

help such children reintegrate into their families and society.

I recognize that the Somali Transitional Federal Government is trying to bring some measure of stability to that war torn country. However, it should not do so on the backs of its precious children, and certainly not with the help of the American taxpayer.

Thank you for looking into this matter.

Sincerely,

RICHARD J. DURBIN,  
U.S. Senator.

### INTERCHANGE FEES

Mr. DURBIN. Mr. President, I will be brief because I see my friend from Iowa is on the floor here. I want to give him a chance to speak.

The Federal Government pays interchange fees when people use credit and debit cards to pay for things such as admission to national parks, groceries, at military commissaries, tickets on Amtrak, and copays for VA medical services. In fiscal year 2007, our Federal Government paid \$433 million in credit card fees. The vast majority were interchange fees.

Last year, the Appropriations Subcommittee on Financial Services and General Government, which I chair, asked the Treasury Department to look into how much money taxpayers are paying to credit card companies for the use of credit cards. We got the report this week. It concludes that Treasury could save at least \$36 to \$39 million a year if it did several things, such as negotiating the actual interchange rates charged to the Federal Government.

We had a hearing today, and an employee of the Department of the Treasury came and testified and said the Federal Government of the United States was unable to negotiate an interchange fee with either Visa or MasterCard. The card companies refuse to negotiate. There is \$8 billion in economic activity with the Treasury through the credit and debit cards of these two companies. But they refuse to negotiate with the Federal Government.

We also learned that one major company, MasterCard, charges an interchange fee of 1.55 percent on every government transaction, plus 10 cents, while the going rate on an interchange fee for supermarkets across America is 1.27. It turns out that our Federal Government is paying more to the credit card companies than supermarkets are paying in Illinois, Iowa, or Alaska.

You ask yourself: Well, why is that? Is there a high default rate from the Federal Government? The answer is no. The Federal Government pays. And yet we are being charged a higher rate. But let me say for a moment, it is not "we" who are being charged a higher rate, it is the taxpayers. The taxpayers of this country are subsidizing credit card companies by paying higher fees than commercial businesses for the use of credit cards.

It is inexcusable, it is indefensible. You know the debate we had—I know,

Mr. President, you recall it personally, a few weeks ago—about whether these credit card companies are going to be held to charging reasonable and proportional amounts for the use of debit cards.

What we are finding at Amtrak, at the VA, and at commissaries across America, is our Federal taxpayers are underwriting these credit card companies.

I tried, when I brought this amendment to the floor of the Senate relative to interchange fees, to do everything in my power to preserve the ability of small banks and credit unions to compete with big banks in issuing debit cards. My amendment does nothing to disadvantage those small financial institutions. We specifically exempted any financial institution with a value of less than \$10 billion. As a result, only 3 credit unions out of 1,000 in America were covered by my amendment, and about 80 or 90 banks out of the 8- or 9,000 in this country.

I heard from one of my colleagues on the Senate floor today from the Midwest, who said: The credit unions were in last week. They are frightened by your amendment.

I said: Are they over \$10 billion in value?

No, not even close.

Well, the amendment doesn't apply to them.

They are afraid the big credit card companies, Visa and MasterCard, will reduce their interchange fees on small banks and credit unions if the Durbin amendment passes in the Wall Street reform bill.

It is an indication to all of us of the power of these credit card companies to terrorize credit unions and community banks. They have become the messengers of the big banks and credit cards to kill the amendment we passed in the Senate.

By exempting 99 percent of banks from debit and interchange regulation, my amendment would actually enable these banks to receive more interchange revenue than their big bank competitors. Yet the so-called Independent Community Bankers of America and the Credit Union National Association oppose the amendment. Why? An article out of Reuters came out yesterday that makes it plain.

The article is titled "Small Banks Fight Card Fee Limits Despite Exemption." The article says:

Small banks believe they have no choice but to support Visa and Mastercard in a battle against lawmakers over fees for processing debit card transactions.

Why do the small banks believe this? The article continues:

The Durbin amendment explicitly exempts banks with less than \$10 billion of assets, so smaller banks in theory should not oppose the law. But the exemption is cold comfort to small banks, which say that whatever the law stipulates, Visa and Mastercard will force them to accept the same fees as larger banks.

I want to make it clear what I have said before, last week in a meeting of

the Senate Judiciary Committee, the Antitrust Division of the Department of Justice testified that they are investigating Visa and MasterCard now. Nothing more was said, but they confirmed press accounts that that is being done.

I think it is long overdue. This duopoly, this power in the market, this ability to terrorize credit unions and small banks is an indication of too much power and too little competition. If we truly believe in a free market and an entrepreneurial society, we have to support competition. In this case, merchants, businessmen, small banks, and small credit unions are being terrorized by these powerful interests.

The article quotes Jason Kratovil, vice president of congressional relations for the Independent Community Bankers of America, saying that "Visa and MasterCard have 'probably not directly' told small banks that they will receive lower fees," but that it is "pretty clear, at least for our guys, that it's going to end up with one rate for all issuers."

So Visa and MasterCard are arguing: If we have to lower the interchange fees for the biggest banks in America, then we will lower them for the smallest banks in America—even though they are exempt under the Durbin amendment. Visa has 122 different interchange fees and MasterCard well over 100. To argue they can't come up with two different interchange fees, that it is impossible, is ridiculous.

It is the kind of thing where these credit unions and small banks have been terrorized by Visa and MasterCard. The Independent Community Bankers say Visa and MasterCard have "probably not directly" threatened to voluntarily lower small bank interchange rates, but the message received was "pretty clear." It is obvious what is going on: Visa and MasterCard are making threats if this amendment becomes law, they will use their market power against small banks by voluntarily lowering their interchange rates.

It is a great tactic that scares the small banks and credit unions into lobbying against the amendment which passed in the Senate. I am sure the big banks couldn't have more fun than to watch the smaller banks, exempt under our amendment, do their bidding. The big banks hate the thought of my amendment passing, giving small banks an advantage in the debit card market. The small banks are just being played like marionettes when it comes to their role in this lobbying efforts.

I sent the CEOs of Visa and MasterCard a letter and told them this: My amendment protects small banks, but you are threatening to take steps on your own to disadvantage them. If you collude with each other or with the big banks to disadvantage small banks, you could run afoul of the antitrust laws.

Visa and MasterCard wrote back yesterday and said: No, Senator, we

wouldn't want to do anything to hurt small banks, but the market may just force us if your amendment becomes law.

This is ridiculous. With Visa and MasterCard having 100 percent of the market for signature debit cards, they are the market. The market is going to force them? Guess what. They are the market. They set the rules. They fix all the fees now. Small banks and credit unions are so afraid of Visa and MasterCard—they are quivering—and their big bank allies, they do not believe they can support any regulation of the interchange system no matter how reasonable. Small banks are afraid to take the risk that these giant corporations might decide to wield their enormous market power against them.

Ironically, that is the world in which small businesses, merchants, and other acceptors of payment cards live today. Small businesses have no choice today but to accept Visa and MasterCard and the fees and rules they establish.

Today at my hearing, Wendy Chronister of Springfield, IL, my hometown, who is CEO of the Qik-n-EZ convenience stores, about 11 of them in central Illinois, came and testified. I know her family well. They live a few doors away from me. I know her dad who started the company 40 years ago. She is a spectacular young woman who is the CEO of this small company that has these convenience stores.

The No. 1 cost in her business is labor, the No. 3 cost is utility bills, and the No. 2 cost is interchange fees to Visa and MasterCard. They represent about half of the charges they pay for labor and represent about twice as much as they pay for utility bills. That is how big a factor this is in a small business. She has no power to negotiate, no power to compete. She is at a loss.

She was sitting at the table with a representative of the Federal Government who said we are in the same boat. We do \$8 billion a year accepting cards from Visa and MasterCard and cannot get them to negotiate with us a lower interchange fee for the sake of taxpayers and reducing the deficit. That is the kind of power they have.

I am going to wrap up because I see Senator GRASSLEY is anxious.

When I heard this argument today that the Federal Government was unable to get Visa and MasterCard to negotiate an interchange fee, they are so powerful, these private companies, I had a flashback—a flashback to one of my favorite movies of all time. It was released in about 1963 or 1964. It is entitled “Dr. Strangelove.” In this movie, Peter Sellers played three different roles, and one of the roles was as a British military officer named Lionel Mandrake. He was at a base where they thought another world war was about to break out, a nuclear conflict. He was trying to find a telephone to call someone in Washington to bring an end to this nuclear war. At that point actor Keenan Wynn came in playing the role

of COL Bat Guano. Sellers said to Colonel Guano: I need change to make a phone call to Washington to stop this world war.

Colonel Guano said: I don't have any change.

Peter Sellers said: You shoot up with your gun the Coca-Cola machine, and I will take the money out and make the phone call.

He said: You want me to shoot up the Coca-Cola machine. I will do it, but you are going to have to answer to Coca-Cola for this.

That is what I was reminded of today when I heard that our Federal Government, with \$8 billion in business with Visa and MasterCard, can't get them to sit down at the table. That shows the power of these private companies.

What is going on here? This isn't competition. They are not some sainted entity. They represent a business, and they are supposed to be a competitive business with the other credit card companies. But they are not. They are dictating fees to small businesses that are hurting, reducing their profitability and their employment at a time when we desperately need jobs.

Small banks should come to understand the predicament that their colleagues in the small business community face, as both live in a world that is too often run by card networks and big banks. It is time for the interchange system to change. We need to end this system where Visa and MasterCard have the market power to set fees and establish rules however they want.

I extend my apologies to Senator GRASSLEY. If I had known he had to leave, I would have wrapped up a lot earlier and saved my comments about “Dr. Strangelove” for a later time. I thank him very much. He has been a good friend and patient.

#### AGGRESSIVE OILSPILL RESPONSE

Ms. MIKULSKI. Mr. President, America is facing a catastrophe in the gulf. I rise today to speak about the President's address to our Nation last night and my recent trip to the gulf.

I agree with the President that BP must stop the leak, clean up the oil, and end the economic hurricane they have caused on the gulf coast. I agree that BP—not the taxpayers—must be liable for costs of cleaning up the mess, for compensating businesses, fisherman and families, and for their economic losses. BP must set aside a fund of \$20 billion or more today that they don't control to pay all economic claims in a fair and timely way.

I like that the President focused on the Nation's long range energy needs. We do need to move our energy policy forward. And I am so pleased the President picked Dr. Don Boesch for the new National Commission to prevent and respond to future spills like this one. Dr. Boesch has strong ties to Maryland. He has been president of UMD Center for Environmental Science since 1990

and serves as Governor O'Malley's science adviser. He's also a man of Louisiana, born in New Orleans and a graduate of Tulane. He knows the issues of Louisiana and he's got a special place in his heart in looking out for Maryland.

I also agree with Billy Nungesser, president of Plaquemines Parish, LA. He believes we should bring every asset we have to fight this thing. The people of Louisiana need to see more action on the ground and we can't just rely on BP's word to get the job done.

We need to organize and mobilize our own government. Right now we are acting like a bureaucracy rather than a fighting force to protect the beaches and the people from the consequences of the oilspill. I hope in the coming days, the President will insist on defining what success is.

This administration needs goals and metrics for shore clean up that will be adequate. They must establish a mechanism for monitoring, oversight and relentless follow-through. Right now, no one but BP knows what is going on. There has been a lot of reporting on inputs—but not enough on outcomes. We need structure for oversight and we need to know the outcomes of our actions.

The President also needs to insist on expediting permits. When I was on the gulf coast last week, I heard from locals that their ideas on how to protect coasts are stuck in bureaucracy. We need to unstuck the bureaucracy. This is a national emergency that needs an aggressive national response. We are all in this together.

I went to the gulf coast as chair of the Commerce, Justice, Science Appropriations Subcommittee, which funds the National Oceanic and Atmospheric Administration, NOAA. NOAA is in the gulf right now telling us where this oil is going, helping to cleanup the shores and marshes and assisting fishermen who are hurting.

I also went as the Senator from Maryland. I wanted to talk to scientists first hand to find out how the spill could impact Maryland. Will it affect our beaches and treasured Chesapeake Bay?

Last week, I saw the catastrophe in the gulf. We met the people, we saw the beaches, and we saw the impact on the wildlife. And everywhere we went, we saw oil and the consequences of oil. I spoke to people whose livelihoods depend on the gulf. When we talk about what we saw—words like “Louisiana,” “Grand Isle” and “Pelican Island”—I also think of words like “Ocean City” and “Assateague,” Maryland's own barrier island. What we saw was the good, the bad, and the ugly.

First, we met with the people, and I saw just how resilient they are. They have real grit and are determined to do something to save their communities. We coastal people need to be on their side. We saw communities where they would ordinarily have thousands of visitors with busy fishing charters.