Battleground and Opportunity

Credit cards and food co-ops

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What's wrong with this picture? A longtime member of the Hanover Consumer Cooperative Society wheels his cart to the front end of the co-op's Lebanon, N.H., store and, to pay for his family's groceries, proudly presents the cashier with a "select rewards" VISA card bearing the logo of the Upper Valley Community Credit Union, of which he is also a member.

On the surface, this sounds like a feel-good moment. The credit union in question is just a mile down the road and was literally founded inside the co-op's flagship store in nearby Hanover. The bearer of the VISA card might well conclude that by using his credit union VISA card at his food co-op, he is embodying the sixth cooperative principle, cooperation among cooperatives. He also might conclude that a credit card bearing the logo of a consumer-owned financial institution should be a different, and more consumer-friendly, flavor of plastic.

Guess again!

The fine print on the flip side of the card discloses that the actual issuer is Elan Financial Services, an affiliate of USBank in Minneapolis. It's the fifth largest commercial bank in the country. The credit union in question has long since given up its VISA business and has licensed its name and reputation to Elan. The alternative was too expensive and complicated, according to the credit union's CEO.

It is true that, thanks to legislation signed into law by President Obama last year, credit cards have grown somewhat kinder to consumers. The bill reigns in techniques the banks use to impose late fees and related interest-rate hikes on unsuspecting customers—things like Sunday due dates, late bill mailings, and so-called "double cycle" billing by which consumers are charged interest on balances they have, in fact, already paid. A full description of the reforms is available at www.Affil.org, the website of Americans for Fairness in Lending (AFFIL).

But, as AFFIL points out, "the new law does not restrict the level of interest rates or the size of the rate increases that are allowed. It is silent on the industry practice of reducing credit limits at any time for any reason, and it does nothing to ban forced arbitration clauses in every credit card." With respect to the latter, do your members know they agreed not to sue their credit card company when they signed up for their VISA or MasterCard?

Late fees and interest rates, and the related issues that coalesce around the billing of retail customers, are not the only way in which credit cards and cooperative notions of transparency, equity, and consumer education are fundamentally incompatible. The reality is that members of food co-ops are paying millions of dollars a year in the form of unreasonable fees and charges borne by the co-ops themselves—expenses that, of course, are reflected in retail food prices.

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For the past six years, the National Cooperative Grocers Association (NCGA) has been embroiled, albeit quietly, in antitrust litigation with VISA and MasterCard over so-called "interchange fees"—the fees paid by retailers to banks and their intermediaries for the processing of credit card and debit card transactions. The National Grocers Association and the National Restaurant Association are also plaintiffs.

The gist of the antitrust complaint is that these interchange fees are set by fiat, on orders of VISA and MasterCard, regardless of which bank any retailer uses to process its credit card and debit card transactions. And, as the complaint filed in the Brooklyn, N.Y., federal court recites, "contracts, combinations, and conspiracies in restraint of trade, are illegal under Section 1 of the Sherman [Anti-Trust] Act."

Secret: fees subsidize premium cards

Perhaps the biggest secret in American retailing is how drastically these fees vary, depending on the kind of card. A customer using a debit card, or even a basic credit card, at her co-op will trigger a significantly lower interchange fee for the co-op than a customer who uses a premium card that provides her with perks such as airline frequent flier miles or coupons from big retailers like the one founded by Leon Leonwood Bean in Freeport, Maine. It turns out that those miles and discounts are anything but free.

The aspect of interchange fees that is most inimical to cooperative values and principles has to do with steps that food co-ops, like all other retailers, are contractually prohibited from taking if they wish to do business with MasterCard, VISA, and their member banks. Stores may not impose surcharges on customers for credit card transactions. Worse, so-called "anti-steering restraints" in the applicable VISA and MasterCard rules prohibit retailers from disclosing the facts about interchange fees to customers at the point of sale.

A likely effect of the no-surcharge rule is laid out starkly in the complaint filed by the NCGA and other plaintiffs in federal court: "The No-Surcharge Rule compels inequitable and anticompetitive subsidies, running from the least-affluent U.S. consumers to the most-affluent. Because Merchants must mark up the prices of all goods to cover the costs of accepting Visa and MasterCard products, rather than impose a discrete surcharge on users of those products, the No-Surcharge Rule effectively compels cash payers and users of other low-cost payment forms to subsidize all of the costly perquisites given by Issuing Banks to consumers using more expensive payment forms such as Visa and MasterCard Payment Cards, including frequent-flier miles, rental-car insurance, free gifts, and even cash-back rewards."

Isn't this precisely the kind of information that members of consumer cooperatives should have as they decide what to buy and how to pay for it at their stores? As Professor Brett Fairbairn of the University of Saskatchewan cogently pointed out in his 2003 article, "Three Strategic Concepts for the Guidance of Cooperatives," members support co-ops because "they trust that doing so will be in their own interest as well as the interest of other members." Fairbairn contends that central to cultivating this trust is assuring that "members understand the industry or sector of which their co-op is part . . . [so that] they can see 'through' their co-op to markets, forces, social and economic trends beyond." There are few forces with greater impact on retailing than VISA and MasterCard, given their omnipresence at the point of sale.

The banks have "worked pretty hard" to keep the interchange fee case from going to trial, reports an exasperated NCGA Executive Director Robynn Schrader. She reported in early June that the six-year-old case had by then spent the preceding year in mediation after two years of discovery (i.e., exchange of information in preparation for trial). Though both are valuable components of any litigation, they are also often opportunities for vulnerable parties to slow down the clock.

Fee reforms, but more needed

Happily, the financial reform legislation signed into law in 2010 contained modest interchange fee reforms, under an amendment authored by Senator Dick Durbin (D-Illinois). Under the Durbin amendment, food co-ops and other grocery retailers will be free to offer discounts to customers who use cash rather than credit or debit cards. The Federal Reserve is empowered to limit interchange fees associated with debit cards (but, alas, not credit cards) to a sum that bears a reasonable relationship to the costs banks actually incur in processing these transactions. Retailers now enjoy a legal right to limit credit card purchases to $10 or above.

Lobbying unsuccessfully against the Durbin Amendment, a group of conservative activists led by Grover Norquist of Americans for Tax Reform denounced the reforms as "corporate welfare" calculated to benefit investor-owned supermarket chains and other similar retailers. More temperate voices have pointed out that nothing in the bill requires retailers to pass the savings along to consumers.

However true that may be for investor-owned retailers, the interchange fee reforms are an opportunity for food co-ops to produce real benefits to member owners, not just by passing the savings along to customers but also in educating them about how interchange fees work. Such empowerment is crucial because, as Shrader points, out, "It's impractical for people not to use credit cards" when buying groceries or anything else.

The Durbin Amendment neighter completely resolves the interchange fee problem generally nor the NCGA lawsuit, which remains pending. The system remains fundamentally unfair, and co-ops like The Wedge, Linden Hills and Seward in Minneapolis, Outpost in Madison, and Wheatsville in Austin are fighting the system from within. They've done so by partnering with local credit unions to issue VISA or MasterCards bearing the food co-op's logo.

This is a further assault on the interbank fees, albeit one achieved in sideways fashion, in the manner of a crab seeking its dinner. Neither the food co-op nor the credit union in question can lower the fees, but they can avoid issuing the kind of premium cards that increase those fees and raise retail prices (or eat up patronage refunds). And, under the byzantine system for remitting interchange fees, some of this money flows back to the credit union in question—which can then share it with the food co-op. In the case of The Wedge, the shared funds end up with the co-op's charitable foundation.

Another benefit of such programs is the advancement of the "cooperation among cooperatives" principle. Credit unions, despite being cooperatives, have proven somewhat resistant to becoming connected to the rest of the movement. The National Cooperative Business Association has assembled a task force to address this very question.

Interestingly, though hardly coincidentally, the NCBA task force led directly to the creation of The Wedge's credit card program. Lindy Bannister, The Wedge's general manager, serves on the task force along with the CEO of Spire Federal Credit Union in Minneapolis. Bannister sat next to him at a task force gathering and simply put the proposition to him directly. Other virtues aside, the result is the best looking credit card in the business—it's basically a plastic picture of ripe red raspberries, well-calculated to provoke conversation about cooperatives and cooperation even when consumers brandish them at conventional businesses.

A national NCGA credit card program is not under consideration, according to Shrader. In the view of NCGA, such a national credit card program would yield little value for NCGA members, given the high interchange fees. A key element of the local programs mentioned above is the requirement that holders of the food co-op credit cards become members of the issuing credit unions—and, of course, credit unions labor under "field of membership" restrictions that impose geographic and other limitations on who may join.

So where does that leave the member of the Hanover Co-op with his bank-issued credit card featuring a credit union logo? Rooting for NCGA in the antitrust lawsuit, writing his federal lawmakers in quest of credit card industry reform, and pestering his food co-op and his credit union to rediscover each other. And pester he should, whether in Hanover or Albuquerque, Portland or Pensacola. The use of credit cards presents food co-ops with a magic moment for creating transparency and building trust. ■