

July 06, 2016

Speaker Paul Ryan  
Speaker of the House of Representatives  
H-232 The United States Capitol  
Washington, DC 20515

Minority Leader Nancy Pelosi  
House Democratic Leader  
H-204 The United States Capitol  
Washington, DC 20515

Dear Speaker Ryan and Minority Leader Pelosi:

The below signed national and state merchant trade associations strongly oppose H.R. 5465 and the “CHOICE Act” language that would repeal the debit reforms that were included in the 2010 *Dodd-Frank Wall Street Reform and Consumer Protection Act*. The debit reforms contained in Dodd-Frank, also referred to as the “Durbin Amendment,” brought the first piece of competition and transparency into a market that was historically void of it. The reforms in the law have benefitted American consumers, merchants, small financial institutions, and the economy as a whole. Repealing or weakening the law will only benefit fewer than two percent of the country’s largest banks and remove any and all competition from the debit routing market. As representatives of retailers and employers from every state and congressional district in the country we ask you to join us in opposing any effort to weaken or repeal the Durbin Amendment.

Six years ago, American consumers and merchants earned a hard fought victory over escalating, uncontrollable fees with the inclusion of the debit reform measures in Dodd-Frank. These reforms brought a level of transparency (for the first time small businesses can see and know exactly how much they will be charged for a debit transaction from one of the covered institutions) and a level of competition into a market where fees were traditionally set collectively behind closed doors and without regard to the costs imposed on American consumers and retailers. It is important to note, this amendment passed with over sixty votes and strong bi-partisan support after open debate on the Senate floor six years ago. This was an essential first step to move America’s electronic payments system toward a truly open and free market.

To fully appreciate the need for reform in this area, it is important to understand the history of the U.S. debit market. Banks originally began issuing debit cards as a less expensive and faster competitive alternative to the traditional paper check, and initially there were no “swipe fees” associated with debit cards, as with checks, which under federal law must clear at par. In time, the big credit card networks branded the cards as a way to make additional revenue for their banks by imposing swipe fees on the transactions. These fees were centrally set by the card networks, not the issuing banks, and merchants and their customers were required to pay these fees if they wanted to accept debit or credit cards issued by the card networks, without the ability to negotiate or even know the cost of acceptance.

The debit reforms included in Dodd-Frank directed the Federal Reserve to establish parameters on the allowable centrally-set fees that could be imposed on each of these check-replacement debit transactions by those banks with over \$10 billion in assets. It is important to note that any bank with under \$10 billion in assets is exempt from the cap, and any bank above the threshold would be exempt if they simply choose to set their own fees as opposed to having them centrally set. These reforms took a balanced approach to achieve some level of transparency, predictability and competition with regard to the extreme growth in swipe fees, particularly among the very largest banks, realizing that over 98% of U.S. banks are exempt from the cap.

While critics of the reforms often focus on the caps, that continue to guarantee the largest issuing banks in the country a 500 percent profit on debit transactions, the law also introduced competition into the debit routing space for the first time. The law requires that each debit card have at a minimum of two unaffiliated networks enabled on the card. By requiring two networks, the large card brands, such as Visa, actually now have to compete with other debit networks for retailer's routing business. The result of the law has meant that networks compete on price, security and reliability in order to attract retailer business. Like the law's other reforms, consumers have benefited from routing competition as transactions have become not just less expensive, but more secure. Repealing this provision would remove all competition from the debit market and make our national payment system less reliable and secure.

While the reforms were being debated in Congress in 2010, opponents raised several concerns that history has proven to be unsubstantiated. First, opponents of reforms claimed that small banks would be harmed and the exemption of 98% of the banks in the U.S. would not work. In fact, studies from the Federal Reserve Board<sup>1</sup> and the Government Accountability Office<sup>2</sup> have disproven this concern. Just this spring, the Philadelphia Federal Reserve released a report that concluded small banks have not been harmed by the reforms, and in fact have benefitted. The report states, "...after the ceiling was imposed, the volume of transactions conducted with cards issued by exempt banks grew faster than it did for large banks."<sup>3</sup> The report further found that interchange revenue for exempt banks continued to rise for small banks.<sup>4</sup>

Some also expressed fears that free checking would be reduced if reforms passed. That has not happened. Instead, according to the American Bankers Association's own figures, the percentage of customers receiving free checking has increased from 53 percent to 61 percent since the reforms. Debit reforms did not reduce free checking.

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<sup>1</sup> <http://www.federalreserve.gov/paymentsystems/regii-average-interchange-fee.htm>

<sup>2</sup> <http://www.gao.gov/assets/650/648210.pdf>

<sup>3</sup> [https://www.philadelphiafed.org/-/media/research-and-data/publications/banking-trends/2016/bt-how\\_dodd\\_frank\\_affects\\_small\\_bank\\_costs.pdf?la=en](https://www.philadelphiafed.org/-/media/research-and-data/publications/banking-trends/2016/bt-how_dodd_frank_affects_small_bank_costs.pdf?la=en)

<sup>4</sup> [https://www.philadelphiafed.org/-/media/research-and-data/publications/banking-trends/2016/bt-how\\_dodd\\_frank\\_affects\\_small\\_bank\\_costs.pdf?la=en](https://www.philadelphiafed.org/-/media/research-and-data/publications/banking-trends/2016/bt-how_dodd_frank_affects_small_bank_costs.pdf?la=en)

Opponents of debit reforms argued that merchants would not pass along any savings achieved from capping interchange fees along to the consumer. History has also disproven this concern as well. The retail industry functions on razor thin profit margins and our members compete for customers on price every day. If a merchant can realize any savings in the system, it will use it to hold down prices, extend sales or increase value for its customers. The savings were proven in a study by prominent economist Dr. Robert Shapiro who found that consumers have saved nearly \$30 billion since the reforms have been in place and merchants have saved more than \$10 billion. These savings have permitted merchants to reinvest in their businesses, which has supported tens-of-thousand more jobs and significant economic activity.<sup>5</sup>

Unfortunately, opponents of reforms simply look at the shelf price of goods from one year to the next without consideration of outside pricing fluctuations not tied to swipe fees. For example, grocers must consider numerous factors including drought, product recalls, gasoline/energy costs, labor and health care expenses, among many other factors when establishing a shelf price for goods. What is clear since the implementation of the reforms is that merchants' profit margins have remained low, and instead, savings have been passed to customers due to intense competition in the retail marketplace.

The facts are clear; debit reforms are working, and if anything, Congress should act to strengthen them or address the excessive and hidden credit card fees American consumers and merchants pay every year. Bank self-reported data has shown that the cost of accepting debit has actually decreased 44 percent since the reforms were implemented. By becoming more efficient, the largest issuers are now collecting a profit of almost 500 percent on a debit transaction currently under the cap.<sup>6</sup> This is even further evidence that the reforms are working and that competition and transparency are indeed a good thing.

Thank you for your consideration of our concerns and opposition to the current misguided attempts to repeal the debit reforms that have benefited so many. We will continue to actively oppose H.R. 5465 and any efforts to repeal or weaken the law and ask every Member of Congress to do the same.

Sincerely,

American Beverage Licensees  
Food Marketing Institute  
Merchant Advisory Group  
National Association of College Stores  
National Association of Convenience Stores  
The National Association of Theatre Owners  
National Association of Truck Stop Operators

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<sup>5</sup> See generally Robert J. Shapiro, *The Costs and Benefits of Half a Loaf: The Economic Effects of Recent Regulation of Debit Card Interchange Fees* (Oct. 1, 2013).

<sup>6</sup> "Volume and Cost Trends in the Debit Card Industry", Merchants Advisory Group White Paper: <https://files.ctctcdn.com/26db5c23201/8b43b2a5-993d-4c1a-ac9b-07c8acc488ea.pdf>

National Council of Chain Restaurants  
National Grocers Association  
National Restaurant Association  
National Retail Federation  
Petroleum Marketers Association of America  
Service Station Dealers of American & Allied Trades  
Retail Industry Leaders Association  
Alabama Beverage Licensees Association  
Alabama Grocers Association  
Alabama Retail Association  
Petroleum & Convenience Marketers of Alabama  
Arizona Food Marketing Alliance  
Arizona Retailers Association  
Arkansas Grocers and Retail Merchants Association  
Arkansas Oil Marketers Association, Inc.  
California Business Properties Association  
California Grocers Association  
California Independent Oil Marketers Association (CIOMA)  
California Retailers Association  
Colorado Licensed Beverage Association  
Colorado Retail Council  
Colorado/Wyoming Petroleum Marketers Association  
Rocky Mountain Food Industry Association (Serving Colorado & Wyoming Grocers)  
Connecticut Energy Marketers Association  
Connecticut Food Association  
Connecticut Retail Merchants Association  
Delaware Food Industry Council  
Florida Grocers Association  
Florida Petroleum Marketers & Convenience Store Associations  
Florida Retail Association  
Florida Retail Federation  
Georgia Alcohol Dealers Association  
Georgia Association of Convenience Stores  
Georgia Food Industry Association  
Georgia Retail Association  
Horizon Retailers Association (representing Georgia)  
Idaho Petroleum Marketer and Convenience Store Association  
Idaho Retailers Association  
Northwest Grocery Association (representing Idaho, Oregon and Washington grocers)  
Illinois Food Retailers Association

Illinois Licensed Beverage Association  
Illinois Petroleum Marketers Association  
Illinois Retail Merchants Association  
Indiana Grocery & Convenience Store Association  
Indiana Retail Council  
Indiana Petroleum Marketers & Convenience Store Association  
Iowa Grocery Industry Association  
Iowa Retail Federation  
Petroleum Marketers & Convenience Stores of Iowa  
Kansas Food Dealers Association  
Kansas Licensed Beverage Association  
Petroleum Marketers & Convenience Store Association of Kansas  
Retail Grocers Association of Greater Kansas City  
Kentucky Association of Beverage Retailers  
Kentucky Grocers & Convenience Stores Association, Inc.  
Kentucky Retail Federation  
Louisiana Oil Marketers & Convenience Stores Association  
Louisiana Retailers Association  
Maine Energy Marketers Association  
Maine Grocers & Food Producers Association  
Retail Association of Maine  
Maryland Retailers Association  
Maryland State Licensed Beverage Association  
Massachusetts Food Association  
Massachusetts Package Stores Association  
Retailers Association of Massachusetts  
Associated Food and Petroleum Dealers (Michigan, Ohio and surrounding States)  
Michigan Association of Convenience Stores  
Michigan Grocers Association  
Michigan Petroleum Association  
Michigan Retailers Association  
Mid-Atlantic Petroleum Distributors' Association  
Minnesota Grocers Association  
Minnesota Petroleum Marketers Association  
Minnesota Retailers Association  
Minnesota Service Station & Convenience Stores Association  
Tavern League of Minnesota  
Mississippi Petroleum Marketers & Convenience Stores Association  
Mississippi Retail and Grocers Association  
Missouri Grocers Association

Missouri Petroleum Marketers & Convenience Store Association  
Missouri Retailers Association  
Montana Equipment Dealers Association  
Montana Petroleum Marketers & Convenience Store Association  
Montana Restaurant Association  
Montana Retail Association  
Montana Tire Dealers Association  
Nebraska Grocery Industry Association  
Nebraska Petroleum Marketers & Convenience Store Association  
Nebraska Retail Federation  
Retail Association of Nevada  
New England Convenience Store and Energy Marketers Association  
New Hampshire Grocers Association  
New Hampshire Retail Grocers Association  
Retail Merchants Association of New Hampshire  
Fuel Merchants Association of New Jersey  
New Jersey Food Council  
New Jersey Liquor Stores Alliance  
New Jersey Retail Merchants Association  
New Mexico Grocers Association  
New Mexico Petroleum Marketers Association  
New Mexico Retail Association  
Empire State Restaurant & Tavern Association  
Food Industry Alliance of New York State  
New York Association of Convenience Stores  
New York Retail Council  
New York State Liquor Stores Association  
North Carolina Petroleum & Convenience Marketers Association  
North Carolina Retail Merchants Association  
North Dakota Petroleum Marketers Association  
North Dakota Retail Association  
Ohio Grocers Association  
Ohio Petroleum Marketers & Convenience Store Association  
Oklahoma Grocers Association  
Retail Liquor Association of Oklahoma  
Associated Oregon Industries  
Oregon Neighborhood Store Association  
Malt Beverage Distributors Association of Pennsylvania  
Northwestern Pennsylvania Food Council  
Pennsylvania Food Merchants Association

Rhode Island Food Dealers Association  
South Carolina Petroleum Marketers Association  
South Carolina Retail Association  
South Dakota Retailers Association  
Tennessee Fuel & Convenience Store Association  
Tennessee Grocers & Convenience Store Association  
Tennessee Retail Association  
Tennessee Wine & Spirits Retailers Association  
Greater Austin Merchants Association  
South Texas Merchants Association  
Texas Food and Fuel Association  
Texas Package Stores Association  
Texas Retailers Association  
Utah Food Industry Association  
Utah Retail Merchants Association  
Vermont Retail & Grocers Association  
Virginia Asian American Store Owners Association  
Virginia Petroleum, Convenience & Grocery Association  
Virginia Retail Federation  
Virginia Retail Merchants Association  
Washington Association of Neighborhood Stores  
Washington Food Industry Association  
Washington Retail Association  
WMDA Service Station & Automotive Repair Association (Representing Washington D.C., Virginia & Maryland)  
West Virginia Oil Marketers and Grocers Association  
West Virginia Retailers Association  
West Virginia Oil Marketers & Grocers Association  
Alliance of Wisconsin Retailers  
Tavern League of Wisconsin  
Wisconsin Grocers Association  
Wisconsin Petroleum Marketers and Convenience Store Association  
Wyoming Retailers Association  
Wyoming State Liquor Association

Cc: Members of the House of Representatives