From: Think Computer Corporation, Aaron J. Greenspan

Subject: Reg I I - Debit card Interchange

Comments:

Date: Jan 22, 2011

Proposal: Regulation II - Debit Card Interchange Fees and Routing
Document ID: R-1404
Document Version: 1
Release Date: 12/16/2010
Name: Aaron J Greenspan
Affiliation: Think Computer Corporation
Category of Affiliation: Commercial
Address:
City:
State:
Country:
Zip:
PostalCode:

Comments:

I represent Think Computer Corporation, a Silicon Valley startup that is developing a mobile payment system called FaceCash (http:/ /ww w. facecash.com). One of the many benefits of the product we are developing is a unique ability to undercut traditional interchange fees, because with FaceCash we essentially control the entire payment process from end to end. It is an unfortunate reality that the large banks that dominate the plastic payment card industry have abused their position for some time now, and so merchants of all sizes are faced with a plethora of confusing and expensive fees that cut into their profits. While the market would usually solve such a problem on its own through competition, these same banks have succeeded at erecting significant anti-competitive barriers to entry in the payments space that have gone largely, if not completely, unexamined. State money transmission laws specifically greatly restrict the ability of new players in the space from gaining any sort of foothold, and the regulations involved are byzantine as any. For example, the State of Hawaii requires a surety bond of $1,000 to obtain a license (it didn't used to until its laws changed in 2007), but the State of Pennsylvania requires a surety bond of $1 million--effectively a 1,000x difference in price for the same exact type of license! In general, starting a new payments company requires about $10 million of capital before any product development work even begins--which is one of the reasons why there haven't been very many competitors in the payments industry over the years. As anti-terrorism laws such as the USA PATRIOT Act have increased the criminal penalties for illegal money transmission in the United States, the disincentives to compete have also grown. In a perfect world where Money Services Businesses (MSBs) were regulated by a simple, comprehensive federal framework for the rational and important purpose of preventing fraud, companies such as my own would have no problem at all putting pressure on Visa and MasterCard to lower their interchange rates for credit and debit. We already significantly undercut their complex pricing with a simple transaction fee of

1.5% flat, no monthly fees, no authorization fees, and no other surcharges. For a typical small restaurant, the aggregate savings of our rate structure amounts to an 80% decrease in total fees relative to an average merchant's plastic card processing fee structure. The only problem is that because of the insane money transmitter laws in this country, we can't do business (without considerable regulatory headache) in Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming--or Washington, D.C. That leaves us a few disconnected states where we can try to make an impact, but it's hard to convince customers to sign up for a new payment network that doesn't work in four out of five states because it might send them to jail. In summary, regulating the actual price of transactions by imposing a ceiling is a blunt way to enforce fairness that has the potential serious downside of restricting the benefits that might be derived from developing competing technologies that would send the banks scurrying to lower their prices anyway. A much better and more thoughtful approach would be for the Federal Reserve to recommend to Congress to consolidate, simplify and overhaul the money transmission laws in this country so that more innovative companies with more efficient cost structures can compete the way they should be allowed to in the first place. Furthermore, if a ceiling is imposed on
transaction fees, it is likely to inadvertently affect smaller banks (under the statutory $10 billion asset threshold) and alternative payment systems. Clearly something needs to be done to help consumers and small businesses, but there are much better ways to go about achieving the desired result, which is a more efficient payment system for all.