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RANKING MINORITY MEMBER
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
HEARING ON
CREDIT CARD PRACTICES:
FEES, INTEREST RATES, AND GRACE PERIODS
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Mr. Chairman, I'd like to start by thanking you not only for initiating *this* examination into certain credit card industry practices, but also – more broadly – for your continued and tireless advocacy on behalf of the American consumer. You have a long and distinguished history of looking out for the little guy, and this hearing is an important part of that laudable record.

Credit card debt is often seen as a very personal problem, but the burgeoning level of household debt in America has implications for the entire nation. Over the past 25 years, U.S. household debt has ballooned from a collective $59 billion in 1980 to approximately $830 billion in 2005. Even more staggering, the number of consumers filing for bankruptcy has increased by 609%. These figures have far-reaching implications. Too many Americans across all economic strata are saddled with high interest rate payments on consumer debt, impeding them from accumulating wealth and achieving their financial goals, including sending children to college and saving for retirement.

This inquiry falls squarely in line with the Subcommittee's long tradition of investigations designed to protect American consumers. As you know, during my tenure as Chairman, this Subcommittee conducted similar bipartisan, consumer-protection inquiries that uncovered unconscionable, often criminal, schemes in the refund anticipation loan and credit counseling industries. These investigations exposed how many low-income Americans become mired in debt and pay usurious interest rates and exorbitant fees to unscrupulous lenders who exploit their lack of access to low-cost lending.

Although these industries employed abusive and criminal schemes that are far more egregious than the practices under scrutiny today, some practices in the credit card industry do raise concerns. High interest rates, hefty fees, and crippling penalties impede more and more hard-working families from pursuing their American dream. And this problem is only compounded by the often-intractable and jargoned disclosures of credit card terms, which are impenetrable to the average consumer. Too many families find themselves ensnared in a seemingly inescapable web of credit card debt, and not surprisingly feel that the credit card system is rigged against them.

It is not lost on me that over the past 20 years, the credit card industry has created financial opportunities for countless Americans by extending credit to a far broader pool of borrowers than other lenders, including many high-risk borrowers who would not otherwise have obtained credit. But with these increased opportunities have also come greater complexity and greater vulnerability. Credit cards are no longer one-size-fits-all, and not every borrower knows, or is even told, which is

the best, most affordable, card for their particular needs. Interest rates can increase in a moment's notice, interest charges grow by leaps and bounds, and the credit card that once promised economic opportunity all too often portends financial ruin.

In light of these fundamental market changes and the growing complexity of credit card terms, we need to do more and take a closer look at certain industry practices, including the adequacy of disclosure, the application of high, penalty interest rates to previous credit card balances, and the issue of trailing or residual interest.

The disclosures contained in card agreements are written by and for lawyers with an eye more toward staving off litigation rather than educating consumers. Too often, consumers are caught unaware by important terms buried deep inside dense, fine-print contracts, replete with interminable sentences and complex jargon. For example, one credit card disclosure offers us the following: "For each balance, the Balance Subject to Finance Charge on the statement is the average of the daily balances during the billing period. If you multiply this figure for each balance by the number of days in the billing period and by the applicable daily periodic rate, the result is the periodic finance charges assessed for that balance, except for minor variations caused by rounding."

After wading through that morass, it should come as no surprise to learn that the Government Accountability Office recently reported that disclosures are sometimes written at a "twenty-seventh-grade level." I can only assume that one would need – after twelve years of grade school and four years of college – a 4-year medical degree, a 5-year PhD, and a 2-year MBA to fully grasp those particular provisions.

Former Supreme Court Justice, Louis Brandeis, got it right when he said "Sunlight is the best disinfectant." My fear is that the average credit card's complexity has vitiated the traditional disclosure's effectiveness, and consumers are being left in the dark. In many ways, the Schumer Box has more accurately become the Schumer Pamphlet. We must all work to ensure that disclosures are made in a user-friendly, common-sense, straight-forward manner, and are drafted *not* with an eye toward fending off litigation, but toward educating customers regarding their rights and obligations under the card.

Turning to the subject of finance charges, two practices in particular contribute to the public's impression that credit card companies design interest rates specifically to entangle unsuspecting consumers. I'm talking first about the application of high, penalty interest rates to *previous* credit card balances. For example, a consumer will make a series of purchases on a card with a 10% interest rate. Later, if the credit card company "re-prices" her account, she may end up paying off that debt at a "penalty rate" of 30%. Many consumers think that imposing *post hoc* materially higher interest rates on *prior* balances is a misleading bait and switch.

A second practice – known as "trailing" or "residual" interest – also illustrates how consumers can get caught in a seemingly never-ending cycle of debt. Consider a cardholder who spent $1,000 on holiday gifts in December and carried that $1,000 balance through February. At the

end of February, she would receive a bill for the $1,000 principal plus some interest charges, which would be due at some point in March, for instance March 20th. Even if she did exactly as the bill instructed – paying off the entire balance on March 20th – she would *still* be responsible for the interest that had accrued after she received her statement (that is, from March 1st through March 20th). The interest charges would be compounding while her check was in the mail. Better disclosure is one obvious answer here, perhaps even something as simple as a line on your bill that says: "In order to pay your balance in full, please remit the following sum by March 20th."

Regardless, something must be done. To be sure, credit card companies provide absolutely vital services for American consumers, employ over one hundred thousand Americans of all stripes, and are sizeable components of the pension plans that many Americans rely on in retirement. But as one prominent industry insider recently remarked to me, "The industry has gone too far, pushed too far, and needs to clean up its act."

Fortunately, some of this work has already begun. Several credit card companies have recognized the inadequacies of their disclosures and are eager to propose new formats. Moreover, the Federal Reserve plans to roll out new disclosure requirements later this year. I look forward to reviewing those regulations, and I urge the Fed to draft regulations that will provide some much needed sunlight to credit card disclosures.

Moreover, at my direction, my staff has reached out to credit card companies to find common-sense solutions to these challenges. I am happy to report that several issuers have assured us that they are reviewing certain policies and practices. I applaud Chase for its decision last month to eliminate the odious practice known as double-cycle billing. Also, just yesterday Chase announced a major overhaul of its over-the-limit fees, specifically that it will no longer charge such fees after 90 days. Similarly, Citi deserves praise for its announcement last week that, in its words, "A deal is a deal" – as long as a cardholder upholds her end of a card's terms, Citi will not "re-price" her card more than once every two years.

These are all important steps, and I look forward to working with our witnesses and with Chairman Levin to create a more consumer-friendly lending environment in the future.

Finally, I should mention one other industry practice that is not the focus of today's hearing, but is extremely important, and that is the interchange fees charged to merchants by Visa, MasterCard, and other card associations. Interchange fees can significantly impact the prices charged by merchants and retailers, many of whom already operate on extremely thin profit margins. Ultimately, it is the American consumer who bears the cost of these interchange fees, but local retailers also feel the squeeze as they compete with larger company's that can spread these costs over a broader customer base. As the Subcommittee continues its investigation of the credit card industry, this important issue should be one of the continued subjects of our inquiry.

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