



# AMERICANS *for* TAX REFORM

February 4, 2021

The Honorable Patrick Toomey  
*Incoming Ranking Member*  
Senate Committee on Banking  
534 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Patrick McHenry  
Ranking Member  
House Financial Services Committee  
2129 Rayburn House Office Building  
Washington, DC 20515

Dear Incoming Ranking Member Toomey and Ranking Member McHenry,

On behalf of Americans for Tax Reform and millions of consumers across the United States, **I write to express concern regarding attempts by retail merchants to expand the Durbin Amendment to credit cards during the 117<sup>th</sup> Congress.**

In the fall of last year, several trade associations revived conversations about expanding the Federal Reserve's price control authority from the Durbin Amendment to credit cards. In light of the Department of Justice complaint against Visa's recent acquisition of Plaid, the National Association of Convenience Stores the Secure Payments Partnership, and National Retail Federation have started to pressure House and Senate Democrats to forcibly legislate the interchange fee structure of payments companies on credit cards.

ATR anticipates this policy issue will continue to be a priority for commercial trade associations like NACS and NRF, and Congressional Democrats. Their push to expand Dodd-Frank's Durbin Amendment price controls and routing mandates to credit cards is highly concerning. The Durbin Amendment's price control on debit cards have harmed consumers both in the check-out line and through their financial institutions. Retailers failed to reduce the costs of items as promised during the Amendments addition to the Dodd-Frank Act.<sup>1</sup> A 2017 Federal Reserve study found banks subject to these controls raised prices to their checking account services, thus "decreasing the availability of free accounts, raising monthly fees, and increasing minimum balance requirements."<sup>2</sup> Retailers have raked in more than \$90 billion since.

In March of last year, COVID-19 relief legislation was the justification the National Restaurant Association used to push for unrelated regulation that would cripple the financial services industry at a time when the industry was standing ready to process billions of relief payments for small businesses. The Association's March letter called for an expansion of the Durbin

<sup>1</sup> Zhu Wang, "Debit Card Interchange Fee Regulation: Some Assessments and Considerations," *Richmond FED Economic Quarterly*, Volume 98, Number 3, Third Quarter 2012: Pages 159–183, [https://www.richmondfed.org/~media/richmondfedorg/publications/research/economic\\_quarterly/2012/q3/pdf/wang.pdf](https://www.richmondfed.org/~media/richmondfedorg/publications/research/economic_quarterly/2012/q3/pdf/wang.pdf).

<sup>2</sup> "The Impact of Price Controls in Two-Sided Markets: Evidence from US Debit Card Interchange Fee Regulation," *FEDS Working Paper No. 2017-074*, 10 July 2017, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2999628](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2999628).

722 12<sup>th</sup> Street N.W.

Fourth Floor

Washington, D.C.

20005

T: (202) 785-0266

F: (202) 785-0261

[www.atr.org](http://www.atr.org)

Amendment to reduce credit card interchange fees in addition to their request of the \$325 billion in relief for their members.<sup>3</sup>

In December of last year, the *New York Times* argued more needs to be done to protect consumers and merchants from paying for the services payments companies provide, including the encouragement of the Department of Justice standing in the way of an acquisition between Visa and Plaid, who do not compete against one another.<sup>4</sup> Sen. Dick Durbin, D-Ill., agreed with the editorial board in a tweet, saying, “Anticompetitive practices in the debit card industry are hurting American consumers and merchants.”<sup>5</sup> Retailers have shown they are relentlessly searching for any justification to shift billions of dollars away from consumers—in the form of rewards and other credit card perks—to the largest companies in the world.

**We strongly urge you to continue to dismiss future calls from the retail industry to expand the Durbin Amendment as genuine, as retailers have demonstrated they will continue to use any legislative vehicle to enact their goals.** We are concerned that opponents’ anti-trust complaints stem ultimately from a desire to choose winners and losers in a segment of the market that provides the main engine to today’s online-retailing boom. More than stop payments processing businesses from expanding their operations to meet consumers’ demands at the point of sale, the regulatory burden would inhibit them from providing the same quality of service, fraud prevention, and rewards to small businesses and consumers.

During this Congress, Americans for Tax Reform urges you to anticipate further attempts to expand the Durbin Amendment’s price controls mandate to credit cards. Retailer’s will promise further expansion will reduce prices and benefit consumers. However, as the Federal Reserve and academics have found, retailers have failed to abide by their promises made over a decade ago and **Republicans should continue oppose these efforts.**

We thank you for your efforts to combat the expansion of this costly mandate and your continued work to support pro-growth legislation that provides access to capital for millions of Americans.

Sincerely,



Grover Norquist  
President, Americans for Tax Reform

---

<sup>3</sup> The National Restaurant Association, *Letter to President Trump, Speaker Pelosi, and Maj. Leader McConnell*, March 18, 2020, <https://restaurant.org/downloads/pdfs/business/natl-rest-association-covid-letter>.

<sup>4</sup> “Visa Is Doing What Big American Companies Do to ‘Protect This Business,’” The Editorial Board, *The New York Times*, 2 December 2020, <https://www.nytimes.com/2020/12/02/opinion/visa-plaid-antitrust-doj.html>.

<sup>5</sup> Senator Dick Durbin, 3 December 2020, *Twitter*, <https://twitter.com/SenatorDurbin/status/1334525957235945474?s=20>.