

**TESTIMONY OF**  
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**MANAGING DIRECTOR**  
**THE HUB CONVENIENCE STORES, INC.**  
**ON BEHALF OF**  
**THE NATIONAL ASSOCIATION OF CONVENIENCE STORES**  
**FOR THE**  
**HEARING OF THE HOUSE SMALL BUSINESS COMMITTEE**  
**OCTOBER 21, 2015**  
**“THE EMV DEADLINE AND WHAT IT MEANS FOR SMALL BUSINESSES:**  
**PART II”**

My name is Jared Scheeler. I am Managing Director for the Hub Convenience Stores, Inc. and I appreciate this opportunity to present my views regarding the implications of the EMV chip deadline for my small business.

I am testifying today on behalf of the National Association of Convenience Stores (NACS). I serve on the NACS Board of Directors. NACS is an international trade association representing more than 2,200 retail and 1,800 supplier company members in the convenience and petroleum retailing industry. NACS member companies do business in nearly 50 countries worldwide, with the majority of members based in the United States. In 2014, the industry employed more than two million workers and generated \$696.1 billion in total sales, representing approximately 4.0 percent of the United States' GDP—or one of every 25 dollars spent. The majority of the industry consists of small, independent operators. More than 70 percent of the industry is composed of companies that operate ten stores or fewer, and 63 percent of them operate a single store.

My company, Hub, has four retail outlets in North Dakota. Two locations are located in Dickinson, one in Mott, and one in New England, ND. On average, we employ 12 employees per store.

As a small business, the transition to EMV has been a costly and burdensome undertaking. It does not appear that the card companies took into consideration the realities of operating a small business when they came up with their transition plans. In addition to the substantial time and money involved, the card companies have erected considerable obstacles that restrict my ability to reduce payment card fraud at my stores. Below I offer more detailed comments on the transition, its impact on my business, and the lost opportunity for substantially reducing fraudulent transactions.

#### **I. The cost of the EMV transition for my business.**

Thus far, it has cost approximately \$44,500 per store – more than \$134,500 for a chain our size – to make the point-of-sale operating systems and fuel dispensers in our three existing stores EMV compatible. At our existing site in Dickinson, which is Mobil-branded, we purchased 6 brand new fuel dispensers even though the existing dispensers had many years of useful life in them. The new dispensers were \$17,000 each and the in-store point of sale card reader was \$2,000. So, the upgrade cost us more than \$100,000 at this site.

Although we made these large investments, because we process our cards at our existing and new Dickinson sites through our fuel brand, ExxonMobil, we cannot accept EMV transactions. That is because ExxonMobil has not yet implemented EMV technology in their card processing network. They are not mandating an in-store terminal switch until October 1, 2016 and they are assuming any liability between now and that date.

Once they implement the EMV technology, all ExxonMobil stores will require a software update. These updates are one part of an annual service package that costs \$1,500 per store. For those who don't purchase the service package, it's about \$1,000 for the software upgrade alone. Further, when the upgrade occurs, the store's cash registers and credit network will be

unavailable for 6-8 hours while the software download occurs. We operate our stores 24 hours per day so this downtime will inconvenience our customers and lose us money. In fact, we estimate that during the time our stores will be “offline” for the software update, we will lose at least \$10,200 in sales as well as labor and overtime costs per store.

Unlike our store in Dickinson, the New England, ND store does not carry the brand of a major oil company. This store had older dispensers that still had many useful years in them as they don't pump a large amount of fuel. There are four dispensers at this store. Upgrading these older dispensers would have cost about \$9,000 per dispenser. This is a problem for smaller and more rural locations. They often have older equipment that is more expensive to upgrade even though it may have more useful life. Rather than pay \$9,000 to upgrade 20 year old dispensers, we elected to transfer 4-year old dispensers from West Dakota Oil to this store, and we put in the new, compliant dispensers at West Dakota. The New England Store bought the 4-year old dispensers from West Dakota Oil, and paid \$3,000 to upgrade each of those pumps plus \$1,000 to transport each pump. This store also installed EMV card readers inside the store. In spite of these investments, the store cannot yet accept EMV transactions due to delays in the software programming necessary to take the transactions.

As in New England, our store in Mott, ND is unbranded. We have two dispensers left over from West Dakota Oil that will eventually be installed here. Like the New England store, these dispensers would cost \$3,000 each to upgrade plus \$1,000 to transport each dispenser. We plan to wait to install these dispensers due to the cost to upgrade.

These costs are staggering. The average convenience store makes \$47,000 in profits in a year. That is pre-tax. Costs in the low six figures are too much for most to absorb. The average industry cost, thankfully, is lower than ours. Some of that difference is driven by the fact that we had some older equipment that needed to be replaced rather than upgraded. Again, that will hit smaller and more rural locations the hardest.

Across the industry, the average cost per store is estimated to be about \$26,000. With 152,000 stores across the United States, that means our industry will pay about \$3.9 billion to move to EMV.

And the transition is costly not only in monetary terms, but also in terms of staff time and effort. As a small business owner, I do not have the back office or technical support of a large company. I have invested a tremendous amount of my own time to effectuate this transition, at the expense of tending to other business matters.

My company began the EMV transition process in October 2014 and it took about 16 weeks just to receive the necessary hardware. We have been at this a long time and we are still not done. While hardware has been a major expense, it is only the beginning. None of our stores have gotten their necessary software upgrades—and we can only proceed with the next steps in the EMV transition process after that happens. Then, we move onto what may be the biggest stumbling block, getting technicians to program the new equipment according to card company specifications and getting certification. Each of the major card brands — Visa, MasterCard, American Express and Discover – require separate certifications. And, we need to get separate

certifications for credit, PIN debit, and signature debit. The certification process is lengthy and frequently leads to delays because the card networks have not provided the resources necessary given the large number of merchants that needed certifications by the same deadline. Getting programming and certification, however, is not the end of the EMV journey. Businesses still need to engage in pilot testing and have significant staff training in order to be able to start taking EMV transactions.

Given all this, it is not surprising that my company and other small businesses are finding this transition difficult. The timeframes have been unrealistic and the card brands have not provided the support necessary to get this done in the timeframe they themselves set. Small businesses, not surprisingly, get pushed to the back of the line to get programming and certification services that are necessary to complete these projects. Wait times are long. And, even when those wait times are done, to avoid inconveniencing customers, we often have to work at odd hours to install and program new EMV terminals.

Even after the EMV transition is complete at my stores, I have serious concerns about the ongoing expense and burden of the new system. The costs for getting those services from ExxonMobil, as noted above, are high, but at least I know what they are. The costs for my unbranded locations might be higher – I just don't know yet. In fact, according to industry estimates, on-going maintenance and upgrade expenses are expected to be upward of \$2,240 per year, per store.

## **II. Retailers like me already bear the brunt of an unsecure payments system**

As a small business owner, I am absolutely committed to improving payment card security. I have no problem making investments in *effective* fraud-prevention measures because retailers already pay the price for the unsecure payment card system. Unfortunately, as discussed in further detail below, this very costly transition to EMV will not reduce fraud as much as it could and should, and my business will continue to suffer from a deeply flawed system.

Banks often claim that they are on the hook for fraud losses. They also claim that they provide a “payment guarantee” to their retailer customers. Frankly, I find these claims offensive because they are false. Let's be clear, I pay for fraud several times over:

First, I pre-pay for fraud with exorbitant swipe fees, which the card networks have justified as necessary to cover the cost of fraud and fraud prevention. The Federal Reserve's rules on debit card swipe fees specifically provide for merchants like me to pay 5 basis points (0.05% of the transaction amount) on every transaction to cover banks' fraud losses. That amount is now higher than the full amount of debit card fraud suffered by the majority of banks covered by the Fed's rules. And, credit card swipe fees and debit swipe fees for banks not covered by the rules are much higher – ensuring merchants pay for more than 100% of fraud up front.

Second, I pay for fraud in chargebacks. Despite banks' false claims of providing a “payment guarantee” to me and other retailers, when a fraudulent charge is made, my company

is “charged back” for the amount of the fraudulent transaction about three out of four times. In fact, every year our company pays \$600 per store in chargebacks.

Third, if a merchant suffers a data breach, Visa and MasterCard rules require the merchant to pay for any increase in fraud for those breached accounts.

Overall then, merchants pay for far more than 100% of the card fraud already. Now, for those who have not yet been able to complete the changeover to EMV, the numbers will be even higher. That makes no sense.

### **III. EMV will not reduce fraud nearly as much as it should**

Disappointingly, the card companies have mandated an EMV transition that does not include a simple and *very* effective security measure that would substantially reduce fraud losses for everyone, including small business owners like me. Instead of migrating to chip-and-PIN technology in the U.S., the card companies have opted for a transition to chip-*without*-PIN. This is true in spite of the fact that the rest of the world has been moving to chip-and-PIN and that the data the card industry has used to justify the move in the United States relies on the use of chip-and-PIN, not chip-without-PIN.

Chip-embedded cards are harder to counterfeit or copy than magnetic stripe cards, but counterfeit “chip” cards (that don’t have a chip but still look like a chip card) can still be made, and when a person presents a card with a non-functioning chip, the card’s magnetic stripe will be used or the card’s number will be entered to complete the fraudulent transaction. Most of those transactions would, however, be blocked if a PIN was required.

Chip technology without a PIN does not help reduce fraud in instances where a card is lost or stolen. Chip-without-PIN also does not to stop card fraud on the Internet. But Internet fraud is already a major proportion of fraud and will undoubtedly grow along with the EMV implementation. PIN use can help stop lost and stolen fraud as well as Internet fraud. The fact that the card industry is not issuing a PIN with every card is mind-boggling and cuts against all of the experience we have gained with the technology overseas.

This is particularly important in my business since 35 percent of our sales occur at the pump where the store clerk does not see the card user or the card for sales. Over the past few years, motor fuel and other retailers with self-serve machines have paid fees to require zip code verification for these transactions. This service adds cost but saves us real dollars on fraud chargebacks. While generic zip code verification helps, PIN authentication – which is truly individualized for each consumer – works better. The benefits of PIN authentication are real: the Federal Reserve Board has confirmed that PIN authentication is *six times* more secure than

signature authentication on debit transactions.<sup>1</sup> Moreover, chip and PIN has been used to great success in Europe for over twenty years—a fact the card networks know well.<sup>2</sup>

Despite the clear security benefits of PIN, the card companies continue to adopt policies and rules that do not capitalize on those benefits. The EMV transition to chip-without-PIN is just one example. Another example is the card companies' prohibition on merchants requiring PIN on debit card transactions. Even though the vast majority of debit cards are PIN-enabled, under the card companies' rules, I cannot choose to require customers to use a PIN to authenticate debit transactions. That is true in spite of the fact that when banks act as merchants – dispensing cash from ATMs – they are allowed to require PINs. And, of course, the banks always do require PINs.

The card companies' actions and policies simply do not make sense if the real objective is to reduce fraud in the payment card system. Perhaps this should not be a surprise given that those networks do not shoulder any of the losses from fraudulent transactions. But as a small business owner paying for this costly EMV transition and substantial annual fraud costs, I am frustrated that I will not see the fraud relief that I and other retailers could easily get if the networks were making the type of genuine fraud-reduction effort that they have made around the world.

#### **IV. PIN authentication would also benefit our customers.**

I have heard the card companies and banks say time and time again that American consumers do not want PIN authentication. According to them, consumers will refuse or be unable to remember a 4-digit code. Given consumers' daily usage of PINs at bank ATMs and their use of similar passwords and codes to access smart phones, other devices and online accounts among many other things, this is demonstrably wrong. And, the card industry position is not supported by the data—a recent survey commissioned by the National Retail Federation found that 62% of consumers would prefer to use chip and PIN cards rather than chip-without-PIN cards.<sup>3</sup>

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<sup>1</sup> Federal Reserve Board, Debit Card Interchange Fees and Routing, 77 Fed. Reg. at 46,261 (Aug. 3, 2010), available at <http://www.gpo.gov/fdsys/pkg/FR-2012-08-03/pdf/2012-18726.pdf>.

<sup>2</sup> *The Benefits of Chip and PIN for Merchants*, available at <http://www.visa.ca/chip/merchants/benefitsofchippin/index.jsp> (last visited Oct. 15, 2015)(describing how fraud related to lost and stolen payment cards in the UK decreased by more than half since chip and PIN was adopted there in 2004); see also Submission of Visa Worldwide, Visa AP (Australia), and MasterCard Asia/Pacific to the Australian Competition & Consumer Commission in support of Authorisations A91379 & A91380 (Aug. 30, 2013), “Security of Chip and PIN vs. Signature,” pp. 1-2, available at <http://registers.accc.gov.au/content/index.phtml?itemId=1120516&display=submission> (last visited Oct. 15, 2015)(affirming “[t]he Applicants’ view is that chip and PIN is a significantly more secure form of [customer verification method] than signature”).

<sup>3</sup> See NRF Survey, available at <https://nrf.com/sites/default/files/Documents/Chip-and-Pin%20Consumer%20Survey%20One-Pager%2009-16-2015%20REV.pdf>.

The card networks' position against PIN use in the United States appears to be disingenuous given that they have advertised in other countries that PIN transactions are more effective in preventing fraud than signature transactions and lead to "increased checkout speed and improved customer service."<sup>4</sup>

The consumer experience is a priority for any small business. So it is difficult for me to accept that the card networks and banks are promoting chip-without-PIN when chip-and-PIN is widely proven to benefit consumers – and the numbers show that consumers want it.

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Unfortunately, there are many problems with the transition to EMV. This is not surprising given the fact that the card companies developed the transition timeline and requirements without input from merchants and consumers. Beyond the expense and unreasonable timelines, the most frustrating aspect of the transition is that it will fall short of the fraud-prevention and consumer protection benefits it could easily achieve. Retailers want strong security – and we've been paying to try to get it – but transitioning to unproven chip-without-PIN technology threatens to have a significant negative impact on small businesses like mine. My company will continue to shell out money to pay for fraud several times over despite investing hundreds of thousands of dollars in the card networks' chosen technology. That is wrong and needs to change.

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<sup>4</sup> "The Benefits of Chip and PIN for Merchants," *available at* <http://www.visa.ca/chip/merchants/benefitsofchippin/index.jsp> (last visited Oct. 18, 2015)(including a statement that "using a PIN is 2 to 4 seconds faster than obtaining a signature..."); *see also* "The Importance of PIN," *available at* <http://www.visa.ca/chip/cardholders/importance-of-pin/index.jsp> (last visited Oct. 18, 2015)( Visa advertises to consumers on its website in Canada (where chip and PIN has been implemented), in a section titled "The Importance of PIN," that "PIN transactions are easy.")