

May 20, 2021



The Honorable Sherrod Brown, The Honorable Patrick Toomey, Ranking Member

Senate Committee on Banking,

Senate Committee on Banking, Housing &

Urban Affairs

Housing & Urban Affairs

534 Dirksen Senate office Building 534 Dirksen Senate office Building

Washington, D.C. 20510 Washington, D.C. 20510



Dear Chairman

The Honorable Maxine Waters, Chairwoman

ne Waters, The Honorable Patrick McHenry,

Ranking Member

House Committee on Financial Services House Committee on Financial Services

2129 Rayburn House Office Building 2129 Rayburn House Office Building

Washington, D.C. 20515 Washington, D.C. 20510



Brown, Ranking Member Toomey, Chairwoman Waters and Ranking Member McHenry,

On behalf of the undersigned organizations representing millions of consumers, we write to express our







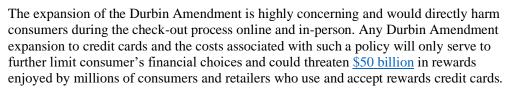


opposition toward legislative and Federal Reserve efforts that expand the Durbin Amendment routing mandate, both of which would limit competition and choice in the debit and credit card marketplace. Retail trade associations have consistently lobbied for greater intervention from the Federal Reserve, including forcing market participants to allow competitors to free ride on their innovative technology, a clear and uncompensated governmental taking, given the misleading title of as "interoperability." Additionally, the harm demonstrated from the Durbin Amendment by the Federal Reserve's own data, we oppose further attempts to expand the Durbin Amendment to credit cards.

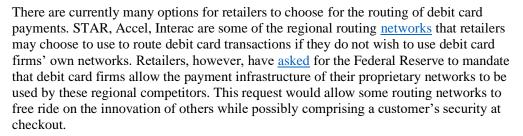
As organizations working to advance free-market policies to benefit every part of the American economy, we sympathize with businesses that have struggled due to the COVID-19 pandemic, and support policies to bring them regulatory and tax relief. We object, however, to policy actions proposed in the name of "relief" that benefit some businesses by massively raising costs on other businesses and consumers.

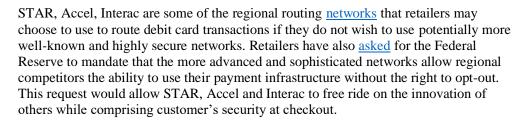
The Durbin Amendment was a last minute provision included in the Dodd-Frank Wall Street Reform and Consumer Protection Act which mandated price controls on interchange fees for transactions using debit cards. Since its passage, retail trade associations and some in Congress have searched for opportunities to expand the Durbin Amendment's reach to credit cards. Last year, the National Restaurant Association pushed for an unrelated expansion of the Durbin Amendment in any Covid-19 relief bill to cap credit card interchange fees. At the start of this year, Sen. Durbin (D-III.) supported antitrust measures to limit competition amongst payment providers and the services they offer.





Retailer trade groups have continued to pressure Sen. Durbin and his Democrat colleagues to <u>call</u> for antitrust intervention by the Federal Reserve and Department of Justice to exercise greater control over the routing of transactions. Their calls are concerningly anti-competitive and misguided.





Retailers clearly have choices and may also opt to create their own <u>co-branded</u> credit cards that use the payment networks of their choice. To do so, retailers may partner with a bank to issue the credit card, allowing the partnering bank to process the transaction, rather than a specific card network.

In both debit and credit card availability, competition already exists, with consumers continuing to benefit from choice in the marketplace.

Unsatisfied, retail trade groups have now initiated a <u>lawsuit</u> against the Federal Reserve itself for supposedly not instituting a "reasonable and proportional" interchange fee to process a debit card transaction.

Purposefully left out of the retailers' latest complaint is the retailer's failure to live up to their promises to reduce the cost of items in exchange for the Durbin Amendment's addition to Dodd-Frank. The retail groups also omit in their complaint the security protections and innovation interchange fees help facilitate. A 2017 study published by the International Center of Law and Economics <u>found</u> that "the overall adverse effect of the Durbin Amendment on lower-income consumers was approximately \$1-3 billion per year." Interchange fees <u>help fund</u> security technology services, anti-fraud programs, customer service help lines and infrastructure needed by banks to process thousands of transactions a day.

Retailer trade associations have proven themselves relentless in their justification of shift billions of dollars away from consumers and limit choice within the marketplace. Consumers stand to lose the most with further government intervention and can expect







to see a loss of rewards points, transaction security, and higher costs at check out. We, the undersigned organizations, oppose any further intervention in the debit and credit card marketplace and encourage all members of Congress to vote against future expansions of the Durbin Amendment, either by legislation or misguided Federal Reserve policymaking.

Sincerely,

Grover Norquist

President, Americans for Tax Reform

Brent Wm. Gardner

Chief Government Affairs Officer, Americans for Prosperity

Robert Romano

President, Americans for Limited Government

Heather R. Higgins

CEO, Independent Women's Voice

Jerry Theodorou,

Director, Finance, Insurance and Trade, R Street Institute

Adam Brandon

President, FreedomWorks

Pete Sepp

President, National Taxpayers Union

Andrew F. Quinlan

President, Center for Freedom and Prosperity

Phil Kerpen

President, American Commitment

John Berlau

Senior Fellow, Competitive Enterprise Institute

Maureen Blum

Executive Director, USA Workforce

Matthew Kandrach

President, Consumer Action for a Strong Economy

Ryan Ellis

President, Center for a Free Economy

George Landrith

President, Frontiers of Freedom

Tom Schatz

President, Council for Citizens Against Government Waste