



Consumer Federation of America

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Comments Submitted to the Consumer Financial Protection Bureau Regarding the CFPB's Inquiry Into Big Tech Payment Platforms, Docket No. CFPB-2021-0017

Submitted by:

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Consumer Federation of America (CFA) is an association of non-profit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education. CFA appreciates the opportunity to submit comments in response to the Consumer Financial Protection Bureau's Notice and Request for Comment Regarding the CFPB's Inquiry Into Big Tech Payment Platforms (Docket No. CFPB-2021-0017).

CFA is committed to ensuring fairness, transparency, consumer choice, and competition in the marketplace, and therefore, we appreciate the Consumer Financial Protection Bureau (CFPB) issuing information request orders to various BigTech giants, including Amazon, Apple, Facebook, PayPal, and Square.

As CFA has long documented, these companies have massive amounts of unchecked powers which has led to diminished competition,¹ privacy violations, consumer harm,² and deceptive and unfair practices.³ Further, these companies have already been the focus of many regulatory and congressional investigations for harmful consumer practices, illustrating further necessity for this important inquiry. We are increasingly concerned that the power amassed by these tech companies is not only anticompetitive but will lead to consumer harm and further blur the line between commerce and banking.

1. Prevalence of Fraud

Although consumers can benefit from faster payments and widespread availability of person-to-person payments (p2p), payment apps have had fraud rates that are three to four times higher

¹ Amina Abdu, Consumer Federation of America, *What Now? Unanswered Questions from the House Big Tech Antitrust Hearing* (Aug. 14, 2020), <https://consumerfed.org/what-now/>.

² Letter from Consumer Federation of America, Public Citizen, U.S. PIRG, et. al to Federal Trade Commission re You Can Log Out, but You can Never Leave: How Amazon manipulates consumers to keep them subscribed to Amazon Prime (Jan. 14, 2021), <https://consumerfed.org/wp-content/uploads/2021/01/Amazon-Dark-Patterns-FTC-letter-.pdf>.

³ Letter from Consumer Federation of America, Consumer Action, Public Citizen, et. al to Bureau of Consumer Protection, Federal Trade Commission re Facebook's potential violations of Children's Online Privacy Protection Act (Feb. 21, 2019), <https://consumerfed.org/wp-content/uploads/2019/02/facebook-ftc-letter.pdf>.

than traditional payment methods such as credit and debit cards.⁴ The ability to send and receive money electronically and quickly is already being exploited by scammers. Plus, the speed of these payments makes it difficult to effectively detect fraudulent payments. Since many companies offering peer-to-peer payments services do not disclose the rate of fraud, it's difficult to know just how widespread the issue of fraud is and how many consumers suffer losses to scammers.

However, consumer complaints about digital wallets are rising steeply, and three companies accounted for two-thirds of complaints, including PayPal and Square.⁵ Further, the burden is greater for low-income and consumers of color, who are targeted by fraudsters at high rates. For example, for Black and Latino consumers, 2 in 5 have been targeted by a scam and 1 in 5 have lost money due to a scam.⁶

As noted in CFA and fellow advocates' previous comments to the Federal Reserve Board (FRB) in response to their proposed rules for implementing the FedNow payment system, the current response to fraud in existing systems is insufficient and places the burden on the consumer, rather than building consumer protections into the system.⁷ These p2p systems can do far more to protect consumers from fraud and scams, and in doing so, increase consumer trust and confidence in these systems.

2. Consumer Choice

CFA has long advocated for consumer choice in the financial marketplace. For example, CFA has vocally advocated for legislation to preserve the option for consumers to pay for purchases with cash at retail locations.⁸ Consumers should be able to choose the payment method that best suits their needs and financial situation. Although fast payment systems can help consumers, they should not be pursued at the cost of consumer choice.

Given Amazon's recent announcement to halt acceptance of Visa payments in the United Kingdom, we are increasingly concerned about lack of consumer choice and whether payment platforms will actually be neutral.⁹ Consumers should maintain the choice to pay for services and

⁴ Nathaniel Popper, The New York Times, *When Your Last \$166 Vanishes: 'Fast Fraud' Surges on Payment Apps* (Oct. 11, 2020), <https://www.nytimes.com/2020/10/11/technology/fraud-payment-apps.html>.

⁵ Ed Mierzwinski, U.S. PIRG Education Fund, *Virtual Wallets, Real Complaints* (June 2021), <https://uspig.org/feature/usp/virtual-wallets-real-complaints>.

⁶ AARP, *Consumer Fraud in America: The Latino Experience* (August 2021), https://www.aarp.org/content/dam/aarp/research/surveys_statistics/econ/2021/consumer-fraud-latino-experience-report.doi.10.26419-2Fres.00455.001.pdf;

AARP, *Consumer Fraud in America: The Black Experience* (August 2021), https://www.aarp.org/content/dam/aarp/research/surveys_statistics/econ/2021/consumer-fraud-black-experience.doi.10.26419-2Fres.00456.001.pdf.

⁷ National Consumer Law Center, Consumer Federation of America, et. al Comments to Federal Reserve Board re Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire, Docket No. R-1750; RIN 7100-AG16 (Sept. 9, 2021), https://www.nclc.org/images/pdf/banking_and_payment_systems/fintech/FedNow-coalition-comments-final.pdf.

⁸ Letter from Consumer Federation of America, Americans for Financial Reform, Consumer Action, et. al to Representatives Donald Payne Jr., Sylvia Garcia, Chris Smith, re Support for the Payment Choice Act of 2021 (H.R. 4395) (August 5, 2021), <https://consumerfed.org/wp-content/uploads/2021/08/39-Groups-Voice-Support-for-Payment-Choice-Act-of-2021-8-5-21.pdf>.

⁹ Notice and Request for Comment re the CFPB's Inquiry Into Big Tech Payment Platforms, 86 Fed. Reg. 61,182-61,183 (November 5, 2021), <https://www.federalregister.gov/documents/2021/11/05/2021-24176/notice-and-request-for-comment-regarding-the-cfpbs-inquiry-into-big-tech-payment-platforms>.

products as best fits their situation, especially given the growing usage of fast payments, the prevalence of fraud in fast payments and lack of oversight and transparency of these companies. As the CFPB outlines in the statement, there are long-term implications of limiting consumer choice, which proves to be not only harmful to the consumer but stifling for innovation and competition.

3. Innovation without Transparency

Finally, we are deeply concerned that innovations are pursued at an alarming pace without necessary transparency or regulatory oversight. These companies are rapidly developing new payment services and other innovations without sufficient transparency, and consumers may unwittingly use them without understanding the true risk or potential harm. For example, Facebook's proposal to create a new cryptocurrency is extremely concerning, and CFA has joined with fellow advocates in calling for the company to put its plans on hold.¹⁰ Although innovation has an important place in the financial marketplace, it should not be pursued in a manner that is risky or harmful for consumers.

4. Priorities for CFPB Investigation

We hope that the CFPB's investigation will meaningfully address:

- how these payment methods lead to more fraud than traditional payment methods; how these companies should proactively protect consumers from fraud, and whether systems can be modified to stop fraud before it happens;
- how these companies use personal payments data, and whether that data is used in a way that consumers are unaware of;
- whether these companies should be more transparent about their practices, their customers' experiences with fraud and other problems, and their data collection and use;
- how these companies handle consumer complaints and whether they are effectively able to respond to fraud and provide consumer redress;
- whether these companies should be permitted to expand into additional financial services, including cryptocurrency.

The CFPB has an important role in monitoring these companies for consumer risks and publishing those results to the public. We appreciate the CFPB's investigation into these companies, and we look forward to learning about your findings.

¹⁰ Letter from Consumer Federation of America, Public Citizen, U.S. PIRG, et. Al to U.S. Senate Committees on Commerce & Banking, Housing and Urban Affairs, and U.S. House Committee on Energy and Commerce & Ways and Means re Facebook's proposal to create a new cryptocurrency (July 2, 2019), <https://consumerfed.org/wp-content/uploads/2019/07/Libra-letter-FINAL.pdf>.