

Dear Member of Congress:



We, the undersigned organizations, oppose the inaccurately named [Credit Card Competition Act of 2022](#) (S. 4674) as filed as [Senate amendment 6201](#) to the substitute amendment (SA 5499) proposed to the *National Defense Authorization Act for Fiscal Year 2023* (H.R. 7900). The amendment is a backdoor price control, and extension and expansion of the Durbin amendment as enacted in the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (P.L. 111-203).

As written, the amendment directs the Federal Reserve to draft rules requiring credit cards issued in the United States to offer at least two unaffiliated payment network options for point-of-sale and online transactions.

According to the amendment, the two networks may not both be Visa and Mastercard, because they “hold the 2 largest market shares with respect to the number of credit cards issued in the United States.” However, should market share switch hands to new firms, the routing mandates will no longer apply. The amendment also mandates that the proprietary security of the credit cards function so that all networks are available for retailers to pick and choose—consumers get no say whatsoever. In fact, the amendment never mentions consumers, nor how they will benefit.

It is abundantly clear that special interest groups are using the federal government to alter the credit card market to benefit themselves and not consumers. This is textbook rent seeking behavior, anathema to free market principles, and should be staunchly opposed by Republican lawmakers.

Furthermore, we oppose Senate amendment 6201 for the following reasons:

- **The amendment does not promote competition, instead it dramatically expands the role of the federal government to overregulate the market for credit cards.** Today, requiring multiple dual-message networks to function over one card is [technologically infeasible](#). The cost of overhauling our current credit system to comply with the mandates in the amendment could cost up to [\\$5 billion](#).

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Holding Judges and Politicians Accountable to the Constitution

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- **The mandates in the amendment are so costly that more than \$60 billion in rewards that consumers receive every year would largely disappear.** According to the [International Center for Law & Economics](#), “86% of credit cardholders have active rewards cards, including 77% of cardholders with a household income of less than \$50,000.”
- **The amendment authorizes the federal government to intervene in contracts between private parties.** The federal government should not be interfering in private contractual agreements. This encroachment will force small banks and credit unions to severely limit or cease providing co-branded cards that millions of consumers use every day. This is similar to how Biden’s Securities and Exchange Commission is attempting to [dictate](#) provisions of contracts between private fund advisers and investors.
- **There is no evidence that this amendment will pass savings down to consumers.** A [report](#) from the Government Accountability Office stated that if the regulations in the Durbin amendment “had not been implemented, 65 percent of noninterest checking accounts offered by covered banks would have been free.” Since the enactment of the Durbin amendment, about 22% of [retailers](#) have raised prices on consumers while only 1% lowered prices. Additional regulation on credit interchange will affect fees and interest in the credit market, thus increasing costs for consumers.
- **Because the amendment forces credit cards to allow access to all networks, proprietary technology will be exposed to competing networks, destroying incentives to create new and innovative fraud protection and cybersecurity.** As one [paper](#) points out, the routing mandates “largely undermine the economics of networks and issuers.”
- **The amendment is a perfect example of Congress ceding its Article I authority to the Federal Reserve.** All the provisions of this amendment require the Federal Reserve to draft rules to carry out its mandates.

We also oppose the inclusion of [Senate amendment 6174](#). The amendment requires the Secretary of Defense and the Secretary of the Treasury to submit an unnecessary and redundant report to Congress on the user fees charged on credit and debit transactions at commissary stores and morale, welfare, and recreation (MWR) facilities for veterans and their caregivers. **This amendment is a Trojan horse for additional**



regulations to the credit card market.

We oppose Senate amendment 6174 for the following reasons:

- **The amendment is unnecessary and redundant because the Department of Defense, in consultation with the Treasury Department, is already conducting the oversight required in the amendment.** The [implementing regulations](#) state that “On a periodic basis, the Department plans to review with Treasury actual costs incurred by the Treasury on credit card and debit card use by individuals who are eligible solely under the statute and adjust corresponding user fees as necessary.”
- **The amendment is a political ploy to justify the eventual adoption of additional credit card regulations.**
- **The amendment makes no considerations for consumer savings, and targets banks, credit unions, and payment card networks for future regulation.** The analysis in the implementing regulations already considers the savings commissary shoppers will enjoy.

Based on the points made above, we oppose Senate amendments 6201 and 6174. **We encourage all lawmakers to oppose these amendments.**

Sincerely,

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Adam Brandon
President
FreedomWorks

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Small Business & Entrepreneurship Council

Eli Lehrer
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