

## **Debit Card Fast Facts: Debit Fees Are Set in a Broken Market**

**Fact #14: The courts have found that both Visa and MasterCard have "market power" as a legal matter which is, by definition, the ability to raise prices beyond that which could be sustained in a competitive market.**

The bottom line is that there is a clear market failure with debit card swipe fees. The failure stems from banks all agreeing to charge the same fees, which are centrally fixed by the card networks. Price-fixing among competitors in other contexts is not allowed and should not be tolerated with debit card swipe fees.

Opponents of swipe fee reform argue that interchange is a two-sided market just like newspaper or television advertising, but neither of those analogies involve price-fixing, which is what we have with debit card interchange fees. TV stations charge for advertising, but each TV station comes up with its own prices allowing advertisers to comparison shop (among stations as well as other outlets like newspapers, radio and magazines). That competition keeps prices in check, but that type of competition does not exist with debit card interchange fees.

In fact, economists with the Kansas City Federal Reserve Bank have looked at this issue more closely than anyone in this country who isn't paid by one of the interested parties in this debate and found that prices are competed up in the current backwards interchange fee market:

*“Our analyses show that as payment card markets evolve, the interchange fees increase over time. This is because a monopoly card network, besides internalizing the two-sided market externality, has the incentive to inflate the value of card transactions . . . As card service costs decline over time, the card network is able to further raise interchange fees to extract more profits out of the system.”<sup>1</sup>*

That is a clear sign of a market failure. Declining costs normally result in declining prices. That does not happen in the debit swipe fee market

The courts have also found that both Visa and MasterCard have "market power" as a legal matter which is, by definition, the ability to raise prices beyond that which could be sustained in a competitive market.<sup>2</sup> In that case, the Court found, “We agree with the district court's finding that Visa U.S.A. and MasterCard, jointly and separately, have power within the market for network services. Market power has been defined by the Supreme Court to mean the "power to control prices or exclude competition.”<sup>3</sup> The Court went on to agree with the District Court when it found that, “Visa U.S.A. and MasterCard's exclusionary rules harm competition by "reducing overall card output and available card features," as well as by decreasing network services output and stunting price competition.”<sup>4</sup> While that case was looking at the imposition of a rule by Visa and MasterCard, they impose prices in a similar way.

---

<sup>1</sup> “The Economics of Two-Sided Payment Card Markets: Pricing, Adoption and Usage,” James McAndrews and Zhu Wang, December 2008, page 25. <http://www.kansascityfed.org/PUBLICAT/reswkpap/pdf/RWP08-13.pdf>.

<sup>2</sup> See *United States v. Visa USA, Inc.*, 344 F.3d 229 (2d Cir. 2003).

<sup>3</sup> *Ibid.* Pg. 239

<sup>4</sup> *Ibid.* pg. 240