# <u>Bringing Fairness and Transparency to the Credit Card Market</u>

*H.R. 2382 - The Credit Card Interchanges Fee Act of 2009*

Visa and MasterCard control roughly 80% of the payments card market and abuse that market power by refusing to negotiate rates and terms with the merchants who accept their cards. Credit card interchange fees are the only operating cost merchants are powerless to negotiate and these growing costs are one of the largest business expenses companies face. Interchange fees – averaging roughly 2% a transaction - take a bigger chunk out of retailers' bottom line than both energy and health care costs.

These are extraordinary economic times. Main Street businesses are struggling to keep their doors open and these anticompetitive rates and terms are hindering their ability to do so, and to keep prices low for the customers they serve. Additionally, these fees are particularly harmful to small business. Small business is the backbone of job creation in this country, and placing undo burdens on small merchants, particularly in the current environment, is unconscionable.

This legislation would eliminate the anticompetitive rules Visa and MasterCard impose on merchants, allowing merchants, for the first time in regard to card acceptance, fundamental decision-making rights in how they run their business. This legislation will increase transparency in the payments card industry and make the true cost of card acceptance evident to consumers who have also been deprived of the right to make an informed decision regarding their choice of payment.

Eliminating Visa and MasterCard's restrictive merchant rules is critical to create a fair and transparent payments system that fosters both consumer and merchant choice.

## <u>Summary of Welch-Shuster Interchange Legislation</u>

Part 1: Prohibit anti-competitive practices. These all address practices that are banned by the contracts merchants sign with Visa and MasterCard. We believe that these are fundamental rights that ensure an open, competitive market and should not be able to be limited by the credit card companies.

- <u>Eliminate Additional Charges for Premium Cards or access devices</u>. This section prevents credit card companies from charging the merchant more when a customer uses a "special" card, like a rewards card, or a corporate card or internationally issued cards.

- <u>Pricing display restrictions</u>. This section allows merchants to offer a lower price for customers who pay with lower cost payment types or devices.

- <u>"Honor all cards" rule</u>. This section allows merchants to choose not to accept certain cards that have especially high fees.

- <u>Steering customers</u>. Allows a merchant to ask a customer if he/she is willing to use an alternative payment device.

- <u>Single entity rule</u>. Allows a business to not accept cards at a given location. E.g. a company with a website and a retail store can decide to accept payment types and devices for their online business, but not in their retail location.

- <u>Reason code 96 chargebacks</u>. Relevant mostly at the gas pump where when you swipe a card, a $75 transaction is authorized. As gas prices rise, these transactions are frequently exceeding the $75 authorization amount. We've heard reports that Visa is denying any repayment to the merchant in some of these situations. This section prohibits that.

- Maximum/minimum transactions. Allows merchants to set a minimum for purchases initiated with a credit card or other payment device (many places do this anyway, like $5 minimum, but it technically violates the rules). Also would allow merchants to set a maximum so that transactions don't exceed the preauthorization amount discussed in the previous section.

- Restrictions on network routing on PIN transactions. Allows merchant to choose which financial routing network to use (Cirrus, NYCE, Interlink, etc) based on which is least costly for them.

- Restrictions on number of Transactions. This section prevents credit card companies from requiring any merchant to conduct any minimum number of transactions for using such network's payment device during any given time period.

Part 2: Disclose Rules and Provide FTC Authority to Eliminate Anticompetitive Rules. This section requires MasterCard and Visa to disclose all terms, rates, and conditions to the FTC and allows the FTC to review and determine if any practices are anti-competitive.

Part 3: Require full disclosure of interchange or other fees collected from merchants to the Fed and the public. Creates mechanism through the Federal Reserve for the disclosure and publication of full terms and conditions of the credit card company contracts.

Part 4: Require full disclosure of interchange or other merchant-paid fees to consumers. Requires credit card companies to disclose to consumer in several places the interchange rates they are charging.