:** Thanks, Mr. Knight.

Mr. Loubier, seven minutes, sir.

[Translation]

**Mr. Yvan Loubier (Saint-Hyacinthe—Bagot, BQ):** Mr. Thierry St-Cyr will be asking the questions.

**The Chair:** That's fine.

**Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ):** Good day.

If I understand correctly, your agency receives complaints from clients of these institutions and your mandate is to protect these individuals. You investigate these complaints and ultimately make a ruling. Are your rulings legally binding and must financial institutions comply with them? Or, do you simply have the power to make a recommendation?

[English]

**Mr. Bill Knight:** Mr. Chair, under the act we actually have provisions to act. We have quite a range of powers. One is the power of examination. We have gone in on a number of institutions to do a special examination on particular behaviour and report out to the minister. Often, in generic terms, those reports would be in the annual report. We have the power under the act to force and oversee cost of borrowing provisions, as an example.

So people have a right to know the real cost of a loan, etc. There's a whole list within the act.

[Translation]

**Mr. Thierry St-Cyr:** Suppose a dispute arises between a client and a financial institution, and the client turns to your agency for assistance. If your agency finds that the client's rights have been violated, must the financial institution comply with this finding, or in essence, is the agency simply recommending remedial measures to the financial institution?

[English]

**Mr. Bill Knight:** There's a couple of things. First let's deal with the issue. If the issue arises and it's at variance with the law, such as on lending practices, we then open a case and do an investigation. We can hold the institution accountable by due process. We issue a notice of violation, and the institution then gets a certain amount of time in which it can respond. I then take its response and the initial reports and make a decision, like an administrative tribunal, on the case. That's one.

Now, in a number of instances it is shown that there is no at variance with the law, but—and this is key, in my mind—the individual may still face redress issues. So they will go through a redress ombuds issue with that institution, or they can seek legal restitution. I don't deal with that.

The third factor—and we had a case lately that we've followed up on—is that under section 17 of the act, the individual consumer will be frustrated that, often, like the Competition Bureau, we're to deal with the regulatory issue, not the redress issue. Therefore, sometimes they would like to see their file, and under section 17 of the act, I cannot just hand over a file that's been developed on this issue.

Bear with me, this is difficult.

But hope springs eternal. I advise the consumer that they can apply under access to information for their file. There are privacy laws and safeguards built in, but the access to information can often result in them getting their full file.

•(1555)

[Translation]

**Mr. Thierry St-Cyr:** You've discussed briefly the means available to you. What recourse do you have in the event of non-compliance with the financial institution's ethical practices code? If you determine that an institution is not abiding by its ethical practices code, what recourse is available to you, other than making a finding or a recommendation to that financial institution?

[English]

**Mr. Bill Knight:** Yes. Actually, once a year there is a reporting out of an accountability statement by each institution that has asset equity of around a billion dollars. That's the big five, quite a number of the major institutions. In those reports, I check that they have certain fundamental information in them for consumers, for Parliament, for everybody. In reviewing that, if I think they're off base with the rough commitment they've made, I can report it out in the annual report. I can report it out in other manners.

The real difficulty is that in a number of instances, after the investigation, it doesn't turn out to be the case. But if it's substantive and systemic, I would report it out.

**The Chair:** Very briefly, Mr. St-Cyr.

[Translation]

**Mr. Thierry St-Cyr:** Therefore, all you can do is report the situation.

What is the most common type of complaint received by your agency?

[English]

**The Chair:** In summation, Mr. Knight, because Mr. St-Cyr's time has been used up.

**Mr. Bill Knight:** Just quickly, in the report we handed out there are about five areas. You'll see complaints about access to basic banking, you'll see complaints about credit cards, cost of borrowing rules, whether it's cards or mortgages, and then we can go on from that.

I'll come back in another angle and answer as we go along.

**The Chair:** Mr. Dykstra, seven minutes, sir.

**Mr. Rick Dykstra (St. Catharines, CPC):** Thank you, Mr. Chair.

Through you, Mr. Chair, to Mr. Knight, what do you think the difference is between the FCAC and FINTRAC? I'm having a really hard determining the differences between the two organizations.

**Mr. Bill Knight:** FINTRAC is fundamentally a....

I'm going to start showing my age here. At the very first committee ever held in the Department of Finance, of all of the industry, I was there. I was there with our then CEO, a good Manitoban by the name of Brian Downey, when we began the first moves to track where money was moving between financial institutions. The reason at that time was to start getting at the whole money-laundering issue.

FINTRAC focuses on strictly following money. When you cross the border and they ask how much cash you have on you, if you say more than \$10,000 you're going to be registered. FINTRAC's mandate is to be a key component of the drive against money laundering. I don't do any of that. I don't work with white collar commercial, or the RCMP, or CSIS in those areas.

So their mandate is around transactional business that involves money. Mine is related to large retail institutions and their behaviour on the retail end, and how they interface with the individual consumer.

I hope that helps.

•(1600)

**Mr. Rick Dykstra:** That helps, yes.

Before the former Minister of Finance created the organization and appointed you, how did we determine...or how did we deliver this service? How was it taken care of? Where was it in the Department of Finance?

**Mr. Bill Knight:** It was all over the place. Many aspects of it did not exist. Some of it was with OSFI. A lot of it is brand new. It's been new for about four years.

They brought a focus to it and they consolidated it into one entity, after the MacKay task force report, to give it more significance.

**Mr. Rick Dykstra:** You do a lot of checking of things that have happened already. I note that one role of the regulator is to comply with the provisions in numerous or various federal acts. The Bank Act is being reviewed, and it's to take place further on in the year. Do you actually make proactive recommendations on changes, or issues, or continuance of good practice to the Minister of Finance, particularly on the Bank Act?

**Mr. Bill Knight:** To go right back to my background—running operations in my father's store at 16—I'm really anti-clutter. What we will be doing, in terms of both regulations and legislatively, is give Finance a whole range of cleanup items that they should look at, from a policy point of view, to bring before you.

I'll give you an example with regard to the Canadian Bankers Association. It's turned out, in the first four years of the cost-of-borrowing regulations, that there is some confusion around individual regulations. They have already put in a submission, which I believe is available to you, on cleaning that up. I actually, in spite of being a regulator, agree with them in terms of taking the time to bring clarity to a couple of those provisions. So we do that.

**Mr. Rick Dykstra:** When was the last time you actually met with the Minister of Finance to have a discussion with him or her—I guess it's "him", in this case—in regard to your work?

**Mr. Bill Knight:** We usually meet about twice a year, but I meet with the officials constantly, and with the office. Minister Flaherty and I are organizing to get together. We agreed to leave it alone until the budget was taken care of. It sounds like we'll be getting together pretty quickly.

**Mr. Rick Dykstra:** Good.

I have a minute left?

**The Chair:** A minute and a half.

**Mr. Rick Dykstra:** You noted how you actually recoup the costs that you incur as an organization. I take it from your introductory comments that it actually doesn't cost the taxpayer a cent for you to be in existence.

**Mr. Bill Knight:** That's right.

**Mr. Rick Dykstra:** How do you recoup your funds?

**Mr. Bill Knight:** It's a formula. We borrowed the formula from OSFI, the Superintendent of Financial Institutions. We correlate that formula right through all the financial institutions. The biggest bank would pay the most, and the smallest the least.

• (1605)

**Mr. Rick Dykstra:** So the banks basically pay the fees.

**Mr. Bill Knight:** Yes.

Just so you know, there is a basic fee that also covers insurance companies, because they have to file their complaint-handling mechanisms.

**Mr. Rick Dykstra:** Very quickly, can you just describe the structure of your organization? You're an order in council appointment?

**Mr. Bill Knight:** Yes.

**Mr. Rick Dykstra:** Appointed by cabinet, obviously.

**Mr. Bill Knight:** Governor in council.

**Mr. Rick Dykstra:** Governor in council; forgive me, it's my provincial background coming out.

The folks who are in the organization, you're responsible for them directly in terms of hiring them?

**Mr. Bill Knight:** Yes.

**Mr. Rick Dykstra:** So once you were appointed, you actually created the organization through hiring.

**Mr. Bill Knight:** Yes. My colleague had begun the transition to set up the organization.

I'll give you the rundown, for everyone's benefit.

In the spring of 2001, the governor in council and Privy Council Office ran an ad seeking a commissioner of the Financial Consumer Agency, to begin in the fall of 2001—just in case you may think these kind of systems don't work; I thought it worked. They ran the ad across the country and set up committees to interview for a commissioner.

The powers of the commissioner are the equivalent of a deputy minister or a deputy head. All hiring practices, all involvement in that hiring, are done under and according to the rules of the public service act. We have an expenditure budget of between \$7 million and \$8 million. We have about 39 employees.

We have a unique approach that I'm a hawk about. We have—and this will be in your materials—a very effective outsourcing operation, where we outsource our financial administration to OSFI. We joint-venture our call centres. We have probably close to seven outsourcing contracts that allow us to run very effectively. What we do is manage the contracts.

**The Chair:** Thank you, Mr. Knight.

The hand signals are starting to take.

Madam Wasylycia-Leis, your round, seven minutes.

**Ms. Judy Wasylycia-Leis (Winnipeg North, NDP):** Thank you, Mr. Chairperson.

Thank you, Bill, Jim, and Susan, for being here. I think it's really important that the FCAC is before our committee. We should make this a regular affair, because there's so much to cover.

I want to start with mortgage insurance. Obviously, as the federal market conduct regulator in the financial sector, you have something to say about this, or you have some responsibility, I would hope, or *somebody* has responsibility, for this whole area. We've had quite a debate in this committee now that the government has decided to open up mortgage insurance for competition but has no willingness to put in place any kind of oversight body or conditions or regulations. Some of us are worried about how the consumer will be protected in this.

How do you prevent things like collusion between lenders and insurers? And what's your role?

**Mr. Bill Knight:** We're on the retail end. Let me try to take you through it quickly.

The people providing mortgage insurance, including CMHC, in essence are like the wholesalers. The retailers are the deposit-taking institutions, those institutions that are into the mortgage business.

I need to report to the committee that we had already done a review of the behaviour of banks around mortgages. When it came to the mortgage insurance, our examination found that they were basically disclosing the costs of the mortgage in terms of individuals who have to pick up the mortgage insurance. So they get a very good passing grade on that.

I note that now you're moving forward with new entrants into the business. As an agency—and I'll discuss this with the minister as well, and the department—our powers of overseeing market conduct on the retail side will allow us from time to time to report out to the department, to the officials and the minister, and to report out to this committee as we find what evolves in the marketplace. I can, and will, definitely report out on whatever the financial institutions are doing on their retail end. Since the legislation was just introduced, we'll move that up in terms of our business plan as one of our priority items going forward.

Secondly, I have a meeting in about ten days with the executive of the Canadian Bankers Association. I will sit down with them and talk to them about revising my business plan a bit to move up on the pecking order a review of what transpires. I will report that information out to the minister and to the committee as the regulator.

I don't regulate them directly, but I do oversee all of the retail end, so I will be able to pick up on what's happening on that side and inform members of the committee.

• (1610)

**Ms. Judy Wasylycia-Leis:** The study you mentioned that you did some time ago on banks and mortgages, is that available through the agency, or can we ask you to table a copy with our committee?

**Mr. Bill Knight:** We don't name any individual bank under the law, but we certainly could release parts of it. It's on the website, I think.

**Ms. Judy Wasylycia-Leis:** The banks clearly have a real interest in opening up this area to competition. I'm trying to figure out what they have to gain from it, or how they can get away with saying that they will make sure that competition will protect the consumer and ensure that all regions are covered and all income groups are covered, when in fact the banks themselves have abandoned whole communities.

On what basis can the banks make this kind of assertion? How can they then be the main player in terms of mortgage insurance? Where do consumers turn, then?

**Mr. Bill Knight:** Well, a couple of things. I don't know what the banks said, but I'll tell you...and by the way, it'll take a year or two, when you're doing new entrants and new products and so on, to have anything substantive. But if there are any gaps or left-out communities or segments of the market that this agency stumbles over, it'll be reported out.

There's the question of new entrants, and it's always complicated. A number of mortgage insurance providers in the U.S. market sometimes actually do work with particular niches in the market. I may be a little out of date, but there was one that at one time dealt with aboriginal peoples, and had an expertise there. If they become a player in Canada, that's what many people may be alluding to, that some of the choices of these people may happen.

New competitors should mean that there should be a price sensitivity, but being a regulator, I can tell you that anything I find going forward in the next two or three years, I'll share with you.

**Ms. Judy Wasylycia-Leis:** Just one—

**The Chair:** Madam Wasylycia-Leis, you have about one minute. I'd encourage you to leave time for a response, if you wish one.

**Ms. Judy Wasylycia-Leis:** Okay.

I'll give you one example that comes from a witness at our committee, Catherine Adams from the Royal Bank. She said, "If we had a supplier who said they only want to do the urban markets, we're not likely to invite them to join with us." I just find that incomprehensible, because the Royal Bank, like all the other major banks, has abandoned whole communities—such as my own, Winnipeg North; you've been there, and you've seen the desertion, the abandonment.

Is there anything in the existing law to prevent this kind of abandonment of communities, or do we need to work at toughening up the law or the regulations to have something to make banks accountable to communities that have been loyal to them for all these years?

**The Chair:** Mr. McKay, your round.

**Hon. John McKay (Scarborough—Guildwood, Lib.):** Thank you.

I had a half-hour conversation with a client about a month ago on clearance rules. I'm going to use an example in order to clarify the issue. A credit card is due tomorrow, say, June 8. The balance is \$1,000. It's with credit card X. You go into bank Y and pay your bill on the machine, on June 8. The money is taken out of your account as of when you do that transaction on that machine. However, that money is not credited to the account that you've just paid until a few days later because of "clearance rules".

So the consumer has the worst of all possible worlds. He or she, being a good consumer, has paid their balance on the due date, which is what they're encouraged to do to avoid interest, when in fact they're going to get whacked for interest on their statement the following month. They get killed on the interest out of their bank account and they get killed on their credit card at a fairly high rate, and then they get compounded on the month following the month following.

It was a big shock when the constituent described it to me. I didn't quite realize that, with electronic banking, this was not an instantaneous transaction.



I wonder whether you've had any conversations with the financial institutions about this kind of issue, and also what it is they're prepared to do to stop gouging consumers on both ends of the transaction.

• (1615)

**Mr. Bill Knight:** There are a couple of things.

First, maybe I'll help you with some questions that you could ask them if they come here. One, what kind of float are they creating in aggregate when they nail the individual consumer and then they float it for 48 hours on overnights? What are they picking up in cold cash? Because that could add up to a lot of money, if you take their whole marketplace.

Two, maybe they could, like the United States, break out with some clarity what they're making on both mortgage and mortgage insurance and credit cards in terms of non-interest income. That would perhaps be of interest to the committee and to consumers.

Having said that, in terms of our provisions under the cost of borrowing and so on, it gets into a grey zone once it goes into the payment system. I think one of the things that's going to happen for parliamentarians and consumer groups and the banks themselves is what kind of oversight or code of conduct, at minimum, people want to look at when it comes to that whole area of electronic commerce. This one fits into that.

I'll try to get back to you on this particular example, but I have never been clear on why they can't do it in a manner where there's not that gap.

**Hon. John McKay:** Neither have I, and I agree with you.

**Mr. Bill Knight:** I have just an awful time; I've been at this for about 25 years, and I cannot quite fathom why there has to be any gap in the electronic systems as they're now functioning and particularly when we move to electronic.

Interestingly enough, the proposal on the electronic bill going forward might actually help.

**Hon. John McKay:** So you might appreciate a legislative prod along such lines so that when an electronic payment is made at a recognized institution it is instantaneously credited to the outstanding account?

**Mr. Bill Knight:** In an interesting way, the proposal on the electronic bill—or whatever it's called—that they're pushing for actually will enhance the settlement, so it should make for fewer excuses. There may be room for a quid pro quo when you get into the discussions that'll evolve out of the white paper, etc.

**The Chair:** You have a minute and a half, Mr. McKay.

**Hon. John McKay:** You have a number of branch closures. From the chart in your annual report, it seems to be falling off a bit. My impression is that there's actually a bottoming out and that there are more openings than closures. Do you keep track of the openings as well?

**Mr. Bill Knight:** No, we're not mandated to keep track of the openings. I think, going forward, that would be a good question to the institutions, because then you can map where there are some severe impacts in central areas of Winnipeg and cross-compare that to where there may be new outlets.

I think it has levelled off in the last year or two. I don't want to jump to wild conclusions, but if you're a market watcher in terms of retail, there are a couple of things.

I'm not sure they have found—and again, I'm just giving you questions that you may want to ask them when they're before you, Mr. Chairman—that the big-box solutions they've been putting into the major cities are working out in the way they thought they would. In other words, do people actually use them?

Secondly, are they discovering that a kind of home-grown, local entry point is good for business? Some community banks in America are moving back into neighbourhoods they abandoned. It'd be interesting to ask them why.

• (1620)

**The Chair:** Monsieur St-Cyr, five minutes. Please proceed.

[Translation]

**Mr. Thierry St-Cyr:** Many residents and consumer protection agencies in my riding have talked to me about interest rates charged on loans, particularly payday loans, and the 60% rate provided for in the Criminal Code, if my recollection is correct. Many people have told me that lending institutions disregard this limit and that the costs associated with many loans easily exceed the 60% ceiling. Is this really a problem? Are you taking any steps to ensure compliance with the legislation? What is the penalty for failing to comply with the Criminal Code? Surely non-compliance results in sanctions of some kind.

[English]

**Mr. Bill Knight:** From day one in the annual reports, I've pointed out real concerns about the payday loan crowd. This is a growing and insidious bunch, as far as I'm concerned—just in case you think I don't have an opinion on anything.

I believe there's a real requirement for standards and enforcement of those standards, if at all possible. The complexity is that they fall within provincial jurisdiction. The Province of Quebec has very strong consumer laws as it relates to the dos and don'ts of this particular area. A number of the provinces are looking to step in to set certain rules and standards.

Just in the last week, a paper came out from a professor at York University. I commend it to the committee for a good read. It's insightful on what would happen if you started getting standards set. It's going to take coming back to the Criminal Code. The Criminal Code is enforced under the criminal law and not under an administrative tribunal regulator—so, don't have jurisdiction.

The solution to this has been under way under ministers of justice. My understanding, from comments to this committee from Minister Flaherty, is that there is emerging work to collaborate between the federal government and the provinces, where the federal will adjust the law to give the provinces running room, if they so wish, to take on the payday loan crowd.

I kind of take them on in the ways I can, in terms of information and material, and try to inform consumers in a manner to help them move away from their use. It's not easy.

[Translation]

**Mr. Thierry St-Cyr:** Do you feel that charging interest of more than 60% on a loan is already illegal?

• (1625)

[English]

**Mr. Bill Knight:** Mr. Chairman, we could have another committee meeting on how the 60% came about. It was, I think, written on a napkin in a committee like this—again showing my age—all cooked up among members, a very long time ago, for a quick fix to get the amendment through. It might have been the justice committee. This was a long time ago.

So it became, for reasons that are not clear to me, very difficult to enforce in terms of use by police forces.

I have to be a little careful, because there is a case right now in the city of Winnipeg.

[Translation]

**The Chair:** I'm sorry, Mr. St-Cyr, but your time is up.

[English]

Mr. Turner, five minutes, sir.

**Hon. Garth Turner (Halton, CPC):** Thank you.

Welcome to the committee. I have four questions, and I'd like really brief responses, if you don't mind—just informational only.

**Mr. Bill Knight:** Yes.

**Hon. Garth Turner:** You're mandated with consumer protection and consumer education. I'd like to know if you have any influence over the following four areas, and if you don't, perhaps you could tell us who does.

The first is outstanding interest rates on credit card balances.

**Mr. Bill Knight:** That's us.

**Hon. Garth Turner:** And what are you doing about it?

**Mr. Bill Knight:** We have oversight. For anything where there's a lack of clarity, we open cases against the institutions. I can certainly follow up with you on that.

**Hon. Garth Turner:** Fine. We'll come back to that in a second.

The next is bank service charges.

**Mr. Bill Knight:** Yes, we have oversight on full disclosure of all those fees. We do follow up. We have cases, and we've called them to account.

**Hon. Garth Turner:** All right.

There are two other issues, and we've touched on them already. One is the closure of bank branches. Do you monitor that?

**Mr. Bill Knight:** Yes.

**Hon. Garth Turner:** Do you have any authority to influence the banks on how they do that?

**Mr. Bill Knight:** Yes. They have to, at a minimum, pay attention if I get any complaints requesting meetings in the community. This is

cause for meetings to be held in the communities. I don't have the power to say, "No, you can't close the branch."

**Hon. Garth Turner:** All right.

Finally, Monsieur St-Cyr touched on payday loans, a provincial area. Do you have any influence on that?

**Mr. Bill Knight:** Payday loans are in the payday loans provincial area. Other than speaking out and reporting out on concerns around them, the power is not there.

**Hon. Garth Turner:** All right. So you influence three key issues.

Going back to the first, the outstanding interest rate on credit card balances, many years ago I chaired a committee that had a look into this, and nothing has really changed.

That doesn't really warm a parliamentarian's heart, does it, Joe.

We have the same situation today. Actually, we have a spread between the prime rate and outstanding interest rates...or credit card balances' outstanding amounts that actually exceed what we've seen in the past.

Is there any hope for consumers that anyone can do anything about narrowing that spread? Can you?

**Mr. Bill Knight:** I don't know, Mr. Chairman. I hate to tell the honourable member, but actually, when I sat on this committee 30 years ago, we did a very similar thing.

There are more choices out there. There is a shift to respond sometimes to drive down a lower rate of interest. There are competitive choices; check out the site we've created on what people can check out.

Can we do something about that spread? There's hardly a market economy that's been able to come to terms with that, frankly; I'm just answering your question.

**Hon. Garth Turner:** We need another parliamentary inquiry is what you're telling me.

**Mr. Bill Knight:** I think that's really in your hands in terms of the policy and what rate of return is made on cards.

**Hon. Garth Turner:** Okay. Enough of that.

Bank service charges, same thing; we've had a look at that before as parliamentarians, ad nauseam. We have more disclosure now, but I'm not sure consumers are completely happy with the level of bank service charges. We need to take a look at the banks' annual reports. Certainly service charges are significant areas of revenue generation for the banks, and they've been growing, not diminishing.

Who has any influence over that? Do *you* have any influence?

• (1630)

**Mr. Bill Knight:** The mandate does not prevent there from being a fee. The mandate from Parliament is to get the full disclosure. What is influencing it—ever the optimist, here I go—is that in the last round we said we would open the doors to new entrants. We'd make it easier, for example, like credit unions—

**Hon. Garth Turner:** The chairman is going to cut me off in a minute.

**Mr. Bill Knight:** Oh, sorry. I'll come back to that.

**Hon. Garth Turner:** As interesting as that is, he doesn't care.

I just want to know what we as parliamentarians can do if our constituents are concerned about service charges. What can we do, through you?

**Mr. Bill Knight:** Two things. Number one is that we are driving an agenda to get consumers to shop around. We can come back to this—and I'd be happy to come back to committee again—because if people shop around, there are now entrants and players who are cutting their fees. They're out there. It may well be that parliamentarians may want to hear why they can do it and still make money.

**Hon. Garth Turner:** Are you publicizing that?

**The Chair:** Sorry, Mr. Turner, that's it.

Mr. Fontana, five minutes, sir.

**Hon. Joe Fontana (London North Centre, Lib.):** Thank you, Mr. Chair.

Maybe I'll just pick up on where Garth left off, because back in 1988 and thereafter, we were asking exactly the same question.

First of all, a great organization to protect and educate consumers—I would agree totally—but I'm having a little problem understanding....

I take it you had 39,000 complaints last year.

**Mr. Bill Knight:** Yes.

**Hon. Joe Fontana:** That sounds very minimal, to me.

**Mr. Bill Knight:** Inquiries.

**Hon. Joe Fontana:** Inquiries, but geez, an awful lot of consumers out there contact my offices and contact, I'm sure, every MP's office about interest rates, about service charges, about this, that, and so on. So I'm just wondering....

You say here, "Violations found: 120", and "Administrative Monetary Penalties total: \$117,000". You also mention public warnings and so on and so forth. As I understand it, Bill, you're saying that your job...and I think it's a very important job, but we're trying to get to where the consumers actually want some sort of....

You can't do redress. When a complaint comes in from a consumer and they call your office and say, "Listen, I think somebody at this bank"—or this credit union or this insurance company—"has done something wrong on a calculation", and you open up a file and find the evidence that points to that, you can't do the redress. Do you then send that out to the ombudsperson? You say that you work together closely.

First of all, I would think that there are probably hundreds of thousands of complaints. Who's getting all those complaints? I'm trying to find the division between what your organization does and what the ombudsperson does and to get to the very issues that I think Garth and others would talk about, the ones that are really....

If the problem is not so much regulatory, or the non-compliance by financial institutions, but that parliamentarians have to really get down to whether or not it's payday stuff or whether or not it's interest rates and services charges and banks and so on, which may be more legislative, then we ought to know that, and not give people a false

sense of hope if they complain to you that you're going to remedy the interest rate charges. I think we assume that everybody out there knows what's going on in the marketplace, and I'm not sure they do.

I'm just trying to connect the dots here as to how we get to Garth's sort of problem and your job, and how it is that's legislative regulatory, and perhaps the other levels of ombudspersons who actually get to talk to the consumer and do the redress stuff.

**Mr. Bill Knight:** Very quickly, if it's a redress issue we send it to the ombudsman. If it has no regulatory impact, I have no power over it—

**Hon. Joe Fontana:** But why would they call you in the first place, then? Why wouldn't they call the ombudsperson of the bank?

**Mr. Bill Knight:** I think a lot of times they come through the Government of Canada—through the "maple leaf", as I call it, in the system. They're looking for somebody to assist them. Sometimes we have to get them to where they need to be.

Just to add to that, quite often it's the Quebec authority or a provincial regulator.

**Hon. Joe Fontana:** It might be useful for the committee to know, of the 39,000, do you quantify them? Do you categorize them? How many interest rate complaints did you have? How many service charges did you have? I think it would be helpful to know exactly where this is coming from. Perhaps one could then do a comparison with the ombudspeople to find out exactly what's happening. There's such a thing as duplication in educating the public as to where they need to go to get redress for some of their issues.

•(1635)

**The Chair:** Actually Joe, we can get you a copy of the annual report. It has a detailed breakdown of complaints and so on right in it.

If you want to elaborate, Mr. Knight, go ahead, but Mr. Fontana has only a minute left. If he wants to raise any other issues, we'll let him do that.

**Hon. Joe Fontana:** I think Garth asked this question, and it's important to know the answer. Do you ever give advice to the finance minister, based on the complaints and non-compliance and so on and so forth, that you need to fix regulations or you need to fix legislation in order to bring either clarity or some sort of fairness on behalf of the consumers on what needs to be done in terms of the legislation, the regulations, the codes, or even the education piece you do?

**Mr. Bill Knight:** Yes, absolutely.

**The Chair:** Thank you.

Mr. Del Mastro, we'll move to you.

**Mr. Dean Del Mastro (Peterborough, CPC):** Thank you, Mr. Chairman.

I have a couple of questions. I'm sitting here listening to the questions that have been asked, and I'm not satisfied with some of the answers. I can appreciate that they're probably factual, but I guess the end result of what we're accomplishing through the process of the FCAC is disturbing to me.

It would seem to me that your agency is set up to advocate, and I'll tell you, there are a couple of groups that I believe need your service the most, including persons of lower income and limited education, who are often taken advantage of by the financial services industry. Payday loans is very bad. It disturbs me that it's under provincial regulation. That industry is growing, and it's taking advantage of consumers each and every day.

I'm also concerned with loans, non-prime loans, or "sub-prime", as they refer to them, that have rates at 29.9% and will then charge an acquisition fee, putting the effective rate at 35% or 36%. It doesn't seem to me that these loans are lawful, but nobody is stopping this.

One of the reasons, just to go back to what Mr. McKay brought up about paying a bill on time but then it not being processed on time, which leads to a blemish on a credit bureau...because they go by when the money's actually received. So that will score on the credit bureau as an R2 or R3, if it was already 30 days late, which will lower the beacon score, which then puts people into these positions where they have to take these terrible loans. For people of limited income, it keeps them poor. It keeps them in positions where they can't access fair interest rates.

I don't know if we need to give your organization more teeth. Do you have any teeth? Because it seems to me that these people—with lower income, limited education, and even just when starting out, just trying to establish themselves—are the ones being exploited by financial institutions that make an awful lot of profit, unfortunately, in these areas.

How can we help these Canadians?

**Mr. Bill Knight:** There are a couple of things. Very germane to your question is a project that we're driving—we'll get the information and share it with you—where we are targeting lower-income Canadians and people in these distress areas. We have a major report, which I'll get to all members of the committee, on financial capability. We're lining up with non-government organizations to drive that whole area.

The enormity of what we found in the first four years is quite unbelievable. We still have general rates of literacy running at about 42% in Canada. We have to figure out ways to crack that egg in terms of getting them informed around financial literacy and their capability to deal with immediate problems, like the first-time homebuyer on mortgages, etc., to show them, if they gain their confidence, how to make the choices on where they go. That very much is in the materials we are targeting.

Quite frankly, to do that, I don't see growing this agency as an enormous bureaucracy. It's going to take partnerships, and working with organizations and groups that are already out there and established in those communities.

**Mr. Dean Del Mastro:** I guess what I'm asking is that when we have these companies are putting out loans that, in my opinion, are clearly in violation of the law, why are they being basically permitted to do so?

• (1640)

**Mr. Bill Knight:** It's the complexities of Canadian federalism, frankly, in the sense that they are regulated provincially. The

Province of Ontario has just passed major legislation to tighten all of that up. We'll see what the differences are.

But yes, I go to meetings of the joint forum, which is the provincial regulators. I push on those issues. I brief the federal minister who is in federal-provincial minister meetings to try to collectively improve all of that.

Is it frustrating? Absolutely.

**Mr. Dean Del Mastro:** The other thing I'd like to ask about pertains to credit scores. One of the things the financial institutions don't take into account when they're doing credit scores is mortgage payments. People can have a perfect history on mortgage payments, but a couple of times late on their credit card and they'll have a terrible credit score. Then they get taken advantage of by financial institutions.

This isn't fair. It seems to me that as a federal government, as an advocacy commission of the federal government, we should be doing more for these people. They're being exploited by the financial services sector. And these are not the people who complain. They're generally not going to be on the Internet, and they're not going to be coming to your organization, but I still think we should be proactively protecting them.

**Mr. Bill Knight:** Yes, and—

**The Chair:** I'm sorry, we're just out of time.

**Mr. Bill Knight:** There it is.

We're going to lead the charge on taking on some of those issues.

**The Chair:** Actually, Mr. Knight, I was just going to segue off Mr. Del Mastro's question and give you a chance to conclude. One of the areas that a number of our committee members have alluded to is consumer awareness. Some of the work you've been doing, some of the publications you have available—would you like to outline some of those?

My only question other is with respect to the mortgage penalty clause issue. I understand that your organization has done some work with the banks themselves to try to encourage them to be more transparent and consistent in communicating penalties and so on in their mortgage practises. I'd like you to outline whether that work is continuing and to what degree you've had some success in that.

Finally, on the issue of mortgages, a lot of agencies, mortgage brokers and the like, are issuing mortgages now. It's true that those are not under your jurisdiction in any case, I believe. What, if any, proposal would you make to our committee as far as how we might be able to provide a more level playing field in respect of those who issue mortgages as to their transparency practices, their penalty practices, and so on and so forth, in communicating with consumers across Canada? There's an increasing concern from consumers, I think, that they're not getting their full information in terms of the mortgage issue. Whether it's prepayment or changing of terms, they seem to be surprised more often than not about the penalties associated with such changes.

So there you go. Please conclude, and thank you for being here.

**Mr. Bill Knight:** First of all, Mr. Chairman, thank you very much for the opportunity. I'm happy to join the committee in their deliberations whenever I can report in or be of assistance.

Let me make several points. You will note that the Senate banking committee has just set out a report. I refer to it in terms of its comments on our awareness and the wide range of materials that are available to you, to your constituency offices and to your constituents, to Canadian consumers. We're driving a very aggressive awareness program around choices, around products such as credit cards. We have materials out on payday loans. I have a working partnership with Veterans Affairs to allow for individuals who will get, through their disabilities, lump sum payments, and how to manage that, how to handle that, going forward. It's just a basic one-pager to get them started. So we're making progress in getting to those consumers.

We have done a major examination of mortgages of the major institutions where we've got them to improve their penalty clauses, to change them to have a far better and clearer acceptance of a plain language approach. This has affected millions of consumers across the country. This is particularly key around their penalty clauses and what was a lack of clarity. This means that about 70% of the market, because of the federal dominance of these institutions, is pretty well covered. To go further on that, it would probably take some joint effort between provincial and federal regulators. I'll be continuing to discuss those with what's called a joint forum, which is the provincial regulators, so we can collaborate on it.

Finally, I'll share with you my briefing materials to the Minister of Finance—the question came up—for everybody to have a look at. In there I refer to the fact that when I find them off base on penalty clauses or on a number of items, our compliance officers and individual consumers over the call centres have pointed out areas where there can be miscalculations on the charges laid against people. When that has been across wide bands of individuals, and it could lead to a compliance issue where I may hold them in violation, they have volunteered to pay out and rebate consumers across the country. We are now, as of today, at \$80 million back to individual

consumers. In the next 48 hours there will be another institution that will be, again, making restitution, volunteering, that will increase that to about \$87 million-plus.

I think it's to the credit of this committee and Parliament that, as cumbersome and as difficult as it is to get the progress, I believe the progress is there in pursuing these two mandates. But we need to collaborate and keep working together on a number of the issues that individual members have raised.

I know that a number of you have been through the wringer many times, and we've seen each other in previous movies, but many of you are new to the committee or to the House. We provide a full brief, and we'd be happy to take you down to the offices, go through it, or come up to your offices. I'm pleased to be meeting with the parliamentary secretary tomorrow morning, I believe, and the minister shortly. I invite any of you or any of your colleagues in your caucuses to join with me or my colleagues to go through exactly what we're doing and what we don't do, and suggestions on what we could be doing.

●(1645)

Thank you very much.

**The Chair:** Thank you very much, Mr. Knight.

Thank you to our other guests for their participation in the presentation today.

We are going to move in camera for committee business, so I will ask those who are not involved in these discussions to make their way out of the room.

Thank you.

*[Proceedings continue in camera]*

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