

Re: Credit Card Competition Act of 2023

Dear Members of Congress:

We, the undersigned organizations and individuals, oppose the inaccurately named [Credit Card Competition Act of 2023](#) (S. 1838 and H.R. 3881). The bill is an extension and expansion of the big-government regulations enacted in the [Dodd-Frank Wall Street Reform and Consumer Protection Act](#) (P.L. 111-203).

Lawmakers should staunchly oppose this bill.

As written, the bill 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 bill, 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 bill also mandates that the proprietary security of the credit cards function so that all networks are available for large retailers to pick and choose—consumers get no say whatsoever. The incentives for developing any new card security will be destroyed since the bill mandates networks give the technology away for free. The bill also never mentions consumers, nor how they will benefit.

It is abundantly clear that special interest groups representing woke corporations are using the federal government to alter the credit card market to benefit themselves and not consumers. This is textbook rent seeking behavior that is anathema to free market principles.

Furthermore, we oppose the Credit Card Competition Act for the following reasons:

- **The bill 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 bill could cost up to [\\$5 billion](#). This “competition” bill also excludes three-party model networks, such as American Express and Discover. Conveniently, Discover is based in Sen. Dick Durbin’s (D-Ill.) home state of Illinois.





- **The mandates in the bill are so costly that more than \$75 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 disappearance of rewards could also harm [minority communities](#) and small businesses.
- **The bill 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 community 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 bill 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 bill 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 bill does not resolve the issue of applying merchant category codes to firearm sales.** There is state legislation that has already been enacted, such as in [Florida](#), to prohibit financial firms and the government from surveilling purchases of firearms. **However, the Credit Card Competition Act will do nothing to solve this issue.** Congress should instead mimic the currently existing state legislation or examine why the International Organization for Standardization (ISO) is able to circumvent our elected representatives and impose requirements on American companies that could be put at a competitive disadvantage to foreign competitors. ISO, like the [Basel Committee on Banking Supervision](#), possesses no supranational authority or legal force in the United States.



- **The bill does not ban China UnionPay or other state-owned payment card networks from operating in the U.S.** Rather, the bill tells the Federal Reserve to “establish a public list” of payment card networks that “pose a risk to the national security of the United States” or is “owned, operated, or sponsored by a foreign state entity.” Drafting a list of payment networks owned and operated by totalitarian regimes is a far cry from a bill that explicitly bans these payment card networks.
- **The bill is a perfect example of Congress ceding its Article I authority to the Federal Reserve.** All the provisions of this bill require the Federal Reserve to draft rules to carry out its mandates. The Federal Reserve does not receive Congressional appropriations—it is self-funded by earning interest through its open market operations. This makes the Federal Reserve, and any rules it issues, less accountable to Congress. The bill would pass once, but as we have seen with debit card regulation, the Federal Reserve would [regulate](#) multiple times over, potentially decades into the future.

Based on the points made above, we oppose the Credit Card Competition Act.
We encourage all lawmakers to oppose this bill.

Sincerely,

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Executive Director
Advancing American Freedom

Brent Wm. Gardner
Chief Government Affairs Officer
Americans for Prosperity

Dick Patten
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American Business Defense Foundation

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