

## MEMORANDUM

TO: U.S. Senate Committee on the Judiciary

FROM: American Economic Liberties Project

DATE: November 18, 2024

RE: Hearing on “Breaking the Visa-Mastercard Duopoly: Bringing Competition and Lower Fees to the Credit Card System”

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On November 19, 2024, the U.S. Senate Committee on the Judiciary will host a hearing entitled “Breaking the Visa-Mastercard Duopoly: Bringing Competition and Lower Fees to the Credit Card System.” As members of the Lower Credit Card Fees coalition, American Economic Liberties Project, Accountable.US, Americans for Financial Reform, Fight Corporate Monopolies, Institute for Local Self-Reliance, National Community Reinvestment Coalition, National Independent Venue Association, and U.S. Public Interest Research Group submit this memo highlighting the detrimental impact of Visa and Mastercard’s high interchange and network fees on consumers and small businesses and explaining how the Credit Card Competition Act (CCCA)<sup>1</sup> would address these harms and bring consumers much-needed relief during an affordability crisis gripping the country.

### Introduction

Visa and Mastercard dominate the credit card payment network industry. Collectively, the two control about 84% of the U.S. credit card network market.<sup>2</sup> Currently, banks who issue credit cards form exclusive deals with credit card networks whereby they make only one network available for use on each credit card the bank issues. When a credit card transaction is processed, several fees are deducted from the transaction amount including a network fee, which Visa and Mastercard retain for themselves, and an interchange fee, which is retained by the card-issuing bank and whose fee rate is centrally fixed by Visa and Mastercard on behalf of all the banks in their networks. Depending on the type of card and transaction, merchants pay between 1% to 3% in swipe fees on every credit card transaction, meaning that merchants only receive 97 to 99 cents on every dollar paid with a credit card.<sup>3</sup> According to payments analyst CMSPI, merchants paid a total of \$131 billion in fees on Visa and Mastercard credit card transactions in 2023, \$105 billion of which were interchange fees.<sup>4</sup> U.S. credit card swipe fees are the highest in the industrialized world, and Visa and Mastercard continually introduce new network fees and increase interchange rate categories on their fee schedules.<sup>5</sup> In light of this anticompetitive and lucrative system of fees, it is no surprise that Visa and Mastercard have maintained the highest operating margins among all S&P 500 companies, with 67% and 57% respectively in 2023.<sup>6</sup>

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<sup>1</sup> Congress.gov, “Text - S.1838 - 118th Congress (2023-2024): Credit Card Competition Act of 2023,” June 7, 2023, <https://www.congress.gov/bill/118th-congress/senate-bill/1838/text>.

<sup>2</sup> Poonkulali Thangavelu, “Credit card market share statistics,” July 6, 2023, <https://www.bankrate.com/credit-cards/news/credit-card-market-share-statistics/>.

<sup>3</sup> Jack Caporal, “Average Credit Card Processing Fees and Costs in 2024,” November 8, 2024, <https://www.fool.com/money/research/average-credit-card-processing-fees-costs-america/>.

<sup>4</sup> CMSPI State of the Industry Report, September 2024, <https://insights.cmspi.com/soir-2024.at> p. 19.

<sup>5</sup> Id. at p. 16.

<sup>6</sup> Peter Westberg, “Visa and Mastercard: The Global Payment Duopoly,” October 28, 2024, <https://quartr.com/insights/company-research/visa-and-mastercard-the-global-payment-duopoly>.

Swipe fees often represent one of the highest costs of business for merchants, and they are one of the only costs that merchants cannot negotiate because of Visa’s and Mastercard’s market dominance and their role in setting interchange fee rates on behalf of thousands of banks. These fees end up costing consumers in the form of higher prices for everything from groceries to gas. 2023 estimates show that the average U.S. household paid \$1,100 annually because of swipe fees, and this number is sharply increasing.<sup>7</sup>

### **Why We Support the Credit Card Competition Act**

The CCCA is a must-pass bill to curb the inflationary impact of excessive swipe fees. The legislation would enhance competition by requiring financial institutions with over \$100 billion in assets (currently 29 banks and one credit union) to offer at least two payment networks on their credit cards and one of the networks must be other than the Visa-Mastercard duopoly. Merchants will thus be able to choose between two networks when processing a credit transaction on those giant institutions’ cards, giving the networks an incentive to offer lower fees, better quality, and increased security. This competition will save both businesses and consumers money. In turn, Visa and Mastercard would be forced to innovate and compete to attract merchant business rather than collecting monopoly rents. Introducing competition is estimated to save consumers and merchants \$16.4 billion annually.<sup>8</sup>

### **Debunking Myths**

The banking and credit card industry has spent \$80 million in lobbying, \$21 million in the first half of 2024 alone, to convince lawmakers and the public that the CCCA will kill credit card rewards or somehow make credit cards less secure.<sup>9</sup> Both claims are unsupported by evidence.

Introducing competition through the CCCA is expected to affect rewards value by less than one tenth of one percent.<sup>10</sup> Ultimately, banks compete through rewards programs to attract consumers, and if the giant banks that are covered by the CCCA were to eliminate their rewards programs, smaller banks that are not covered by the bill would be able to use rewards programs to lure cardholders away from the giants. Thus, while the giant institutions have incentive to *threaten* eliminating rewards programs in order to try to stave off pro-competitive reforms, they do not have incentive to actually cut their rewards programs. Notably, in the European Union where the governments have regulated credit card swipe fees and capped the fees at 0.3%, Visa, Mastercard, and banks continue to offer credit cards, including with rewards.<sup>11</sup> It should also be noted, however, that low income and under-banked consumers, who are unlikely to have a credit card rewards program, subsidize rewards

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<sup>7</sup> Merchants Payments Coalition, “Swipe Fee Cost for Average Household Tops \$1,100,” accessed November 15, 2024, <https://merchantspaymentscoalition.com/swipe-fee-cost-average-household-tops-1100>.

<sup>8</sup> CMSPI, “Credit Card Competition Act Could Result in Annual Savings Upward of \$16.4 Billion,” October 18, 2024, <https://cmspi.com/credit-card-competition-act-could-result-in-annual-savings-upward-of-16-4-billion/>.

<sup>9</sup> Accountable.US, “Top Credit Card Issuers Visa and Mastercard Spend Millions to Block Industry Competition,” September 25, 2024, <https://accountable.us/top-credit-card-issuers-visa-and-mastercard-spend-millions-to-block-industry-competition/>.

<sup>10</sup> Convenience Store News, “New Study: Credit Card Rewards Won’t Be Lost to Swipe Fee Bill Passage,” July 23, 2023, <https://csnews.com/new-study-credit-card-rewards-wont-be-lost-swipe-fee-bill-passage>.

<sup>11</sup> L3 Payments, “Merchants and Customers Rejoice as EU Reduces Swipe Fees,” March 11, 2018, <https://l3payments.com/merchants-and-customers-rejoice-as-eu-reduces-swipe-fees/>.

programs by paying for goods inflated by swipe fees.<sup>12</sup> This is a regressive dynamic that deserves further scrutiny.

There is also no evidence to demonstrate that card security would be threatened by having two credit card networks on a card. Debit cards in the U.S. have been required to carry at least two networks since the enactment of the Durbin Amendment in 2010, and credit cards with two networks are common internationally.<sup>13</sup> Injecting competition into the credit card network market incentivizes networks to increase security. For example, only after the Durbin Amendment passed and debit card issuers had to offer two networks did Visa and Mastercard begin offering [end-to-end encryption](#) like many of the small debit payment networks.<sup>14</sup> Without meaningful competition, Visa and Mastercard can delay or outright neglect features that improve security. In addition, having access to multiple networks avoids a single point of failure in the case of network outages.

### **U.S. v. Visa**

On September 24, 2024, the Department of Justice Antitrust Division sued Visa for unlawfully maintaining a monopoly over the debit card payment processing network and for using anticompetitive practices to preserve its dominance.<sup>15</sup> Among its claims, the lawsuit alleges that Visa engaged in predatory pricing and exclusionary practices to steer merchants away from using other networks and to prevent potential competitors from entering the debit market. Potential market entrants such as PayPal, Square, and Apple offered new, less costly technology which would have threatened Visa's market dominance in debit, but Visa co-opted these competitors using a playbook of big payoffs and predatory fees.<sup>16</sup> While DOJ's lawsuit is specific to the debit market (because Congress had passed a law requiring a baseline level of debit network competition and Visa tried to circumvent that law), Visa is likely engaging in similar predatory conduct in the credit card market where they currently face limited regulation. The DOJ lawsuit shows that pro-competitive reform is needed for the credit card market as well.

### **Conclusion**

Today, American businesses are charged the highest swipe fees in the industrialized world, and the fees inflate the prices that all consumers pay. Visa and Mastercard charge these fees with impunity. Indeed, during 2022 in back-to-back earnings calls, Visa's CEO and CFO said that inflation benefits their company.<sup>17</sup> In an era of increased prices, this status quo is unsustainable. This past election

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<sup>12</sup> New York Times, "The Dirty Little Secret of Credit Card Rewards Programs," March 4, 2023, <https://www.nytimes.com/2023/03/04/opinion/credit-card-rewards-points-poor-interchange-fees.html>.

<sup>13</sup> See., e.g., Reuters, "JPMorgan Joins France's Payments Network CB to Skirt Visa, Mastercard," March 5, 2024, <https://money.usnews.com/investing/news/articles/2024-03-05/jpmorgan-joins-frances-payments-network-cb-to-skirt-visa-mastercard>,

<sup>14</sup> Merchants Payments Coalition, "Credit Card Competition Act: Myths & Facts," accessed November 15, 2024, <https://merchantspaymentscoalition.com/credit-card-competition-act-myths-facts>.

<sup>15</sup> United States of America v. Visa Inc., United States District Court for the Southern District of New York, September 9, 2024, 1:24-cv-07214, <https://www.justice.gov/opa/media/1370421/dl>.

<sup>16</sup> AnnaMaria Andriotis, "Visa Wanted a Vast Empire. First, It Had to Beat Back Its Foes.," Wall Street Journal, October 19, 2024, <https://www.wsj.com/finance/banking/visa-wanted-a-vast-empire-first-it-had-to-beat-back-its-foes-3b3067f3>.

<sup>17</sup> Logan Kane, "Visa: A Great Business, But Wait for a Pullback," Seeking Alpha (April 26, 2022) available at <https://seekingalpha.com/article/4503588-visa-great-business-wait-for-pullback>; "Visa (V) Q2 Earnings Call Transcript," Motley Fool Transcribing (April 27, 2022) available at <https://www.fool.com/earnings/call-transcripts/2022/04/27/visa-v-q2-2022-earnings-call-transcript/>

demonstrated the American public's hunger for real action on issues that impact their spending power. The CCCA is legislation that tackles these high prices head on, which is why the Lower Credit Card Fees coalition, which includes a broad base of advocacy groups including pro-competitive organizations, consumer advocacy groups, labor unions, and corporate accountability groups support the bill. Any suggestion that this bill is only to benefit "big business" is a gross misrepresentation. The credit card companies' way of doing business adds to inflation and undermines peoples' attempts to stay afloat or get ahead. The CCCA is a small compromise Visa and Mastercard must make, but the payoff will benefit small businesses and hardworking Americans everywhere.

Sincerely,

Accountable.US  
American Economic Liberties Project  
Americans for Financial Reform  
Fight Corporate Monopolies  
Institute for Local Self-Reliance  
National Community Reinvestment Coalition  
National Independent Venue Association  
U.S. Public Interest Research Group