Economic blowback from ‘Durbin fees’

Democrat’s bank card price controls hurt consumers

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President Obama and Sen. Richard J. Durbin, Illinois Democrat, lambasted Bank of America on Monday for introducing a $5 per month fee for debit card use. They both threatened to employ Washington’s vast regulatory apparatus, including the Consumer Financial Protection Bureau, to rein in rapacious, fee-happy bankers preying on hapless consumers. Ominously, Mr. Obama said the “sole job” of the bureau and its director nominee, Richard Cordray, is to prevent fees such as Bank of America’s from taking effect.

The president yet again pilloried America’s bankers and their “multimillion-dollar bonuses,” declaring they don’t have an inherent right to a certain amount of profit. No, Mr. President, they don’t, but they still have a right and a responsibility to pursue profits on behalf of their shareholders and not to operate at cost.

Mr. Obama’s and Mr. Durbin’s grandstanding and complaints are patently disingenuous. New debit cardholder fees are a direct result of price controls mandated by Mr. Durbin’s legislative handiwork, Section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (aka the Durbin Interchange Amendment) which Mr. Obama signed into law on July 21, 2010.

Debit-interchange fees that took effect Oct. 1 for banks with more than $10 billion in assets were capped at 50 percent below market rates, while small banks are exempted. Merchants, not banks, can now pick network transaction routes that enable them to drive down the revenue of both small and Goliath banks. But for the Fed’s charitable implementation, it would have been worse. The legislation was intended to reduce fees by more than 90 percent.

The retail payment card market relies on participation from both merchants and consumers. Fees on both sides of the network are balanced by the market to maximize use. When merchant fees are forced down by Washington, consumer fees go up. Banks' principal revenue source for debit cards, which generally are provided free to consumers and often include rewards, was $16 billion in interchange fees paid by merchants. In an attempt to offset the loss of more than $1.5 billion in interchange revenue, Bank of America is hitting up millions of its less affluent consumers with a $5 per month fee. It's not alone.

In the same vein, Wells Fargo, JPMorgan Chase, Citibank, SunTrust, Regions Financial and, indeed, most debit issuers above the $10 billion threshold are increasing fees and cutting rewards and service. Banks already are actively attempting to migrate consumer spending from price-capped debit cards to more profitable, unregulated credit cards. Credit cards cost merchants more. The merchants, therefore, may come to rue the day they beseeched Washington to impose price controls on merchant debit fees, making debit less appealing for banks and consumers.

Self-anointed consumer "advocates" paint banks as the villains. Consumer Union's Norma Garcia argues that banks are still collecting enough money to cover their costs and consequently are unjustified in increasing consumer debit fees. U.S. PIRG's Ed Mierzwinski decried Bank of America's new fee, saying, "Kicking your customers in the head with a $5 fee is an overreach - and perhaps a fee too far," Whoa. Mr. Mierzwinski and his consumer-advocate kin bear blame. They supported Congress in regulating merchants' card-acceptance fees and provided political cover to argue that voting to regulate payment card networks such as MasterCard and Visa as public utilities was pro-consumer.

Not surprisingly, the merchant lobby was the most relentless advocate of treating payment card networks as public utilities. It framed the public debate as one of nasty merchant swipe fees and was tactically flexible and politically adept in its quest to obtain pricing concessions in Washington it couldn't win in the market. The merchant lobby managed to corral an unusual mix of the usual anti-market suspects and putatively pro-market senators to enact debit card interchange price controls. Price-control votes by Georgia's situationally free-market Republicans, Sen. Saxby Chambliss and Sen. Johnny Isakson, were the fruit of merchant lobbying. Both could be dubbed senators from Home Depot.

Government interventions in competitive free markets have consequences - intended and unintended. They are, on balance, almost always harmful. The Durbin Interchange Amendment was sold falsely as a political trifecta: good for merchants, good for consumers and good for small banks. The very different reality is becoming apparent for all who care to see. To offset billions of dollars in lost revenue caused by its debit-interchange price controls and new transaction routing rules, banks are boosting cardholder fees, eliminating rewards and cutting service and jobs. The first instinct of consumers and laid-off employees will be to blame banks.

Blame for the foreseeable, unpleasant consequences of Mr. Durbin's price controls and restrictions on private parties' freedom to contract, however, should be laid squarely where it belongs: on Mr. Durbin, who spearheaded the anti-consumer legislation, on congressmen who voted for it and on Mr. Obama, who signed it into law.

Banks need to connect the dots for consumers battered by the new fees. They should label new consumer charges "Durbin fees." Fomenting outrage among tens of millions of voters will create conditions in which even interventionist congressmen are compelled to do the right thing and repeal the Durbin Interchange Amendment.

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