Congress of the United States
Washington, DC 20515

July 15, 2008

Say NO to Anti-Consumer Credit Card Legislation

Dear Colleague:

There has been much discussion of late regarding the costs of payment card acceptance, including "interchange fees." With an expected mark up of H.R. 5546, the so-called Credit Card Fair Fee Act, in the near future and the recent introduction of H.R. 6248, the Credit Card Interchange Fee Act, it may be helpful to review a few facts.

Merchants want Congress to lower the costs of payment card acceptance for them. <u>That means higher costs and less benefits for consumers</u>.

There are two parties who benefit from a purchase made with a payment card: the merchant and the cardholder. A merchant pays a fee to its bank for the benefits it receives (*e.g.*, guaranteed payment), just as a cardholder pays the card issuer for the cardholder benefits. If the merchant pays less but receives the same (or increased) benefits because Congress intervenes, who do you think will end up paying more? The consumer. This is exactly what happened in Australia when the government gave merchants a better deal at the expense of consumers who now pay higher fees for, and get less benefits from, their payment cards.

Merchants want Congress to redesign the payment card networks despite the fact that the networks themselves are a phenomenal success.

The payment card system in the United States is the envy of the world. In fact, U.S. payment card brands are the most widely recognized and accepted worldwide. These highly developed and technologically advanced services do not need to be redesigned. Yet, H.R. 5546 would turn the networks functionality over to a panel of three government lawyers. H.R. 6248 would actually attempt to have Congress redesign portions of the system, and leave the rest to the Federal Trade Commission (FTC) to rebuild. This would be unwise.

Merchants want to be able to act in ways that violate the antitrust laws.

Bipartisan antitrust experts, the FTC, the Department of Justice, and the Antitrust Modernization Commission have all strongly criticized antitrust exemptions for specific interest groups for a variety of reasons, including the harm to consumers and the U.S. economy. Merchants have explicitly asked for such an exemption, and it is one of the key provisions in H.R. 5546. We should not allow merchants to collude and act in other anticompetitive ways.

Be ready for outlandish claims.

Have you heard that consumers pay $36 billion a year in interchange? That consumers pay the highest interchange in the world? That the average American family pays $300 a year in interchange? That gas prices would be lower if the government set the price of card acceptance?

Let's check the facts first: Consumers do not pay interchange. Even merchants do not pay interchange—they pay a merchant discount fee. This fee is a cost of doing business just as paying hourly wages, executives' salaries, rent, electricity, and corporate charitable contributions are a cost of doing business. In order to assist merchants in making a sale, a card issuer takes on a credit risk. In light of this risk, it does not seem unreasonable for a credit card issuer to receive less than 2 cents on the dollar for providing this service.

I look forward to continued debate on these issues. However, we should all keep the big picture in mind and determine whether we want to preserve a system that works well for consumers and merchants, or whether we want to micromanage the operations of payment card networks at the expense of consumers.

Sincerely,

Kenny Marchant
Member of Congress