Unreasonable and Disproportionate: How the Durbin Amendment Harms Poorer Americans and Small Businesses

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Summary

(FULL PAPER AVAILABLE AT HTTP://LAWECONCENTER.ORG/IMAGES/ARTICLES/ICLE-DURBIN_UPDATE_2017_FINAL.PDF)

Introduced as part of the Dodd-Frank Act in 2010, the Durbin Amendment — named after its main sponsor, Senator Richard Durbin — sought to reduce the interchange fees assessed by large banks on each debit card transaction. The Durbin Amendment was hailed by proponents as a victory for merchants and consumers. In the words of Sen. Durbin, the Amendment aspired to help "every single Main Street business that accepts debit cards keep more of their money, which is a savings they can pass on to their consumers."

In a 2014 analysis, we found that although the Durbin Amendment had generated benefits for large-box retailers, it had harmed many other merchants, especially those specializing in small-ticket items, and imposed substantial net costs on the majority of consumers, especially those from lower-income households.

In this study, we find that the passage of time has not ameliorated the harm to bank customers from the Durbin Amendment; to the contrary, earlier adverse trends have solidified or worsened. Nor do we find any indication that matters have improved for small merchants or retail consumers: Although large merchants continue to reap a Durbin Amendment windfall, there remains no evidence that small merchants have realized any cost savings — indeed, many have suffered cost *increases*. Nor is there any evidence that merchants have lowered prices for retail consumers; for many small-ticket items, in fact, prices have been driven up.

Finally, we identify a new trend that was not apparent when we examined the data three years ago: Contrary to our findings then, the two-tier system of interchange fee regulation (which exempts issuing banks with under $10 billion in assets) no longer appears to be protecting smaller banks from the Durbin Amendment's adverse effects.

In sum:

- The evidence presented in this paper contradicts the claim that the costs resulting from the Durbin Amendment have been offset by merchants charging lower prices. Indeed, the majority of consumers — and especially those with lower incomes — have experienced higher prices overall.
- Millions of households, regardless of income level, have been adversely affected by the Durbin Amendment through higher costs for bank accounts and related services. Most troublingly, this has hit lower-income households the hardest. Hundreds of thousands of low-income households have chosen (or been forced) to exit the banking system, with the result that they face higher costs, difficulty obtaining credit, and complications receiving and making payments.
- That a forced reduction in interchange fees would result in higher bank fees for consumers is a matter of basic economics. Retail banking in the United States is a highly competitive industry and there is no evidence of supra-normal profitability for retail banks. As such and over time, cost increases or revenue reductions will be passed on to bank customers in the form of higher bank fees or reduced services. It was simply inevitable that the removal of billions of dollars in interchange fee revenue would ultimately result in higher costs for bank consumers.
- For some higher-income households the costs are likely mitigated by their ability to avoid checking account fees and to switch to credit cards. For both lower-income and higher-income households these costs may have been further offset, to some extent, by slightly lower prices at some merchants. But for lower-income households in particular, these possible offsets are either inaccessible or too small to make much difference. For them the Durbin Amendment has, on net, unequivocally imposed more costs than benefits.
- The Durbin Amendment has also served to increase costs for some smaller retailers and sellers of small-ticket items. Among those most adversely affected have been grocery stores, fast food outlets and similar establishments, a significant proportion of which have *raised* prices since the Amendment was implemented. Again, these effects hit low-income households the hardest.

In short, our findings in this report echo and reinforce our findings from 2014: Relative to the period before the Durbin Amendment, almost every segment of the interrelated retail, banking and consumer finance markets has been made worse off as a result of it. The Durbin Amendment appears on net to be hurting consumers and small businesses, especially low-income consumers, while providing little but speculative benefits to anyone but large retailers. Moreover, the regulation is starting to affect community banks and credit unions, as well, which can little afford the loss of revenue.

The Durbin experiment has proven a failure, and the price caps that it imposed should be removed.