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**Merchant Advisory Group Comments )  
to the Federal Trade Commission Regarding )  
Competition and Consumer Protection in the 21<sup>st</sup> Century )  
August 20, 2018 )**

The Merchant Advisory Group (MAG) appreciates the opportunity to provide comments to the Federal Trade Commission (FTC) regarding Competition and Consumer Protection in the 21<sup>st</sup> Century. The MAG was founded in 2008 by a small visionary group of merchants in the payments field dedicated to driving positive change in payments through multi-stakeholder collaboration. According to our year end 2016 survey, the MAG represented over 130 of the largest U.S. merchants which account for over \$3.3 Trillion in annual sales at over 900,000 locations across the U.S. and online. Roughly \$2.6 Trillion of those sales and over 66 Billion card payments are electronic which represents approximately 59%\* of total U.S. card volume. MAG members employ over 12 million associates.

Merchants have dedicated their time and resources to founding and supporting the MAG because the customer's payment experience with the merchant is integral to the overall interaction with a merchant, regardless of channel. Merchants strive to deliver frictionless and consistent interfaces for consumers throughout their relationship, and any interruption to the customer's experience can negatively affect the relationship moving forward. Therefore, it is critical that merchants meet customers' expectations for payments acceptance to continue building their relationship.

The current payments ecosystem relies heavily on legacy systems and unbalanced industry standards and mandates. The lack of competition between global networks and issuing banks in payments hinders merchants' adoption of new products and services, while driving costs higher and higher.

Although competition among acquirers, POS hardware and software providers, fraud deterrent technology vendors and others is robust, merchants do not have transparency into, and do not benefit from, competition in the costs of card acceptance – by far the largest component of payment costs for merchants – from networks and card-issuers. Additionally, payment networks often mandate merchant acceptance of new products and services without fully detailed specifications and with short implementation timelines. This makes it extremely difficult for merchants to comply with these mandates while implementing new payments technologies in ways that enhance their customers' experience.

Merchants would like to see innovative, secure, transparent and competitive payments options enter the marketplace. The market is ripe for change, and consumers' expectations and habits are evolving at a rapid pace due to innovation and technological advancements in all aspects of their daily lives. Payments industry stakeholders, including established industry partners and new market entrants, have an opportunity to make substantive change in the market during this time of consumer demand for more convenient and faster ways to shop and pay. Innovation in payments should increase competition and provide merchants with increased market options for payments acceptance.

In addition to examining how innovation can enhance competition, merchants are also mindful of current legal requirements which specifically call for competition in payments. As required by The Dodd-Frank Wall Street Reform and Consumer Protection Act, there must be at least two unaffiliated networks on debit cards ensuring merchants have choice in routing transactions over all channels and forbids issuers and card networks from inhibiting the merchants' choice regarding which network over which to route debit transactions. While merchants have seen very high levels of network and issuer compliance with these requirements for transactions in their physical locations, issuers have been slow to comply with the dual routing requirements for card-not-present transactions. Debit routing for card-not-present transactions should not be inhibited, especially as online and mobile channels continue to see exponential growth.

Unfortunately, merchants have experienced limited routing choice upon payment networks' introduction of new products in recent years. Payment networks have used proprietary innovation, often under the guise of security, to limit merchants' routing choices. Examples of this tactic include limiting routing options through the use of Consumer Device Card Verification Method (CDCVM) and payment network tokenization. Merchant should not have to relinquish their right to route in order to adopt technological advancements.

Payment network tokenization is another example of how merchants' routing choices have been inhibited. Tokenization is the process whereby sensitive payment credentials are replaced with substitute credentials (known as tokens) that cannot be used to replicate the original payment device. Tokens prevent hackers from breaching merchants' payments systems and stealing valuable account credentials by eliminating the need to store the sensitive credentials. Global networks have circumvented merchants' routing choice by mandating routing to specific networks based on token ownership. Not only does this constrain competition, it also stifles innovation.

To further elaborate on how CDCVM inhibits competition, the limits on routing choice are not only impacting merchants, but issuers as well. Issuers cannot make the best authorization decisions when CDCVM is not passed, disadvantaging them and potentially negatively impacting the customer experience with risk of a declined transaction. CDCVM is not licensed by the global networks to the Common AID, which allows merchants to route a transaction to any payment network available on the card. Global AID selection enables issuers to see this Card Verification Method (CVM) in the authorization request yet, this AID selection only enables routing to one network. The licensing limits associated with this do not promote competition as it disadvantages issuers, debit networks, and merchants alike from making the best possible authorization decision leveraging the enhanced

information available such as biometric data. The lack of competition ultimately negatively impacts the customer.

The global payment networks have announced support for the EMVCo Secure Remote Commerce Framework (SRC), which EMVCo describes as consistent, secure payload of customer payment information that can be used to facilitate authorization through existing channels. Merchants do not have clarity in whether SRC is a framework that supports participation without limitation, including domestic debit networks or other innovative and competitive payment players – currently in market or in the future. It is critical that payments standards are not designed in a manner that can unfairly advantage select stakeholders through the standards setting process.

The MAG and its members are encouraged by the FTC's interest in examining Competition and Consumer Protection in the 21<sup>st</sup> Century. As the nature of commerce evolves and consumers' behavior shifts, merchants want to adopt and implement technology that will strengthen their relationships with their customers. Consumer payments are key to a customer's overall experience in commerce, and the MAG believes a competitive, transparent ecosystem serves the best interests of consumers and merchants alike.

*\*Source of Total U.S. card volumes: Federal Reserve Payments Study 2016*