



Washington Retail Insight

An Industry brief providing a look "behind the scenes" in the nation's capital.

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NRF Meets With Commerce Secretary, USTR on Vietnam Dumping

NRF told Commerce Secretary Carlos Gutierrez and U.S. Trade Representative Susan Schwab this week that a Bush Administration promise to consider antidumping cases against apparel imports from Vietnam could force U.S. retailers to move \$2.9 billion in contracts elsewhere at a time when the two nations are seeking closer economic ties.

NRF President and CEO Tracy Mullin and senior executives from several retail and apparel companies met with Gutierrez and Schwab on Tuesday at Commerce Department headquarters in Washington.

"This agreement would have a chilling effect on trade with Vietnam," Mullin said. "The end result would be that many U.S. retailers would switch their sourcing to other Asian countries. Most of the products in question are no longer made in the United States, so this agreement would do nothing to create or protect U.S. jobs."

At issue is an agreement Gutierrez and Schwab made last month with Senators Elizabeth Dole, R-N.C., and Lindsey Graham, R-S.C., in order to convince them to drop their opposition to legislation giving Permanent Normal Trade Relations Status to Vietnam. PNTR enjoys broad support in Congress, but Dole and Graham have claimed it would harm U.S. textile makers and demanded protection from apparel imports from Vietnam. The Bush Administration is seeking congressional approval of PNTR before President Bush visits Hanoi for a trade summit next month.

Under the agreement, the Commerce Department will monitor apparel imports from Vietnam once Vietnam joins the World Trade Organization early next year and bring antidumping cases if it sees evidence of injurious dumping. For the first time in more than 20 years, the Administration would "self-initiate" the cases rather than waiting for companies to file petitions seeking action. In an unprecedented move, the action would be taken on behalf of an industry that does not make the products in question.

Gutierrez and Schwab said Tuesday there was no possibility of rescinding the

agreement, but NRF is continuing talks with the Administration.

In the meantime, a WTO working party on Thursday approved the terms of Vietnam joining the trade group, and the WTO General Council is expected to vote November 7. Vietnam will become a full member of the WTO 30 days after the accords are ratified by the Vietnamese National Assembly.

Until Congress passes PNTR, the U.S. government will be forced to invoke "non-application," meaning that the United States and Vietnam would not apply the mutual benefits of WTO membership to each other, including access to the dispute settlement process to resolve trade issues. A House vote is expected the week of November 13 and Hill staff tell NRF a Senate vote is "highly likely."

For more information, contact NRF Vice President and International Trade Counsel [Erik Autor](#) at (202) 626-8104.

Report Says Visa/MasterCard Processing Fees Exceed Actual Costs

An new independent report released this week shows that only a small fraction of the \$30.7 billion in credit and debit card interchange fees Visa and MasterCard collect from merchants and consumers is actually necessary to cover the cost of processing card transactions.

"This new study reinforces what merchants have been saying all along -- that interchange fees are far, far higher than the actual cost of the transactions they are meant to pay for," NRF Senior Vice President and General Counsel Mallory Duncan said. "This report corroborates the data and messages that merchants have communicated to lawmakers over the past year. This is important research that will help the public understand how much Visa and MasterCard are needlessly charging them. Among other things, this fee is fueling the flood of credit card offers stuffing consumers' mailboxes."

"A New Business Model for Card Payments," issued by Chicago's Diamond Management and Technology Consultants Inc., shows that only 13 percent of interchange fees go toward transaction processing costs. The remaining 87 percent goes to Visa/MasterCard banks to cover a wide range of expenditures including reward programs for some cardholders (44 percent) and card issuers' cost of funds and profit margins (35 percent), according to the report.

"Visa and MasterCard rules effectively require that interchange be built into prices and make cash discounts all but impossible, so these fees take money out of consumers' pockets regardless of how they pay," Duncan said. "Consumers think rewards are free, but this study shows consumers are being charged for these rewards whether they ever get to use them or not."

Given Visa and MasterCard's refusal to fully disclose operating rules that govern interchange, the study offers a rare glimpse into what costs are paid for by the largely unknown fees. In addition, the researchers said merchant dissatisfaction with unreasonable interchange fees raises important questions about the future of the credit card business model and may lead to the unraveling of the traditional system in coming years.

Duncan is chairman of the Merchants Payments Coalition, which has argued that collective setting of interchange fees by Visa and MasterCard violates federal antitrust laws and costs merchants and consumers an estimated \$30.7

billion last year. MPC is fighting for greater transparency and the disclosure of operating rules that govern interchange rates.

Interchange is a percentage of each transaction that Visa and MasterCard banks collect from retailers every time their credit or debit cards are used to pay for a purchase. The fee varies with type of merchant, transaction and card, but averages close to 2 percent for most credit card and signature debit transactions.

For more information, contact NRF Senior Vice President and General Counsel [Mallory Duncan](#) at (202) 783-7971.

Visa Releases Credit Card Interchange Rates

Visa last week released a list of the credit and debit card interchange rates it charges retailers, but didn't answer why the fees are so high or address allegations that the rate-setting process violates federal antitrust laws.

"This announcement by Visa begins to shed a much-needed spotlight on the excessive interchange rates merchants and consumers are forced to pay on virtually every credit or debit card transaction," NRF Senior Vice President and General Counsel Mallory Duncan said. "It is evident that Visa has felt the pressure of congressional scrutiny and merchant outrage over these anti-competitive practices."

"The release of these interchange rates brings to light the need for further transparency," Duncan said. "The report shows a bewildering array of rates for different cards, merchants and types of transactions, which emphasizes the opacity of interchange. Without the operating rules that govern how these fees are applied, this announcement falls far short of the disclosure that is needed. Given the recent GAO report on Visa and MasterCard's failure to clearly disclose fees and terms to consumers, their lack of transparency in dealing with merchants should come as no surprise."

Duncan is chairman of the Merchants Payments Coalition, a group formed by NRF and other national merchant trade associations to address the rapid increase in interchange fees in recent years. Visa and MasterCard collected \$30.7 billion in interchange last year, up 85 percent over the past five years, according to MPC figures.

Visa on October 17 released a five-page document listing a total of 79 combinations of interchange rates charged to merchants, ranging from as low as 0.55 percent to as high as 2.7 percent. The document offered no averages, dollar amounts or other indications of which rates are most prevalent.

Visa claimed in September that "retailers do know, and always have known, the price they pay to accept Visa cards." But in making last week's announcement, the card association conceded that the list of rates has been available to issuing and acquiring banks but not merchants.

"We are constantly evaluating the marketplace," Visa spokeswoman Rhonda Bentz told the American Banker newspaper. "This is just another step we are taking to add more visibility to our system."

While the release of the rates was a small step toward the transparency NRF has demanded, NRF is still pushing -- among other things -- for disclosure of operating rules that explain how the rates are set and why the fees are so high.

MasterCard claims its rules are on its web site but only excerpts are actually offered. Visa recently said it would disclose its rules, but demanded that merchants sign a non-disclosure agreement forbidding them from disclosing or discussing the contents.

Visa's announcement did not address allegations that Visa and MasterCard banks have violated federal antitrust laws by acting as a cartel and engaging in price fixing when setting each network's interchange rates. The MPC testified at a Senate Judiciary Committee hearing on the issue in July, and approximately 50 merchant lawsuits pending in U.S. District Court make the claim.

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For more information, contact NRF Senior Vice President and General Counsel [Mallory Duncan](#) at (202) 783-7971.

Retailers Urged to Consider Wellness in Health Care

The medical director of one of the nation's largest health care management companies this week urged retailers to focus on employee wellness initiatives as a tool in holding down rising health insurance costs.

Healthways Inc. Vice President Dexter Shurney said much of the rising cost of care can be attributed to chronic conditions, and that prevention can help avoid both disease and associated health care costs. Health risk assessments and steps like blood tests can help establish baselines to measure progress, he said. The key is to engage employees with the means to improve their own health status. More productive employees and lower health care costs will follow.

Shurney spoke on Thursday as part of NRF's annual HR Summit in Dallas. Dozens of retailers from across the country turned out for the three-day conference focused on health care and employment law issues.

Also speaking was University of Minnesota professor Will Hueston, who said retailers need to prepare for the possible avian influenza pandemic. Hueston said fear would naturally be part of the public reaction should the pandemic develop, but needs to be anticipated and acknowledged rather than allowed to develop into panic and chaos. Retail is particularly at risk from a pandemic due to high employee and consumer exposure.

The summit also included a meeting of the NRF Committee on Employment Law, which addressed issues including corporate social responsibility, electronic records and litigation, immigration and a recently vetoed Chicago city ordinance that would have forced special wage and benefit mandates on large retailers.

For more information, contact NRF Vice President for Government and Political Affairs [Rob Green](#) or Vice President and Employee Benefits Policy Counsel [Neil Trautwein](#) at (202) 783-7971.

Congress in Recess

The House and Senate are in recess. Both chambers are tentatively expected to return for a lame duck session the week of November 13. *Washington Retail*

Insight will be published as news developments warrant while Congress is in recess.

Congressional Outlook:

House: In recess. Lame duck session expected week of November 13

Senate: In recess. Lame duck session expected week of November 13

NRF Events:

- November 16, Policy Council, Washington

For information on NRF events, contact Eileen Pryor at (202) 626-8114 or pryore@nrf.com.

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