

Senate Gives Strong Support to Positions Taken by the *StopStickingItToUs* Coalition

1. Debit Cards

What the *StopStickingItToUs* Coalition recommended on debit cards;

- Support restructuring of the Interac system, as long as the fees charged reflect the true costs of the transaction and that a percentage fee is not adopted;
- If VISA and MasterCard choose to enter the debit market in Canada, that it be on a flat-fee basis only and that they be precluded from implementing the interchange percentage model; and
- Prohibit priority routing on dual-branded debit cards, i.e., those that are enabled for both the credit card company's own system plus Interac's

What the Senate Committee has proposed (at page 32):

Require the calculation of switch and interchange fees on the basis of a flat fee for debit card transactions (i.e., percentage fees would not be allowed);

Set the interchange fee at zero for a period of three years for all debit card transactions; and

Prohibit priority routing in order that cardholders are able to select, at the point of sale, their preferred payment method when using a co-badged card.

What does all this mean to merchants and consumers?

First, under the Committee's proposals, there would be no percentage fees on debit cards as there are today on credit cards. The Committee has strongly supported our view that there is simply no justification for a percentage fee being charged when all that is happening in a debit transaction is a customer accessing their own money from their bank account.

Second, the interchange fee on debit would continue to be \$0.00 for at least the next three years.

Third, neither VISA/MasterCard nor processors would be able to establish priority routing that would favour their debit card system over Interac's. That choice would be left to the consumer at the point of sale.

2. Credit Cards at Point of Sale

What the *StopStickingItToUs* Coalition recommended on credit cards at point of sale;

- Prohibit “honour all cards” rules that require acceptance of premium cards or that a merchant accept both a credit card issuer’s credit *and* debit cards
- Merchants be allowed to steer consumers to less expensive payment options at the point of sale, including less expensive (i.e., non-premium) cards

What the Senate Committee has proposed in its report re point of sale (at page 23):

prohibit any “honour-all-cards” rules, including those that require merchants to accept a network operator’s higher-cost premium cards and those that link credit card and debit card merchant acceptance. (page 23)

permit merchants to inform customers about relatively lower-cost payment methods; and

permit surcharging and/or discounting by merchants;

What does all this mean to merchants and consumers?

First, the “honour all cards” rules that Visa/MasterCard imposes today through merchant contracts with processors would be abolished. Merchants would be free to accept or reject any of Visa’s/Mastercard’s offerings, including high-fee premium cards and would also be free to decline to accept Maestro or Visa Debit should they choose to do so even where they choose to accept Visa or MasterCard credit cards.

Merchants would be permitted to suggest lower-cost payment methods to consumers and would have the right to offer discounts or surcharges in keeping with the varied costs of different methods of payment.

Though this certainly gives more discretion to merchants and will put downward pressure on fees, use of these tools may not be practicable in all circumstances, so we will continue to push for greater oversight both through the review process outlined below and in the ongoing Competition Bureau investigation of Visa and MasterCard for abuse of dominant position

Credit Card Company Oversight

What the *StopStickingItToUs* Coalition recommended on credit card company oversight;

- The government consider a regime similar to the one adopted by the government of Australia to govern interchange rates charged by credit cards; and
- Increase transparency for merchants and consumers as it relates to the fees charged
- If Visa and MasterCard are to enter the debit card market, that they be required to comply with Canada's system of protection for access to consumer bank accounts, including:
 - Designation under the *Canadian Payments Act*
 - Compliance with the rules of the Canadian Payments Association
 - Participation in and compliance with the Canadian Code of Practice for Consumer Debit Card Services

What the Senate Committee has proposed in its report (at pages 20 and 32):

The federal government appoint an “oversight board”, within an existing federal organization, that would consult with participants from Canada’s credit card and debit card payment systems as well as relevant federal stakeholders.

The proposed oversight board’s mandate should be to:

- **make recommendations, by 31 December 2009, on any regulatory or legislative measures that it considers to be required to ensure fairness for participants in the credit card and debit card payment systems;**
- **monitor and publish annually information on trends in interchange, switch, merchant and other associated payment systems fees; and**
- **establish a code of conduct for payment systems participants and practices for setting fees and rates, in respect of which it should ensure compliance.**

The Minister of Finance should also deem Interac, Visa and MasterCard as designated payment systems under the *Canadian Payments Act* if he or she believes that this action is necessary to promote the efficiency and competitiveness of payment systems in Canada, i.e., a level playing field

What does all this mean to merchants and consumers?

Though the Committee did not move directly to a price-control regime for credit cards, it has taken a number of very positive steps. First, before the end of the year, a full review would be completed to ensure fair practices credit (and debit) card systems, with recommendations for necessary rules or regulations.

Second, far better disclosure would be required of credit card companies and of processors with respect to interchange fees, switch fees, merchant fees and other fees within the payments system.

Third, as we have demanded, a code of conduct would be established to which credit card companies, banks and processors would be required to adhere.

Fourth, we have been very concerned about the unregulated nature of the multinationals Visa and MasterCard when compared to Canadian entities like Interac. The recommendation to the Minister of Finance to “designate” the Visa and Mastercard payments systems would bring them into the Canadian fold and give the Minister and the Canadian Payments Association the ability to set rules under which they would be required to operate.

When combined with the ongoing Competition Bureau investigation of Visa and MasterCard for abuse of dominant position, these measures bode very well for a fairer regime for credit cards and that the threat to our debit card market will be averted.

Overall, it is vitally important that we as a coalition support the fine work done by the Senate Committee and presented in this unanimous, non-partisan report. The Committee has adopted a great many of the recommendations that we put forward and we now need to speak with one voice to urge the government to accept these recommendations.