

**WRITTEN STATEMENT OF**  
**WENDY CHRONISTER**  
**PRESIDENT AND CEO**  
**CHRONISTER OIL COMPANY (d/b/a QIK-N-EZ CONVENIENCE STORES)**

**BEFORE THE UNITED STATES SENATE**  
**COMMITTEE ON APPROPRIATIONS, SUBCOMMITTEE ON**  
**FINANCIAL SERVICES AND GENERAL GOVERNMENT**

**HEARING ON OVERSIGHT OF FEDERAL PAYMENT OF INTERCHANGE**  
**FEES: HOW TO SAVE TAXPAYER DOLLARS**

**JUNE 16, 2010**

Chairman Durbin, Ranking Member Collins, and Members of the Subcommittee on Financial Services and General Government, thank you for inviting me to share my views on interchange fees. I am the President and CEO of Chronister Oil Company. We own and operate 11 convenience stores in Central Illinois under the trade name “Qik-n-EZ”. Interchange or “swipe” fees constitute the second largest operating expense in our stores. As is the case for all of our competitors and other merchants, including the federal government, unlike other operating expenses, we have no ability to negotiate these expenses. We operate in an extremely competitive environment. We measure our ability to make a profit by cents. Approximately 70% of our sales in the first five months of this year were credit card transactions. The interchange fees associated with accepting credit and debit cards are a significant cost of operating a convenience store. We currently cannot negotiate these costs. As a result, the real cost of the interchange fees is born by the consumer because they inflate the prices of the products we sell. I fully support the Durbin Amendment in the financial reform bill passed by the Senate because this is legislation that truly is for the consumer and what is good for the consumer is good for retail business and ultimately for the economy.

Overview

Our company is based in Springfield, Illinois. My father founded Chronister Oil Company in 1967. Our convenience stores are located in Springfield, Illinois and surrounding towns. In addition to beverages, prepared and packaged foods and a broad range of other convenience store items, each of our locations has between 4 and 13 fuel dispensers and each location sells E-85. We purchase ethanol and store it at our bulk plant facility where we splash blend with conventional fuel before distributing to our store locations. In addition to supplying our own stores, we distribute finished product to other retail locations as well as commercial and farm distribution businesses, among others.

Today, the convenience store industry as a whole includes approximately 145,000 stores in the United States, a decline of 3-4% from last year. The convenience store industry sells nearly 80 percent of the gasoline in the nation and employs about 1.7 million workers. It is truly an industry for small businesses and one-store operators own more than 60 percent of convenience stores.

Indeed, the convenience store industry has engaged in petition efforts in convenience stores throughout the country during the past year. It is my understanding that 5.5 million consumers have signed petitions in favor of swipe fee reform, a number that exceeds the number of signatures delivered to Congress on any legislative policy proposal. The Senate paid attention to this outpouring of support when it passed Senator Durbin's Amendment to the financial reform bill with a bipartisan vote of 64-33. I am hopeful that the conference committee reconciling the House and Senate versions of that bill will maintain Senator Durbin's language and provide some relief to my industry and our customers.

### The Impact of Runaway Credit Card Fees on My Convenience Store Business

In 2008, the total cost of credit card fees paid by our industry was reported at \$8.4 billion while convenience store gross profit was reported to be \$5.2 billion. Based on these statistics, credit card fees alone were responsible for the loss in the number of convenience stores across the country. However, I am here to speak to the impact which credit and debit card expense has on our business and the operations of our convenience stores. Credit and debit card fee reform is important for the consumer and therefore good for the convenience store business.

The convenience store industry is a highly competitive one. We are in the business of convenience. However, we do not compete with convenience stores alone for customers. Rather, inside our stores, we compete with big box stores such as Wal-Mart and Meijer's, quick serve restaurants including McDonald's, drug stores such as Walgreens and CVS, liquor stores and cigarette shops and other convenience store chains. Each of these retailers is competing for the same customer that we are and we overlap product offerings with each of them. Each of these retailers, like us, is in the business of convenience in one way or another. Despite the fact that we cannot obtain the same cost structure as a big box retail outlet, we have to compete with that same big box for the customer. Indeed, the notion that a consumer will accept significantly higher price point at the convenience store because it is a one-time convenience is out-dated and not true. The only way we can be successful is by offering repeated value to customers who will return and will make a Qik-n-EZ store part of their destination on a routine basis. To accomplish this, we must deliver value to our customers. Providing a good experience is essential but not enough. We have to be competitive on price.

It is important to understand where credit and debit cards fit in the scheme of our store operations. For the first five months of this year, our total fuel sales have increased by approximately 17% over the first five months of 2009 due to the higher cost of fuel

and corresponding higher prices. However, our company's overall gross profit has declined 17%.

Out of our gross profit we pay operating expenses – our top three expenses are labor, credit card fees and utilities, in that order. In the first five months of this year, our labor expense remained about the same as the same period last year, our utilities increased approximately 3% and our credit and debit card expense rose 43%.

Our only operating expense that exceeds credit card expense is the cost of labor. All but two of our stores are open 24 hours a day and, even at the slowest times, we never have fewer than two persons on duty in a store. We are proud to pay our employees well and, even at the entry level, significantly above minimum wage. We have always offered a full benefit package and 401(k) opportunities to all of our employees. Still, credit card fees are approximately 2/3 of our total store labor expense.

Our stores average 5000 square feet and are much larger than the average size convenience store according to industry statistics. In most of our stores, we have at least 22 cooler doors per store, large canopies with many lights over our fueling stations and neon signs, we have cold winters and hot summers - in other words, we have high utility costs 24 hours a day. In fact, we are trying to make investments in our stores to make them more energy efficient – but this is an expensive proposition. Nevertheless, despite utility inefficiencies, our utility bills overall for the first five months of this year are less than 40% of our credit card expense.

During the first five months of this year, fuel sales accounted for approximately 63% of our sales. On the street, we have to be competitive. Everyone who sells fuel is measuring their gross profit by cents per gallon over cost. We check our competitor's street prices multiple times per day to ensure that we are competitive since consumers have no loyalty when it comes to purchasing fuel. Generally, during a period of rising prices, the cents per gallon profit for us is declining. Ironically, during the same time, our credit card expense per gallon is rising. On average, we estimate that we pay approximately half of our gross margin per gallon of fuel sold to credit card fees.

Consumers are using credit cards and debit cards to make purchases more and more frequently. The rising cost of fuel and the increasing number of people who use credit are the primary drivers behind this. For the first part of this year, nearly 70% of our sales were card purchases. Approximately ¼ of our card use was debit cards, the remainder being credit cards. And, over the last few years alone, interchange fees have grown more rapidly and significantly than all of our other expenses. In contrast to other expenses, we have absolutely no control over interchange fees. For example, we could change employee schedules if we needed to reduce labor cost; invest in new technology to reduce utility expenses; and we put our business and health insurance needs out for competitive bid yearly to help keep those expenses at a manageable (or at least predictable) level. With respect to credit and debit card expense, we are faxed a notice of an increase in fees and it is what it is. If we didn't take credit cards, we could not compete and would certainly go out of business. We have no ability to negotiate fees and

we are powerless to deal with these cost increases. Yet, given the competitive landscape we are in, we have an increasingly smaller pot out of which to pay them. Costs that cannot be controlled have a far broader, negative impact on the business than do other costs.

This rise in credit card charges does not take into account the fee increases that Visa announced effective in July. I do not know the full impact of this yet; however, one company in our association estimates that these hikes will result in a 5.9% increase in card fees convenience stores will pay on fuel sales alone. And these increases are not for interchange – they relate to the myriad of other fees the card companies charge merchants, such as the Assessment Transaction Fee, Partial Authorization Fee, Zero Floor Limit Fee, and various debit card fees. Depending on the market dynamics, this could wipe out the entire cents per gallon gross profit at any given time.

### Background on The Durbin Amendment

I understand that the Durbin Amendment will accomplish the following, each of which will benefit the consumer:

First, the Durbin Amendment will give the Federal Reserve the power to write rules ensuring that swipe fees on debit cards are “reasonable and proportional” to the cost of processing. This is, in fact, an overly generous standard for the card industry. Check transactions, for example, cost banks more to process than debit transactions but interchange fees have been completely prohibited on check transactions since the early part of the last century. The check system has been an efficient means of conducting commerce in the United States during all of that time and it is long overdue for debit transactions – which are simply electronic check transactions – to be treated in a similar way.

Second, the Durbin Amendment will allow merchants to give their customers discounts when they use cards from a network with lower fees or use forms of payment that are cheaper for the merchant. That means that I could give my customers a discount if they use a Discover Card (or Visa, MasterCard or American Express) if that card network is cheaper. Alternatively, our stores could offer customers a discount for paying by a debit card or cash, check or other means may be less expensive for our company to accept. This simply means that credit card networks will compete with one another, just like we have to compete with other retailers selling the same products that we sell.

Smaller banks have raised the concern that the cards which they issue will be treated differently than cards issued by significantly larger banks. However, it is my understanding that the Durbin Amendment will not allow a merchant to differentiate prices to the consumer based on the card-issuing bank. Therefore, the concerns raised by smaller banks are not well founded.

Third, the Durbin Amendment will allow merchants to set a minimum or maximum amount for a transaction using a credit card. This is necessary because each

card transaction has a fixed fee portion in addition to a percentage fee. For many small dollar transactions, that fixed fee part of the transaction (which can be 10 to 25 cents) may be more than the profit margin I would have earned on the sale. For some products, in fact, such as newspapers, the fixed fee on the card can sometimes exceed my cost of purchasing the product (such as on papers I sell for 25 or 50 cents). While the Durbin Amendment does not prevent our company from experiencing operating losses, the amendment would allow us the basic ability to protect my business from a guaranteed loss.

As a retail marketer and operator of convenience stores, I am in favor of the Durbin Amendment and its focus on reforming credit and debit card fees so that credit card companies and their member banks are required to compete in the same way that any other supplier of services is required to compete. This is good for consumer and will ultimately benefit the economy.

### Consumers Will Benefit from Reform

Economics shows that in a functioning market, lower business costs will mean lower prices and higher costs will mean higher prices. I understand that those opposed to credit card fee reform complain that the Durbin Amendment does not include a stipulation the retailers will pass on cost savings to consumers. I can only speak to the convenience store business. I cannot imagine that the consumer would not benefit. As I previously described, our business is highly competitive and consumer habits have changed. Peoples' preconceptions about convenience stores as an expensive place to purchase products out of convenience or necessity are generally of a business model that existed long ago. Today, we are competing for the same customer that many other types of retail are seeking. This customer is no longer an impulse buyer but rather plans ahead and makes lists and doesn't spend the extra dollar if it is not necessary or the product can be purchased elsewhere at a lower cost. Already, we frequently lose money on products such as a gallon of milk, a cup of coffee, a hot dog or a case of popular beer because we have to price these products competitively in order to maintain a consistent customer count in the store. If we cannot maintain the customer traffic we cannot stay in business.

When it comes to selling fuel, we would always like to be the lowest price on the street if we can maintain a sufficient profit margin and we are always trying to be. No one wants to purchase fuel, it is a necessity and the consumer looks for a consistently low price. It is not surprising that the Department of Energy, for example, conducted a study of retail gasoline pricing and found that 100% of cost increases and 100% of cost reductions were passed through to consumers in gas prices.

The current interchange fee system in the United States fools consumers by hiding the large interchange fees that are built into their purchases. One of the other witnesses here today, Ed Mierzwinski, of U.S. PIRG, has stated: "Interchange fees are hidden charges paid by all Americans, regardless of whether they use credit, debit, checks, or cash. These fees impose the greatest hardship on the most vulnerable consumers – the millions of American consumers without credit cards or banking relationships. These

consumers basically subsidize credit card usage by paying inflated prices – prices inflated by the billions of dollars of interchange fees.” In addition, the Consumer Federation of America, Consumer’s Union, and Consumer Action have all submitted Congressional testimony criticizing the current system of interchange fees because it is not fair to consumers and Americans for Financial Reform, which counts these and many more consumer groups as its members, has endorsed the Durbin Amendment.

The Hispanic Institute published an economic report on interchange fees and wrote in a letter to Senators endorsing the Durbin Amendment: “[W]e found definitively through economic analysis of transaction and pricing data that consumers do currently pay interchange fees in the prices of the things they buy and when those fees are lower merchants’ prices are correspondingly lower as well. This is proof, backed by economic data, that those who argue against reform by saying consumers will not benefit are wrong. Consumers will unequivocally benefit from reform.”

Experience around the world demonstrates that consumer card reform ultimately results in a benefit to consumers. It is my understanding that every country in the world that has begun and completed a full review of credit and debit fees has enacted reforms designed to further regulate the card system. More than 20 countries, including, among others, Great Britain, Australia and the European Union have taken action that has benefited their consumers.

The Reserve Bank of Australia issued the following statement based on its finding that savings from card fees reform were in fact passed on to consumers:

“One issue that has attracted considerable attention since the reforms were introduced is whether the cost savings that merchants have received from lower merchant service fees have been passed on to consumers in the form of lower prices for goods and services than would otherwise have been the case. The [card] schemes argue that there has been no, or little, pass-through, while the merchants argue that the cost savings have been passed through. The Bank’s estimate is that over the past year, these cost savings have amounted to around \$1.1 billion . . . This judgment is consistent with standard economic analysis which suggests that, ultimately, changes in business costs are reflected in the prices that businesses charge.”<sup>1</sup>

The European Commission also found that interchange fees harm consumers. In December 2007, the Commission held MasterCard’s multilateral interchange fee illegal and Competition Commissioner Neelie Kroes said that interchange “inflated the cost of card acceptance by retailers without leading to any advantage for consumers to retailers. On the contrary, consumers foot the bill, as they risk paying twice for payment cards. Once through annual fees to their bank. And a second time through inflated retail prices. . . .” Kroes concluded that MasterCard’s interchange “acts like a ‘tax on consumption’ paid not only on card users but also by consumers using cash and cheques.”

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<sup>1</sup> Reform of Australia’s Payment System: Preliminary Conclusions of the 2007/2008 Review, *Reserve Bank of Australia*, at 23.

Economists with the Kansas City Federal Reserve Bank appear to agree with consumer groups on some of the problems with the current system for consumers. In a 2006 working paper titled “Payment Card Rewards Programs and Consumer Payment Choice,” they wrote that rewards programs and the accompanied merchant fee structure might work as tools that distribute income from low-income earners to high-income earners.

The Durbin Amendment allows merchants such as our company to give their customers discounts (either for using a cheaper card network or a cheaper form of payment like checks or cash). Currently our contracts with Visa and MasterCard prohibit us from giving these types of discounts to our customer. It also means that they can agree on the rules and impose them on us and prohibit us from offering discounts to our customers. As consumers have picked up the use of debit cards, Visa and MasterCard have joined together again to impose significant fees on their use, out of proportion to the costs of providing a debit card. Once again, we have no power to negotiate, as we have to accept these credit and debit cards to stay in business.

It is slightly hypocritical for these credit card companies to argue that we would not pass on a discount opportunity to our customer and it also reflects a lack of understanding of the convenience store business. As a marketer of convenience store items and fuel, we are constantly looking for opportunities to deliver value to our customers. In fact, our entire marketing plan is based on how to deliver value to the consumer, especially in this economy. We welcome the opportunity despite the complexity it brings to our marketing programs. To the extent that interchange fees are reduced as a result of competition among the credit card companies and/or the requirement of reasonableness and to the extent we can offer discount pricing to reflect those reduced fees, our customers will have increased spending capacity.

It is equally hypocritical for the card industry to suggest that the reduction in credit and debit fees due to competition or the requirement that they be reasonable must mean higher credit card fees. Credit card fees in their entirety are not a zero sum game in which the card industry has the legal or constitutional right to earn a certain total amount of revenue. The point is absurd when one considers that interchange fees in the United States have tripled since 2001. Credit card fees on cardholders were not cut by a third during that time; in fact, consumer card fees have continued to rise hand in hand with the increasing cost of interchange fees. This argument is simply a reflection of the consumer card industry’s insatiable hunger for fees aided by their unfair and deceptive practices in charging them.

Indeed, the European Commission’s Directorate of Competition reviewed this claim and found, “There is no economic evidence for such a claim. Firstly, the inquiry’s data suggests that in most cases card issuers would remain profitable with very low levels of interchange fees or even without any interchange fees at all. Secondly, the

international card networks have failed to substantiate the argument that lower interchange fees would have to be compensated with higher cardholder fees.”<sup>2</sup>

### The Durbin Amendment Would Bring Reasonable Reform

As I understand it, the Durbin Amendment is not about driving credit card companies out of business. It is not about requiring credit card companies and banks to provide a service at no cost to the user of that service. I recognize the valuable service debit and credit cards provide for merchants and consumers and know that our company will continue to pay for the ability to accept credit and debit cards.

The Durbin Amendment means that the credit card companies will be subject to a little of the same competition that we are subject to. If one of them is willing to provide a more attractive rate, we can promote it. If a consumer wants to pay cash or use a debit card, we can offer that consumer a more attractive price because the costs associated with these types of payments should be less. In effect this allows the consumer to decide how to spending his or her money and know something about the cost impact of that decision. If one beer company were to offers a more competitive pricing strategy on its products than another beer company, we could pass this savings on to our consumer through a promotion and we do.

In addition to credit cards, debit cards have become the currency of our customers. The Durbin Amendment provides for Federal Reserve regulation of debit card interchange fees. Debit cards mean that a customer is spending money that he or she has in their checking account. Their use seems to have increased in popularity as people have reined in reckless credit card spending. In addition, the costs associated with processing debit cards are less than that of processing a check and must be less than a credit card since there are no credit losses associated with a debit card. While a debit card is less costly for all constituencies and encourages greater fiscal responsibility by users, the card companies and member banks have the ability and have agreed to impose significant fees on the retailer or other merchant – just because they can. A retailer can approach multiple vendors and negotiate costs when acquiring goods to offer for sale to its customers. In contrast, a convenience store operator has no choice but to accept the fees imposed by the consumer card companies and accept debit cards.

In addition to interchange fees, we pay processing fees and fees associated with maintaining accounts at local banks. And, of course, credit card companies will still charge consumers an array of interest charges and fees. While credit card companies will not like reform, they will continue to have many avenues to recover costs, compete, and make profits.

Bank and credit card companies have suggested that the Durbin Amendment will push the risk of fraud onto financial institutions. This is the first time that I have heard financial institutions admit that they don't cover the risk of fraud today. While they often

talk about their “payment guarantee,” the ugly truth is that financial institutions push most of the risk of fraud onto merchants – while simultaneously charging a company such as ours a huge fee. The Durbin Amendment does not change the credit card companies’ rules that allow them to push most of the fraud risk onto merchants. All it does is make sure the banks cannot take the same fraud costs out of merchants twice – once through charge backs and once through interchange fees. Again, the Amendment ensures that fees on big bank debit cards will be reasonable and allows consumers to get discounts and doesn’t change the treatment of fraud one way or another.

Bank and credit card companies also argue that the Durbin Amendment will shift costs from big box stores to consumers. We don’t operate a big box store. I was particularly concerned when research by the GAO found that large businesses against which we now compete have an advantage over small retailers like our company in the current system. Our company pays a higher interchange fee rate now than do our big box competitors. Small business needs this reform to survive and have the same advantage and opportunity to offer value to customers as their competing big business. Reform will actually help small businesses more than large businesses because debit rates will have to be related to the banks’ actual cost of issuing them – not to the size of the market.

What small business retailers are fighting for is simply to have reasonable fees and the right to give their customers a discount. The fact that credit card giants prohibit merchants from giving consumers a discount for using a cheaper card brand (such as a Discover Card rather than a Visa) and prohibit merchants from giving discounts if they use a cheaper type of payment (like checks rather than credit) cannot be defended. Discounts for consumers are good things and the card giants want to prohibit them in order to hide their fees so they can keep raising them without anyone noticing. This doesn’t protect consumers at all. I am proud and appreciative to know that Senator Durbin, representing my state, has taken the lead in exposing the credit card companies unfair system and trying to change it. Reform will give real help to Main Street businesses like mine and give a boost to our economy that will help everyone.

### Conclusion

I am speaking in support of the Durbin Amendment because it is the right answer for the consumer and the survival of retail business. I am privileged to operate a business and to serve my community in central Illinois as a retailer. We employ approximately 150 people and therefore are responsible for 2-4 times that number. I have a responsibility to our employees to stay in business and to our customers to provide exceptional value and service.

Our business is highly competitive. We focus our efforts on delivering value to a customer that will result in customer loyalty. We look at our margins in terms of penny profits, out of which we have to cover and manage operating expenses. We have no ability to negotiate credit and debit card fees that account for the second largest operating expense and far exceed every expense other than the cost of labor. Yet we are in the business of convenience and cannot stay in business unless we offer our customers the

ability to use credit and debit cards – today, debit and credit cards are a form of currency with our customer. The Durbin Amendment requires the credit card companies to be competitive and allows us to deliver an option to our customers. The amendment requires interchange fees be related to the actual cost of providing them and that they are reasonable. There is no question that the consumer will benefit from this as we are in the business of providing the best value to our customers. There is no question that competition will rein in the unrestrained increases in interchange fees. There is no question that this alone will help retailers in the convenience store industry to survive because it will lower the cost for which they can deliver retail to the consumer. Accordingly, for all of the reasons set forth above, I strongly support the Durbin Amendment.