



National Grocers Association

Submission for the Record

For the House Financial Services Committee Hearing on A Legislative Proposal to Create Hope and Opportunity for Investors, Consumers, and Entrepreneurs, April 26, 2017, 10:00AM

The National Grocers Association (NGA) greatly appreciates the opportunity to submit comments for the record for the House Financial Services Committee hearing on the Legislative Proposal to Create Hope and Opportunity for Investors, Consumers, and Entrepreneurs on April 26, 2017. NGA's comments are focused on the impact that the repeal of the debit reforms enacted by the Durbin Amendment would have on the independent supermarket industry. Language repealing this provision is included in the Financial CHOICE Act discussion draft.

The Durbin Amendment, including the reforms it enacted on debit card swipe fees and the additional competition it helped introduce into the debit routing market, has provided significant benefits to retailers, consumers, and small financial institutions. NGA does not oppose further examinations of the Dodd-Frank Wall Street Reform and Consumer Protection Act. However, the Durbin Amendment was the result of an intensely negotiated compromise and the independent supermarket industry must strongly oppose any attempts made to weaken or repeal it.

About the National Grocers Association

NGA is the national trade association representing retail and wholesale grocers that comprise the independent sector of the food distribution industry. An independent retailer is a privately owned or controlled food retail company operating in a variety of formats. Most independent operators are serviced by wholesale distributors, while others may be partially or fully self-distributing. Some independents are publicly traded, but with controlling shares held by the family and others are employee owned. Independents are the true “entrepreneurs” of the grocery industry and are dedicated to their customers, associates, and communities. Much of NGA’s membership is comprised of family-owned and family-operated small businesses. Over 60 percent of NGA’s members are single-store operators, and an additional 20 percent operate less than five stores. The independent supermarket channel is accountable for close to one percent of the nation's overall economy and is responsible for generating \$131 billion in sales, 944,000 jobs, \$30 billion in wages, and \$27 billion in taxes.

The Durbin Amendment

In 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act, including debit swipe fee reforms introduced as an amendment by Senator Dick Durbin (D-IL). The Durbin Amendment passed on a bipartisan basis in the Senate, garnering 64 votes when it was considered in May of 2010. The Durbin Amendment sought to reform the anti-competitive debit marketplace that Visa and MasterCard had come to dominate using market power and exclusivity agreements with some of the largest banks in the United States.

It is important to note that the Durbin Amendment only applies to banks with more than \$10 billion in assets. Less than 1.4% of all U.S. banks are covered by the Durbin Amendment, and those that are covered have the opportunity to opt-out of these restrictions if they elect to set their own swipe fees in lieu of having them centrally set by Visa and MasterCard. So far, only Chase Bank has chosen to compete by introducing Chase Pay and negotiating interchange fees directly with retailers.

The Durbin Amendment limited centrally-set, price-fixed interchange fees to 21 cents on each debit transaction, plus a one cent fraud prevention fee, plus .05 percent of the transaction amount to cover the banks' fraud losses. This resulted in the average debit swipe fee for the nation's largest banks falling from 44 cents on average down to 24 cents. The Durbin Amendment also reintroduced competition into the debit routing marketplace by requiring that at least two unaffiliated debit routing networks be available to process each transaction.

The Durbin Amendment is a compromise borne of one of the most intense lobbying efforts on behalf of both banks and retailers in the past decade. The results of that compromise have been increased competition in the debit routing market, increased transparency for retailers, and an average debit swipe fee that is almost exactly half of what they were prior to the Durbin Amendment's enactment.

Increased Competition Benefits Everyone

Prior to the Durbin Amendment, Visa and MasterCard used their positions in the market to give financial incentives to some of the largest banks so those banks would exclude competing networks from the debit cards distributed by the issuing banks. This system led to debit routing networks being forced out of business, eliminated merchant routing choice, and increased costs for consumers as the fees charged by the card networks steadily increased.

The implementation of the Durbin Amendment's debit routing provision that required at least two unaffiliated routing options for each transaction has introduced competition into a market that had previously seen competition systematically eliminated. This provision has helped drive down costs for merchants and given them an option to route their payments away from the Visa

and MasterCard duopoly if they so choose. Networks are now able to compete based on price, routing speed, and security to secure the business of retailers. While many debit routing networks were forced out of the market previously, networks such as Pulse and STAR have all seen their market share grow since the implementation of debit routing reforms¹.

Increased competition has forced routing networks to innovate, leading to significant progress in the security of routing networks. Debit routing networks have viewed security as an arena where they can gain a competitive edge against fellow market participants, which has led to a significant increase in the number of networks that utilize end-to-end encryption. This increased security measure not only benefits the routing networks, but all members of the payments chain.

The Durbin Amendment has introduced competition and transparency into a market that was previously controlled by two large, dominant companies, and given smaller routing networks the freedom to begin competing with Visa and MasterCard in a variety of ways. Merchants were previously forced to operate under a broken, duopolistic system that solely benefitted MasterCard, Visa and their largest banking partners at the expense of merchants and consumers. The Durbin Amendment was a necessary intervention into a broken system, and represents an incremental step towards a free and competitive market.

Consumers Benefit from Lower Debit Swipe Fees

Economist Robert Shapiro conducted a study on the benefits of the Durbin Amendment for consumers and established that consumers have realized nearly \$6 billion in savings per year since the enactment of debit reforms². In the years since debit reforms were enacted, consumers have saved an estimated \$30 billion as a result of lower interchange fees. While opponents may claim that merchants have simply pocketed the savings they have experienced due to lower swipe fees, the evidence does not support this claim. Independent grocers have always operated on a roughly 1-2% profit margin thanks to an incredibly competitive market. Those razor-thin profit margins remain steady following the passage of swipe fee reforms.

Grocers have been able to pass along the savings to consumers in previous years by maintaining the lowest-possible costs for consumers even though operating costs for independent grocers continue to rise as a result of an increased regulatory burden; including costs associated with the implementation of the Affordable Care Act (health care costs grew by 10.2% for independent

¹*The New Debit Card Regulations: Initial Effects on Networks and Banks*. Fumiko Hiyashi. Federal Reserve Bank of Kansas City Economic Review (Fourth Quarter)

<https://www.kansascityfed.org/publicat/econrev/pdf/12q4hayashi.pdf>

² The Costs and Benefits of Half a Loaf: The Economic Effects of Recent Regulation of Debit Card Interchange Fees. Robert Shapiro. https://nrf.com/sites/default/files/The_Costs_and_Benefits_of_Half_a_Loaf.pdf

grocers in 2015³). Moody's released a report in 2012 that stated: "as merchant acquirers pass on debit fee savings to retailers; we believe retailers will use them to help shield customers from the impact of these other rising costs⁴." This has been proven true, as independent grocers continue to pass along savings to customers to compete in a market with hefty competition.

Small Banks Have Benefitted

Opponents of swipe fee reform have often contested that small banks and credit unions would suffer under the Durbin Amendment, and that swipe fee reforms would be the end of free checking accounts. More than six years after the passage of the Durbin Amendment, neither assertion has occurred as predicted. In fact, according to the American Bankers Association, **free checking has increased in the years since the Durbin Amendment went into effect.** In 2010, only 53%⁵ of Americans had access to free checking accounts. In 2015, free checking accounts had increased to 61%⁶. While it would be inaccurate to claim that debit swipe fee reforms were responsible for an 8% jump in the availability of free checking, it cannot be argued that the Durbin Amendment has been a negative influence on free checking.

In addition, small banks have gained market share under the Durbin Amendment. Per a study released by the Philadelphia Federal Reserve in February of 2016, the "**volume of transactions conducted by cards issued by exempt banks grew faster than it did for large banks.**"⁷ The Durbin Amendment has been an avenue for community banks and credit unions to compete with the "megabanks" and have created opportunities for "banks to differentiate themselves," according to Jeremy Foster of BancVue.⁸

³ Grocery Retailing Payments Study 2016. National Grocers Association.

⁴ New Debit Rules Hurt Banks and Reshape the Payment Processor Market. Moody's Investor Service. June 20, 2012. P10. http://21353cb4da875d727a1d-ccea4d4b51151ba804c4b0295d8d06a4.r8.cf1.rackcdn.com/Moodys_Report_6.20_12.pdf

⁵ ABA Survey Shows Majority of Bank Customers Pay Nothing for Bank Services. American Bankers Association. October 7, 2010. <http://www.prnewswire.com/news-releases/aba-survey-shows-majority-of-bank-customers-pay-nothing-for-monthly-bank-services-104516904.html>.

⁶ Survey: Most Americans Pay Nothing for Bank Services. American Bankers Association. August 15, 2015. <http://www.aba.com/press/pages/081815surveyonbankcosts.aspx>

⁷ Banking Trends: How Dodd-Frank Affects Small Bank Costs. James DiSalvo and Ryan Houston. First Quarter, 2016. <https://www.philadelphiafed.org/-/media/research-and-data/publications/banking-trends/2016/bt-how-dodd-frank-affects-small-bank-costs.pdf?la=en>

⁸ Contrary to What Small Banks Think, the Durbin Amendment Can Help Them. Lyle Beckwith. February 19, 2016. <http://www.americanbanker.com/bankthink/contrary-to-what-small-banks-think-durbin-can-help-them-1079458-1.html>

American Merchants and Consumers Pay the Highest Swipe Fees in the World

Despite the immense progress made on the costs of debit swipe fees the U.S. still lags behind the rest of the world in this arena. U.S. merchants pay, on average, 3.5 times more than their U.K. counterparts for an average transaction. The U.S. also pays more than 4 times more per swipe than Belgium, Hungary, Spain and Iceland.⁹ U.S. merchants continue to pay the highest swipe fees in the world, even with the Durbin Amendment helping to lower debit swipe fees by nearly 50%.

For independent grocers, swipe fees represent the second highest operating cost, only behind the cost of labor. Incredibly, swipe fees had been steadily rising despite increased processing efficiency on behalf of banks. Prior to the Durbin Amendment, it cost banks an average of 4 cents to process a debit transaction (while charging a swipe fee of 44-45 cents - a 1000% profit). It now costs the largest banks only 2 cents on average to process a debit transaction, while the average cost to process a transaction has decreased 43% from 2009-2013 (from 7.6 cents to 4.4 cents per transaction)¹⁰. Prior to the Durbin Amendment, the debit swipe fee market saw the costs charged regularly increase despite increased efficiency and lower operating costs.

Debit interchange fees continue to be a significant cost to independent supermarket operators. For NGA members, debit interchange fees (network and banking fees) account for 1.3% of all sales. Debit fees appear likely to remain a substantial portion of the payments market moving forward as debit transactions have more than doubled since 2000 for independent grocers, accounting for 22% of all transactions as of 2015. As a percentage of sales, debit transactions have increased nearly 12% over the course of 3 years.¹¹ More importantly, debit cards led all payment methods in terms of dollar sales in 2015 with 30% (followed closely by credit at 29%).

¹²

While debit reforms have provided tremendous benefits to the vast majority of American retailers, some retailers have not seen the benefits of debit reforms and are still in need of relief from this rapidly increasing input cost. For those retailers, mostly in rural areas of the country, whose customers primarily use debit cards from exempt institutions, the benefits of debit reforms have not been as significant.

More Progress to be Made

Independent grocers are by no means satisfied with the current status of swipe fee reforms, and believe that progress needs to be made to deal with the anti-competitive credit card swipe fee

⁹ The Cost of Accepting Credit Card Payments: NA vs. EU. Robert Harrow.

<http://www.valuepenguin.com/interchange-fees-na-vs-eu>

¹⁰ Merchant Advisory Group, Volume and Cost Trends in the Debit Card Industry.

<https://files.ctctcdn.com/26db5c23201/8b43b2a5-993d-4c1a-ac9b-07c8acc488ea.pdf>

¹¹ 2016 Independent Grocers Financial Survey. National Grocers Association.

¹² Grocery Retailing Payments Study 2015. National Grocers Association.

market as well. There remains much more to be done to ensure that the debit swipe fee market becomes fully competitive. Repealing the Durbin Amendment would be a step in the wrong direction that would lead to direct harm to main street businesses and consumers. A repeal of the Durbin Amendment would allow Visa and MasterCard to double swipe fees again (or raise them even higher, if they so choose) on behalf of their banking partners who will gladly accept the inflated, price-fixed fees. All of this would be at the expense of the American retailer and American consumer. And, without competition in debit routing, Visa and MasterCard would eliminate merchant routing choice and would likely put more of their competitors out of business.

The Durbin Amendment has moved the debit routing market away from a duopolistic system and introduced competition into a system that sorely needed it. The benefits of that competition have already been realized by merchants and the consumers they serve. In addition, debit networks and small banks have seen their market shares increase under the Durbin Amendment and would suffer significant harm if debit reforms were to be repealed. Repealing the Durbin Amendment would be a blow to merchants and consumers, while only benefitting the very largest banks in the U.S. On behalf of the independent supermarket industry and the 944,000 jobs that our industry represents, the National Grocers Association urges you to withdraw the Durbin Amendment repeal provision from the Financial CHOICE Act. Should the Durbin Amendment repeal provision remain in the bill, NGA will be forced to oppose the Financial CHOICE Act.

We greatly appreciate your attention to this issue.

Respectfully submitted,

A handwritten signature in blue ink that reads "Greg Ferrara". The signature is written in a cursive, flowing style.

Greg Ferrara
Senior Vice President, Government Relations and Public Affairs
National Grocers Association (NGA)