



Association canadienne
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**Canadian Restaurant
and Foodservices
Association**

November 17, 2009

Mr. Jeff van Duynhoven
President
TD Merchant Services
100 Wellington Street
29th Floor West
Toronto, Ontario
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Dear Mr. Duynhoven:

I am writing to you and other credit card processors to express concerns about the roll-out of new debit products in Canada. CRFA is receiving calls from members who are very concerned and confused about the launch of new debit products and we would appreciate clarification from you on which policies/rules are mandated by Visa and MasterCard and which policies/rules are at your discretion.

- Choice

CRFA believes merchants should choose which cards they want to accept – a choice made through express, written consent.

CRFA is hearing of processors using negative option acceptance to introduce new debit products to merchants. In one scenario, merchants are instructed to go online or call to decline new Visa debit payment options – otherwise, these products are automatically added. In another scenario, merchants have been told that once they process their first Visa Debit transaction, their merchant agreement will automatically be modified to include new Visa debit provisions. Some CRFA members have been informed that they cannot opt out of MasterCard Debit unless they stop accepting MasterCard entirely, including credit cards.

- What are you doing to ensure that merchants are provided with clear, transparent and accurate information about their options?
- Can you explain how you ensure that merchants have the choice whether or not they want to accept new debit card options?
- Can you confirm that written permission is requested from merchants before any amendments are made to agreements, including changes to fees?
- Can you confirm whether or not you charge merchants any fees or penalties for opting out of new debit card products such as charges for equipment or re-programming? Please specify.

- Priority Routing

We understand that cardholders are being issued new debit cards that will include both Interac and Visa Debit or MasterCard Maestro Debit. We believe that merchants should be able to choose the order in which payment networks are offered to their customers without being charged additional fees for exercising this right. However, we are hearing that point-of-sale equipment is being programmed so that Visa or MasterCard is the default option presented to customers.

- Can you confirm whether this is true, the circumstances under which it could take place, and why?

Alternatively, we are hearing that processors are programming equipment to prompt customers to select between Interac and Visa Debit or MasterCard Debit. This is problematic because customers will not know to select the lowest cost option for merchants or they will be incented to choose the Visa or MasterCard debit option for benefits such as reward programs.

- Can you confirm that you will enable equipment so that merchants can switch the order in which payment options are presented to customers?

Because the roll-out of new debit products is occurring at the same time new equipment upgrades are being introduced, we are hearing that priority routing programming is being undertaken without merchants' knowledge.

- Can you confirm if this is true and if yes, why?
- Can you confirm that merchants will not be charged if they request to have priority routing removed from their system?

Charge-backs

Interac treats debit as cash without any charge-backs to merchants or requirements for reserve accounts. Some acceptance rules from processors indicate that the liability and charge-back rules for Visa debit will be the same as Visa chip cards. This practice doesn't make sense since debit transactions, like cash, are final and irrevocable.

- Can you explain whether this has been mandated by Visa and why?
- Are there similar requirements in place for MasterCard and Maestro Debit?

In summary, CRFA members are unhappy about current credit card fees, rules and practices. They are also very concerned about the roll-out of new debit card products and what they will mean for their businesses.

As a result, CRFA continues to call on the federal government to provide greater oversight of the credit card and debit card payment systems in Canada to ensure that fees charged to merchants are reasonable, predictable, transparent, linked to costs, and do not include the cost of cardholder enrichments.

Your co-operation in clarifying your position on some of the questionable practices outlined above would be appreciated. Your response will be shared with our members. Please do not hesitate to contact myself or Joyce Reynolds if you require further information.

Yours sincerely,



Garth Whyte
President and CEO

c.c. Members of "Stop Sticking It To Us" Coalition members
The Hon. James Flaherty, Minister of Finance
Nancy Hughes Anthony, President, and CEO, Canadian Bankers Association
Melanie Aitken, Commissioner of Competition
David Phillips, President and CEO, Credit Union Central of Canada
Mark O'Connell, President & CEO, Interac Association