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August 31, 2022

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, D.C. 20510

Dear Majority Leader Schumer and Minority Leader McConnell:

On behalf of ICBA and the nearly 50,000 community bank locations we represent, I write to express our strong opposition to the Credit Card Competition Act of 2022 (S. 4674). If enacted, this bill would force an overhaul of the payments landscape at significant systemic cost – a cost ultimately borne by consumers. Today’s payments system is more competitive than it has ever been, offering a wide variety of low-cost payment options to both consumers and merchants. Advocates for S. 4674 have not offered a plausible rationale for a system-wide transformation fraught with unintended consequences for consumers, the security of financial data, and community bank card issuers. **Though community banks would not be subject to the mandates described below, they would be forced to subsidize system-wide costs and their customer data would be at risk. Many would retreat from card issuance in response.** As we argue, the legislation is poorly conceived and would almost exclusively benefit the largest “big-box” merchants including Amazon, Wal-Mart, and others.

What the Credit Card Competition Act Would Do

The Credit Card Competition Act of 2022 would create new credit card routing mandates by the Board of the Federal Reserve requiring banks with over \$100 billion in assets to offer merchants at least two networks to process credit cards, at least one of which cannot be owned by Visa or Mastercard. This change would shift a fundamental and consequential choice – the choice of network over which a transaction is routed – from the issuer and the consumer to the merchant. The legislation amounts to backdoor price controls – forcing cards to carry the option of cheaper networks regardless of their security and eliminating benefits for consumers. Since merchants do not bear liability for stolen consumer data, their only incentive is the lowest interchange rate, regardless of consequences for the consumer. If promoting competitive networks is the goal, competition should benefit consumers rather than boosting the profitability of merchants.

The Nation’s Voice for Community Banks.®

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Unintended Consequences Will Harm Consumers

The choice of routing network, and the benefits each network offers, must remain with the consumer. Interchange fees directly fund transaction security and innovation as well as consumer rewards programs, features highly valued by consumers. Allowing merchants to force transactions onto the cheapest, least secure network will translate into larger and more frequent security breaches, higher incidence of consumer fraud, as well as diminished or eliminated consumer rewards programs. Rewards programs have been valued by consumers for over a generation, from cash-back programs to airline miles to points toward purchases at favored merchants. By depriving consumers of network choice, S. 4674 force a sweeping change to fundamental consumer behavior.

The timing of this legislation is particularly unfortunate, with consumers struggling to absorb the impact of historically high inflation. Consumers with lower credit ratings – low- and moderate-income consumers – would bear the brunt of these unintended consequences through the likely constriction of credit availability.

While merchants argue that interchange savings would be passed on to consumers, evidence of the impact of the Durbin Amendment interchange price caps demonstrates otherwise. According to the Federal Reserve Bank of Richmond, since the passage of the Durbin Amendment in 2010, the largest retail merchants, including Amazon and Wal-Mart, have retained over \$106 billion in interchange fees that they failed to pass along to consumers as they had promised. S. 4674 would further boost the profitability of large merchants.

A Destructive Overhaul to Credit Card Infrastructure

Requiring a second network option would force a costly and fundamental change to the system. Unlike debit card transactions, credit card transactions are processed on a “dual messaging” infrastructure – a message is sent to authorize a transaction, and a second message is sent to post the transaction one or two days later. The infrastructure to support multiple dual-message networks does not exist today. Debit transactions, by contrast, operate on single message networks, which are able to accommodate multiple networks in compliance with the Durbin Amendment to the 2010 Dodd-Frank Act. While the Durbin Amendment was costly, compliance with S. 4674 would be significantly more so.

The legislation would require significant new infrastructure investments throughout the payments ecosystem – card issuers, processors, merchant acquirers, and networks. The mandates may also require the reissuance of hundreds of millions of credit cards and chip recertification, putting increased pressure on an already-stressed chip supply. These expenses would benefit only merchants, predominantly big box stores and other large merchants, by generating interchange savings to boost their profitability. While the new routing requirements would not apply directly to community bank card issuers, the 33 covered institutions constitute well over 80 percent of the credit card market by volume. Compliance with the mandates would be subsidized by new costs across the ecosystem, making community bank card programs more costly.

S. 4674 Would Compromise Consumer Data Security

As noted above, we fully expect merchants to consistently choose the lowest-cost routing network, not the network that offers the most secure transactions for consumers and card issuers that bear the brunt of data breaches. Merchants are not required to meet the same rigorous data security standards and privacy laws that apply to highly regulated community banks and are frequently subject to high-profile security breaches.

Further, networks would have less incentive to innovate if card issuers no longer control which network processes their card transactions. Lack of investment would bypass newer and more secure technologies and increase consumer and small-business exposure to financial liability for fraud losses.

Community Bank Impact

Community banks attract and retain customers by offering a full suite of innovative banking products. Credit cards are a product that customers fully expect from their bank and offering them helps community banks remain competitive and independent. As noted above, the systemic costs entailed by a forced overhaul of credit card routing mandates would be subsidized by all card issuers, including those not directly subject to the routing mandates. These costs would further strain the viability of community banks, together with the cost of complying with numerous regulatory mandates that are just beginning to come online. A retreat from credit card lending would put community bank independence at risk and ultimately create a less competitive financial system for consumers and small businesses.

Thank you for your consideration. We ask you to reject S. 4674. Today's payment system is thriving and innovative to the benefit of consumers and the merchants that depend on them for sales volume. This misguided legislation solves no identifiable problem, accrues only to the benefit of merchants, and puts consumer credit and payments innovation at risk.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

CC: Senate Banking Committee Chairman Sherrod Brown
Senate Banking Committee Ranking Member Pat Toomey