



Statement by the Food Marketing Institute on H.R. 2695, the Credit Card Fair Fee Act

April 28, 2010

Food Marketing Institute (FMI) conducts programs in public affairs, food safety, research, education and industry relations on behalf of its 1,500 member companies — food retailers and wholesalers — in the United States and around the world. FMI's U.S. members operate approximately 26,000 retail food stores and 14,000 pharmacies. Their combined annual sales volume of \$680 billion represents three-quarters of all retail food store sales in the United States. FMI's retail membership is composed of large multi-store chains, regional firms and independent supermarkets. Its international membership includes 200 companies from more than 50 countries. FMI's associate members include the supplier partners of its retail and wholesale members.

On behalf of our nation's neighborhood grocers, the Food Marketing Institute strongly supports H.R. 2695, the Credit Card Fair Fee Act. We commend Judiciary Committee Chairman John Conyers (D-MI) and Congressman Bill Shuster (R-PA) for introducing this important legislation to provide merchants of all sizes the opportunity to negotiate rates and terms of card acceptance with Visa and MasterCard and the banks that issue their cards. The Credit Card Fair Fee Act would also increase transparency in the interchange fee system by ensuring any fee negotiations that result from passage of the bill are made public.

Visa and MasterCard control 85% of the consumer credit card market and refuse to negotiate interchange rates with retailers of all sizes.¹ In a competitive market, Visa and MasterCard should be competing for merchant business, but they get away with this take-it-or-leave-it behavior because of their strong market power. Not accepting Visa or MasterCard is no longer an option in today's society where cards have replaced cash as the dominant currency in many communities. Debit cards, in particular, are essentially a plastic check or an access device going directly to a customer's checking account.

The latest fee increase on debit cards is just further evidence that there is a complete lack of competition in the setting of interchange fees. Visa Interlink, Visa's Personal Identification Number (PIN) network, raised fees again just this month. The fee increases on supermarket transactions are particularly egregious and unjustifiable. A transaction that used to cost a 25 cent flat fee in interchange could now cost 35 cents. Additionally, the fee structure has changed to a percentage of the sale (inclusive of cash back) + a flat fee away from just a flat fee even though there is no credit risk and extremely limited fraud on PIN debit transactions.²

The average supermarket industry profit margin is one to two percent, and the latest Visa PIN debit increases will mean a 30% increase in the cost of accepting debit cards. For one of our member companies, that translates to over half a million dollars on just over 20 stores. On small ticket items of less than \$2.00 purchased with a debit card, in most instances, the merchant would be better off to give the item away to the customer rather than accept the fees imposed on a debit transaction. On average margins of 1-2% there is no way we can completely absorb that type of excessive increase so we are faced with the option of either increasing prices or cutting back the workforce – neither of which is an attractive option in the current economy, especially when the fees are going to pad the profits of Visa, MasterCard, and Wall Street banks.

The debit fee increases do not stop with Visa. Networks raise rates to get banks to issue their cards even though higher fees harm both merchants and consumers. This type of backwards competition has led to increases on traditionally lower cost debit card networks as they try to compete with Visa and MasterCard pricing in order to get banks to continue to issue cards that run on their network. One example is the PULSE network, which is offering an additional 5 cents in interchange to the bank if the card **only** carries

¹ The Nilson Report. Issue 933, September 2009.

² Pulse 2008 ATM Study. Issuers surveyed lost 1.09 basis points (0.0109%) through PIN debit transactions for every dollar spent.

https://www.pulsenetwork.com/public/upload/storage/file80/file/News_Release-2008_Debit_Issuer_Study.pdf

the technology to route a transaction on that specific network. This is anticompetitive and will make costs continue to rise.

In general, interchange fees have tripled over the past decade and are outpacing both healthcare and energy costs for many of our members. The banks and card companies are collecting roughly 2% in interchange swipe fees from our members on each credit card transaction in their stores. These fees not only hurt Main Street businesses, but our customers as well. Our members are doing everything they can to keep prices as low as possible for their customers, especially during these tough economic times, but they simply cannot absorb the full cost increase of excessive interchange swipe fees.

When grocers decide to accept Visa and MasterCard in their stores, they must sign a merchant contract agreement. This agreement is unlike any other contract in the business world in that it can change at any time without any direct notice by the card companies. Included in the hundreds of pages of Visa and MasterCard network rules are prohibitions that tell merchants how they must run their business. One rule they impose is that merchants cannot set a minimum purchase amount for a credit or debit card transaction in their stores. One assessment of the latest Visa PIN debit fee increases shows that grocers will actually lose money on sales of less than \$2; yet, our industry is powerless to do anything to mitigate the loss.

The Visa and MasterCard contract rules are also harmful to our customers; although, they do not know it. The Visa and MasterCard rules keep interchange fees entirely hidden from consumers, and leave merchants with no other choice but to include interchange fee costs in the price of all goods and services. As a result, everyone pays for interchange fees regardless of whether they pay with cash, check, credit or debit so our unbanked customers pay the highest rate and gain the least (no miles or rewards points) under the current interchange fee system.

Credit and debit cards provide a convenience for grocers and our customers; we just want a fair and transparent system in which we can negotiate the rates and terms of card acceptance with Visa and MasterCard. We strongly believe the Credit Card Fair Fee Act, H.R. 2695, will level the playing field for Main Street merchants with Visa, MasterCard, and Wall Street banks by giving merchants a seat at the table to negotiate rates and terms of card acceptance for the first time. We would again like to thank Chairman Conyers (D-MI) for holding this important hearing to shed some light on the anticompetitive practices employed by the major card networks and big banks.