

Don't Take It Any More! It's Time for the Payments Industry to Fight Back

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The Cato Institute's Nicholas Anthony warned recently that the Biden Administration is waging "a war on (payments-industry) prices." The payments industry provides services funded by a range of fees paid by consumers and businesses. Demagogic regulators and politicians pillory industry fees as exploitative, as "junk fees," and "a tax."

These assaults are made in a steadily worsening political climate. Despite the increasing number and severity of attacks, the payments industry has been reactive, resisting each assault as it occurs and treating each as a one-off.

Whoever frames the terms of the debate has the high ground. It's imperative that the payments industry get off its backheels and make an affirmative case in the public square for the value it delivers and for the freedom to compete and innovate.

Consumers and businesses need to be reminded of that value. They should also be alarmed about the threat Washington mandarins imposing restrictive regulations and price controls pose to the payments value and innovation that the regulators take for granted.

Finance charges are the credit card industry's largest source of revenue. Introducing the [Capping Credit Cards Interest Rate Act](#), Republican Senator Josh Hawley declared "exploiting people through high interest rates is wrong." Hawley's bill would limit credit card interest rates to 18%, which would reduce the number of Americans approved for credit cards and average credit limits. While Hawley would piously trumpet his good intentions, in what universe would this help Joe and Sally Sixpack? Singing from the same hymnal, the [Consumer Financial Protection Bureau](#) accusatorily reported that large credit card issuers' median interest rate for cardholders with good credit was 28.2%, compared to 18.15% for small issuers, and said large issuers were three times more likely to charge an annual fee.

The CFPB is trying to socialize the introduction of credit card price controls. It blamed higher rates on a "lack of competition." One would be hard-pressed, however, to find an industry where consumers and businesses have more choice than with credit cards.

Vilifying the payments industry makes for strange bedfellows. Progressive CFPB Director Rohit Chopra and populist Republican Hawley both threaten the payments industry and credit card holders

Credit cards are a fabulous product, providing most Americans with a convenient, secure means to pay worldwide in-person and online. They enable access to

cash, simplify recordkeeping, provide rewards, and offer the option to instantly access credit.

If a national cap were imposed on credit card interest rates, revolving credit would become less available, particularly to riskier consumers with less access to financial services—the very consumers many industry critics say they want to help.

Interchange fees paid by merchants are the credit card industry's second-largest revenue source. For debit cards and neobanks, these fees are a primary revenue source.

The 2010 Dodd-Frank Act imposed price controls on debit interchange fees for politically unsympathetic large issuers. The Fed was charged with implementing interchange caps deemed to be reasonable and proportional to debit issuers' incremental processing costs. In 2011, debit-interchange revenue for covered issuers was cut by over 50%.

Debit-issuer processing costs have fallen by roughly 50% since the Durbin Amendment was implemented. The Fed is, therefore, going to slash the debit-interchange price cap by roughly 28%.

Lower debit-interchange price caps will further advantage programs where community banks enjoying market interchange have partners with the resources and reach to fully capitalize on their massive revenue edge. PayPal's Venmo card, Block's Cash App card, and Chime's debit card, are well-positioned to take debit share from Goliath

banks like BofA, Chase, and Wells Fargo, which are shackled by debit-interchange price controls.

Further cutting giant debit issuers' debit economics will also ensure a huge advantage for Capital One's debit cards and DDAs, which would also enjoy market-interchange fees if Cap One acquires Discover.

Senators Durbin, Hawley, Welch, Reed, Vance, and Marshall's [Credit Card Competition Act](#) targets Mastercard and Visa and politically unsympathetic credit card issuers with more than \$100 billion in assets. It aims to make credit card networks invisible utilities and enable merchants to ratchet down network and interchange fees. Like Americans, Canadians love their credit card rewards. As in America, these rewards are at risk. The Canadian government jawboned Mastercard, Visa, and Canadian banks into slashing credit-card interchange and disingenuously declared that credit card rewards wouldn't be affected. As interchange fees fund rewards, the only way they won't be affected is if Canadian banks introduce new fees or accept lower profits.

Penalty fees also provide revenue for credit and debit issuers and encourage consumers to behave responsibly.

An absolutist Consumer Financial Protection Bureau also plans to slash late and overlimit fees. Late fees encourage cardholders to pay their obligations on time and compensate issuers for risk and servicing costs. The [Card Act](#) directed the Fed to ensure that late fees were

“reasonable and proportional” to the violation. A fee that is fully disclosed and accepted by the buyer is reasonable. The bureau proposes capping late fees at \$8 and eliminating inflation adjustments. That will cost credit card issuers more than \$10 billion in lost revenue, increase delinquency, boost revolve rates, cause issuers to tighten credit-underwriting criteria, reduce credit lines, and ultimately hurt the consumers the CFPB claims to want to help.

The U.S., Fort Worth, and Longview chambers of commerce, the American Bankers Association, the Consumer Bankers Association, and the Texas Association of Business are suing the CFPB to stop it from slashing late fees, charging its proposal is lawless and asking the court to issue a preliminary injunction to keep its proposed \$8 late fee from taking effect.

The CFPB also proposes gutting overlimit fees for banks with over \$10 billion in assets by treating them as finance charges. Paraphrasing George Orwell, in the CFPB’s view, all banks are equal, but some banks are more equal than others. It’s curious and brazenly political that the CFPB views overlimit fees assessed by large banks as harmful, but not those assessed by community banks.

There are two challenges to the administrative state before the Supreme Court that bear watching that might curb absolutist financial agencies’ power.

In one case, the Community Financial Services Association contends that the CFPB self-appropriating from the Fed is unconstitutional.

In the other, herring fishermen (Relentless versus the Department of Commerce and Loper Bright versus the Department of Commerce) are challenging the Chevron Doctrine and thereby the enormous deference the CFPB and other agencies regulating financial services enjoy and exercise.

It's tempting, but short-sighted, for payments firms not to worry about price controls they're not directly impacted by or that in the short-term they may profit from. In the face of hostile politicians and regulators, the payments industry needs to heed Benjamin Franklin's admonition to hang together or, assuredly, risk hanging separately.

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