



September 12, 2016

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
2228 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
2221 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Hensarling and Ranking Member Waters,

On behalf of the National Grocers Association (NGA), I am writing to express our opposition to H.R. 5983, the Financial CHOICE Act. NGA strongly encourages members of the House Financial Services Committee to oppose this bill. NGA opposes language included in the bill that would repeal the debit reforms contained in the Durbin Amendment, thereby weakening competition in the debit routing market and allowing the largest U.S. banks to increase debit interchange fees above current limitations. NGA expressed our opposition to the inclusion of debit reform repeal by submitting comments on the CHOICE Act to Chairman Hensarling as requested in July, and we have been vocal in our opposition in the months since. NGA must oppose the entirety of the Financial CHOICE Act due to the inclusion of language that would roll back debit reforms. Should this anti-Main street provision be removed, NGA would no longer have any opposition to the bill.

NGA is the national trade association representing the retail and wholesale grocers that comprise the independent channel of the food distribution industry. An independent retailer is a privately owned or controlled food retail company operating 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 dedicated to their customers, associates, and communities. The independent supermarket channel is accountable for close to 1% 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 passed as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010 (PL 111-203) and sought to reform anti-competitive price fixing in the debit space. The Durbin Amendment introduced increased competition in the debit routing market. By requiring that at least two unaffiliated debit routing network be available for all purchases made using debit, the Durbin Amendment brought increased competition into a market that had been increasingly dominated by the two largest routing networks. The Durbin Amendment also contained a provision that limited price-fixed debit interchange fees to 21 cents per transaction, plus .05 percent to cover fraud losses, plus a one cent fraud prevention fee, resulting in an average debit swipe fee of 24 cents and providing businesses a measure of relief from the world's highest debit swipe fees. ¹

¹ Volume and Cost trends in the Debit Card Industry. <https://files.ctctcdn.com/26db5c23201/8b43b2a5-993d-4c1a-ac9b-07c8acc488ea.pdf> Debit Card Interchange Fee Regulation: Some Assessments and Considerations. Federal Reserve Bank of Richmond: Economic Quarterly. Zhu Wang. https://www.richmondfed.org/~media/richmondfedorg/publications/research/economic_quarterly/2012/q3/pdf/wang.pdf

Economist Robert Shapiro estimates that consumers have saved nearly \$6 billion per year since the enactment of the Durbin Amendment due to goods and services being offered at lower prices as a result of lowered interchange fees². Merchants have saved billions³ since the passage of the Durbin Amendment, allowing retailers to maintain level prices on the goods they sell. While some claim that merchants have not passed along savings to consumers, independent grocers continue to operate on the same 1% profit margin that they always have, and continue to strive to provide customers with the lowest prices possible while operating in a highly competitive market. Moody's even 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 costs."⁴ This prediction has proven to be true in the years since.

Despite the lowered debit swipe fees brought on by swipe fee reform, merchants in the United States are still burdened by the highest swipe fees in the world. U.S. merchants pay, on average, more than 3.5 times more than their U.K. counterparts and more than 4 times more than Belgium, Hungary, Spain and Iceland⁵. Swipe fees represent the second highest operating cost for most independent grocers, trailing only behind labor. Merchants simply cannot compete in an increasingly globalized economy if they are being crushed under the staggering weight of swipe fees while the rest of the world continues to lower those same fees.

Debit cards continue to be an important part of the U.S. economy and make up a significant portion of the transactions conducted every day at your local independent supermarket. For NGA members, debit cards were the number one payment method in terms of dollars spent in 2015 accounting for more than 30% of all revenue. Debit continues to be an increasingly popular method of payment. Debit represented 22% of all transactions among NGA surveyed members in 2015, more than double the percentage in the year 2000. With debit interchange fees representing up to 1.3% of all sales made at independent supermarkets it is time to *lower* debit interchange fees and introduce *more* competition to the debit routing market, not raise fees and eliminate competition from the debit market.⁶

Opponents of swipe fee reform have often contested that small banks 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 proved to be correct. 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%⁷ of Americans had access to free checking accounts. In 2015, free checking accounts had increased to 61%⁸. While it would be inaccurate to claim that debit swipe fee reforms were responsible for an 8% jump in the availability of free checking in the U.S., it cannot be credibly argued that the Durbin Amendment has had a negative influence on free checking.

In addition, small banks have gained market share under the Durbin Amendment. According to 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 banks⁹."

² The Costs and Benefits of Half a Loaf: The Economic Effects of Recent Regulation of Debit Card Interchange Fees. Robert Shapiro. <http://21353cb4da875d727a1d-ccea4d4b51151ba804c4b0295d8d06a4.r8.cf1.rackcdn.com/SHAPIROreport.pdf>

³ The Costs and Benefits of Half a Loaf: The Economic Effects of Recent Regulation of Debit Card Interchange Fees. Robert Shapiro. <http://21353cb4da875d727a1d-ccea4d4b51151ba804c4b0295d8d06a4.r8.cf1.rackcdn.com/SHAPIROreport.pdf>

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 The Cost of Accepting Credit Card Payments: NA vs. EU. Robert Harrow. <http://www.valuepenguin.com/interchange-fees-na-vs-eu>

⁶ Grocery Retailing Payments Study 2015. National Grocers Association.

⁷ 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>.

⁸ Survey: Most Americans Pay Nothing for Bank Services. American Bankers Association. August 15, 2015. <http://www.aba.com/press/pages/081815surveyonbankcosts.aspx>

⁹ 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>

The Financial CHOICE Act would eliminate all of the progress made in the debit market in the last 5 years by eliminating the Durbin Amendment. The Durbin Amendment has created jobs, lowered costs for businesses and saved consumers money anywhere debit cards are used. The Durbin Amendment has brought increased competition into a debit routing market that may be best described as a duopoly. Now is the time to continue the work that the Durbin Amendment began, not take a step backwards by undoing the progress made in the past 5 years.

NGA strongly opposes the Financial CHOICE Act, and urges the Members of the House Financial Services Committee to vote against a bill which will only serve to increase the fees received by the largest U.S. banks and will hurting American consumers and businesses alike. NGA urges all Representatives on the Committee to vote against the Financial CHOICE Act, and will consider this a "key vote" for our scorecard for the 114th Congress.

Sincerely,

A handwritten signature in blue ink that reads "Greg Ferrara". The signature is written in a cursive style with a large initial "G".

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

cc: All Members of the House Committee on Financial Services