

Supreme Court Ends Merchant Legal Battle to Increase Price Caps Windfall

Coalition of Financial Services Associations Notes Damage to Consumers Caused by Fed Rule

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Washington, D.C. – January 20, 2015 – Today, a coalition of financial services industry associations welcomed the U.S. Supreme Court decision not to disturb the court of appeals decision in *NACS v. Board of Governors of the Federal Reserve System*. The court of appeals previously rejected the retailers' efforts to increase further the \$6 billion annual windfall they secured with the promulgation of the Fed's interchange price cap rule pursuant to the Durbin Amendment.

"We shouldn't lose sight of the fact that the Durbin price caps and the Fed's interpretation do absolutely nothing to lower prices, while harming consumers and handing billions of dollars to the biggest merchants," said Paul Saltzman, President of The Clearing House Association. "Despite the merchants' promises, there is zero evidence that they have lowered prices as a result of the Fed's rule."

"While there is technically an exemption for certain financial institutions, community banks and their customers will be hurt by the Durbin amendment's price controls," said Camden R. Fine, president and CEO of the Independent Community Bankers of America. "Price controls are not the answer, and further proof of that lies in the \$6 billion windfall that retailers are lining their pockets with at the expense of America's consumers."

"The Supreme Court has reached the right result today, but we shouldn't lose sight of the fact that the underlying policy – the Durbin Amendment – has not accomplished its goal of lowering prices for consumers," said American Bankers Association President and CEO Frank Keating. "The Durbin Amendment has significantly harmed consumers and financial institutions. At the end of the day, American consumers have paid the price for the efforts of big-box retailers to line their pockets at their own customers' expense."

"The Supreme Court made the correct decision for credit unions and consumers today when it refused to hear this case," said Jim Nussle, President and CEO of the Credit Union National Association. "The Fed's rules aren't perfect for credit unions – but after years of fighting, we appreciate the ability to move forward."

“Reasonable minds have prevailed in denying a writ of certiorari. Government mandated price controls, known as the Durbin Amendment, have yet to work as advertised and retailers still have not proved savings have been passed on to consumers,” said Richard Hunt, President & CEO of the Consumer Bankers Association. “Make no mistake about it – consumers must come first in this process, not the bottom-line of retailers. This drawn-out fight should put on notice those Members of Congress who insist upon interfering with the free market.”

“Today’s decision recognizes the weakness of the merchant’s arguments that sought to deprive financial institutions of even the nominal return that is allowed under the Fed’s interchange rule,” said Richard Foster, Financial Services Roundtables’ Vice President & Senior Counsel for Regulatory and Legal Affairs.

“NAFCU is pleased the Supreme Court will not reconsider the court of appeals decision in *NACS v. Board of Governors of the Federal Reserve*. This will help maintain stability in the marketplace, which is good for consumers and credit union members,” said National Association of Federal Credit Unions (NAFCU) Senior Vice President of Government Affairs and General Counsel Carrie Hunt. “NAFCU remains concerned that the current interchange cap imposes below-cost caps on interchange fees and fails to provide for a reasonable return for credit unions. NAFCU will continue to vigorously support a fair interchange fee for credit unions.

“The merchants, who had initiated a multi-year lobbying effort to impose price controls, sued the Federal Reserve Board in an effort to lower the Board’s caps even further. While the merchants have argued that consumers would benefit from lower retail prices, there is no evidence that prices have come down as a result. The trade associations filed friend-of-the-court briefs before both the district court and court of appeals, and participated in oral arguments in both courts, arguing that even the Federal Reserve’s price caps did not allow card issuers to cover their costs while receiving a reasonable return on their investments.

The coalition includes: Credit Union National Association; Independent Community Bankers of America; National Association of Federal Credit Unions; National Bankers Association; Midsize Bank Coalition of America; Consumer Bankers Association; The Clearing House Association; American Bankers Association; and The Financial Services Roundtable.