

September 1, 2020

The Honorable Kevin Cramer
United States Senate
Washington, D.C. 20510

The Honorable Bob Menendez
United States Senate
Washington, D.C. 20510

The Honorable Donald M. Payne, Jr.
United States House of Representatives
Washington, D.C. 20515

RE: H.R. 2650, S. 4145 (Payment Choice Act)

Dear Senators Cramer and Menendez and Congressman Payne:

As advocates for the rights and interests of U.S. consumers, we are writing to express our support for the legislation you have introduced, the Payment Choice Act, to preserve the option for people to pay for purchases with cash at retail locations.

Cashless businesses unfairly disadvantage consumers in many ways. According to a report¹ released by the Federal Reserve in May 2020, nearly a quarter of U.S. adults were either underbanked (16 percent) or unbanked (6 percent) last year. The unbanked and underbanked were more likely to have low income, have less education, or be in a racial or ethnic minority group. The unbanked population included 14 percent of Black adults, 10 percent of Hispanic adults, and 3 percent of white adults.

Unbanked consumers have little access to noncash forms of payment. Without a bank account, they are unable to obtain credit or debit cards or to use other noncash payment methods, with the possible exception of prepaid cards. Furthermore, when consumers are forced to pay for goods and services in cashless transactions, they (as well as the businesses where they shop) are also often forced to incur added expenses in the form of network and transaction fees.

Furthermore, noncash transactions generate vast amounts of data, recording the time, date, location, amount, and subject of each consumer's purchase. Those data are available to digital marketers and advertisers who are engaged in developing and refining increasingly sophisticated techniques to identify and target potential customers. Paying with cash provides consumers with significantly more privacy than do electronic forms of payment.

A recent study² sponsored by Cardtronics and independently produced by Javelin Strategy & Research provides some helpful insights. Cash is the most common form of payment for purchases and bill-paying, and its use is not limited to underbanked or unbanked consumers. In fact, the study revealed that high cash users also employ many other forms of payment, including credit cards, debit cards, mobile wallets, and online checkout services. It also showed that consumers make the choice to use cash for a variety of reasons: the protection it provides from data hacks, the fact that everyone can use it without regard to income or status, the privacy protection it offers, the help it provides with budgeting money and teaching financial responsibility, and its reliability and availability. Consumers who use cash are not averse to digital forms of payment, the study found; they simply want the option to pay with

¹ Federal Reserve Board of Governors, *Report on the Economic Wellbeing of U.S. Households in 2019, Featuring Supplemental Data from April 2020*, (May 2020), available at <https://www.federalreserve.gov/publications/files/2019-report-economic-well-being-us-households-202005.pdf>.

² Cardtronics and Javelin Strategy & Research, *2020 Health of Cash Study*, (February 2020), available at https://landing.cardtronics.com/hubfs/Cardtronics/Docs/Health_of_Cash_Study_2019.pdf.

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cash when it suits their needs. Eighty-two percent of consumers in the study felt that it was important for merchants to allow cash payments.

To protect consumers from discrimination and ensure that they have choices in payment methods, some cities and states have enacted laws or ordinances that bar brick-and-mortar retail stores from refusing to accept cash.³ This issue has become even more prominent in the wake of the COVID-19 pandemic, as some retailers are citing the potential to transmit the virus through consumers' and salespeople's handling of cash as a rationale for requiring customers to pay with debit or credit cards, smartphone apps, or other digital or electronic methods. Neither the World Health Organization (WHO)⁴ nor the Centers for Disease Control and Prevention (CDC)⁵ have concluded that cash presents any more danger than credit cards or other forms of payment, however. Keeping one's distance, using hand sanitizer and wearing a mask are basic precautions that should be taken in all retail transactions to prevent the spread of the coronavirus.

The economic dislocations caused by the pandemic have fallen most directly and most harshly on the marginalized segments of our society: low-income populations, people in inner-city neighborhoods and in rural areas, the unemployed and underemployed, the elderly, and racial and ethnic minorities. It is crucial for people to be able to obtain necessities at their local stores and restaurants without being turned away because they want to pay with cash.

Enactment of the Payment Choice Act will ensure that all consumers in the United States can make purchases in retail stores and restaurants using the payment methods of their choice. We appreciate your leadership on this important issue, and urge your colleagues in Congress to support this legislation.

Please feel free to contact Susan Grant at Consumer Federation of America, sgrant@consumerfed.org, 202-939-1003 and Linda Sherry at Consumer Action, linda.sherry@consumer-action.org, 202-544-3088 regarding this legislation.

Very truly yours,

Advocacy for Principled Action in Government

³ Massachusetts, New Jersey, Rhode Island, New York City, Philadelphia, San Francisco and Berkeley have enacted these protections.

⁴ The WHO pushed back on reporting that claimed it said cash transmitted the virus, see Meera Jagannathan, "World Health Organization: We did NOT say that cash was transmitting the coronavirus," MarketWatch (March 9, 2020), available at <https://www.marketwatch.com/story/who-we-did-not-say-that-cash-was-transmitting-coronavirus-2020-03-06>.

⁵ According to the CDC, the virus spreads mainly through respiratory droplets produced when an infected person coughs, sneezes or talks and those droplets land in the noses or mouths of people nearby. "It may be possible that a person can get COVID-19 by **touching a surface or object that has the virus on it** and then touching their own mouth, nose, or possibly their eyes. This is not thought to be the main way the virus spreads, but we are still learning more about how this virus spreads." See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html>.

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Alaska PIRG
American Association for Justice
Americans for Financial Reform
Arkansans Against Abusive Payday Lending
Arkansas Community Organizations
California Alliance for Consumer Education (CACE)
Center for California Homeowner Association Law
Center for Economic Integrity
Chicago Consumer Coalition
Columbia Consumer Education Council
Constitutional Alliance
Consumer Action
Consumer Assistance Council, Inc.
Consumer Federation of America
Consumer Federation of California
Consumers for Auto Reliability and Safety
Defending Rights & Dissent
Delaware Community Reinvestment Action Council, Inc.
Demand Progress
Electronic Frontier Foundation
Electronic Privacy Information Center (EPIC)
Empire State Consumer Project
Fight for the Future
Florida Silver Haired Legislature, Inc.
Georgia Watch
Largo Florida Civic Association
Mountain State Justice, Inc.
NAACP
National Association of Consumer Advocates
National Association of Neighborhoods
National Center for Law and Economic Justice
National Consumer Law Center (on behalf of its low income clients)
National Network to End Domestic Violence (NNEDV)
New Jersey Citizen Action
Oakland Privacy
Oregon Citizens' Utility Board

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Parent Coalition for Student Privacy
Patient Privacy Rights
Privacy Rights Clearinghouse
Public Citizen
Public Justice Center
Public Law Center
SC Appleseed Legal Justice Center
South Carolina Association for Community Economic Development (SCACED)
SPLC Action Fund
Strike Debt Bay Area
Texas Consumer Association
The Kentucky Equal Justice Center
THE ONE LESS FOUNDATION
Virginia Citizens Consumer Council

cc: The Chair and the Ranking Member
House Committee on Financial Services