



April 16, 2008

An Open Letter to the House of Representatives: Price Controls Will Hurt Consumer Credit Availability

Dear Representative:

On behalf of the 362,000 members of the National Taxpayers Union (NTU), I urge you to vote against efforts to impose what amount to federal price controls on the consumer credit market. Specifically, the deceptively named Credit Card Fair Fee Act (H.R. 5546) would create a federally mandated panel to set prices for fees associated with credit card processing services. Approval of this bill would represent an unwarranted and massive government intrusion into the marketplace, and neither consumers nor retailers would ultimately benefit from such a drastic step.

Companies do not simply conjure products or services out of thin air like magicians. They must invest time and resources to produce their goods, which are then priced accordingly. When government steps in and arbitrarily rules that the product price must be fixed at some point other than where supply meets demand, distortions (such as shortages) result. The consumer credit industry is no different; competing networks have invested large sums in creating electronic payment processing systems that many Americans utilize every day. Deprived of the ability to fund these systems with market-priced fees, the networks – and eventually consumers and retailers – would suffer.

So-called consumer advocates have branded the market-based transaction fees that banks charge a “tax on consumers.” As a grassroots organization that has labored mightily against numerous tax-increase schemes, we find this characterization to be grossly offensive. If anyone feels that the fees charged for electronic payment processing services are too high, they are free to reject these services in favor of other payment alternatives, such as cash, checks, or money orders.

Just as these transactions are voluntary, so are those between a merchant’s bank and the credit card’s issuing bank. Indeed, many retailers choose which cards they will accept based on such fees. The card issuers must either respond to this choice by lowering transaction costs, offering a better product, or suffering a loss of market share. This is precisely the way our system is intended to function.

Contrast this arrangement with true taxes, where Americans must pay what they owe by law (and sometimes by administrative or judicial fiat) under penalty of civil fines or even imprisonment. We know of no situation where a consumer or bank executive can be locked away for deciding not to do business because of dissatisfaction with transaction costs.

The voluntary connection between willing providers and willing customers is what makes the U.S. economy so successful. Yet H.R. 5546 would put appointed judges in charge of determining the cost of processing transactions and what a “normal rate of return” or the “conditions of perfect competition” would be. This determination is better placed in the hands of the marketplace and not under the control of appointees with unknown agendas.

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This is not mere speculation. Where regulators have micromanaged the fees associated with these bank-to-bank financial transactions – such as in Australia and part of the European Union – the results have been fewer choices for consumers. Services like cash-back bonuses or no annual fees simply can't be made available to cardholders if issuers are to remain in business while delivering the returns their shareholders demand.

Unfortunately, this Congress has taken part in far too many misguided efforts to insert the federal government into the private credit market. Many longstanding credit options – ranging from subprime mortgages to refund anticipation loans to short-term loans – have been under attack from self-styled “activists” who would cut off access to products at a time when they're needed most. Surely it is not Congress's intention to extinguish private lending and credit in favor of a central, government-sponsored lending monopoly. Sensible policymaking should shun this direction.

Naturally, we regard this trend toward more government interference in business-to-business transactions as ill-advised, but even if one were to accept such a proposition, Washington is hardly in a position to effectively micromanage these markets. From its failures in the Supplemental Terrorist Activity Relief program, to the Overseas Private Investment Corporation, to the scandalous practices of Fannie Mae and Freddie Mac, the federal government is a proven “bad risk” with taxpayer dollars. As yesterday's annual report from the Office of Federal Housing Enterprise Oversight noted, there are “significant supervisory concerns” about both Fannie Mae and Freddie Mac, including insufficient “executive management depth” at the latter entity.

With a revenue stream fed by involuntary extractions (taxes), no elected or appointed government body can fully appreciate the overhead costs and risk-pricing that private entities must include in their business models. It may be difficult for Congress to avoid the “do something” temptation, but Members can best serve customers by keeping shortage-causing, price-spiking regulatory controls away from the credit market.

As a taxpayer organization, we also recognize the new public spending that would be necessary to fund the salaries and operations of a new federal panel and its attendant bureaucracy. **Should H.R. 5546 come to the House floor, NTU would consider a “no” vote to be the pro-taxpayer position in our annual Rating of Congress.**

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Sepp", with a stylized flourish at the end.

Pete Sepp

Vice President for Policy and Communications