ELECTRONIC PAYMENTS COALITION®

April 28, 2021

SENATOR HEATHER SANBORN, CHAIR
REPRESENTATIVE DENISE TEPLER, CHAIR
MEMBERS OF THE HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES COMMITTEE

RE: Testimony is OPPOSITION to LD 1544, An Act Regarding Cash and Debit Card Merchant Fees

I appreciate the opportunity to try and further illuminate the challenges of implementing LD 1544, and the chance to correct some misinformation offered at the recent hearing. Technical challenges prevented me from participating in Tuesday's hearing.

First, what was unsaid by the proponents of this bill is that the electronics payment system in the U.S. is a dynamic and highly competitive market. There are no monopolies, or near monopolies, in the electronic commerce space. Secondly, merchants persist in trying to isolate the discussion of price from the value received—not just by them, but by consumers as well. This is at best intellectually dishonest.

There are more than ten networks, more than 30 major processors, thousands of card-issuing banks and credit unions, and literally thousands of merchant banks competing for credit and debit card business. Retailers are contacted frequently by competitors who wish to bid on the processing of the credit and debit volume of their businesses. Consider the innovative competitors that are appearing to add additional consumer choice and price competition: PayPal, Apple Pay, Samsung Pay, and Venmo, just to name a few.

It is not true that retailers cannot negotiate their merchant discount fees. Local banks and credit unions as well as national and regional banks offer a dizzying array of packages to attract and retain merchant business. Some retailers need extensive support, want free terminals and hardware, need software integration support, and employee training, while others want just a bare bones processing charge and handle their transactions through their own point of sale software. The fee agreed to be each retailer and merchant bank or credit union reflects the goods and services that each will provide. Processing fees are set in a highly competitive market.

When evaluating whether a price is fair, it is often useful to consider the cost of alternatives. If the cost of using the electronic payments system were too high, large stores like Costco, which have the scale, resources, and expertise, would issue and promote store charge cards. However, the overwhelming trend is for chains to sell their charge card operations and move to the existing lower-cost third party electronic payments network. When compared to check guarantee programs, or the cost of cash handling, the costs of the electronic payments system is a fraction – oftentimes a third of the cost of handling cash.

In a recent development, retailers have flocked to "Buy Now Pay Later" (BNPL) schemes, where they pay between 2.5%-4% – and sometimes more – to accept this form of payment which can have significant negative consumer impacts versus heavily regulated debit and credit cards.[1]

Recent studies also show that many merchants prefer electronic payment over cash payment due to the high costs of handling cash. For instance, in 2017 alone, $96 billion was spent in the U.S. and Canada on cash-handling activities, greater than the annual GDP of Ukraine.[2] Simply closing out cash drawers cost $38.5 billion in 2017. The average cost of cash is 9.1% per transaction across all retail segments. In contrast, credit and debit cards cost approximately only 1% - 2.5% per transaction.[3]

Consider McDonald's, a highly sophisticated and well-organized worldwide retail restaurant chain. It has embraced and encouraged the use of credit and debit cards because it is more profitable and provides for faster transactions, no change error, and increased per-customer sales.

The cost of interchange (a portion of the merchant discount that goes to the card issuing bank and the network) has over the last ten years either declined or stayed the same as a percentage of the sale. When one hears claims that interchange or merchant discounts are rising, that is a function of increased <u>volume</u> of credit and debit card transactions, not an increase in <u>rate</u>.

---

[1] **<u>Consumer Affairs</u>**: "While it can be a helpful option, financial analysts are worried that some consumers may be misusing BNPL to buy unnecessary or luxury items that they otherwise wouldn't be able to afford," reports Consumer Affairs. The article cites Alan McIntyre, senior managing director and head of the global Banking practice at Accenture, who asked: "Is BNPL a clever way for young borrowers to take on sensible credit, or did lenders just give billions of dollars of loans to a bunch of subprime borrowers in the checkout aisle?" As for retailers, the article states that they "appear to be on board with the BNPL trend," as BNPL users "make larger purchases and leave fewer online shopping carts abandoned."

<u>Consumer Reports</u>: More online shoppers are using Buy Now, Pay Later (BNPL), however, "there are risks," according to Consumer Reports. According to the article, these risks include fees and interest charges and difficulty getting a refund on a purchased item. Additionally, "there's the danger of getting carried away and buying much more than you can afford." The article states that in a survey by Cardify.ai last year, "nearly half of BNPL shoppers said they increased their spending between 10 percent to over 40 percent when they use these plans compared with using a credit card." It also reports that, "two-thirds of BNPL customers said they are buying jewelry and other 'want' items that they might not otherwise purchase."

[2] *The News Observer.* "No Checks at the Checkout." October 20, 2011

[3] IHL Group. 2018. IHL is a retail consultancy.

The pandemic has stressed large parts of our American life and has been particularly hard on small retail. Consider for a moment what a lifesaving tool the robust credit and debit card networks have been for small businesses. Many would argue that if not for remote transactions, relying on credit and debit cards, countless small businesses would not have survived. To blame the electronic payment system that serves customers and businesses so well for the stress of the recent pandemic seems manifestly unfair.

Despite assertions by proponents of LD 1544 that technology exists that makes it possible to bifurcate each transaction, this is simply untrue – the fact that some merchant groups believe otherwise notwithstanding. In fact, enacting such a proposal would require extensive and costly modification at the retail level to even attempt to comply with the legislation as introduced.

And to clarify, the tip added to a restaurant check is <u>not</u> an example of a bifurcated transaction. On the contrary, when a restaurant check is run, the system simply establishes a "hold" on the cardholder's account for the bill amount plus a predetermined additional percentage. When the transaction is signed by the customer, the new amount, which includes the tip, is then transmitted to replace the account "hold." There is only a single transaction.

We appreciate your willingness to consider all aspects of this proposal, and respectfully ask you reject this proposal as have nearly 20 other state legislatures nearly 30 times over the last 15 years.

We are happy to provide any additional background or information the Committee would request.

Sincerely,

Steve Rauschenberger, on behalf of Electronic Payments Coalition

About Electronic Payments Coalition
Electronic Payments Coalition (EPC) is a coalition of payments industry stakeholders, including credit unions, community banks, trade associations, payment card networks, and banks that speaks on behalf of the payments industry to protect the value, innovation, convenience, security, and competition that exists in the modern electronic payments system. EPC educates policymakers, consumers, and the media on the system's role in economic growth and the importance of consumer choice, security, innovation, and stability for the continued growth of global commerce.