



May 20, 2021



The Honorable Sherrod Brown,
Chairman
Senate Committee on Banking,
Housing & Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Patrick Toomey, Ranking
Member
Senate Committee on Banking,
Housing & Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510



The Honorable Maxine Waters,
Chairwoman
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20510

The Honorable Patrick McHenry, Ranking
Member
House Committee on Financial Services
Rayburn House Office Building
Washington, D.C. 20510



Dear Chairman 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.



The expansion of the Durbin Amendment is highly concerning and would directly harm consumers during the check-out process online and in-person. Any Durbin Amendment expansion to credit cards and the costs associated with such a policy will only serve to further limit consumer’s financial choices and could threaten [\\$50 billion](#) in rewards enjoyed by millions of consumers and retailers who use and accept rewards credit cards.



Retailer trade groups have continued to pressure Sen. Durbin and his Democrat colleagues to [call](#) for antitrust intervention by the Federal Reserve and Department of



Justice to exercise greater control over the routing of transactions. Their calls are concerning anti-competitive and misguided.



There are currently many options for retailers to choose for the routing of debit card payments. STAR, Accel, Interac are some of the regional routing [networks](#) that retailers may choose to use to route debit card transactions if they do not wish to use debit card firms' own networks. Retailers, however, have [asked](#) for the Federal Reserve to mandate that debit card firms allow the payment infrastructure of their proprietary networks to be used by these regional competitors. This request would allow some routing networks to free ride on the innovation of others while possibly comprising customer's security at checkout.



Retailers clearly have choices and may also opt to create their own [co-branded](#) 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 [lawsuit](#) 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 [found](#) that "the overall adverse effect of the Durbin Amendment on lower-income consumers was approximately \$1-3 billion per year." Interchange fees [help fund](#) 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