

**TESTIMONY OF
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BEFORE THE
U.S. SENATE COMMITTEE ON THE JUDICIARY
HEARING ON
“BREAKING THE VISA-MASTERCARD DUOPOLY: BRINGING COMPETITION
AND LOWER FEES TO THE CREDIT CARD SYSTEM”
NOVEMBER 19, 2024**

On behalf of Battenkill Books, I greatly appreciate the opportunity to testify before the Senate Judiciary Committee on the lack of competition in the credit card routing market, which has enabled the nation's largest payment networks and credit card issuers to raise swipe fees and implement new fees with impunity. These fees are a significant burden to all merchants but are especially harmful to small businesses like mine that have limited resources and leverage. The Credit Card Competition Act represents a much-needed solution that would correct current market failures and improve the U.S. payments system for all those involved, including merchants and consumers.

Since 2009, Battenkill Books in Cambridge, NY has been owned and managed by my wife Connie Brooks and I. We offer a broad range of books from current bestsellers to the classics, and from history and romance to gardening and cooking, and more. We have an outstanding collection of books for children, as well as a large selection of books on local history and the surrounding area. We also sell gifts, toys, cards, magazines and maps. We are proud that our store is a vibrant part of Main Street in Cambridge and we put in a lot of work to host author talks and community events. We take pride in our community.

As a small business owner, I am constantly looking for ways to invest in and grow my business, while improving the customer experience and contributing to the Cambridge community. It isn't easy. We are always under pressure. The current economic environment has raised costs for my business in a number of areas, but our payments processing costs have experienced significant growth. I am here to tell you that something needs to change. Main Street businesses like mine cannot take it any longer. Our story is not unusual and if Congress doesn't take action, we will see Main Streets in local communities continue to hollow out as far too much of our small profits are sent to Wall Street.

When business is fair and the market is free, Connie and I can hold our own. But that is not how it is for credit card fees. The duopoly of Visa and Mastercard fixes the interchange fee rates that the banks and credit unions that offer credit cards charge us. We can't deal effectively with all those banks and credit unions banding together to fix prices. And then Visa and Mastercard add even more network fees on top of that. Those fees keep going up too. All we're asking for is a little competition so we can deal with these businesses like we do with other suppliers. Give us a chance and we'll do our part. If you let things keep going the way that they are going, we don't have a chance.

In the past, our credit card fees averaged about 2.4% of each credit card transaction. That's on the total amount of the transaction, before I pay my expenses. As a co-owner of the business, I can only take profits out of our net margins after taking out expenses. Essentially, Visa and Mastercard have taken an ownership interest in my bookstore with primacy over my own interest. They are the silent partners that we never asked for or wanted.

What's even worse is how the credit card industry's percentage take has grown. So far this year, in 2024, our fees are 3.8% of each credit card transaction. That jump of nearly 60% is consistent with what we've seen nationally as total Visa/Mastercard credit card fees have gone from \$61 billion in 2020 to more than \$100 billion in 2023, an increase of more than 60%.

Credit card fees now represent our fourth largest business expense, after only rent, payroll and shipping. Our little bookstore pays nearly \$9,000 a year in credit card fees, and unlike with our other expenses and vendors, we have no negotiating power to help manage these fees. Paying more than 3% of the transaction amount for every credit card sale has been a significant drain on my business. If I could reduce the amount of swipe fees I pay, it would allow me to hold down prices for my customers, provide additional hours for seasonal staff, improve employee benefits

and put on more local events like our literacy programs and community art projects. Arbitrarily high swipe fees are preventing me from growing my business and better serving my customers while inflating the prices we pay for the goods we sell and the prices we charge our customers.

That is why I'm here and why I got involved with our association, the American Booksellers Association, to advocate for change. Connie and I know how tough it is for us to keep going with these high fees and we've heard similar stories from our friends and neighbors who have their own small businesses in our town and from other booksellers across the country who run businesses like ours. Everyone feels the pinch. I don't know if my voice can make a difference, but I know that I can give it a try and ask that you listen. I can only hope that some of you will care what a small business owner like me has to say.

What I know is that high swipe fees are a challenge for every merchant, regardless of size or sector. Most Main Street businesses have no choice but to share that burden with their customers in the form of higher prices, surcharges or decreased services. This is a particular challenge for me, as a bookseller, because the price of my primary product is printed on its back. The suggested prices of books are pre-printed. I can change them, and many bookstores do that to provide discounts. But, that eats into my narrow margins at the same time that swipe fees keep rising.

Some merchants add the credit card charge directly onto the customer's bill. Doing that is a sign of desperation. Merchants don't like to do it and customers can get upset. Frankly, because retail is so incredibly competitive, the vast majority of merchants won't separately add these fees onto a customer's price. They know those customers have a number of other options where they could shop instead.

New York has legal limits on surcharging that make it very difficult to do. We should have the ability to do it when we have nowhere else to turn, but surcharging is a stopgap measure that doesn't address the underlying problem. Customers don't know how swipe fees work or understand their magnitude for local businesses. Simply making merchants the tax collectors for Visa and Mastercard doesn't change the problem of those two networks setting prices in a cartel structure much higher than a functioning market would bear. The bottom line is that there is no recourse for my business when it comes to credit card swipe fees, which is due to market failures in the credit card system.

The retail industry is highly competitive, and with more ways for consumers to shop today than ever, it is vital to offer quality service and competitive prices in order to survive. As a small merchant, I must compete with merchants of all sizes every day. Unfortunately, that same necessity does not hold true for our country's two major credit card networks and the Wall Street banks with which they partner. The Visa and Mastercard duopoly has created a system of winners and losers where the two networks and major credit card issuers collect record swipe fee revenue year after year from every U.S. merchant and business that accepts credit card payments. The network duopoly's anticompetitive practice of price-fixing swipe fee rates charged by credit card issuers amounted to over \$100 billion in swipe fee revenue from Visa and Mastercard branded credit cards last year. This is a staggering amount when contrasted with the \$172 billion in swipe fee revenue generated last year across all card brands and both credit and debit transactions.

It was encouraging to see the Department of Justice turn its attention to the anticompetitive credit card market when it filed a suit against Visa for its practices in the debit market. The Justice Department's suit clearly illustrates how Visa wields its market dominance

and resources to lock out would-be competitors and corner the market for themselves and their partners. Perhaps the most concerning aspect of the DOJ's complaint is that Visa was conducting these practices in the debit market, which has been regulated by the Durbin Amendment since 2011. What the network is doing in the credit card market is even worse as there are no limits on the vast web of rules it lays down to prevent a functioning, competitive market. It is time for Congress to address the market failures in the credit card system by injecting competition into the market and requiring the nation's largest financial institutions to compete like my business and every other American business does every day.

Competition in the credit card market would not only benefit U.S. businesses and consumers, but it would also spur innovation and produce new technologies that can modernize our country's payments system, which has fallen behind other major economies in both security and technology. Payments fraud is on the rise and due to Visa and Mastercard's rules, merchants bear the majority of the cost of fraud. Our antiquated transaction processing system does not fully utilize innovations that can expedite payments processing, improve security, reduce payments costs for businesses and improve customer experience.

Today's hearing is timely given the attention and focus on the credit card routing market from businesses, consumers, Congress and regulatory agencies. I commend the Committee for taking meaningful action to highlight this pressing issue and advance legislative solutions.

The bottom line is that I need your help. Most small business owners like me are skeptical that you care about our experience and will listen. I'm an optimist. I'm here. Please pass the Credit Card Competition Act. Give us a competitive market for credit cards that gives us a chance to grow and succeed.