

The Honorable Sherrod Brown
Chair, U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Tim Scott
Ranking Member, U.S. Senate Committee on Banking, Housing, and Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Richard Durbin
Chair, U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Lindsey Graham
Ranking Member, U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

April 30, 2024

RE: Endorsement of Credit Card Competition Act of 2023

Dear Senator Durbin, Senator Scott, Senator Brown and Senator Graham:

In light of recent developments in the payment networks market, we, a coalition of labor, competition, and public interest groups, write to affirm our endorsement of the bipartisan, bicameral Credit Card Competition Act. The legislation is necessary to correct market failure in the credit card payment network sector, whose domination by the Visa-Mastercard duopoly harms small businesses and consumers alike.

Today, lack of competition in payment networks means that American consumers pay the highest credit card swipe fees in the industrialized world, with Visa and Mastercard charging businesses eight times the swipe fees they charge in Europe. In 2023, U.S. businesses handed over \$100 billion in swipe fees to the duopoly – over \$7.5 billion more than the year prior and more than any other year in history.¹ Because Visa and Mastercard set both the rules and prices for merchants to accept card payments, merchants are forced to pass along the high credit card transaction costs to consumers in the form of increased prices.

Recent developments in the payment industry do not fix the root problems of the broken market. A March 2024 proposed settlement in longstanding private antitrust litigation against Visa and Mastercard's duopoly in payment networks has been touted by the credit card and bank lobby as

¹ Amanda Koprowski, "Visa & Mastercard Swipe Fees Hit \$100B in 2023," Convenience Store News, Mar 19, 2024, <https://csnews.com/visa-mastercard-swipe-fees-hit-100b-2023>

“eliminat[ing] the need for legislative action on credit interchange.”² Nothing could be further from the truth. The deal does not materially change the market’s anticompetitive dynamics, and is plagued with an array of loopholes. For example, just weeks after the settlement proposed a temporary five-year pause in swipe fee hikes, Mastercard raised network “assessment” fees, a move projected to cost merchants and their customers more than a quarter billion dollars yearly.³ Merchants have opposed the settlement as weak and ineffective and continue to emphasize the continuing need for the Credit Card Competition Act.⁴ We believe the proposed settlement should be rejected by the court.

Similarly, Capital One’s proposed acquisition of Discover does nothing to help the competitive dynamics of the payment network sector. While Capital One touts its acquisition as a move that “will help Discover be competitive with the leading networks,” all available evidence points to the contrary. Capital One has struggled to articulate a viable plan to turn Discover’s 2% market share into a plausible threat to the Visa-Mastercard duopoly.⁵ Capital One has publicly and repeatedly indicated it is unable to add competitively significant credit card purchase volume to the Discover network or otherwise retool Discover’s methods of competition to gain market share.⁶

Since the merger transaction also faces significant regulatory hurdles from both bank regulatory agencies and the Justice Department, its approval should not be relied on as a fix for any market issue. Regulators have signaled that further consolidation cannot be the solution to the consequences of concentration within the critical financial services architecture of the U.S. economy. In the words of Assistant Attorney General Jonathan Kanter: “The remedy for lack of competition in a market isn’t less competition in a market.” Committees whose jurisdiction this merger involves should call attention to the need for regulators to swiftly reject the transaction.

Despite the bank lobby and Visa/Mastercard’s protests, the Credit Card Competition Act remains the best way to deliver a much-needed competitive payment networks market for American businesses and consumers. The bill will open the door for other payment networks to compete on price and other features, incentivizing lower swipe fees from major networks while offering merchants lower-fee alternatives and improving transaction security and efficiency.⁷ The bill mitigates harms imposed on the most vulnerable American consumers – the millions without credit cards or bank accounts whose predominantly cash payments subsidize others’ card usage – benefitting the American economy and saving small businesses and their customers billions.

² <https://electronicpaymentscoalition.org/2024/03/26/epc-on-merchant-payment-network-lawsuit-agreement/>

³ Katie Arcieri, "Mastercard Still Raising Some Fees After Retailer Settlement," Bloomberg Law, Apr 3, 2024, <https://news.bloomberglaw.com/antitrust/mastercard-still-raising-some-fees-on-retailers-after-settlement>

⁴ Id.

⁵ Shahid Naeem, “Capital One-Discover: A Competition Policy and Regulatory Deep Dive,” American Economic Liberties Project, Mar 2024, p 17, <https://www.economicliberties.us/wp-content/uploads/2024/03/2024-03-20-Capital-One-Discover-Brief-post-design-FINAL.pdf>

⁶ Id.

⁷ Shahid Naeem, "Myth vs. Fact: The Credit Card Competition Act (CCCA) of 2023," American Economic Liberties Project, Sep 13, 2023, <https://www.economicliberties.us/our-work/myth-vs-fact-the-credit-card-competition-act-ccca-of-2023/>

We strongly urge members both to hold hearings on the need for pro-competitive reform in the payment network market and to vote to pass the Credit Card Competition Act.

Signed,

Accountable.US
American Economic Liberties Project
Americans For Financial Reform
Fight Corporate Monopolies
Institute for Local Self-Reliance
International Brotherhood of Teamsters
Merchants Payments Coalition
Main Street Alliance
Service Employees International Union
U.S. PIRG

CC:

The Honorable Roger Marshall
The Honorable J.D. Vance
The Honorable Peter Welch
The Honorable Josh Hawley
The Honorable Jack Reed

The Honorable Lance Gooden
The Honorable Zoe Lofgren
The Honorable Tom Tiffany
The Honorable Jeff Van Drew
The Honorable Max Miller
The Honorable Bob Good
The Honorable James McGovern