STATEMENT FOR THE RECORD

FMI – THE FOOD INDUSTRY ASSOCIATION

Senate Judiciary Committee Hearing

"Excessive Swipe Fees and Barriers to Competition in the Credit and Debit Card Systems"

Wednesday, May 4, 2022

FMI – The Food Industry Association appreciates the Senate Judiciary Committee for holding this hearing entitled "Excessive Swipe Fees and Barriers to Competition in the Credit and Debit Card System," and welcomes the opportunity to provide input on how processing fees for accepting credit cards in our stores are impacting business operations and consumer prices.

FMI is a trade association representing food retailers, wholesalers, and product suppliers, including nearly 1,000 supermarket member companies that collectively operate almost 33,000 food retail outlets and 12,000 pharmacies, ultimately touching the lives of more than 100 million U.S. households per week and an industry that employs over 6 million individuals. FMI brings together a wide range of members across the value chain — from retailers who sell to consumers, to producers who supply the food, and the wide variety of companies providing critical services — to amplify the collective work of the industry.

FMI member companies comprise a critical infrastructure industry in this country, are overwhelmingly consumer-facing businesses, and primarily employ associates serving in in-store or distribution center positions. Throughout the pandemic, grocers have continued to make the investments necessary to keep our doors open, respond to consumer and community needs, maintain safe environments, and find ways to make an impact in our communities. At a time when most businesses were forced to close their doors, food retailers invested $24 billion in such things as in-store safety measures, around the clock sanitation, and personal protective equipment to keep both our employees and customers safe and to ensure Americans were able to keep their families healthy and fed.

FMI appreciates the recent bipartisan, bicameral Congressional letter sent to Visa and Mastercard's CEOs by Judiciary Chairman Dick Durbin (D-IL), Senator Roger Marshall (R-KS), and

Representatives Peter Welch (D-VT) and Beth Van Duyne (R-TX), calling on the networks to halt their scheduled April fee increases on retailers. The card networks increased swipe fees on retailers by a total of $1.2 billion in April 2021 (Visa) and April 2022 (Visa, Mastercard). Last year, credit and debit card fees on retailers totaled $137.8 billion. More must be done to bring competition in the credit card market.

Increased consumer use of credit and debit cards

The COVID-19 pandemic transformed almost every aspect of the food retail industry including consumer demand for, and how consumers shopped for, groceries. Consumer demand for groceries jumped by 50% almost overnight to unprecedented levels, with average weekly household spending on groceries now holding steady at $148. In 2019, U.S. consumers reported spending 10.5% of their grocery budget online. By the summer of 2020, the number almost tripled to 29.2%. Nearly 100% of these transactions are performed using credit and debit cards alone. While over the past decade consumers have been steadily shifting away from using cash and checks for purchases to using credit and debit cards, there was a seismic shift to card spending in response to the pandemic.

While the grocery industry is committed to serving all their customers, regardless of how they pay, the increase in card usage has several unintended consequences. Retailers pay processing fees to accept credit and debit cards as payments from their customers for goods and services. These processing fees are very expensive and include various fees, such as swipe and routing fees. In 2021, merchants' card processing fees totaled $137.8 billion, up over 112% from the previous decade. Swipe fees are most retailers' highest operating cost after labor and rent.

The hidden processing fees negatively impact U.S. consumers – at an average of $700 a year for an American family. The $137.8 billion in hidden processing fees artificially drives up the price consumers pay for goods and services. Retailers are forced to incorporate these fees in their pricing decisions and sell items at the "credit card" price to cover costs. The impact disproportionally hurts lower income Americans, those who rely on cash, and those who do not have access to high credit card rewards. The current credit card market leaves lower income Americans paying for bloated credit card rewards they will never enjoy.

Retailers and our customers need competition and transparency in the credit card market

FMI member companies negotiate prices on every product they sell and every service they use with vendors. The one area that they have no ability to negotiate is with Visa and Mastercard on how much it costs us to use their card networks to accept this form of payment from our customers. As the card networks, Visa and Mastercard set their own fees: they set the fees for processing a customer's payment information across their data rail; and they set the fees that banks who issue their cards charge to retailers who accept these cards as payment. U.S. retailers pay the highest swipe fees in the industrialized world. Visa and Mastercard control 80% of the credit card market and set their own fees – this is not real competition. This is a take it or leave it scenario – retailers either accept Visa and Mastercard as a form of payment or they lose customers, because for many customers, that is what they have in their wallets.

There is no transparency into Visa and Mastercard's fees or terms of condition. Twice a year, typically April and October, Visa and Mastercard update their merchant fees and terms. This is not a negotiation. Retailers cannot go to the table and ask Visa and Mastercard to lower fees or change terms. Additionally, there is no transparency into the actual rates charged for each type of credit card a customer is using until after a monthly statement is sent to the retailer. At the time a customer swipes, dips, taps, or enters their card, retailers are required to accept the card and do not know how much they will be charged for accepting the card. Card processing fees vary depending on the type of credit card used – for example, a credit card that offers high airline rewards miles comes with a high processing fee for the retailer. The average credit card swipe fee is about 2.2%. These airline miles cards could cost a retailer 2.75% per transaction. Retailers are required to "honor all cards" – a policy that leaves no choice for the retailer. Visa and Mastercard also charge higher swipe fees for online purchases than they do for in-person purchases, even for the same merchandise at the same retailer. This "card not present" is a growing segment of the grocery business, especially because of the pandemic.

Retailers are asking for competition not caps

Banks and the credit card networks are claiming that retailers want the federal government to set a cap on credit card fees. This is completely wrong. Retail, and specifically the grocery industry, is a highly competitive industry and we operate on very slim profit margins – about 1-3% on average. This is not about picking winners or losers – this is about bringing competition, transparency and fairness to a marketplace that has none. We are not asking the federal government to step in and cap credit card fees or set prices for the market – what we are asking for is the federal government to establish parameters that would foster competition and transparency so that card networks would have to compete for our business on fees and terms – just as we have to compete for our customers' business. Visa and Mastercard, the duopoly that controls 80% of the entire credit card market, are having local, community banks testify on behalf of the largest banks in the country that retailers want the federal government to cap credit card fees is just false rhetoric and they know it is false.

Our customers will benefit the most with credit card competition

As noted above, the processing fees Visa and Mastercard set are very expensive operating costs for retailers. Retailers have no choice but to accept these fees and cards if they want to be able to accept Visa and Mastercard as forms of payment from their customers – whether for in store purchases or online, including on demand delivery service orders and curb side pickup. Retailers are forced to incorporate these fees in their pricing decisions and sell items at the "credit card" price to cover costs. Our customers who lose out the most are those who rely on cash or do not have access to high rewards credit cards – they gain no benefit from paying the higher "credit card" price.

During the pandemic, many FMI retail members were authorized by USDA to accept payments online from our customers using the Supplemental Nutrition Assistance (SNAP) EBT cards. This allowed families using SNAP benefits to purchase groceries online in addition to curbside and in the store. The ability to use the SNAP EBT card online has been a lifesaver for some of our customers. Those SNAP electronic transactions are completed securely, efficiently, without Visa or Mastercard, and without swipe fees. FMI members are proud to be the federal government's primary retail partner in delivering these benefits efficiently, securely, and reliably.

A first step: Credit Card Routing Competition

FMI and the retail community want to work with Congress in a bipartisan manner to foster competition and transparency in the credit card market. One concept we support is requiring more than one network option to route financial data on a credit card – just like most cities have more than one road into the city. When a customer uses a credit card – whether in store through a swipe, dip or tap or online when entering the card number – it takes fractions of a second for that financial data to be routed from the retailer, through its processing vendor, over the Visa or Mastercard data rail, to the bank who issued the card and approves the payment.

There is no additional network rail option for credit cards – it is just Visa for a Visa credit card and Mastercard for a Mastercard credit card. A reform in the debit card space that has worked to provide some competition is requiring at least two network rail systems on each transaction – you may find Visa or Mastercard on your debit card, but you will also find another network like Star or Pulse or Shazam that does the exact same thing as Visa and Mastercard – route financial data. Requiring more than one routing network would foster competition – bringing down the cost of the swipe fees, increasing transparency of terms, even competing on innovative services and fraud protection. Routing competition would also bring about more security and duplicity in the credit card market. We are all very concerned about cybersecurity. Realistically, a hacker could bring down the entire Visa network. Without another routing option, the entire network would be unavailable to American consumers and businesses.

Debt card reform is working but needs further clarification, revision

The 2010 debit reform law (Durbin Amendment to Regulation II) prohibits routing exclusivity. The law enables retailers to have the choice of which service providers to send debit transaction data through. Although this requirement is law, some of the largest issuing banks are not enabling what is called a "PINless" routing option for online purchases, essentially blocking any competition in the online

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routing market. In May 2021, the Federal Reserve issued a proposed clarification making it abundantly clear that retailers should have a choice on routing networks regardless of whether the purchase is made at the store (card present) or online (card not present). The clarification is still pending with the Fed but has tremendous support from retailers as well as regulators and legislators. Grocery retailers strongly support the proposed routing clarification[1] and urge the Fed to act swiftly in finalizing the policy to preserve competitive routing for online debit transactions.

In 2021, the Fed issued its required biannual report on issuer costs, fraud costs, and volume. The report showed that issuer costs have reduced by about half since the Fed implemented the regulated rate in 2011. The rate still sits at 21 cents, plus 1 cent for fraud prevention 0.05% of the transaction amount for fraud loss recovery. On average, this comes to about 24 cents per transaction – even though the issuing banks costs are less than 4 cents. This regulated rate serves as a cap but all covered transactions we are aware of are charging the maximum amount. Grocery retailers strongly support an immediate reduction in the regulated rate, consistent with the law[2] which requires the regulated rate cap to be reviewed and adjusted to reflect a rate that is "reasonable and proportionate."

Conclusion

FMI and our food retailer members of all sizes across the country want to work with Congress in a bipartisan manner to foster competition in the credit card market so we can better serve our customers and communities, especially in these economically challenging times. Implementing network routing competition would be a good first step in addressing the unchecked card fees and lack of transparency retailers face as the condition of accepting credit cards for customer purchases. Grocers remain committed to serving all their customers, regardless of how they pay, but reforming the credit card market is imperative to our industry.

[1] https://www.fmi.org/newsroom/news-archive/view/2021/08/10/fmi-supports-federal-reserve-proposal-to-guarantee-merchant-choice-for-debit-routing

[2] https://www.federalreserve.gov/paymentsystems/regii-about.htm

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