



STANDING COMMITTEE ON HUMAN SERVICES

Hansard Verbatim Report

No. 25 – February 20, 2006



Legislative Assembly of Saskatchewan

Twenty-fifth Legislature

**STANDING COMMITTEE ON HUMAN SERVICES
2006**

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Saskatoon Eastview

Mr. Wayne Elhard, Deputy Chair
Cypress Hills

Mr. Lon Borgerson
Saskatchewan Rivers

Ms. Joanne Crofford
Regina Rosemont

Hon. Glenn Hagel
Moose Jaw North

Mr. Don Toth
Moosomin

Mr. Milton Wakefield
Lloydminster

[The committee met at 13:30.]

The Chair: — Good afternoon. This is the Standing Committee on Human Services. I am Judy Junor, the Chair of the committee. I will introduce the rest of the committee before we actually get into other remarks I want to make.

To my left is Joanne Crofford, Lon Borgerson, Warren McCall sitting in for Glenn Hagel. To my right is Milt Wakefield, Don Morgan sitting in for himself today, Delbert Kirsch sitting in for Wayne Elhard.

Today is actually a historic day because this is the first public hearings before a committee of the legislature, our new legislative structure, and we did a major review of the Legislative Assembly's rules and procedures and structured the policy field committees from that review. The new committee structure provides members of the Legislative Assembly with new processes when discussing proposed legislation and here we are into one of them.

Most importantly, the new system offers the people of Saskatchewan an unprecedented opportunity to participate directly in the legislative process. Our public hearing today marks the beginning of a new chapter in the history of our province.

Bill No. 12, The Consumer Protection Amendment Act, 2005, is the first piece of legislation to be referred after first reading by the legislature to a standing committee. Because the Bill was referred to the committee after first reading, the committee is not restricted to the contents of the Bill. Rather today's hearing is on the broad subject area, consumer protection, and today's hearings are being televised live across the province.

The agenda is public hearings on Bill No. 12, The Consumer Protection Act. The scheduled time today is 1:30 to 5. Before we begin the hearings we have a few administrative matters.

I'd like to table three documents. One is the response to questions raised during Health estimates from the Minister of Healthy Living, Graham Addley. That report will be tabled. The second one is our report of the steering committee which dealt with structuring these hearings, and the third one is our first written submission from the Association of Canadian Financial Corporations regarding today's proceedings. So these three reports will be tabled.

Then I need a motion from a member to move the appointment of Justin Messner, our committee researcher, who's sitting here on my left, and I'd ask Mr. Borgerson to move that this committee appoint Mr. Justin Messner as the Standing Committee on Human Services research officer for the period February 7, 2006 to March 6, 2006. Mr. Borgerson moves?

Mr. Borgerson: — And I will so move.

The Chair: — Thank you. All in favour? That's agreed. So the first item up on the agenda is of course Bill No. 12, The Consumer Protection Amendment Act, 2005, and our first witness is the Minister of Justice. I'd welcome the minister today and his officials if he could introduce them. And then I'm

sure you have some remarks to make on the Bill.

Hon. Mr. Quennell: — Good afternoon, Madam Chair, members of the committee. Seated with me at the table are Al Dwyer, registrar, consumer protection branch, and Karen Pflanzner, Crown counsel, legislative services. Also in the room sitting at the back, Keith Laxdal, associate deputy minister of finance and administration division, and Susan Amrud, executive director of public law.

It is a pleasure for me to address this committee on the first day of public hearings on Bill No. 12, The Consumer Protection Amendment Act, 2005. I welcome an extensive review of the Bill, and I believe that this new process provides an important opportunity for members of the public to become directly involved in the legislative process.

Before addressing the Bill, let me briefly touch on the context within which the legislation is proposed. In Saskatchewan, consumer protection legislation is administered and enforced by the consumer protection branch of the Department of Justice. The role of the consumer protection branch is to promote a fair and equitable marketplace for the benefit of both consumers and businesses. Its responsibilities include: assisting consumers to resolve their disputes with business; monitoring compliance with legislation and taking appropriate action when there is not compliance; investigating consumer complaints; licensing and bonding regulated businesses to ensure appropriate standards are met; and informing consumers of their rights and responsibilities.

The statutes administered by the branch are The Consumer Protection Act, The Sale of Training Courses Act, The Direct Sellers Act, The Credit Reporting Act, The Charitable Fund-raising Businesses Act, The Collection Agents Act, The Motor Dealers Act, The Cemeteries Act, The Funeral and Cremation Services Act, The Cost of Credit Disclosure Act, The Auctioneers Act, and The Film and Video Classification Act.

Broadly stated, the purpose of Bill No. 12 is to improve consumer protection and strengthen trust and confidence in Saskatchewan's marketplace. The role of consumer policy is to help create the conditions in which consumers can transact with confidence — where they get what they reasonably expect from a purchase and, if not, have access to redress.

Confidence in transacting is important. When consumers are not confident, they may avoid transacting in the future to avoid the possibility of a bad deal, or may accept higher costs attempting to avoid a bad deal. Transacting with confidence is not just important for the individual, it is also essential to a well-functioning economy.

An essential prerequisite for trust in the marketplace is effective consumer protection. Not only do consumers benefit, but businesses also benefit from a fair marketplace. Today's consumers are interacting with a different marketplace than they were 20 years ago. Consumers face a marketplace that is constantly changing as a result of the introduction of new technologies and of increasingly more complex and sophisticated products and services.

One of the most significant changes has been the growth of the service economy. Consumers now spend more on services than on goods. Data from Statistics Canada indicates that the share of consumer spending on services as a percentage of total consumer spending increased from 45 per cent in 1980 to 53 per cent in 2002. The growing importance of services in the economy raises a number of consumer issues. For example a service cannot be examined in advance nor can it generally be returned if unsatisfactory.

Another trend in the marketplace is that consumers are increasingly paying in advance for products and services. This places consumers at increased risk of incurring financial losses. A number of jurisdictions have updated their consumer protection legislation in response to changes in the marketplace.

Bill No. 12 is intended to update Saskatchewan's consumer protection legislation and to provide Saskatchewan consumers with the same level of protection as provided to consumers in other jurisdictions.

Madam Chair, a key component of Bill No. 12 is protecting consumers who pay in advance for products and services. Currently in Saskatchewan the only legislation dealing with prepaid services is The Sale of Training Courses Act. Over the years, The Sale of Training Courses Act has become dated and has increasingly failed to protect consumers.

The Act was enacted in 1972 to address concerns with out-of-province correspondence courses and originally covered any course of study or instruction. Although the Act was amended in 1974 to specifically apply to a course of study or instruction in dancing, health improvement, self-defence, and modelling, most businesses that were targeted by these amendments have taken any reference to training or instruction out of their contracts and are no longer subject to the Act.

At the present time only eight entities are licensed under The Sale of Training Courses Act. Most fitness clubs, dance studios, and modelling agencies are not licensed under the Act. As a result new measures are needed to protect consumers and to ensure that they are better informed and better able to defend their interests in the marketplace.

Essentially Bill No. 12 adds four new parts to The Consumer Protection Act. Part IV.2 relates to future performance contracts or contracts where a delivery or the payment for the goods or services is not completely made when the parties enter into the agreement.

Part IV.3 relates to personal development services contracts, for example fitness or health clubs, talent and modelling agencies, sports and dance studios. Part IV.4 relates to travel club contracts and part IV.5 relates to remote contracts or contracts that are entered into over the phone or by mail. I would now like to turn to discuss each of these parts of the Bill in more detail.

Part IV.2 sets out the new rules for future performance contracts. An agreement is considered to be a future performance contract under the proposed legislation if the delivery or payment for the goods or services is not made in full at the time the contract is entered into. In other words,

something remains to be done under the contract: for example, where a consumer agrees to buy an encyclopedia set which will be delivered in instalments or a consumer signs up for cable television services.

Most future performance contracts involve consumers paying for the goods or services in advance of their delivery. The main problems reported by consumers regarding future performance contracts include consumers not receiving an adequate description of the terms of the agreement and the late delivery of goods or services.

The Bill provides for improved disclosure to ensure that both parties to the agreement have the same understanding of the agreement. It requires future performance contracts be in writing and it contains prescribed information. The proposed disclosure requirements are important to prevent disputes and to ensure that consumers have clear evidence of agreements on which they can rely.

The Bill also provides the consumer may cancel the contract at any time before delivery if the supplier does not make delivery or begin services within 30 days after the date specified in the contract. This is often referred to as the 30-day rule.

If Bill No. 12 is enacted, Saskatchewan will be following the lead of a number of other Canadian jurisdictions: Ontario, Manitoba, and British Columbia all have legislation dealing with future performance contracts.

The next part of the Bill, part IV.3, sets out new rules for personal development services contracts. This part applies to contracts such as fitness club contracts, gym memberships, modelling and talent contracts, diet program memberships, martial arts, sports, and dance programs. However it only applies to these contracts if payment in advance is required.

Madam Chair, the area of personal development services contracts is an area where the consumer protection branch has received a high number of complaints. The most frequent complaints concern consumers being pressured or misled into signing contracts, misrepresentations about facilities and services, financial loss caused by companies going out of business, and the automatic renewal of contracts without notice to the consumer.

Businesses such as fitness clubs and dance studios have become increasingly popular as consumers have become more fitness conscious. The fitness industry has experienced tremendous growth in response to an increasing awareness of the importance of exercise to promote health and wellness. Over the years a number of consumers in Saskatchewan have experienced financial loss as a result of fitness clubs going out of business.

Since 1986 there've been nine bond forfeitures involving fitness clubs under The Sale of Training Courses Act. In six of these cases the bond was insufficient to pay out all of the claims made against the bond.

Most fitness clubs and dance studios are not currently licensed in Saskatchewan because the Act is not broad enough in scope to apply to them. At the present time only three fitness clubs

and four dance studios are licensed.

During the last year a Regina fitness club that was not licensed suddenly closed its doors. As a consequence, a number of consumers were concerned about the status of their prepaid memberships. In this case the club subsequently reopened only to close again, this time permanently. This event highlights the risk to consumers of long-term, prepaid memberships.

While it is recognized that it is not possible to prevent these companies from going out of business, the Bill attempts to limit the potential losses for consumers by restricting the length of the contract to one year and requiring that monthly payment options be offered.

The Bill would also provide consumers with a 10-day cooling-off period during which they could cancel the contract without any reason. The cooling-off period is aimed at high-pressure sales tactics and would allow consumers to reconsider their purchasing decisions. The proposed cooling-off period is consistent with the 10-day cooling-off period that currently exists in Saskatchewan's direct sellers legislation.

Another area of concern relates to a consumer's ability to cancel the contract if there's been a change in circumstances. For example, a consumer may have purchased a six-month gym membership and then after only two months moved to another town. The Bill would allow a consumer to cancel a personal development services contract if there has been a material change in their circumstances.

Concerns regarding fitness club contracts are not unique to Saskatchewan. There have been a number of fitness club closures in other Canadian jurisdictions as well as in the United States and Australia. These other jurisdictions have responded by passing legislation that is similar to what we have proposed in Bill No. 12.

British Columbia, Manitoba, Ontario, Quebec, and Nova Scotia all have legislation that deals with personal development services contracts. In addition, more than 40 states in the United States have passed legislation dealing with fitness or health club contracts. Australia has also enacted legislation regarding fitness club contracts.

Other than Quebec, no Canadian jurisdiction has chosen the route of licensing and bonding fitness clubs. In fact, Nova Scotia removed the licensing and bonding requirements from fitness clubs in 1997 and replaced them with legislation that limits the term of fitness club contracts to one year and gives consumers a cooling-off period. Like Ontario, Bill No. 12 provides further protection by requiring all money received in advance of a club opening to be held in trust by a licensed trust corporation until after the club opens.

Consumers are particularly vulnerable where they are paying for memberships in advance of a facility opening. This provision is intended to ensure that if the facility never opens, consumers will get their money back.

The next area I would like to deal with is part IV.4 of the Bill which relates to travel club contracts. Travel club contracts are contracts where a consumer, through a membership in a travel

club or a vacation club, acquires the right to discounts or other benefits on the purchase of transportation, accommodation, or other services related to travel.

A travel club membership is not the same as a time-share. In a time-share a person acquires an ownership interest in the property and the right to use a particular property. Time-shares are already regulated in Saskatchewan.

Currently, consumers who enter into travel club contracts do not have statutory cancellation rights. Memberships in travel clubs and vacation clubs are often marketed through high-pressure sales presentations. Many travel clubs entice consumers to buy lifetime memberships. Consumers may be discouraged from reading contracts or considering the details of the offer and frequently do not have an opportunity to seek third party advice before entering into such contracts and making substantial financial commitments.

Problems that consumers frequently report with travel clubs include: inability to realize any savings particularly if a member does not travel frequently, inability to book travel on dates selected, failure to receive benefits because the company goes out of business. During the last several years, a number of consumers have been disappointed and/or defrauded by travel or vacation clubs.

In 2005 an individual was sentenced to three years in prison for fraud regarding his involvement with Pointswest Vacations in Saskatoon. The Saskatoon travel club charged up to \$2,800 for lifetime memberships. Members also paid for plane tickets, however the tickets and trips never materialized. Saskatchewan consumers suffered losses of more than \$134,000.

Madam Chair, in developing this legislation we've examined the way in which travel clubs are regulated in other jurisdictions. Alberta is the only province that requires travel club operators to be licensed and to provide financial security. Travel club members have the right to make a claim against the travel club security if a licensed travel club operator goes out of business or substantially changes its operation. In Alberta, travel club contracts are limited to five years and consumers are provided with a 10-day cooling-off period.

In British Columbia, licensing and bonding are not required, however travel club contracts are limited to two years and consumers are provided with a 10-day cooling-off period. Similarly in Ontario, licensing and bonding are not required. The term of travel club contracts is not limited, however consumers are provided with a 10-day cooling-off period.

In light of this, what we have proposed in the Bill is that travel club contracts be limited to one year and consumers be provided with a 10-day cooling-off period.

The last area we'd like to deal with is part IV.5 of the Bill which relates to remote contracts. In essence, what we are talking about here is agreements that are concluded by telephone, fax, or mail. As part of a national initiative, we have recently amended The Consumer Protection Act to provide protection for consumers who make purchases over the Internet. These amendments are based on a template which was endorsed by ministers responsible for consumer affairs across Canada.

However, the amendments related only to Internet sales contracts and did not extend to other forms of remote contracts such as telephone, fax, or mail.

Bill No. 12 would extend the protections provided for Internet sales contracts to these other forms of remote contracts. The proposed legislation would require businesses to disclose a certain basic information to consumers. A consumer would be able to cancel the contract if goods or services were not delivered within 30 days of the delivery date agreed upon. If the contract was cancelled, the consumer could require the credit card company to cancel or reverse the charge if the seller refused to refund the money.

In closing, I would like to emphasize that this is an important piece of legislation that responds to issues not adequately addressed in the existing consumer protection legislation. It represents a balancing of the interests of consumers and businesses and draws on the experiences in other jurisdictions.

Thank you for your attention this afternoon. I welcome the committee's review of this Bill and would like to offer you any support my officials can provide. I wish you success as you begin this review and I look forward to receiving your report.

The Chair: — Thank you. Now we'll entertain questions for the minister from the committee. Mr. Wakefield.

Mr. Wakefield: — Thank you, Madam Chair, and good afternoon all. I can understand the need for confidence in the way people enter into these agreements. The confidence level is really the thing that makes this thing turn around, just as confidence in the investor is very critical as well. So it may help on both sides of that equation.

My first question though to the minister would be: can you define any extra costs involved in administering this Act from your department point of view? Are there going to be additional administrative costs, additional auditing costs, those kind of things?

Hon. Mr. Quennell: — Madam Chair, as disputes over contracts are resolved between the parties either by settlement or mediation or civil trial process, the department and the branch do not foresee any additional enforcement costs in respect to this legislation. This will be legislation that they will need to advise the public about as they advise the public about other consumer protection legislation. But no additional administrative costs are anticipated.

Mr. Wakefield: — If there is legislation in place then that puts parameters around the relationship between the customer and the seller of the service, and the legislation is the foundation of how that comes about. Is the department going to not incur maybe some costs in making sure that when an appeal is made, maybe through a court, that there is some cost to the department?

Hon. Mr. Quennell: — Again what we would be foreseeing in a hypothetical situation once the legislation is in place, in whatever form it finally is in place after this committee's deliberations and the legislature passes legislation based upon this proposal, is a change to what can be contracted into by

parties.

And certainly some contracts that are now valid contracts would be invalid contracts because the law has changed. But there would still be the same dispute resolution processes that are in place now. And they don't involve the Department of Justice or the consumer protection branches as parties to those disputes between a buyer and a seller in however they decide to resolve that process. It doesn't involve the consumer protection branch on that side so we don't anticipate any further costs as a result of changing the legislation.

Mr. Wakefield: — Thank you. And, Madam Chair, I have another question maybe following that. In some of this legislation it's proposed that there is bond levels and levels of security put forward. Could you summarize for us who is going to be supervising those bond levels? Will there be auditing involved? In an earlier life I was involved in bonding procedures and it became quite an onerous task and particularly in a case where the bonds were not sufficient because the auditing process hadn't kept up to what the bonding level was needed. I think you understand what I mean there.

Hon. Mr. Quennell: — I agree with the member. There's a lot of reasons not to proceed with a bonding scheme and we're not proposing a bonding scheme for any of these contracts. There's only one jurisdiction in the country that has a bonding system for travel clubs and that's Alberta.

Nova Scotia, as I said in my remarks, had a bonding scheme I believe for health and fitness clubs but decided, perhaps for the reasons that Mr. Wakefield pointed out in part, not to proceed and to go with limiting the contract and providing a cooling-off period instead. I think everything the member has to say about the difficulties around bonding are relevant and we decided not to propose a bonding scheme.

I should add that Quebec license physical fitness centres so that's another exception. But I think most jurisdictions for most of these types of contracts have decided not to rely on bonding and I think for some of the reasons that Mr. Wakefield pointed out and for others.

Mr. Wakefield: — Okay. Thank you, Mr. Minister. There is certainly problems in that area so I'm glad that's being recognized.

You talked about some exceptions in other provinces but there are also other legislation in other provinces that you were aware of when this came together. Are there some other exceptions that might have been beneficial that aren't included here? I'm not sure what they might be but to make it consistent across our country because people do travel. I would hope that the exceptions aren't too great so that expectations can remain fairly consistent across Canada and other jurisdictions.

Hon. Mr. Quennell: — Because we're not the first province to update our consumer protection legislation, we're not the leader in certain respects. But we're also not the last to come to these issues. So there will be provinces where there will be some of the protections that we are proposing and there will be provinces where they do not yet have these protections.

Provincial ministers responsible for consumer affairs — we haven't met for two years, I think and I hope we'll be meeting again soon — do endeavour as a group to try to harmonize across the country to the extent we can. And I think one of the examples of that is what we did do with Internet sales and I think that is valuable where we can harmonize. And I expect we will see similar protections across the country over time as more jurisdictions update their consumer protection legislation to respond to the changes in the marketplace that we've discussed this afternoon.

I can give some examples. In a case of future performance contracts, as I said, changes have been made in British Columbia, Manitoba, and Ontario. They are all requiring that contracts be in writing. They all require prescribed contents to the contract. In the case of future performance contracts, only Manitoba is providing for a maximum term contract but only Manitoba doesn't allow for cancellation within the year if they don't receive a copy of the contract. So I think there might have been a trade-off there.

In British Columbia and Manitoba there's no cancellation for late delivery. In Ontario and proposed in our Bill, there is.

So there are some changes — there are some differences, I should say — across the country even within the jurisdictions that are updating their legislation.

I value harmonization in these areas and I think we do try to achieve that as a group of consumer affairs ministers, but of course provinces are autonomous. Their legislatures are autonomous and legislatures need to respond to the public in their individual provinces. So you're not going to get identical legislation in every jurisdiction.

Mr. Morgan: — In the information that was provided in your comments, you commented on the number of fitness club claims that had been filed in the province against the bonds that were there. And I'm wondering if you could indicate how many of those claims were for excess of prepayment amounts or give us some background as to the nature and type of those claims.

Hon. Mr. Quennell: — Madam Chair, as I said, there were since 1986, nine bond forfeitures involving fitness clubs under The Sale of Training Courses Act, apparently 11 forfeitures in total under the Act. So two of them were not fitness clubs. In six of the nine cases, the bond was insufficient to pay out all the claims made against the bond.

In one case we can advise that the bond was in the amount of \$20,000 and that the total claims on part of it . . . it looks like 243 claimants worth \$32,200. So 62 cents was paid out on the dollar on the bond. We can provide, I understand, that information for every case where the bond wasn't sufficient, but we can't provide it today. But we can provide that to the committee.

Mr. Morgan: — I guess where I'm going, I'm trying to get a sense of how much the individual consumer was short. I guess there's one issue is how many cents on the dollar they recovered from the bond, and that reflects back on whether the size of the bond was there. But what I would like to know is what the maximum amount or what the typical amount, both of

those actually, shortfall was to an individual consumer.

And then my next question that would flow from that is, how many months had that consumer prepaid or chosen to prepay or been required to prepay? You know, if there's . . . And what I'm wondering is, have we selected an appropriate vehicle for cancellation, or have we selected a proper method to deal with this so we're not, after we pass this, in the same position where we don't have a bond.

If you start . . . You know, we're limiting these terms to one year. If we have somebody prepay for a year, we don't have a bond any more, are we any better off?

Hon. Mr. Quennell: — That's a good question. The Bill provides for monthly payment options, and certainly that would address the issue as well. But I think the information that Mr. Morgan is requesting as to what amounts the individuals involved in these four ventures lost is information that we can provide to the committee. That's information the branch has.

Mr. Morgan: — I mean we could have . . . We're meeting next on Wednesday and I don't want to have somebody working all night to assemble it, and I don't need to know all of them. But if we had, you know, representative numbers so we'd have . . . You know, I'm presuming the department will give us those numbers.

And I'm just trying to get a sense of whether we have a lot of people out a few hundred dollars or whether we have one or two people that are out many thousands of dollars. I'm just trying to get a sense of what the ill is we're trying to address.

Hon. Mr. Quennell: — This doesn't deal directly with bond forfeiture, but it may, it may go to the member's question about the amounts that are at stake and why we would be proposing a limit to the contract of a year or some one that this committee may recommend after its discussions with the public are completed.

We have in these . . . And I don't know if these are typical representative, but they are examples of the case where fitness clubs, where people believed that the contract was cancelled. And it was either a contract that was longer than they believed it was — and certainly longer than a year — or it was a case where there was a renewal of the contract, and the consumer wasn't aware of the renewal of the contract, both issues which we wish to address in this legislation.

In one case the disputed amount — and perhaps it was owed under the legislation as it currently exists — was almost \$1,000 and in another case \$500. I don't think those are small amounts to individual consumers.

Mr. Morgan: — Would the \$1,000 be the largest single claim?

Hon. Mr. Quennell: — Of the examples we have here, yes. That would seem . . . \$966 and it may be the largest that we have.

Mr. Morgan: — Significant for consumers but not something that we saw of the magnitude there was in the travel claims where we're talking about many thousands of dollars.

Hon. Mr. Quennell: — Yes. I would agree that the amounts involved are going to be smaller for fitness clubs than they would be for travel clubs.

Mr. Morgan: — The way I'm reading this legislation, there's nothing in the legislation that would preclude a payment option that would require, that could have a payment for an entire year being made at the time of the membership being taken out. Am I reading it correctly?

Hon. Mr. Quennell: — It's not going to be . . . Well we wouldn't propose that it would be precluded, but we would propose that monthly payment options be available.

Mr. Morgan: — So if I'm reading it correctly, you've got an instalment payment of no more than 25 . . . or you're saying there must be an option that would allow payments that would not exceed the fee by more than 25 per cent. Is that 25 per cent of an annual fee? I'm looking specifically at 76.38 if that makes it . . .

Hon. Mr. Quennell: — The intent is that if you take a monthly payment option, you may pay more for the benefit of making monthly payments. But that excess amount over the one-year payment, annual payment for the entire year, can't be in excess of 25 per cent. So if you decided to pay, Mr. Morgan . . . or if Mr. Morgan decided to pay monthly for a service that would cost \$1,000 if he paid it for the entire year, he could not, as I understand it, be required to pay more than \$1,250 split 12 ways if he had to pay monthly.

Mr. Morgan: — You're really focusing there on the interest charges or what would be the equivalent of an interest charge. You're not focusing on the amount that the consumer might pay in total for the services. Is that correct?

Hon. Mr. Quennell: — Well the total amount the consumers can pay for the services cannot be more than 25 per cent, in excess of 25 per cent more than the consumer would have paid if they had paid for the whole year services in one payment.

Mr. Morgan: — But nothing precludes one of the payment options or a multiple of the payment options in their contract to provide for one year to be paid upfront.

Hon. Mr. Quennell: — No.

Mr. Morgan: — Or three months or six months. So if a consumer did pay, under one of those payment options, six or twelve months in advance and we've lost the bonding from . . . we've actually put consumers in a worse position.

Hon. Mr. Quennell: — Yes. And the argument for the one-year contract as opposed to two years or three years, that might be the case in some American jurisdictions is to limit the potential loss to the consumer if the business goes out of business to a maximum of one year.

Mr. Morgan: — So what you're saying is we have . . . The trade-off that you're offering in this legislation is no bond, but a maximum exposure to the consumer is one year's worth of payments. Is that a fair assessment?

Hon. Mr. Quennell: — Well yes, no bond and maximum loss of one-year worth of services, yes.

Mr. Morgan: — Which could conceivably be 12 or \$1,500 depending on the monthly rate charged by the facility.

Hon. Mr. Quennell: — It depends on the cost of the contract, yes. Now we're trying to provide a limit to the potential cost to the consumer two ways. One is by limiting the contracts to one year. The committee may decide that that's too long a period of time. This is a proposal, and after discussion with the public the committee may want to propose a different time period.

We're proposing for the purpose of this discussion a one-year time period and the option of monthly payments. If a consumer is concerned that they may not want to use the service for a year or that this business may not be in existence for a year if it's a new business, then that gives the consumer another option to limit their potential losses.

Now the committee may want to look at the alternative of bonding, and I think Mr. Wakefield raised some of the issues that would suggest that that's the route that we may not want to go.

Another issue that I'm not sure Mr. Wakefield raised is the size of the market. And when you have a small market, as we do in Saskatchewan, as they did in Nova Scotia, the cost of essentially insuring either against fraud in the case of our history with travel clubs or just business failure or fraud in the case of fitness clubs can be pretty onerous. And you can actually . . . I think the concern would be . . . severely limit or make an industry, a business untenable in the province because of the cost of the bonding.

Mr. Morgan: — I'm not sticking up for bonding or necessarily advocating bonding with regard to the fitness clubs or that. And I agree with Mr. Wakefield's comments. Where I'm going is, if we're doing away with the bonding, I want to know that I've adequately protected the consumers that are there.

And what your department has put forward is we're not giving you any more protection by way of bonding, but if you choose to pay up to a year in advance, we're not giving you any help on the thing. So in effect we've left these consumers — the ones that had these \$900 claims before — we've left them in a position where their \$900 claim isn't going to get any bonding protection on it. Or if it's now up to a \$100 a month for inflation, they'll be out 12 or \$1,500 a month if the operator of the facility is able to persuade them to prepay a year. And legally he can ask them to prepay a year as long as he's got the other options that are there.

What I'm wondering whether we shouldn't have considered is the maximum payment upfront that you could require. It would be, say, three months or a quarter of a year were the payments and then do it. I want to protect these businesses as well. If they want to have an enforceable contract for a year, as long as they're providing the services, that's fine. But my concern here is requiring the businesses to prepay a year, or if they do voluntarily prepay a year, we've given them no protection under this.

Hon. Mr. Quennell: — Madam Chair, I appreciate this is an entirely new process for all of us — as you said, an historic and precedent-setting occasion. This is the first time that the Saskatchewan legislature has dealt with legislation in this way. And personally, I think this is a wonderful process.

I think this an appropriate piece of legislation to launch this public policy discussion with. What we're proposing is by no means carved in stone. If we were not proceeding under this process, the department would have consulted more widely than it did. The government decided that this would be appropriate legislation to suggest go into this very public discussion.

Now in the proposal we are proposing a one-year contract limit. The committee, after hearing from both businesses and consumers, may not consider that appropriate either to have that limitation or the length of it that's proposed. We are proposing that monthly payment options be required. Again that's subject to certainly your review and your report and your recommendations. We are providing, new in this legislation, for cancellation of the contract where the consumer's material circumstances have changed. And that's another protection that the consumers have.

Some jurisdictions have a maximum contract amount. And Mr. Morgan may want to explore that idea further. And the committee may have some ideas about that, or the public may have some suggestions on that as a possibility. I don't know if any Canadian jurisdictions have that, but some American jurisdictions have a dollar limit on what the contract can be for, whether it's an annual contract or whatever the period of time for the contract. So that's another option that isn't included in the proposed legislation but certainly something the committee may want to discuss or the public may want to raise.

Mr. Morgan: — Minister, I want to ask about travel clubs. I know one of the impetuses for this legislation to be introduced was the large-scale fraud involved in travel clubs particularly in Saskatoon. And unless I'm misreading something, it appears that the only thing we've really done to protect travel club members is we've limited the membership to a year. But I don't see anything in there that limits how much money a person might pay to a travel club in advance of getting services. And what I'd expected to see was a requirement for travel clubs to have a bonding or alternatively a limit on the amount of money that has to be paid on it. So I don't see anything in here that's going to, unless I'm missing something.

Hon. Mr. Quennell: — No I don't think there is a maximum contract amount proposed in the legislation as it is currently drafted. The Pointswest Vacations in Saskatoon charged for lifetime memberships, and they charged \$2,800 for lifetime memberships. We propose limiting the length of the membership again to one year with a cooling-off period, that the committee may decide that that isn't appropriate protection and more protection is required, and the committee may want to discuss whether a bonding regime is the way to go or some combination.

Mr. Morgan: — My concern in any of these situations is where large amounts of money are paid by a consumer where the timing of the payment, that it's well in advance of the time that the goods or services are being provided. And I could

understand the legislation being crafted so that it would have payments made monthly with a travel club or fitness club where the services are being used over a monthly period of time, but travel clubs are unique in this piece of legislation. They're the only one where you take a trip three months, six months down the road, and that's one where we had the large-scale fraud before.

I'm not a big fan of bonds or performance bonds. They may be something that's necessary. But the one aspect of the legislation I'm most troubled on is the area of travel clubs, and I know that's the one area where Alberta has chosen to give some substantially better protection than we have. So I'm wondering why we wouldn't have looked at what the Alberta model is.

Hon. Mr. Quennell: — Well, Madam Chair, there's a couple of differences in respect to Alberta. Alberta is the only jurisdiction that does have a bonding scheme, and even provinces that have a large travel market such as Ontario and Quebec do not, I expect maybe for the reasons that Mr. Wakefield had outlined in the case of those larger provinces. In the case of smaller provinces, I think the size of the market would have something to do with the economics of having a bonding regime.

But I know Alberta does not have a very restrictive contract length period. I appreciate it's more restrictive than ours right now, which allows lifetime memberships, but their contracts are limited to five years. We're proposing a much shorter period of time than that.

On the issue of maximum amounts for contracts, I don't think the government would be opposed to that in principle. I don't know why we would be. The difficulty that's been found in jurisdictions that have not just a time period, one year or two-year maximum for a contract, is first of all determining what's the appropriate amount where any amounts could be arbitrary, but secondly, the effect of inflation on that amount. And so what may seem like a reasonable maximum today seems a little less reasonable 10 years from now and a little bit less reasonable 15 years from now. And if you're not continuously updating the legislation, these numbers can become restrictive and very onerous on businesses that now cannot charge a reasonable amount for one-year services, for example. We want to avoid inflation over time causing those kind of economic difficulties.

If the committee wanted to recommend that not only should there be a term limit on the contract length but there also be a limit set on the contract amount, that would in my respectful opinion best be done through regulations so that it's easier to modify without having to pass amendments to the Act in the legislature to change those amounts, and only for the reasons I set out. But as I said, philosophically I don't think there's a problem. I think there's some practical problems with dollar amount limits.

Mr. Morgan: — My concern goes to the fact that, you know, we saw in the Pointswest a lot larger amounts of money had changed hands for a lifetime membership. I'm not sure that changing it to a one-year period necessarily eliminates the problem; it may reduce the magnitude of the problem. And when you've got that type of situation where large amounts of

money go to the supplier without the supplier being required to even set aside or deliver the services, that's troubling. So I'll look forward to hearing what our presenters have to say.

My last question deals with regulations. There's reference in here in a number of places in the Bill that deal with regulations: prescribed times, material changes. Has there been a draft of the regulations prepared or anything that could be circulated because I think the support that the Bill may have will be dependent a lot on what happens in the regulations.

If I was operating a fitness club and material change was described as, you know, moving across town or changing a job, I don't think I would be real comfortable with that being regarded as a material change. Something that has . . . catastrophic health crisis, yes fine, let them be relieved from the obligations of the contract. But I guess I'm . . . You know, how that's going to be crafted, or where that's going to go . . . will probably help a lot. And I gather from your nodding that there is no draft regulations or any ones that we could review from another jurisdiction at this point?

Hon. Mr. Quennell: — Well the committee is free to review the regulations of the provinces that have changed their legislation, and I listed them in my remarks. So Ontario's regulations or Manitoba's or British Columbia's regulations, you're of course welcome to review. We will (a) listen to the discussion with the public concerning the Bill and some of the proposals in the Bill; (b) to the report of the committee; and (c) consult again with stakeholders before drafting regulations.

But I appreciate that I gave an example what might be a material change and that is somebody moving to another municipality, that how material change is drafted would make quite a bit of difference to the business owners in these types of businesses, and we're going to be interested in hearing from them what their concerns are, what they think is reasonable in that respect.

Madam Chair, I would like to return to this issue about Pointswest Vacations and what changes in legislation we might or might not want to make in respect to that one circumstance. I mentioned the number of \$134,000 as the amount lost by consumers. That amount did not include the memberships. That was an amount the consumers paid for tickets and trips that did not materialize. Putting a dollar limit on the contract would not have decreased that amount of \$134,000 because the loss was for fraud around trips and tickets. I'm not sure that \$2,800 is an inappropriate amount for a lifetime membership, depending on how old you are, I guess, when you buy it.

The issue is that people's circumstances change. Businesses go in and out of business. Do we really require and is it in the best interest of the consumer and is it in the best interest of trust in the marketplace — if I can return to that term that I used in my remarks — to have contracts that exceed a year? And I think that's an issue to be discussed by the committee and I don't want to suggest the committee not look at the idea of limiting dollar amounts for contracts. I've raised some issues about problems with doing that, but I certainly think it's worthy of discussion and examination. But to be clear, memberships wasn't the issue with most of the money that was lost in the Pointswest vacation. It was fraud about tickets that were not in

fact purchased, although they were paid for in trips. They were paid for by consumers and never materialized, did not exist.

Mr. Morgan: — I have nothing else. Thank you, Madam Chair.

Ms. Crofford: — This is more complicated than I thought it was going to be. The one thing I wanted clarity on is this business of out-of-province correspondence courses just so I'm sure I understand what's being proposed. So for example, there's one ad that you see fairly often on TV about getting degrees from another place. Our legislation, would it apply to a school that was advertising on TV that was in another location?

Hon. Mr. Quennell: — Those particular institutions or businesses are regulated under the Department of Education, so then it wouldn't be regulated under any of this legislation. That may have been different in 1972 when the original sale of training courses was enacted.

But we would, I think, be proposing repeal of the sale of training classes Act and replacing it with the provisions around personal service contracts that are in this legislation because . . . Well two things have happened. First of all, businesses have taken themselves out the ambit of that Act. And as I said, there are now about 18 that are licensed under it. And then other businesses such as the one you described, you know, that grant diplomas in various skill areas, they're regulated by the Department of Learning and not by the consumer protection branch.

Ms. Crofford: — Okay. The other thing, I guess — we were just having a little sidebar conversation here — the other thing I have a little difficulty with is just because I can't think of another situation where it would apply, the my-personal-circumstances-have changed argument, you know, that wouldn't be true if you were buying a car or a house or anything else. So I guess I don't quite understand why that's thought to be a necessary part of this.

Hon. Mr. Quennell: — Besides moving to another town, what else might happen that would be a material change?

Ms. Crofford: — Yes.

Hon. Mr. Quennell: — If, and this has been considered a material change in other jurisdictions, a fitness club that was within walking distance, say, of a non-driver moves 30 kilometres away . . .

Ms. Crofford: — Something fairly specific.

Hon. Mr. Quennell: — If you unfortunately discovered that you had now a disability that you did not have when you — a progressive illness, for example — that you weren't aware of, did not have when you became a member of the fitness club and that was going to limit your ability to use the fitness club. So a new physical disability, maybe sustained in an accident after you've become a member, would be a material change of circumstances.

If you were going to be in the hospital for the final six months of a gym membership, that might be a material change of

circumstances. So there are other examples besides the one I used in my remarks. And how expansive or how narrow we want to define material changes is one of the issues that you may or may not want to look at as a committee.

Ms. Crofford: — Okay, thank you.

The Chair: — I actually have an issue that I'd like the minister to speak to. The Act does not . . . This is for the record since we're discussing this. I'd like it to be on the record that we had this discussion.

The Act does not explicitly address minors and contract law and specifically as it applies to the areas covered in this Act. So if you could make some comments about what does apply to minors and contract law, we'd appreciate that.

Hon. Mr. Quennell: — Young people — that's people that have not reached the age of majority — have a unique place in the law. And in contract law in Saskatchewan the age of majority is 18 years or older. Contract law — and we don't need specific protections in The Consumer Protection Act because this is already the case — provides special protection of minors. And a contract cannot be enforced against a minor unless it is for the necessities of life. And food's a good example.

And so some of the defences that a person might have to paying an amount demanded by a fitness club under consumer protection legislation, saying that the contract's not valid, or say if this legislation is passed as it was, because the contract was for more than a year or whatever, a 17-year-old would not be required to make any payment under that contract in any case because that person is a minor, and the membership in a fitness club is unlikely to be considered a necessary of life.

I hope that was clear.

The Chair: — Are there any further questions? Mr. Morgan.

Mr. Morgan: — Just one more. Throughout this legislation, you've required cooling-off periods that gives the consumer an absolute right to rescind. And I'm just wondering sort of if you or your officials could comment on the rationale or why you think that's an appropriate or necessary thing.

Hon. Mr. Quennell: — Well we do have similar legislation or provisions in The Direct Sellers Act and I think it's been welcomed there. It's clearly for the benefit of a consumer who feels that there was pressure put on them or misrepresentation or omission of information, and when they've had an opportunity to reflect — even the day after, certainly after sleeping on it as the phrase goes — they decide this is not something that they want to do.

And so it's clearly, as I said, for the benefit of consumers. We've had it in The Direct Sellers Act. We're proposing it for some of these contracts, say around travel clubs and other types of organizations like that.

And I argue, I did in my remarks, that it's beneficial to the economy as well that people believe that the contracts they're entering into with businesses in the marketplace are freely

entered into, that they understand what they're getting and what they're paying and that they're willing to pay that amount for that service. Where you have a marketplace or where you have an industry where people I think don't have a sense that they freely and thoughtfully agree to pay that amount for that service, then I think certainly that industry suffers. The reputation of that industry suffers and to the benefit of no one.

So I think the cooling-off periods that we've had in The Direct Sellers Act are appropriate for the types of services being provided and being addressed in this legislation.

Mr. Morgan: — Would your remarks hold true that the same situation would be analogous for an individual signing a card in a union membership drive?

Hon. Mr. Quennell: — Well the committee is free to discuss what it wants. I'm not going to discuss The Trade Union Act this afternoon though. I'll stick to this legislation.

Mr. Morgan: — I have nothing else.

The Chair: — Mr. Borgerson.

Mr. Borgerson: — A couple of quick questions. The one area that's addressed in this legislation is the area of photo shoots. Has this been a problem area in this province in terms of people getting invited to photo shoots, to modelling tests, and all those kinds of things and yet finding that promises that they thought were going to be met were not met?

Hon. Mr. Quennell: — Apparently it's an area of concern. It hasn't developed into a major issue in the province. It may be perhaps an issue more in some other jurisdictions but certainly something that probably should be regulated and clearly open to abuse.

Mr. Borgerson: — I was thinking of an old W.O. Mitchell story where you have to send in so many candy wrappers and so on to win the big prize. And then you get a letter back saying, well you're in the final 100 contestants and now if you send in so many more candy wrappers you're going to be in the top 10, and it kind of builds. And I know there's been that kind of activity that has occurred in the area of photo shoots, recording, that kind of thing. And I see within the legislation the attempt to prevent rewriting contracts; that in fact he cannot provide a bigger and better contract. If it's essentially the same, you have to stick to the original contract.

Hon. Mr. Quennell: — Yes. On the photo shoots I think the concern is that they advertise for these photo shoots for models and they accept everybody. They would even accept me. And they turn down no one and then everybody requires \$2,000 of photographs to be marketed to modelling agencies and it's not what it's advertised to be. So there have been complaints apparently in the province but not a major area of concern compared to some others.

Mr. Borgerson: — And recording contracts, does that fit into this at all?

Hon. Mr. Quennell: — We haven't had the issue with recording contracts the way that we have had . . . even to the

extent that we have had with photo shoots. Now that may be a matter, if an issue did arise and the legislation was already in place, that may be an area that could be addressed by regulation if it became an issue.

Mr. Borgerson: — And I guess I'll just close with a comment which Ms. Crofford brought forward. This whole question of there being a change in personal circumstances I see as a bit of a difficult area to define in the regulations because if in fact you have moved, you've changed locale, that's very clear. Or if you've been in an accident and are disabled, that's very clear. But if all of a sudden now you say, my family's circumstances have changed; I've taken a drop of income, and I can't afford this any more. Or I have more family responsibilities now; we've just had a child born in this family. That kind of a thing I can see there being some difficulty in terms of drawing the line and knowing that no matter where you draw the line, there's going to be some area of contention.

Hon. Mr. Quennell: — Well I think we certainly appreciate some discussion and some recommendation as to what should be considered material changes in this jurisdiction and what should not be. Jurisdictions have been specific about what types of things are considered material changes. I don't know that there's been a jurisdiction that's said the economic circumstances of the consumer. Certainly the location of the business, the area of disability, those are, I think, easy to understand. And I think others are easy to understand too, but you have to be specific, I think, about what you mean by that.

And there's always going to be disputes or potential disputes about if you're in areas where you can't be specific, perhaps in the case of disability which is a continuum. That is an area that a judge may have to decide if it falls within the legislation or not. But I think it's appropriate for the legislature to try to be as clear and specific as we can be.

Mr. Borgerson: — Thank you.

The Chair: — Any further questions? Seeing none then, our thanks to the minister and his officials today for appearing before the committee. Our first public presentation is scheduled for 3 o'clock so the committee will recess until 3 o'clock.

[The committee recessed for a period of time.]

The Chair: — Thank you very much. Our 3 o'clock presenter is now here and we will ask him to introduce himself and make his presentation. And we have 30 minutes, well 25 now, and we'll have hopefully a few minutes left. So if you can condense your presentation so if there is time we can ask you questions. So if you'd like to introduce yourself and begin.

Mr. Roberts: — My name is Grant Roberts, I operate Mecca Fitness and Pro Fit Athletic Club in Saskatoon.

I've been in the fitness industry since I was 17 years old and it remains my passion to this day. While I have wide-scoping interest in the fitness industry as a whole that causes me a great deal of time away, I continue to own and operate two fitness centres in Saskatoon that I personally view as outstanding examples of how fitness centres should be operated.

My facilities share a common mission statement: educate, motivate, and create healthy, invigorating lifestyles for every one of our members at every level of our clubs.

I spoke here in the Legislative Assembly in July 2001, submitting my views and recommendations regarding the Standing Committee on Health Care. My presentation provided a solution to improving the overall health of Saskatchewan population while additionally saving the province millions of dollars on health care spending, perhaps saving or at the very least prolonging the collapse of the health care system from its inevitable present course.

My solution was subsidizing fitness to make access financially accessible to everyone equally, and I supported this with a cost analysis that considered the reduction of only a single disease — heart disease alone — proved effective and profitable.

This solution can still be achieved through the provision of financial incentives in the form of a tax rebate to encourage participants to seek professional assistance and become more active and understand the benefits of good nutrition and exercise at qualified fitness centres, qualified being the key word. I further detailed what qualification entailed and the need to implement basic necessities within fitness centres — programs and of course the qualifications of professional staff. This would naturally cause currently unqualified fitness centres to raise their standards, enhancing the likelihood of participation and positive and effective result to the patrons which should be that and this committee's true concern.

Instead government chose not to listen. Today with the ironic title of Standing Committee on Human Services, not only is government displaying its ignorance to the rampant epidemic of obesity and sedentary lifestyles, it is now attempting to penalize the very industry that is best capable of providing solutions under the guise of consumer protection.

Once again I'm here before you and I will identify the real problem with fitness services in Saskatchewan, and once again in my closing I will provide you with the solution.

The action this Bill proposes is not protecting the consumer. It is penalizing the consumer and private operator alike. In the present state of operations in privately owned fitness centres, consumers enjoy incredibly affordable rates for the invaluable service of enhanced health. Fair competition among private business virtually always necessitates this economic balance but Bill 12 does not support that.

The proposal of Bill 12 negates the club owner or consumer's option of continuing or carrying forward membership dues, which is an effectively working system that is not only convenient to the member but this currently accessible and hassle-free service you are threatening to abolish typically protects the member from rate increases and renewal fees.

One thing is certain. This legislation in its present form will leave no alternative to the private operator to raise membership fees, which further hurts the consumer.

Additionally Bill 12's suggestion providing the right to, and I quote, the consumer may cancel "at any time if there has been a

prescribed . . . change in the circumstances of the consumer.”

The imbecility of the proposed Bill is only propagated further by suggesting, and again I quote, “A notice of cancellation may be expressed in any way as long as it indicates the intention of a consumer to cancel the . . . [personal services] contract.”

And if that was not irresponsible enough, it further states, “A notice of cancellation may be [supplied] . . . by any prescribed means.”

This means the consumer is provided the right to cancel membership at any time by virtually any means; as simple as a telephone call, which would provide no evidential proof of record of identity to whom might actually even be calling. Not only would such an approved method of cancellation be confusing and virtually impossible to legitimately substantiate, the club owner with potentially no required evidence of the cancellation in this Bill is further threatened with the possibility of fines and imprisonment.

I am left questioning why the legislation even bothers to use the term contract. I believe a contract is defined as an agreement between two or more parties requiring consideration and a mutuality of obligations that are enforceable by law. This proposal breeds contempt of responsibility of contractual commitments of the consumer and provides no protection whatsoever to the operator.

The government should not be empowered to unilaterally decide that a contract of a specific industry is no longer enforceable by the industry without applying the same standards to all contracts and industries.

What is the circumstance when an education or service in the form of exercise program or perhaps a diet has been provided? I see no difference if someone decides that there’s been a prescribed change in their circumstances, saying they no longer want to pay property tax. Or perhaps go so far as to say that they bought a lottery ticket. And they purchased it; they didn’t win so they want their money back.

The Bill is completely irresponsible and the devastating effects are far-reaching, punishing much more than club owners but the consumer and taxpayers as a whole.

What troubles me most about the Bill is contained in part 76.31. It specifically stipulates that non-profit corporations, such as YM [Young Men’s Christian Association] and YWCAs [Young Women’s Christian Association] or facilities operated by the Government of Saskatchewan or any of its agencies are completely exempt from this legislation.

Let me make one thing perfectly clear. As a fitness centre operator who has dedicated his life to this industry, I absolutely support any legislation that safeguards the public from fraud, deceit, and financial hardship. But that’s not what this Bill proposal demonstrates. It promotes an even greater unfair advantage to non-profit and government-run fitness centres that I view as a travesty and an abuse of taxpayer dollars.

Under Canada’s Constitution, the province shares responsibility for the protection of consumers in promoting fair business trade

equally. This legislation conveniently excludes non-profit and government-run facilities, completely forgetting one-half of government’s responsibility — protecting private enterprise. Government has a mandate to promote and maintain fair competition so that consumers can benefit from competitive prices, product choice, and quality of services.

Should this ridiculous Bill pass, I’ll be contacting the Commissioner of Competition. That’s the organization responsible for investigating anti-competitive practices which, in my opinion, this proposed Bill provides a textbook example of unfair business practice.

Antitrust legislation applies to virtually all industries in every level of business except, in this case, non-profit and government-run fitness facilities. Antitrust legislation is intended to maintain competitive market structures in order to protect commerce from monopolies.

I think we can all agree fair competition makes the economy work more efficiently. It strengthens business ability to adapt and compete equally, gives small and medium businesses an equitable chance to compete and participate in the economy, provides consumers with competitive prices, product choices, and the information they need to make informed purchasing decisions. It balances the interests of consumers and business owners alike.

Why should government and non-profits not be subject to the system of fair trade? Alternatively, unfair competition such as that is being enjoyed by non-profit and government-run facilities may ultimately cause some privately owned fitness centres to act inappropriately as a means of survival. While two wrongs clearly don’t make a right, I think those immoral practices of a very few privately-run fitness centres is in itself uncommon and the individuals, not the industry, is who should be punished. It’s akin to saying some people steal, so let’s imprison everyone.

The current unfair advantage that private fitness centres currently operate under is already challenging enough. What you are proposing only provides an even greater advantage to the non-profits and government-run facilities that would potentially crush many small operators in the industry; an industry, I remind you, that is actually working despite the advantages that have been afforded to government-operated and non-profit fitness centres.

It is time to stop government. Consumers aren’t stupid and they aren’t being bilked out of fortunes in the fitness industry. Membership dues in privately owned facilities are incredibly reasonable. I would suggest the average monthly fee of private clubs is somewhere around \$35 a month. The simple passing of legislation to make monthly dues mandatory, whether it be in perpetuity, would protect the consumer.

It is the fitness industry that needs protection, not the other way around. This Bill is an example of governmental abuse of power and abuse of taxpayer dollars, creating legislation that specifically omits them from the responsibility they’re trying to unfairly impose on an industry.

Bill 12 is intended to apply only to privately owned commercial

fitness centres. All government and not-for-profit facilities, such as the YM and YWCAs, are specifically exempt and not subject or required to comply.

Government also has a mandate to protect private enterprise. The Saskatchewan economy depends on small business. Government needs to recognize small business by protecting it and encourage free trade, market competition on a level playing field, not utilizing tax dollars to compete directly against us.

Instead my interpretation is simply government attempting to manipulate consumer protection laws providing itself with an unfair advantage. What I view as a corrupt act by government of unilaterally excluding itself from the proposed Bill ultimately not only penalizes privately run fitness centres but also the consumer and taxpayers who fund these unneeded government facilities. I say unneeded because in many areas private industry is willing to provide the service but cannot compete with government or non-profit facilities. When non-profits duplicate services that already exist, why should they not also be subject to taxation?

Non-profit and government fitness centres that provide identical services to that of taxpaying clubs enjoy a massive financial advantage. This enables non-profits and government facilities to underprice taxpaying clubs. And to anyone who views this as a good thing clearly has not looked at city-run facilities' balance sheets, and I encourage you to do so. The luxury of a government-run facility to have little or no concern for profitability only hurts a taxpayer who is picking up the tab. If there is anything that history has conclusively proven is that a government-run monopoly for a commercial activity is inefficient and ineffective. Government-run monopolies involving a commercial activity breed shortages, high operating costs, and poor quality.

Furthermore, relating to the charitable aspects of the privileges afforded to not-for-profit facilities, I see no evidence — at least in the city of Saskatoon — that the government is actually doing its job. The non-profits and government community centres exist for what I can only describe as non-residential downtown cores and affluent neighbourhoods. How is this charitable? What is the mandate?

In my case I chose to display leadership. I took it upon myself to do what government is not and provide a world-class facility in the west end of Saskatoon. I invested in excess of \$1 million in a fitness centre I named Mecca Fitness in what can be described as a blue-collar area because the city and the YMCAs of the world chose not to, choosing instead to ignore this area of the city, likely because of the very demographics one would assume should be their priority or focus.

In fact as it relates to my facilities personally, the proposed changes of the Bill 12 hold little threat or impact. It is out of sheer indignation that I speak here today and ethically implore you to withdraw the Bill. My club is superior in every way. Members may choose a no-contract membership for only \$35 a month. The YMCA offers access for \$49 a month. That's 40 per cent higher yet they mimic my services and pay no business tax. A non-profit fitness centre should provide benefits to the entire community to qualify for tax-exempt status. High fees inhibit, like the YMCA, inhibit or preclude participation. When affluent

individuals take advantage of the services of a non-profit facility, should this money not be subject to taxation? What qualifies a non-profit or charitable organization for this free tax status?

When I inquired at the Y about individuals requiring financial assistance to gain access to the facility, the staff didn't even know how to respond. When I asked this same question at the city, the city facilities, I was told that they only accept applications to allow access for the impoverished three times a year, between the first and tenth day of January, May, and September. Upon proof of low income from the last 12-month period, successful applicants may be entitled to between four and seven passes that can be used over a three-month period. How is this charitable and how is this beneficial?

My club, Mecca Fitness, does not turn anyone away and we provide a very informal process allowing qualifying low-income individuals full access to our club on a case-by-case basis.

Mecca Fitness is also the only private fitness centre with an AED [automated external defibrillator] defibrillator. All of my staff are trained in CPR [cardiopulmonary resuscitation] and the use of the defibrillator should someone suffer a heart failure. This is not the case in the YMCAs, YWCAs or the city-run fitness facilities that I am aware of. In my opinion city-run and non-profit facilities are grossly incompetent and I know I provide better access, services, safety, and the lowest prices possible.

If a local fitness centre was to close, the policy of Mecca Fitness is, with proof of a contract, to honour the remaining balance of time that has been paid by the consumer free of charge. That's another thing that I do to protect consumers.

I provide community outreach programs. We actually have one under way right now where we have 46 participants from a Native school that have free access to our facility for the next three months. And we're also supporting them with programs and support in any way that they need, absolutely free of charge.

I received international recognition for some of my fitness contributions but I can stand here and say that the thing I'm most proud of is not servicing the Hollywood film industry — it is the countless people who attend my clubs and have happier and healthier lives. That's what passion for your job is and in the end what matters is how many people did you impact. I believe many other fitness operators share this feeling. We are not trying to rip anybody off. We are an industry because we love it and it's something that we can look at ourselves in the mirror knowing that we are contributing to society.

Just let us do our job, unobstructed and able to compete fairly. Take away these unjust incentives of the city-run and non-profit fitness centres or at least make us compete equally. Why is the onus not put on these facilities to live up to the mandate of charitable organization? Why should a non-profit organization that mimics a for-profit facility enjoy any taxpayer advantage that's paid or financed by the taxpayer?

The real question is, what is their mandate? They violate their

charitable mission. They do not provide a community service, they provide a community disservice. It is only a front that they use to compete unfairly with small business and cost taxpayers millions in the process.

From what I see locally and in my travels is that state-of-the-art, non-profit fitness centres and YMCAs are being built. But what's most interesting is where they're being built — in affluent communities, communities where income levels are well above average and likewise membership rates are not competitive. Yet the government in their questionable wisdom continues to build these facilities and grant tax-free, non-profit status to facilities that provide no charity that I can see.

Revenue Canada needs to consider the qualifications for non-profits and the need for government-run facilities as a whole. It is in fact government's preferential treatment of non-profit health clubs that represents the greatest threat to the fitness industry and ultimately taxpaying consumers alike. Bill 12 only supports this.

Trust me when I tell you that I am not alone and that there are other operators that feel exactly the same way and that we're not done with this. How dare government try to pass a Bill that enables government and punishes free enterprise. I will be seeking every right I have to fair competition. No longer should the city be able to rent billboards advertising their facilities with my tax dollars or insert leaflets into utility statements promoting their facilities when I and other fitness centre operators provide superior services without taking taxpayer dollars but instead, contributing to the city or provincial tax revenue.

If you're going to promote and advertise fitness and health to the populace, bravo. Then do so by inviting participating in all facilities available, not just the advantaged, non-profit sites.

And for the solution, if you need it to be repeated, work with us not against us. Government's role is to promote competition and to encourage the production of quality goods and services at the lowest prices with the primary goal of safeguarding public welfare by ensuring that consumer demands will be met with reasonable pricing.

If there are individual club owners that are causing harm or defrauding individuals at any level, prosecute them independently not the industry. The solution already exists. Eight provinces have enacted legislation to control unfair business practices. Such practices may leave a merchant open to investigation or prosecution by provincial authorities and may create private right of action by an aggrieved consumer. Although the practices deemed unfair are similar from province to province, in Saskatchewan the relevant provisions are all contained within The Consumer Protection Act.

My suggestion is also follow Ontario's lead. The provincial government recently launched the consumer beware list. This on-line database includes complaints against individuals and businesses registered with the ministry's consumer services bureau.

As I said before, consumers aren't stupid; provide them with the information. Government should stay out of the fitness business since private enterprise is more than willing to do it and does it

better, without burdening the taxpayer. Spend some money encouraging people to become active. Better yet, revisit my proposal of July 2001 and become visionaries. Saskatchewan could be a template of success for this entire nation to follow with a tax rebate program to participate for individuals to become healthier.

As far as protecting consumers, implement one simple rule: that is prorate memberships to a monthly dues schedule regardless of perpetuity. This will provide little or no advantage to individuals trying to bilk customers, if that's what your issue is. The customer will never be at risk for more than one month at a time.

And lastly, create a committee — you guys are good at that. I'll be gladly and I will gladly donate my time and create the parameters of a qualified fitness centre that would entitle participants to a tax rebate for joining a qualified fitness centre to achieve health and longevity. Government will reap the rewards many times over in greater overall production of this province and reduce the strain on the health care by doing what you should really be doing; educating, motivating, and creating invigorating lifestyles. I know that's my mission statement, but you should make it yours. Thank you.

The Chair: — Thank you, Mr. Roberts. Could we have a copy of your presentation?

Mr. Roberts: — Sure.

The Chair: — Thanks. Questions then. Mr. Morgan.

Mr. Morgan: — In your business, do you collect money more than a month at a time or do you try and get prepayment?

Mr. Roberts: — I actually discourage my members to do so. I give them the right . . . Like myself there's a lot of people that just don't want to be billed monthly and say, I want to pay you. There's no advantage for them to do so. I encourage them to pay me monthly because like everyone else, with the exception of government and non-profit facilities, I have bills to pay every month. So my revenue stream is more important that I maintain it on a monthly basis. So not only am I helping the consumer, I'm helping myself.

Mr. Morgan: — How long is your contract for usually?

Mr. Roberts: — We really don't have a contract. That's the thing I'm talking about. The legislation doesn't impact me. I'm just appalled that you want to exclude yourself from this. I have a no-contract facility. We offer rates at \$35 a month. If they do want to commit to a year, it's \$25 a month, but we still ask for them to pay it monthly.

Mr. Morgan: — I didn't introduce the Bill. I am on the opposition side.

Mr. Roberts: — I meant government as a whole. I'm not insinuating you, sir.

Mr. Morgan: — So I'm just, you know, I'm trying to get an understanding of sort of how this Bill is going to impact the industry. One of the things that's in there, and you raised it, was

the method of cancellation and what a material change might be. The regulations haven't been drafted and before you got here the minister had indicated the regulations haven't been drafted yet or haven't given any thought. If they go ahead with that portion of it, what would you think would be reasonable for a notice or method of cancellation or what a material change might be to allow a cancellation?

Mr. Roberts: — Well a material change is a pretty vague statement and I don't even understand the term as to how it can possibly be applied to a contract. A contract is a contract. If you make a commitment to something, then you're expected to live up to it. If there are circumstances, and we have that all the time, where people say, you know what, I've either injured myself or something's happened or I'm moving, then those are legitimate circumstances that you would be able to relieve somebody of that responsibility. However, what you're insinuating is that a contract is no longer a valid piece of . . . no longer a valid document. They have to make a commitment, and by making a commitment they're entitled to a lower price by the longer term.

Now I don't . . . I agree that possibly a year is more than sufficient. But I think one of the great advantages of the fitness facility is that when members do make a commitment, that the rates can continue in perpetuity following that on a month-by-month basis. This allows them security in their fees. They know they're not going to be subject to renewal fees, and they know the rate's not going to ever go up. It's a great thing for a consumer. By removing that, private fitness facilities have no option but to increase their prices. None.

Mr. Morgan: — I have nothing else. Thanks.

The Chair: — Ms. Crofford.

Ms. Crofford: — Well hopefully no matter who originates these Bills we all take responsibility in our new process for how they turn out. I think it's great, the passion that you have for the work that you do, and I think you've raised a number of excellent points today that we're going to have to look at seriously.

If I can speak a little more personally then, I don't think government should make laws that don't apply to them either. So we agree wholeheartedly on that particular point that there's . . . it doesn't seem logical to me that you would make a law and exempt yourself from it.

Mr. Roberts: — I hate to interrupt you, but it's also illogical that they would compete in an industry when private industry wants to do it, and does it better.

Ms. Crofford: — And I think what we're concerned about today is not people who are responsible, long-term participants in an industry, but people who maybe ride a wave and get in and get out.

And I want your opinion whether you think bonding is also not necessary, or whether it's a suitable method to protect those customers who may be the victims of someone who just thought, well here's something I can get into quick and exit again and . . . Because we do have several examples here of

fitness businesses that have been fairly short-term and have left substantial dollars owing. And what do you think? It's just buyer beware? Or what do you think is the solution to that?

Mr. Roberts: — Buyer beware to a certain degree. I think that, you know, I'm sure it's just not only the fitness industry that has businesses close on a daily basis. Really, from what I see, I see the fitness industry being more stable than it's been in a long time. And I think it's self-governing. No longer do we see lifetime memberships or scams of those natures. And that's all they were, were scams, and they tainted the industry entirely.

To me, by making a mandate where there is absolutely no advantage whether you buy a month or a year or two years — that the rate stays pro-rated to a monthly fee — I see no risk for the consumer other than a few days.

Ms. Crofford: — You raise an interesting point with the self-governing concept. Do you have a provincial organization?

Mr. Roberts: — No, but I'm desperately trying to create a national organization. I work with one in the US [United States] that's very strong and very dominant. And I think it's absolutely needed in Canada as a whole, and I mean it when I say Saskatchewan has the ability here to be visionary and to create a template of something that may affect the rest of the nation.

We could actually consider rebating fitness membership and looking at the impact that it would have on health care and looking at the impact it would have on productivity in the province.

You know, I'll gladly pass on to you my proposal of 2001 which by looking at one disease alone, an investment by the government of \$150 per participant . . . and now of course the qualification was a qualified fitness centre, and there are parameters that are there. And those things are very simple, you know, making sure that the employees that are there are educated, professional, CPR, first aid certified. And an AED, sorry, defibrillator like I have in my facility is an absolute essential component. The city runs and YMCAs don't have that.

Ms. Crofford: — Well I think you . . . The whole point of these hearings is to be thoughtful about what we're doing. And I think you've raised a number of important questions today, so I'll just thank you for your presentation.

Mr. Roberts: — Sure, and I mean it implicitly that I would be more than happy to donate my time at any time to create this organization.

The Chair: — Mr. Wakefield, sorry.

Mr. Wakefield: — Thank you, Madam Chair. I'd like to follow up on one of the questions that Ms. Crofford mentioned, talked about. How many people do you employ in your two operations in Saskatoon?

Mr. Roberts: — I believe right now the number is around 30, maybe 30 plus — between 30 and 35.

Mr. Wakefield: — Are they part time or full time?

Mr. Roberts: — Probably half and half.

Mr. Wakefield: — How many fitness clubs of your calibre could you identify in the province?

Mr. Roberts: — Well I honestly believe mine stand alone in the fact . . . you can think it's a joke, but it's true.

Mr. Wakefield: — Maybe I should rephrase that.

Mr. Roberts: — Sure.

Mr. Wakefield: — How many reputable fitness clubs are there in the province?

Mr. Roberts: — The majority. I think that the majority of people in the industry aren't in it for the money because it's not a lucrative industry. It never has been. I've been lucky to be successful in other areas but not necessarily in the fitness industry itself.

I continue to reinvest in my clubs. They're a massive investment, and I continually renew them because it's my passion. It's what I do. It's a very expensive hobby for me, but I wouldn't say it's a profitable one. So I think the majority of operators are of similar mind.

Mr. Wakefield: — So following up on Ms. Crofford then, would it be possible with the, whatever number of operations there are, to become a self-regulated organization and look for guidelines rather than regulations.

Mr. Roberts: — I believe that's an excellent idea, and I think it's an absolute necessity. I think that we are a division of health care and that we have to take that very seriously. A person could easily walk into whether it be a private facility, a YMCA, or a government run facility and get on a treadmill and suffer a heart attack easily. And it is up to the facility to be able to deal with those kinds of circumstances, as well provide expert advice to individuals looking to create better health. This is an educational industry. Most people in the obesity epidemic we see is because people think that they're doing the things that benefit them, but they're not.

Mr. Wakefield: — So an association of your colleagues would take on the responsibility of making sure that the operations were legitimate?

Mr. Roberts: — I believe so, and that's really my . . .

Mr. Wakefield: — . . . and customers, because the consumer and the customers need that level of confidence to be able to keep operating, as do you.

Mr. Roberts: — I absolutely agree with you. And I think it's . . . You know the best billboards we have are happy customers, people that have been successful, people that have lost that, you know, little bit of body fat that they were trying to get rid of or, you know, have recovered from an injury. That's what people aspire to. And by creating an association or an organization that promotes that, that talks about the benefits of fitness, provides an education to consumers, it can't help but be successful.

The Chair: — Thank you. Okay no further questions. Thanks, Mr. Roberts. I was also chairing the Fyke Commission's hearings when you appeared. And I have to tell you that your presentation did generate a fair amount of conversation and comment and I'm glad to see you bring it back again because maybe the timing is better. So thank you very much. And you will leave a copy of your presentation?

Mr. Roberts: — Sure.

The Chair: — Thank you. We'll call our second presenters up right now. Again, I'll let you introduce yourselves. And if you do have a copy of your presentation that the Clerk can have, we'd appreciate that obviously. And if we can leave a few minutes at the end so the committee can ask you questions that would be appreciated. So go ahead.

Mr. Clarke: — Yes. And you may have difficulty trying to sort through all this. It may have to be rewritten before it will be of much value to you.

Good afternoon everyone. My wife Joan and myself appreciate the opportunity to attend today and discuss the proposed changes to The Consumer Protection Act. What we'd like to do today is discuss the proposed changes in legislation and how they would affect our businesses and then certainly make ourselves available at the end for discussion and questions.

Now some of the things we're going to talk about today have really been covered by Grant Roberts so there's going to be kind of a duplication here. So what we may do is just go through a little bit quicker and then leave ourselves more time for questions which may be beneficial as well too.

So I'll just give you a little bit of background on ourselves and what we are involved in at the present time. At the present time, along with our daughter and two sons, we own four Curves franchises here in Regina and The Blitz for men in Regina as well. And we run a Clarke auction service at Rouleau.

So as you can see we deal with people on a daily basis, and we deal with contracts on a daily basis. So we're quite familiar with both of those things, and we're used to dealing with people; we're used to dealing with their personalities, their mood changes, and so on.

So it's a tough industry to work in. We've been at it for a long time, and we've been successful at it, but it's not without lots of hardships. You know, lots of work and lots of money invested and there have been lots of rewards along the way.

And I understand today that what we're trying to do here, what you people are trying to do, you're opening up an Act and on one side you have . . . You're trying to deal with a situation where some older lady wants to book a trip, a bus trip somewhere, and she's got to put a deposit on. Come October the bus company's gone. You know, the aluminum salesman that comes along, tries to get a down payment on your house and in six months he's gone. And also the fitness industry hasn't got the best reputation either. There's been a lot of them gone down. They've taken people's money with them.

But on the other hand, you've got good businesses in this

province that are dedicated to the province. They've decided years ago they're going to stay here. They're going to run a solid business, and they're going to be there tomorrow; they're going to be there in 12 months when that contract does expire. They're going to be there. They're going to be running their business. They're going to be providing the same service as they laid out in the contract.

So I would certainly enjoy the fact that you people look at both sides. In this province I've never saw yet where there was a business Act. That would be a novel idea. Have a business Act to protect a businessman. You know we get bum cheques in every business that we operate in. There's no way to collect those cheques. We deal with that every day. We try and run a solid business and it's very, very difficult.

But in our franchises here in Regina — the Curves, being that it's different than the Blitz the way the memberships are signed — are very, very similar so . . . and I'm sure a lot of you people don't understand that there's several options. Now our fitness franchise is made different from Mr. Roberts' but they will be similar in some respects and I imagine most of the facilities within the province will have two or three ways that you can become involved here and pay.

Now in our facilities one of the popular methods, of course, is a month-to-month where you come in, you commit yourself to a month. It costs you \$49 per month. You can cancel and depending on how many months you've been in the program there may be some fees involved there.

The second is a 12-month contract which is the one that most businesses would like to see of course because when you look at the start of the year and start doing budgets you'd like to know how many people you have committed to the program, how much revenue you have, and of course to service your debt and what expansions you can make and so on.

Now in that particular case — and I'll just use Curves for an example because there are 28 Curves facilities in the province owned by 18 individuals. So in that particular case, on a 12-month contract the person would come in, they would sit down, and they would discuss how they would become involved with Curves. It would cost them \$39 per month paid by a monthly cheque draft. After the 12 months are done the contract would be renewed. We call it a contract but they would go on to a month-to-month basis which they could quit at any time after the 12 months but they would continue to only be charged the lower rate of \$39 a month instead of reverting back to their ordinary month-to-month which would be \$49. And you can cancel at any time without penalty.

So really when you look at it, the contract isn't very severe. You've signed for 12 months; you got a low rate. After the 12 months it just continues on. You don't have to contact the person; it just continues on. They stay at the \$39 a month and if they feel like quitting after 13 months, 14 months, you can. You're not penalized to do that.

But when you look at it, in our particular case we have 4,500 members work out in our facilities. Could you imagine if you had to notify every one of those persons at 51 cents a letter regardless — don't even think about the person that has to lick

the stamp and do all the work — it's \$2,250 every year that you would send out to tell somebody that their contract is coming up. Maybe they don't want to cancel but you still would have to do it.

So when I look at some of these points here, it really makes you wonder if everybody has sat down and studied the industry before they made some of these recommendations here. And that's what I would like to do. When we went over the Act, it's difficult sometimes to put in laymen's language here. I want to read out about the first seven or eight of these and see if I or we in fact do read them correctly. Okay.

Number one, no membership agreement shall be made for a term longer than one year. Is that what's proposed? Just say yes or no if I'm hearing it right. Any membership agreement entered into for a term exceeding one year is void. Is that correct? Renewal or extension of a membership agreement beyond the original term of one year is void.

A consumer may, without reason, cancel a membership agreement within 10 days. Now that one, that one's not such a big problem with us, I guess. I mean it's three days now — three, ten days — buyer remorse, whatever. But one question there would be on that point, what do you do? Do you take the cheque? Do you hold the cheque for 10 days before you deposit it? Do you let the people come and work out for 10 days, or you tell them, no you can't because the legislation, you can't come back for 10 days till your cheque clears . . . [inaudible interjection] . . . Yes, until they've made their mind up.

I mean you think about kids. How many sleeps does it take to make up your mind here, you know? But that's not such a big concern, three to ten, we could live with that one. But when you think about it, it does make it awkward. Do you let them work out for 10 days and then the person that morning says, ah hell, I don't want to do that any more. So do you give him 10 days free?

A consumer may cancel

at any time if:

- (i) there has been a prescribed change in the circumstances of the consumer; or
- (ii) [if] there has been a prescribed material change in the services provided by the supplier.

Okay. Now in the first part of that, when you talk about has there been changes for the consumer, our particular facility looks out for that. There's a medical hold. If you come in and say, gee I pulled my calf muscle yesterday; can you put me on medical hold? Certainly. You just take everything, put it aside. When they come back and say, yes I feel healthy, you go back and start charging them again. Not a big deal. Like a lot of this stuff is there already if we just let it happen.

But the one that does bother me a little bit is, has there been a change in the supplier. Well what does that mean? Have we changed the machines and put them in different order? Have we changed the doors on the machine? On the entrance door . . . [inaudible] . . . Is there something that you just don't like, you

just don't feel good about it? You could cancel at any time.

Well when I was growing up, a contract was a contract. And I mean if there's a major change, certainly, certainly they should be able to cancel. But it just opens the door, it just opens the door for somebody to come in and say, ah I'm tired of this; I've got a contract; I want out of it. They pick some phony little excuse, and bang — they're gone. You budgeted at the start of the year for this many members to do this much work. All of a sudden they're not there again.

So I think that one really has to be looked at because all the onus — all the onus there — is on the supplier and any amount of little excuses could certainly change it.

If a consumer cancels, the fitness club must:

within 15 days . . . refund to the consumer the amount calculated in the prescribed manner . . .

Not such a big deal.

. . . within 30 days . . . return to the consumer every negotiable instrument executed by the consumer in connection with the contract that has not already been negotiated.

That one's really, really vague. It's going to be hard to discuss much on that one.

A notice of cancellation may be expressed in any way as long as it indicates the intention of the consumer to cancel the personal development services contract.

Well I think that Grant touched on that as well. And we had that happen where a phone call is not sufficient — absolutely is not sufficient.

We had a gentleman phone up and say, I want to cancel my wife's contract. Why? Well she just doesn't want to do it any more. Okay; cancelled it. You know what — they had a divorce. She come in to work out in a few days and wondered why she wasn't allowed to work out any more.

So we say that they must come down, be present, and have a letter for our records so that we can put it in the system, change our computers, so you know what standards that that lady is under. I mean a phone call just isn't . . . doesn't cut it, absolutely doesn't cut it, the same as a phone call to them would not cut it. We have to provide anything in writing to them; why in turn do they not have to do it to us so that we've got something for our records to go on?

So those are some of things there that I think . . . I think really, really touch on. Now it's our idea, like the way we've set it up already I think it works wonderfully and I would hope that everybody would have a look at this system. When you come in on a 12-month, month-to-month, we order 24 drafts which are much cheaper than 12. So the lady has 24 drafts there. She starts on July 4. On the 4th of every month a draft is put through. At the end of 12 months it continues on but it goes now to a month-to-month where she can cancel.

And I think that's a really simple system. She's still under contract for the first month. We've got ladies there that have been with us for five years. They don't want to hear from us. They don't want us phoning or writing a letter saying, do you want to renew your contract? If she didn't want it she would have cancelled it three years ago. So we've got lots of customers, it just would be a waste of time and a waste of money.

When we did our budgets on this we looked at it. We thought, if it goes through the way it is proposed in our particular situation, we're likely going to hire four to five extra people to handle this workload. Right now we presently have over 30 full-time employees here in the city as well as our whole family is involved in it. You add another five full-time members that have to be trained, have to be insured, it would just put a terrible burden on our business. And I think when we talk about how inexpensive it is, it would certainly . . . Our rates and fees would have to increase and that's just not an idle statement either. It would have to happen.

We talked to . . . BC [British Columbia] two years ago opened this same Act involving the fitness clubs out there. We talked to the people involved with the Curves facilities there last night and they said while there weren't a tremendous amount of changes it's already apparent that the cost of fitness has gone up in the province. And he said, I mean it's here; we've got it, we're living with it. I'm not complaining about it but he says the indications are that the cost is going up. So if you folks think that this isn't going to happen it certainly is because we can't operate under the same fees.

Like Mr. Roberts said, it may look good on the outside. You think these people are rolling in it but, man, it's an expensive business. And it's not a get-rich-quick scheme. So I think most of us are making a living at it but if we have any extra costs like this it's certainly going to have to be transferred to our customers.

But what they did out in BC, they've got a two-year contract in BC. They stayed with two years and he said it's an extension of the one-year. Like they go a one-year contract for 12 months, it just rolls over into 24 months. If anybody wants to cancel they have that option to do so.

And when you think about it, we're dealing with adults here, folks. They come in, they sit down with a qualified technician, the contract is laid out in front of them. Anything that needs to be described is described. It's highlighted. The cancellation part of that contract is highlighted, it's explained to them, and the person signs off on that. They get a copy of the contract, they have it in their hand.

So anyone that says that they were deceived while they sat there for 15 or 20 minutes and had a chance to look at it, read it, read the highlighted areas and signed off on it, they knew what the contract said. There's no fine print at the bottom. There's nothing hidden. It's all right there. If you have any questions you talk about it.

So it's not like, you know, some of the contracts that we've all been involved in where there was some fine print at the bottom: car leases and so on. It's there, it's all in the same print.

So without duplicating a whole bunch, a whole bunch of what Mr. Roberts has had to say, yes I think the main concern that we have is on the 12-month contract. Like it's very difficult to run a business and not know what your income is going to be. Think about it. Think about it. The only people that do it is farmers and they're having a hell of a time right now.

You know, it's really difficult to do because . . . But it's nice — you look at it, you say, we've got this many members; our income should be this much. Let's go to work on it and we know what our expansions can be.

The buyer remorse one, that's not bad. If that appeases one side, so be it. Let it go to 10 days. And the government-run programs, well I'm not here to bash either side. But why in the heck can't we all play in the same field? Tell me, what's the difference? We invested thousands of dollars, stuck our neck out 2 feet when we went into this business, not knowing where we were heading. All of a sudden, we're competing with somebody that hasn't got their neck stuck out an inch.

They don't play by the same rules. I have a problem with that one — big problem with that one. I think if you're all going to be in the same industry, play by the same rules. It's plain and simple.

Other than that, I think it's been covered here quite a bit by Mr. Roberts and ourselves. So if you have any questions we'll sure try and answer them for you.

The Chair: — Thank you very much. Mr. Morgan has a question.

Mr. Morgan: — I'm wondering what your drop-off rate is during the first year and then what it would be on an annual basis after that. If somebody makes it over the first year, are they likely committed to it for the long term or . . .

Mr. Clarke: — Joan might have a better idea. She's there on a day-to-day basis but . . .

Ms. Clarke: — With any fitness program, they say within three months of attending a club, you've either established a routine or you haven't established a routine. So we find that anybody that stays with us for longer than three months is going to be a long-term member.

We find also too that members that commit to the year contract based on the monthly payment of \$39, that's a commitment to them. They're going to stay in that program longer because they have some commitment as compared to just paying month-to-month at \$49 and being able to walk out the door at any time.

Mr. Morgan: — And I think I missed when you were saying your rate structure for a one-year program, if they pay by the month, is 49?

Ms. Clarke: — No. Only if they pay . . .

Mr. Morgan: — If they pay monthly, it's 49. And if they commit to a year, it's 39.

Ms. Clarke: — Thirty-nine.

Mr. Morgan: — But they still pay it monthly.

Ms. Clarke: — Right. Exactly.

Mr. Morgan: — And then on the renewal after a year, do they stay at the lower rate no matter what?

Ms. Clarke: — They do. Yes. As long as they continue to roll over and they don't come in and say they want to cancel, they're a member for as long as they want to be at the . . .

Mr. Clarke: — At the lower rate.

Ms. Clarke: — At the lower rate.

Mr. Morgan: — So you would be well served by this legislation if it allowed you to require a commitment, because you're putting everybody beyond a year on the \$39 rate anyway.

Ms. Clarke: — Yes.

Mr. Morgan: — And then effectively, after the one year, you're month-to-month in any event.

Ms. Clarke: — Exactly, but at the lower rate.

Mr. Morgan: — There's a lower rate anyways.

Ms. Clarke: — Yes.

Mr. Morgan: — So for you as long as you can get them . . . require a member to commit for a year, you're all right with that.

Mr. Clarke: — I think that's fair. Joan touched on a real good topic there too. You know, I think a lot of us that do have a weight problem have a tendency just to try a diet, to try some fitness, and it's easy to get off and get on, get off and get on. But if you can get someone on for 12 months, then they can start seeing some results, some benefits, and I think you have a member for life.

Like I'm not kidding you. We have lots of people that have been on for five years — since we started. And they're going to be there. A lot of the ladies said, you got me for my whole life; I'm here. And they know the benefits of it. They've seen the results. Where somebody that comes in and it's just so easy, you miss a week and think, ah heck, I didn't miss it that bad. And you don't go the second week and pretty soon, your month's done and you're done. And you don't come back. But if you can get somebody committed to it, you know, the testimonials are unbelievable. We should actually have brought some testimonials from the people, you know. And it's just amazing some of the results from some of these programs.

Mr. Morgan: — You said you take a draft. I wasn't sure what you meant by a draft. Is that like you put through a pre-authorized cheque so it's direct debit out of their account?

Mr. Clarke: — That's right.

Mr. Morgan: — And so you do that rather than . . . Do you sometimes charge credit cards for them or . . .

Ms. Clarke: — No, we are not into that habit of charging the credit cards.

Mr. Morgan: — So most of your customers, it's by way of a direct debit.

Ms. Clarke: — Yes.

Mr. Morgan: — And then it goes through the direct debit. Do you take . . . No post-dated cheques either?

Ms. Clarke: — We will. If some of the people are dead set against having these what we call the cheque drafts, even though basically they're the same as a post-dated cheque, we will allow them to bring us in the 24 post-dated cheques.

Mr. Morgan: — Has it been your practice to take, when you open a new one, to take it up front? Or do people want to prepay six months or a year?

Mr. Clarke: — Some people do. On the men's side, we see more men would like to pay up front. And that's fine. We'll take their money, but for us running a business, it's much better for us . . . Everything we pay is paid on a monthly basis so we would much rather charge . . . If somebody wants to give you the money up front, I mean, of course, we'll take it. But I think it's better for them to, you know, to commit to a contract and just charge them by the month.

Mr. Morgan: — If this legislation was amended to prohibit taking any more than say three months or two months in advance, you would still . . . you'd be comfortable with that. It wouldn't pose any problem for your business model.

Ms. Clarke: — With the paid-in-fulls. Yes.

Mr. Morgan: — Thank you very much for coming. I don't have any more questions. I appreciate your candour with everything. Thank you.

Mr. Borgerson: — Thank you. And we'll just . . . A couple of questions. Probably the most significant, the biggest concern you have with this proposed legislation, is that one-year renewal, if I hear you correctly.

Mr. Clarke: — That's a big one.

Mr. Borgerson: — That's the big one. And so clarify for me this. So you do run into that same problem. If it were a two-year limitation, you'd still have to go through that same problem then. Just that if it's two-year rather than a one-year, you'd have half the problem.

Mr. Clarke: — That's right.

Mr. Borgerson: — But it's still the same problem, right? I just want to . . .

Ms. Clarke: — Actually the way our Curves is set up, you're a member for as long as you want to be a member. So those

members that have been with us for five years have just been on a renewal, a one-year contract with a continuation renewal till they tell us they don't want to be a member any more.

So those members that have signed up in April 2001 have never come in and signed up on another contract unless they have told us they want to quit. We don't do anything with them other than continue to draft them. They know they're a member until they say they don't want to be a member any more.

So it's a lot less administrative work. If we have to start going back through and signing new contracts and reissuing contracts, there's going to be a lot of administrative work.

Mr. Borgerson: — But if this legislation went ahead and the one year was changed to two years, you would have the same problem as you've indicated in British Columbia.

Ms. Clarke: — Right.

Mr. Borgerson: — Where you wouldn't be able to . . .

Ms. Clarke: — Exactly. Do the continuation. It just would be nice if it could be left the way it is. And leave the onus on to the member to quit the club when they themselves want to quit being a member.

Mr. Clarke: — You know when you think about it, it's . . . we've got contracts in every aspect of our life, you know. I mean, SaskTel doesn't phone out and say, do you want to renew that contract you have? I mean, yours is coming up here, you know. We've got insurance policies. There's just hundreds of them that we have every day. And nobody even thinks anything of it.

I mean we're an adult society. If you don't want to do something, then get out of it. Don't renew the contract, but . . . and everybody gets a copy of it, so they have a copy. They know basically . . . And on the swipe cards when they come in, they know how many times they've worked out. They know how many months are left on the contract, you know. It's all there.

We're not trying to hide anything at all. But we're just trying to cut down some of the paperwork and the staff and the costs of running a business. That's all we're trying to do. If you don't keep it trim, you don't stay there. And I think I can see this. And if you want more closures and failures in the fitness industry, well you're going to have it here because it's going to cost more money to run it. Just plain and simple.

Mr. Borgerson: — And the 10-day . . . which you call buyer remorse which you're not that fussy about, but it's doable. Just kind of a technical question. Is one way around that to pro-rate it so that if somebody comes in . . . You gave the example of someone coming in, using the facility for 10 days, and deciding that in fact they weren't going to proceed with the contract. Is that of any use if we went ahead with this 10-day period or is that just complicated?

Ms. Clarke: — Well actually it just complicates it. It's more administrative work in trying to track that new member for those 10 days. We find in the fitness industry that actually if

somebody does not want to . . . if they've come in and they've joined, they pretty much know within the next day or two that they don't want to be a member of the facility for whatever reason.

We don't think that they need to have 10 days. We're pretty sure that most people make up their mind in a shorter term. But what we're saying is we've already expended man-hours into that new member. We have done an appointment with them, we have met with them and done a first workout with them, and we continue to monitor them for their first month in particular. And then at the end of 10 days if they say, I decide I don't want to do this, it's not like they can return a shirt where you're going to get your full money back. We don't get anything from that expenditure of time and man-hours on that person.

So the shorter buyer's remorse the better for us because they can continue, like I say, they can use the facility every day for 10 days and then walk away and not give us anything for the use of that. And it's just even whether it's just in the cleaning of the machines or the cleaning of the bathrooms or whatever. It's man-hours that are involved with each and every member that comes in.

Mr. Clarke: — Let's face it. If you want out of a contract, you can get out of a contract. We've heard every excuse, every story that . . . we could write a book on it. So I mean it's there. If you want out of a contract then we're not going to fight you. We're not. For \$41, are we going to fight you? We're not going to chase you. We're not going to do anything. We're going to wish you have a good day and get the hell out of here, you know.

But you know it's tough being in business. If you send a collector after them you're the big, bad guys, you know, and somebody says, well it's only \$41 you lost. That's right. Times it by 10. Now times it by 100. Now it's something, you know. So it's a tough act there but if you want out of the contract you just get out of it. It's just that simple. It's not such a big deal. It sounds more impressive than it is.

I mean we've had a . . . [inaudible interjection] . . . I'm going to tell one story and then we're out of here. But we had a very prominent lady, female lawyer here in the city that used to come and work out. Very, very prominent. And she worked out and she was on a cheque draft and she worked out that month. When it came time to put her cheque draft in, in two days back it came again — along with several others — but back hers came. When we contacted her, here's what she'd done is closed her bank account. Just closed it. Well now that cheque draft is no good. Further conversation — she says, sue me. So that's what you're dealing with, you know? If you want out of a contract, you can get out of it, and there was a lawyer telling you that. Sue me. For 41 bucks, no, we're not going to.

Ms. Clarke: — But unfortunately, contracts, in a lot of cases . . . Only the honest people or the good-hearted people are really going to honour contracts, and that's unfortunate because at one point a contract meant a binding word, a binding agreement between two people. And as Grant said, if somebody really wants out of their Curves contract, we have no problem. Like we're nice people. We want you to be there. If you're unhappy there with us, we have no problems; we'll do everything we can to work with you. So some of the safeguards that you're trying

to implement here are unnecessary in our situation.

Mr. Clarke: — They're already in place.

Ms. Clarke: — They're already in place. We have, you know, everything. The problem I do have is though I would like to see that they do have to come into the facility to sign off on their contract because we have had this happen before. We've had somebody call up and they said to our manager . . . And in our Curves, the managers are the only ones that can cancel a contract. The lady called up and she said to the manager, I talked to someone six months ago to cancel my contract and it hasn't been cancelled. And the manager said, now you didn't talk to me. Well I didn't know I had to talk to you. Well yes you do. If you call in to cancel, all of our staff know that you do have to speak to the manager. Well I cancelled six months ago; somebody told me that that was okay. I want to be refunded six months.

Well like that is not right as a business owner to be able to be treated that way. It would just be nice if we had then some hard copy that says yes, Jane Doe did call in; she is coming in to cancel and pick up all of her cheque drafts and sign off on our contract. We have no problem with that. But if you're allowing them to cancel with any instrument, it's going to be very difficult.

Mr. Clarke: — And that's the way it's laid out right now. Any instrument is the term there and I think that really has to be looked at.

The Chair: — Mr. McCall.

Mr. McCall: — Just by way of clarification, would a letter suffice?

Ms. Clarke: — A letter, we actually had that happen to us. They said they sent us a letter. We never received a letter; we had no letter in their file. We would like them to bring in a letter of cancellation to the facility to be dealt with personal, one-on-one. Actually what we do then is give them back their initial file with their banking information, their cheque drafts that we've ordered to them. We want to make sure they get all of that back, so that's why we actually like to have the one-on-one contact with them. And the same with emails; I mean I've had people say, well I emailed you. Well I never received it. So there's a, you know . . .

Mr. McCall: — There's a need for verification.

Ms. Clarke: — There is. A very strong need for verification. So that is our major concerns.

Mr. McCall: — Thanks very much.

Ms. Clarke: — Okay.

The Chair: — Seeing no further questions I thank both of you for coming.

And we have our last presenter here. Welcome this afternoon. I'm sure you've heard the other two lead-in that I've said and please introduce yourself. If you have a written copy of your

presentation, we'd appreciate that. And you have half an hour, and just leave a little time at the end so we can ask questions.

Ms. Dutton: — All right. Thank you. My name is Joan Dutton and this is my husband, Elden. We're the operators of Curves fitness centre in Saskatoon along with our daughter, Amanda Risling. I have presented, given Iris already, copies of our presentation which my daughter had submitted as a written presentation and I will try and orally give it. So it's sort of a duplicate.

One thing that I did catch which I thought was quite interesting from Grant Roberts' talk which I thought I would like to share with you was that we have been operating for five years in Saskatoon. We're not a fly-by-night company and I too joined with a passion — started operating Curves because of the passion of Curves.

I joined first in a local club in North Battleford, Saskatchewan, loved it; went home to my husband who was in the process of changing business and said to him, we have to open Curves. Every woman deserves a Curves.

We also have one fitness centre in Unity, Saskatchewan, which is currently not doing very well, and has been subsidized by our fitness centres in Saskatoon which thankfully are doing well enough that we are able to do that. I'm not sure that we'll be able to do it forever, but we're currently working and trying our best to get that to go.

And before I forget too I would also gladly email you or fax to you a copy of the Curves contracts, if that would be of any help to you as a committee as well.

But first we would like to share our concerns that all of the fitness clubs in Saskatchewan were not made aware of Bill 12. This greatly affects our fitness industry, and most of the clubs are run by small-business owners. This greatly affects our fitness . . . Oh sorry, losing my place here.

This is our livelihood as well as the multiple Saskatchewan persons that are employed because of our businesses. We ourselves employ 22 full- and part-time staff as well as we have 12 casuals. Usually our payroll has 35 staff a month currently.

It is not at all democratic to have a Bill passed without the main parties being involved or even aware that there is such a legislation being proposed. In the very least, this proposal should be delayed until all the fitness clubs are made aware of the proposals and can as a united force prepare material to either oppose or amend Bill 12.

Secondly, to our knowledge the contracts and the policies of the fitness centres in Saskatchewan were not evaluated prior to this Bill being proposed. Without any knowledge of our fitness centres being run, the consumer protection is ignorant to the fitness centres' approach. Perhaps there are some fitness centres that have outrageous contracts or cancellation policies. But I would think the majority of us operate with integrity and honesty. This would have been proven had personnel taken the time and effort to investigate the Saskatchewan fitness centres.

Thirdly, the fitness centres in Saskatchewan provide

employment to people in Saskatchewan. Most of us are already facing increases due to increased minimum wages, lease rentals, and utilities, and are consumers ourselves. We are giving back to our communities by providing jobs, and more important, a facility where the community has the opportunity to practise good health. I would like to think consumers need to be protected against the fast-food industry, the caffeine crazes, and the addictive products that are sold every day that diminishes the health of our society rather than, you know . . . [inaudible] . . . what is good for us.

More specifically, I would like to address each of our concerns with the proposed legislation. I will outline our Curves policy and my arguments for the proposed changes. And also once again because you've just had Curves, some of these may be duplicated.

"No personal development services contract shall be made for a term longer than one year." That's clause 76.35. As long as there is a cancellation policy in effect, I think this clause should be denied. By committing to a longer contract, the consumer benefits from monthly savings. This is possible because the business now has the ability to project their income in advance as well as it saves time with paperwork and renewals.

At Curves we have a minimum 12-month contract. This means that the consumer commits to a 12-month and their contract continues after that until they notify us of their wishes to cancel. The benefits are: they don't have to renew for an additional 12 months, they can cancel without penalty after the 12 months. This way they could continue for 13 months, 18 months, 30 months, etc. They save \$10 a month by committing to 12 months. Joining on a minimum 12-month, the member pays 39 a month.

By joining month-to-month, the member pays 49 which you've already heard. Should they wish to cancel before their 12 months is up, we convert them back to a month-by-month membership and we consider their 12-month agreement void. For example, a member joins in January and commits to 12 months. In April the member wishes to cancel because she is bored with the program. We ask that she pay the difference in the \$10 she was saving by committing to the year. So for January, February, and March she is charged \$10 for each month, which is \$30. This is what she would have paid anyway had she only committed month by month at the 49. This is fair for both the consumer and for the business owner.

Should anyone have to cancel for medical reasons, they provide us with a doctor's note and they are cancelled immediately without any penalty. We also have, you know, have people where . . . have moved where there's no Curves or where they don't wish to continue and that too is cancelled without any penalty. So there are provisions made for people like that.

On 76.39, "A consumer may, without reason, cancel a personal development services contract within 10 days after the later of . . ."

Unlike a retail store who gives refunds after 14 days when a shirt has not been worn, our fitness centres have provided the member with a service fee for 10 days and are not able to collect any money for the days the client used their facility. A

full refund is unfair if the client has access to the facility and used it during those 10 days. They should be expected to pay something for the instruction shown.

At Curves we provide our clients with one-on-one first workouts for 30 minutes and the times they use the facility. In a city as big as Saskatoon a consumer could visit all of the facilities for 10 days and enjoy almost a year free of workouts. There has to be some money deducted for our time and services provided. Curves has a three-day full money guarantee which we feel is adequate.

We are not networked amongst our Curves even though we have four of them in Saskatoon. So we have . . . we do not have, you know, a system which would say you came in to join at Arlington and then came over to Duchess and joined and things like that. So it certainly could be possible, and very probable as well, depending on the integrity of course of the person involved. But again that is something we could live with if we needed to.

76.32(b):

at any time if:

- (i) there has been a prescribed material change in the circumstances of the consumer; or
- (ii) there has [also] been a prescribed material change in the services provided by the supplier.

This clause leaves too much open to an individual's discretion. This could ultimately cover any reason under the sun to cancel. Again Curves does give members its option to cancel at any time. However they are expected to pay the conversion fee as they had committed to a year and benefited from the savings of that contract.

Fitness is an ever-changing industry. Should the member have the right to cancel should we make the changes to our equipment, or the techniques allowed on the equipment? For example this past year Curves International poured over \$1 million into researching each piece of equipment that we have on our circuit. They found that some changes provided our members with a safer and more effective workout. And as we know, change is rarely taken in a positive manner even if it is for our own benefit.

Should the women be able to cancel when we implement changes for their safety? Again, if they're expected to pay our conversion fee, no problem.

76.41:

- (2) A notice of cancellation may be expressed in any way as long as it indicates the intention of the consumer to cancel the personal development services contract [with]
- (3) A notice of cancellation may be given to a supplier by any prescribed means [and]
- (4) If a notice of cancellation is given other than by personal service, the notice of cancellation is deemed to be

given at the prescribed time.

We feel strongly, as do our counterparts from Regina, that the cancellation must be made in person to ensure that we have received the cancellation notice. By allowing the consumer to cancel any way, they could easily say, we have made a phone call, sent a fax, or emailed the club. There is no proof or responsibility on the consumer's behalf. This is an extremely unfair notice of cancellation, allowing the consumer to be dishonest. It is unfair to ask the consumer to ensure we receive notice by coming into the club . . . it is fair, sorry.

We have actually had a few cancellations and we've always, because we're nice people like Joan was saying, we have always tried to accommodate them in some way. And I can't think that the majority of fitness centres would not do the same. You know, either we meet them halfway where they work out at our clubs for three months or six months or whatever the terms may be, because I certainly do not want anyone's money that has not utilized our facilities.

But at the same time I have used their money, projected their money for budgeting, for staff hiring, for advertising, for promos that we provide in our clubs. You know, we just don't take their dollars and run. I just want that to be very clear. So we've used their money already lots of times and balanced our budget accordingly. So for me to refund them, I prefer to refund them in the way of time, which I think has been fair.

The following . . . Penalties. This is one that I guess we don't really want to touch on it too much, but it's scary when you're looking at us as a consumer as well as a small-business person. The penalties that are put forth are ludicrous as far as I'm concerned and a little bit frightening. To think that I could go to jail because someone or something went . . . [inaudible] . . . whether it was intentional or not — and 500 or 100,000 or \$250,000 for that indiscretion, however small it may be. And though I am aware that that would very likely, I'm sure, not happen, I would hate to be the example should someone decide that it should happen and then I would have to take it further. So I think penalties like that need to really be examined in the extreme. That's very extreme and quite frankly I don't know how many years it would take me to operate as a fitness centre to be able to pay \$500,000, but it would be a lot.

The following are what we consider to be fair policies. The consumer has a right to commit to a contract of any length and experience the savings that come with a specific contract. This allows a business owner to see the projected yearly income and adapt its budget accordingly. A consumer has the right to cancel that contract at any time by giving notice in person, provided that they pay back the savings they were given by committing to a lengthier contract. If they can cancel without penalty, then why wouldn't everyone commit to the longer contract and just quit whenever they felt like it? There has to be some common ground of courtesy and integrity between the consumer and the business owner.

In closing I would like again to point out that the Bill remain open for additional opinions and arguments from the fitness clubs that haven't been made aware of it. And the fitness clubs of Saskatchewan have not been provided with Bill 12. We only found out last week because another fitness owner from

Saskatoon, CalFit [California Fitness] actually contacted me. So I've had like less than a week to get ready, but at any rate here I am.

I hope that you act in a democratic manner by delaying this until all Saskatchewan fitness centres have an opportunity to express their concerns. Again, most of us have earned the right to be treated fairly and for our policies and procedures to be looked over before making decisions for the consumer. I believe that the majority of consumers are benefiting from the services we provide. There are many more important things to do with our Saskatchewan tax dollars.

Should you have any questions or concerns regarding this letter or my presentation — since you have a copy — our phone numbers are on there for you to contact us.

Thank you for your time.

The Chair: — Thank you very much. Before I entertain questions, I just want to make a couple of comments. This process — the committee hearing process — is new. And this is how we envision some of the consultation happening with stakeholders.

So from the committee's point of view, we received a list of stakeholders from the department that presented the Bill, which would be Justice. And some Curves clubs got the notification and some didn't, obviously. So a lesson that we could learn as a committee is that we need to have our own process of determining who are stakeholders. And your comments are very well presented. Thank you, because it is something that we obviously lacked is that we didn't cover all the stakeholders that we could have.

The Bill is before the committee in first reading, so there certainly is opportunity for input. Not necessarily February 22 would be the cut-off — that's for the hearing presentations — but you could submit . . .

And the minister spoke at the beginning of the hearing about regulations, referring that when regulations are presented that there will be another round of stakeholder consultations about the regulations. So as this is a new process, we appreciate your comments on particularly about how you were notified because that's of interest to us when we're setting up the hearings. And we appreciate you bringing that forward.

So now I'll entertain questions. Mr. Morgan.

Mr. Morgan: — Thank you very much for being here, and I regret that you didn't get better notice. I tried to contact some of the people in Saskatoon and there isn't a central registry of these businesses. So anyway I'm glad you raised it because it may be there's others it's going to . . . Whereabouts are the locations of your facilities?

Ms. Dutton: — We have four facilities — one in the west side, one on the north end, one on the southeast side, and one on the northeast . . . east side, we call it. So we've pretty well covered all of our areas in Saskatoon, affluent and not. And I'd like to say that our non-affluent are doing very well as well because it's affordable for the women.

Mr. Morgan: — You said you would like to see where you could have whatever term you want and then agree to whatever rate you wanted for, say, a three, five, or a year or longer. You would look at doing a lower rate for that.

Ms. Dutton: — Well right now our lower rate is at \$39 a month.

Mr. Morgan: — And that's after 12 months.

Ms. Dutton: — Yes, forever. It's a guaranteed \$39 for as long as our fitness club has been opened. Currently we have quite a few members that have been working out with us for the five years. And we just did a five-year celebration because we managed to do that — survive five years and ongoing. And they have never had to pay any more. Mind you, to be fair, neither has anyone else because we haven't increased our fees, and hopefully we will not have to.

I personally would like to think that \$39 is, you know, less than a cup of coffee or a cappuccino a day and something that most people can afford. We can find that money. But you know, once you start to look up at 49, 59, 69, and higher, I mean . . . you know, in order to compensate of course when there are changes that are made, you have to look at other costs and try to increase.

Already we are looking at increases this year of these agreements because our five years are up so, you know, that's huge. I'm debating with that.

And the utilities. I mean, everyone has been affected as a consumer and as a business owner by that as well. And then of course minimum wage which, I mean, we already were paying above minimum wage. But still to try and keep us that much ahead again, you know, you're looking at more costs.

And we haven't had to raise our fees. We've had to cut down on some of our things. But to maintain our fees, we've been able to do that still and would like to be able to continue to do that for a very long time.

Mr. Morgan: — You said when you go back to somebody that's been committed for a year and then they quit after eight months and you go back and try and collect the other \$10 a month from them, what kind of success do you have on that?

Ms. Dutton: — We actually cut off at five months just because we're nice people, really. So we do have a maximum that we would charge — it's \$50 — even though, you know, technically, they understand coming into the contract that there is a conversion fee should they decide to get out of the contract earlier.

Mr. Morgan: — And are you successful with that usually?

Ms. Dutton: — Very successful.

Mr. Morgan: — They'll pay it.

Ms. Dutton: — Very.

Mr. Morgan: — Thanks very much for coming and if you find

out somebody else that wasn't aware of this, please make sure that we know about it or let them know that we're here Wednesday as well. Thank you.

Ms. Dutton: — You're welcome.

The Chair: — The committee has the ability to decide. We picked February 22 and we have the ability to extend that date if we as a committee decide to do that, so please do encourage people to respond if they need to or want to.

Ms. Dutton: — All right.

The Chair: — Any further questions? Mr. Borgerson.

Mr. Borgerson: — On that last point that Mr. Morgan . . . You were talking about the cancellation fee within one year. Is that the template used by all of the Curves establishments?

Ms. Dutton: — Yes. Yes.

Mr. Borgerson: — Okay. I see everyone nodding their heads right from the back of the room. And in terms of this proposed Bill, is there a problem with that procedure in terms of the proposed Bill? Would the proposed Bill interfere with that in any way? Because I don't see how it would affect this . . .

Ms. Dutton: — No, I don't see that. The only effect that I can see with the proposed Bill as far as to our . . . is if they try to stipulate a term of one year or two years or even five years. Right now our women enjoy . . . And just to let you know as well, all Curves have what we call we miss you cards and phone calls that we do submit to women that haven't worked out at our facility so that they're not just left hanging and don't know that we don't know that they're not coming. It does mean some staff because once again we don't have that . . . You know, it does mean some extra work on our part but we try to go back and who hasn't been here for say three months. Because we go back to a month and then we try to, you know, rather than bother them forever because some of the women don't like that, you know, we try to go back say three months — who hasn't worked out for three months — and submit we miss you cards, we call them and phone calls, and things like that. So our women are not left.

You know like what Grant Roberts had said. Our facilities I think in Saskatchewan at least, we have lots of integrity and we're not out to get the buyer. Our mission of strengthening women, I fully 100 per cent think it's the most honourable thing we can give to women and Curves is something that is so affordable and so time-wise — not just money-wise but time-wise — for women.

We have women that have had arthritis so bad that they couldn't even lift some of our machines that are working there five years later. And I just talked to one of our very first members. When I started she couldn't even lift our arm curl like that and she's got like full range of this machine. So it's incredible what they come. So to try and take that away from the consumer whom sometimes doesn't know what's good for us . . . You know, as a consumer myself, I think it would just be very, very sad for us to pass a legislation that may have to increase costs so that that's not available to the women, to the

senior citizens.

Our Arlington club in Saskatoon has women . . . 50 per cent of their women are probably over 55. We have about 700 members at that club and I would say a good 50 per cent or more are over age 55 and 60. And that's incredible. And the differences that we've seen. So you know, it is a passion. Fitness is a passion and it's something that we're just starting on the edge of it for health reasons.

But to take that away now from women, I think it would be very sad. I think that you may see some clubs not being able to operate if the increases in fees continue and consumers not being able to afford it. And certainly hopeful Saskatoon won't, that won't happen to Saskatoon.

Mr. Borgerson: — Now the argument was made very strongly earlier on that government should stay out of the way. But on the other hand, the argument was also made earlier that perhaps government should look at the possibility of providing tax rebates or tax incentives for fitness programs. There's a little bit of a contradiction there, but I'd like to know what your thoughts are on that.

Ms. Dutton: — We do actually have, you know, some competition — quite a bit of competition in Saskatoon of course with government, municipal, and facilities YMCA and things like that — who are quite low in comparison I suppose, sometimes as much as \$15. However, they do not have the staffing nor do they have the attention that we can offer them and do offer them at Curves. And we have lots of them that come from there to us.

It's a myth too. Like we have the field house which is good for . . . They have sent women from health and men as well to go and walk the track, the field house track, which is great. But one of the missing elements in women's fitness today and probably men's too is strength training, which also . . . I mean, your heart's a muscle so, you know, which also helps your heart.

The government puts forward these, like swimming and different things like that. And my mother goes to aquacize which is government-run and she gets subsidized and, I mean, I think it's great in a sense but it's not, it's not enough for them. It's misleading some of them to think that they go and they can walk around the track at whatever pace they want and that they will get fit. And definitely they will to a degree, I'm sure.

I would love to see the government subsidize people because I think more and more people would then come, be able to come. There are people with you know large families, women and men too that can't afford to perhaps have that extra dollar. I know when my husband and I were first starting out and he was first getting into business and we had six children, a fitness centre would have been the last on my list of affordability. But had I maybe been subsidized by the government, it probably would have helped and my children probably would have really benefited from some . . . my having better mental health. Because fitness, I tell you, mental health and fitness is great. Fatigue syndromes and all of that could be erased I'm sure with fitness programs.

Mr. Borgerson: — And just a last question or comment. That

buyer remorse period of 10 days, I'm puzzling over that myself. So if you come up with . . . I mean if we go ahead with this I'd like to know for example what Curves would do to . . . I mean you've indicated very clearly, in a city as big as Saskatoon a consumer could visit all of the facilities for 10 days and enjoy a year free of workouts. So I'd be curious to know what Curves could do to ease the loss that occurs there.

Ms. Dutton: — Right.

Mr. Borgerson: — Or what this legislation could do to prevent the loss.

Ms. Dutton: — Well, and I know my . . . Joan and her husband had said that it would be too hard to pro-rate and it very well could be hard to pro-rate that. But off the start, at least for our fitness centres and Curves, we do have a half-hour that is dedicated straight to the woman for a figure analysis, we call them, and to help them set their fitness goals, see where they're at and all of that as well as a first one-on-one workout, 30 minutes.

So you're looking at least at an hour there that, you know, I'm not sure if the rebate would run to half and half or however or pro-rating it. You know I would say 10 per cent wouldn't cover what my initial cost for bringing that woman into our facility would, but you know maybe you could look at say like a percentage of it, 25 per cent or whatever kept to the woman for that.

I do know that after 10 days the majority of people probably would not quit. I mean, and the few that would, you know, it's probably not really something worth working at. But there are a lot of people out there that are dishonest. Let's face it. And a lot of people . . . We have, what you have, free weeks that we give out to the community. And a lot of them go from club to club using that free week. You know, I'm not saying in terms of 2,000 people, I'm not saying that 200 of our people would go about doing that. But certainly there are some people.

But you know, I as a business owner, I'll take that loss, really. If that's what you decide, that 10 days is a fair thing, I as a business owner will take that loss. I'll meet you halfway to five days; that would be great. But I certainly could see, you know, maybe a percentage be in rather than a total refund. A total refund, say, after three days, which is what we do, partial refund after 10. I don't know. I guess that's one of the issues the committee can talk about.

Mr. Borgerson: — Thank you.

Ms. Dutton: — You're welcome.

The Chair: — Mr. Wakefield.

Mr. Wakefield: — Thank you, Madam Chair. Just a very quick question. Is there an association now of fitness centres? Surely there is with Curves, but is there one for the fitness industry generally?

Ms. Dutton: — There is one that is headed by . . . It's called Fitness Industry Canada and I believe it was just formed last year. I'm not a member of it and I'm not sure why. I think it's

probably because I was . . . In my own circumstances we had some very personal things happen in the last couple years, so if something had come across my desk perhaps I did not see it. But I was not aware of the committee until this past week as well.

Mr. Wakefield: — I was just thinking if there was one it would be an easy way, easier for us, to communicate that something is happening and inviting through the association a wider spread.

Ms. Dutton: — Right.

Mr. Wakefield: — My other question would be . . . This is a new process for us and we certainly recognize the time and effort that you have put into coming here from Saskatoon. Is there something you could recommend to us about these hearings?

Ms. Dutton: — Well I guess the one puzzle to the question that I'm not sure of is what determined the health fitness centre — you know, The Consumer Protection Act — to get involved with this. Like, how many complaints? Was it just simply because of complaints? Or, you know, what involvement made them look at our industry without contacting us personally to get feedback on how our policies run? Because it's clear to me when I'm looking at these amendments that they are proposed, that that has not been done. That it was not done with a clear picture of how the facilities operate in Saskatchewan. So, and an industry in . . . a fitness industry certainly would be helpful not only to you but to us as well. Did I answer your question at all?

Ms. Crofford: — Well after your reminding us that the heart is a muscle, I'm thinking that perhaps we were doing the wrong things on Valentine's Day. A lot of chocolate is not an appropriate response to a muscle.

But the one thing is, you know, when you say why this Bill, well I do presume and I think the indication from the Department of Justice is that they have had complaints from consumers who were left holding the bag. It's maybe too much to expect, but do you have any suggestion for a simpler solution? Do you think there's something contained within small claims, or something else that's a better response to this or . . .

Ms. Dutton: — Other than, like, I know the bonds that were approached were . . . was one thing. And I now as a facility that's operating for five years, it's probably in my budget, or I could make it in my budget to do so. But at the start of my business I'm not so sure I had had that ability, although I had the vision and I probably would have tried to find it. Well I guess I would have had it. I had a banker. But I'm not so sure that that would have been available to all of the people. But it is something, I guess, worth considering even if it's a small bond amount.

Other than that protection, another way could be by making sure there was an out, like whether it be a fees payable by the consumer to get out of a contract. As far as them packing up and flying by the night, I guess as a consumer I'd be leery of that as well because of the fact that it has happened.

I know in Saskatoon when we joined Curves, that had happened. And a lot of our women, in fact, right in the very facility that I'm in in Arlington, that had happened. And a lot of the women that came through wanted my guarantee. And I said, I can give you my personal guarantee and that's all — because that's all I had — and I'm sorry that happened to you. One night packed up — gone — and they were left holding the bag.

However, if you do not have prepays or, you know, a year in advance prepays, that wouldn't happen. Because right now my women wouldn't stand to lose anything other than maybe \$39 a month. If they came due on the 1st and I quit down on the 2nd they might lose \$39.

But you know that's something to consider. Prepays for us are very little. We have maybe 1 per cent of prepays. We don't encourage prepays for one thing. Then I have to keep that money aside in case they quit and it's just a headache for me.

Ms. Crofford: — Okay. Thanks very much.

Ms. Dutton: — Okay.

The Chair: — Thank you very much. And thank you for bringing certain things to our attention. That was very useful. And we appreciate all of you with your time and your presentations, coming to the committee . . .

Ms. Dutton: — Thank you.

The Chair: — . . . and being part of this historic process. You can actually get a copy of *Hansard* to hear your own presentation and the questions, which might be kind of nice to keep.

I need to have a motion to adjourn the committee.

Mr. Borgerson: — I will move we adjourn.

The Chair: — We will adjourn until Wednesday at 1:30. The committee stands adjourned.

[The committee adjourned at 16:46.]