

In a Worsening Political Climate, Visa/Mastercard Must Fight Back

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Chairman of the Senate Judiciary Committee Dick Durbin's masterfully-choreographed hearing November 19th "[Breaking the Visa-Mastercard Duopoly: Bringing Competition and Lower Fees to the Credit Card System](#)" put America's leading credit networks Mastercard and Visa in the dock. He aimed to vilify them and improve his [Credit Card Competition Act](#)'s prospects. His hearings accomplished both.

The CCCA would require credit card issuers with over \$100 billion in assets like BofA, Chase, and Citi, give merchants a routing choice between at least two networks. The two credit networks couldn't be Mastercard and Visa. It wouldn't cover three-party systems where the credit card issuer and network are the same, for instance American Express-issued Amex cards. It's Durbin's latest salvo in his war to gut payment card issuer and network economics. The CCCA has bipartisan co-sponsors in the Senate, with Democrats Peter Welch and Jack Reed, and Republicans JD Vance, Josh Hawley, and Roger Marshall.

The hearing framed small merchants' credit card acceptance costs as a burning problem, a problem for Congress to solve, with Mastercard and Visa cast as the chief villains.

Mastercard's and Visa's critics were passionate, indeed belligerent.

Testifying for the prosecution were longtime merchant lobbyist and anti-network-fee crusader Doug Kantor, "conservative" law professor and former Assistant Deputy Attorney General Roger Alford, and a politically sympathetic small bookstore owner Christopher Callahan, not Walmart. They were effective.

For the defense, Mastercard's Americas President Linda Kirkpatrick and Visa's Senior Advisor to the CEO Bill Sheedy were like deer caught in the Judiciary Committee's headlights.

Two important constituencies, credit cardholders and issuers, were noticeably absent.

Watching Durbin's hearing one would never know that the existing credit card system works extraordinarily well for the [82% of adult Americans with one](#) or more credit cards, millions of merchants that accept them, and 4 thousand banks issuing them. One would never imagine that the U.S. credit card market is the most competitive in the world. Nonetheless, while some senators were uncomfortable with the prospect of Congress meddling in

the credit card market, none put their head above the parapet to defend it.

Democratic and Republican senators flayed Mastercard and Visa.

Welch railed against their “rip-off prices,” lofty market capitalizations, healthy profits, and CEOs’ compensations. Silver-tongued populist Hawley savaged their profit margins, accused them of engaging in collusive monopoly behavior, and hailed President-elect Trump’s call for a national credit card interest-rate cap. Marshall excoriated them as a dastardly “duopoly,” lambasted their profitability and fees, and blasted banks’ credit card interest rates.

Republican Senators John Kennedy and Thom Tillis urged Mastercard and Visa to strike a grand bargain with U.S. merchants rather than having Congress try to address the alleged problem. Kennedy colorfully warned that Congress would make a mess of it and that the credit networks might end up looking like the U.S. Post Office or Dallas Cowboys by the time it was done. Kennedy and Tillis are naïve, however, to believe there’s a sustainable grand bargain to be had. The merchant lobby will continue to press for lower fees than it can get in the market, by legislation, regulatory diktat, and law suits.

Payment-acceptance fees are a cost of electronic payments. For most merchants the cost of goods sold, salaries and benefits, rent, taxes, marketing, machinery and equipment, and supplies, are bigger expenses.

Senators decried market interchange fees in the US being higher than price-capped interchange fees in EU. Durbin thundered “...[they \[Visa and Mastercard\] are profitable in Europe even when restricted to 0.3 percent interchange fees](#)” and contended that frequent flyer programs are still offered. Brussels price controls, however, have reduced cardholder value and smothered issuer and fintech innovation. European cardholders pay more and get less. Card rewards in the EU are di minimis. And cash use in the euro-zone is roughly three times higher than in the US, in part because incentives for Americans to pay with cards are greater.

While many senators seemed comfortable with price controls, the CCCA wouldn't impose them. It would change how credit network competition works.

Payment network critics want more than the CCCA.

[Kantor asserted Mastercard's and Visa's honor all cards rules create competition problems](#). They're a linchpin of general-purpose payment network value and pro-consumer. A payment network where thousands of issuers had to individually negotiate terms with more than 100 million merchants worldwide wouldn't provide much of any value to banks, cardholders, or merchants.

The payments industry was complacent in the runup to Durbin's first successful assault which in the 2010 Dodd-Frank Act imposed debit-interchange price controls. [Visa CEO Joe Saunders June 29, 2009 memorably assured investors](#) “We're confident that the legislators and

regulators understand that interchange is a pro-competitive structure, that it exists in every payment system around the globe and where there has been governmental intervention, that the consumer is the one that has suffered. I think that it's also pretty obvious that merchants get for a fairly reasonable cost, they get tremendous value. That they get guaranteed payments, they get increased speed, they get better security...our discussions in Washington, DC, suggest that the legislators now appreciate that there would probably be a significant negative, unintended consequence from any congressional action on interchange.” Many on Capitol Hill understood nothing of the sort, and still understand nothing of the sort.

The political climate is worsening.

A cranky Kennedy was miffed that Visa CEO Ryan McInerney didn't testify. Visa shareholders and customers should be miffed too. McInerney should've been there forcefully making an affirmative case for the holistic value Visa's two-sided platform delivers.

Durbin and the merchant lobby view the CCCA as one round in a marathon bout. America's leading payment networks shouldn't lie on the ropes hoping that their critics will punch themselves out.

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