

Legislation Would Let Merchants Keep the Benefits of Card Acceptance But Make Consumers Pay the Price

Purchase, NY, June 4, 2009 – MasterCard said today that legislation introduced today by U.S. Rep. John Conyers (D-MI), by exempting merchants from antitrust laws, would take away the fundamental protections that these laws provide consumers. This would result in less credit availability, along with higher prices and reduced benefits when Americans choose to use their credit or debit cards. Antitrust laws are designed to protect competition and consumers, but this bill would have the opposite effect.

Conyers' legislation, H.R. 2695, would give merchants a special exemption from antitrust laws enabling them to engage in anticompetitive and collusive behavior when establishing the fees and terms applicable to accepting payment cards. The bill is part of an organized merchant campaign to shift their card acceptance costs to consumers, and does not require merchants to pass on any savings to consumers if they succeed in lowering these fees.

When similar legislation was considered last Congress, it stirred considerable controversy and was only narrowly approved by a deeply divided Judiciary Committee. In addition, a wide array of organizations from non-profits to community banks and credit unions to minority small businesses voiced their opposition. The Department of Justice also expressed concern about the bill indicating that its antitrust exemptions "would appear to be the type of naked collusion that the antitrust laws condemn as per se unlawful because such conduct lacks plausible benefits to competition."

Experience demonstrates that consumers lose when merchants no longer pay their fair share for the valuable benefits they receive from accepting payment cards. This is precisely what happened in Australia when the government reduced interchange fees. Although it cut costs for merchants, many Australian consumers now pay more for their payment cards and receive less in return as a result of the government's intervention. Furthermore, there is no evidence that merchants reduced prices for consumers as a result of the government's intervention.

Both merchants and consumers benefit from the ability to use and accept electronic payments, and in today's free market system, each pays a share of the cost of the service. The benefits and the cost of card payment services are now shared between merchants and consumers but the merchants behind the Conyers bill seek to retain the benefits while shifting the costs to consumers.

Finally, MasterCard noted that any serious discussion of these issues should wait for the results of the Government Accountability Office (GAO) study ordered by Congress as part of the Credit CARD Act. Consumers stand to be severely damaged by government intervention and the findings of the GAO study may help avoid consumer harm that inevitably flows when merchants no longer pay their fair share for the benefits they receive.

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