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Chair: Mr. Joël Lightbound



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• (1535)

[*Translation*]

The Chair (Mr. Joël Lightbound (Louis-Hébert, Lib.)): Good afternoon and happy Monday, everyone.

Welcome to meeting number 147 of the House of Commons Standing Committee on Industry and Technology.

Before we begin, I would like to ask all members and other in-person participants to consult the cards on the table for guidelines on using microphones and earpieces. This is a health and safety concern for everyone, especially the interpreters, whom we thank very much for their services.

Pursuant to the motion adopted on Thursday, September 19, 2024, and the order of the House referring back the twentieth report of the committee entitled “Potential Anti-Competitive Behaviour in Canada’s E-Transfer Ecosystem” the committee is resuming its study on credit card practices and regulations in Canada.

As a reminder to members, today's meeting will be extended by two hours to respect the terms of the motion referred to us by the House. Accordingly, we will have our second panel from 5:30 p.m. to 7:30 p.m.

We'll now start with our first panel of witnesses. It gives me great pleasure to welcome, from the Competition Bureau Canada, Matthew Boswell, commissioner of competition, accompanied by Anthony Durocher, deputy commissioner, competition promotion branch, and Krista McWhinnie, deputy commissioner, monopolistic practices directorate. They're back at our committee.

Thank you for taking part in this exercise.

Without further ado, Mr. Boswell, you have the floor for five minutes.

[*English*]

Mr. Matthew Boswell (Commissioner of Competition, Competition Bureau Canada): Thank you.

Good afternoon, Mr. Chair and members of the committee. Thank you for the invitation to appear before you all this afternoon.

As the chair said, my name is Matthew Boswell. I have the privilege of being the commissioner of competition at Competition Bureau Canada.

Joining me today are Krista McWhinnie, deputy commissioner of the monopolistic practices directorate; and Anthony Durocher,

deputy commissioner of the competition promotion branch at the bureau.

[*Translation*]

As you know, the competition bureau is an independent law enforcement agency that protects and promotes competition for the benefit of Canadian consumers and businesses. We administer and enforce Canada's Competition Act, a law of general application that applies to all sectors of the economy. We investigate and combat abuse of dominance, anti-competitive mergers, price fixing and deceptive trade practices. We also promote competition-friendly rules and regulations.

I would like to acknowledge the work of the committee and its members, and thank them for bringing this particular issue to our attention through the letter from MPs Rempel Garner and Chambers, and the committee's report to the House of Commons.

[*English*]

Following receipt of your letter and testimony before your committee, we can confirm that we have launched a preliminary investigation into Interac's conduct with respect to e-transfers.

When firms are vertically integrated or work in multiple levels of a supply chain, competition risks can arise when the firms have both an ability and an incentive to harm their rivals through their position at multiple levels of the chain. In those cases, the bureau can investigate whether the conduct breaches the Competition Act, for example as the result of a merger, proposed merger or an abuse of dominance. In the context of a regulatory system, it is important to ensure that a player is not in a position to both dictate the rules of the game and benefit from them unfairly.

It is important to recognize that we are enforcers of our legislation and not adjudicators or regulators that set rules for companies. The Competition Act requires us to meet several thresholds and standards when we bring cases before the courts.

When we appeared before you last, we discussed the bureau's mandate as it relates to investigating and policing against monopolistic practices and guarding against deceptive practices, particularly in the context of the Canadian payment sector. We have also long promoted enhanced competition in the financial sector, including by encouraging a move toward consumer-driven banking or open banking, as it is also known. Consumer-driven banking has the potential to boost competition and innovation by challenging established providers and enabling new service providers. Parliament and the government's work on the file is crucial because, quite frankly, the need for progress is urgent.

[Translation]

Before answering your questions, I would like to point out that the act requires the competition bureau to conduct its investigations in private and to protect the confidentiality of the information we obtain. This obligation may prevent us from discussing certain details of our investigations.

I'd like to thank the committee once again for giving us the opportunity to appear here today. We look forward to answering your questions.

• (1540)

The Chair: Thank you, Commissioner Boswell.

To kick off the discussion, I'll give the floor to Mr. Chambers for six minutes.

[English]

Mr. Adam Chambers (Simcoe North, CPC): Thank you, Mr. Chair. It's nice to be here.

It's nice to see you again, Commissioner. Thank you for attending with members of your team.

My understanding is that, in 2023, your office released a report showing that highly regulated sectors were more concentrated. They had fewer new entrants and higher profit margins. As kind of an overlay to this conversation we're going to have today, what would you say is your biggest recommendation on how to deal with that big problem facing Canadians?

Mr. Matthew Boswell: Our competitive intensity study was what we released in 2023. It looked at data from 2000 to 2020, and we made all those findings that you refer to.

Effectively, we believe that the solution in Canada is multi-pronged. We needed amendments to the Competition Act to make it a stronger tool for enforcement. We needed additional resources at the bureau to catch us up to where we should have been. Both of those things have happened in great measure in the last several years, with, as you know, several bills before Parliament and our budget being increased in 2021.

The third piece I would refer to as a whole-of-government approach in Canada to addressing competition problems arising from regulations and laws throughout our economy that may unintentionally hinder competition. This is a very big problem in Canada. We rank near the bottom of OECD countries in terms of regulations that hinder competition. This is something we've been advocating

for for some time as part of the solution to what is a very significant competition problem in this country.

Hopefully that answers your question.

Mr. Adam Chambers: It does. Thank you very much.

Before we get into Interac, I'll follow up on that last point.

Would you support, then, including in the mandates of some of these regulators in highly concentrated sectors or in highly regulated industries that they have a lens of competition on their regulations?

Mr. Matthew Boswell: I would go one step further, sir, and recommend that, in all areas of the government where policy-making, regulation-making, rule-making or law-drafting is done, there should be a competition lens applied, not just by the federal government but by every government in this country—provincial, territorial and municipal—because these regulatory barriers to competition exist throughout our economy.

As multiple commentators have said over the years, competition is the elephant in the room in Canada. People haven't paid attention to it, and look where we are.

Mr. Adam Chambers: Thank you very much.

Let's zoom in now on Interac. My understanding, from some information that we've had—and I recognize that you may not be able to confirm or deny it—is that Interac is currently owned by financial institutions; therefore, it sets pricing strategies for the sector. I understand that the large incumbents receive about a seven-time reduction on the price they pay to send e-transfers, just as an example. I know there are other things Interac does. New entrants were paying seven times the price that the incumbents were paying. On its face, prima facie, that sounds highly anti-competitive and a potential abuse of power. That was what led to the letter to your office.

Is that one of the things you're looking at? Can you confirm that's something you're also interested in?

Mr. Matthew Boswell: I can't confirm specifics. As I said in my opening remarks, we've been paying close attention to what's been discussed at this committee with witnesses and with questions and answers. We're not aware of the specifics, in terms of having seen evidence with respect to the specifics, but those are issues that clearly came to our attention and caused us to initiate a preliminary investigation.

Mr. Adam Chambers: Thank you very much for taking this on.

Do you have, within your powers today, the ability to get the information you need to do an investigation, or a preliminary investigation, to the level that you feel comfortable with?

• (1545)

Mr. Matthew Boswell: Yes.

Mr. Adam Chambers: Okay. How far back can you go on practices? If you do find that there was some impropriety, how far back are you able to assess those actions?

Mr. Matthew Boswell: Speaking generally, not in this particular case, we can go as far back as the alleged conduct goes.

Mr. Adam Chambers: Then it wouldn't be like a typical statutory limitation period where you can only look at things from three years ago. Given the fact that this has been the case for a long time, if there was any finding of guilt, if you will, it would be in respect of the entirety of the alleged misuse of power.

Mr. Matthew Boswell: Yes, it would, provided the conduct was ongoing to today's date.

Mr. Adam Chambers: I think I'm out of time, but as I understand it, when the pricing schedule was set, the two largest institutions in the country were co-chairing the board at the same time. One of the challenges we have with this committee and with Canadians is a lack of transparency around the ownership structure of Interac, but I assume we'll get to that later.

I don't want to take time from my colleagues, so thank you, Mr. Chair.

The Chair: Thank you, MP Chambers.

I'll now turn it over to Mr. Turnbull for six minutes.

Mr. Ryan Turnbull (Whitby, Lib.): Thanks, Mr. Boswell and team, for being here today. I appreciate your joining us.

I have quite a few questions about market concentration or market dominance. How concentrated is the credit card market in your view, Mr. Boswell?

Mr. Matthew Boswell: I don't have data on that particular point.

I don't know if any of my colleagues have data on that handy.

Ms. Krista McWhinnie (Deputy Commissioner, Monopolistic Practices Directorate, Competition Bureau Canada): Is it a question about the level of concentration among credit card networks or the issuance of credit cards?

Mr. Ryan Turnbull: The credit card market in general.

Ms. Krista McWhinnie: Based on a case that we brought challenging conduct by Visa and Mastercard in 2010, we had a finding from the tribunal at that time that that network market is highly concentrated, with both Visa and Mastercard having market power.

In terms of the question about the level of concentration for issuing credit cards, that's not something we've specifically studied.

Mr. Ryan Turnbull: Okay, thanks.

Does the bureau consider Interac's near-monopoly in the e-transfer market as hindering competition? If so, what steps do you think can be taken to encourage new entrants into the market?

Mr. Matthew Boswell: I think during your hearings on this issue you had an acknowledgement from a board member of Interac. I don't know if they used the word "dominant", but they acknowledged that they were the principal player in this space, in terms of e-transfers in Canada.

In terms of how to enhance competition in the payment space or the transfer space, there are several things that would certainly go a

long way to aiding in achieving that objective. The implementation of real-time rail, with open access to use the real-time rail system with fair and level pricing, would certainly enhance competition in this area, it would appear.

The implementation of open banking or a consumer-driven banking framework would also facilitate more competition in the banking area generally and perhaps give fintechs more of a toehold in the payment area.

I think what this committee is doing is the third piece, which is parliamentarians scrutinizing the financial sector for competition issues much more closely and on a regular basis to see what sort of changes could be brought about by you and your colleagues, sir.

Mr. Ryan Turnbull: Thank you very much for that.

How do you think the exclusivity of Interac's agreements with Canadian banks impacts competition from alternative payment platforms? It seems that that might exclude them from participating. Is that exclusivity in terms of their agreements with Canadian banks something that concerns you? How does it impact competition?

• (1550)

Mr. Matthew Boswell: I can't speak on the specific agreements.

Do you want to add to that?

Ms. Krista McWhinnie: In terms of making sure membership and decision-making don't advantage only certain players and allow incumbents to set the rules that dictate who can join the club and how competition takes place, that is something we looked at a number of years ago. We had a consent order put in place in the nineties that lasted for a number of years. That looked at the governance structure and made sure it couldn't unfairly preference certain members over others. At the time, Interac was engaged in conduct that actively kept other members out, raising barriers to entry and making it more difficult for other members there to compete vigorously.

Mr. Ryan Turnbull: I think it's clear that Interac has a near-monopoly, in terms of its market position. It seems to me that this would prevent fintech companies from offering comparable e-transfer services.

Have you investigated that at the bureau at all?

Mr. Matthew Boswell: Not at this point in time, that specific fine issue....

Mr. Ryan Turnbull: You mentioned that you opened a preliminary investigation of e-transfer companies. Was that on Interac specifically? What led to that decision? I realize you might not be able to talk about the investigation, because you're bound by confidentiality. However, you might be able to talk about what tipped you off to initiate an investigation. Can you speak about that?

Mr. Matthew Boswell: Quite frankly, as I said earlier, hearing some of the questions and answers in this committee shed new light on what might be taking place. We thought it was appropriate to launch a preliminary investigation.

Mr. Ryan Turnbull: Is there evidence, to date, of anti-competitive behaviour, Mr. Boswell?

Mr. Matthew Boswell: I can't give you that conclusion at this point in time.

Mr. Ryan Turnbull: Okay.

I'm pretty much out of time.

The Chair: You're just out of time, Mr. Turnbull. Thank you.

[*Translation*]

Mr. Savard-Tremblay for six minutes.

Mr. Simon-Pierre Savard-Tremblay (Saint-Hyacinthe—Bagot, BQ): Thank you, Mr. Chair.

I want to thank the witnesses for their opening remarks today.

Obviously, I have a few questions to ask, but I'd like to start by thanking the witnesses for being here and for their ever-informative remarks.

First, does the competition bureau believe that the concentration in the e-transfer market, which centres around a few easily named major stakeholders such as Interac, Visa, Mastercard, not to mention the big banks, limits competition and innovation? Yes or no?

Mr. Anthony Durocher (Deputy Commissioner, Competition Promotion Branch, Competition Bureau Canada): Thank you for the question.

Obviously, in a concentrated market, we always want to ensure greater competition. The competition bureau's role is truly to enforce the Competition Act.

There are two aspects to consider. On the one hand, we make sure that there's no anti-competitive behaviour in the market. Of course, we pay particular attention to concentrated sectors such as financial services. On the other hand, we also promote competition to regulatory agencies and Parliament to ensure the most pro-competitive rules possible, to encourage new entrants, competition and innovation in all sectors, including concentrated ones.

Mr. Simon-Pierre Savard-Tremblay: To ask the question is to answer it. More concentrated sectors entail infinitely greater, if not unlimited, risks in terms of competition and innovation. That said, the two go hand in hand.

Mr. Anthony Durocher: Yes.

Mr. Simon-Pierre Savard-Tremblay: Have you identified any cases where exclusionary practices, such as denial of access to payment infrastructure, have prevented new players, such as fintechs, from entering the e-transfer market?

Mr. Anthony Durocher: Yes. As my colleague Ms. McWhinnie mentioned, we had a consent order with Interac, from 1996 to 2020, if I'm not mistaken, concerning conduct that was undermining competition in the relevant financial markets. However, we didn't identify any cases involving e-transfers. The consent order didn't apply

to the market the committee is looking at today, meaning the e-transfer market.

• (1555)

Mr. Simon-Pierre Savard-Tremblay: What happened next?

Mr. Anthony Durocher: The consent order expired in 2020. It was applicable from 1996 to 2020. There were some changes, but as I mentioned, it didn't apply to e-transfers.

Mr. Simon-Pierre Savard-Tremblay: Since we're talking about another type of agreement, i.e., tacit or explicit agreements among the major players that could limit access by smaller competitors to the e-transfer market, can you tell me whether the competition bureau has discovered any such agreements?

Mr. Anthony Durocher: If we discover an anti-competitive agreement, we gather the relevant facts and data. As a law enforcement agency, we rely on evidence and facts. We therefore always encourage stakeholders to submit evidence of anti-competitive conduct to us when they have it, be it agreements among competitors or other types of behaviour.

Mr. Simon-Pierre Savard-Tremblay: Have you heard of any cases where it was clear that a bank or other financial institution had used its dominant position to impose conditions that put its partners or competitors in that sector at a disadvantage?

Mr. Anthony Durocher: As the commissioner said, we've launched a preliminary investigation into the matter, but at this stage it's too early to draw any conclusions. Our role is to analyze the relevant facts and evidence to determine whether or not there has been a breach of the Competition Act.

Mr. Simon-Pierre Savard-Tremblay: That said, there's an ongoing investigation. In other words, there are suspicions; things have been said and you're in the process of checking them out.

Mr. Anthony Durocher: That's correct. As I mentioned, the letter from the committee members and the testimony received by the committee prompted us to open a preliminary investigation.

Mr. Simon-Pierre Savard-Tremblay: I know you're going to tell me that your role is to enforce the act and not comment on it, but I'm going to test my luck anyway.

Is the legislative framework sufficient, in your opinion, to monitor anti-competitive behaviour in the electronic payments industry?

Mr. Anthony Durocher: The Competition Act has just undergone three sets of major amendments, which have really brought it up to date. In terms of the situations to which you're referring, we're focusing on the implementation of those amendments, which have given us the tools we need to protect and promote competition.

Mr. Simon-Pierre Savard-Tremblay: Would you be able to tell me approximately what has already been implemented and what will be implemented next?

Mr. Anthony Durocher: Bill C-59 received royal assent in June, I believe, and almost all the changes were implemented, save a few provisions that will come into effect one year later. It's similar to Bill C-56, which obtained royal assent in December 2023 and, if I'm not mistaken, some changes will come into effect one year later, so in December 2024.

Mr. Simon-Pierre Savard-Tremblay: Perhaps you want to wait for all these changes to come into effect before recommending improvements.

Mr. Anthony Durocher: We're constantly thinking of additional changes that could be made to the act. We have some ideas, if you want to talk about them, but, as I mentioned, the changes that were made are quite substantial, and we're focusing on their implementation.

• (1600)

Mr. Simon-Pierre Savard-Tremblay: If I have any time left, I'd ask you how to improve it. Otherwise—

The Chair: You're out of time, Mr. Savard-Tremblay, but I'm certain there will be ample opportunity to ask other questions.

Mr. Masse for six minutes.

[English]

Mr. Brian Masse (Windsor West, NDP): Thank you, Mr. Chair.

Thank you to our witnesses here today.

Actually, Canada had one of the first laws on competition ever enacted in the world. We implemented our first law in 1889, and then the United States, under the Sherman Anti-Trust Act in 1890, came in with theirs. We've been, at least during my time in Parliament, outside the box of where we started as a country, in many respects, with regard to competition and having some involvement. I'm glad to see this happening here, along with the opening of the investigation formally.

I've also written your office today with Alistair MacGregor about frozen potato products, because there's an antitrust suit in the United States that I'm hoping gets some attention, but I'll leave that for the moment.

One of the things you mentioned in the first part of your testimony... Are we still missing, from the perspective of...? It's almost like a competition advocacy mandate that seems stronger in the United States and other places. Is that maybe one of the unfinished pieces of business with our current situation? I like the changes that we have. There were others that I wanted to see. Is that what you're getting at, with regard to the unfinished business of those who believe in stronger competition laws, enhancement and oversight policy that empower the Competition Bureau to be able to do more and that are more in line with the European Union and the United States? Is that where the hole is, what we're missing? Please identify if I'm right or wrong.

Mr. Matthew Boswell: I think you've hit exactly on what we've been talking about—and we've been talking about it for a few years now—which is that the bureau's job is to address private restraints on competition that are anti-competitive and that are violations of the Competition Act. We are evidence-based. We unearth the evi-

dence. We decide if there's sufficient evidence and take the cases to court or settle out of court, which we have the ability to do.

However, there's a whole other basket of restraints on competition that I was speaking to in response to MP Chambers' question. Those are public restraints on competition, which are a problem—as I've said and as we've said repeatedly—throughout the economy and all levels of government. We need something akin to what was done in Australia in the 1990s or to the White House Competition Council, which is in place under the current administration in the United States. We need to have a focus on or to require governments to think about competition when they're drafting regulations, when they're amending regulations or when they're putting in place new laws. They need to think about how it's going to impact competition. That needs to be very deliberate, and it needs to be put in place structurally so that people throughout government at all levels are thinking about these issues.

We're not saying that this is malicious, necessarily, but it has clearly developed into a serious problem in Canada, a lack of awareness of how certain policies impact competition and harm the markets in Canada. We're saying that this needs to be done, and it needs to be done in a whole-of-government way because the problems are at all levels.

Mr. Brian Masse: I'll simplify that, if I could. It's a more proactive way of dealing with this issue and then ensuring that those who actually want to diversify whatever part of the economy they're interested in will have a better way of advancing their own competitive business models and will not be damaged along the way by trying to break through the current model. Our legislative process would be a little more proactive, as opposed to how it is right now, where we're being very defensive.

Mr. Matthew Boswell: It's more that the people involved in the decision-making and the drafting would be forced to think about how this is going to impact competition. It's a policy directed at some other issue, but you have to think about how that is going to impact competition in the marketplace and whether there is some way of achieving that other goal without negatively impacting competition—without making it harder for people to start businesses, to enter markets, to create more competition, to bring more small and medium-sized enterprises fighting for the business, and all those issues.

• (1605)

Mr. Brian Masse: I'm running out of time, and I know I'll get some more time later, but with regard to our current study, how do you envision...? Can you give us some details?

I've gone through the rewards programs on credit cards. It is a dog's breakfast, and there's the thought that the rewards process... They like to present it as free, but it actually comes with obligations that might even be corporate secrets among the credit card companies and the businesses that they're doing those rewards programs for. How do you evaluate or estimate that as you try to figure out how truly competitive the credit card industry is?

Mr. Matthew Boswell: That would involve engaging in a detailed examination of the competition issues at play.

What we're talking about in terms of a preliminary investigation, though, is the Interac fees charged, which was raised at this committee. At this point, we're not proposing to engage, for example, in a very broad market study into the entire payment sector or the entire credit cards, payments and Interac sector. This preliminary investigation is in response to some of the testimony we heard here at this committee.

[Translation]

The Chair: Thank you very much, Mr. Masse.

I'll now give the floor to Ms. Rempel Garner for five minutes.

[English]

Hon. Michelle Rempel Garner (Calgary Nose Hill, CPC): Thank you, Chair.

Thank you for your response to our letter.

In your first round of questions with my colleagues, you mentioned that it's a positive thing that parliamentarians are scrutinizing the financial sector for competition in a broader lens. Are there areas, particularly within the scope of this study, related to credit card practices or the financial sector broadly that you think the committee should be considering?

Mr. Matthew Boswell: I'm not sure I'm in a position to give very good advice on the different areas. One thing I should be clear about is that we don't claim to be experts on the entire payment system. Our focus in our work every single day is competition throughout the Canadian economy. Our act applies to the entire economy.

Hon. Michelle Rempel Garner: You have in the past. Your bureau has looked at Interac and credit cards. This isn't the first time Interac has been looked at. Based on that history, are there certain areas now—because we're not experts either—that we should be drawing our attention to based on feedback the bureau has received from the public?

Mr. Matthew Boswell: I would say that, based on our previous Interac consent order, which was from 1996 to 2020, one of the issues was putting in what we call behavioural safeguards to protect.... Because Interac was made up of the charter members, which were eight banks and a credit union, there needed to be an independent committee that dealt with some of the pricing issues.

As I alluded to in the opening, I think it would be paying attention to the governance models of these systems, which is not necessarily a bureau thing until anti-competitive conduct results. For example, it's about how the real-time rail will be governed and all those issues.

Hon. Michelle Rempel Garner: Would you be able to table with the committee that compliance order? Is that possible?

From there, because I know the Competition Bureau's mandate on enforcement has changed, were there any enforcement measures that were taken by your agency? I'm guessing there weren't, but are there any with regard to that compliance order that we should be considering?

Mr. Matthew Boswell: We're happy to provide the compliance order. There are multiple different versions of it.

Hon. Michelle Rempel Garner: It saves me the google, so thank you.

Mr. Matthew Boswell: It's a lot of reading, though. There are multiple different versions. It's changed over the years.

Hon. Michelle Rempel Garner: We had a debate about how fast I read at the last committee meeting, so we're good. Yes. Giddy-up.

• (1610)

Mr. Matthew Boswell: As my colleague Ms. McWhinnie pointed out, we also have experience in the credit card space, in the case we brought against Visa and Mastercard for resale price maintenance. That revealed some interesting things. We can provide you with that decision. It's quite lengthy.

Hon. Michelle Rempel Garner: With regard to our task of coming up with recommendations, particularly with the issue that we wrote to you about, it is within our purview to ask for information from different sources. Is there information that you think would be helpful to parliamentarians in our deliberation of this particular matter?

Mr. Matthew Boswell: I think of some of the issues you touched on in previous hearings and information you indicated you'd like to get. I can't think of all the different things, but I know there were multiple things when I was reading it that I thought it would be very useful for you to have, like information on committee structure, decision-making and those sorts of things, for this particular issue.

Hon. Michelle Rempel Garner: That's very helpful.

The other thing would be.... Throughout this study, we have bumped up against lack of transparency, particularly in governance matters. In certain federally regulated areas, when you're talking about the need for an overall structure, let's say at a memorandum to cabinet level, to have an analysis on competition, that's a great recommendation.

What about some sort of requirement for transparency in governance, when there is an identified potential abuse of dominance? I'm trying to put the thought together here. For the future, in areas where there's a potential abuse of dominance using a lack of transparency in governance, is there a principle or regulation we could consider recommending to the government that could be embedded in that review and that would prevent the potential issues we've seen arise in the course of this study?

Mr. Matthew Boswell: Transparency is always of benefit in situations that tend to be on the edge. If you can see from the outside exactly how things are structured and exactly how things work in a structural set-up that by its very nature could lead to problematic outcomes, it's very advantageous for everyone to know exactly how the inner machine works.

Hon. Michelle Rempel Garner: Thank you for your work, sir.

The Chair: Thank you very much.

[*Translation*]

Mr. Gaheer for five minutes.

[*English*]

Mr. Iqwinder Gaheer (Mississauga—Malton, Lib.): Thank you, Chair, and thank you to the Competition Bureau for the testimony today.

You said you have launched, or are launching, a preliminary investigation. Is it against Interac in general, or against Interac e-transfers?

Mr. Matthew Boswell: The best answer I can give is that it was to look into some of the issues that have been highlighted in this committee, in correspondence we've received and in the motion put in front of Parliament.

Mr. Iqwinder Gaheer: When officials from Interac appeared before committee, my questions were mostly regarding e-transfers. As a private individual, I'm pretty happy with e-transfers. It has upped the limit to \$10,000. Funds are available immediately, when they're transferred. You have to be careful with the name, number and email that you transfer to, again, because the funds are immediately available.

How familiar are you with the fee structures Interac uses for e-transfers and otherwise?

Mr. Matthew Boswell: Personally, I am not familiar with them at all, other than what I've heard lately. I know my own personal situation, my own personal bank account for e-transfers, but writ large I don't know.

Mr. Iqwinder Gaheer: You really are at the preliminary stages.

Does the bureau have any evidence or concerns about Interac's transaction fees being inflated due to a lack of competition?

Mr. Matthew Boswell: I think that's to be determined.

Mr. Iqwinder Gaheer: Again, I understand this is very preliminary, but do you know how Interac's fee structure compares with international markets for e-transfers?

• (1615)

Mr. Matthew Boswell: I don't know.

Mr. Iqwinder Gaheer: Okay.

You've conducted a study before into Interac. Was that regarding e-transfers, or Interac in general? What were the main findings of that study?

Mr. Matthew Boswell: It wasn't a study.

Perhaps it's good for everyone to understand a bit of the history. Hopefully, I can do this relatively quickly.

In the 1990s, we alleged that Interac was engaging in exclusionary conduct that restricted access to what's called their "inter-member network". More specifically, the inter-member network facilitated, at the time, ATM withdrawals and points of sale using debit cards. The three particular things we alleged Interac was doing were these: upholding strict eligibility requirements to become a

member of the Interac Association, which, at the time, favoured members of the Canadian Payments Association; charging very high access fees to the network; and restricting network privileges such as voting rights to charter members only. Charter members were the large Canadian banks, as well as Desjardins, Credit Union Central and, at that time, Canada Trustco.

The Competition Tribunal ordered a consent order in 1996 under the abuse of dominance provision, resulting in opening up the Interac network beyond charter members and removing barriers to competition among network participants. It prohibited charter members from charging higher access fees to new members and guaranteed non-financial institution representation on the board of Interac. This consent order was varied twice, significantly, in 2013 and 2017. The 2017 version of what then became called a "consent agreement" required the creation of an independent committee of the board to oversee the Interac cash and debit parts of their business, known as shared services.

As Ms. McWhinnie alluded to, the bureau had a long involvement with Interac, up until 2020, in terms of these consent agreements requiring them to do certain things so they don't go back to the exclusionary conduct we alleged in 1996.

Mr. Iqwinder Gaheer: Thank you for that.

There's a preliminary investigation. You'll see whether an actual investigation is required. We look forward to the findings of that—again, if it's actually required.

If the bureau were to find anti-competitive behaviour in this space, what kind of action could it take?

Mr. Matthew Boswell: Generally speaking, we can take two types of action. We can call for structural reform—the sale of part of a business, or the sale of a whole subsidiary business—or behavioural orders, which compel the companies we're dealing with to behave in a certain way going forward and do certain things so the anti-competitive conduct doesn't continue.

I couldn't speculate right now on that particular issue in this matter, as we're literally at a preliminary investigation stage.

Mr. Iqwinder Gaheer: Thank you so much.

The Chair: Thank you, MP Gaheer.

[*Translation*]

Mr. Savard-Tremblay for two and half minutes.

Mr. Simon-Pierre Savard-Tremblay: Thank you.

In your previous interventions, you mentioned some recommendations. Would you like to make any others? I was going to ask you that question earlier, but I ran out of time.

Mr. Matthew Boswell: Yes. Thank you.

If it's all right with you, I'll respond in English.

[*English*]

Recently, in a submission by the bureau to the ministry of finance called "Proposals to Strengthen Canada's Financial Sector", in September, we actually recommended the repeal of paragraph 94(b) of the Competition Act. Paragraph 94(b) is a unique statutory override that allows the Minister of Finance to authorize an anti-competitive merger for public interest reasons. This override was established in 1986 and reflects an earlier perspective that anti-competitive mergers may need to be tolerated in the Canadian banking sector for financial stability reasons. However, we're of the view that concentration and consolidation could actually intensify systemic risks and raise the cost and complexity of resolution in a crisis if you have increased concentration.

We believe this provision in the Competition Act unnecessarily subordinates the bureau's role in reviewing major bank mergers, and that there are other avenues that allow the Minister of Finance to review those bank mergers and allow them to proceed or prevent them, for prudential reasons, for example.

That is a recommendation we hadn't made in the past, but these public interest overrides are very rare internationally. Given the other safeguards that exist in other regulated sectors as well, we don't believe it's necessary to have these public interest overrides on anti-competitive mergers in finance or in transportation. They both exist.

• (1620)

[*Translation*]

The Chair: Thank you very much, Mr. Savard-Tremblay.

Mr. Masse, you have the floor.

[*English*]

Mr. Brian Masse: Thank you, Mr. Chair.

Just to follow up on that, is there any other country that has this? I know you touched on it a little bit, but is there anybody left with this type of policy?

Mr. Matthew Boswell: I can't, off the top of my head, think of examples. As I said, it is relatively rare in the world to have these public interest overrides for anti-competitive mergers.

I'm sorry, MP Masse; I can't think of an example.

Mr. Brian Masse: It's okay.

You mentioned transportation as well at the end of your comments. Can you elaborate a little bit on that? What parts of the transportation industry are protected in that way?

Mr. Matthew Boswell: If the Minister of Transport determines that a merger involves a national transportation undertaking, then the minister can indicate they are going to conduct a public interest review of the merger, at which point the commissioner's role becomes one of providing advice to the Minister of Transport. The

first stage of advice is competition concerns with respect to the merger, and then, if we provide advice that there are competition concerns, the parties provide proposed solutions to those concerns, at which point the bureau's commissioner is to opine to the Minister of Transport on whether those proposed solutions are adequate to address the competition problems. The Minister of Transport then makes a recommendation to cabinet as to whether or not to approve the merger.

This has happened multiple times in my time as commissioner. With respect to WestJet and Sunwing, we indicated significant competition concerns. It was approved. Regarding Air Canada and Air Transat, we indicated significant competition concerns. It was approved in Canada, but blocked in Europe. On Canadian North and.... Sorry, I'm drawing a blank on the other airline, which was to provide service primarily to far northern parts of Canada. I indicated significant competition concerns. It was approved.

Mr. Brian Masse: I'd ask our analysts to provide us with that material in terms of the specific amendment required in legislation to cease that policy, please.

Thank you, Mr. Chair.

[*Translation*]

The Chair: Thank you, Mr. Masse.

Mr. Chambers, you have the floor again for approximately five minutes.

[*English*]

Mr. Adam Chambers: Thank you, Mr. Chair.

Sometimes when you see a bad actor, or when something bad happens on television, the police or the authorities say that the perpetrator was "known to authorities". In the context of Interac, you have a long and storied relationship with Interac. Would you say they are known to you? You know their business. You've had compliance agreements with them in the past. You know about them.

• (1625)

Mr. Matthew Boswell: Yes. I think that's a fair question.

Just to be more precise, our jurisdiction, if we can call it that, was limited to what I referred to as these two shared services, ATM withdrawals and point-of-sale debit card transactions. Just those two areas governed our entire oversight of Interac for 24 years.

Mr. Adam Chambers: Right, but this instance is not the first time you've had concerns about Interac's practices generally.

Mr. Matthew Boswell: That's correct. We alleged that it was exclusionary and an abuse of dominance in 1995.

Mr. Adam Chambers: In that case, since there's been some previous history, the solutions that you may recommend could be more drastic. They're not necessarily potentially an alleged first-time offender in an abuse of dominance, at least in respect of previous allegations. Would it be within your authority to recommend to the government that, to clean up the governance issues, the entity be spun out of ownership from the financial institutions themselves?

Mr. Matthew Boswell: Off the top of my head, I don't know if that would be within the scope of remedies that we could seek. I don't believe so.

Mr. Anthony Durocher: The way the abuse of dominance provision works is that, to seek a remedy, we would have to either make an application to the Competition Tribunal, which is a specialized federal court, or have an agreement on consent with the parties. There are remedies under the abuse of dominance provision to seek structural relief to remedy competition, but everything flows from the results of an investigation and whether you can conclude that there is an offence.

Mr. Adam Chambers: Okay. I'll just say that I would be interested in the bureau's position on whether, in order to prevent future conflicts of interest, one measure that the government might consider would be to free the entity of the conflict of interest with the large owners, the incumbents.

You mentioned real-time rail. It's really convenient that we're behind and delayed on real-time rail. By the way, it's really convenient that Payments Canada gave a sole-source contract to Interac, which is owned by the banks, whose own delays will only ensure their profit pool exists for a little bit longer. I would welcome the bureau's recommendations on that front.

There's an issue about competition, no doubt. One of the ways that new entrants were trying to accumulate customers was to talk about free e-transfers. If it is true that the pricing structure was such that these new entrants were significantly harmed with higher prices to offer that service, to me that's a direct decision to limit the competitive landscape by incumbents to prevent entrants from coming in. That's one thing that I would leave with you.

The final thing is that, on e-transfers themselves, they weren't always free. Many people get free e-transfers today, but they're often paying \$1.50. Are you able to look at price gouging in a situation where you know that a financial institution is paying six cents for that fee but then charging someone \$1.50 on the other side? Is price gouging something you're able to look at?

Mr. Matthew Boswell: Generally, no, we don't look at price gouging. Generally, companies in the Canadian economy are entitled to charge whatever price they want for their products, provided that in doing so they are not engaging in what we call "predatory pricing", which is a very different thing from what we're talking about here. When we talk about predatory pricing, it's pricing very, very low to drive competitors out of the market.

Mr. Adam Chambers: This is my last question. One of the bank CEOs said that there is a "ruthless oligopoly" and that banks are

under pressure. Do you agree that there's a ruthless oligopoly and that the banks are under pricing pressure from within their own ruthless oligopoly?

• (1630)

Ms. Krista McWhinnie: I was just going to say that the term "ruthless oligopoly" is a bit odd to me.

The Chair: You're saved by the clock.

You're out of time, Mr. Chambers.

Go ahead, Mr. Arya.

Mr. Chandra Arya (Nepean, Lib.): The ruthless oligopoly's combined income last year was between \$45 billion and \$60 billion, equal to the entire deficit of the federal government. Let's start with that.

I'm glad to see the commissioner and his colleagues here.

When it comes to competition, I'm in sort of a big dilemma here. Let's take the example of the steel sector, where there's open competition and there's no restriction on investment, foreign direct investment. Today, all companies in the steel industry are foreign-owned. What is the result? There has been no increased manufacturing capacity of steel in Canada for the last 20 years. They don't export to any market other than the U.S. and Mexico, even though we have signed agreements, around 15 to 20 free trade agreements, across the world. That is the drawback of having free competition and free ownership by foreign actors.

When it comes to the banking sector and the ruthless oligopoly where there has been \$50 billion or \$60 billion in profit, every single dollar comes from hard-working Canadians. We see what is happening there.

I want to ask you a question on Interac or e-transfer. Let's take e-transfer for a moment. If I want to transfer \$11,000 from one bank, CIBC, on one end of the street, to Scotiabank at the other end of the street, it takes one week. In countries in the global south, it can be done in seconds. The countries in the global south are still developing and have low literacy. We are supposed to be the most developed country among the G7 countries.

I don't know whether those sorts of things come into play when you look at banking practices. Do you have the power to compel divestment, or do the existing owners of Interac have the power to sell their shares if you find that there are deceptive practices there?

Mr. Matthew Boswell: Under our abuse of dominance provisions, if we were to prove, after bringing a case—or on consent, but I can't imagine this would happen on consent—that there had been a significant abuse of dominance, divestiture is an option, but I can't speculate at this point in time.

Mr. Chandra Arya: On the question of an anti-competitive merger and the power of the minister to use public interest overrides, again I have a bit of concern. One is this concept that we had to move away from the power that is vested with ministers to use the public interest option to approve a merger that you deem to be anti-competitive. There was a good case for that until a few years back, when we had real free trade, international trade. Now international free trade is dead. Now we are moving toward onshoring, friendshoring, alliances and things like that. When that is the case, each country has its own policy to protect its own industry.

I know the negative aspects of protecting an industry like the banking industry we have here or the telecom industry we have here. With the changing global scenario, I'm not sure whether we should continue to be a boy scout when it comes to competitive practices. I don't know. I'm still in a dilemma. If you can add some comments on that, that would be great.

Mr. Matthew Boswell: I was raising it in the context of what some of the earlier questions were about: concentration in the financial sector and the resulting harms that are perceived to take place from that. I indicated that this was an aspect of our overall legal framework that allowed more concentration even if, after a thorough review, the bureau was of the view that there were significant competition issues with a banking merger. It does allow them to go ahead, and that is a bit of an international outlier.

If we're talking about concerns with competition in our financial sector, then this is something I thought was important to at least bring up for your consideration.

• (1635)

Mr. Chandra Arya: In one of your earlier recommendations, I think you suggested amendments to the act.

Obviously, you always ask for additional resources for the bureau. That, I think, is a constant.

You also mentioned, on the whole-of-government approach, that the regulations are preventing competitive behaviour. Is that what you said?

Mr. Matthew Boswell: Effectively, we should undertake the work in this country to examine existing regulations or new regulations. We could also be aided by all sorts of small and medium-sized enterprises, which see these barriers to competition all the time. They are aware of them, but they can't get the regulations to change and they can't get the bylaws or the provincial laws to change. They're out there and they can be identified. We can undertake the hard work, as a country, to fix them in order to allow more people to compete in the marketplace and to bring their ingenuity and their great Canadian education to offer new products and services.

It can be done. Australia did it. Australia reviewed 1,800 laws and regulations in the nineties as part of its push on productivity. As a result of that work, the conservative estimate, in the after-the-

fact examination of it, is that it raised the average income per Australian household in the nineties by \$5,000 Australian. That work enhanced competition in the Australian economy by removing regulatory barriers to competition.

I should say that Australia is very much engaged in doing that again, because it realizes how important it is for its productivity as a nation to drive GDP growth and to give people more money in their pockets through a more vibrant, competitive economy.

[Translation]

The Chair: Thank you, Mr. Arya.

Mr. Généreux, you have the floor for approximately five minutes.

Mr. Bernard Généreux (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, CPC): Thank you, Mr. Chair.

Thank you to the witnesses.

Mr. Boswell, if my colleagues Ms. Rempel Garner and Mr. Chambers hadn't requested an investigation into Interac transfers, in particular, we wouldn't be here today.

Have I got that right?

Mr. Matthew Boswell: Thank you for the question.

I'll respond in English.

[English]

I think what has taken place here is that the Competition Bureau pays attention to what's happening at this committee. In addition to that, we received a letter directly, encouraging us to look into the issue.

There are many different ways that cases at the bureau can begin. One way is through people coming to us and saying, "Hey, here's a problem." We consider those types of issues on a case-by-case basis.

In this case, we looked at the testimony and we decided it would be appropriate to commence a preliminary investigation.

[Translation]

Mr. Bernard Généreux: What prior testimony surprised you the most and led you to accept the request by my colleagues and the committee? Ms. Rempel Garner referred earlier to some testimony where there was very little transparency, or even none, in some cases.

What testimony struck you the most and convinced you that it was the right thing to do?

Mr. Matthew Boswell: Given that there is currently a preliminary investigation under way, it is probably best if I don't comment on any testimony and about what surprised me the most.

• (1640)

Mr. Bernard Généreux: The average Canadian, myself included, doesn't necessarily know that when they do a bank transaction, it takes place in a system where a Canadian organization is responsible for evaluating or at least monitoring.

Do you see your organization as a competition watchdog?

Mr. Matthew Boswell: I would say that—

Mr. Bernard Généreux: You can answer in English. That's fine with me.

Mr. Matthew Boswell: All right, thank you.

[English]

I would say that we do not consider ourselves an oversight body. We do not consider ourselves as a regulator. We are a law enforcement agency. Our responsibility is to investigate allegations of anti-competitive conduct or deceptive marketing. There are many different areas we investigate. Sometimes we resolve cases, and have in the past, with these consent agreements that go on for a long time. We have to take on the responsibility of monitoring compliance with those consent agreements. In that sense, we do oversee what's happening, but, generally speaking, we're not a regulator; we enforce the law.

[Translation]

Mr. Bernard Généreux: You just launched a preliminary investigation. Are you able to give us an estimate of how long it will take? Earlier, we asked you how far back you could go, within the framework of your investigation, to determine when those practices started.

Are you able to tell us when you'll be able to explain what happened and whether any convictions will be forthcoming?

[English]

Mr. Matthew Boswell: It's very difficult to predict the timeline of an investigation, especially at such an early stage. There are so many variables in terms of what sort of evidence we feel we may need to get, who we may need to get it from and the level of cooperation that we get from parties in the market. There are too many. What I can tell you is that one of the things we're very focused on at the bureau these days, which we believe is very important, is moving our investigations faster than we have in the past. That sometimes ties into resources and electronic records and those sorts of things.

I can't give you a timeline, or even a guess. I can't even give you a guess.

[Translation]

Mr. Bernard Généreux: Do you believe you have all the necessary powers to get to the bottom of this or other potential cases of unfair competition? Do you believe your organization has the teeth and tools needed to get through this kind of investigation and make recommendations or even impose fines?

[English]

Mr. Matthew Boswell: What I can say in response to that very good question is that we're in a much better situation right now than we were four years ago in terms of powers to investigate anti-competitive conduct in the Canadian economy. We have more resources than we had four years ago. We've been left to atrophy for a long time in terms of resources. We're in a much better situation. The tools we have are to a certain extent streamlined, particularly when it comes to abuse of dominance and big companies abusing their

dominance in the market. We are in a much better situation and we have much better powers than we did a few years ago, sir.

[Translation]

The Chair: Thank you, Mr. Généreux.

Mr. Van Bynen for five minutes.

[English]

Mr. Tony Van Bynen (Newmarket—Aurora, Lib.): Thank you, Mr. Chair.

You indicated that you're doing a preliminary investigation. If you decide to go forward, does that information come back to this committee? Where does that information go? Where do those recommendations go?

• (1645)

Mr. Matthew Boswell: We conduct the substance of our investigations in private. That is, we gather evidence and make decisions along the way if we have sufficient evidence to advance the particular case. Then, if we continue to advance it and we believe that there is a problem and that there's evidence to establish the problem, we can either take the case to court, or engage the party who's engaged in the alleged anti-competitive conduct and see if they want to resolve the issue. Our evidentiary findings would not come back here; we do that in private.

Mr. Tony Van Bynen: What I'm getting at is that you're reacting to violations and infractions. To what extent are your findings able to inform the regulators?

Mr. Matthew Boswell: One huge component of our work is enforcing the law. Another important area of our work is providing advice to the federal government, federal regulators and provincial governments, if they invite us. We do that very frequently. In fact, by my count, in the last nine or 10 years, we've made something like 16 different submissions on competition issues in the financial sector. We've made those submissions to the Department of Finance, Payments Canada and, in one instance, to the British Columbia government. One of our recent recommendations was to Finance but about a policy OSFI had.

We have a very active advocacy role in promoting competition by giving advice to regulators. We've given advice to the CRTC many times over the last five years.

Those are our two main lines of work at the bureau. One is confidential and results in court cases, while the other is evidence-based advocacy to regulators.

Mr. Tony Van Bynen: You have access. Can you require a response to your concerns, or is this all just a matter of collaboration?

Mr. Matthew Boswell: We cannot require a response.

Mr. Tony Van Bynen: Okay.

What measures is the bureau considering to ensure that the transition to open banking and digital currencies promotes a level playing field in the market?

One of the things is.... Yes, I think it's good to have competition. I look south of the 49th parallel, and there are a lot of financial institutions that have collapsed as a result of some of their decisions. How would you take a look at what's needed to get more competition into the environment? At the same time, how can we establish the financial stability that's required? Is that your role, or is it your role to advise so that people don't get into things like cryptocurrencies that disappear overnight?

Mr. Matthew Boswell: Going back to what I was just saying about our advocacy, we've done a tremendous amount of advocacy with the Department of Finance on open banking and the design, including to Payments Canada on real-time rail. Perhaps Mr. Durocher wants to add to that issue.

I should say that, in terms of open banking, we're way behind many countries in the world. We're way behind the United Kingdom, in particular. Those same concerns about safety were all raised in the United Kingdom and have not come to fruition, as I understand it. Clearly, there are models out there that Canada can follow while not giving up safety and security.

Mr. Durocher can expand a bit on open banking.

Mr. Anthony Durocher: We've been quite active, working with the people crafting the open banking regime to try to lend our pro-competitive view.

Some critical issues, from our perspective, are in the governance of the system. These include controlling things like accreditation, who's allowed to access it and some of the technical standards that should be adopted to facilitate competition. Generally speaking, we try to bring our expertise to bear on those specific issues.

On the wider issue of competition versus stability, I would suggest that it's not a zero-sum game. With effective regulation, you can have competition increase in the sector without harming stability. I think that's a very important point in the context of enhancing competition in the Canadian financial services sector.

• (1650)

Mr. Tony Van Bynen: Is there a plan for the bureau to set up some regular reviews as some of these new things emerge, or are you solely restricted to complaints and resolving concerns? If so, what would be the principles or the criteria you've established for what you would identify as high-risk institutions?

Mr. Anthony Durocher: With respect to any regulatory regime, I don't think there would be a set review by the Competition Bureau. If we're invited to participate in a review process, for example, such as a public consultation on something being proposed, we participate if we think we can bring value to the discussion and share our experience. Again, that's just advice we would provide to regulators on how to craft a system.

Generally speaking, if there's any anti-competitive conduct in a new regulatory regime, it's all about getting the facts and evidence, and reviewing potential infractions. Oftentimes, the marketplace or

parliamentary committees can be our eyes and ears as to what might warrant investigation. In a given year, the Competition Bureau receives thousands of complaints. Our role is to triage them and commit our resources to potential competition infractions that are meritorious. We investigate those.

[*Translation*]

The Chair: Thank you, Mr. Van Bynen.

Mr. Savard-Tremblay.

Mr. Simon-Pierre Savard-Tremblay: Thank you, Chair.

Mr. Boswell, I'm going to take the liberty of going slightly off-topic to ensure that I truly understand how the competition bureau operates.

Do you initiate investigations only when someone blows the whistle? Do you have the authority to initiate one if you have a suspicion that doesn't stem directly from a complaint?

[*English*]

Mr. Matthew Boswell: There are many ways we can open an investigation.

We have a certain element in the bureau dedicated to proactive intelligence—seeing what's going on in the marketplace and where there might be anti-competitive conduct we should look into. We have, in fact, created a unit dedicated to providing that type of intelligence. We can find problems that way.

We are also often alerted to problems by players in a particular market who are experiencing what they believe to be anti-competitive conduct. As Mr. Durocher said, we get over 5,000 complaints a year that we have to work our way through and prioritize.

Another example is public hearings. These can raise issues, or shed light on issues, that make us determine we should look into the issue, as well.

Of course, another very important area is our relationship with law enforcement in Canada and around the world. We have very tight relationships with competition law enforcers around the world. They see problematic conduct that could be going on in multiple different countries when it's a multinational corporation.

There are many different ways we can find out about potential problems.

[*Translation*]

The Chair: Thank you, Mr. Savard-Tremblay.

If you'd like to ask one last question—

Mr. Simon-Pierre Savard-Tremblay: Indeed, I'd just like to summarize the answer.

The answer is no, you don't do it only when someone blows the whistle. An investigation can be initiated in other ways. For example, you could, on your own accord, launch an investigation.

Mr. Matthew Boswell: Yes, that's correct.

The Chair: Thank you very much.

Mr. Masse, you have the floor.

[*English*]

Mr. Brian Masse: Thank you, Mr. Chair.

With regard to the Interac time frame, can you disclose when there might be consideration of or a look at their practices taking place? You have a history going back many years. Is it open from that time frame forward? You'll be able to use the past issues, I suppose, as grounding. I am wondering whether there is a certain point in time when you can publicly capsulize things.

It's probably too early for that, anyway, because you don't know where your investigation will lead.

• (1655)

Mr. Matthew Boswell: That's exactly right. We're certainly at the early stages. As I said, we have a fairly long history, so we understand certain aspects. That particular previous case was confined to the two services I flagged earlier: ATM withdrawals and point-of-sale debit transactions.

I can't give you a timeline. I apologize.

Mr. Brian Masse: No, that's fair enough.

While I have you here, an issue I flagged—this is previous to your time, but I think it's a good example of what's taking place—was when Live Nation bought Ticketmaster. We've seen, most recently, a number of things taking place on that front. Is there anything you can say about that situation, in general, to the public? If not, you can just not do that. I'm just curious, because I have pushed this issue in the past.

Basically, you noted a few of the different takeovers that have taken place.

A famous one was Target taking over Zellers. Zellers actually had unionized employees and was paying them above the grid. It had benefits for its employees. Target came in, closed it down and we lost that competition. We have RONA taken over by Lowe's and so forth.

Do you have any general comments, as I leave you here, about how we can avoid getting into these situations? Is it really, at the end of the day, at the ministerial level, with allowing these things? Every minister changes their opinion and interest about dealing with these corporate takeovers. Best Buy is another example, taking over Future Shop, and I can go on and on, where we've seen the elimination of competition by a minister's opinion at that point in time.

Mr. Matthew Boswell: In terms of the Ticketmaster situation, I'm aware of the letter that you sent to Minister Champagne on that particular issue. When it comes to ticket prices, as we often say, we're not a price regulator. Our job is to enforce the Competition

Act. Price gouging and very high prices are something that, perhaps, the provinces can deal with.

Obviously, the Ticketmaster/Live Nation merger from 2010 was something that went through the bureau. At that time, we identified certain competition issues and required certain remedies, including divestitures and some behavioural remedies on that transaction.

In terms of the actual ticket price issue that you flagged in your letter to Minister Champagne, that's really not something within the bureau's remit.

Mr. Brian Masse: That's why I didn't write to you on that one. I've been writing to you far too often, I think, anyway.

Thank you, Mr. Chair.

[*Translation*]

The Chair: Thank you, Mr. Masse.

[*English*]

MP Perkins, the floor is yours.

Mr. Rick Perkins (South Shore—St. Margarets, CPC): Thank you, Commissioner and team, for coming on this important study. It's technically on e-transfer, but I'd like to talk a little more broadly about Interac and take it one step up.

Generally, Commissioner, I believe that you have a policy that anything more than one company having 30% market share is a problem, in terms of oligopoly, at least, if not market dominance. Is that correct?

Mr. Matthew Boswell: That's in our abuse guidelines, which Ms. McWhinnie can speak to.

Ms. Krista McWhinnie: I'll just step back to say that simply being large and dominant is not a violation under the Competition Act. We have certain thresholds for when a dominant entity is engaging in conduct that might violate the act. We also have to prove that they are, in fact, dominant, and that's where those market share thresholds come in.

Mr. Rick Perkins: In looking at the market share, five or six banks control, essentially, 80% or 90% of the financial services market.

When I sign up for a transaction banking account, am I given a choice of service providers on things like e-transfer or debit?

Mr. Matthew Boswell: I can't answer that, because I've never actually looked into it.

I don't know if my colleague—

Mr. Rick Perkins: I worked for a bank for five years. I know what the answer is. The answer is no; otherwise, they wouldn't print the Interac logo on your debit card. You don't really get a choice, do you? It comes with Interac.

The Interac market share is massive. I would say it's close to 100% of what Canadians do, whether it's on debit or e-transfer, all of that. Strangely enough, it's the banks that own it. It seems like a convenient way to keep other competitors out, by controlling the fact that I, as a banking customer, actually don't get a choice of service providers and what fees, ultimately, I would pay for transferring money or using electronic debit. Is that not correct? That's monopolistic power, is it not?

• (1700)

Ms. Krista McWhinnie: I think that type of thing really would speak to that first part of our test, under the abuse of dominance law, of whether or not there is market power. Then, there are two additional big parts of the test that we have to analyze and prove, one of which is that there's been conduct violating the act. That's conduct with an intent to harm either a competitor or competition, broadly. Then, we have to look further at what the effects in the overall market are, and whether there's a substantial lessening or prevention of competition.

Mr. Rick Perkins: Okay, so as a consumer, when I buy my financial services, I have zero choice as to what company I get with my bank account that does that. To me, that looks like market dominance, especially when Interac is probably 90% to almost 100% of everything that happens. It's pretty clear it's well above your 30% threshold for Interac.

This will be part of your competition, but we've had evidence that "Membership has its privileges", so to speak, to quote a former American Express credit card marketing firm. The membership here is the four banks and Desjardins that own Interac; they are the board that governs it and they get preferential rates. If you're not there and if you're trying to come in as a credit union or as somebody who's not part of the membership or the club of Interac, as a financial institution, you seem to get charged seven, eight, nine or 10 times the rate for the fees.

If you have 100% market dominance, if the financial services customers have no choice in what service comes with their bank account and if the fees charged for those who aren't part of the Interac club are 10 times what they are for those who are in, that sure looks like a monopoly power that needs to be broken up.

Ms. Krista McWhinnie: Those are exactly the types of things we would be looking to determine through the investigation and get evidence to establish. Normally, the act, as we've been saying, doesn't dictate how an upstream business can charge its downstream customers, but as you're saying, if that upstream business also competes downstream and has an element of control, then they may well have an anti-competitive incentive to harm downstream rivals, in part by increasing costs.

Mr. Rick Perkins: If I insist that the company my retail customers use to process transactions is a company I own, is that not a monopolistic power? I don't get a consumer choice.

Ms. Krista McWhinnie: That information would feed into the overall assessment of whether they have dominance and whether they're doing something deemed anti-competitive under the Competition Act, and then we would look at what the overall effects are in the market.

Mr. Rick Perkins: This examination shouldn't take long, when you have 100% market control, your members have preferential pricing and your consumers have no choice about what they use. I don't know a bigger monopolistic power than when I see the banks owning Interac and forcing that as the only choice on the consumers.

The Chair: Thank you very much, Mr. Perkins.

I'll now turn it over to MP Badawey.

Mr. Vance Badawey (Niagara Centre, Lib.): Thank you, Mr. Chair.

I'm going to follow the same line of questioning as Mr. Perkins. I'll start off with respect to pricing practices.

Mr. Boswell, how does the pricing structure of Canada's leading e-transfer providers compare to global benchmarks? That's question one. Further to that, are the fees consistent with competitive market prices and practices?

Mr. Matthew Boswell: I don't have answers to either of those questions at this point in time.

Mr. Vance Badawey: I'll put the same question to Mr. Durocher or Ms. McWhinnie.

Ms. Krista McWhinnie: I don't have that information.

Mr. Vance Badawey: Can I have that provided possibly in the future to the committee so we can add it to the testimony?

Ms. Krista McWhinnie: Just to be clear, that's not information I currently have, myself, to provide. When we do collect that type of information, it is as part of an investigation.

Mr. Vance Badawey: Okay, so it is not shareable.

• (1705)

Ms. Krista McWhinnie: No, it is not—not until we are in a position to publish something about our findings in pursuit of the administration or enforcement of the act, because that's what dictates what we can share.

Mr. Vance Badawey: Does that go for all three of you?

Mr. Anthony Durocher: That is correct.

Mr. Vance Badawey: Okay.

Have there been any instances where fees have been increased in a coordinated manner across different providers?

Mr. Matthew Boswell: At this point in time, I don't have any information, and I don't believe my colleagues have information, with respect to that in this particular situation.

Mr. Vance Badawey: In terms of exclusivity and gatekeeping, do any major financial institutions or service providers engage in exclusivity agreements that limit consumer choice for e-transfer services?

Mr. Matthew Boswell: Once again, I don't have any specific information with respect to that at the current time, other than to point back, once again, to our case against Interac, where we had a consent agreement until 2020 where we were trying to address exclusionary conduct by them.

Mr. Vance Badawey: Are there any other comments, or are you all in the same boat? Okay.

Are there practices that effectively prevent third party payment platforms or fintech companies from integrating with existing e-transfer systems?

Mr. Anthony Durocher: I think it's early days on a preliminary investigation. I think these are the types of issues that we would collect the facts and the evidence in respect of.

I would note, just coming back to the notion of the real-time rail, that open access to real-time rail highlights the importance of having competitive options to challenge incumbents in any sector. Open banking and open access to real-time rail are very important steps that can be taken to improve the conditions for competition.

Mr. Vance Badawey: With respect to Interac's dominance, Interac is the dominant player in Canada's e-transfer system. I think we've heard a lot about that. Does this dominance pose concerns regarding competition as well as innovation?

Ms. Krista McWhinnie: On the law enforcement side, as I was explaining before, being dominant is not a violation of the Competition Act. Even having a monopoly in Canada is not a violation; it's what you do with that. Is the dominant entity doing something to protect itself from having to face competition from its rivals?

Perhaps to be clear, just because there is not a violation of the Competition Act, that doesn't necessarily mean that a market is working well from a competition perspective. I think there are lots of markets where competition can be improved. Especially in an oligopoly-type setting, where you have concentration and high barriers to entry, it's sometimes the case that firms competing in that type of market structure don't need to violate the Competition Act in order to reach mutually beneficial outcomes.

Mr. Vance Badawey: There's a second part of that question with respect to the competitive dynamics. Are there current competitive dynamics in the e-transfer ecosystem that are stifled based on innovation as well as the development of alternative payment solutions?

Ms. Krista McWhinnie: On the law enforcement side, that's exactly the type of thing we'd be seeking to determine in an investigation. I think my colleague Anthony Durocher has also been talking about certain recommendations we've made to policy-makers on the real-time rail and open banking that might be able to better open that up and promote innovation.

Mr. Vance Badawey: Are there any other comments? Okay.

I think, for the most part, Mr. Chair, we've heard a lot of testimony, but there's also some that we haven't heard yet. Going into our future meetings, I think it would be prudent to invite others who may be able to answer some of those questions.

If you don't mind, I would like to put a motion on the floor, for unanimous consent, to invite to an upcoming meeting the CEO of

Rogers, Tony Staffieri—this would be on November 28—as well as the CEO of Bell Canada, Mirko Bibic.

I'm sorry. I believe Mr. Staffieri from Rogers is already coming here.

• (1710)

The Chair: Yes. He is coming on Thursday, but not on this, of course.

Mr. Vance Badawey: Okay.

I would like to add the CEO of Bell Canada, Mirko Bibic, and the CEO of Telus, Darren Entwistle, and have them appear here to answer questions about allegations of price increases made without consumers' knowledge.

I'm simply asking for UC so that we can move forward.

Mr. Rick Perkins: Two thumbs up.

The Chair: I see Mr. Masse.

Mr. Vance Badawey: Mr. Perkins is very happy about it.

The Chair: I just want to hear from Mr. Masse, given that it's his motion to begin with.

Go ahead.

Mr. Brian Masse: Thank you, Mr. Chair.

Thank you for that. I had originally suggested this earlier, but since that time I've learned that Telus doesn't do that practice. Bell does. I'm wondering whether we should just have Bell and Rogers in front of us at that time, as opposed to including Telus. They're not part of that practice, from what I understand.

The Chair: Well, it depends on MP Badawey.

Do you want to modify your motion?

Mr. Vance Badawey: No. I'd still like to invite those two individuals.

The Chair: Are the two Telus and Bell?

Hon. Michelle Rempel Garner: On a point of order, for clarity, is Mr. Badawey asking for unanimous consent to move the motion, because there was no notice given?

The Chair: There was no notice given. Therefore, yes, he's asking for UC to invite Bell and Telus to the meeting we're having on Thursday with Rogers present.

Hon. Michelle Rempel Garner: I'm a stickler for precedent, Chair, so I'm just checking.

The Chair: Yes, I'm usually a stickler, too, but given that it's not a very substantive motion—it's just adding two witnesses to a meeting we've already agreed to—I'm a bit looser on procedure, MP Rempel Garner.

Hon. Michelle Rempel Garner: That is the end of civilization.

The Chair: Hopefully, it's not.

Ideally, we could work with UC, but MP Masse is asking that we don't have Telus, just Bell.

Go ahead.

Mr. Brian Masse: Well, I'm also wondering what's in order, since I asked for this specific, exact thing and was denied by the Liberal Party's parliamentary secretary. Does that create a procedural issue that we might inadvertently find ourselves with? That's what I was wondering, as well.

The Chair: It was decided on by the committee. The committee can do what it wants with unanimous consent, so that's what is being sought right now.

Do I have unanimous consent to invite Bell and Telus to the next meeting, on Thursday the 28th, when we have Rogers?

Some hon. members: Agreed.

The Chair: I see no opposition. That's perfect. It is adopted.

Colleagues, it's close to 5:15. What I would suggest, given that we don't have time for another full round, is that I open the floor for a few more questions should members have any, regardless of party affiliation. When we're done, we can suspend for a few minutes and go to our second panel—hopefully before 5:30, so we can end earlier.

On that note, I'll open the floor. I'll recognize Mr. Perkins, and then Mr. Gaheer.

Mr. Rick Perkins: I'd like to do a quick, informal survey. I'd like everyone to reach into their wallet, pull out their card and look at the back of it.

Mr. Ryan Turnbull: It says "Interac", yes.

Mr. Rick Perkins: Does anybody have any other company on their debit card listed as an option? I'd just like to know.

Mr. Ryan Turnbull: No.

Mr. Rick Perkins: Commissioner, for anyone in your office, does it say anything else?

Hon. Michelle Rempel Garner: Don't show your credit card number online, Rick. We can see it. Oh, my God.

Voices: Oh, oh!

Mr. Rick Perkins: You can't see it. It's not a credit card. It's a debit card.

Nobody has another logo on the back. Going to an earlier statement, this looks like an abuse of monopoly power because no one is given a choice. Your card is preprinted with the company they own, and it's the only option.

Is that not the definition, Ms. McWhinnie, of what you said earlier about abuse of power?

Ms. Krista McWhinnie: Typically, if we have allegations of people being excluded from a network, or from offering a competing service, that's exactly what we investigate. Is there someone seeking to provide a competitive alternative being blocked in some way by the dominant entity? That would be the type of conduct we're looking at under the abuse of dominance provision in the Competition Act.

Mr. Rick Perkins: I'm a consumer being blocked from another option.

Ms. Krista McWhinnie: Right. However, the consumer would need to have a service provider wanting to provide the service.

• (1715)

Mr. Rick Perkins: There are ones trying to get into Canada that have not been allowed in by the system.

Ms. Krista McWhinnie: If there's evidence of them not being able to enter due to conduct that Interac is engaged in, that's exactly the type of thing that would fall within our provisions.

Mr. Rick Perkins: Thank you, Ms. McWhinnie.

The Chair: Thank you, MP Perkins.

MP Gaheer.

Mr. Iqwinder Gaheer: I have a question for Mr. Perkins, actually.

Mr. Perkins, were you talking about credit cards or debit cards?

Mr. Rick Perkins: I was holding up a debit card.

Mr. Iqwinder Gaheer: Okay, I just wanted to ask about that.

My question for the witnesses is this. You mentioned that you looked at ATM withdrawal fees the last time you looked at Interac. What came out of that? It's still very expensive. I think it was \$5 to withdraw any amount the last time I tried to withdraw from an ATM.

Mr. Matthew Boswell: It was more about the access to Interac's inter-member network by players other than the charter banks that created Interac in 1984. It wasn't so much about the fees they were charging. It was exclusionary conduct—not letting others join the network, or the fees they charged them to join. It wasn't so much about the per-transaction fee. That wasn't an issue in this case.

Mr. Iqwinder Gaheer: From recent memory, I think if it's your own bank that you're using the ATM for at a grocery store or wherever, you're charged a lower fee, but if it's a different bank from the card that you're using, you're charged a higher fee. I think that's something that's worth looking into when dealing with Interac.

I know it's a preliminary investigation that you're looking at. In terms of Interac, is it for profit or is it not for profit? How arm's-length is it? Is it at arm's length from the banks? Do they have a stake in Interac?

Mr. Matthew Boswell: Yes. My understanding is that there are 13 board members on Interac. Eight of them are representatives of the financial institutions that were the founders of Interac. Four of them are independent directors, and the CEO is also a board member. Interac is owned by its members, as I understand it, which are made up of Canada's large banks, as well as Desjardins, Credit Union Central, and I don't know the status of Canada Trust. It is owned by them.

It is my understanding, just from looking into the issue a bit in advance of coming here.... From our consent agreement, when it was still in place, the independent committee oversaw the ATM withdrawal and debit point-of-sale aspect of the business exclusively. That could only be done on a cost-recovery basis, so it was not for profit. In terms of other aspects of Interac, I'm not clear on whether their cost recovery is for profit or not for profit.

Mr. Iqwinder Gaheer: Thank you.

The Chair: Thank you, MP Gaheer.

I have MP Rempel Garner, Mr. Savard-Tremblay, and then Mr. Généreux.

Hon. Michelle Rempel Garner: First of all, Mr. Chair, I should apologize to my colleague Mr. Perkins for being a mama bear. I was worried about him, but my worries were unfounded.

Mr. Rick Perkins: I'm glad somebody is.

The Chair: I was personally hoping he would give his card to the chair for verification.

Hon. Michelle Rempel Garner: I know, right? There we go.

Mr. Rick Perkins: It was Bernard's card, I have to confess.

Hon. Michelle Rempel Garner: Thank you, Commissioner Boswell.

The abuse of dominance provisions are fairly new. They've mostly come into place under the most recent provisions of the Competition Act. Is that correct?

Mr. Matthew Boswell: They've been in existence, but what happened with the most recent amendments to the act was that they were significantly streamlined. That makes it less complex, if I can say that, for the bureau to get a prohibition order. That is the court telling a company to stop certain types of behaviour.

They were streamlined, and that was something that we recommended during the government's consultation on fixing the Competition Act.

Hon. Michelle Rempel Garner: Are there any decisions, in retrospect, that the bureau took, particularly in the financial sector, that you think as a committee we might want to revisit in light of the streamlining of those provisions?

• (1720)

Mr. Matthew Boswell: I can't think of one off the top of my head.

I don't know if my colleagues have any.

Ms. Krista McWhinnie: Nothing specific comes to mind. We're in the process of doing this work as well, given that we have this significantly strengthened provision, to look back at whether there was conduct that didn't meet this before that might now.

Hon. Michelle Rempel Garner: I'll close with this question, Mr. Chair.

If there are findings to that effect, and you feel that those findings would benefit us in terms of potentially directing our work, would you be willing to table that with the committee, if appropriate?

Mr. Matthew Boswell: That's a tricky one to answer, because we may decide to do other things if we see a different...if we put the lens of the new law on conduct that's still going on that we didn't take action on before.

Hon. Michelle Rempel Garner: Understood, thank you.

That's all, Mr. Chair.

[*Translation*]

The Chair: Thank you very much.

Mr. Savard-Tremblay, you have the floor.

Mr. Simon-Pierre Savard-Tremblay: I'd like to continue along those lines.

In a previous meeting, the member I'm replacing, Mr. Garon, gave a demonstration in which he explained that, to comply with the conditions for access to lower interchange fees, such as those that Visa and Mastercard charged the government, a restaurant had to do 240 services a year and had to sell each of its meals for \$2.43 or less for Mastercard and \$4.16 or less for Visa.

Ultimately, don't the conditions of access to lower interchange rates somehow undermine competition by making them harder for small businesses to access, for example, or by reinforcing companies that are already in a dominant position on the market?

Mr. Anthony Durocher: We recognize that the interchange rate can have a significant impact on small businesses. That's why, in 2010, the competition bureau went to court regarding practices by Mastercard and Visa. Since then, a more regulatory framework with a code of conduct has been in place in the industry.

At this time, our role isn't to monitor the rate, such as it is and dwell on it, but rather to ensure that there are anti-competitive adjustments to the sector.

That said, we recognize that it's extremely important to small and medium-sized businesses. That's also why we promote competition in the sector to ensure that the current and future regulatory framework will be as conducive as possible to new entrants and innovation.

The Chair: Thank you, Mr. Savard-Tremblay.

Mr. Généreux, be brief, because we're almost out of time.

Mr. Bernard Généreux: I'd like to follow up on what Mr. Gaheer said earlier.

When you want to withdraw money at any courthouse in Quebec, the fees are exorbitant. Based on what we read in various articles, those fees are mandatory. I just want to draw your attention to it so that you can verify that too. Interac and the banks seem to be telling the government that the Quebec government is the one charging those fees in courthouses. That's not true.

It would be interesting to include that kind of abusive fee in your study—that's what some media are calling them. I'm only drawing this to your attention.

The Chair: Thank you, Mr. Généreux.

That concludes the first two-hour part of our meeting.

Again, I want to thank the competition bureau, Mr. Boswell, commissioner, who was accompanied by Mr. Anthony Durocher and Ms. Krista McWhinnie.

Thank you very much for joining us.

I will briefly suspend so we can welcome representatives from the Financial Consumer Agency of Canada.

• (1720) _____ (Pause) _____

• (1730)

The Chair: Colleagues, we are resuming our meeting and our study of potential anti-competitive behaviour in Canada's e-transfer ecosystem.

I am pleased to welcome witnesses from the second panel, who are taking part in this four-hour marathon meeting by the industry committee. From the Financial Consumer Agency of Canada, we have Shereen Benzvy Miller, commissioner. She has been in the job for 12 days, so this is her first appearance as commissioner.

Madam, congratulations on your appointment and we thank you for taking part in this exercise.

Ms. Shereen Benzvy Miller is accompanied by Frank Lofranco, deputy commissioner, supervision and enforcement; Supriya Syal, deputy commissioner, research, policy and education; and Jason Bouzanis, assistant commissioner, public affairs.

Thank you all for joining us.

You will have five minutes for your opening remarks, followed by a discussion with the committee members.

Ms. Benzvy Miller, you have five minutes.

Ms. Shereen Benzvy Miller (Commissioner, Financial Consumer Agency of Canada): Thank you for the introduction, Mr. Chair.

I want to thank the committee for inviting us to appear before you today.

My name is Shereen Benzvy Miller. I'm delighted to have recently been appointed commissioner of the Financial Consumer Agency of Canada or FCAC; I was appointed during financial literacy month.

I have been on the job for 12 days now, as the chair stated, and I am honoured to lead an agency with such an important mandate.

I joined the FCAC during financial literacy month, which takes place every November and is now wrapping up. The focus of this year's campaign is to encourage Canadians to talk about money and take steps to increase their financial knowledge and confidence. FCAC's research shows that money conversations can lead to better financial outcomes.

FCAC welcomes this opportunity to contribute to the committee's study of Canada's e-transfer ecosystem and the broader electronic payments industry.

Joining me today are three members of the executive committee, and they too will be able to respond to questions from the commit-

tee. Each of these three functions work together to advance the agency's mandate, and support and protect Canadians. It is my hope that their knowledge and insights will aid the committee and inform our meeting today.

In my opening statement, I will begin by outlining FCAC's mandate. Then I'll turn to FCAC's role as it relates to the payment ecosystem. I will also explain the regulatory requirements related to electronic payments that FCAC oversees. Finally, I'll address interchange fees and e-transfers before concluding.

FCAC is an independent federal agency that protects the rights and interests of consumers of financial products and services. This includes the rights of merchants who process payment cards. The agency's mandate includes many important elements. First, as a strong and effective regulator, we supervise the compliance of federally regulated financial entities with consumer protection measures set out in legislation, public commitments and codes of conduct. That short summary of the regulatory side of our mandate carries great significance. Compliance with market conduct obligations leads to consumer protection and, ultimately, more positive financial outcomes for Canadians. Protected consumers leads to trust and consumer confidence in financial institutions. Consumer confidence contributes to the safety and soundness of the financial system.

The financial literacy side of our mandate is equally important. Through FCAC's national financial literacy strategy, we work with stakeholders from across the country to build the financial resilience of Canadians.

FCAC also conducts research and evidence-based analysis on trends and issues that impact financial consumers. This is particularly important as an avenue through which we inform and support the Department of Finance's role in developing financial sector policy and legislation.

FCAC's mandate is expanding to include responsibility for overseeing, administering, and enforcing Canada's consumer-driven banking framework. As a leader and innovator in financial consumer protection, FCAC is well placed to take on this responsibility.

• (1735)

[English]

Given that the committee is furthering its study with more specific areas of focus, I'll concentrate my remarks on FCAC's mandate as it relates to the payment ecosystem.

As discussed at our previous appearance before this committee, FCAC oversees the market conduct obligations of payment card network operators, also known as PCNOs, under the code of conduct for the payment card industry. Examples of payment card network operators in Canada include Visa Canada, Mastercard Canada, American Express, Discover, UnionPay and Interac for its debit card products. Payment card network operators must incorporate the code in its entirety into their contracts, their business practices and their governing rules.

Payment card network operators are responsible for ensuring that payment-processing companies using their networks comply with the obligations under the code. That means that payment-processing companies must understand and work proactively to meet the market conduct obligations of the code.

Recently, the government announced a revised code of conduct for the payment card industry. Most elements came into effect on October 30 of this year. The remaining, more technical, elements will follow on April 30, 2025.

Merchants in Canada that process payment cards now benefit from protections designed to ensure transparency, flexibility and choice. Disclosure and complaint handling are critical components of the protection, whether that be for consumers in retail banking or for merchants. Enhanced disclosure and improved complaint handling are key elements of the new code. For example, merchants will receive more information on card-processing fees at the time of quote, when they sign their agreement with their service provider and in their monthly statements.

Importantly, merchants also now have access to a complaint-handling process that is clear, simple and transparent, and that requires that their complaint be handled in a timely manner. Importantly, merchants now have a longer period to cancel their agreements and may do so if certain fee reductions are not passed on in full.

FCAC expects payment card network operators to implement the revised code. It is our role as FCAC to supervise their compliance with their market conduct obligations.

While FCAC does not comment publicly on its ongoing supervisory activities—though I brought Mr. Lofranco here anyway—the agency's conclusions on the compliance of federally regulated financial entities are described in our annual report. I should also mention that FCAC provides unbiased and authoritative information to help merchants understand their rights under the code.

I believe it would also be valuable to take this opportunity to briefly touch on FCAC's oversight of interchange and other core payment-processing fees. Regarding payment card fees, payment card networks and their participants are expected to meet the commitments related to fees under the code. The commitments related to interchange fees are as follows: to disclose fees in language that is clear, simple and not misleading; to notify merchants of fee changes within a minimum of 90 days of the effective date; and to respect a merchant's right to cancel the agreement. It is important to note that the market sets the interchange fees or rates.

We also recognize the committee's interest in e-transfer, which is a service provided by the Interac Corporation. Data from Payments Canada continues to suggest that Canadians use online transfer ser-

VICES, such as Interac e-transfer, primarily for peer-to-peer money transfers, rather than for purchasing goods and services. Interac is one of the payment card network operators that have signed on to the code of conduct for the payment card industry.

FCAC protects both consumers and merchants with regard to services offered by Interac. For consumers, e-transfers are a service provided by banks. Banks must disclose the fees that they charge for Interac e-transfers to their customers. There are very specific and stringent rules around the disclosure of fees charged by banks to their customers. These are one of the many obligations overseen by FCAC under the financial consumer protection framework. For merchants, Interac must ensure that payment-processing companies that enable merchants to accept debit cards at point of sale disclose the fees charged for this service. This is one of the many requirements under the code of conduct for the payment card industry that is overseen by FCAC. In both of these cases, whether it's for consumers or for merchants, disclosure of fee information enables these parties to make informed decisions about the products and services available to them. Interac fees themselves are a commercial decision.

To conclude, I have briefly outlined FCAC's mandate and how we protect financial consumers and merchants. I have described FCAC's role in the payment ecosystem. I have addressed FCAC's oversight as it relates to interchange fees and e-transfers.

• (1740)

FCAC's role is an important one. We safeguard consumers and merchants, and we equip them with knowledge to make informed decisions. FCAC's regulatory, research and financial education resources all work together and contribute to supporting a strong, safe and stable financial system for the benefit of Canadians. Through effective consumer protection and a commitment to strengthening financial literacy, FCAC fosters trust, a trust that enables Canadians to navigate their financial journeys with confidence and peace of mind.

Mr. Chair, that concludes my opening remarks. I look forward to the committee's questions.

The Chair: Thank you very much.

To start the discussion, I'll yield the floor to MP Rempel Garner for six minutes.

Hon. Michelle Rempel Garner: Thank you, Chair.

About this time last year, an article from Postmedia, I believe, based on access to information records, said that the FCAC “received 27,323 complaints about breaches of the Bank Act since 2019, and none received a response.”

How many have received a response since then, in the last year, of those 27,000 that had not received a response?

• (1745)

Ms. Shereen Benzvy Miller: If a customer is not satisfied with a service or product from their bank or their financial institution, FCAC encourages them to file a complaint with their financial institution.

Hon. Michelle Rempel Garner: I have the Financial Consumer Agency of Canada Act in front of me, and it's fairly clear on what your organization's mandate is, including “strive to protect the rights...of consumers of financial products and services and the public, taking into account the need of financial institutions to efficiently manage their business operations”.

I'll ask again. Of the 27,000 complaints about breaches of the Bank Act since 2019, how many have received a response? This article was published a year ago. Were any of those resolved or responded to?

Ms. Shereen Benzvy Miller: Do you want to take it?

Mr. Frank Lofranco (Deputy Commissioner, Supervision and Enforcement, Financial Consumer Agency of Canada): With respect to complaints, there are two regimes in place—

Hon. Michelle Rempel Garner: How many of those were responded to? There are 27,000. Did your organization respond to any of those after that article came out?

Mr. Frank Lofranco: Under our mandate, we are not in place to resolve complaints, but we do get reported—

Hon. Michelle Rempel Garner: Did you respond to any of them? The operative word was “respond”.

You had 27,000 people take the time to write to your agency. How many did you write back to out of that number?

Mr. Frank Lofranco: The large majority of those are reported complaints by the banks. Some of those are complaints—

Hon. Michelle Rempel Garner: I'm asking how many were responded to.

Mr. Frank Lofranco: Data from the banks that we receive as a requirement suggests that more than two-thirds since 2022, when the enhanced requirements came in for complaint handling—

Hon. Michelle Rempel Garner: Again, 27,000 people wrote to your agency. We fund you. We allocate money to you. We pay your salaries. How many of those 27,000 even got a “file under garbage” response?

Mr. Frank Lofranco: I just have to correct—

Hon. Michelle Rempel Garner: Do you know? Is it more than zero?

Mr. Frank Lofranco: The 27,000 complaints were—

Hon. Michelle Rempel Garner: Yes, according to an access to information record, 27,323 complaints received no response. How many of those received a response in the year since this information was made public?

Mr. Frank Lofranco: The majority of those complaints are received by the requirement for banks to report the complaints they received and how they're handled. They're not all directly into the FCAC from—

Hon. Michelle Rempel Garner: Did you respond to any of them?

Mr. Frank Lofranco: Where banks are concerned, and they report on their reportable complaints—

Hon. Michelle Rempel Garner: Can you table that? What I'd like to receive, and I think the committee would benefit from receiving, is this: Of the 27,323 complaints that were mentioned in this, how many received a response and under what circumstances? Can you please table that information with the committee?

Mr. Frank Lofranco: Absolutely.

Hon. Michelle Rempel Garner: Okay, that's great.

In preparing for this meeting... That's basically the report that we have from your committee. There are a lot of platitudes and whatnot, but there's not a lot of information. When a complaint goes into the system, what comes out of it?

My question would be this: What would you say that you do here in regard to keeping people safe?

Mr. Frank Lofranco: Would you like me to answer that?

Hon. Michelle Rempel Garner: What do you do here?

Mr. Frank Lofranco: By way of our mandate, we have three key functions—

Hon. Michelle Rempel Garner: But what have you actually done? This committee has heard some fairly atrocious behaviour on behalf of credit card companies and banks in the course of this study. We pay your salaries and those of your staff per your act, which was created in 2001, to ostensibly protect consumers from this behaviour, yet I don't have a lot of evidence that you actually respond to these complaints.

What is your value proposition?

Mr. Frank Lofranco: By way of example, I'll speak to our enforcement function to demonstrate part of the value we offer.

Through our enforcement function, we undertake hundreds of investigations a year. They translate into hundreds of notices of breaches being issued, including—

Hon. Michelle Rempel Garner: And then what happens?

Mr. Frank Lofranco:—some notices of violation. Through that work, all breaches we identify are subject to remediation, and they are remediated by the bank.

Hon. Michelle Rempel Garner: What would be a high-profile example we could point to for success in terms of the continued value proposition of your agency?

Mr. Frank Lofranco: Those that are publishable are on our website.

Hon. Michelle Rempel Garner: I would like you to tell me. You're here.

• (1750)

Mr. Frank Lofranco: I would say that, over the course of the last two years, the penalties issued to financial institutions have been in the millions, and the redress—

Hon. Michelle Rempel Garner: When you say “millions”, is that like one or two?

Mr. Frank Lofranco: Ten is the max, but there are also millions of dollars—

Hon. Michelle Rempel Garner: Okay. What is a high-profile case you could point to that would give us some assurance that your agency is materially helping to address some of the problems that have come up in the course of this committee study?

Mr. Frank Lofranco: By way of a case, I would like the opportunity to look back at our website to see what we've posted. I know there are some in play that I cannot speak to.

Hon. Michelle Rempel Garner: Does one come to mind for you in your role? Nothing?

Mr. Frank Lofranco: I can tell you that—

Hon. Michelle Rempel Garner: What's on the top of your CV in terms of a success?

Ms. Shereen Benzvy Miller: I will just intercede here for a moment, and then I will pass the floor to Jason, because I would like him to talk a little bit as the person who runs the client centre.

However, when we are concerned about complaints or statistics showing, for instance, that there might be a large number of defaults on mortgages expected because people may have gotten in over their heads, we have put in place the mortgage guidelines, which is a very active and very specific thing to protect consumers in order to ensure that any catastrophic outcomes could be prevented.

Hon. Michelle Rempel Garner: I'll just close with this and perhaps phrase my question differently: We are looking for solutions to protect consumers from abusive behaviour by Canada's financial institutions. Ostensibly, per this act, your agency is supposed to be helping us in that role. What are you doing? I've asked for a success. That should be a fairly easy question to answer.

Ms. Shereen Benzvy Miller: I think the mortgage guidelines are a success.

Hon. Michelle Rempel Garner: How?

Ms. Shereen Benzvy Miller: They will help to prevent catastrophic outcomes for people who are going—

Hon. Michelle Rempel Garner: Have they done that so far? Has there been anything in the past that you can point to—

The Chair: MP Rempel Garner, I'm sorry, but we're running out of time. Thank you.

Hon. Michelle Rempel Garner: Thank you.

The Chair: I'll now turn it over to MP Badawey for six minutes.

Mr. Vance Badawey: Thank you, Mr. Chair.

I'm going to ask some questions that I just asked the previous witnesses from the Competition Bureau, which they were unable to answer. I'm hoping you can answer some of these questions.

Question one is this: How does the pricing structure of Canada's leading e-transfer providers compare to global benchmarks?

Question two is this: Are fees consistent with the competitive market practices?

I got a partial answer from the Competition Bureau, but I'm hoping to get a more complete answer from you folks. I'm not sure which one of you guys wants to jump in, but feel free.

Ms. Shereen Benzvy Miller: We do not oversee the fee structure per se. I would say that's something you would have to raise with the Bank of Canada and the Department of Finance.

We do a lot of research to understand the comparative ecosystems, so we engage with the policy-makers and the departments that are doing that work to share our findings with them. Part of our role in the prudential space is to provide information to protect consumers from a consumer perspective. We do a lot of research there, but I'm not actually sure what you're trying to get at.

Mr. Vance Badawey: I'm looking for parameters. Essentially, what is out there? What do consumers have available to them?

Ms. Shereen Benzvy Miller: If I could just give you a specific example, when the ecosystem looks at how different consumers are treated with respect to insufficient funds charges, which is when a check bounces, it was found that Canada's fee structure was not really in alignment, so the government has actually taken steps to ensure that the NSF fees, which is what they're called, are lowered, so that particularly the most vulnerable Canadians, who would be the ones who wouldn't necessarily have the fluidity of their accounts available to them and who might suffer from repeated insufficiency of funds—

Mr. Vance Badawey: Do you find that what this government has done has been fair and equitable to consumers?

Ms. Shereen Benzvy Miller: You know, for somebody who is managing a system like this, do we think it protects consumers more if we align Canada with the norms of other jurisdictions? It does help to know where we sit in that continuum.

Mr. Vance Badawey: Do any major financial institutions or service providers that you know of engage in exclusivity agreements that limit consumer choice for e-transfer services?

● (1755)

Ms. Shereen Benzvy Miller: We manage a code of conduct for federally regulated financial institutions.

By the way, feel free to jump in at any time. On day 12, I just want to make sure my answers are fulsome.

We manage a code of conduct. The code of conduct is something that we regulate and supervise very specifically. As Mr. Lofranco said, we investigate any complaints against the code if institutions are not respecting their obligations under the code. That's when we would, for instance, send a notice of non-compliance, or when we might level a fee against a bank that's not behaving and whose market conduct is out of whack with what the code of conduct expects.

The previous commissioners have levelled various non-compliance statements against different institutions and have also used the monetary penalty options on a number of occasions.

Mr. Vance Badawey: I appreciate that.

I guess I'll pivot over to consumer impact. Are Canadian consumers facing higher fees or reduced services as a result of anti-competitive behaviour in the e-transfer market?

Ms. Shereen Benzvy Miller: That really is a question for the Competition Bureau. It's not within our purview to second-guess the structure of the financial ecosystem. What we really do is regulate the participants to ensure that they are behaving, that their market conduct is appropriate and that it is not prejudicing any merchants or consumers in that environment. We are ensuring that information is shared appropriately, in a timely way and in a way that these merchants and consumers can understand it.

For example, the code requires that merchants be notified of any changes in fees in advance, that it be on their statements, that it be obvious and that it not be in minuscule print at the bottom. What's important is that people have information, because that's power. That allows them to then choose their service providers.

Mr. Vance Badawey: On that, in terms of transparency, is Interac transparent about its fee structures for merchants and consumers, in your view?

Ms. Shereen Benzvy Miller: They are participants in the code of conduct, and we supervise that, if that's what you mean.

Mr. Frank Lofranco: With respect to fees, when you're speaking about consumers and the fees they incur by way of banking services, such as Interac e-transfers, our role is to ensure compliance with such requirements as disclosure, so that there's full awareness of the fees associated with that service or other services or products. By way of that disclosure, there's also a need to secure express consent in writing so that there's an awareness. Obviously, if there are complaints in relation to this, there's a complaint-handling regime. There are a host of consumer protection measures as they relate to fees that we have a role in with regard to educating consumers and supervising entities on the basis of those obligations and requirements.

With respect to merchants, a disclosure is a feature, but that feature sits in the code. In the case of consumers, those are legislated requirements. In the case of merchants, those are established in the code. Again, disclosure is important.

Mr. Vance Badawey: That was a perfect segue to my next line of questioning about merchants, but the chair is telling me that he's going to cut me off.

I do want to thank you for the answers. I appreciate that.

Thank you very much.

Mr. Frank Lofranco: Thank you.

[*Translation*]

The Chair: Thank you, Mr. Badawey.

Mr. Savard-Tremblay for six minutes.

Mr. Simon-Pierre Savard-Tremblay: Thank you, Mr. Chair.

I want to thank all the witnesses.

Ms. Miller, congratulations on your appointment and welcome to our committee meeting.

As a few committee members have already done, I'd like to ask you a question to better understand your supervisory activities.

Does the Financial Consumer Agency of Canada undertake regular analyses of competition in the e-transfer ecosystem in Canada?

If so, how do you do that?

Ms. Shereen Benzvy Miller: [*Inaudible—Editor*] responsibility and to ensure that the participants in the code actually behave in compliance with the code. It's not a competition analysis. We focus on the obligations set out in the code. For example, was the right information provided? Are consumers properly informed? Do they understand their rights and obligations within the financial ecosystem?

● (1800)

Mr. Simon-Pierre Savard-Tremblay: The main focus is e-transfers, and there is supervision.

What is your process?

Ms. Shereen Benzvy Miller: Yes and no. E-transfers such as those done through Interac—

Voices: Oh, oh!

Mr. Simon-Pierre Savard-Tremblay: Mr. Chair, we are not on vacation here.

The Chair: Please, fellow members.

[*English*]

Please keep it quiet around the committee table and in the back as well.

[*Translation*]

Thank you, Mr. Savard-Tremblay.

Ms. Shereen Benzvy Miller: Thank you.

The Bank of Canada is actually in charge of Interac regulations and e-transfers, not our agency.

Mr. Simon-Pierre Savard-Tremblay: Do you have any recent reports on the competition practices of financial institutions and payment service providers?

Ms. Shereen Benzvy Miller: No, competition is not really our field.

However, we have a lot of information on the obligations of all financial institutions and whether their obligations are met or not. For example, when the commissioner sends us a decision on an irregularity or a non-compliance with the code, we publish it. It is well documented.

That's what we do in consumer protection.

Mr. Simon-Pierre Savard-Tremblay: Could those documents be submitted to the committee?

Ms. Shereen Benzvy Miller: Yes, they are on our website.

Mr. Simon-Pierre Savard-Tremblay: Okay, thank you.

Have measures been put in place to ensure that e-transfer fees remain transparent? Is that part of your area of expertise?

Ms. Shereen Benzvy Miller: Yes, transparency is included in our code of conduct, but it has to do with all fees consumers pay to their bank, including those related to e-transfers. The transparency applies to both merchants and regular consumers.

Mr. Simon-Pierre Savard-Tremblay: How will the agency protect consumers from the emergence of fintechs and the new payment solutions they offer, such as instalment payments, buy now/pay later, electronic wallets, PayPal, Apple Pay, Google Pay and cryptocurrencies?

Ms. Shereen Benzvy Miller: The code of conduct was renewed. It has been strengthened to ensure that new services and new players entering the ecosystem are included and subject to our supervision and consumer protection decisions.

Mr. Simon-Pierre Savard-Tremblay: I still imagine that it must be much more difficult to supervise all the online options that are being set up. Beyond the code itself, expanding it to cover new methods and including the options in the code, the way you supervise needs to be completely different.

It's a bit of a game changer.

Mr. Frank Lofranco: Thank you for your question. I will answer in English.

[*English*]

With respect to the code specifically, the payment card network operators are required to ensure compliance with the code across the network, including all the downstream participants.

Our role in supervising them involves many steps. First, by way of example, we review the policies and procedures to ensure that they will enable compliance. We also provide guidance to set expectations on the consumer protection measures included in the code.

Complaints are another important feature, so we do receive complaints reported by the payment card network operators. We also receive complaints from merchants. I'll use that as an example to say that when we receive these complaints, they are investigated. In the case of the payment card network operators, over the years there have been significant complaints about fees and complaint handling. As the commissioner noted in her opening remarks, we have seen improvements made in the new code to ensure greater transparency around fees and to improve timelines around complaint handling.

Those are some of the ways in which we supervise payment card network operators.

● (1805)

[*Translation*]

Mr. Simon-Pierre Savard-Tremblay: Generally speaking, did you note that consumers had the necessary information? Were they sufficiently informed about the new payment methods? Are these methods tracked, studied and risk-assessed by the Financial Consumer Agency of Canada?

Ms. Shereen Benzvy Miller: We do a lot of research directly with consumers.

Ms. Syal could describe our efforts in terms of dialogue with consumers.

[*English*]

Dr. Supriya Syal (Deputy Commissioner, Research, Policy and Education, Financial Consumer Agency of Canada): Thank you for the question, and thank you, Commissioner.

We work in a few different ways with consumers. We directly study consumers to understand what it is they understand and don't understand. Based on that, we do consumer education to help them understand the things they don't. We also do direct interventions with consumers. In the last four years, for instance, we have done interventions with just under 700,000 consumers, which have led about 200,000 of them to make better financial decisions about their money. The third thing is that we work, through the national financial literacy strategy, with ecosystem stakeholders across the country, who in turn run on-the-ground programs that we partner with them on, or run financial or digital literacy programs online and through their extensions.

These are all parts of the way we study what consumers know and don't know, and then we try to use those insights, as I said, to inform our educational material and the work we do with the Department of Finance on policy and regulation.

[*Translation*]

Mr. Simon-Pierre Savard-Tremblay: I imagine I'm out of time, Mr. Chair.

The Chair: I'm feeling generous, Mr. Savard-Tremblay, because you were interrupted.

Mr. Simon-Pierre Savard-Tremblay: Thank you very much for your generosity, Mr. Chair.

Ms. Miller, I understand your process, but I'll go back to the starting point of my question.

Generally speaking, do you find that consumers have all the information they need?

Ms. Shereen Benzvy Miller: It's hard to know if they have all the information they need, because I think more information is always needed in an information-based world.

We have a financial literacy strategy. Every aspect of that knowledge is required every day by people of all ages. All Canadians need this kind of information, from the age of three and throughout their lives.

I would also like to add that our efforts to make personal banking services information more accessible to consumers will add to the range of opportunities we offer to help people get the information they need in the financial sector.

The Chair: Thank you.

Mr. Masse, you have the floor.

[*English*]

Mr. Brian Masse: Thanks, Mr. Chair.

Thank you to our guests.

What is the rate of opting into the code of conduct? Has everyone in the financial sector been part of the code of conduct, including credit cards?

Mr. Frank Lofranco: Thank you for the question. I want to make sure I understand it. Payment card network operators have signed the code of conduct. The commissioner identified them in our opening remarks.

When—

Mr. Brian Masse: Who hasn't signed the code of conduct?

Mr. Frank Lofranco: I believe one entity has not signed the code of conduct, but their name escapes me. I apologize for that. Six have, including Interac.

Mr. Brian Masse: Well, you can get back to us on that. You can submit that to us later, and we'll make sure we publicize it.

So, it's not a mandatory code of conduct. What have the repercussions been for that one entity that didn't sign the code of conduct? Is it mandatory? If it's not mandatory, are there any repercussions anyway?

Mr. Frank Lofranco: Codes of conduct are developed with industry. They secure the agreement of industry and signatories.

Mr. Brian Masse: Yes, I know what they are, but they're either voluntary or mandatory.

Mr. Frank Lofranco: I would have to characterize them as generally voluntary, but with a lot of take-up across all the codes we have.

• (1810)

Mr. Brian Masse: So, they're voluntary.

What's the penalty for not signing the code of conduct? We can't even name the one entity now, if there is just one. There might be others. How do you gauge who's...and what is the valuation of this voluntary code of conduct for all of the operators in it?

I'm very familiar with this, because I worked on a bill on the aftermarket with regard to the automotive sector. That was for a voluntary code of conduct.

Very clearly for the committee here, what happens when you have one, at least, that is outside, and then you have the rest? Are the rest participating equally, or are they participating in different forms?

Ms. Shereen Benzvy Miller: I think Jason would like to take this one.

Mr. Jason Bouzanis (Assistant Commissioner, Public Affairs, Financial Consumer Agency of Canada): Yes, perhaps, Mr. Chair, just as a point of clarification, I can confirm that all PCNOs have signed the code. There is one PCNO, however, that does not offer cards or have acquirers that has not signed the code. For all intents and purposes, the ones that are active within the payment system have signed the code.

All the PCNOs that have acquirers and issuers have signed on to the code. The Exchange is the—

Mr. Brian Masse: Why would the one be invited to sign the code of conduct but then you're saying they really don't belong in the code of conduct? Is that really what you're saying?

Mr. Jason Bouzanis: The Exchange is an ATM network, which is the one that has not signed.

Perhaps my colleague, Mr. Lofranco, could comment on how we supervise those that have signed on the code.

Mr. Brian Masse: What is that corporation that didn't sign the code of conduct?

Mr. Jason Bouzanis: It's The Exchange, which is an ATM network.

Mr. Brian Masse: Thank you. I appreciate that.

How do we deal with this? What are the repercussions?

Mr. Frank Lofranco: The obligations under the code fall to all payment card network operators. I'd like to thank my colleague, Mr. Bouzanis, for the clarification.

With respect to the obligations under the code, the payment card network operators have the obligation to comply with the code and to make sure all participants within the network also comply with the code. Our role is to supervise that compliance. We do that in multiple ways. On the one hand, we review policies—

Mr. Brian Masse: What's the penalty for them not signing the code?

Mr. Frank Lofranco: Just to be clear, by way of our role and our mandate, we supervise the compliance on the part of signatories to the code. That's where we focus our efforts, to ensure compliance on the part of the signatories.

Mr. Brian Masse: What I'm asking is, what are the repercussions and what takes place? Is there an administrative monetary penalty against the operator? Is there a restriction to market access? Is there publicity? Is the decision sent up to the minister? I know that the minister might want to know at least if there's compliance or not.

We had the same problem on the right to repair legislation. There were good operators and there were operators that were not good. Because it was voluntary, they didn't have to do certain things.

What are the repercussions for this particular operator?

Mr. Frank Lofranco: I appreciate your question.

I think you're exploring what happens in situations of non-compliance. There is non-compliance that we do discover among payment card network operators. We discover that through reviews and assessments we do, as well as complaints we receive. In such cases, there is one of two or three options we can pursue. On the one hand, there is the opportunity to enforce compliance with the code by way of what we call a notice of non-compliance. When we issue a notice of non-compliance, it requires remediation on the part of the entity. If there's financial harm to consumers, or in this case merchants, there's an expectation that the financial harm is addressed and the consumer or the merchant is made whole.

Oftentimes, it may be accompanied by an action plan in which the prescriptive steps to undertake the corrective action are identified. We actively monitor action plans in that regard. We do have enforcement authorities in relation to non-compliance among payment card network operators who have signed on to the code.

Mr. Brian Masse: That's helpful.

Ms. Shereen Benzvy Miller: If I could just add—

Mr. Brian Masse: I don't expect you to have this now, but could you table the decision-making process on that?

I'm looking at your website right now, and it talks about how you can protect the consumer. My concern as a legislator is whether you even have the powers to protect the consumer. I would like to have a rundown of the last number of years as to when there wasn't compliance or there were issues from consumers: what the repercussions were, whether it's notice of compliance or reparations, in what cases they were done, or whether there was pressure just to redirect their behaviour. That's what I think is really important for us to get an idea of as to the opting in and opting out.

Just to complete this, though, this is, in the vast majority, a voluntary code. You mentioned the fines. You didn't say fines—you didn't go that far—but administrative monetary penalties are the normal fining system related to that. You don't have that capability, though. You don't have AMPs that you could do.

• (1815)

Mr. Frank Lofranco: In response to your question, I just want to ensure that there's clarity. If we're talking about financial institutions and non-compliance that we discover within financial institutions, there are enforcement authorities that we leverage, and they can be accompanied by financial penalties where warranted. They also have the feature of required remediation and redress to consumers to make them whole where there was financial harm. Many of those—

Mr. Brian Masse: That's good. I'll just finish here with my time.

I don't expect you to have it here, but I'd like a rundown for our analysts to have on cases that happened where there was non-compliance and what the measures were against the financial corporations for that. I think that would be helpful for the public to know whether or not we have the proper mandate for the agency.

Thank you very much. I appreciate that.

Ms. Shereen Benzvy Miller: We're not actually in the business of naming and shaming those who don't sign on. We do list, for the purpose of consumer—

Mr. Brian Masse: I'm sorry, but that's not naming or shaming. That's actually responding to whether people understand whether they're dealing with an entity that's following the code of conduct that's been legislated by Parliament, whether it's mandatory or not mandatory. I don't think that's naming or shaming.

Ms. Shereen Benzvy Miller: No, I completely agree. What I wanted to clarify was that we do list the signatories. Consumers are aware of whether or not the entity they're dealing with is a signatory to the code of conduct.

The reason I'm mentioning it is that I don't actually love the term "voluntary", because once a code of conduct is signed and you've entered into it, it's a binding code. It is something that we take very seriously and we will actually supervise and respond to any kind of market behaviour that's not in alignment with it.

Mr. Brian Masse: If it's mandatory, why do you currently have one corporation that's outside of it?

Ms. Shereen Benzvy Miller: They don't actually meet the terms. They're an ATM company, so I'm not sure they are really a company that's outside.

The point is that consumers will know which companies they're dealing with, and they will know if their company is a signatory to the code of conduct. That was the only clarification I wanted to bring.

Mr. Brian Masse: I don't think that clarified it, because previous testimony from your colleagues said that there was one company outside the current code of conduct right now. Now you're providing an excuse for that company being outside of the code of conduct. Either they're in, or they're out.

There are mandatory or voluntary codes of conduct. Just because you view it as somebody signing on, that doesn't necessarily make it mandatory that they have to stay in or out. It depends.

Mr. Frank Lofranco: Let me just correct my previous testimony. The entity that has not signed on to the payment card code does not issue credit cards. Hence, there are no criteria that would cause them to sign on to the code.

My apologies, I had not recalled the fact as to why they were out. They actually wouldn't qualify to be a signatory because they do not issue credit cards in the way that Mastercard, Visa and others that have signed the code do.

I apologize for that error. Hopefully that clarification helps with your question.

The Chair: Thank you, MP Masse.

Mr. Perkins.

Mr. Rick Perkins: Thank you, Mr. Chair.

Thank you, witnesses.

When I look at the annual report of your organization, I believe you spent \$53 million last year. Is that correct?

Ms. Shereen Benzvy Miller: Yes.

Mr. Rick Perkins: Is that a parliamentary appropriation?

Ms. Shereen Benzvy Miller: No.

Mr. Rick Perkins: Where does it come from?

Ms. Shereen Benzvy Miller: With the exception of \$5 million, which is from the fiscal frame, the rest is all from participating institutions—from banks.

We're funded externally from the financial framework.

Mr. Rick Perkins: Is it a requirement that they pay?

Ms. Shereen Benzvy Miller: Yes.

Mr. Rick Perkins: The government requires the banks to pay.

There are 27,000 and change, as MP Rempel Garner said, of complaints that were outstanding. Did those complaints all come from the banks, or did they come directly to you?

Mr. Frank Lofranco: With respect to those complaints, a large majority are reported to us by banks under a prescribed threshold.

We call those reportable complaints. We do receive some complaints directly into our consumer information centre. All complaints are responded to, but as an agency, we are not mandated to resolve them.

In the case of banks, we monitor the degree to which complaints are resolved by the bank to the satisfaction of customers and the number of complaints that are not resolved to the satisfaction of the customer. Then the customer has the opportunity to escalate to an external complaint body for an independent review.

• (1820)

Mr. Rick Perkins: The government puts in \$5 million and mandates the banks to put in money, which of course they pass on as a cost to the consumer through higher service fees or whatever, because that's not an altruistic thing they do.

Those 27,000 and change are complaints that came through the bank ombudsman process that you monitor. Is that correct? I'm just trying to figure out whether you're just nothing but a duplication of what the banks already do.

Mr. Jason Bouzanis: If the committee will allow, Mr. Chair, perhaps I can weigh in and provide some additional clarity.

Mr. Rick Perkins: Please do it quickly. I have limited time.

Mr. Jason Bouzanis: Yes. I'll just provide some additional clarity.

Within the complaints-handling system, in terms of FCAC's role, of course we oversee the complaints-handling system of financial institutions and the external complaints body. The financial institutions, the federally regulated ones, also report annually to us on the complaints they receive. FCAC receives complaints as well through our consumer information centre.

I'm very familiar with the statistic that was shared earlier. I think it's important to note that of all the complaints FCAC receives directly—those could be calls or correspondence—we engage directly with each Canadian who contacts us. We receive approximately 13,000 contacts a year. Of those, about half are related to complaints.

I should note that a small percentage, approximately 280, are related to areas that FCAC actually oversees. I can say with certainty that everyone who contacts FCAC directly is contacted and replied to, either in writing or over the phone.

Mr. Rick Perkins: Right, but the banks have a process that's required under law with an ombudsman or ombudsperson to resolve the complaints. Do you get paid just to watch those?

Ms. Shereen Benzvy Miller: We're a regulator. We oversee the system to ensure that they are responding and that consumers are protected. We're a consumer protection agency.

Mr. Rick Perkins: If they don't, what happens?

Ms. Shereen Benzvy Miller: Then we can investigate and we can take supervisory actions.

Mr. Rick Perkins: You've admitted that you can't compel them to do anything: "Hey, why didn't you fix this thing you were supposed to fix?" "We chose not to."

Ms. Shereen Benzvy Miller: We can issue notices of non-compliance. I mean, it's an engagement. It's an engagement with the industry as an oversight—

Mr. Rick Perkins: So we pay you for engagement.

Ms. Shereen Benzvy Miller: No, we are an oversight body.

Mr. Rick Perkins: You're paid for engagement, but you're not—

Ms. Shereen Benzvy Miller: We are an oversight body that's overseeing codes of conduct to ensure that market behaviour is appropriate.

Mr. Rick Perkins: But if you're an oversight body, why don't you report any of this stuff in your annual report?

Ms. Shereen Benzvy Miller: We report it annually—

Mr. Rick Perkins: There are no details here of where the banks haven't complied, or have complied, by institution.

Mr. Jason Bouzanis: Perhaps Mr. Lofranco could add some information on what we do report on.

Mr. Rick Perkins: I have limited time. I don't see it in your annual report. If you're going to take two minutes to answer that, I can't afford that. I'll move on to my next question.

Mr. Frank Lofranco: I'll take less than two minutes.

When we find that institutions are not abiding by the expectations around complaint handling, we can compel them to undertake a remediation activity to correct for that. When there is harm in relation to financial consumers, we can require them to make those consumers whole. In monitoring the complaint-handling processes within banks, we do have the authority to enforce the obligations.

Mr. Rick Perkins: It says here that your third goal is this: "Be the authoritative source of Canadian financial consumer protection information". You list a bunch of public policy areas where you've done that. Have you released those papers? Have you ever done anything on interchange fees or Interac's monopoly? If you're the authoritative source of financial consumer protection, and the banks own the only e-transfer and debit system in Canada and force consumers to use that without any choice, have you ever done any work in that area? That's the purpose of this study.

Ms. Shereen Benzvy Miller: Yes, and we do ensure that the fees banks are charging their customers related to those services are fully transparent and that consumers are aware of what the charges are.

Mr. Rick Perkins: But how are you a consumer protection agency if you don't—

Ms. Shereen Benzvy Miller: Because—

Mr. Rick Perkins: Just let me finish my question first.

How are you a consumer protection agency? If you sign up for a transaction banking account in Canada, you have no choice of ser-

vice provider that provides you with e-transfers or debits. The only one you have access to is the one that's owned by the banks.

• (1825)

Ms. Shereen Benzvy Miller: As a consumer, you have the choice to use those services or not—

Mr. Rick Perkins: No, you don't.

Ms. Shereen Benzvy Miller: —as long as you understand the cost of using them.

Mr. Rick Perkins: I have no choice.

Ms. Shereen Benzvy Miller: To use e-transfer or not—

Mr. Rick Perkins: Let me finish, please.

If I have Royal Bank, TD, CIBC or Scotiabank, they all own the one provider. I don't get a choice to use Interac or somebody else. I have to use what they have. That's a monopoly.

You're a consumer protection agency, and you haven't looked at that issue.

Ms. Shereen Benzvy Miller: I'm not the Competition Bureau, sir. I can—

Mr. Rick Perkins: No, but how can you be a consumer protection agency if you don't look at those policy areas?

Ms. Shereen Benzvy Miller: Mr. Chair, can I answer?

Mr. Rick Perkins: You claim to be "the authoritative source of...financial consumer protection information". I don't think you are, if you're not looking at these issues.

The Chair: Mr. Perkins, I appreciate that you've made your point. You are out of time.

I'll let the witness answer. Then we'll move on to MP Van Bynen.

Ms. Shereen Benzvy Miller: Thank you.

The role of the Financial Consumer Agency is threefold. We ensure that consumers are well informed about the services and the costs of services that they are consuming. We are responsible for supervising the entities that actually provide those services to ensure they are respectful of their obligations, and when they are not, we have options to enforce and make sure they comply and make the consumer whole. We also provide what I would call integrity in the system so that actors like the Department of Finance or even the Competition Bureau are aware of information around consumer protection that we become aware of or that we have researched and have findings on.

The Chair: Thank you very much.

MP Van Bynen, the floor is yours for five minutes.

Mr. Tony Van Bynen: Thank you, Mr. Chair.

I have in front of me a letter that's addressed to you, the chair of the standing committee, and it's from Stripe, so I'm assuming this is a matter of public information. There are some excerpts from this letter that I find very interesting, because I think it was the activities of Stripe that intensified our interest in the fees and the transactions.

Stripe Inc. is incorporated in the United States and dual-headquartered in San Francisco, California, and Dublin, Ireland. The other part is that, while the authority of the House of Commons and its committee does not extend to companies or individuals outside of Canada, we wish to be as helpful as possible. The concern that we had raised and that brought us into these discussions was that Stripe was only passing the interchange reductions through to small businesses on their interchange plus pricing. There were two categories of pricing, and they were only going to make that available to one category. They've indicated to us that they have over 900,000 merchants as clients, so the effect or the role that Stripe has in the interchange of payments, in my view, is substantial.

My question for you is this: Given that we're facing a global marketplace, how does FCAC monitor whether fees charged by Interac align with the values and the costs of the service provided?

Mr. Frank Lofranco: I appreciate the question. I think we were last at committee when the Stripe issue surfaced. Since that time, we have investigated the issue by way of the decision Stripe had made.

As a participant in the network, they are obligated to abide by the obligations in the code, so the obligation with regard to notifying merchants in relation to that change and the time period of notification, which is 90 days, is something we looked at.

There were two aspects of the code that were in question here. When considering the decision on the part of Stripe and the obligation to inform merchants 90 days in advance, and then protecting the right of merchants to opt out of receiving services from Stripe, we found at the time that they were compliant with the code. The code in effect at that time was the one previous to the current code that recently came into effect, but we did look at the issue and we did speak with the market and with the payment card network operator in question.

Mr. Tony Van Bynen: Coming back to that, how does FCAC ensure compliance with the code of conduct? What type of monitoring activities do you undertake, and how do you do that in a global environment?

• (1830)

Mr. Frank Lofranco: I can tell you that with respect to the code, there are several things we do, ranging from promoting compliance with the code to enforcing any penalties for non-compliance with the code. In between those two bookends is our role in reviewing all the policies and procedures that are to cascade throughout the network to ensure they're compliant with the obligations. We also require mandatory reporting. For example, we receive all complaints that merchants have made to participants within the network. Those complaints can trigger conversations with payment card network operators to understand their materiality and

severity, and they can also trigger an investigation on the part of FCAC.

Ms. Shereen Benzvy Miller: Maybe you could give an example, like decision 126.

Mr. Frank Lofranco: On our website, there is a decision in relation to a breach as it related to the code, which we subsequently conveyed in a bulletin of expectations for code participants. Essentially, it requires payment card network operators to be proactive in ensuring compliance with the code and to report to us on a timely basis any issues in relation to potential non-compliance. It also requires them to document and maintain evidence to demonstrate actions taken to ensure compliance with the code.

That would be an example where our supervision translated into an enforcement action, which we call a notice of decision, on the part of the commissioner, and then translated into requirements to ensure that non-compliance does not occur again.

Mr. Tony Van Bynen: We heard earlier that there were something like 27,000 complaints that were received. I also heard that you have the banks report to you the complaints they get. To what extent do you authenticate or audit the reporting processes of the banks? Your operating costs are covered by the banks, and you're receiving information provided to you by the banks. It's almost like leaving Nero in charge of the gas pumps. I'm just wondering how you audit and authenticate the information you're getting.

Mr. Frank Lofranco: That's a very good question. I can say to you that we do have mandatory reporting requirements for financial institutions. One type is complaints-related reporting. The complaints we receive are one piece of intelligence that informs our risk assessment of where risks might lie within the financial institutions themselves.

Where we feel that the risks are significant or material, we may engage in multiple activities that correspond to that risk assessment. We have the authority to undertake examinations to ensure compliance. We have the authority to undertake reviews of multiple organizations if we feel there's a system-wide issue. In some cases, the issue may be so acute that we move through to an investigation to inform an enforcement decision.

This information informs the supervisory actions we may take across a suite of instruments, of which I just offered a few examples.

Mr. Tony Van Bynen: Can you talk to us about the complaints?

[Translation]

The Chair: Thank you, Mr. Van Bynen. Your time is up.

Mr. Savard-Tremblay, you have five minutes.

Mr. Simon-Pierre Savard-Tremblay: Thank you.

Since we were talking about fintechs, I want to ask you whether, to your knowledge, fintechs can offer financing options to more vulnerable consumers that credit card companies don't offer.

Ms. Shereen Benzvy Miller: Are you talking about what they can do under banking regulations?

Mr. Simon-Pierre Savard-Tremblay: For example, these kinds of financing options are sometimes recommended on social media, thanks to our friendly neighbourhood algorithms. There must be a lot of ill-informed consumers who will figure it's a fantastic deal and get taken for a ride.

[English]

Mr. Frank Lofranco: I'll speak to the supervisory perspective on this. My colleagues may want to add something by way of policy and research.

Insofar as fintechs develop a relationship with a regulated financial institution, the obligations that rest with that financial institution are extended to that contractual relationship with the fintech. Fintechs are generally not regulated federally. Therefore, our mandate, as it relates to federally regulated financial institutions, would not capture fintechs operating outside that perimeter, but again, when they do engage in a relationship with a regulated entity, the market consumer protections extend to the consumers of those fintechs.

• (1835)

[Translation]

Mr. Simon-Pierre Savard-Tremblay: Given that your mandate is essentially to do prevention and put information out, could you not stick purely to putting out relevant information and avoid exercising any enforcement powers when an institution is not technically subject to federal regulation?

[English]

Mr. Frank Lofranco: That's a fair point. For clarity, our supervisory work is set by the parameters of federally regulated institutions, but our work in relation to financial literacy and consumer education can go beyond those parameters.

With your permission, perhaps my colleagues can speak to some of the examples where we've done consumer education or research in the area that goes beyond federally regulated financial institutions.

Ms. Shereen Benzvy Miller: I will just add that the expectation of consumer-driven banking will be a corrective measure in that space as well, because it will open up the information sharing for consumers to control.

Supriya, would you like to give an example?

Dr. Supriya Syal: Thank you very much.

To your point about our mandate in terms of the supervision being limited to the entities that are currently federally regulated, this is correct. In terms of the consumer information we provide, the consumer education we do and the consumer interventions we do, none of those are limited, and those do, in fact, extend.... We do provide, on our website and through our programming, information to consumers about some of the dangers of using fintechs in the current unregulated environment. That's part one.

Part two is that, yes, consumer-driven banking will create a system where the large banks will be mandated to participate in the framework, and then fintechs, credit unions or other banks can opt in. Once we have that within our purview, we will be able to regu-

late aspects of that framework that will expand our regulatory powers and our supervisory powers.

[Translation]

Mr. Simon-Pierre Savard-Tremblay: In the course of your work, do you investigate types of financial products that are strongly recommended by financial institutions but do not meet the needs of the public?

Ms. Shereen Benzvy Miller: One of the obligations in the code is to meet the needs of consumers when selling them a product.

We look at how institutions are selling their products to make sure that they comply with the needs of the consumer and are not being oversold.

The Chair: Thank you, Mr. Savard-Tremblay. Your time is up.

I now give the floor to Mr. Masse.

[English]

Mr. Brian Masse: Thank you.

Five million complaints a year are filed by Canadians. Of those five million complaints, I think, by your own records, 76% are relatively simple or there is not much detail on it. However, of the ones that are settled that way, are those done with any penalty, or nothing? Are they just resolved and that's the end of it? With the other 24%, what happens with those? What notices of compliance have been levelled?

I think it's important to understand whether we have a watchdog here or not, because that's five million complaints that have been identified in the financial sector alone per year. That's a pandemic of problems there.

I go to your website. It's really hard to find basically any type of repercussions that have taken place. With five million complaints coming in, you would think that there would be something here. There's some good information about financial literacy, to be able to learn some of these things so you can get that done.

I'm looking at your website right now. It talks about how you're "protecting the rights and interests of consumers of financial products". You have five million complaints, and on your website it's very difficult to find what's taken place with any of these types of issues that have been raised. You deal with very serious issues—everything from gender issues to seniors and others.

Why is it so difficult to find out whether you've done a good job or not on the five million complaints and what the repercussions of that issue are? That's significant. It's five million Canadians per year.

• (1840)

Mr. Jason Bouzanis: Perhaps I can start.

If I were to use last year as an example, in fiscal year 2023-24, FCAC's consumer information centre received just over 9,000 inquiries and complaints. Of those 9,000, approximately 6,800 were related to complaints that individuals might have against a financial institution, and 283 of those related to areas that FCAC actually oversees.

That's not to say that we don't provide support to the Canadians who call us for areas outside of our mandate. Of course, one of our roles is to provide Canadians with information to help them navigate the complaint-handling process and explain that they do have the option to escalate their complaint to an external complaint body. Our role is to ensure that those 9,000 or so Canadians who are calling us are provided with information that helps them navigate the financial marketplace.

My colleague, Mr. Lofranco, could speak to what we do with the reportable complaints.

That being said, all of the information that we receive from complainants who contact our consumer information centre not only helps us monitor trends and issues in the financial marketplace, but also helps inform our supervisory activities.

Mr. Brian Masse: I appreciate that.

What I'm trying to find out is why your web page is not identifying the complaints and where they're coming from in terms of advocacy for consumers. I'm just going by a CBC report at the moment that relates to the investigation that you did with regard to BMO, RBC, CIBC, Scotiabank and TD. It references the number of complaints. Even if the complaints are down, if I go to your website and if I am a consumer looking for rights on this, I don't see anything here that identifies how you protected a consumer, what the repercussions were and what they did.

If I were going to advocate for myself and my family on this, if I had been harmed in any way by my banking institution, I'd like to know what reparations I should expect to get as a consumer for something that took place. There should be some way that you can measure it. It almost seems like the real estate industry, in the sense that you have to try to figure out the price of a house by your own volition, as opposed to.... I don't see what a consumer should expect.

Why are there no percentages here or expectations delivered in terms of repercussions that took place on some financial predators that have been out there? The volume of complaints is significant, but your website just reflects your advocacy. It doesn't reflect the results for consumers.

Ms. Shereen Benzvy Miller: Do you want to speak to that?

Mr. Jason Bouzanis: Sure.

A variety of different aspects were posed in that question. In terms of how we develop our consumer information, it's actually developed in such a way that a consumer could be looking for information on a specific product or service. Let's say it's on credit cards. I'm a consumer and I go to access information on credit cards. We embed the information on what a consumer's rights are, related to their financial institution with a credit card, in the section that details the credit card information.

The reason we do this is that we have found through our research—this is a key component of our national financial literacy strategy—that Canadians benefit most from just-in-time financial knowledge. When they're looking for information on credit cards, we want to provide them with the information at that time on their rights dealing with a credit card.

That's just one example on the consumer information side. We can speak about it from both sides of our mandate, though—from the supervision side, in terms of what we do to make sure Canadians are protected, but also from a research perspective, or from the perspective of the national financial literacy strategy. I'm happy to expand on that.

In terms of how we communicate with Canadians on what their rights are, it's perhaps helpful to understand how we choose to communicate with them most effectively.

[*Translation*]

The Chair: Thank you.

The time is up, but if you want to add something briefly, I can give you a few seconds.

[*English*]

Ms. Shereen Benzvy Miller: I have only one thing to add. Just for clarity, we do have data. In 2023-24, the agency received 260,000 reportable complaints from regulated entities. They're broken down by the top five products or services that the banks reported—accounts, credit card, debit card, mortgage and investment. We have the percentages of those totals by subject area.

I don't know if that adds any clarity on what you're looking for.

• (1845)

Mr. Brian Masse: It does help. I guess what's difficult here, though, is that if you're a consumer advocating for yourself and you go to the website, you can't find what you should expect to get as a reparation for being abused. The problem I have as an MP is sending people to a website that talks about all the glory of how they're protected, but it doesn't give them any expectations on what it will be like if there is harm inflicted.

At any rate, there's a lot of good information here. At the same time, you're advocating for Canadians, but there's nothing here that deals with how they can actually get a deliverable for their experiences.

Ms. Shereen Benzvy Miller: I take your point. Thank you.

[*Translation*]

The Chair: Thank you, Mr. Masse.

Mr. G n reux, you have the floor.

Mr. Bernard G n reux: Thank you, Mr. Chair.

Thank you to the witnesses.

Ms. Miller, if I understand correctly, your agency receives \$5 million a year from the federal government, and the rest of your funding comes from the banks.

Is that correct?

Ms. Shereen Benzvy Miller: That's correct. The \$5 million is just for our activities to promote financial literacy. The way the funds are used is very detailed.

Mr. Bernard Généreux: Okay.

In the House of Commons, a question of privilege is currently being raised in relation to Sustainable Development Technology Canada, or SDTC. People on the SDTC board of directors paid their own companies with public funds.

I will make a connection to what I'm seeing in your agency. The type of funding you have may involve a conflict of interest. You are mostly funded by the banks, but you could end up reprimanding them, so to speak, for their actual or potential failures in delivering their services to their clients and the general public.

Do you not see a conflict of interest in the fact that your funding comes from the banks?

Ms. Shereen Benzvy Miller: I don't have an opinion on that. Our way of doing things is really standard across all Canadian regulators. The form used by the agency is the same as the one used by other organizations.

Also, if you have any questions about that, I would suggest that the Department of Finance would be in the best position to answer them.

Mr. Bernard Généreux: I find it somewhat surprising that an agency that is supposed to supervise the banks' actions is funded by the banks themselves. I'll leave it at that for now.

On November 4, Marie-Ève Fournier published an article in *La Presse* revealing that CIBC was charging very high fees for cash advances made in certain courthouses. The news has also been reported in other media.

In a conversation between the bank and the customer interviewed by the journalist, which the customer recorded, she was told that the Government of Quebec, through the Department of Justice, was forcing the bank to charge high transaction fees.

Do you also have to supervise that kind of behaviour? Do you get any complaints about that? Have you ever been made aware of this type of behaviour?

Mr. Frank Lofranco: Thank you for your question.

[*English*]

Specific to this situation, we have become aware of the issue. Although there is a jurisdictional consideration, there is a federal financial institution in question, as well as a payment card network operator, so we are currently looking at the situation to understand the facts with a view to ensuring compliance on the basis of the obligations that are currently in place.

I cannot say more at this time about our supervisory actions, but I want to reassure you, in response to your question, that we do engage when we see these kinds of issues and complaints.

• (1850)

[*Translation*]

Mr. Bernard Généreux: This case, like many others, is probably in the public domain. Do you keep an eye on what appears in the media in general and the actions of the banks? I assume you have people working on that.

If not, do you conduct a more thorough investigation when you receive complaints about the way banks behave towards their customers?

[*English*]

Mr. Frank Lofranco: The short answer to your question is yes. Even though we see an issue with respect to a specific institution, once we've assessed the issue and understand the risks that may exist systemically, we take opportunities to engage other institutions that may find themselves in similar situations and may be behaving in similar ways.

Systemic risk is a risk that we consider, and we have instruments at our disposal to make those inquiries and those determinations of non-compliance.

Ms. Shereen Benzvy Miller: We also do media scans so that we are aware of issues as soon as they hit the media. This is not just through the complaints system from consumers or from banks, but from media reports as well.

When we find that there is a potential systemic problem, the commissioner will put out a bulletin. We have bulletins that are proactive measures to inform the industry about expectations related to compliance with market conduct.

[*Translation*]

Mr. Bernard Généreux: Mr. Chair, I would like you to ask our colleague Mrs. Romanado if she took a photo earlier in the meeting. It seemed to me that she was looking at us and, given the angle of her phone, was taking a photo.

I just want to make sure that no photos are taken during our meetings.

The Chair: Thank you, Mr. Généreux.

I did not see that, and Mrs. Romanado assures us that she didn't.

While I can understand the temptation to take a photo of you, Mr. Généreux, she restrained herself from doing so here at the committee.

As it turns out, Mrs. Romanado, you now have the floor.

Mrs. Sherry Romanado (Longueuil—Charles-LeMoyne, Lib.): Thank you, Mr. Chair.

[*English*]

I can assure my colleague opposite that I know the rules very well and would never take a photo in a committee.

With that, I'd like to thank you, Mr. Chair, for the opportunity to welcome the witnesses.

I just want to make sure I'm understanding something. I'm listening to this conversation and I'm looking at your website. Your role is to protect, supervise and educate. I understand that your operating budget last year was \$53 million, of which 90% was funded through the banks. You oversee the banks and complaints from the banks. I understand from a colleague that 27,000 complaints were received, but no one ever responded to them.

I want to make sure...because you can understand the optics of this. We're hearing that you supervise the banks or their compliance with the code, and they're funding you. You can see that there could obviously be a perceived conflict of interest. Can you just make sure you're clarifying for everyone? Am I understanding this correctly?

Ms. Shereen Benzvy Miller: No, you're not. You're probably understanding correctly what has been said by your colleagues, though I would like to add clarity to the complaints, for example. We are not a complaint body. We are an oversight agent. We are a regulator. We are responsible for ensuring that there is an alignment between market behaviour, the way in which consumers are treated.... I am not the Superintendent of Financial Institutions. I am responsible for financial literacy and consumer protection in the financial space.

It's part of the prudential measures that are in place in the ecosystem so that we engender trust in the system. It's making sure that customers are treated properly and fairly, and in a way that is compliant with legislative expectations and conduct expectations that are established in these various codes, whether it's for payment card networks or whether it's for financial institutions.

Our role is to ensure that when there are complaints, they are answered by the appropriate bodies, so generally by the institutions against which the complaints have been leveraged. If that's not satisfying for the consumer—because you may not be happy at the first level of complaining; you may not like the response or you may feel it's insufficient—there is actually an ombudsperson who is responsible for dealing with the complaints at another level, and it's an independent ombudsperson, as most ombudspersons are.

We did not receive 27,000 complaints. That's a media description, and yes, there was an article that said that, but it shows a lack of understanding of the role of FCAC. The role of this organization is to protect consumers, to ensure alignment with market conduct and to ensure that the actors are behaving appropriately, so that when these institutions receive complaints, they are responding appropriately to the complainants and seeing that the complainants are made whole. We can then supervise and protect related to that.

• (1855)

Mrs. Sherry Romanado: As part of your mandate, you are also responsible for educating, as you said. The \$5 million, is that allocated towards financial literacy?

Ms. Shereen Benzvy Miller: Yes, it's the financial literacy efforts.

Mrs. Sherry Romanado: You've received over 9,000 complaints, of which only 283 were something that was relevant and in

your bailiwick. Would that not demonstrate that maybe in terms of educating the general public on the role of the FCAC and what their rights are, this needs to be amplified a little bit? I'll be honest with you. I don't know if most people know what they would need to do if they had a problem with their banking or their financial institution. Could you explain a little more?

Ms. Shereen Benzvy Miller: I'm going to give this to Jason and Supriya, who handle the strategy for financial education.

The one thing I would say is just to remind the committee that there is not just what we do to put out information. I know you're all referring to what's on our website, but remember that all the materials that we produce and all of the educational components are shared with 18 networks that have about 500 agencies, which are specifically targeted at financial literacy in the community, at different levels. I've heard you speak about seniors and about youth and about the disenfranchised, the poor or whatever. Those are all agencies that have targeted audiences, and they scale or amplify all the messages that we put out.

Our role is really to be a reliable source of accurate information and to obviously promulgate it as widely as we can, but to also allow others to scale and amplify the message. It's never just about FCAC.

Anyway, that having been said, that's the context.

I thought, Jason, you might want to speak to the strategy.

Mr. Jason Bouzanis: I'll just add one comment, and then I'll pass it to my colleague as well.

It's incredibly important to us that Canadians are aware that they have the right to file a complaint with their bank. That's why we have a consumer information centre. Its principal role is to provide information to consumers. We take that role very seriously. Even if the complaint is not related to something that FCAC directly oversees, we want to be able to provide them with information to help navigate the complaint-handling process.

I should mention that we've just reached a milestone in Canada, in that we now have one external complaints body. That actually came into effect on November 1. Previously, there were two, so this is a significant advancement, from our perspective, in consumer protection. This will further simplify and clarify the complaint-handling process for Canadians. After they've gone through their bank's process, if they're unhappy with the result, they can escalate it to an external complaints body. FCAC also oversees their work as well.

We've just had a consumer awareness campaign with the external complaints body in the lead-up to November 1 to promote information on complaint handling, so that's something we definitely make an effort to promote and encourage. I know that even within the context of our national strategy, we talk about the importance of people being aware of their rights and consumer protection.

I'm not sure if you would like to add anything, Supriya.

The Chair: If you want to share, Mrs. Romanado, you're more than welcome, or you can go for your last question if you want to.

Mrs. Sherry Romanado: I would like to allow her to answer the question.

Dr. Supriya Syal: Thank you very much, indeed.

I'll say about the complaints piece that, on our website, we do detail how a consumer can, in fact, deal with a complaint: where they need to go, when to talk to their bank, and how the process works through the escalation. This information is provided on our website and through materials we share. That is just to address that point.

In the national strategy context, yes, as the commissioner was saying, it's just—

• (1900)

Mrs. Sherry Romanado: I just want to stop you there. I understand it's on your website—I just read it—but if people don't know you exist and they don't know what you do, they're not going to be able to go on your website and look and see how the complaints are settled.

My point is that it seems very distant. I don't feel it's proactive in terms of outreach to the general public to say, “Look, if you're not happy with your bank or the fees that you're being charged, this is what you need to do.” You're depending on people to come looking for you, but if they don't know you exist, how would they know that?

Dr. Supriya Syal: That's a great point. We're not, in fact, depending on people. As we said, we work with 500 organizations across the country through which we promulgate and disseminate this material as well. For instance, advancing access to financial help is a key piece that we're working on with a number of different organizations in the country, and that includes teaching people how to access help, whom to complain to and where to go, so it is a proactive piece.

I would also say, in the context of the national strategy, that it is structured so that it is a distributed responsibility across the ecosystem. To your point, we are well aware that we are one organization of 250 people and we will not, in fact, be able to reach the 30 million adults in this country, so we do need to work with other ecosystem stakeholders to do it.

The last point, if I may, is your piece about whether there is a need for more financial literacy and more awareness. Absolutely, there is a need for more financial literacy, and this is why we carry out these programs. The committee might be interested to know that among OECD countries, we are in the top five in financial literacy.

Mrs. Sherry Romanado: I want to make one point. There are 338—soon to be 343—members of Parliament, and I am pretty sure that not every single member of Parliament would know you exist. Some do, and some don't, and they represent all of Canada. I would recommend that perhaps you reach out to members of Parliament to make sure they know you exist, and perhaps they can help share information with the citizens they represent. I'll be honest with you; I don't feel there's a lot of proactive outreach to the general public.

I'm done. Thank you, Mr. Chair.

Ms. Shereen Benzvy Miller: Thank you. I will take that away as a to-do.

The Chair: I would add that a good chunk of younger Canadians are much more likely to go on Reddit to find the information that is probably available on your website.

On that note, I will now turn it over to MP Perkins, who has a motion, I believe.

Mr. Rick Perkins: Thank you, Mr. Chair.

I would agree with what MP Romanado said. I think it would be useful for our constituency offices to know that, because if people have gone through the process with the banking ombudsperson, we wouldn't have any idea that that's not the last gasp.

With that, Mr. Chair, I'd like to resume debate on a previous motion I presented regarding Stripe. Members will recall that I moved a motion that said the following:

Given Stripe's unknown profit margins and its refusal to comply with the government's interchange fee reduction plan, the committee order the production of all Stripe board meeting minutes related to the Government of Canada's announcement to reduce credit card fees, balance sheets, cash-flow statements, and income statements since March 2021, broken down by Canada and Stripe's global operations.

If I put that forward, we could probably deal with it quickly, unless there's a lot of debate, and have a vote to produce these documents.

Stripe has not been the most co-operative witness, as we know from the letter that was sent in regard to the study, but I won't go there this time, because I think the chair is going to reach out again. We have a House of Commons order asking for specific people to appear, and we would expect those people to appear.

In the interim, I would like to resume this and hopefully get to a vote, because it will be very important in this study to have this information, since this is one of the companies that are refusing to comply with the government's initiative to reduce interchange fees. It speaks to the voluntary nature of some of these things and how that voluntary nature doesn't always work.

I'll leave it there for now, Mr. Chair.

The Chair: Thank you, Mr. Perkins.

Colleagues, you've all seen this motion before, because we started to debate it at some point in an earlier meeting.

• (1905)

[*Translation*]

Mr. Savard-Tremblay, you have the floor.

Mr. Simon-Pierre Savard-Tremblay: Is it possible to move an amendment?

The Chair: It's always possible to move an amendment.

Mr. Simon-Pierre Savard-Tremblay: That's great.

It will be sent to you in writing in both official languages in the next few minutes. I will read it to you in French.

Instead of a period after “Stripe's global operations”, I propose adding a comma and the following:

provided that such documents shall only be available for consultation at the Clerk's office by Committee members only, during a week designated by the Committee no later than 30 days following receipt of the documents, under the supervision of the Clerk, and that no mobile electronic or personal recording devices of any kind shall be permitted in the room, and that no notes taken during consultation shall leave the room.

The Chair: Thank you, Mr. Savard-Tremblay.

I don't know if you have any comments on the amendment.

[*English*]

Colleagues, you've all understood that it's the classic in camera motion for production of documents that Mr. Savard-Tremblay is proposing to add to the motion. This is the amendment that's currently on the table.

[*Translation*]

Mr. Savard-Tremblay, do you have anything else to say?

Mr. Simon-Pierre Savard-Tremblay: No, because the amendment speaks for itself.

The Chair: That's great.

Is there any discussion on Mr. Savard-Tremblay's amendment?

Mr. Turnbull, the floor is yours.

[*English*]

Mr. Ryan Turnbull: I just want to be clear, because I was struggling to hear when we were talking about this.

Mr. Savard-Tremblay, you're adding that the documents essentially would only be viewable in camera and that no information could be shared outside of the committee, if I understood correctly. Is that right?

[*Translation*]

Mr. Simon-Pierre Savard-Tremblay: Yes. I move that the documents be available for consultation by committee members only at the clerk's office during a week designated by the committee no later than 30 days following receipt of the documents, under the supervision of the clerk, and that no electronic devices of any kind shall be permitted and that no notes shall leave the room.

If you need time to read it, it will be sent to you soon.

The Chair: Thank you.

[*English*]

Mr. Turnbull, from what I understand of the motion, it's not saying that MPs cannot talk about it; it's saying that they can take notes. Usually it's implied, when it's in camera, that you can't talk about the content of what you've seen, like for the Volkswagen contracts. Maybe the text of the motion would be important to read on that point.

Mr. Ryan Turnbull: I guess that's what I was struggling with, to marry what Mr. Savard-Tremblay was adding to this motion.

[*Translation*]

Mr. Simon-Pierre Savard-Tremblay: It's been sent.

[*English*]

Mr. Ryan Turnbull: Can we get it in writing, perhaps?

[*Translation*]

The Chair: Yes. The clerk is distributing it right now.

It's 7:07, and this motion is going to take some time to deal with. If there are no objections, I will dismiss the witnesses.

[*English*]

Is there any objection to letting the witnesses go before we deal with this motion? We still have 20 minutes.

Do you want to ask questions?

Okay, we'll wait. I'm hopeful. Maybe it'll be quick with this motion, so bear with us for just a few more minutes.

Mr. Ryan Turnbull: I'm hopeful, too.

The Chair: I'll just suspend for two minutes, colleagues.

● (1905)

(Pause)

● (1910)

The Chair: The meeting is resumed.

[*Translation*]

We're still on Mr. Savard-Tremblay's amendment, which everyone has heard.

Is there any discussion on the amendment?

Mr. Perkins, I think you wanted to speak.

[*English*]

Did you want to say a word on the amendment?

Mr. Rick Perkins: Yes. Thank you, Mr. Chair.

I am supportive of this amendment, just from the understanding that generally, as parliamentarians, we can be trusted with parliamentary information that is shared with us. In this case, we're dealing with a privately owned company, which is different from the general government information that we would get.

I would accept this as a reasonable restriction.

The Chair: I'm looking around the table, and virtually as well, to see if there is unanimous consent for the amendment. I see that there is.

(Amendment agreed to)

The Chair: It's adopted, so we're back to the motion.

MP Rempel Garner.

Hon. Michelle Rempel Garner: I agree with what my colleague Mr. Perkins said. For the purpose of precedent, I will just remind colleagues that committees do have the ability to compel whatever documents they wish. That is a right afforded to us as parliamentarians, for good cause.

I would just suggest, Chair—I'm looking to my colleague from the Bloc and I'm fairly certain he'll agree to this—that perhaps we could take an hour and have an in camera committee discussion as well, resulting from a review of the documents.

The Chair: Are you proposing an amendment to the motion, to add this?

Is it just an understanding with the committee that we will take that time?

Hon. Michelle Rempel Garner: If that's possible....

The Chair: Yes, I think that's a fair request. I don't see any objection around the table.

[*Translation*]

Is there any further discussion on the motion as amended? It doesn't look like it.

I don't think I need to put it to a vote, because I think there is unanimous consent.

I see that Mr. Masse, who's online, is okay with it. That's great.

(Motion agreed to)

The Chair: The motion is carried on time and on budget.

We still have 15 minutes left in the meeting.

[*English*]

Mr. Perkins, did you have any questions for the witnesses, or can we move on to the others?

Mr. Rick Perkins: I have no other questions.

The Chair: Perfect.

Mr. Turnbull, the floor is yours for five minutes.

Mr. Ryan Turnbull: Okay, great.

I'll go back to you folks. Thanks for being here.

I understand that the conversation has kind of gone around. You had talked about your funding model, the amount of funding you get and the percentage of it that comes from banks or financial institutions.

I wanted to clarify, because I think it's important that we all understand that this doesn't mean that those banks are voluntarily funding your work. The Government of Canada has them bound within law to contribute to the consumer protection work that you do as a prudential supervisor.

Is that not correct?

• (1915)

Ms. Shereen Benzvy Miller: That is correct.

Mr. Ryan Turnbull: It is similar to OSFI, the Office of the Superintendent of Financial Institutions.

Ms. Shereen Benzvy Miller: Yes.

Mr. Ryan Turnbull: It plays a very important prudential role as well.

Ms. Shereen Benzvy Miller: Yes, a very common model for the way to fund regulators is to have them regulated by the industry that they regulate.

Mr. Ryan Turnbull: That's exactly what I was pointing to. This is a very common model, and I think that is important for us to understand here. There's not a conflict of interest per se, because they're bound.... If you said something they don't like, they couldn't withdraw funding from you. I think that's really important for us to be clear about.

Number two, I tend to agree with Mr. Perkins on the Interac fees—which is very unusual, by the way.

Some hon. members: Oh, oh!

Mr. Ryan Turnbull: With Interac having such a dominant position in the market, your disclosure requirements of their fees are not really giving any consumer choice. Certainly, people can be aware of what the fees are, which I think is fine. In essence, that could educate them enough to be able to make better choices, but there's no other option, or there aren't many other options. I realize that this isn't necessarily within your mandate. It's really within the Competition Bureau's mandate to look at that concentration and lack of competition, but would you agree at least that Interac has a very dominant position in the market?

Ms. Shereen Benzvy Miller: We don't really have a view on that, because that's not really our role as a regulator. What I would say is that, when you are armed with the information of how much the transaction will cost, you can decide whether or not you're going to use the service of e-transfer. It's a bit like deciding whether you want to use a service that is more expensive or a different service that is less expensive. There are other ways, for instance, to give people money, and you could opt to do that.

As a commissioner of FCAC, I don't have a view on that. It's not in my purview. What I care about is whether consumers have the information they need to make intelligent decisions and to act on them in the marketplace. That's really the element that—

Mr. Ryan Turnbull: I understand, and I agree with you generally, but it's a very general statement to make. It's no good being aware of what the fee structure is if you don't really have other options.

In today's world, I would argue.... I'm not asking for a response on this. I'm just stating my opinion, which is that, in today's world, you can't get by without using those services. If you have very few other options, you are bound to use and be subjected to the fee structures that those companies have. The fact that they have a position that is so dominant in the market is highly problematic for consumer—

Ms. Shereen Benzvy Miller: If I could just add clarity, though.... In recognizing that, one of the actions that FCAC has taken in the marketplace is to insist that the service providers, the federally regulated financial institutions, create a low-cost/no-cost account where, for example, people will have no-cost e-transfers with no fees attached.

FCAC is currently working on this with the Canadian Bankers Association and the federally regulated financial institutions, and it will expand the eligibility for these low-cost/no-cost accounts to more Canadians and those who are obviously the most vulnerable to these kinds of fees. It will include more types of transactions—not just e-transfers, but all kinds of online transactions, as well as electronic payments.

There is recognition that we need to look after people when they are unable to avail themselves of those services.

Mr. Ryan Turnbull: Fair enough. That sounds good. I'm glad that you're making that effort. It sounds like a good initiative.

I want to go back to another point that was made and clarify something. We had some debate about the code of conduct. MP Masse was talking about voluntary versus mandatory codes of conduct, which I think is a valid distinction.

In terms of the code of conduct that financial institutions and credit and debit card providers currently sign on to, who developed that code of conduct? Did they develop it, or did the Government of Canada develop it? I think that's really important in terms of who is setting the standard for their conduct.

• (1920)

Mr. Frank Lofranco: The code of conduct was developed with the Department of Finance and the payment card network operators. The improvements made to the most recent code were informed by many insights, of which we contributed some in relation to fees and complaint handling in response to complaints we had heard from merchants over the years.

Mr. Ryan Turnbull: If I were to summarize, industry did not write its own code of conduct. It was done through a governmental process in which they were consulted, but the decision-making... Sure, they provided input—I'm sure they would—but those decisions on developing the code of conduct were not theirs. Is that correct?

Mr. Frank Lofranco: That's correct.

Although these codes can be characterized as voluntary, upon signature the obligations are mandatory.

Mr. Ryan Turnbull: Yes, OSFI has a lot of codes of conduct, regulatory requirements and guidelines that are not really voluntary. They're mandatory once they're in force. I can tell you that the climate risk management guideline B-15, which I was very interested in, went through rounds of consultation. Now it's in force, and all financial institutions have to abide by that now, which is great.

To go back to my line of questioning, how is that code of conduct updated? Let's say we want to hold our financial institutions to a higher standard. At this moment in time, I think that all of us around the table are saying, "Hey, there are some things here, and I'm not sure they're being held to the highest standard." To me, that's not really your role. Your role isn't to change the code of conduct. Your role is to oversee the compliance with that code of conduct, if I'm not mistaken.

However, to change that code of conduct, who is it up to? Is it the Government of Canada?

Ms. Shereen Benzvy Miller: Yes, we're the enforcement arm or the supervisory arm, but the code itself and the standards that are set out in that code are the expectations that are set by the policy drivers, which is the Department of Finance.

Mr. Ryan Turnbull: Okay, great.

Lastly, we had quite a lot of conversation about how you oversee the complaints process. I get that there's some prodding and poking to say, "What is your role, and why is it necessary?" I get that, because you're monitoring to make sure the complaints process through the banks is amounting to response-and-resolve or, as you said, you can step in and ensure that customers or consumers are made whole. To what degree do you do that? When do you really throw the book at people and make financial institutions make people whole? That sounds like you're being tough, but I want to know how many of the 283 that you're responsible for, or maybe it's the 9,000 number that you cited... What percentage of those are you stepping into and asserting your regulatory authority as the supervisor to say that they haven't done their job and you want them to now make the consumer whole?

Mr. Frank Lofranco: That's a very good question. To reiterate, the reportable complaints we receive from banks are, by definition, complaints that have been handled and responded to. Our role is to ensure that they're handled in a way that meets consumer protection measures. For example, they have to be dealt with within 56 days, and the consumer needs to benefit from a written response. In the absence of satisfaction, there's an escalation process to an independent ombudsman that we call the ECB.

From a supervisory perspective, we have many sources of intel. Complaints reported by banks are one. Complaints received directly from consumers or merchants are another. We undertake our own risk assessments, reviews and so on, and we interact closely with financial partners.

Ultimately, a complaint or set of complaints can point to a particular risk in an institution that might be speaking to non-compliance. Where there is a risk of non-compliance or confirmed non-compliance, we undertake investigative work to determine the nature of that and what the breach is, and we take appropriate actions accordingly, which could range from a notice to a publication of a violation, accompanied by a financial penalty.

In some cases, we learn of these things from the ECB itself—the external complaints body. There are scenarios in which a particular issue in an institution presents itself as possibly being systemic, in which case we will engage multiple institutions to understand whether there is a systemic issue. Where we discover non-compliance, we take actions as warranted.

To the earlier point that was made, I can tell you that consumers have received by way of redress—i.e., being made whole—millions of dollars. However, I do take the point from this committee that the line of sight on that is maybe something that could be improved, and our commissioner has agreed to accept that as a take-away, on her ninth day on the job.

• (1925)

Mr. Ryan Turnbull: She said it was her 12th day.

Mr. Frank Lofranco: Yes. She counted the weekend.

Ms. Shereen Benzvy Miller: I would just add that the other thing is that a lot of visibility is brought when there's a commissioner's decision. For instance, in 2022, there were complaints against CIBC from consumers that they were not being made whole, and the commissioner leveraged a monetary penalty of \$6.5 million against CIBC. All of the customers were then reimbursed. That was supervised and also enforced by FCAC.

The gradual escalation of these things.... Obviously, it's in the best interest of everybody if things get resolved long before we go to a monetary penalty. The visibility becomes obvious when the commissioner does levy a fine. However, before that, there's a lot of remediation that takes place to make people whole.

Mr. Ryan Turnbull: I just have a very quick last comment.

I would love to see more information on those systemic issues that come up. I would also just urge greater transparency and line of sight on those issues as they come up. I think that's what we're hearing around the table here throughout this conversation today. Again, I think that enhances trust in the role that you play, which is an important role.

Thanks.

The Chair: This concludes our meeting.

Thank you very much, Commissioner Miller and all of your team. Congratulations on the new appointment.

Colleagues, thank you for bearing with us for four hours tonight. It's much appreciated.

I will see you guys on Thursday.

The meeting is adjourned.

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