

"Joe Chisholm"

' <chisholm@queensbury.com>

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Please respond to chisholm

To: <jstevenson@osc.gov.on.ca>, <jublin@osc.gov.on.ca>

cc:

Subject: fair dealing model

First and foremost, I would like to say that I applaud the spirit of your efforts and I find the multi-media approach to be in keeping with your noble efforts to make your work as user friendly as possible. I hope and trust that you do encourage input and that you are receptive to modification of the model, based on the input of stake holders.

I would like to speak to the issue of transparency of compensation and disclosure of potential conflicts of interest. I will direct my comments and concerns, more to compensation, as there is great subjectivity to "conflict of interest."

As a consumer myself, I have often wondered when buying from a department store what the mark up was, what they paid for the item and what rebates or incentives they might receive from the manufacturers of goods. Why is one manufacture more prominently displayed than another? Are their name brands the same as a private label product that might be cheaper?

When looking at cars I wonder what the relationship is between the dealer and retailer, the retailer and the salesperson or "auto consultant." I wonder why they might have a bias towards purchase or lease, why they would recommend an extended warranty. I wonder if there is a financial incentive from the manufacturer in terms of bonuses or rebates. I wonder if there is planned obsolescence in the car and how much the manufacturer or dealer expects to make from me in terms of replacement parts and labour throughout the cycle of my car ownership.

When I go to a doctor, I would like to know what is in it for him or her if I come back in three more months for a re-assessment, choose the brand name prescription they recommend or visit the specialist they refer me to.

Never the less, I don't expect my government to mandate to these vendors that this information be disclosed. In a capitalist environment it comes down to their struggle to be competitive and my responsibility to myself to invest what I deem to be prudent amount of time in research and comparative shopping.

There already seems to be more disclosure of compensation in this industry than in others. Using the example of mutual funds, the Simplified Prospectus outlines, management fees and what the dealer is compensated with.

Here are my concerns and view points. Could you please address each of these issues:

1)Why are you preoccupied with the issue of disclosure of compensation? Please provide me with any cases of investor abuse that would have been preempted with greater disclosure. Shouldn't this industry standards be in keeping with similarly accepted practices in other industries where services or products are sold to the public?

2)Is it the advisor, or sales person, dealer or mutual fund manager who you feel is unfairly gaining from the current disclosure rules?

3)Is it the investor who would treat with less respect - if that's not too strong an assumption, in that your perception of him or her is that they are capable of making medical, automotive or household decisions without disclosure of compensation or conflict of interest rules, but that they are incapable of making appropriate decisions with the current rules of disclosure.

4)If you are concerned that the investor doesn't read or understand the Simplified Prospectus, how will you be sure that he will read and understand an engagement agreement. Some of these same investors are signing car rental agreements, leases, loan applications etc. without fully understanding or reading these agreements.

5)It is my understanding that encouraging a party to enter into an agreement without suggesting that they seek the opinion of legal council may mitigate the legitimacy of such an agreement. I may get most of my legal education from television so perhaps you could enlighten me to the validity of this concern.

As you may surmise, I am some what not in favour of this part of the Fair Dealing Model. From my standpoint of considering what will help the consumer I say the value of legislating this aspect of your model, as well as enforcing it, will have a cost. This cost will ultimately be borne by the consumer. I respectfully suggest that the cost is great, the benefit is small. To ask the consumer to bear the cost of this would not be "fair dealing."

Never the less I accept that my perspective is limited. I invite you to respond to the above five concerns, and I would look forward to further discussion on said topic.

I look forward to your reply.

Joe Chisholm
159 Stanley Street
Toronto ON
M8V 1N8