

Comments on the  
Operation of the Canadian Payments Association (CPA)

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The following comments, with amendments, were made in response to a request by the Canadian Payments Association (CPA) for assistance in developing a Long Term Payment Strategy – Vision 2020.

The CPA has structural problems that need to be resolved in order for the public to be properly served. The CPA is still an instrument of the major banks, just as it was when its functions were carried out by the Canadian Bankers Association. In fact, it is even more powerful now since it operates through the aegis of an Act of Parliament. The banks pay its bills, hire its employees, and dominate its Board.

The fundamental problem is that although the banks operate the system, both businesses and individuals use and pay for the system. Their interests are not properly represented and sometimes not even understood. The result is that numerous decisions are made that suit the banks but ignore the interests of those who must use the system. While the CPA has a "Stakeholder Advisory Council" that is intended to provide input from the public, it is advisory only and so is highly ineffective.

Below are some of the situations that are experienced by ourselves and many others that would have been avoided or improvements that would have been made, had consumers and businesses been able to provide direction rather than advice to the CPA Board:

**1. T.E.C.P. Electronic Cheque Imaging**

Recently the CPA mandated that all cheques must follow a certain format that was slightly different from the format that had been in place for decades. It meant that everyone had to have new cheque forms printed. Any business having their cheques printed by a computer system also had to have their systems changed. The cost to businesses and individuals to accommodate the change added up to many millions of dollars. The banks had their costs ameliorated by the commissions they receive from cheque printing companies. Just before the final deadline for completing the form changes the CPA cancelled the program. Had there been strong, knowledgeable participation by the parties that had to foot the bill, the program may not have got started. It would have made much more sense to have spent the time and effort advancing the use of electronic payments, a transition that must still take place.

**2. Error Reduction**

Many businesses must enter bank account numbers into their computer systems to enable them to deposit payroll funds or to collect insurance premiums or rents amongst many other types of electronic payments. One mistake in the up to twenty digits means an employee doesn't get paid on time or a collection doesn't occur. There is a well known procedure for adding a "check digit" to a series of numbers that virtually ensures that an error can be caught as it is being entered into the computer system. There have been requests for years to have the banks require printers to add the check digit to the cheques they produce. In this case there would be virtually no cost to the banks and very little added cost to the printing process. The CPA could change its rules very easily. Yet the matter remains unattended and many thousands of transactions go astray annually because of it. The banks receive extra fees for each of these returned transactions.

**3. New Entrants into the Payment System**

There are a number of non-regulated organizations, Payment Service Providers (PSP), that provide payment services to the public by debiting a payer's account and crediting that of the payee. Comcheq (now Ceridian Canada Inc.) and Telpay are examples. In the process funds amounting to hundreds of millions of dollars may stay on deposit for a short time in the service provider's account. These are trust

funds but the service providers are left to regulate themselves. There have been spectacular abuses of such funds in the U.S. and some minor ones in Canada. The easiest and most direct means of monitoring them would be to make the financial institution that provides the service provider with access to the clearing system responsible for seeing that the funds are held in trust and subject to audit. Recent attempts to have the CPA accept that change were turned down. The banks already have responsibility for such debits introduced by their customers. The issue seems to be more likely that formalizing such a commitment would legitimize operations that would compete with their services. That competition is badly needed to ensure the benefits of new innovations are provided in a timely and cost effective manner.

#### **4. Verification of Accounts**

There is a process in the U.S to validate the details of a bank account called "Pre-Note" through the A.C.H. For years we have requested a similar facility in Canada. There has been no response from the CPA.

#### **5. Bill Payment Task Force**

The CPA Bill Payment Task Force was formed as an answer to the Parliamentary Committee that looked into the operations of the bill payment services offered by the banks. There were complaints by consumers about the delays in getting the funds to the accounts being paid. This task force was set up to study this and other bill payment service problems. It is an example of the banks setting out to solve a problem of their own making to their own advantage. The task force provides the appearance of a response to an inquiry by a Parliamentary Committee. It enlisted the very limited involvement of the public so they can claim public consultation. In reality the banks are left to examine their own activities with the CPA as a front. The task force is nearing the end of its work of more than three years. There will be nothing of advantage to any one but the banks as matters stand at the moment. I produced a minority report that was dismissed without discussion. Some of the specific issues dealt with follow.

#### **6. Value Dating of Electronic Bill Payments**

Value dating is a process whereby the banks try to force billers to credit the customers' accounts as of the date the customer's account is debited rather than the date the biller receives the funds. This is the banks' solution to the complaints by consumers about the delay in receiving credit for a payment. This causes inconvenience to thousands of billers and, of course, costs them interest on the float that the banks prefer to keep for themselves. The alternative of speeding up the processing of the credit will cost the banks float and would require system changes. What is in place now and recommended for the future is a process that means paper cheques pass through the clearing system faster than electronic payments. That is ridiculous in this day and age.

The make up of the task force is such that though there is nominal representation of billers, the representative chosen is entirely ineffective as far as the interests of the average biller are concerned. The consumer's representative has backed the value dating proposition and opposed solutions that would clearly benefit consumers, even to the point of saying the Consumers Association of Canada would back changes to the CPA Act to legalize the right of the banks to enforce this practice on billers.

#### **7. Early Cut-Off Times of Bill Payment Services**

The cut-off time for processing each day's bill payments is as early as 6:00 pm ET which means 3:00 pm PT. When payments are initiated after that deadline, the biller will not be paid the next business day but the business day after that even though the customer's account is debited immediately. Though these are all electronic transactions that can be processed very quickly, the task force has apparently been told by the CPA Board not to consider recommending any such change. The consumer representatives on the task force show no interest supporting a later cut off time even though it would benefit most consumers.

#### **8. Transmitting Electronic Data with Payments**

When the banks started handling bill payments electronically they specified a means of transmitting the payment information to billers in a format that was unavailable to nearly all billers. It has been costly to most billers to adapt to it. It is now recognized as the wrong format for that purpose. A more appropriate format has to be designed. Had there been better public input and a willingness to accept it, the mistake could have been avoided.

## **9. Lead Bank Issue**

CPA Rule H6 requires that in order for a biller to receive electronic payments it must designate one bank as its "lead bank" through which payments from all banks will be directed. Though many billers do not subscribe to this requirement at present, a main thrust of the task force has been to find ways to enforce this rule. The concept is to consolidate all the payments to one source. It complicates the process even with five major banks but will become a nightmare if all the banks have to participate. This is highly inefficient and if pursued will ultimately reduce competition and innovation.

## **10. Fees Charged to Billers**

The bill payer's bank charges its customers the same fee for an electronic payment as for a cheque payment. The lead bank, in many cases, charges a fee to the recipient of that same payment. One of the issues dealt with by the task force was how biller agreements could be written so that the bill payer's bank could charge the biller as well. The result would be three charges levied for one transaction. This was quickly moved "off the table" when it was pointed out that this might appear to be collusive. One bank has since introduced such a charge.

## **11. Lack of Understanding of Issues**

The task force is attempting to make rules that will affect the accounts payable and accounts receivable departments of many, and maybe eventually all businesses. They do so with no knowledge of the needs of those departments. When those needs are raised they are ignored either because they would not serve the banks interests or the banks would have to change their systems to accommodate them. The sole representative of billers has nothing in common with the vast majority of billers and has little to say. The two representatives of consumers are totally compliant with whatever the banks propose.

## **12. Uneven Treatment**

For some time Telpay sought representation on the Stakeholders Advisory Council (SAC). It was explained that you had to be part of a group or association. In order to obtain membership Telpay and other organizations having large volumes of payments formed an association (Payment Services Industry Association of Canada – PSIAC) which did gain representation. Through manoeuvres that we suspect were purposely executed, PSIAC has now been removed from SAC. A former member of PSIAC (ADP) was allowed to stay on SAC because its employee had been PSIAC's representative there. New appointments have recently been made. PSIAC was not appointed but ADP was. This means that the entire payroll service industry is represented by one company only – ADP – and there is no representation at all for the independent bill payment service. One cannot help but conclude that this was deliberately arranged because PSIAC was too effective in promoting interests of the public. This is a clear signal to SAC members to not be critics of the CPA. In addition to no representation for an independent bill payment service (Telpay), there is also no representative from a cheque cashing service (Money Mart). Recently PayPal has been invited to join in spite of the fact that it does not belong to any group that has been identified.

## **13. Conforming to the CPA Act**

The CPA Act requires that the CPA "take into account the interests of the users of the system". "Users" have not been defined in the Act, but if you assume that they are the parties that originate the payments passing through the clearing system, the above examples amply demonstrate that their interests have not been taken into account. The CPA is asking for more powers under the Act in order to be able to continue its questionable and possibly sometimes illegal conduct.

## **Recommendation**

Canadians have often been told we have a very efficient clearing system. In the area of electronic payments we are quickly falling behind much of the developed world. Domination of our payment system by non-Canadian parties is advancing quickly. There are fairly clear signals that the field of electronic payments will be turned over to foreign organizations just as the banks turned the payroll industry over to ADP and Ceridian. A restructuring of the payments oversight system needs to be undertaken immediately.

That may be the outcome of the Payment System Review that is in operation now. However, the banks appear to be hoping to ensure that organization also comes to conclusions that suit the banks.

When it comes to issues beyond simple clearing and settlement of payments between financial institutions there needs to be full recognition and involvement of all the interested parties; the billers, the bill payers equally represented and effective. The banks and other independent service providers should be required to follow their requirements. The CPA should only be allowed to determine how the exchange of funds is to take place. The Department of Finance should be the arbitrator in case of differences.

Since individuals, businesses and governments pay the cost of the payments system, a separate board representing these parties and entirely independent of the banks should be given oversight authority over all other activities relating to the clearing system. It should have final authority over activities beyond the simple clearing and settlement of payments. Only with such a structure will the efficiencies that can be achieved with electronic payments be achieved and passed on to users of these systems.

Respectfully submitted,

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W.H. (Bill) Loewen was the founder of Comcheq Payroll Services which was the leader in service, innovation and price for payroll services in Canada from 1968 to 1993 when Comcheq was sold to CIBC. In 1985 he introduced Telpay Electronic Bill Payment Services, a first in Canada. From 1990 to 1995 Telpay provided the highly successful pilot project of the CIBC which lead to all five major banks introducing their own electronic service. Telpay has served the smaller banks, credit unions and other payment services providers as well as providing its services to businesses and individuals. It continues to be the prime innovator with its "pay anyone" technology to serve the need for electronic bill payments by business. He has been a contributor to the development of ideas and policies in the payment field; including serving on the Canadian Payment System Bill Payment Task Force for the past three years. He is currently a member of the Payment System Review Task Force.