



FedFin Client Report

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Swipe-Fee Disclosures, Antitrust Pressure Likely Following Senate Hearing

Client Report: INTERCHANGE9

Executive Summary

As anticipated, bankers and card networks squared off with merchants at today's Senate Judiciary hearing addressing credit-card interchange fees. Chairman Durbin (D-IL) strongly defended his amendment restricting debit-card fees, arguing that expanding fee constraints and network-competition provisions to credit cards would reduce inflation and increase consumer spending power. He did not, however, propose legislation to do so, instead pressing for transparency; we expect the CFPB to include a mandate for swipe-fee disclosures in the changes it plans shortly to propose to current card disclosure requirements ([see Client Report CONSUMER42](#)). Ranking Member Grassley (R-IA) took an equivocal stance, suggesting that the key purpose of Judiciary review is to ensure competition and that additional attention may be needed in this sector. Sen. Klobuchar (D-MN), chair of the panel's Antitrust Subcommittee, supported the need for tougher antitrust review but did not suggest that any Congressional initiatives to force this are under consideration. Indeed, no legislation to alter card fees or network restrictions was specifically proposed, but bipartisan criticism of current industry practice suggests a bill might advance if a vehicle for it can be found. Freestanding legislation would require Banking Committee action and there is not yet a sign that Chairman Brown (D-OH) intends to take this on.

Analysis

Opening Statements

Chairman Durban advocated requiring credit card statements to list the swipe fees charged to consumers, banning the swipe fees percentages from including sales tax, and ending exclusivity deals. Ranking Member Grassley (R-IL) noted both the problems and the benefits that come with swipe fees but emphasized that, because this was a Senate Judiciary Hearing, the focus should be on competition.

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Testimony

Laura Shapira Karet of Giant Eagle argued that the simultaneous increase in swipe fees recently instituted by Visa and Mastercard do not follow the letter or spirit of American antitrust law. Bill Sheedy of Visa cited recent reductions of interchange rates for the majority of US businesses, referenced secure digital tokens Visa is now exploring to make online payments more secure, and stressed that interchange fees exist to fund network security and fraud prevention. Linda Kilpatrick, testifying for Mastercard, emphasized that interchange fees fund the value that Mastercard brings to merchants, banks, consumers, and governments through its secure network. Ed Mierzwinski of U.S. PIRG stated that interchange fees constitute some of the highest costs for small merchants and that the bulk of their revenue goes to funding affluent consumer reward cards. He also called for disclosures on bank statements to highlight swipe fees. Finally, Charles Kim of Commerce Bancshares stated that the price controls set through the Durbin Amendment ([see Client Report INTERCHANGE](#)) harmed everyone in the payment ecosystem and that interchange fees form an indispensable aspect of operating payment systems effectively.

Q&A

- **Competitive pressures:** Chairman Durbin, Sen. Lee (R-UT), and Sen. Klobuchar (D-MN) are concerned that the credit card market is uncompetitive, with Democratic members citing overwhelming market share of Visa and Mastercard. Witnesses representing merchants and consumers agreed with this assessment; witnesses representing card providers and issuers countered that digital payment platforms, buy-now pay-later products, and cryptocurrencies are directly competing with credit cards.
- **Antitrust:** Sen. Klobuchar asked if stronger antitrust enforcement would lead to stronger credit-card markets; a witness for the National Association of Convenience Stores agreed, pushing action beyond the existing DoJ investigations.
- **Durbin Amendment:** Sens. Blackburn (R-TN) and Tillis (R-NC) argued that the Durbin Amendment reduced the purchasing power of consumers, especially lower-income households, citing the reduction in free checking accounts and debit rewards programs as evidence that the amendment should not be extended to credit cards. Mr. Kim referenced a GAO report that cast doubt on positive consumer impact. Chairman Durbin, his democratic colleagues, and merchant/consumer witnesses pushed back, stating that proportionally more Americans now have free checking accounts than before the amendment was passed.
- **Merchant/Consumer Impact:** Chairman Durbin argued that credit card issuers actually benefit from inflation because their fees are percentage-based, while Sen. Blackburn connected rising prices to high interchange fees that merchants cannot negotiate. Ms. Karet argued that interchange-fee reform would be one of the most impactful changes that Congress could enact to help retail companies.