



May 3, 2022

The Honorable Dick Durbin
Chair
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Durbin and Ranking Member Grassley:

I am writing on behalf of the National Retail Federation to share our views on lack of competitiveness, innovation, and security in the U.S. payments system. We are pleased and encouraged that the Senate Judiciary Committee's hearing on "Excessive Swipe Fees and Barriers to Competition in the Credit and Debit Card Systems" will shed light on this urgent issue. This hearing gives Congress an opportunity to closely examine anticompetitive practices by the credit card industry that are adding to near-record high inflation through billions of dollars in "swipe" fees charged to process credit and debit card transactions.

NRF is the world's largest retail trade association, representing discount and department stores, home goods and specialty stores, Main Street merchants, grocers, wholesalers, chain restaurants and internet retailers from the United States and more than 45 countries. Retail is the nation's largest private-sector employer, supporting one in four U.S. jobs — 52 million working Americans. Contributing \$3.9 trillion to annual GDP, retail is a daily barometer for the nation's economy.

This hearing brings attention to constantly rising fees and unfair practices that show clear disregard for small businesses and American families. Visa and Mastercard have price-fixed swipe fees for years and have repeatedly moved to block any innovation or fair play that threatens their hold on the payments market. Their fees have more than doubled in the past decade and, on April 22, they pushed through another billion-dollar increase that will make inflation even worse. Lack of competition is why swipe fees keep skyrocketing, and it is necessary that Congress demand answers that will lay the groundwork for a solution.

The \$1.2 billion April 22 increase in swipe fees was forced on merchants by Visa and Mastercard despite a letter sent by Chairman Richard Durbin, Sen. Roger Marshall, R-Kan., and Reps. Beth Van Duyne, R-Texas, and Peter Welch, D-Vt., [asking Visa and Mastercard](#) to withdraw the increase.

Visa and Mastercard, which control 80 percent of the U.S. credit card market, centrally price-fix the swipe fees charged by banks that issue their cards despite ongoing litigation claiming the practice violates federal antitrust law. They don't allow credit card transactions to be processed over competing independent networks that could do the job more securely and at lower cost. And recent

rule changes would put financial pressure on merchants to use proprietary services from the two networks even if they prefer to use services from competitors.

Swipe fees are most merchants' highest operating cost after labor, averaging 2.22 percent of the transaction amount for Visa and Mastercard credit cards. The fees drive up consumer prices, amounting to more than \$700 a year for the average American family. As a percentage of the transaction, they go up as prices go up, creating a multiplier effect for already-soaring inflation.

Swipe fees can be even higher for small retailers because they are based, in part, on transaction volume. Small retailers with a few dozen transactions per day pay a higher percentage than national retailers with millions of transactions. Fees are also higher for e-commerce transactions, which have become increasingly important for small retailers because of the shift to more online shopping since the beginning of the pandemic.

Ongoing and unwarranted increases in swipe fees are especially damaging to small retailers. We have heard many stories from small retailers about the extreme challenges posed by the current payments system and Visa and Mastercard's continuing monopoly. It is small retailers who are calling for swipe fee reform more than any other segment of our industry. They pay the highest swipe fee rates and have the fewest resources to fight back against global credit card networks and Wall Street banks. They want the card industry to compete the same as they do.

Here are a few examples of how small retailers are affected:

- “As the use of credit cards has become more and more prevalent, the credit card companies are making more and more money from merchants. When we first opened our business, credit card transactions accounted for approximately 40 percent of our business. Now the credit card share is about 80 percent of transactions. At the same time, fees have risen and the time taken before funds appear in our accounts gets longer. This is one more burden for merchants.”

John Morman, owner of Celtic Tides gift shop, Lexington, Va.

- “Credit card fees have reached the equivalent of a starting salary while there have been no noticeable enhancements regarding credit card fraud security. Shouldn't there be free market competition and competitive options, as one would expect with any other sizable business expense? And shouldn't businesses be able to expect improved security and services to accompany the ongoing increases in fees? The current anticompetitive market does not encourage any such innovation by Visa or Mastercard, who represent over 85 percent of our credit card transactions, and we small businesses have no choice but to pay up.”

Danny Reynolds, owner of Stephenson's of Elkhart clothing store, Elkhart, Ind.

- “Credit card swipe fees are the largest expense item our business faces and one over which we have little control. The fact that swipe fees are a percentage of the transaction amount is particularly punitive to our hobby business when we sell higher priced items and especially during these inflationary times. The amount we pay in credit card fees is higher than any operational cost we have other than payroll and rent.”
Patti Riordan, owner of Smoke Stack Hobby Shop, Lancaster, Ohio
- “As a third-generation business owner, every year is becoming more challenging. The last two years have seen enormous cost-of-goods increases, payroll increases and freight increases, and now skyrocketing inflation has driven these costs even higher. As we struggle to stay ahead of it all, we are unable to have any effect on our second-largest expense, credit card processing fees. These fees just keep climbing every year. Even though this year my sales are down, my credit card fees are up. We need to reform this system. It is broken and unfair.”
Jessica Bettencourt, President and CEO, Klem’s hardware, gifts and clothing store, Spencer, Mass.

Due to their anti-competitive practices, Visa and Mastercard have been able to raise swipe fee rates for years with little to stand in their way. The amount charged for Visa and Mastercard credit cards reached a record high of \$77.5 billion in 2021, up 26 percent in one year alone and up 180 percent over the previous decade, according to the Nilson Report. Swipe fees for all types and brands of cards totaled \$137.8 billion last year, more than double over 10 years, according to Nilson.

Thank you again for your leadership on this pressing issue. At a time when retailers of all sizes are facing supply chain disruptions, labor shortages and rampant inflation in a still-recovering economy, the dramatic increase in swipe fees and the lack of competition in the U.S. payments system requires close examination by Congress. We look forward to working with you to finally lift the unfair burden placed on both merchants and consumers by the broken payments system.

Sincerely,



Stephanie Martz

Chief Administrative Officer and General Counsel

cc: Members of the Senate Committee on the Judiciary