

Turn the Interchange Game Around

American Banker | February 10, 2011

By Eric Grover

Re: "[Viewpoint: Proposed Debit Rules Would Harm All](#)" and "[Feedback: Merchant Group Exec: Visa Chief's Call Against Price-Fixing Rings Hollow](#)"

Visa Inc. chief executive Joe Saunders decried government price fixing, which section 1075 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (aka the Durbin Interchange Amendment) mandates for debit networks' interchange fees, and the harm it will visit on consumers and large and small banks. National Retail Federation General Counsel Mallory Duncan accused Saunders of running "the nation's largest financial services price-fixing operation," which borders on calumny, and declared "Congress has spoken" the issue is settled.

The 111th Congress spoke but this isn't a football game the merchant lobby won, game over. The 112th Congress is cut from a different cloth and can and should repeal or amend a bad, anti-market and anti-consumer law.

Notwithstanding the righteousness of Saunders's case, Duncan and the merchant lobby have been more politically adept. They successfully framed the issue narrowly in terms of merchant swipe fees and justifying interchange based on costs -a public utility model.

Saunders contends the Fed's proposed implementation goes too far and asks President Obama to reverse the regulation. Obama can't reverse it. Congress enacted a law the Fed is bound to implement. Given Congress's punitive intent as expressed in the legislation's text, the Fed was generous toward debit issuers and networks. Visa's CEO says whatever the intent, the law will have negative unintended consequences. True, but notwithstanding harm to consumers who will hit by a battery of new fees, stripped of rewards, and some of whom will be driven from the banking system, the law will accomplish its purpose: to effect an economic transfer between the issuing side of the network (banks and cardholders) and the acceptance side of the network (merchants).

Large merchants reaping every penny of mandated interchange reduction will be advantaged over small retailers whose card acceptance costs will fall, but by less than those of their Goliath competitors.

Saunders complains the new rules will be expensive to implement. Under the law that's not relevant. As is so often the case, Congress did not concern itself with costs it imposed on the private sector.

In a perfect world Saunders could run his business and not concern himself with politics, but that's not the world we live in. The paramount threat to Visa is government. There is nothing more important for its chief executive than finding an approach to contain or better yet rollback the political and regulatory assault on payments networks.

The payments industry should seek to repeal the Durbin interchange amendment, not simply a more reasonable full-cost recovery model where government still sets prices.

On Visa's earning call Saunders said "consumers have been thrown under the bus." That's exactly the right way to frame the issue. No Congressman wants to be tagged as anti-consumer. The merchant lobby was successful because it brought pressure on Congressmen across the land. Visa and its licensees have to engage cardholders to do the same.

Eric Grover
Partner, Intrepid Ventures
Minden, Nevada