

DÁIL ÉIREANN

AN COMHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AND ATHCHÓIRIÚ

JOINT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM

Dé Céadaoin, 17 Aibreán 2013

Wednesday, 17 April 2013

The Joint Committee met at 2 p.m.

MEMBERS PRESENT:

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|------------------------------|------------------------|
| Deputy Richard Boyd Barrett, | Senator Thomas Byrne, |
| Deputy Michael Creed, | Senator Paul Coghlan, |
| Deputy Stephen S. Donnelly, | Senator Aideen Hayden. |
| Deputy Timmy Dooley, | |
| Deputy Peter Fitzpatrick,* | |
| Deputy Simon Harris, | |
| Deputy Heather Humphreys, | |
| Deputy Kevin Humphreys, | |
| Deputy Michael McGrath, | |
| Deputy Peter Mathews, | |
| Deputy Dara Murphy, | |
| Deputy Aodhán Ó Ríordáin, | |
| Deputy Kieran O'Donnell, | |
| Deputy Arthur Spring, | |
| Deputy Brian Stanley, | |

* In the absence of Deputy Billy Timmins.

DEPUTY CIARÁN LYNCH IN THE CHAIR.

The joint committee met in private session until 2.20 p.m.

Bank Charges: Discussion with Central Bank and ISME

Chairman: We will now resume in public session. I ask that all mobile phones be switched off or switched to flight mode as they interfere with the broadcasting system. Item No. 7 of today's business is the review of banking charges in the Irish financial sector. We are joined by representatives of the Central Bank and ISME and have received an apology from the Consumer Association of Ireland. We will review bank charges in the Irish financial sector and the wider availability of credit in the general economy for both business and private customers. I welcome, from the Central Bank, Mr. Bernard Sheridan, director of consumer protection, Mr. Mick Stewart, deputy head of consumer protection, banking and policy division, and Ms Linda Murphy, senior regulator, consumer protection, banking and policy division. I also welcome Mr. Mark Fielding, chief executive of ISME. Mr. Sheridan and Mr. Fielding will make their opening statements, following which we will have a question and answer session.

I wish to advise witnesses that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the joint committee. If they are directed by the committee to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against a person or persons or an entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official by name or in such a way as to make him or her identifiable.

Mr. Bernard Sheridan: I thank the Chairman and members of the committee for their invitation to this meeting to discuss bank charges. I am joined here today by my colleagues Mick Stewart and Linda Murphy. I will commence by giving some background information on the legislation governing charges imposed by banks and other financial institutions.

The Central Bank acknowledges that increases in bank charges at any time are unwelcome for consumers, and particularly at a time when many households and small businesses are struggling to make ends meet, with decreasing income and increasing costs. The job of the Central Bank under section 149 of the Consumer Credit Act 1995 is to ensure that the right balance is struck by credit institutions in recovering the cost of providing services while ensuring the charges they impose on personal and small business account holders are reasonable and appropriate. I will provide an outline of the key elements of the Act and, importantly, how the Central Bank performs its duties under the Act.

Section 149 of the Consumer Credit Act 1995 came into effect in May 1996. All charges being imposed by credit institutions at that time "stood notified". The Central Bank assumed responsibility for section 149 in 2003. Under this section, credit institutions, prescribed credit institutions and bureaux de change must make a submission to the Central Bank of Ireland if they wish to introduce any new customer charges or increase any existing customer charges

in respect of certain services, such as making and receiving payments, providing and granting credit and maintaining and administering transaction accounts. The Act requires the Central Bank, when assessing such submissions, to have regard to the promotion of fair competition, the effect on customers, the statement of commercial justification provided by the institutions and the passing on of costs to its customers. We either reject the proposal, accept the proposal but at lower levels than requested by the firm, or approve the proposal in full. While the term charge includes penalty or surcharge interest, the Act specifically excludes rates of interest and any charge, cost or expense levied by a third party and passed on by a credit institution to customers.

This framework for approval of charges requires the Central Bank to take into account the impact on customers as well as the commercial justification for imposing such charges. Clearly, all firms aim to recover the cost of providing financial services either directly or indirectly from their customers. The extent and nature of those charges will reflect the individual strategy of each firm. Our role is to strike the right balance between the interests of the firms and their customers.

Each submission received by the Central Bank is subject to rigorous consideration according to the criteria set out in legislation and the contents of that particular submission. Each submission includes information such as historic and forecasted profit and loss data and projected changes to customer usage. The extent of the proposed charges or increases is considered and a peer analysis of charges is carried out to help ensure that the promotion of fair competition in the market is taken into account. When looking at proposed charges, analysis of the impact of the proposition on customers and groups of customers is carried out. Section 149 extends to both personal and business customers, so the potential impact on groups of customers, such as small businesses, is considered as part of our process. As part of the assessment process for personal current accounts, the effect on the customer is assessed using, amongst other analyses, our customer profiles. We have developed four customer profiles, each representing different usage patterns in terms of volumes and types of transaction - for example, electronic versus manual - and differing occurrences of out-of-order charges. The Central Bank then decides whether to approve, partially approve or reject the proposed charges. It sets out the maximum level of each charge in a letter of direction.

It is worth noting that a bank may choose, for commercial or competitive reasons, not to apply charges for which it already has approval or which “stood approved” for a period of time, and subsequently apply such charges at a time of its own discretion. In this regard, these concessions are not subject to a section 149 submission - that is, a bank may choose to apply waivers or discounts of charges or may impose charges at lower than approved levels and subsequently increase these charges. The Central Bank has no power to approve or reject such revisions. Any proposed changes to charges or qualifying criteria must be published in advance.

The European Communities (Payment Services) Regulations 2009 and the consumer protection code 2012 contain certain requirements relating to the information to be provided on charges to ensure that the customer is aware in advance of the amount of a charge for the provision of certain services.

Submissions received from a number of banks in the latter half of 2012 and in 2013 reflect the first general increase in current account charges since the Central Bank took responsibility for section 149. Prior to that, the main providers of current accounts were using the approvals as “stood notified” in 1996. Recent trends have also shown that banks are moving away from the provision of traditional banking channels towards electronic, online and contact-less ser-

VICES. As part of this, banks have been seeking to create price differentials between manual and automated transactions. According to the information we have received, there is a significant cost difference to the banks in providing manual and automated transactions and this cost difference has led banks to seek to impose different charges depending on transaction types.

Regarding mortgage arrears charges, section 149 also covers charges relating to the provision of credit. As part of the Central Bank's overall response to the growing mortgage arrears problem, in 2010 we carried out a review of charges imposed by mortgage lenders on borrowers in arrears. At the end of 2010, the Central Bank issued letters of direction to all lenders directing them to refrain from imposing any surcharge interest or any charge arising on a mortgage account in arrears covered by the code of conduct on mortgage arrears.

The Central Bank has an almost unique role with regard to bank charges. We believe we have a robust process in place, including the use of customer profiles, to determine the appropriate levels of increase in charges. The Central Bank will continue to perform its role under section 149 of the Act in such a way as to ensure an appropriate balance is struck between the need to ensure such charges are reasonable for the consumer and the need for firms to recover their costs for providing such services.

Chairman: Thank you very much. I now call Mr. Fielding.

Mr. Mark Fielding: I thank the Chairman for inviting the Irish Small and Medium Enterprises association to appear before the committee. ISME has just under 9,000 members across the country, all of whom are owner-managers of small and medium businesses.

I am not going to dwell on statistics or comparisons as I am quite sure the Central Bank is more than capable of covering those areas, but will mention the low-lights of the history of the banks in the Irish economy. Let me start with the collapse of the Insurance Corporation of Ireland, which probably cost us around €200 million. Then there was the DIRT debacle, in which the banks made the largest settlement of €90 million. In July 2004, the Irish Financial Services Regulatory Authority, IFSRA, issued a report on the overcharging of 80,000 customers on foreign exchange transactions, which is related to today's discussion on bank charges. At the time the bank said the cost of refunds would be somewhere in the region of €14 million, but it ended up at €50 million. In October 2004, a report found that Irish banks were making nearly three times as much profit per customer as their European counterparts and in the process they were ripping off SMEs. The study found that AIB and Bank of Ireland were each earning in the region of €341 per year per customer, as against €123 per year per customer across Europe. A study published by the Competition Authority in September 2005 found that SMEs were suffering disproportionately in comparison to big business. That has always been the case in the context of lending rates and charges in Ireland. In 2008 there was a major problem, with the banks giving blatant untruths with regard to recapitalisation and the blanket guarantee. In 2010, we had more untruths, mentioned by the chairman of NAMA when it was taking over what were supposedly performing loans, which proved to be completely overestimated by the banks.

I will not dwell on these, but I want to mention the charge by the UK Competition Commission, back in 2001, of cartel-like practices by certain Irish banks and their subsidiaries. The commission concluded that a complex monopoly situation existed and identified Allied Irish Banks and Bank of Ireland as participants in the restriction and distortion of price competition for small and medium businesses. That study identified that small and medium businesses were suffering disproportionately in comparison to big business. That is no major surprise to us. It was further confirmed in 2003 by the chief executive officer of a bank in Ireland who went on

record stating that a cartel was in operation in Ireland and that Irish banks were overcharging their customers.

My role today is to warn members about the banks - as if they need warning, when the Minister for Finance has said that one cannot believe what bankers say. I will warn members about the actions of banks and inform them of the dire straits in which the owners of small and medium businesses find themselves due to the economic downturn, brought about partly by the same banks. I will plead on behalf of members that small and medium businesses be guaranteed fair play in bank charges as we struggle to get the economy back on its feet. In the current climate, do members think that increases in bank charges of up to 250% can be justified? The banking market is highly concentrated. Back in 2003 it was mentioned that it was one of the most concentrated banking systems in the world, and since then we have lost a number of banks. The two main banks account for 80% of SME lending, and when Ulster Bank is added, those three banks account for 96% of total lending to the SME market. Basic economics indicate that where there is more competition in banking, margins and profits tend to be lower, so obviously the opposite happens in Ireland, as we know. Where the market is highly concentrated it is also recognised that banks will find it is not in their interest to compete vigorously.

Banks make their money in two ways: through interest margins and service charges. To counteract the effect on margins of the general drop in interest rates, albeit not for small businesses, banks have introduced a range of charges for other services that were previously cross-subsidised by lending margins. The rescued banks are scurrying around at the moment looking to see where they can increase income. Anyone going into a bank to renegotiate loans or have an overdraft reviewed is likely to have the interest rate increased, be subject to higher charges on his or her account, or probably both. Loan arrangement fees are also going to be reintroduced. With the recent branch closures in AIB and National Irish Bank, we have reached a point at which there are cost penalties when one puts a foot inside the door of the bank. One of ISME members said in passing that in his local branch of AIB in Carrick-on-Shannon they have replaced a cashier with a bunch of flowers and a third clerk with a machine that takes cash and cheques but not coins, with the result that the waiting time is now an hour. They have one clerk behind the counter, one or two clerks on the floor circulating and chatting to customers in the queue, and another clerk sitting behind what is loosely called a customer service desk. He would love to have a queue in his business but he would not have them waiting an hour for service. When he raised the matter with the staff, their response is that this is new bank policy. That is what we can come to expect from the banks.

As Mr. Sheridan has mentioned, bank charges in Ireland are regulated in accordance with the Consumer Credit Act 1995. The current raft of bank charges are now astronomical. We had to listen to a spokesperson from the Irish Banking Federation recently saying that the banks are returning to more realistic pricing. It is a pity they were not more realistic when they were lending in the past 15 years. Such pricing reflects the underlying costs and risks of the products and services they provide, according to the IBF, and meets the requirement to return to profitability. He then continued, quite smarmily, to tell us that a consideration-----

Chairman: I must ask Mr. Fielding to be more measured in his deliberations.

Mr. Mark Fielding: I will withdraw the word "smarmily".

Chairman: I will hold the point but I remind the witness of the requirements of the discourse during the hearing.

Mr. Mark Fielding: The official made the point that because the institutions had been re-capitalised by the Government they had to be brought back into profit. The increases in charges by Bank of Ireland for foreign exchange range from 29% to a high of 250%, while the cost of electronic funds transfer has increased by 23%. At a time when businesses are doing their best to embrace e-business, we believe the banks are not helping the situation. Increases in business online charges range from 42% to 250%, whereas those for paper transactions have risen by 33% to 97%. The increases for business online transactions are much higher. AIB is increasing its cash handling fees by a whopping 165%. It has dropped the secondary and primary rates of 17 cent per €100 and has adopted a standard rate of 45 cent per €100. It is not the first time we have experienced such increases by the banks. The last time we had increases of this level was when the euro was being introduced in 1999 and fixed rates were being set across the euro currency zone. As consumers we expected major benefits, but those did not materialise. Instead, the bank ratcheted up commission from an average of £3.50 to as high as £45. It is a matter of regret that the banks managed to pull the wool over the eyes of the director of the Office of Consumer Affairs at the time, who passed these increases. It was due to the strong intervention by ISME to highlight the massive disparity in commissions to which the Office of Consumer Affairs had agreed that the banks then reduced their charges somewhat. At the time the European Commission was not exactly impressed.

Chairman: I am keen for members of the committee to engage with Mr. Fielding at some stage this afternoon. Perhaps he might summarise his points. We have plenty of time for a discussion on the matter. I would like to see some interaction between committee members and delegates, as opposed to long speeches.

Mr. Mark Fielding: That is fine. Costs are increasing against a backdrop of branch closures, reduced branch services and under-trained staff. The attitude of bank management is “take it or leave it”. At a time when small and medium-sized businesses are struggling to make ends meet, we cannot afford increases of the magnitude suggested. As I said, we are looking at increases of between 23% and 250%. I urge the committee to call on the Financial Regulator to rescind its decision to allow new bank charges to be introduced. The regulator should instruct the banks to revert to their previous rates. I accept that some of the rates were already in place and are, therefore, not up for discussion with the regulator. The banks have removed the lower rates and retained the top ones. That is the way they are working.

Chairman: I thank Mr. Fielding and Mr. Sheridan for appearing before the committee. There will be plenty of time after the first round of questions for further questions to be asked.

Everybody wants the banks to operate a sustainable business model. We also want a healthy level of competition in the market. Any outside observer following the committee’s proceedings will want to know what is happening and what will happen in the future to make things better.

I would like to put my first question to the officials from the Central Bank. From the perspective of small and medium-sized enterprises, some 77% of banking in the State is carried out in AIB and Bank of Ireland. In earlier correspondence Mr. Fielding spoke about a duopoly and made the point that the market here was very restrained. What level of oversight does the Central Bank have in this regard? Some 77% of the country’s small businesses do their business with two banks that have been capitalised by the State, are trying to operate independently again and looking at charges as a means of increasing their profit lines on their balance sheets.

Mr. Bernard Sheridan: That is a fair point. The committee does not need me to tell it that

the market is very concentrated. Obviously, we are aware of this when we assess whether to approve bank charges. We are conscious that the banking market is not properly competitive. If it was, I am not sure section 149 would be needed. One of the benefits of that section is that it provides for an element of control over the extent of the charges that can be introduced by the bigger players. In the past couple of years the Competition Authority considered the section 149 issue as part of its examination of the level of competition in the market. My understanding is that it concluded there was no rationale for the removal of the section. The facts mentioned by the Chairman explain why it should remain in place. We would all like competitors to come in, compete and make the market more competitive. I think there are plans to try to encourage this. I am not sure that the rules governing bank charges prevent competitors from coming in. However, I understand it has been proposed that new entrants would not be subject to the section 149 provisions for a period of time. That might be done to encourage them to come into the market.

Chairman: Has the Central Bank considered plans and strategies in that regard? Has it developed proposals that would encourage other financial houses and institutions to come into the Irish market? Is there a level of oversight of the two banks in question with regard to the charges they are planning to introduce?

Mr. Bernard Sheridan: We oversee the charges by applying the section 149 criteria in full to every institution that seeks approval. That applies to AIB and Bank of Ireland. We are particularly cognisant of their dominant position when we assess the charges they propose.

The Chairman has also asked what we are doing to encourage more institutions to come into the wider market. It is important that we have a stable market that is prudentially well regulated. We are doing this, in addition to protecting consumers. We are fulfilling our broad role in terms of proper regulation, financial stability and consumer protection. That should lead to people looking at our market and deciding they would like to get into it. Unfortunately, we cannot force them to do so.

Chairman: I would like to build on my earlier point about the 77% of small and medium-sized enterprises in Ireland that are tied to Bank of Ireland and AIB. Many of the businesses in question are struggling. We will discuss issues such as credit availability later. According to a report in *The Irish Times*, Bank of Ireland has proposed to increase the 6.5% rate charged on each transaction to 8.5% later this year. That would have a massive impact on businesses. Mr. Fielding referred to the concerns of other business agencies, particularly those in the retail sector that deposit a great deal of cash and coins on a daily basis, about the proposal to increase the 0.17% charge imposed on every €100 in cash lodged. If this proposal is accepted, businesses will have to pay 45 cent for every €100 they lodge. This would represent a whopping 165% increase and add €15,000 per annum to the operating costs of an average retailer that deposits an average sum of money every day. Given that this would be unsustainable, what is the Central Bank doing about it?

Mr. Bernard Sheridan: I would like to make two points in response to the Chairman. Mr. Fielding has made the point that some of these notifications date back-----

Chairman: I am talking about the present.

Mr. Bernard Sheridan: It is relevant.

Chairman: I am talking about two specific measures coming down the tracks. As Bank of

Ireland and AIB account for 77% of the small and medium-sized enterprise market, these measures would have significant cost implications for small businesses.

Mr. Bernard Sheridan: We assess all new applications under the criteria I have outlined. The impact of an application on customers and the commercial justification for it are among the criteria in question. We are required to take both factors into account. There is an issue with notifications that have stood approved since 1996. A number of the “new” increases are being seen because banks are imposing charges up to a ceiling which has been approved since 1996.

Chairman: Do the banks have the permission of the Central Bank to increase the charges in question?

Mr. Bernard Sheridan: As the notifications have been approved since 1996, the banks do not actually need our approval.

Chairman: We are 1,000 miles away from where we were in 1996. In the light of the information I have presented, I would like to know whether Mr. Sheridan thinks the Central Bank needs to review what Bank of Ireland and AIB intend to do in these two specific areas.

Mr. Bernard Sheridan: I need to make two points in response. First, I emphasise that we do not have the power to go back. If they stand notified from 1996, they stand notified today. There is no power to review them. Second, taking a wider perspective on the charge, I remind the committee that we look at what others are charging and the impact of the extent of the increase in real terms, as well as in percentage terms.

Chairman: The charges being imposed by others are not relevant, given that these two banks account for 77% of the market. If this was being done by a bank with a 25% share of the market, companies could decide to move to a different bank. Most companies are locked into their existing financial institutions. Overdraft agreements and other factors mean they cannot simply transfer their accounts. Does the Government need to make a recommendation to the Central Bank? If there has been a ruling since 1996, should the Central Bank issue a policy or an indication note to the Government on the issue?

Mr. Bernard Sheridan: We have already done that and we understand changes will be made to the legislation to allow us to look back. I wish to make it clear that when it comes to charges, the big participants are not out of line with the smaller players in the market. AIB which has been mentioned has charges that are broadly in line with what every other institution is charging. If we had to consider the matter afresh, we would follow the criteria set out in the legislation. I cannot say what decision we would come to in such circumstances because it is a theoretical question. However, we would follow the criteria.

Chairman: I would like to put a question to Mr. Fielding who may have followed the proceedings when Mr. John Trethowan of the Credit Review Office appeared before the committee approximately one month ago. I mention an interesting and surprising observation made that afternoon. One of ISME’s recent quarterly reviews mentioned the difficulties being experienced by small and medium-sized enterprises in accessing credit. The view of the Credit Review Office is that the demand for credit among such enterprises is not as high as the media might be reporting. The priority of many SMEs is not access to credit but paring down debt and adapting their business model accordingly. Are there any comments on that issue?

Mr. Mark Fielding: I would agree with the Chairman that many small businesses are doing their best to reduce their debt. From the point of view of seeking credit from the banks our fig-

ures show that demand has remained steady at 36%, 37% and 38% per quarter. That would be a norm during what we would regard as the better times. We have been doing quarterly surveys since 1993. In the better times there was a similar demand for credit in the region of 37% and 38%. That has not changed. I agree with Mr. Trethowan that probably a year ago the demand dropped for a five or six month period to about 25% but currently it is in the 35% bracket.

Chairman: Does Mr. Fielding reckon that the Credit Review Office's reflection at that time was accurate and that businesses are more interested in paring down debt at the moment or that is the major challenge for small businesses?

Mr. Mark Fielding: The major challenge is to pull down as much as they can. There are businesses which are seeking credit in order to expand and they are being refused despite the assurances from the banks that they are giving nine out of ten loans being sought. We read in the report on Sunday last where the clarification to the ACC in the US was that the nine out of ten loans referred to fully completed formal applications, not "do not come near me for the moment, Mark, because you will not get a loan at the door of the bank or over the telephone". They are not counted.

Chairman: I want to put one final question before calling Deputy Michael McGrath. I came across an issue on the *Askaboutmoney.com* website that looks at people's engagement with financial institutions and so forth. This would be a question for the Central Bank. One of the persons who put a notice on it referred to free banking on opening his or her account initially. Then the bank changed its position and introduced charges and put notices to that effect in the newspapers. People were invited to the bank and, as Mr. Fielding said earlier, one gets a bunch of flowers on entering. The whole system is automated and one might see one person when entering or leaving the bank. That is obviously a cost reduction exercise on the part of the bank. There has also been a presentation to show that if people move online, their banking costs will reduce or may be free, if I can use that term loosely. The issue I picked up on the *Askaboutmoney.com* website was that when the banks changed their charges they put notices to that effect in the newspapers. While it may be reasonable not to require a bank to write to all its customers advising of every change in charges - everyone here gets spam e-mails from financial institutions about one's account logon etc. - when dramatic changes are made which actually reduce what might be described as "free" banking, should they be required to engage with their customers in some context or other to inform them of a fee which was not in place previously?

Mr. Bernard Sheridan: The Chairman is right. We require customers to be notified in advance of any increases in charges. For example, in the case of small businesses the banks generally give ten or 14 days advance notice and before the actual charge is made they are notified before the charge is taken out of the account. The challenge for retail banks is the large number of customers and whether they notify them individually or publicly. What they have been doing today is notifying them publicly of the changes in the charges. There are requirements in the code and under the payment services regulations. There is much useful information on the National Consumer Agency website on the actual charges being imposed. On the issue of advance notice, to date we have said one must publicise these increases in charges.

Chairman: Most people in this room and most people watching probably have online banking and would, perhaps, engage with their online banking on a week to week basis. Online banking is a website operated by Bank of Ireland, AIB, Permanent TSB and so on. When I log on to my online banking page there is a section on the homepage of my account that tells me that the bank, the AIB in my case, intends to change the following costs in the coming period or that it has changed the costs on a particular date. I am made aware of that as an interfacing

customer and not required to read a newspaper or listen to a radio advertisement as it is on my online account. Would that not be a better way of doing it?

Mr. Bernard Sheridan: Certainly that seems like a good idea. I cannot confirm if they are all doing it that way at present.

Chairman: Could I make a suggestion that the delegates inquire about that with the banks and revert back to the committee?

Mr. Bernard Sheridan: Sure.

Deputy Michael McGrath: I welcome Mr. Bernard Sheridan and his colleagues from the Central Bank of Ireland and Mr. Mark Fielding from ISME. I put it to Mr. Sheridan that the providence of the hikes in charges and fees is irrelevant to the people who have to endure these increases. I appreciate that he said some of these relate back to the charges that stood notified in 1996. Perhaps I will take him up on that issue. How many increases would the Central Bank have approved in, say, 2012-13? In AIB there was the 165% increase in the handling cost for dealing with notes. Does that increase date back to 1996?

Mr. Bernard Sheridan: Yes.

Deputy Michael McGrath: We will keep it in track. There was nothing the Central Bank could do about that as it was part of the charges that stood notified.

Mr. Bernard Sheridan: True. The point I would make is that I am not saying we would not have approved it if we had considered it.

Deputy Michael McGrath: I am trying to get a handle on how much of this is historic and how much relates to current decisions. In the case of the Bank of Ireland there is a whole raft of increases in electronic banking services for debit and credit cards and services by businesses increasing by 30%. Does that date back to 1996 as well?

Ms Linda Murphy: Yes, they would have been courtesy notifications also.

Deputy Michael McGrath: I am trying to get to the bottom of whether the issue is with the legislation or with what the Central Bank is approving. For example, business online same day international payments without foreign exchange is going up 40%, business online same day international payments, again with Bank of Ireland, with foreign exchange is going up 74%, charges on inward international transactions are going up 67%. Do most of these increases relate back to 1996?

Mr. Bernard Sheridan: I am reluctant to confirm on the record because we would need to look at each one.

Deputy Michael McGrath: Can Mr. Sheridan tell me the increases the Central Bank has approved since 2012, the number of applications made, how many have been approved and rejected and how many have been partially approved?

Mr. Bernard Sheridan: We publish that information on a regular basis. The number of notifications coming in on a per annum basis, going back to 2006 and 2007 ranged from 40 to 50 to, perhaps, 20 currently. On average, roughly half of those would be approved and the other half would either be rejected or approved at lower levels. It is very broad. We have the figures which we can share with the committee.

Deputy Michael McGrath: Are there many proposals currently awaiting a decision from the Central Bank on personal customer fees or more increases for business customers?

Mr. Mick Stewart: In 2013 we have had 11 submissions, four of which we approved fully, five were partially approved at a lower fee than requested and two were exemptions. Large corporate customers get exemptions. As they are individually negotiated they do not need the protection of section 149 as such. So far we have 11 submissions, four have been fully approved, five are partially approved and they are a mixture of personal and business. Some of them have not been rolled out yet.

Deputy Michael McGrath: Are there any notifications awaiting decision at present?

Mr. Mick Stewart: There are four in train.

Deputy Michael McGrath: Mr. Sheridan made the point that the banks are charging differently depending on whether the service requires manual input or is electronic based. Following on from a point made by Mr. Fielding that does not appear to be reflected in the charges. Recently I was looking at a personal customer's set of fees from one of the pillar banks. I do not believe there was any difference between the per item charge for a cheque and a per item charge for an electronic transaction. If there is such a cost differential, should that not be reflected in the charge paid by the customer? I do not believe it is.

Mr. Bernard Sheridan: One of the features of the current trend is that banks are moving in that direction. Some of them have already gone into that space and others are planning to do so. Therefore, the charges associated with manual transactions are likely to increase, while charges for electronic transactions will either stay where they are or reduce. These changes are in train in a number of banks. I am not sure which bank the Deputy is talking about, but he is likely see more of this in the future. On the previous point, we have also seen a trend where banks have come to us seeking increases in charges in order to recover costs rather than through the different channels they use.

Deputy Michael McGrath: Permanent TSB, for example, is planning an initiative in the context of current accounts. Mr. Sheridan said in his statement the banks are not obliged to charge the levels approved. Is the Permanent TSB type of initiative one the Central Bank would welcome, one where banks would offer inducements to customers in the context of fees? Would it like to see other banks follow suit?

Mr. Bernard Sheridan: We welcome competition and if Permanent TSB can compete with the two bigger players, we welcome that. We also welcome the likes of KBC introducing current accounts. This is the solution in terms of competition, but may not happen for some time. Any competition that helps this happen is good for consumers.

Deputy Michael McGrath: My next question is for Mr. Fielding. Has ISME looked at how we compare with other countries in terms of the banking fees charged to SMEs? Is there any real competition? If an SME that has a good record with its bank wants to move, there are only a small number of potential banks to which it can move. Is that happening and, if so, are SMEs getting more favourable terms with the bank to which they are moving? Is it a case that the banks do not want to hear about this?

Mr. Mark Fielding: I do not have full figures on the international comparison, but we looked at the situation in the UK and the handling of cash there. AIB intends raising the charge to 45 cent per €100, but Barclays quotes a figure of 75 pence. However, it says this should not

be taken as gospel. That is the red line figure, but individual banks will reduce that and we have seen a figure as low as 20 pence. Lloyds quotes a figure of 89 pence per £100, but that can be negotiated down and in many cases we have seen it at less than 15 pence. I do not have figures for across the EU, but I suppose it is something we should do.

With regard to transferring or switching from one bank to another, to be honest, one is as bad as the other. It is galling that we see notices being issued that banks are increasing these fees, but the note at the bottom of AIB's notice advises customers that they should be aware they have the right to close their account and move it to another bank. I am afraid this is not a great help to small businesses.

Deputy Michael McGrath: To return to Mr. Sheridan, he said in the second paragraph of his opening remarks that the job of the Central Bank under section 149 is to ensure the right balance is struck between credit institutions recovering costs of providing services and that the charges they impose on personal and small business account holders are reasonable and appropriate. Are we getting that balance right at this point in time?

Mr. Bernard Sheridan: This is a very good question. This is a challenge and what we have tried to do is move away from focusing purely on the inputs into the process, namely, the information that the banks give us in terms of the costs associated with providing the services. This is a key element, but we have moved to looking at the outcome and the impact on personal customers. In 2011, we published some research we conducted and we also published four different profiles of typical usage of current accounts. We assess any new notification in respect of increasing charges on current accounts in the context of the impact it has on those profiles. This is only one element of what we do.

Based on this, we get the costs associated with running a current account. These range from €100 to €300. In the circumstances where it costs up to €300, the profile we used includes circumstances where the customer incurs quite a number of out of order charges and surcharge interest on unapproved overdrafts and the like. We have noticed these types of charges push up the annual cost and that when we approve these charges, they have a big impact on people who are struggling. Therefore, we have tried to keep those charges at a reasonable level. In order to know whether we are doing that, we have looked at what happens in Northern Ireland and the UK and what they charge or are allowed to charge. Our charges are quite a bit lower than what is allowed in the UK in that respect.

Deputy Michael McGrath: Mr. Sheridan mentioned the Consumer Credit Act and the issue of changes to the legislation. Has the Central Bank raised the issue of making changes in that Act with the Government? I do not expect Mr. Sheridan to go into detail on this, but is there ongoing dialogue between the bank and the Government on possible changes that would help the Central Bank do its job.

Mr. Bernard Sheridan: Yes. A number of changes have been proposed and we understand they will be passed. This is the key issue identified here today. Obviously, there are other issues such as the issue of new entrants and whether the Government will change the Act to allow new entrants come in and not be subject to section 149. However, that is a matter for the Government rather than the Central Bank.

Deputy Michael McGrath: In referring to that issue today, was Mr. Sheridan referring to the legacy of charges that stand notified from 1996?

Mr. Bernard Sheridan: Yes.

Deputy Michael McGrath: While the banks have invoked some of those in the past year or so, are there many more that stand notified already that the banks could invoke at any time, with the Central Bank having no power to stop them?

Mr. Bernard Sheridan: It is difficult to say because there are so many charges.

Deputy Michael McGrath: Are banks close to the ceilings approved in 1996 across the main headings of transaction-based fees businesses and customers face or is there still scope to raise fees?

Mr. Bernard Sheridan: They are getting close to the ceiling, but there is still scope to raise some of the charges. There are so many charges involved that I cannot be specific, but there is still scope for some small increases, reflecting what has already been approved.

Deputy Michael McGrath: Is the material published on what stands notified since 1996? Can it be accessed? What I am asking Mr. Sheridan to do is to give us details of what stands notified since 1996 but has not yet been applied by the banks. These details would give us some sense of what could be coming down the track. Obviously, the banks are free to submit new applications to the Central Bank at any time and it must adjudicate on those based on the Act. However, could Mr. Sheridan give us a handle on what is potentially there which the Central Bank is not in a position to stop? That would be helpful.

Chairman: I would like to make a formal request on behalf of the committee asking Mr. Sheridan to give us a list of all the charges that stand since 1996.

Mr. Bernard Sheridan: Does the Chairman require the information on the ceilings?

Chairman: Yes.

Deputy Michael McGrath: They should be separated into what has been applied and what has not yet been applied.

Chairman: Will he also provide some context? In 1996 there was not significant Internet banking, so will he indicate how charges have evolved since that time?

Mr. Bernard Sheridan: We need to check whether we are able to give the committee the information in respect of each bank and in respect of all their charges and whether that information is available. We can do that under our own confidentiality requirements, but if possible we will do that.

Deputy Michael McGrath: I am sure the Central Bank can find a way of presenting the information, even if in aggregate form.

Mr. Bernard Sheridan: There is no issue with regard to providing it in aggregate form.

Deputy Michael McGrath: That would be very helpful.

Chairman: Depending on how succinct and detailed that information is, we may need to come back to the Central Bank for more information. We hope the information will be as comprehensive as possible in the first draft.

Deputy Kieran O'Donnell: I welcome Mr. Sheridan and his colleagues, and Mr. Fielding.

It strikes me that the banks have a kind of lucky dip of bank charges available to them since 1996. They can dip in or out of that well. This is a very abstract area for ordinary people, but it is not so abstract for people in business who are being hit with referral charges, unpaid fees charges and this, that and the other, putting their overdraft over the limit and requiring them to spend hours on the phone talking to their banks in order to survive. This is the reality. We appear to be talking about the banks at length. I would much prefer to be talking about SMEs and personal customers. The banks have cost us €64 billion to date and I know from having heard the banks before this committee that they have learnt absolutely nothing.

Will Mr. Sheridan explain how these charges came about in 1996? Are they underpinned by legislation? I would like to hear the context and to know how many there were. I was not aware of this. Am I correct in saying that the banks at the moment have a lucky dip of charges from which they can choose, without having to get any approval from the Central Bank, and which they can then impose on customers?

Mr. Bernard Sheridan: That is a good point. When the legislation was introduced in 1995 and 1996-----

Deputy Kieran O'Donnell: What legislation?

Mr. Bernard Sheridan: The Consumer Credit Act 1995. The particular section came into effect in May 1996. At that time various institutions had charges and were imposing them.

Deputy Kieran O'Donnell: Was that before 1996?

Mr. Bernard Sheridan: Yes.

Deputy Kieran O'Donnell: Was it section 149 that came into effect in 1996?

Mr. Bernard Sheridan: Section 149 came into effect in May 1996. Any charges that were notified at that time went to the Office of the Director of Consumer Affairs. That was all that had to be done. It was a notification.

Deputy Kieran O'Donnell: There would have been a stampede of banks before the legislation came in. I would say they were lodging the charges in truckloads to the Central Bank. This defies logic. Legislation was brought in. I would say the boys got up on their coach and four and drove into the Central Bank's front yard and said "Lads, keep the trucks coming because we want to get all these notified charges in place." How many charges were notified at that point? That was 14 years ago.

Deputy Peter Mathews: It was 17 years ago.

Deputy Kieran O'Donnell: I apologise. I need a calculator. I do not want to lose my train of thought. My point remains valid. How in the name of God can banks bring in charges that they lobbed in before the legislation was introduced? Why were the brakes not put on at the time to prevent them from bringing in these charges? How many were notified before the legislation came into effect? How were they allowed to notify them before it came into being? How were they allowed to bring in charges that have implications 17 years after they lobbed them in?

Mr. Bernard Sheridan: In 1996 the notifications went to the Office of the Director of Consumer Affairs, which was not part of the Central Bank at that time.

Deputy Kieran O'Donnell: What Department was it under at the time?

Mr. Bernard Sheridan: I am not sure what name it had at the time, but I think it was Enterprise and Trade.

Deputy Kieran O'Donnell: Was it the Director of Consumer Affairs?

Mr. Bernard Sheridan: No. It was the Office of the Director of Consumer Affairs. It was a separate office responsible for consumer affairs. In 2003, when the Financial Regulator was established, that responsibility was transferred to the Financial Regulator. Now it is within the Central Bank.

Deputy Kieran O'Donnell: I want to go back to 1996. Is Mr. Sheridan telling me that anything that was notified to the Office of the Director of Consumer Affairs prior to the commencement of section 149 in 1996 can be activated now without approval from the Central Bank?

Mr. Bernard Sheridan: That is true, up to the ceilings allowed at the time. The ceiling would have been whatever was notified.

Deputy Peter Mathews: That is absurd.

Deputy Kieran O'Donnell: That is absurd. It equates to negotiating a ceiling with a customer and telling him or her that in 17 years' time it can be increased to whatever rate the bank wants. No business person in the world would accept that. It is a blank cheque for the banks, not to put too fine a point on it. I am lost. I am trying to comprehend whether I am correct.

Mr. Bernard Sheridan: The Deputy's understanding is correct.

Deputy Kieran O'Donnell: Then I am stunned and amazed. I am shocked.

Deputy Peter Mathews: It is fantastical.

Mr. Bernard Sheridan: We are overstating the relevance of this, because since then notifications have been required to be approved.

Deputy Kieran O'Donnell: No. I want to get to the core point, which is how many of these particular measures have been brought in since 1996. For instance, since 2008, what range of increases has come about based on items notified prior to the legislation's enactment in 1996?

Mr. Bernard Sheridan: I do not have that figure. It depends on the charge. It depends on what was notified at the time and it depends on the institution. It varies-----

Deputy Kieran O'Donnell: With all due respect, Mr. Sheridan should know, because that is his job. My point is that we can come in here and be very polite and nice but that achieves nothing for business people. What needs to be done now to ensure we can get control over these open-ended charges? How many of them have been there since 1996, and how many of these lucky-dip bank charges are still available to the banks? What level are they at and what is the range of charges that can be opposed? Does it require a change in legislation? What is required?

Mr. Bernard Sheridan: We already mentioned that we have sought this change, and we understand that will take place, which will resolve the issue. I would not like-----

Deputy Kieran O'Donnell: Was the change sought recently? What does the statement "sought the change" mean?

Mr. Bernard Sheridan: We understand that it will be part of the new Central Bank Bill. It has probably been in the pipeline for a few years.

Deputy Kieran O'Donnell: Why was this change not sought three or four years ago? How many of these measures made available in 1996 are still available for the banks to pull out of the lucky bag? How many were brought in over the past two or three years? I am not being personal, but these are valid questions.

Mr. Bernard Sheridan: I agree that this is a valid question and issue to raise, but I would not like to overstate the potential for banks to increase their charges beyond current levels in any significant way by relying on these pre-1996 notifications.

Deputy Kieran O'Donnell: What does Mr. Sheridan mean by that?

Mr. Bernard Sheridan: Most of the charges that stood notified are either being charged or have been overtaken by a notification. I would not like to say that the banks have huge potential to increase charges.

Deputy Kieran O'Donnell: Will Mr. Sheridan let us know how many of those are outstanding? The Chairman has got confirmation that they will come through. Is it correct that the banks sought 11 increases in 2013, four of which were fully implemented and five partially, with two exemptions? What does "exemptions" mean in layman's terms?

Mr. Mick Stewart: That refers to dealing with a large corporate customer. Rather than having a set fee, the bank negotiates with the customer. It does not affect personal customers or SMEs.

Deputy Kieran O'Donnell: Am I correct in saying that all 11 of the submissions were either fully or partially agreed?

Mr. Mick Stewart: They have to get an approved exemption for a type of fee.

Deputy Kieran O'Donnell: I am trying to make the point that the 11 submissions made were either fully or partially agreed by the Central Bank.

Ms Linda Murphy: Partially approved ones include some rejected charges. A submission might contain a number of charges and we would deem that partially approved if some were approved and others were approved at lower levels, or some were rejected.

Deputy Kieran O'Donnell: Were none submitted to which the response was that no form of increase was sanctioned?

Ms Linda Murphy: They are contained in the partially approved submissions.

Deputy Kieran O'Donnell: Was there any situation in which a bank lodged a submission but got no increase whatsoever?

Ms Linda Murphy: Yes. In 2013.

Deputy Kieran O'Donnell: What about 2012?

Ms Linda Murphy: Not specifically - only the ones contained in the partially approved submissions.

Deputy Kieran O'Donnell: Of the three banks mentioned - AIB, Bank of Ireland and Ulster Bank, which make up 96% of SME lending - what were the increases in bank charges between 2012 and 2013 based on the notified charges that were there before 1996 and the current ones? Does Mr Sheridan have that breakdown?

Chairman: We will need a bit of air traffic control to bring them in.

Deputy Kieran O'Donnell: Can the witness provide us with that breakdown? With due respect to Mr. Sheridan, these are questions he should be able to answer today. They are routine questions which he should expect us to ask. I presume he does not have the answers to hand but I ask if they could be provided to the Chairman. I have a brief question for Mr. Fielding. Are legitimate loan applications from SME customers being turned down by banks? Is there a different approach among the three main banks, AIB, Bank of Ireland and Ulster Bank?

Mr. Mark Fielding: I would say that legitimate loan applications are being turned down because decisions are being delayed. There is a kind of constructive delay and refusal. A person who requests X amount may find it is delayed one or two months. In that case, an SME will have gone somewhere else or have changed its plans. It is an effective refusal.

Deputy Kieran O'Donnell: Is there a difference in the attitude towards SMEs as between the three banks, AIB, Bank of Ireland and Ulster Bank?

Mr. Mark Fielding: There is not a great deal of difference between them. At different stages in a financial year, one of them will have more refusals than others or will have more-----

Deputy Kieran O'Donnell: If I may finish with Mr. Sheridan.

Chairman: I will give the Deputy a few seconds.

Deputy Kieran O'Donnell: The Central Bank and the Oireachtas have a responsibility to restore confidence in the banking system. The banks had free licence for the past 17 years to impose charges at will without reference to the Central Bank. This defies logic, in my view; it is inexplicable and shocking. I ask Mr. Sheridan to provide us with the information we have looked for so that we can probe this further.

I was involved with SMEs for many years when I was in practice. Excessive charges were applied to overdrafts and in many cases there was an accumulation of unpaid charges and surcharges. The SME sector generates jobs and they must be given the supports. The banks have this lucky-dip bag for the past 17 years. They dip into it at will without any reference to the Central Bank. This defies logic in my view, and it should not have been allowed to continue.

Chairman: That is a statement, Deputy. I am not taking a reply. I call Deputy Arthur Spring.

Deputy Arthur Spring: I have a couple of questions.

Chairman: My apologies, Deputy Spring, under Standing Orders I must call Deputy Brian Stanley.

Deputy Stephen S. Donnelly: Has Deputy Spring jumped ship?

Deputy Arthur Spring: Is Deputy Donnelly building one?

Chairman: I call Deputy Stanley and then Deputy Spring.

Deputy Brian Stanley: I have a question about fees applied to those small depositors who are least able to pay. Small savers and young savers used to be encouraged and adults who fell on harder times were not penalised. However, the reverse is now the case. Bank of Ireland is offering free banking for those with more than €3,000 in their accounts. What can be done to help small depositors? Is the Central Bank happy with this approach? Those with a small business loan or a mortgage may also have a current account which is running dry. These people are being squeezed out of the system. Where are they to go? I ask for the views of the witnesses on this issue.

Mr. Bernard Sheridan: On a point of clarification, when banks notify the Central Bank of the proposed charges and increases, these apply to all customers in the main. The banks decide whether they will exempt-----

Deputy Brian Stanley: I know the banks make that decision. My question is whether the Central Bank is happy with this policy.

Mr. Bernard Sheridan: We approve the charge under section 149. The banks themselves then decide whether to apply that to all customers. They may decide to exempt certain people. For example, a number of banks are still exempting people over the age of 60, or students. That is their decision; the Central Bank does not impose it upon them. We use profiles when assessing the bank charges. One of the profiles is a person who is using the banks in a traditional way and is relying upon them in the traditional way. We take that into account and we try to ensure that the proposed increase is limited for that type of customer. We also need to balance this with the banks' need to recover the costs. In terms of the criteria and applying the criteria of minimum amounts in the account, that is essentially the banks' decision. Obviously it has implications for customers as to whether they are really getting free banking in that scenario - in a sense they are not. That is another way of imposing the charge.

Deputy Brian Stanley: I have a question about the cash handling charge which has been referred to. I have a letter which was received by a constituent from AIB. It details the increases from a rate of 17 cent secondary rate and 25 cent primary rate, to 45 cent per €100, with effect from 1 July 2013. Mr. Fielding said that these letters stated that the customer had a right to choose whether to close the account.

I ask if we should make comparisons with the charges further afield than in the UK to see how they stack up. I note Mr. Fielding's comments that the asking price from some of the British banks may be higher but in practice they charge a much lower rate. This is a concern. Small businesses handle a lot of cash and the charges are an issue. The person who received this letter from AIB is one of those people. He is concerned about the implications for his business. There will be a certain increase in costs for those businesses. It seems like the banks are coming after them one more time. The banks were bailed out after the failure of the regulators and the Central Bank but they are coming back after the small businesses with this charge. The banks loan out the money they take in as deposits. They are making money out of lending.

The talk in recent months is about getting more capital for the banks. Surely this is a disincentive for people who will then avoid the banks. I am one of those people who try to stay away from the banks as much as possible. In fact, if I could stay away from them altogether I would be happy to do so. They are now actively disincentivising people from going into banks. I ask Mr. Sheridan to address those two issues, because the sending of those notices to people running small and big businesses, who handle a great deal of cash, is providing a disincentive to go to the bank.

Mr. Bernard Sheridan: On the cash handling charge, if we look across the market to the other providers, what is being proposed is broadly in line with what everybody else is charging. In terms of whether it is a reasonable charge in the context of the change in 1996, what we concluded is that it still looks reasonable to us because every other institution is already charging along those lines. I appreciate that it will have a big impact on some firms - we have received submissions on this - but we have to take into account the criteria set out under the Act rather than purely looking at it from one side or the other.

In terms of what is driving this, it was mentioned earlier that the banks' ability to recover and become profitable again is limited in terms of where they can go to do that. The net interest margin is one matter that falls outside section 149. Bank charges and fees is another area. The rationale for seeking these increases is being put forward. That is what they are trying to do - to recover the costs so they can become profitable. The good thing about section 149 is that it is only one element of a framework that we have to take into account. We have to take into account the impact on customers as well.

To a large extent the banks are relying upon existing customers to try to recover more costs. It is having an impact upon those customers. We have to acknowledge that. What we are trying to do with this is to strike the right balance, as I said in my opening statement.

Deputy Brian Stanley: The balance is being struck on the backs of customers who have already been penalised for the practices of the banks that were not regulated by the Central Bank, which lent out money. I am aware of loans that were given to people who did not have any hope of ever repaying them in this lifetime or even in their children's lifetime. Joe and Mary Citizen are now paying that bill also, because it has been decided to get this through under section 149. The level of anger and hostility towards the banks cannot be underestimated. What are Mr. Fielding's views on comparisons with other European countries? What are his views on the general increase in handling charges? Have comparisons been made with other European countries, including England, Scotland and Wales?

Mr. Mark Fielding: The last comparison was done by the IBF in 2004, but I would call it a false comparison because to show a better comparison it omitted from Europe the Netherlands, France and Italy, mainly because their charges were cheaper than Irish charges at the time. There has not been any comparison recently. As I said, it is something we will consider and will probably do through our umbrella group.

Deputy Brian Stanley: The final point I want to raise with the Central Bank witnesses is the issue of the rights of cash customers. It was mentioned earlier that when people walk into banks they are faced with automated machines. I am aware of a situation in which somebody walked into the bank and used one of these machines but did not get a receipt for the money lodged, and nor could they get the money back out of the machine. They went in to make a lodgement but it took about half an hour to get a member of staff to deal with it, and another to get the money out of the machine. The person runs a small business around the corner from the bank and is what is referred to as a sole trader, which meant the business was closed for an hour and a half while the bank staff fiddled around with the machine. I highlight that, because we must cater for cash customers.

The advent of plastic cards was a means of enslavement. They are handy, but they are a means of enslavement. One effect of their introduction is that the value of money has been lost. When I started working, and for a long time after that, I was paid in cash. I am not advocating that we go back to paying people in cash but one had X amount of money in one's pocket.

One knew how much one needed for the rest of the week and how much to put away for car insurance, a house loan or whatever. We all know the problem with plastic cards. People were borrowing on one against another, and it has turned out to be a means of enslavement. There are customers, particularly elderly people, who want to continue using cash. I believe strongly that their right to trade and have a service through cash should be upheld.

One of my concerns is that elderly people have told me they are reluctant to go into the bank because if they cannot operate the machines, they will leave. We have seen instances in which money is kept in biscuit tins and under mattresses, and horrific circumstances in which elderly people have been robbed, tied up and assaulted.

Chairman: The Deputy is over time.

Deputy Brian Stanley: That was a very quick 12 minutes.

Chairman: It was 12 minutes. Is the Deputy questioning that?

Deputy Brian Stanley: The Chairman should lighten up.

Chairman: The Deputy is out of time.

Deputy Brian Stanley: I will just finish asking the question, if the Chairman will give me some latitude. In fairness-----

Chairman: No. The Deputy had 14 minutes.

Deputy Brian Stanley: Has the Central Bank got a view on the rights of cash customers?

Mr. Bernard Sheridan: There is no doubt that the way forward will be less cash, more electronic services and more cards, but I share the concern expressed by the Deputy. We cannot leave people behind in that regard. We cannot become a cashless society. We need to use less cash but we must cater for those who still use cash, particularly those vulnerable groups, perhaps by maintaining a branch network. If there was no branch network, could we work through post offices and so on? For the younger age groups the drive is towards more electronic means, but I share the Deputy's concerns.

Deputy Arthur Spring: My first question relates to standing orders. It appears that some of the banking institutions apply a regime whereby if the cashflow of a business or individual does not meet the withdrawal of a standing order, he or she is penalised for missing the standing order payment. In the event that the standing order is put back in place, a surcharge or penalty is applied to the customer, who therefore gets hit with a double whammy. Is that identified as being two different surcharges, and do the witnesses believe it is appropriate for banking institutions to do that?

Mr. Bernard Sheridan: The answer to the question is that I am not sure. I would be concerned if somebody was penalised twice for the same out-of-order issue. I do not know whether banks are charging twice for that.

Chairman: Can Mr. Sheridan clarify whether that is the case? Deputy Spring raises an important issue in that people are being double-charged for missing one payment.

Mr. Mick Stewart: Is the Deputy saying that when it is presented the customer is charged again?

Deputy Arthur Spring: No. The customer is charged again to put the standing order back in place.

Mr. Mick Stewart: There is another set-up fee for a standing order?

Deputy Arthur Spring: Yes; that is correct. Customers are penalised to begin with due to the fact that they are cash-strapped and cannot meet the standing order, and then when they put the standing order back in place they are charged a set-up fee. Obviously, people or businesses may be in dire financial straits to begin with, but they then get a double hit, which to me is unfair.

Mr. Mick Stewart: We will look into it, because it is not an issue of which I am aware.

Deputy Arthur Spring: Can we get a report back on that? It is inequitable.

I imagine we would not all be up to speed on the cost of clearing a cheque, using an ATM, having a credit card, and having direct debits and standing orders run out of a current account. If someone walks into a supermarket he or she can see displayed how much it will cost to purchase an item or conduct a transaction. That is the case with every other transaction. When one walks into a bank, however, that is not apparent. I find that in general - people might contradict this - consumers are not aware of what their bank transactions are costing them. We all get statements from banks but they do not detail the fees we are being charged. The other side of the bank statement should detail cheque or ATM transaction costs. That is consumer protection. More important, when one walks into the bank, as most of us still do, it should be stated in black and white that it might be more beneficial to one's self or one's business to conduct fewer transactions in certain ways and more in others. It could be a case of making electronic payments rather than writing cheques. I am concerned about the lack of knowledge. The banks would serve people far better if they displayed costs in a transparent manner.

Mr. Mick Stewart: Under the consumer protection code and the payment services directive, the banks are supposed to be transparent about their costs and fees. In every branch, there should be brochures available. The information should also be on the banks' websites. Information should be readily available to all customers, be they SMEs or individuals.

With regard to statements, certain banks state before they apply the fees what they will be. Thus, one has time to query them before one's account is affected. The National Consumer Agency publishes the fees and charges. There are many ways in which one can find out the fees and charges associated with their accounts.

Deputy Arthur Spring: Does the National Consumer Agency have the capacity to allow people to compare costs to determine what is most appropriate for them? Is there a calculation system, for example?

Mr. Mick Stewart: I am not exactly sure. The agency has compared certain products. I am not sure about current accounts; I have not looked at that in a while.

Deputy Arthur Spring: May I make a recommendation? If SMEs deposit money and write cheques, it is beneficial for them to know which bank is most appropriate to their size. A calculator system would be very appropriate in this regard. I ask the delegation to consider this. It would not take much endeavour or rocket science to put the desired arrangement in place. Everyone could benefit from it.

BANK CHARGES: DISCUSSION WITH CENTRAL BANK AND ISME

Chairman: What is the difference in cost between withdrawing cash from an ATM and obtaining it over the counter? There are withdrawal limits in some banks. They may amount to €600 or €800 per day, for example. How much does walking the extra 20 metres to the counter cost?

Mr. Bernard Sheridan: Costs of over-the-counter transactions, or paper-based transactions, range from 29 cent to 39 cent or 40 cent per transaction.

Chairman: That is the difference between putting a plastic card-----

Mr. Bernard Sheridan: That is the actual charge for doing the transaction in the branch over the counter.

Chairman: What if one uses the ATM in the same bank?

Mr. Bernard Sheridan: The charges range from 19 cent to 35 cent.

Chairman: Is there a measurable difference between using an ATM and going to the counter?

Mr. Bernard Sheridan: From the bank's perspective and in terms of cost-----

Chairman: Bearing in mind Deputy Spring's question, if I walk up to AIB on Douglas Road in Cork, or Rock Street in Tralee, will I be told it will cost more to carry out an over-the-counter transaction? That is what Deputy Spring was asking.

Deputy Arthur Spring: That is one of the questions. Costs are not apparent to people when they walk in.

Mr. Bernard Sheridan: I think that will become a bigger issue as banks move to recover more costs from branch transactions versus transactions carried out online. At present, one is notified of the charge but one is not told that one could make a saving if one operated differently. SME customers are given general advice as to how to reduce charges, but it is generic rather than individual.

Deputy Kieran O'Donnell: Is there any discernible difference between ATM charges and over-the-counter charges? Mr. Sheridan quoted the fees but they do not appear to be significantly different.

Mr. Bernard Sheridan: At the moment, there is no significant difference. What I am saying is that this is likely to change over time.

Deputy Kieran O'Donnell: That is not the public perception. The banks state all the time that it is far more cost-effective to use the ATM or to bank online, yet the prices appear to be no different. What is going on?

Mr. Bernard Sheridan: Some research was done by people within the bank and they considered Norway, for example. It showed that the cost of an over-the-counter transaction from the bank's perspective is significantly higher than that associated with an ATM, which in turn is significantly higher than that of an online transaction. The Deputy is correct that, to date, the banks have not really distinguished between the different channels in terms of the charges they are imposing. However, they are telling us they plan to do so.

Deputy Kieran O'Donnell: They are shutting down branches all over the country.

Chairman: We will hear the answer to Deputy Spring's final question and then move on to Deputy Stephen Donnelly.

Deputy Arthur Spring: It was mentioned that if one keeps a certain amount of money in a current account, one will not be subject to bank charges. As a former banker, I am quite aware of what is really meant in this regard. The Irish banks must have an enormous number of current accounts containing sums above the threshold. Obviously, they are able to attract interest on these by putting them on the inter-bank market nightly. They make profits on the back of them. There is no mechanism that I am aware of in any of the banks dictating that one cannot go below the threshold. Without our knowledge, many of us go below the threshold and are charged the full fees and surcharges thereafter. That is not an appropriate way to conduct business, especially when there are ATMs, etc. If the banks want people to have a certain amount of money in their accounts, they should protect the money in the accounts and make the process of withdrawal to a point below the threshold more difficult than simply going to an ATM. I would like to see a parameter put in place. The banks are making a fortune on this. They are putting the money on deposit in the inter-bank markets and making a profit on it. I am not talking about accounts with €3,000. Most accounts contain considerably more.

Deputy Richard Boyd Barrett: I thank the delegates for attending but, as ever, when we discuss the activities of banks at this committee, I find myself more shocked-----

Chairman: I remind members that an ISME representative is before the committee also. Mr. Fielding may be feeling a little lonely at present.

Deputy Richard Boyd Barrett: As ever, when we discuss the banks at this committee and learn more about their activities, we become more shocked by their behaviour. My first question is for Mr. Sheridan. We seem to be hearing that the wider economy, particularly SMEs and ordinary citizens, is being screwed yet again by the same banks that screwed the public finances because of their requirement for a bailout. They are screwing mortgage holders with threats of repossession and are refusing to give them write-downs on unsustainable loans. They are screwing the SME sector by not lending to it and are also screwing that sector and citizens by imposing more charges, essentially to recover their losses. Mr. Sheridan seems to be saying there is nothing the Central Bank can do about it because the banks pretty much have a free hand to do what they are doing because of legislation passed in 1996. Is it the case that there is nothing the Central Bank can do to prevent the banks from increasing charges significantly up to the allowed ceilings in a range of areas because of what was done in 1996?

Mr. Bernard Sheridan: My concern is that we are overstating the extent to which banks are not subject to section 149. The current processes in that regard are evident. The position has obtained since 1996 and we have gone through quite a number of iterations. With regard to what has happened in the interim, I am not here to defend the banks but to present what has actually happened. We have tried to put a handle on it by examining the profiles of various customers and the typical cost to the consumer of a current account. Irrespective of whether one agrees or disagrees, costs associated with personal current accounts range from approximately €120 to €200. I would not like people to be alarmed that we have allowed vast increases in charges over that period. That is not the case. The Deputy is right in the sense that there is the potential for banks to increase some charges up to a level that was previously notified in 1996 but it is limited. Banks are sending notifications in respect of increasing charges, transaction charges in the main, which will either be reduced or go above what they have previously been approved to do. That is the focus of our attention.

Deputy Richard Boyd Barrett: Could Mr. Fielding respond to that point? The testimony we have heard from Mr. Fielding is that this is not a small matter or a matter that is being exaggerated. There have been increases of between 29% and 250% in foreign exchange charges. Nobody could describe that as small. There has been an increase of 23% in electronic funds transfer charges. It was suggested that transaction charges are going up from 6.5% to 8%. At a time when particularly small and medium enterprises and ordinary citizens can least afford to absorb increases, we are looking at what are pretty dramatic increases by any standards. Mr. Sheridan is effectively telling us that his hands are effectively tied because of legislation introduced in 1996. Does he not consider that a very serious matter for the economy?

Mr. Bernard Sheridan: What I am saying is that our hands are tied to some extent in respect of some charges but not in respect of the majority of charges. When we assess each notification, we take into account the impact on customers as well as the commercial justification. I agree that any increase is not welcomed but we do not have the luxury of saying we cannot allow any increase. That is not what the legislation provides for. We must consider the reason why the increase is being sought. We tried to do that by looking in particular at the impact on personal customers. That is where we have used the profiles to help us discover the outcome.

One can agree or disagree but the impact of charges on individual consumers is the need for a couple of hundred euro per annum to operate an account. That is in circumstances where we put information that the person is struggling and it is going out of all the charges and surcharge interest into the model.

Deputy Richard Boyd Barrett: We know from various studies that 1.6 million people have less than €50-----

Acting Chairman (Deputy Arthur Spring): Could the Deputy check for telephones?

Deputy Richard Boyd Barrett: It is not me.

Acting Chairman (Deputy Arthur Spring): If it is even switched on, it will affect it.

Deputy Richard Boyd Barrett: It is not coming through on mine. In a situation where 1.6 million people have less than €50 left per month after they have paid for essentials, €100 or €200 per year or an increase of around that level of charges is very significant. It is the difference between people being able to manage and not being able to do so. We are not exaggerating in expressing concern about it. This is the time when people can least afford it. The same is true when small and medium enterprises are literally hanging on for dear life in many cases.

Deputy Spring referred to the anomaly whereby transaction charges via ATM, which one would expect to be considerably lower than over-the-counter charges, are not lower because, yet again, the banks are profiteering. They are not passing on the reduction in costs from which they gain an advantage by cutting staff numbers and closing branches, thereby reducing the quality of service to customers. They are not passing that advantage on in terms of lower charges for the use of ATMs. Does Mr. Sheridan agree that this seems to be the obvious explanation?

Mr. Bernard Sheridan: The banks have many challenges, one of which is how they will become profitable. One area on which they are focusing is what they will do about charges and fees. We have a role under section 149 and it must take that into account and the impact on customers. In respect of the costs associated with providing the different channels, asking why banks have not differentiated up to now is a fair point. That is the move the banks are making now in terms of focusing on the service and how it is provided, the costs associated with that

and recovering those costs. I will not speak on behalf of the banks in respect of what they are doing and their particular strategies. We focus on what our role is to try to deliver on that.

Deputy Richard Boyd Barrett: Could Mr. Fielding respond on that point? There seems to be a suggestion that we are possibly exaggerating the potential impact of this on small and medium enterprises. How serious a problem is increased bank charges for small and medium enterprises among the many problems they face, be they lack of lending from banks, contracted demand and all the other things impacting on this sector?

Mr. Mark Fielding: For a small business that has been struggling over the past five or six years to continue to exist, when one looks at the charge increases being granted, one can see interpay plus non-urgent charges for business online are going up by 150%. The smallest increase in Bank of Ireland charges is 23%. It beggars belief. I listen to all this talk about how we must make the banks profitable and that we will do so by screwing the customer but I do not hear enough about what the banks are doing to cut their costs, for example, cutting the big pensions paid to people we are paying to get rid of. In a small business, one must do both sides. One must see if one can eke an extra penny or twopence when one is getting one's sales but one is also cutting damn hard at the other end. That does not seem to be happening.

We know online transactions are less costly for the banks but when I look at the increases they are looking for, I see that all of the online charges have increased from the lowest at 42% up to 250%. These are for online transactions. If I look at the increases for paper transactions, I can see that they go from 33% to 97%. Even those charges are less than charges for online transactions. What the banks are doing is getting ready for online transactions so none of us will go to the bank to do our transactions. We will be online but we will be paying more.

Deputy Richard Boyd Barrett: There was a time when, as Deputy Stanley mentioned, employees were paid in cash. There was quite a bit of discontent when many employers, particularly the State, moved to paying people through their banks precisely because people guessed that the banks would take advantage of that and use it as an opportunity to gouge people with charges. Does Mr. Fielding think paying people in cash or at least giving them that option rather than having to go through the banks might be something to consider?

Mr. Mark Fielding: People still have the option of being paid in cash if they require. Overall, I would rather see it being paid through the banks. The fact that banks may be abusing their dominant position should not mean that we should go back to paying in cash. It should mean that committees like this put a stop to the gouging in which the banks are engaged.

Acting Chairman (Deputy Arthur Spring): I wish to pick up on something mentioned by Mr. Fielding. He alluded to the fact that there had been an exponential increase in costs in the online banking system while the traditional form of banking, which is being eradicated, has had less significant increases in charges. Is that not a way of saying that the banks will make far more profits out of far less onerous ways of conducting business? Have the banks compared the costs incurred in online transactions and the expense for businesses and individuals of conducting business online?

Mr. Bernard Sheridan: They have to submit a commercial justification as part of their notifications, part of which involves a costing for supplying the service. However, even if we can rely on their justifications, we will still consider the outcome in terms of the charges imposed and their impact on the customer. To some extent, therefore, they are part of the process but in terms of how reliable they may be, we do not rely solely on them.

Mr. Mark Fielding: I feel that the banks are feathering their nests with the online stuff. Clearly there is a sunken cost in getting the online facilities up and running but that has been done and dusted. I believe the increases they are currently seeking are in order to prepare themselves for super profits. That is what they have always been able to get in the past and they are trying to return to that situation.

Deputy Arthur Spring: It would be appropriate for this committee to keep an eye on that issue.

Deputy Peter Mathews: I welcome the witnesses. Mr. Sheridan is director of consumer protection under the office of the regulator, as distinct from the Governor of the Central Bank. Does his area of responsibility include consumer regulation?

Mr. Bernard Sheridan: To be clear, we are part of the Central Bank. There is no distinction between the Financial Regulator and the Central Bank.

Deputy Peter Mathews: That is the way the relationship stands today but am I correct to say that formerly Mr. Sheridan's role would have been more in the area of regulation?

Mr. Bernard Sheridan: Yes.

Deputy Peter Mathews: Sometimes it is easier to understand what is happening now when one knows where it came from. It is like studying the etymology of Mr. Sheridan's position. The banks are still bust and his colleague, Ms Fiona Muldoon, has stated that 50% of SMEs' €50 billion worth of exposure to the banks is distressed, impaired or non-performing based on the original terms of the credit financing.

The word "consumer" is unfortunate because the customers of the banks are either lenders or borrowers. They are not consumers in the sense of going into a supermarket or department store. As the bankers say, it is about relationships and trust. A mortgage is based on a 25 year period of trust with streams of money being advanced up front by the lender and coming back with interest attached. The income on the streams of money coming back to the banks is sticky. It is not renegotiable unless the fundamental terms of the relationship have altered and the bank has an opportunity to change the rate. We now know that parts of the banks' balance sheets, if considered as a big sector of industry, are income sticky and the other bits, such as the plastic cards and current accounts, offer opportunities to go into fourth, fifth or supercharge gear for income. That is the territory in which we are currently moving.

The trouble is that 150,000 bank customers in the sticky income part are in deep distress. Some of them are so depressed or fearful that they are taking their own lives. That position arose only because the banking sector accepted a wall of credit from other institutions in addition to the credit they got from the normal depositors in the system. This wave of extra money came, greedily, from abroad to bolster their balance sheets and the banks' management and boards topped it up further with short-term money from money markets to lend long. To do this over six years, with average loan to deposit ratios of 150%, is utterly dangerous from a financial engineering point of view. With that credit expansion, asset prices rose terribly and normal people, households and businesses had no option in this turbocharged credit expansion and asset bubble but to borrow on the terms offered by the banking sector and allowed by the Irish regulator and the international euro system regulator. The international counter-party appraisers, that is, the funds which invested in the banks also allowed this to happen.

When the bubble burst after six years, prices collapsed but loans did not. The establish-

ment and the law are on the side of the lenders. We are now worrying about the epidermal or skin level of consumers' lives, that is, the charges they pay on bringing money to and from the banks and credit cards, which have increased by 23%, but the internal organs of the people and their businesses are deeply damaged by negative equity of up to €250,000 in some cases where loans totalled anywhere between €750,000 and €800,000. The banks funded those debts at not less than 75% even for those which were being relatively prudential. If they offered a loan of 100%, they funded the entire asset bubble price. If they funded the entire asset bubble price, why should they not be funding 100% of the negative equity outcome? That would give the consumers about whom we are now worrying the confidence and the justified and unassailable right not to be pushed around, talked down to or made to feel deferential with the discussions that are beginning to take place with the banks for the purpose of restructuring or writing off the impossible elements of the loans with which they are burdened. That is important for every borrower in that situation to understand. They need not be ashamed. The banks should be ashamed about negative equity after six years of a turbocharged credit and asset bubble.

Chairman: Deputy Mathews has ten minutes and has used up seven of them. I am giving him notification of that in case he wishes to allow the witnesses to respond.

Deputy Peter Mathews: I ask Mr. Sheridan and his colleagues to remind the banks openly that this is the case. They should announce it in print, on radio and television so that the customers of the banks can take note of it. They should not feel deferential or pushed around when they are negotiating honestly and openly on what they are capable of repaying from their existing incomes and revenues.

In respect of the charges that have increased by 23%, the banks annual accounts report their income, including gross profit. Their gross profit is net income on the interest they receive minus the interest they pay out. Do these charges fall within that net interest income? If they do, I would like to know the amounts. If, for example, 50% of the net income comes from charges what sort of behind-the-curtains accounting is being done for this 23% uplift? For six years the industry and every bank had loans to deposits of 150%, were not engaged in fraction reserving and were endangering the deposits of their customers, which was evidenced by the deposits outflow of €42 billion in six months in 2009 from the six Irish institutions. This illustrates their dereliction from their professional duties. The eurosystem should sit up and pay attention also. They are creditors to our banks and should be participating in their recapitalisation, which is inevitable. One wonders if the reason Mr. Elderfield has indicated his intention to leave his position only three years into his contract is he suspects that further capitalisation of the banks will be required. The PCAR of March 2010 fell short. I met Mr. Elderfield in his office to tell him so, which was prior to my getting involved in politics. It fell short again in March 2011, at which time I asked my colleagues in government not to proceed with the recapitalisation of the banks from the National Pensions Reserve Fund. I said at that time that this should be done by creditor participation from the eurosystem and that Europeans should appreciate that what was done, in lending ELA and ECB money to our six banks to redeem in full not less than €75 billion of bondholders, was wrong.

I apologise but I must leave soon to attend another meeting.

Mr. Bernard Sheridan: The Deputy asked whether these charges form part of the net interest income. My understanding is that they do not. The net interest income is the difference between the interest they pay and the interest they take in on loans and other assets. These charges are outside of that. The bulk of their profits come from the net interest margin rather than charges.

Deputy Peter Mathews: Thank you.

Deputy Stephen S. Donnelly: I thank the delegates for attending today's meeting. These meetings can often be bruising encounters. I had to leave the meeting earlier to speak in the Dáil but I have read Mr. Fielding's presentation.

In Mr. Sheridan's view, is the right legislation, tools and capacity in place? The McKinsey study carried out in the 1990s looked at European banking. It concluded that Irish banks were the most profitable, if not in the world, in Europe. In his remarks, Mr. Fielding cited a report from October 2004 by the Wall Street financiers which indicated that Irish banks were making three times the profit of other European banks. A European Commission report from 1997 concluded that there was cartel activity operating in the Irish banks. We obviously have a long and regrettable history of Irish banking activity in this country over the past few decades. Various reports from multiple sources, all of which are credible, suggest that Irish banks make more money from Irish citizens and businesses than do other banks in comparable countries and that this has been the case for a long time, including in the mid-1990s. According to the European Commission it was going on in the late 1990s and according to the Wall Street financiers it was going on in the 2000s.

I appreciate that Mr. Fielding's job is, as set out in his opening remarks, to find the right balance. Another phrase used by him in his opening remarks is that "charges should be reasonable and appropriate". If one compares what Irish consumers, citizens and businesses are being charged relative to consumers, citizens and businesses in other countries, charges are not reasonable and appropriate. One of two things would appear to be wrong. Either the legislation is insufficient and the delegations, their teams, the Regulator and Governor do not have sufficient authority from the Oireachtas to achieve real competitiveness as benchmarked against other countries or they do have that authority but are not using it properly. Something is wrong if Irish citizens, consumers and businesses have been consistently over at least two decades charged several times more than the European average. Perhaps the delegates would give their view on whether they believe they have the legislative tools and capacity necessary and, if they do, why this consistent trend continued over several decades.

Mr. Bernard Sheridan: Only one other country in the world of which we are aware has a similar framework to Ireland's in terms of controlling bank charges. There are additional controls here that are not in place in most other countries. Whether that is good or bad depends very much on where one is standing.

Deputy Stephen S. Donnelly: That is what I would like Mr. Sheridan's view on. That is my question.

Mr. Bernard Sheridan: The Deputy referenced a number of studies in his contribution. A European Commission study in 2009 looked specifically at bank charges rather than bank profitability. Ireland ranked mid-table in that study. I accept that relates back to 2009 and should perhaps be revisited. However, that is a fair point in terms of how we determine whether it is reasonable. In 2011, we looked at the charges imposed in Northern Ireland and England. We found that while it is a different model, out of order charges here are significantly lower than in the UK and, in terms of transaction charges, we are broadly in line although a number of banks in the UK still offer transaction fee free banking. However, behind that are additional charges should an account go out of line. On that basis, we believe it is reasonable enough. We are fully conscious of the state of the economy and that the impact of this on customers at this particular time is severe. Any type of increase is not welcomed.

The legislative framework has been looked at. It is useful at this time when the market is so concentrated. In the absence of real competition it is probably needed. If competition improves it may have no role to play. However, we are probably some time away from there being real competition in the market?

Deputy Stephen S. Donnelly: I appreciate that. Perhaps I will restate my question. There is unambiguous evidence that Irish customers are being overcharged, be it through interest rates or charges. This is the only way the banks here can be more profitable than banks anywhere else. If we accept that Irish customers are being overcharged there must be a reason for it. Either the regulatory capacity is not good enough or the legislation is not good enough. Something must be going wrong if Irish customers are being charged three times more than the European average. Does Mr. Sheridan accept that Irish customers have consistently over the past number of decades been charged several times the European average? If so, why is that happening?

Mr. Bernard Sheridan: Based on the information we have, I do not accept that consumers are being overcharged. We have been performing this role since 2003. Prior to that this role was performed by the Director of Consumer Affairs. As I indicated earlier charges vary from €100 to €200 per annum, depending on how one uses one's account. I am not saying that amounts to overcharging. Whether banks have been charging appropriately in terms of the service they provide is a different issue. The Deputy also asked how the banks will recover. The avenues open to them are limited and include the net interest margin which is not subject to section 149, which is a much bigger issue and will have a much bigger impact on their balance sheets than will consumer charges.

Deputy Stephen S. Donnelly: Let me be clear. Mr. Sheridan does not accept that Irish consumers are being charged more, either through interest or charges. It is all the same to consumers in that either way cash is going out of their accounts. Is Mr. Sheridan saying that he does not believe Irish consumers are being charged more than consumers in other European countries?

Mr. Bernard Sheridan: On the basis of the information we have and use, I do not accept that Irish consumers are being overcharged in terms of bank charges and fees. In terms of interest rates, much depends on what product one is talking about.

Deputy Stephen S. Donnelly: Does the director accept that the Irish banks per consumer have been and are consistently more profitable than the European average?

Mr. Bernard Sheridan: There are many more issues associated with profitability other than bank charges. I would not like to link the two by claiming that bank charges led to banks making profits in the past.

Chairman: Deputy Donnelly has two minutes left and then I shall call Deputy Creed. I shall allow Deputy Donnelly back in later but I want to ensure that everyone gets their allocated time.

Deputy Stephen S. Donnelly: I thank the Chairman. Does the director accept, regardless of where he thinks the profits came from, that data show that Irish banks are more profitable per customer than the European average?

Mr. Bernard Sheridan: I do not have the information in front of me. I would not be surprised that there was a period where the banks looked to be more profitable here than in most other European jurisdictions. The problem is that they were not sustainable profits.

Deputy Stephen S. Donnelly: Does the director have comparative analysis against other developed country jurisdictions on charges and from somewhere other than Northern Ireland?

Mr. Bernard Sheridan: Northern Ireland and the UK. We have participated in other conferences in terms of discussing whether other countries should introduce bank charges. We have been involved internationally but, essentially, the study has revolved around the UK.

Deputy Stephen S. Donnelly: I know that the director has a tough job. With respect, and Deputy O'Donnell said something similar about his role in coming here today, it is unsatisfactory that he can only do a comparison with UK banking charges. There is compelling evidence that Irish consumers and businesses made our banks more profitable than any other. As director he should have solid comparative evidence to see how Ireland stacked up against the US and the rest of the developed world.

I have a different question on the CCMA. Would the Chairman prefer if I waited until later to ask my question?

Chairman: I will allow the Deputy in again later and I call Deputy Creed.

Deputy Michael Creed: I wish to raise four points primarily with Mr. Sheridan and his colleagues in the Central Bank. I thank Mr. Fielding for his presentation.

The director stated in his presentation:

At the end of 2010, the Central Bank issued letters of direction to all lenders directing them to refrain from imposing any surcharge interest or any charge arising on a mortgage account in arrears covered by the code of conduct on mortgage arrears.

Will the director please clarify what is meant by "letters of direction" and their bank status?

I also want the director to comment on the following circumstances. Let us say somebody faced with a financial difficulty after 2010 approached his or her bank and opted for an interest only arrangement on a residential property. What if the interest only arrangement was based on the bank's margins and on the cost of funding increasing? Then when he or she sought a six-month extension of the arrangement it was proposed to increase the margin again. Does the director consider such increases to be in breach of the letters of direction?

Mr. Bernard Sheridan: My understanding is that the letters apply purely to the charges applied rather than the interest rate. Based on what the Deputy has said, but without seeing the agreement, it does not sound like a breach of the direction.

Deputy Michael Creed: Is it open to the bank, on any occasion, to increase its margin on a loan when granting a 12-month interest only arrangement on a mortgage property?

Mr. Bernard Sheridan: In theory, yes. In practice, that is possible. My concern with what the Deputy has said is whether the bank can demonstrate that it is making the mortgage more sustainable. That is what a bank is meant to do. It must try to resolve the arrears situation. Based on what the Deputy has said, it strikes me as a little odd that a bank would up its rate unless there are other circumstances involved.

Deputy Michael Creed: I have personal experience in my own constituency of a bank adopting such an approach. The debate has rightly concentrated a lot on transaction costs but I shall continue to deal with the mortgage issue. One of the significant charges that customers have faced in recent years was for payment protection insurance. I would like to rationalise the

Central Bank's approach to dealing with individual banks who sold payment protection insurance. I understand, and please correct me if I am wrong, that the remedy for mis-selling was to refund the premiums paid rather than oblige a bank to stand over its offer of insurance cover for somebody who thought, in good faith, that he or she had cover. Why was the approach excessively deferential to the interests of the bank rather than mortgage holders?

Mr. Bernard Sheridan: If I understand the Deputy correctly, we propose that where there is evidence and there is not-----

Deputy Michael Creed: Perhaps the director will tell me the approach.

Mr. Bernard Sheridan: The approach, if we are talking about the same thing, to the payment protection insurance, PPI, mis-selling review is that a person is given an option to retain the policy or receive restitution.

Deputy Michael Creed: What is meant by restitution?

Mr. Bernard Sheridan: It means that a person will be refunded his or her premiums. The person may wish to keep his or her policy if they want and need to do so.

Deputy Michael Creed: Let us say somebody has lost his or her job but thinks he or she has payment protection insurance to cover a mortgage. Is the bank obliged to stand over the policy?

Mr. Bernard Sheridan: Exactly. The policy remains in place.

Deputy Michael Creed: Is the alternative a refund of the premium?

Mr. Bernard Sheridan: Yes.

Deputy Michael Creed: Do all institutions make that remedy available?

Mr. Bernard Sheridan: Provided there was non-compliance with our code.

Deputy Michael Creed: I thank the director for his clarification. I wish to comment on an area that I have touched on previously with the Central Bank, namely, the complexity of financial products being sold now and the different legal framework that exists for insurance-based products as opposed to financial products. In recent times a group of well-informed and well-advised purchasers of a particular financial product sold by ACC Bank were in a position to beat the clock regarding the Statute of Limitations when pursuing the bank for mis-selling of a financial product. A substantial number of other investors were not so lucky and are statute barred from pursuing the bank. At present, financial products may not fall under the remit of existing insurance-based legislation. Is there a need to change the law from applying the Statute of Limitations to financial products in order to protect consumers?

Mr. Bernard Sheridan: No. The Deputy made a good point. From our perspective, the Statute of Limitations is less of an issue. It is more of an issue in the context of a person's right to go to the Financial Services Ombudsman which has a six-year rule. I think the Deputy is implying that in the insurance sector scenarios he outlined, there are more long-term products. Therefore, a consumer may be less likely to become aware of an issue during the six-year period and run out of time. Slightly different provisions apply, for example, when approaching the Pensions Ombudsman for pension-type products. The provision relates to the period when one becomes aware of an issue and does not purely rely on when a consumer bought a product.

From my perspective, the provision works well and is better than simply having a black and white six-year rule dating from when a consumer bought a product.

Deputy Michael Creed: I am sure the director is aware of the ACC case where a band of investors cannot lodge a claim. Individual cases may or may not have been eligible. However, redress was made available to investors who had signed up for a legal case earlier, but other investors cannot avail of it because they are statute barred.

Mr. Bernard Sheridan: I imagine it does apply but the Central Bank is not involved in the case. From our perspective, we would ask if the code applied to the sale. If so, a consumer would have the right under our consumer protection code to lodge a complaint with the institution. That right applies irrespective of when a consumer bought his or her product provided that the code was in place at the time.

We see more of a problem around the right to complain to the Ombudsman. The Statute of Limitations issue is not something in which the Central Bank plays a role or is involved with. The question is whether there is a gap in financial services rather than examining the Statute of Limitations.

Deputy Michael Creed: It is rather invidious that a number of investors are aggrieved because they are locked out of the redress that was made available to others who were better informed and resourced. Perhaps those people had better legal advice and stronger financial resources to pursue a legal case. The poor performance of the product came to the attention of some investors too late in the day. Such matters should come under the remit of consumer protection. The issue of redress for all who purchased it should concern the Central Bank and Mr. Sheridan.

Mr. Bernard Sheridan: It does concern me in terms of consumer protection in respect of financial services. That is why I am focusing on the Financial Services Ombudsman rather than the broader Statute of Limitations, which is a bigger issue.

Deputy Michael Creed: Can the Financial Services Ombudsman deal with it because of the six-year period?

Mr. Bernard Sheridan: No, that is my point. There is a six year rule and it is different from the criteria relating to the Pensions Ombudsman legislation, where the period of time runs from when one became aware of the issue. That is where the gap exists.

Deputy Michael Creed: I may be stretching the interpretation of charges on this point but not of consumer protection. Mr. Fielding is aware of the following example. A subcontractor on a State contract worked for a main contractor with ongoing financial difficulty but who was, ultimately, paid by the State. He had to open up a new bank account in a separate bank to guarantee he could pay his subcontractors. His fear was that if he put the sum into his main bank, it would be gobbled up in respect of liabilities in other areas. There are high profile cases of State contracts, particularly in education, where schools have been picketed because subcontractors were not paid. Is there any role for the Central Bank of Ireland in respect of subcontractors having their rights protected? Can these issues be addressed in respect of ongoing contracts, whether State or otherwise, to guarantee payment to subcontractors who have carried out work and are due to be paid by the main contractor, who will not see the funds if the payment goes to his main bank account because of other liabilities?

Mr. Bernard Sheridan: It is not an issue directly for us. We have tried to do something for

the personal consumer in respect of the banks' right of set-off in respect of money in different accounts. When people go into arrears, they must be notified of the potential of this happening. People are notified when opening accounts but it is not relevant at that time. When people are struggling and going into arrears, they must be reminded of the bank's right. Beyond that, I do not see a role for us.

Deputy Michael Creed: Perhaps Mr. Fielding can comment on the prevalence of what I described.

Mr. Mark Fielding: It is quite prevalent. The banks get very upset over contractors lodging money into another bank account but they are trying to protect subcontractors, which is something we back. Legislation going through the Houses is being dragged back. Members know more than me about why that is. I would like to see it in place. It goes back to the issue of prompt payments, where small businesses are being crucified. It has nothing to do with banks in this case. It concerns the abuse of a dominant position by larger businesses who will not pay on time. It is a major issue, the third most contentious issue small businesses are dealing with on top of economic uncertainty.

Chairman: I have a question for Mr. Fielding and Mr. Sheridan. I refer to the upcoming implementation of the single euro payments area, SEPA. This is a standardised electronic payments system across 32 associated countries of the SEPA region. The purpose is to allow transactions on a major contract by a company that may have people working in Britain or other countries. I was in Turkey last week, where Project Management Group in Cork has opened up a new office, and such a company may make payments to workers there. The intention is that the system will reduce business operation costs with regard to payments. My understanding is that the system is without charge. Is that correct?

Mr. Bernard Sheridan: My understanding is that domestic charges will be the same as those that apply cross-border.

Chairman: Is it a universal charge rather than no charge?

Mr. Bernard Sheridan: Yes.

Chairman: Perhaps the Central Bank can give the committee a rundown of where banks in this country are in respect of the implementation of the standard electronic payment system. Are system protocols and software systems in place to fit into the system when it comes online later in the year?

Mr. Bernard Sheridan: I do not have detailed information on each of the banks. I understand they are all on track but some are finding it more challenging than others in terms of having everything in place.

Chairman: Can Mr. Sheridan provide us with a progress report on the banks?

Mr. Bernard Sheridan: I will ask the relevant section.

Chairman: Mr. Fielding deals with the other side of the issue, the businesses. Recent media reports indicate 40% of companies in Ireland have not yet started preparing for SEPA. That is a concern.

Mr. Mark Fielding: It is a concern. We knew about this and it was a little higher in the SME sector. The IBEC companies and semi-State companies are represented by IBEC. That it

is so low is disappointing. We have been in contact with the Central Bank and we are running ten seminars on SEPA across the country in June.

Chairman: Some 40% of companies have yet to start and some 15% of SMEs are fully prepared for the system. Is Mr. Fielding saying there will be promotion over the coming months?

Mr. Mark Fielding: There will be a lot of promotion over the coming months.

Chairman: To assist the promotion that ISME is carrying out, along with agencies such as Retail Excellence Ireland, IBEC and other companies, does the State need to do something at official level to facilitate knowledge about it?

Mr. Mark Fielding: We have been in touch with the Central Bank, which has been more than helpful. It is providing speakers for our seminars.

Chairman: I will return to two separate issues before inviting Deputy Donnelly to speak. I refer to charging and the general operation of banks. In France, if one offers a €50 note at the local cafe or grocery shop, people look at you as if you have two heads. ATMs, or drink links as they are called, issue denominations of €5 or €10 whereas the standard procedure here seems to be €50 or €20. Is there not a strong argument that we need to examine the possibility of having money released in particular denominations? It is a particular problem for people on low incomes and those in receipt of social welfare payments. If one has €19.99, the money is unavailable through the ATM system. It is a significant amount of money for someone in receipt of social welfare. Payment may not come through until the Thursday and after 6 p.m. on Wednesday the person cannot get access to €20, which amounts to one tenth of the social welfare payment. Has consideration been given to this issue by the Central Bank? What response has the Central Bank received from the banks?

Mr. Bernard Sheridan: The issue arose in the context of the national payment strategy. There is a workstream on it and it refers to the earlier point about the move to less cash. The question is whether we can deal with everyone's situation and one of the implications is the situation described by the Chairman. Work is being done to trial whether banks, in the context of the wider strategy, can deliver what the Chairman suggests, such as lower denominations in ATMs. That must be done in association with a move away from cash, but when one really needs the cash, one should be able to access it.

Chairman: There is an argument that one should take out the greatest sum of money possible because there is a cost every time one uses the ATM. We do not want a situation where €20 gets gobbled up on transactions involving €5 or €10. Surely there must be a system of adaptation with regard to the existing system.

Mr. Bernard Sheridan: It is being worked on and the banks are part of the national payments committee examining the matter.

Chairman: When could we expect to see notes of €10 and €20 denominations being issued as standard when people go to an ATM machine and request €50?

Mr. Bernard Sheridan: I cannot give members a date today, but I know trials of this process are being conducted to see whether the process will work. The process will have an associated additional cost, but the Chairman has raised an issue that is on the agenda. I can revert to him outlining the progress that has been made.

Chairman: In more and more cases, online payments are made to social welfare recipients and old age pensioners. The idea of having €19.99 locked away until one lodges another €1 to the account to be able to withdraw €20 is a problem.

Mr. Sheridan mentioned that 11 or more charges this year have been approved partially, provisionally or in full. Is that correct?

Mr. Bernard Sheridan: Yes.

Chairman: What criteria were used to approve these charges? Will Mr. Sheridan elaborate on the adjudication process that was used to approve them?

Mr. Bernard Sheridan: The criteria that apply in this process are largely set out in the legislation - we must consider the impact on competition. Each institution must make a formal notification and that must set out the commercial justification, which will include data from the banks and other institutions in terms of the expected usage on what the charge will be based and the cost associated with providing the service. We go through a process based on their commercial justification. We then also assess, by looking at the outcome, the impact on customers, the actual increase associated with the charge, whether it is in line and the implications for particular classes of customers. We feed that information into the customer profiles and look at how that is changing.

Chairman: What procedure must the chief executives of AIB, Bank of Ireland and Permanent TSB undertake? Do they write to the Central Bank requesting permission to introduce a charge?

Mr. Bernard Sheridan: They must make a formal application in writing. We assess it on our own. We take into account what is happening elsewhere. The banks make a formal notification and we issue a formal direction letter at the end of the process.

Chairman: I will not be emotive and suggest that these charges are just another way of bailing out banks. If one takes a middle ground position that banks have to operate a sustainable business model, albeit in an area in which there is competition, the process is that the bank writes to the Central Bank with a proposal for the introduction of a charge. A decision has been made in 11 such cases to grant permission either partially, provisionally or in full for such charges. How many applications for such charges were refused?

Mr. Bernard Sheridan: As I stated earlier, five applications were partially refused.

Chairman: They were partially granted as well.

Mr. Bernard Sheridan: In effect what happens is that institutions will propose a certain charge, we can categorically say "No" or we can vary the response by saying "No" to the charge at the level requested.

Chairman: How many applications were fully refused?

Mr. Bernard Sheridan: One application was fully refused. Each notification in itself is different; it can comprise a range of charges or a single charge. It is not a case that it is one charge and one notification.

Chairman: That is a refusal rate of less than 10%.

Mr. Bernard Sheridan: That is based on the applications in 2013. I would consider that in cases in which the Central Bank does not accept the original charge proposed and the application is resubmitted at a lower rate, as a refusal, it is a partial refusal.

Chairman: It is a partial granting as well. To use the analogy, it is being a little bit pregnant. When the charge comes through, the charge comes through.

Mr. Bernard Sheridan: We must assess the proposals under the agreed criteria, one of which is the commercial justification for the charge. We are obliged to follow procedures.

The joint committee may think we have a low rate of refusal but if one factors in partial refusals, it shows that we do not rubber stamp these notifications.

Chairman: The bank makes an application, which goes through a process of scrutiny in the Central Bank, and the charge is partially, provisionally or fully granted. Are the decisions ever re-examined in order to consider whether the case as presented on the first day is sustainable? In other words will the 11 charges that have been introduced in one capacity or another this year be reviewed?

Mr. Mick Stewart: We do not go back over old applications. Once the fees have been approved they are approved. However, if the banks were to submit applications for new approvals, we would be looking for information on the previous applications.

Let me clarify the issue of partial approvals. I do not think we have ever received an application with only one charge on it. Normally it will be for personal current accounts and there could be 20 charges on it and we could refuse any number from two to 19 of them. To assert that the rate of refusal is just 10%-----

Chairman: Could I ask Mr. Sheridan to consider the rate of refusal since 1996? Mr. Sheridan has undertaken to supply additional information. When so doing will he also respond to the following issues: has any charge been reviewed in the first instance; and following such a review has any charge been removed or reduced?

Mr. Bernard Sheridan: I gave the example earlier of how we reviewed the mortgage arrears charges.

Chairman: In that case, there was the exertion of plenty of pressure, and in fairness this was not instigated following an internal review.

Mr. Bernard Sheridan: We conducted the review.

Chairman: Yes, but the Central Bank was requested to conduct the review.

Deputy Kieran O'Donnell: What about normal bank charges?

Mr. Bernard Sheridan: As my colleague, Mr. Stewart, said, once the charges are approved, they are approved. Now, instead of looking solely at what the banks are saying in terms of the costs associated with the charge we examine the impact on the customer. We have made that shift.

Chairman: In respect of day to day customer charges for mortgages, has any one of these charges been reviewed and removed since 1996?

Mr. Bernard Sheridan: Certainly requests for the imposition of charges have been refused,

but once the charges have been approved, we do not review them. We do not go back to review them.

Chairman: Is it the policy not to review a charge once it has been introduced? Is that the international practice?

Mr. Bernard Sheridan: To us in the Central Bank we have approved the charge and the bank then imposes it on customers.

Chairman: Is the policy of the Central Bank similar to what applies in Canon Law, that once a charge has been granted it cannot be questioned afterwards? It will not be questioned afterwards.

Mr. Bernard Sheridan: It can be questioned afterwards, but-----

Chairman: It has not been questioned.

Mr. Bernard Sheridan: -----the process is not to ritually review charges that have been imposed.

Chairman: I call Deputy O'Donnell who will discuss the same matter.

Deputy Kieran O'Donnell: The Central Bank did not approve many of the bank charges. Prior to the 1995 legislation, there were notified bank charges. The changes came in with the enactment of the Consumer Credit Act 1995 and the coming into operation of section 149 in May 1996. However, prior to that date, the banks put in notified increases. Do the banks require approval from the Central Bank if they want to bring in changes to the charges?

Mr. Bernard Sheridan: Is the Deputy asking what is required if the banks need to come to us to increase-----

Deputy Kieran O'Donnell: No. I am asking about the procedure should the banks avail of the provisions that applied prior to the requirements of section 149 of the Consumer Credit Act 1995 to increase existing charges up to ceiling level, based on what they had notified prior to the introduction of section 149 provisions in 1996. Are they required to get approval from the Central Bank at present for such changes in the charges?

Mr. Bernard Sheridan: If the banks are going up to a ceiling that has already been notified, they do not need new approval.

Deputy Kieran O'Donnell: Therefore, for many of the charges that the banks have introduced since 1996, the banks did not and do not require the approval of the Central Bank.

Mr. Bernard Sheridan: May I give an example? There were 53 notifications considered in 2006, and some 46 in 2007. We have been processing a substantial number of submissions.

Deputy Kieran O'Donnell: I know that, but does Mr. Sheridan know the number of increases that were introduced by the banks per annum since 1996 under the old legislation?

Mr. Bernard Sheridan: We ask institutions to tell us that information but we cannot require them to seek approval.

Deputy Kieran O'Donnell: The devil is in the detail. My point is that it is clear there is a major problem. The banks are clearly using the old provisions to bring in charges. The issue

is the differential in margins. I suspect that the banks are doing a hybrid based on the charges that require approval from the Central Bank. They appear to get a high rate of approval from the Central Bank. Then they are mixing that with charges that apply under the old legislation, which they do not have to flag to the Central Bank. This is probably the first time that the customer has become aware of this situation. I have been around for a reasonable length of time but this is the first time I have become aware of this situation. Is what I have said correct?

Mr. Bernard Sheridan: The Deputy is correct in the sense there is a combination of things happening. Some of the other charges are coming forward from the banks. They are going higher up in what they have already been approved for. It is a combination.

Deputy Kieran O'Donnell: Is it not ironic that banks which have been bailed out by the ordinary person to the tune of €64 billion are relying on pre-1996 notifications to introduce charges that have not been flagged as part of a larger package of charges? In my view, there is a lack of transparency in the bank charges that are imposed on personal and business customers. Is it not fair to suggest that the ordinary person out there who is not aware of this should be aware of it? Should this be dealt with by means of legislation?

Mr. Bernard Sheridan: Customers need to be aware of potential charges before they are imposed. They also need to be aware of the charges they are paying. That is happening. I am not sure how critical it is to customers that it is a pre-1996 charge or a post-1996 charge.

Deputy Kieran O'Donnell: If it is a pre-1996 charge, is a bank required under legislation to make its customers aware of an increase in that charge? Is it required to make its customers aware that it did not have to get the approval of the Central Bank for the increase?

Mr. Bernard Sheridan: The bank would certainly have to make its customers aware of the increase. There is really no difference from the bank's perspective because the charge stood notified or approved from 1996. Banks cannot impose charges that are not approved. Some charges were approved before 1996.

Deputy Kieran O'Donnell: I do not want to delay the committee because Deputy Donnelly wants to contribute. Can the Central Bank give the committee a breakdown of the number of increases that relate to pre-1996 charges and the number that relate to post-1996 charges? I am looking for details of what has happened since 1996, or before then if the Central Bank can go back further than 1996. What percentage of charges falls into each category? What are the amounts in question? We need to get a flavour of what has been happening in the hidden world of bank charges over recent years. The committee has a duty to make inquiries of this nature.

Mr. Bernard Sheridan: Sure.

Deputy Kieran O'Donnell: The people on whom these charges are being imposed are entitled to nothing less.

Mr. Bernard Sheridan: Okay.

Chairman: I thank Deputy O'Donnell.

Deputy Stephen S. Donnelly: The more I learn about this, the more I conclude that the Oireachtas has not given the Central Bank the right tools. This is very important. Banks can increase charges based on 1996 legislation.

Deputy Kieran O'Donnell: Based on pre-1996 legislation.

Deputy Stephen S. Donnelly: All they have to do is tell the Central Bank about it.

Deputy Kieran O'Donnell: They do not even have to do that.

Deputy Stephen S. Donnelly: There is an unusual situation at present because many customers are unable to move. The market is not working at the moment. People are stuck in negative equity. They cannot move because they have tracker mortgages. All sorts of new reasons are preventing people from moving. Distressed borrowers and distressed businesses are stuck with banks they cannot get away from. In a healthy banking market, they would be able to move and take their business elsewhere. The same banks are able to increase charges unilaterally. We all know that is putting businesses out of operation and causing huge distress. I would be in favour of looking at the legislation to make sure Mr. Sheridan and his team have the tools they need. I am not convinced that we have provided those tools.

I wish to reflect briefly on an aspect of this matter before asking a question about the code of conduct on mortgage arrears. We must establish whether the charging structure or environment is reasonable and appropriate. Obviously, there is no right answer. It is a judgment call. It would be incredibly useful to know where we stand by comparison with the rest of the OECD countries. If we are in the bottom quarter in terms of charges to businesses and citizens, that is great, reasonable and appropriate. If we are in the top 10% or 15% along with the UK, that is neither reasonable nor appropriate. I wonder if it might be possible to get some kind of comparative analysis. I would be astounded if it has not already been done. Perhaps an official from the Central Bank can send something on to us. I would be much more comforted by the Central Bank's judgment call if I could see that we are in the mid-range of OECD countries in this regard. Is that possible? It is obvious that the code of conduct on mortgage arrears is a huge issue. I am very concerned about the proposed changes. Is Mr. Sheridan involved in that process?

Mr. Bernard Sheridan: Yes. I am leading it.

Deputy Stephen S. Donnelly: Great. I appreciate that Mr. Sheridan is not here to talk about it. I do not want to give the impression that I am trying to ambush him on it. The question I am asking is specifically linked to charges. I have made a submission because I am deeply concerned about what the proposed changes will do to citizens in this country. I guess that is for another day. The Central Bank acted correctly and admirably in 2010 when it instructed the banks not to impose surcharges on mortgages in arrears if the borrowers in question came under the protection of the code of conduct on mortgage arrears. That was welcome. It was a great move. The proposed revisions open up numerous new avenues for banks to get borrowers away from the protections of the code of conduct. When a borrower is designated as non-co-operating, he or she will no longer enjoy the protection of the code of conduct. The proposed changes open up numerous ways for the bank to make such a designation - ways which were not available to the banks in the past. Is the Central Bank concerned that its admirable 2010 instruction to banks not to keep ratcheting up the charges on distressed borrowers in arrears will no longer apply and such practices will happen again? The revised proposals make it much easier for banks to get borrowers out of the process and away from the protections of the code of conduct. Therefore, they will enable the banks to start stacking up the charges again.

Mr. Bernard Sheridan: All submissions will be fully considered as part of the current consultation process. There is no doubt that we are trying to make the categorisation of co-operating and non-co-operating lenders and borrowers clearer. We are trying to protect those who are not co-operating before they are too far gone. They need to be notified in advance that

they are to be deemed as non-co-operating, advised of what they need to do to be designated as co-operating and made aware of the implications of all eventualities. The Deputy is right when he suggests that the potential exists for non-co-operating borrowers who have not made a strategic decision not to co-operate to be affected by this. We need to look at that very carefully to make sure it does not happen. Basically, I am saying we will consider what the Deputy has said.

Deputy Stephen S. Donnelly: I will explain the problem. The revised proposals allow the bank to determine whether one is co-operating. If one wants to appeal, one has to appeal to the bank. As far as I am aware, consumers or citizens cannot appeal to the Central Bank. The banks have not necessarily acted in the interests of the country in the last while. Some of them, at least, may continue to act in that way. If a bank decides that one has not replied to it within a timeframe it deems appropriate, it can decide that one is not co-operating. If one wants to appeal that, one will have to appeal it to the bank. We can guess what the answer will be in those circumstances. If the bank decides one is not responding to its timescales in a way it deems appropriate - with no oversight from the Central Bank and no independent appeal - it will be able to classify one as non-co-operating. The bank will be able to remove the statutory provisions given to one by the Oireachtas and the Central Bank. It will then be able to start hitting one with lots of charges on one's arrears. I suggest that it will be much easier for the banks to act in this manner under the new proposals. I suggest that some of them, based on our interactions with them in here, will do whatever they can to get more money in.

Mr. Bernard Sheridan: The concept of co-operation and non-co-operation was already in the code. We are trying to bring greater clarity to it from both perspectives. We will take on board what the Deputy has said.

Deputy Stephen S. Donnelly: I thank Mr. Sheridan.

Chairman: Would Mr. Sheridan or Mr. Fielding like to make a short concluding comment before I bring the meeting to an end?

Mr. Bernard Sheridan: I thank the Chairman. We will revert to the committee with the information that has been sought.

Mr. Mark Fielding: I would like to clarify the figure of €50 billion that was mentioned earlier when we discussed the question of SME lending. Some €32 billion of that €50 billion was loaned to building companies, construction interests and people in real estate. It is property-related. Approximately €25 billion was pure SME lending. Approximately one third of that is in distress. I mention that to correct the suggestion that 50% of the €50 billion is in distress.

Chairman: That brings the meeting to an end. I thank Mr. Fielding, Mr. Sheridan, Mr. Stewart and Ms Murphy for the briefing and engaging in what has been a lively discussion which has added to our understanding of the matter.

The joint committee adjourned at 5 p.m. until 2 p.m. on Wednesday, 24 April 2013.