

Credit Card Code of Conduct for Small Business

Background:

In recent months, both Visa and Mastercard, with the cooperation of Canada's banks and processors, have made significant changes that have directly affected merchants across the country. Most notably, banks have begun to issue premium credit cards that offer consumers a few extra benefits, but pay for these benefits through significantly higher merchant fees – specifically an interchange fee with revenue back to the banks and the card companies themselves. Premium cards have been frequently issued without the request of the customer and now represent a significant and growing portion of the credit card market. They offer no advantages to merchants.

In addition, credit card companies are eager to enter the debit card business in Canada. While Canada is currently well served by Interac which provides debit service to merchants on a reasonable “cents per transaction” basis, the credit card companies have used many strategies in the US to ensure debit cards have service charges on a percentage of the sale as well.

Proposal:

Without significant changes to improve the situation, some degree of regulation of the credit card industry may become necessary. CFIB believes that, if properly structured, credit cards companies, processors and banks could adopt a Code of Conduct, which together with federal oversight of important data and industry trends, could assist merchants without requiring strict regulation.

Credit Card Code of Conduct for Small Business:

1. **Distribution of Premium Cards:** Credit card companies and banks will distribute premium cards only upon request from a customer. No cards will automatically be sent to consumers without their request. Promotional materials for new or existing credit cards should indicate prominently to the cardholder and the merchants that it is or is not a premium card that attracts higher merchant rates.
2. **Targeting of Premium Cards:** Premium cards should be reserved for the use of a well-defined group of higher spend customers and not distributed to those with less financial capacity.
3. **Transparency of Merchant Rates:** Merchants should have a right to know the total cost of accepting a card before processing a transaction. Credit card companies should make it easy for merchants to detect which cards carry higher fees. Printing the merchant discount rate on the card itself is one way to ensure merchants understand a card's fees before it is accepted.
4. **Right to Refuse Cards:** Merchants should be able to refuse any category of card – such as premium cards – by posting written notice in their business.
5. **Right to Surcharge or Discount:** Merchants should be able to freely price their acceptance of different payment methods. Discounting and surcharging without restrictions may incent consumers to use less costly forms of payment. Merchants should further be able to set sales limits on their acceptance of certain cards.

6. **Full and Simplified Disclosure of Fees:** Merchants should be able to see the total cost of accepting different types of credit cards. Credit card companies and banks should provide simple, easy to understand descriptions of each individual element of the charge and the purpose behind each charge.
7. **Contracts and Penalties:** Merchant fees should not be subject to change within a contract period. If the price goes up, merchants should have the opportunity to opt out of the contract without penalty. Contracts should not be subject to an automatic renewal without the expressed knowledge and written permission of the merchant.
8. **Notification of Fee Changes:** There should be a reasonable notification period put in place before any increase in fees, such as 90 days. This notice should begin when a merchant is informed by the credit card processor.
9. **Debit:** If credit card companies choose to enter the debit card market, they should commit to permanently retaining a cents per transaction basis for transactions. As there is virtually no risk to the card company associated with a debit transaction, card companies should not charge fees based on a percentage of the debit sale.
10. **Oversight:** Banks and credit card companies should, on an ongoing basis, provide data to the House of Commons Standing Committee on Industry, Science and Technology and House of Commons Standing Committee on Finance in order to evaluate the implementation and the effectiveness of the above measures.

Next Steps:

CFIB will provide this Code of Conduct to Visa and Mastercard and the banks for discussion and to determine if there is any willingness on the part of the credit card companies, issuers and processors to help improve the situation for merchants. If the credit card companies and banks are unwilling to negotiate a workable Code of Conduct for the industry on a voluntary basis, CFIB will encourage government to intervene. This may come in the form of an imposed code of conduct, required information filings to government on the industry or in specific regulations such as capping rates as occurred in Australia.