



Interchange Fees and the Credit Card Competition Act

Background:

- In 2010, Congress passed the Dodd–Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) in response to the 2007-2008 financial crisis, seeking to make the financial system safer for taxpayers and consumers.
- Included in Dodd-Frank was an amendment from Sen. Dick Durban (D-Ill.), which eliminated interchange, or “swipe-fees” on debit cards, which were previously paid to banks for the right to accept cards. However, in practice, removing those fees has significantly restricted credit unions and community banks from providing services to customers.
- Over the last two years, some members of Congress have pushed for a similar scheme for credit cards, through the introduction of S. 1838, the Credit Card Competition Act (CCCA), now being considered as Amendment #1161 to H.R. 4366, the Military Construction, Veterans Affairs, and Related Agencies Appropriations Act.
- The CCCA did not receive a committee vote in either the 117th or 118th Congress.
- Interchange is the small percentage of the cost of a purchase that the retailer’s bank pays to the cardholder’s bank or credit union.
- Revenue generated from interchange fees covers customer service, system operations and protection of private customer data from fraud.
- The National Federation of Independent Businesses (NFIB) conducts a survey of small businesses every four years, asking them to rank the issues they face. In 2016, small businesses ranked credit card processing fees as the 38th problem (out of 75). In 2020, credit card processing fees did not even make the list.¹

Issues:

- The impetus for this legislative push is the misperception that the credit card marketplace is uncompetitive. However, over 5,000 credit card issuers market directly to consumers. This has been confirmed by the Federal Trade Commission (FTC) and Department of Justice (DOJ), and the U.S. Supreme Court found no evidence of an anticompetitive marketplace in *Ohio v. American Express Co.* (2018).
- Just as the Durbin Amendment did in 2010 to debit cards, loss of interchange revenue would eliminate credit card rewards programs for both individuals and businesses. Individuals would see airline miles, cashback programs, and fraud protections eliminated. Businesses would be unable to use rewards to cover significant expenses such as employee health insurance, and inventory insurance. According to a 2021 study done by the International Center for Law & Economics, the Durbin Amendment cost large banks between \$6.6 and \$8 billion in lost revenue.² Further, half of debit card issuers regulated by the Durbin Amendment interchange fee cap ended their rewards programs in 2011.³
- The CCCA will, in practice, award the Federal Reserve complete control over American payment networks, reminiscent of the Ma Bell phone network monopoly or the Civil Aeronautics Board price fixing, severely limiting consumer choice on credit cards while simultaneously putting private user data at risk.
- The CCCA ignores quickly emerging cybersecurity threats to electronic payments – protection from which comes from credit card interchange fees. In 2022, over 400 million individuals were affected by data breaches, due, in part, to retailer negligence.⁴ In the same year, \$8.8 billion was lost to fraud, an increase of 30 percent over 2021.⁵ The average fraud payout per card in 2022 alone was \$2,618.⁶

Recommended Solutions:

- Congress should reject the Credit Card Competition Act either as a standalone bill or as Amendment #1161 to H.R. 4366, the Military Construction, Veterans Affairs, and Related Agencies Appropriations Act. This harmful proposal will overhaul the existing payment processing system, severely limit consumer choice, place consumers at risk of fraud, and strip users of credit card rewards despite the legislation being based on false pretenses of anticompetitive practices within the payment industry.

¹ <https://assets.nfib.com/nfibcom/NFIB-Problems-and-Priorities-2020.pdf>

² <https://laweconcenter.org/wp-content/uploads/2021/05/tldr-interchange-fees.pdf>

³ https://www.richmondfed.org/~media/richmondfedorg/publications/research/economic_quarterly/2012/q3/pdf/wang.pdf

⁴ https://www.idtheftcenter.org/publication/2022-data-breach-report/?utm_source=press+release&utm_medium=web&utm_campaign=2022+Data+Breach+Report

⁵ <https://www.ftc.gov/news-events/news/press-releases/2023/02/new-ftc-data-show-consumers-reported-losing-nearly-88-billion-scams-2022>

⁶ <https://public.tableau.com/app/profile/federal.trade.commission/viz/FraudReports/FraudLosses>