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THE CHANGING LANDSCAPE OF INTERCHANGE FEES AND SURCHARGES

The authors provide an overview of the ongoing credit card interchange fee litigation and recent federal and state legislation that seeks *to lower interchange fees. The authors also discuss state laws that restrict merchants from passing these fees on to consumers and concerns about the constitutionality and practical application of these laws.*

By Matthew C. Luzadder and Alla M. Taher *

When a customer makes a purchase using a credit card, either online or in person, a small percentage of the transaction compensates the payment processors, credit card networks, card-issuing banks, and acquiring banks involved in the transaction. These fees collectively called "swipe fees" have an average range between 1.5% to more than 3.5% per transaction. Typically, the merchant pays the fees, however merchants may choose to pass these costs to the consumer through higher prices, offering discounts for non-credit card payments, or by surcharging customers for credit card payments.

Regulators, consumers and politicians are increasingly scrutinizing payment processing fees, sparking a wave of restrictions on surcharges and fees. In addition, the courts have waded into the controversy, rejected proposed class action settlements that would lower interchange rates as inadequate, while also holding that state statutes that prohibit merchants from surcharging customers are unconstitutional. These developments present challenges to those seeking to navigate the electronic payments landscape.

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OVERVIEW OF ELECTRONIC PAYMENTS INFRASTRUCTURE AND FEES

When a customer uses their credit card, their card information is transmitted through the merchant's point-of-sale terminal to the appropriate credit card network via a payment processor. The credit card network requests authorization from the cardholder's issuing bank which verifies the cardholder's account for available credit and possible security concerns, such as potential fraud. Approval is relayed back to the merchant by the credit card network through the payment processor, allowing the merchant to then complete the transaction.[1]

[1] Andrew Scott, *How the Credit Card Competition Act of 2023 Could Affect Consumers, Merchants, and Banks*, CONG. RES. SERV. (Dec. 13, 2023), https://crsreports.congress.gov/product/pdf/IF/IF12548.

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The largest credit card networks, Visa and Mastercard, coordinate with the issuing bank to transfer funds from the cardholder to the merchant. Visa and Mastercard partner with other banks and financial institutions to issue credit cards. American Express and Discover may offer card products through independent issuers, but they also issue their own cards. The card-issuing bank deducts an interchange fee from the amount it pays the acquiring bank which transfers the funds to the merchant's account, minus the interchange fees. Interchange fees, set by card networks to attract issuing banks, compensate the cardholder's bank (issuing bank) for risk, maintenance, security, and rewards programs. Interchange fees vary by the type of card used and whether the card is swiped or tapped, keyed in, or processed remotely. Fees are typically higher for card-not-present transactions as they are more susceptible to fraud.

A small portion also goes to the cardholder's or acquiring bank and is called the acquirer's markup.[2] Card networks charge their own fees, known as assessment fees, for access to the network, which average around 0.1% to 0.2% of a transaction paid directly to the network.[3] Payment processors also charge fees to facilitate the transaction, which could include per-transaction fees, flat fees, equipment lease fees, statement fees, and monthly service fees. Together, these form the Merchant Discount Rate ("MDR") or "swipe fee" per transaction charged to merchants. Interchange fees form the lion's share of MDR.[4] Unlike interchange and assessment fees, merchants have the most negotiating power over payment processing fees, as they are not set by the credit card networks.

ONGOING PAYMENT CARD INTERCHANGE FEE AND MERCHANT DISCOUNT ANTITRUST LITIGATION

Merchants have long complained that credit card networks Visa and Mastercard's rules are anti-competitive and the interchange fees are excessive because of lack of meaningful competition. Since 2005, merchants who accept(ed) Visa and Mastercard branded cards have been engaged in litigation over interchange fees. In the long running matter of *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation,* plaintiff merchants and trade associations filed a class-action lawsuit in the U.S. District Court for the Easter District of New York ("EDNY District Court") against Visa, Mastercard, and other financial institutions alleging that the companies violated anti-trust laws by colluding among each other to charge high interchange fees on merchants. Plaintiffs specifically challenged the "anti-steering" rules, including rules that restricted surcharges and prevented merchants from steering customers to choose one type of payment over another by charging different prices at the point of sale depending on payment type.[5] Plaintiffs claimed that the challenged rules, in combination with the "default interchange fee" that "applies to every transaction on the network (unless the merchant and issuing bank have entered into a separate agreement)[,] . . . allow the issuing banks to impose an artificially inflated interchange fee that merchants have little choice but to accept."[6] Although Visa and Mastercard have changed their rules to allow discounts and surcharging, merchants are still prohibited from offering discounts to cardholders for using the cards issued by particular banks;[7] for example, providing a 2% discount for Chase credit cardholders compared to no discount for Capital One cardholders.

[2] Ketharaman Swaminathan, *Credit Card Primer – Interchange, MDR & Surcharge,* GTM360 BLOG (Oct. 25, 2023), https://gtm360.com/blog/2023/10/25/credit-card-primer-interchange-mdr-surcharge/.

[3] Andrew Scott, *Merchant Discount, Interchange, and Other Transaction Fees in the Retail Electronic Payment System*, CONG. RES. SERV. (Aug. 6, 2021), https://crsreports.congress.gov/product/pdf/IF/IF11893/2.

[4] *Id.*

[5] *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 827 F.3d 223, 228 (2d Cir. 2016).

[6] *Id.* at 228-29.

[7] *In re Payment Card Interchange Fee & Merchant Discount Antitrust Litig.*, 2024 WL 3236614, at *5 (E.D.N.Y. June 28, 2024).

After several years and many rounds of settlement negotiations, in 2019, the EDNY District Court approved a partial settlement for $5.5 billion in damages, and the U.S. Court of Appeals for the Second Circuit affirmed the settlement agreement.[8] Despite the Second Circuit affirming the 2019 Settlement, in 2024, the EDNY District Court denied the most recent preliminary settlement agreement which, if approved, would have required rule changes and lower nationwide interchange fees.[9] Visa and Mastercard would have been required to pay indirect relief to merchants worth up to $30 billion over five years through reduced interchange fees.[10] Rule changes would also allow selective discounts or benefits for payments made using cards issued by some banks and not others.[11] In addition to the required reduction of all posted interchange rates by four basis points for at least three years, the settlement outlined a process for establishing and maintaining an "average effective rate limit" for all domestic card transactions which would have been seven basis points lower than the combined system-wide volume-weighted average interchange rate for Visa and Mastercard credit cards during the five-year period covered by the settlement.[12] For five years following the effective date of the settlement, Visa and Mastercard would be unable to increase any of their posted rates above their posted rates on December 31, 2023.[13] The settlement included a release provision that would release Visa and Mastercard from Antitrust claims for five years regardless of class members' objection to the settlement and whether or not members seek to benefit from it.[14]

The EDNY District Court did not approve the settlement, finding that Defendants (Visa, Mastercard, and other financial institutions) could withstand a substantially greater judgment, given that the interchange fee reductions were inadequate compared to expert estimates of competitive rates and rates in comparable countries.[15] The court found that the settlement inequitably benefitted smaller merchants at the expense of large ones, and that the release would likely violate the due process of future members who come into existence and join the class between the deadline.[16] To illustrate how plaintiffs have an opportunity to gain better concessions, the court explained that the interchange fees merchants paid were over $100 billion in 2023 for Visa and Mastercard transactions, compared to the $6 billion annual benefit that plaintiffs would receive from the current settlement.[17] Although the timeline for the resolution of the case is unclear, it appears that interchange fee cuts and further rule changes are likely, as the courts consider what is an equitable resolution of the now nearly two decades-old case.

WORK TO LOWER DEBIT CARD INTERCHANGE FEES

Debit card interchange fees, on the other hand, are currently federally capped at 0.05% plus 21 cents per transaction for institutions with more than $10 billion in assets under Regulation II, known as the Durbin Amendment, as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act passed in 2011.[18] However, these caps have been challenged. For example, in 2024, in *Corner Post, Inc. v. Board of Governors of The Federal Reserve System*, the United States Supreme Court ruled in favor of a merchant retailer challenging debit card swipe fees, allowing the lawsuit to proceed despite claims by the Federal Reserve Board that the lawsuit was untimely.[19] The law requires the Federal Reserve Board ensure that debit card interchange fees are "reasonable and proportional to the cost incurred by the issuer with respect to the transaction."[20] In *Corner Post*, the merchant argued that the interchange fees currently under Regulation II are unlawful on grounds that they are higher than the law

[8] *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, 2019 WL 6875472, at *36 (E.D.N.Y. Dec. 16, 2019), *aff'd sub nom. Fikes Wholesale, Inc. v. HSBC Bank USA, N.A.*, 62 F.4th 704, 712 (2d Cir. 2023).

[9] *In re Payment Card Interchange Fee & Merchant Discount Antitrust Litig.*, 2024 WL 3236614 (E.D.N.Y. June 28, 2024).

[10] *Id.* at *1.

[11] *Id.* at *6.

[12] *Id.* at *8.

[13] *Id.* at *9.

[14] *Id.*

[15] *Id.* at *41.

[16] *Id.* at *35.

[17] *Id.* at *41.

[18] Debit Card Interchange Fees and Routing, 12 CFR Part 235 (2011), authority: 15 U.S.C. § 1693o-2.

[19] *Corner Post, Inc. v. Bd. of Governors of Fed. Rsrv. Sys.*, 144 S. Ct. 2440, 2443 (2024).

[20] 15 U.S.C. §1693o–2(a)(3)(A).

permits.[21] The lower courts dismissed the lawsuit as time-barred under 28 U.S.C. § 2401(a), which provides a default six-year statute of limitations applicable to suits against the United States.[22] However, the Supreme Court held that a claim does not "accrue" for purposes of Section 2401(a)'s six-year statute of limitations until the plaintiff is injured by final agency action, allowing the lawsuit to proceed.[23] The case has been remanded to the United States District Court for the District of North Dakota and a summary judgment briefing is underway.

This is not to say that the Board of Governors of The Federal Reserve System hasn't considered lowering debit card interchange fees. In 2023, the Federal Reserve Board issued a proposed rule lowering the debit card interchange fee cap *ad valorem* from 0.05% plus 21 cents per transaction to 0.04% plus 14 cents per transaction.[24] The rule supplies provisions to revisit interchange fee cap every other year. While it hasn't been enacted, the proposed Federal rule and *Corner Post* litigation demonstrate the pressure to reduce debit card interchange fees. As with the *Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, it appears likely that the courts will have a hand in deciding debit card interchange fees.

CREDIT CARD COMPETITION ACT OF 2023

Congress is also considering ways to decrease interchange fees. The Credit Card Competition Act of 2023 ("CCCA"),[25] first introduced in Congress in 2022, is described by its sponsors, Senators Dick Durbin (D-Ill.) and Roger Marshall (R-Kan.), as encouraging "competition in electronic credit transactions." A bipartisan group of Representatives simultaneously introduced the CCCA in the House.[26] The CCCA would prohibit "covered credit card issuers," defined as issuers with assets over $100 billion, from restricting the number of networks on which electronic credit card transactions may be processed.[27] Issuers would have to provide at least two unaffiliated network choices, at least one of which must be outside of the top two largest networks.[28] The restriction presumably means that the issuers would have to choose either Visa or Mastercard, and a second credit card network. Merchants accepting a covered credit card issuer's credit cards may choose which of the two credit card networks will process the transactions — likely the network with the lower interchange fees.

Additionally, credit card issuers would not be allowed to limit routing electronic credit transactions. This includes imposing penalties on merchants for failing to "ensure that a certain number, or aggregate dollar amount, of electronic credit transactions are handled by a particular payment card network."[29] The expected October 2023 vote on the bill was delayed due to other legislative priorities and it appears that the CCCA may fail to move forward once again as the 118th Congress continues to focus on other bills. However, just as Senator Durbin was tenacious in the 2010 passage of the amendment that now bears his name, the CCCA is likely to be reintroduced in the 119th Congress.

STATES TAKE ACTION ON INTERCHANGE

Before the U.S. presidential candidates proposed "no tax on tips," several states were considering prohibiting the collection of interchange fees on gratuities, as well as taxes collected by merchants on behalf of the government. Illinois enacted the first-of-its-kind legislation targeting the collection interchange fees on tax and gratuities. Governor J.B. Pritzker signed a budget bill which contained the provisions of the Illinois' Interchange Fee Prohibition Act ("IFPA").[30] The IFPA prohibits the collection of interchange fees or swipe fees, on any sales taxes, excise taxes, and gratuities included in a consumer's debit or credit card transactions "if the merchant informs the acquirer bank or its designee of the tax or gratuity amount as part of the authorization or settlement process for the electronic payment transaction."[31] If this legislation stands up to

[21] *Id.* at 2448.

[22] *Id.* at 2448-29 (citing 28 U.S.C. § 2401(a)).

[23] *Id.* at 2460.

[24] Debit Card Interchange Fees and Routing, 88 Fed. Reg. 78100 (proposed Nov. 14, 2023) (to be codified at 12 CFR pt. 235).

[25] Credit Card Competition Act of 2023, S. 1838, 118th Cong. (2023).

[26] Credit Card Competition Act of 2023, H.R. 3881, 118th Cong. (2023).

[27] *Id.*

[28] *Id.* (NYCE, Star, and Shazam are examples of unaffiliated independent networks).

[29] Credit Card Competition Act of 2023, S. 1838, 118th Cong. § Section 2, (a)(2)(b)(ii)(II) (2023).

[30] Interchange Fee Prohibition Act, 815 ILCS 151/150(a) (eff. July 1, 2025).

[31] 815 ILCS 151/150-10(a).

recent court challenges, it will also be unlawful for issuers, networks, acquiring banks, and processors to increase the interchange rate or amount of fees applicable to the credit or debit transaction to circumvent the law.[32]

The IFPA poses a host of challenges for payment processors, banks, and small businesses alike. Payment processors will need to separately process the tax and gratuity portions of a transaction for free. From a practical standpoint, existing payment systems are not designed to distinguish between the base price, tax, and tip components of transactions, potentially forcing payment processors to significantly overhaul systems, which may be costly and not possible before the law comes into effect starting July 1, 2025.[33] Additional operational difficulties will arise if the merchant avails itself of the section of the law that allows it to submit documentation to the acquirer bank or its designee" up to 180 days after the date of transaction in order to receive a credit for the amount of the interchange fees charged on the tax or gratuity amount.[34]

The law may also increase consumer costs in the sixth most populated state in the country if payment processors pass the costs of more complex systems on to Illinois merchants who, in turn, increase prices. Larger retailers may benefit from reduced fees, however smaller businesses may face costs for new point-of-sale software and hardware that outweigh the potential savings along with awkward workarounds requiring separate transactions for the base price from the tax and gratuity amounts. The IFPA imposes a steep $1,000 penalty per transaction and "the issuer must refund the merchant the interchange fee calculated on the tax or gratuity amount relative to the electronic payment transaction."[35] Therefore, even inadvertent errors in charging an interchange fee on the tax amount or gratuity on a small number of transactions can lead to draconian penalties.

Illinois is not alone. Similar legislation has been introduced in Tennessee, Pennsylvania,[36] North Dakota,[37] Florida, Georgia,[38] Idaho,[39] Maine,[40] and other states. For example, Tennessee's SB 0132 and its companion HB 0615, if enacted, prohibits charging interchange fees on the collection of taxes and gratuities, and further requires a network to either deduct the amount of a tax imposed from the calculation of interchange fees specific to each form or type of electronic payment transaction at the time of settlement or rebate an amount of interchange fee proportionate to the amount attributable to the tax or fee.[41] The bill also provides that if a merchant or seller is unable to capture and transmit such amounts at the time of sale, then the network must accept proof of such amounts collected on sales subject to an interchange fee upon the submission of sales data by the merchant or seller and promptly credit the merchant or seller's account. Although some of the proposed legislation has been withdrawn or didn't move forward, the seeds have been planted. And, like the CCCA, these legislative proposals may resurface in future legislative sessions.

STATE RESTRICTIONS ON SURCHARGING

While interchange issues work their way through the courts, Congress and state legislatures, merchants have been left to engage in self-help. To offset swipe fees, merchants may choose to increase prices — or charge consumers a fee for using credit cards instead of cash, checks, or ACH transfers. This practice of charging consumers a flat fee or percentage of a credit card transaction is known as surcharging. Although the Durbin Amendment protects merchants' right to offer cash discounts, it wasn't until a 2013 class action settlement that merchants were allowed to surcharge consumers.[42] Visa and Mastercard reformed their rules to permit surcharges on credit card transactions to the

[32] 815 ILCS 151/150-10(d).

[33] Jon Hill, *Novel Ill. Swipe Fee Law Sparks New Banks v. Retailers Battle*, LAW360 (Jun. 14, 2024, 10:39 PM), https://www.law360.com/articles/1846311/novel-ill-swipe-fee-law-sparks-new-banks-v-retailers-battle.

[34] 815 ILCS 151/150-10(b).

[35] 815 ILCS 151/150-15(a).

[36] H.B. 2394, Reg. Sess. (Pa. 2023-24).

[37] S.B. 2217, 68th Leg. Assemb. (N.D. 2023-2025).

[38] S.B. 126, St. Leg. (Ga. 2023-24).

[39] S.B. 1293, 66th Leg., Sec. Reg. Sess. (Idaho 2022).

[40] L.D. 1544, 130th Leg., First Sp. Sess. (Me. 2021-2023).

[41] S.B. 0132, Gen. Assemb., (Tenn. 2023).

[42] *In Re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, 986 F.Supp.2d 207 (E.D.N.Y. 2013), *rev'd and vacated* by *In Re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, 827 F.3d 223 (2nd Cir. 2016).

extent not prohibited by law.[43] Although the 2013 settlement was vacated by the Second Circuit, the networks kept their revised surcharging rules.

Critics of the settlement pointed out that certain states prohibited surcharging.[44] Having removed the card networks' barriers, merchants began attacking the state prohibitions on constitutional grounds. In 2015, federal courts began holding the anti-surcharging statutes unconstitutional under the First Amendment right to free speech. In *Dana's R.R. Supply v. Attorney General, Florida*,[45] United States Court of Appeals for the Eleventh Circuit held that the Florida's statute that made surcharging a misdemeanor regulated speech instead of conduct. The statute violated business' commercial speech rights because it regulated the way the merchant communicated the price rather than regulating the conduct of pricing itself. The First Amendment argument, coupled with void for vagueness and other arguments, have found success in Texas,[46] California[47] and Kansas.[48] Although the application of these cases is limited to the named plaintiffs or those similarly situated, they serve as guidance to other merchants who may challenge the statutes in the future. Considering the surcharge bans being struck down in California, Florida, and Texas, Oklahoma Attorney General Hunter concluded that the Oklahoma ban was likely unconstitutional.[49]

New York's statute was also challenged but the Court of Appeals of New York, in responding to a certified question from the United States Court of Appeals for the Second Circuit concerning the meaning of the statute, held that because the statute permits differential pricing, it didn't violate the merchants' First Amendment rights.[50] These requirements have been further clarified in a new law that took effect on February 11, 2024. All "sellers" in New York who surcharge consumers' transactions must clearly and conspicuously post the total price for using a credit card in a transaction, including the surcharge and not charge a final price that is greater than the posted price. Sellers are also prohibited from surcharging an amount that is greater than the amount charged by the credit card company to the seller for such card use.[51]

Some states have caps on the amount that may be surcharged. In Colorado, merchants may either: (1) surcharge a maximum of 2% or (2) charge the actual cost the company pays for credit processing.[52] In Minnesota, surcharging is legal up to 5% of the purchase price provided the seller informs the customer of the surcharge both orally at the time of sale and by a sign posted conspicuously on the premises, orally if over the phone, and posting the surcharge notice during the sale, point of sale, on the order summary or checkout page if the purchase is made on a website or application.[53] New Jersey similarly prohibits sellers from imposing a credit card surcharge that is greater than the actual cost to the seller to process the credit card payment.[54] Businesses are allowed to charge a "flat" rate as long as it does not exceed the actual costs of processing that transaction.[55]

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[43] Mastercard Rules 5.11.2 (Eff. Jan. 27, 2013), https://www.mastercard.us/content/dam/public/mastercardcom/na/us/en/documents/Merchant_Surcharge_Rules.pdf and "Visa U.S. Merchant Surcharge Q and A" (Feb. 15, 2024), https://usa.visa.com/content/dam/VCOM/global/support-legal/documents/merchant-surcharging-qa-for-web.pdf.

[44] U.S. judge approves retail credit card fee settlement, Andrew Longstreth, December 13, 2013, https://www.reuters.com/article/business/us-judge-approves-retail-credit-card-fee-settlement-idUSBRE9BC0W1/.

[45] *Dana's R.R. Supply v. Att'y Gen., Fla.*, 807 F.3d 1235 (11th Cir. 2015).

[46] *Rowell v. Paxton*, 336 F. Supp. 3d 724, 732 (W.D. Tex. 2018) (held Anti-Surcharge Law violated merchants' commercial free-speech rights under First Amendment).

[47] *Italian Colors Restaurant v. Becerra*, 878 F.3d 1165 (2018) (First Amendment commercial free speech rights were violated by the statute).

[48] *CardX, LLC v. Schmidt*, 522 F. Supp. 3d 929 (D. Kan. 2021) (Kansas failed to demonstrate that statute directly advanced substantial state interests, but statute was not unconstitutionally vague).

[49] Okla. Att'y Gen. Op. 2019-12; *available at*: https://oag.ok.gov/sites/g/files/gmc766/f/documents/opinions/2020/ag_opinion_2019-12_v-22.pdf.

[50] *Expressions Hair Design v. Schneiderman*, 32 N.Y.3d 382, 393 (N.Y. 2018).

[51] N.Y. GEN. BUS. LAW § 518 (2024).

[52] COLO. REV. STAT. § 5-2-212 (2022).

[53] MINN. STAT. § 325G.051 (2023).

[54] N.J. STAT.ANN. 46 §§ 56:8-156.1 and 156.2 (2023).

[55] *Credit Card Surcharges Frequently Asked Questions*, New Jersey Division of Consumer Affairs (Aug. 26, 2024),

There are still a handful of jurisdictions that prohibit surcharging. The prohibitions in Connecticut,[56] Maine,[57] Massachusetts,[58] and Puerto Rico[59] are all a little different and merchants should be aware of how the law is applied. For example, Maine and Connecticut law prohibit businesses from adding extra charges to credit card transactions, however, businesses may offer discounts for alternative methods of payment.[60] Both of these state laws also allow government entities to add surcharges to card payments.

It is also important to pay attention to official guidance. The Commonwealth of Massachusetts Office of Consumer Affairs and Business Regulation issued an opinion on January 3, 2020, that credit card surcharges are permissible in situations where an independent, third-party processer provides the processing service, where the consumer has a choice to pay by credit card or otherwise, and where the seller or its employees would not receive any portion of the surcharge. The opinion notes the questionable constitutionality of similar anti-surcharge statutes in other states.[61]

Virginia may also be joining the states where surcharges are prohibited. In April 2024, Virginia amended the Virginia Consumer Protection Act by signing H.B. 1519. This bill would prohibit a "supplier in connection with a consumer transaction" from "charging any transaction or processing fee or similar surcharge to a consumer for the use of an electronic fund transfer .for payment for the purchase of a good or service."[62] ATM withdrawals and cases where the service is . . . to expedite electronic withdrawals are exempt from the law. Notably, H.B. 1519 includes an instruction that reads, "the provisions of the first enactment of this act shall not become effective unless reenacted by the 2025 Session of the General Assembly." Therefore, although the text is chaptered in the Code of Virginia, it has no legal effect now.[63]

TAKEAWAYS/CONCLUSION

The landscape of electronic payment processing and associated fees is undergoing significant changes at both state and federal levels. Key positive developments for merchants include the potential for reduced interchange fees and credit card network rule changes and a decrease in debit card interchange fees. However, existing and proposed state laws present challenges for merchants who process credit card transactions nationally and payment processors and card issuers. Legislation focused on price transparency and eliminating hidden or junk fees, such as the California's "Hidden Fees Statute," S.B. 478, and Minnesota's new price transparency law,[64] will keep the focus on how merchants communicate surcharges to consumers. Businesses and their payment processors should both stay abreast of developments in payments law and adapt their policies and processes to respond to changes.

Merchants, consumers, legislators, and regulators seek to balance the convenience of electronic payments with fair pricing. However, many efforts can have unintended consequences when the actual cost and complexity of electronic payment processing aren't considered. Lawmakers should keep in mind that behind the convenience of swiping, tapping, or punching-in credit and debit cards are a number of companies who ensure the payment networks are secure and efficient, and there are costs associated with the processing of electronic payments. ■

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https://www.njconsumeraffairs.gov/News/Consumer%20Briefs/credit-card-surcharges-faq.pdf.

[56] CONN. GEN. STAT. § 42-133ff (2024); and *Credit Card Surcharges*, State of Connecticut Department of Consumer Protection (Aug. 26, 2024), https://portal.ct.gov/dcp/legal/credit-card-surcharge?language=en_US.

[57] ME. REV. STAT. tit., 9-A, § 8-509; *see also, Credit and Debit Card Surcharges*, Department of Professional and Financial Regulation, Consumer Credit Protection State of Maine (Aug. 26, 2024), https://www.maine.gov/pfr/consumercredit/consumer/surcharge.html.

[58] MASS. GEN. LAWS ANN. ch. 140D, § 28A (2024).

[59] P.R. LAWS ANN. tit. 10, §§ 11 and 13 (2024).

[60] ME. REV. STAT. tit., 9-A, § 8-509; and CONN. GEN. STAT. § 42-133ff (2024).

[61] Op. Gen. Counsel, Mass. Consumer Affairs, 19-010 (Jan. 3, 2020), *available at*: https://www.mass.gov/doc/opinion-19-010/download.

[62] H.B. 1519, Gen. Assemb., 2024 Sess. (Jan. 19, 2024).

[63] *Id.*

[64] MINN. STAT. § 325D.44 (2024).