



Electronic Transactions Association

**Statement of the Electronic Transactions Association on  
H.R. 2382, the “Credit Card Interchange Fees Act of 2009”**

**U.S. House of Representatives  
Committee on Financial Services  
October 8, 2009**

The Electronic Transactions Association (ETA) is pleased to submit a statement to the House Financial Services Committee on H.R. 2382, the “Credit Card Interchange Fees Act of 2009.” ETA members are a diverse group of businesses primarily involved in the sale of payment processing services to merchants. The kinds of businesses represented by ETA include: banks that are members of the card association networks; independent sales organizations (ISOs) sponsored by member banks of the card associations; and providers of infrastructure and services to the banks and sales organizations. ETA strongly recommends that the committee consider the adverse impacts H.R. 2382 will have on consumers.

The integrated system of interchange and electronic payments is a critical part of the national economy. In fact, the safe and efficient flow of electronic payments might well be considered the scaffold required to support the continued growth of commerce in the United States and around the world. Interchange networks are highly specialized and robustly developed tools that are needed to move funds from a card issuing bank to a merchant (or acquiring) bank. These networks are responsible for facilitating the rapid growth in electronic payments witnessed in just the last ten years. Recently, interest groups have focused only on the price of conducting transactions through these

networks rather than on the infrastructure required to safely and efficiently process an ever-increasing number of transactions moving through the interchange system.

Interchange and payments systems provide significant benefits to consumers, retailers and the financial services industry. For the consumer, interchange systems provide a secure, cash-free way to make purchases and to receive instantaneous “credit.” For retailers and the financial services industry, the interchange system is a well-established way to facilitate business, grow sales, and mitigate certain risks. Over the past few years, as the volume of electronic payments has grown enormously, the interchange system has simultaneously grown, adapted, and continues to mitigate payment risks while increasing consumer convenience.

To begin, here is a brief and simplified description of an electronic payment transaction cycle: when a consumer makes a purchase with a payment card, usually that card is swiped through a terminal at a store. Instantaneously, a transaction “pulse” flows through the payments system to the card issuing bank to seek approval of the consumer’s purchase. Immediately, another transaction flows back to the merchant terminal with approval (or declination) of the purchase. Upon approval, the immediate benefits to the consumer are the speed, safety, and convenience of the process; the benefit to the merchant is assurance that payment for the purchase is guaranteed by the card issuing bank.

Within the next 24 hours, another set of electronic exchanges take place for the actual settling of accounts and transfer of funds from the card issuing bank to the merchant (or acquiring) bank. (In fact, the origin of the word “interchange” is as shorthand for “the exchange of funds” between banks.) Depending on the kind of arrangement the merchant has chosen for payment processing, payment for the consumer’s purchase can be credited to the merchant’s bank account in 24 hours or, in rare cases, 48 hours from the time the sales transactions are received by the processor. The safety and

efficiency of this system is so well established, and this procedure has become such a part of our daily lives, that most of us rely on it without a second thought.

**Given the necessity of such transactions to most consumers, ETA strongly recommends that the committee consider the adverse impacts H.R. 2382 will have on consumers. First, the bill ends ubiquitous acceptance. Second, the bill seeks to interfere in the carefully calibrated risk mitigation of the electronic payments system; and third, there is no evidence that merchants would attain savings or guarantee to pass price reductions, if any, on to consumers. As an attempt to insert the federal government into a series of business-to-business agreements, H.R. 2382 would hurt consumers, not help them.**

H.R. 2382 would do away with ubiquitous acceptance. Today, a person could decide to hail a cab to the airport, buy a plane ticket to Mumbai, board the plane, fly to Mumbai, arrive there and pick up a fresh pair of jeans and a shirt, enjoy dinner in a local restaurant, check into a hotel, order a nightcap, go to sleep, wake up the next morning and do it all over again – with one card in their pocket. This is known as ubiquitous acceptance and H.R. 2382 would terminate every consumer's ability to do this. Upon enactment of this bill, consumers would be very surprised to learn, when they head to the grocery store or to the outlet mall, that there is a chance their favored card will no longer be accepted. It is not helpful or necessary to pass a federal law that allows merchants to discriminate against consumers' preferred payment choices.

H.R. 2382 would cause current risk calculations to become invalid. It is important to note that the bank sponsors of the card networks underwrite the risk in the payments system. Sources of that risk include merchants, independent sales organizations (ISOs), and payment processors. An acquiring (or merchant) bank's primary risks are: 1) merchant going out of business; 2) merchant fraud; 3) fraud perpetrated on the merchant; 4) charge offs (uncollectable sales); and 5) data security breaches. Also, in some circumstances, the acquiring bank extends credit to the merchant so that

merchants can receive their funds more quickly. For instance, the acquiring bank will credit the merchant's account for sales transactions in advance of receiving the ultimate settlement amounts from the issuing banks for those sales.

The total fee that a merchant pays for accepting credit and debit card payments for the sale of goods and services is referred to as the "discount rate" or "merchant discount". The merchant discount has several components, including:

- 1) the cost(s) to process and handle bank card sales transactions;
- 2) an interchange fee; and
- 3) the cost(s) of providing deposit credit to the merchant.

The "interchange rate" (or "interchange") represents a wholesale, market-driven fee for credit card processing service and is charged by the card brand associations (like Visa and MasterCard) to the acquiring bank. Interchange rates include the cost of keeping the interchange networks up and running, the costs associated with keeping the networks secure (and those expenses are increasing), and a payment for risk assumed by the issuing and acquiring financial institutions. While interchange is set by the card brand associations to pay for use of their payment networks, other parts of the merchant discount rate are determined by the acquiring bank. Thus, the merchant discount rate is subject to fierce negotiation and competition between different acquiring banks in the marketplace.

There are many different categories of interchange rates and they vary based on the volume of sales at the merchant, the type of business of the merchant (i.e., is the merchant an unattended gas station kiosk, a florist, a tattoo parlor, or a book binder), and the type of transaction processed. For example, a "card-not-present" transaction carries a higher risk of fraud than a "card present" transaction. A premium card transaction may have a higher interchange rate than a regular card transaction because, in the case of one of the world's largest payment processors, the premium

card average transaction size is 45% higher than those on regular cards.<sup>1</sup> Premium cards are a substantial benefit to merchants and also represent a greater expense exposure for the issuing banks. Because there are many different categories of interchange rates, the percentage of the merchant discount fee that is made up of interchange may vary from transaction to transaction. ETA members and others in the field assume the risk of payment for interchange if their pricing model incorrectly assesses the ratio of interchange cost to total merchant discount cost.

H.R. 2382 would not provide financial relief to consumers. This bill falsely presumes that interchange and merchant discount rates are not negotiated. In fact, merchants routinely negotiate for the lowest possible discount rates from the thousands of banks and card processors (like Moneris) that offer this service. While large retailers may negotiate based on a high volume of transactions, smaller merchants have access to trade associations, professional associations, and local chambers of commerce for group-negotiated rates that offer significant savings on card acceptance. For example, the First National Bank of Omaha offers over 400 such programs to smaller merchants.

In addition, there is nothing that prevents a merchant from engaging in a negotiation directly with Visa and MasterCard. Merchants can – and do – negotiate interchange fees directly with MasterCard or Visa, based on the same factors that are used by merchants in negotiating deals with other types of vendors in markets with similar dynamics. Merchants have a much greater ability to negotiate transaction processing expenses than they do for most other business services, such as electricity, postage, water, or trash collection.

Merchants who accept cards are not prohibited from offering a cash discount. Federal law allows merchants to offer cash discounts, and card associations have clear rules stating that cash discounts are allowed. Last year, at a time of skyrocketing gas prices, cash discounts were widespread at gas retailers across the country. Consumers would

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<sup>1</sup> Moneris Solutions, Toronto, Canada, October 7, 2009.

be hurt by the fact that merchants could reject specific cards, diminishing consumer benefit from rewards programs and causing consumers to enter into more card agreements to be assured of having a valid payment mechanism at a given retailer.

In conclusion, ETA requests that the committee fully consider the ill effects of H.R. 2382. The termination of ubiquitous acceptance will cause consumers to extend themselves into the personal credit markets even further than they are today. Consumers will need to increase the number of payment cards they carry in order to ensure that they have enough variety to be able to make purchases at different retailers. Consumers will also lose the benefit of premium reward cards if merchants are able to refuse them for payment.

The interchange and electronic payments systems provide significant benefits to consumers, retailers and the financial services industry. Interchange and merchant discount rates exist today in a highly competitive marketplace and merchant discount packages are fiercely negotiated. In addition, each card transaction carries a carefully calibrated risk profile for the issuing and acquiring banks. Inserting an artificial government price control mechanism into the middle of these business-to-business contract agreements will hurt consumers, not help them.