

# Todd Zywicki's Past Statements And Industry Backing Make Him Ill-Suited To Discuss Negative Impact Of Junk Fees But Perfect For Subcommittee's Pro-Junk Fee Members

Summary: In June 2023, [George Mason Law Professor Todd Zywicki](#) will be serving as a witness for a Senate Commerce subcommittee on Consumer Protection, Product Safety and Data Security hearing entitled, "[Protecting Consumers from Junk Fees.](#)" This hearing is set to explore "how undisclosed fees harm consumers and prevent a fair and transparent market."

Professor Zywicki's past statements on junk fees and wider consumer protection efforts, alongside his history of representing corporate interests against regulatory scrutiny, give reason to question his suitability in providing testimony on stopping junk fees, something [75% of Americans support](#).

Zywicki's past statements and connections include:

- **Defended Junk Fees During A March 2022 House Financial Services Subcommittee Hearing As "[Something That Prices My Risk](#)," Insisting Efforts To Regulate Them Were Born Out Of "[Exasperation](#)" Instead Of "[Sound Economic Analysis](#)."**
- Was The Director Of A Consulting Firm That Was Frequently **Hired To "[Influence The CFPB And Other Regulatory Agencies](#)" For Financial Industry Clients That Have Paid Hundreds Of Millions Of Dollars In Fines For Consumer Abuses.**
- Co-Wrote A [Paper](#) On The "Durbin Amendment" And Debit Card "Interchange Fees" That Was **Funded By A Group That Received Financial Backing From MasterCard.**
- **Criticized The Credit CARD Act Of 2009, [Arguing](#) That Everyone Will Pay More If Card Companies Can't Raise Risky Borrowers' Interest Rates—Yet The Law, Which Has Fought "[Unfair Rate Hikes And Hidden Fees](#)," [Saved](#) Consumers \$16 Billion From 2011 To 2014.**
- Believes **Overdraft Protection Is A "[Valuable Source Of Revenue For America's Community Banks](#)"—** The CFPB [Found](#) That Consumers Who Enroll In Overdraft Protection Pay Seven Times More In Fees.

Zywicki is the perfect witness for subcommittee Republicans that have railed against efforts to crack down on junk fees negatively impacting consumers, including Senators Jerry Moran (R-KS), Ted Budd (R-NC), And Cynthia Lummis (R-WY):

- In September 2022, **Sen. Jerry Moran (R-KS)** [Signed On To A Republican Letter](#) To The CFPB Which **Defended Overdraft Fees, Calling Them "An Alternative To Short-Term Loans"** And Said Consumers "Opt-In" To These Services.
- In May 2017, Then-Congressman **Ted Budd (R-NC)** [Penned An Op-Ed](#) Railing Against Regulating Debit Card Fees And In May 2022 [Signed A Letter](#) To The CFPB Director Denouncing The Bureau's Efforts To Regulate Junk Fees.
- In [April 2023](#) And [September 2022](#), **Sen. Cynthia Lummis (R-WY)** Signed On To Republican Letters Sent To The CFPB Defending Overdraft And Credit Card Late Fees, Accusing The Agency Of **"Demoniz[ing] Commonsense Incentives That Promote Financial Responsibility, Such As Overdraft Fees And Credit Card Late Fees,"** Calling Overdraft "An Alternative To Short-Term Loans."

**In June 2023, George Mason Law Professor Todd Zywicki Will Be Serving As A Witness For A Senate Commerce Subcommittee Hearing Exploring The Impact Of Junk Fees On Consumers After Previously Defending Junk Fees As “Something That Prices My Risk” Insisting Efforts To Regulate Them Were Born Out Of “Exasperation” Instead Of “Sound Economic Analysis.”**

**On June 8, 2023, George Mason Law Professor Todd Zywicki Will Serve As A Witness For A Senate Commerce Subcommittee Hearing To “Explore How Undisclosed Fees Harm Consumers And Prevent A Fair And Transparent Market.”**

**June 8, 2023: The Senate Commerce Subcommittee On Consumer Protection, Product Safety And Data Security Will Be Holding A Hearing Entitled, “Protecting Consumers From Junk Fees,” Which Will “Explore How Undisclosed Fees Harm Consumers And Prevent A Fair And Transparent Market.”** “U.S. Senator John Hickenlooper (D-Colo.), Chair of the Subcommittee on Consumer Protection, Product Safety and Data Security, will convene a subcommittee hearing titled ‘Protecting Consumers from Junk Fees’ on Thursday, June 8, 2023, at 10:00 a.m. ET. The hearing will explore how undisclosed fees harm consumers and prevent a fair and transparent market and will examine potential legislative solutions.” [Senate Committee on Commerce, Science, & Transportation, accessed [06/06/23](#)]

- **The Subcommittee Has Jurisdiction Over “Consumer Affairs And Consumer Product Safety,” And Oversees Agencies Such As The Federal Trade Commission And The Consumer Product Safety Commission.** “The Subcommittee on Consumer Protection, Product Safety, and Data Security is responsible for consumer affairs and consumer product safety; product liability; property and casualty insurance; sports-related matters; consumer privacy and data security protection, and international data transfer issues. The subcommittee conducts oversight of the Federal Trade Commission (FTC), the Consumer Product Safety Commission (CPSC), the U.S. Olympic and Paralympic Committee (USOPC), the U.S. Anti-Doping Agency (USADA), and the Office of the Secretary of Commerce.” [Senate Commerce Committee, accessed [06/07/23](#)]

**Todd Zywicki, George Mason University Foundation Professor Of Law At The Antonin Scalia School Of Law, Will Be Serving As A Witness:**

**Witnesses:**

- Sally Greenberg, Chief Executive Officer, National Consumers League
- Vicki G. Morwitz, Bruce Greenwald Professor of Business, Marketing Division, Columbia Business School
- Todd J. Zywicki, George Mason University Foundation Professor of Law, Antonin Scalia School of Law, George Mason University

[Senate Committee on Commerce, Science, & Transportation, accessed [06/06/23](#)]

**In A March 2022 House Financial Services Subcommittee Hearing, Professor Zywicki Defended Junk Fees As “Something That Prices My**

## **Risk” Insisting Efforts To Regulate Them Were Born Out Of “Exasperation” Instead Of “Sound Economic Analysis.”**

### **In A March 2022 House Financial Services Subcommittee Hearing Titled “The End Of Junk Fees?,” Professor Zywicki Worried Regulations On Fees Born Out Of “Exasperation” Instead Of “Sound Economic Analysis” Could Have “Serious Unintended Consequences.”**

**March 2022: Zywicki Worried Regulations On Junk Fees Born Out Of “Exasperation” Instead Of “Sound Economic Analysis” Could Have “Serious Unintended Consequences” On Banks And Consumers.** “I understand consumers are frustrated by overdraft fees, and other bank fees. Financial products for consumers today are extremely complex for various reasons, and have a lot of price points. But the point I hope you will take away from today is that exasperation is not a substitute for sound economic analysis, and I think this is an area in which unintended consequences of bans on overdraft protections—substantive limits, price controls and the like—could have some serious unintended consequences.” [HFSC, [03/31/22](#)]

- **These Remarks Were Made During A March 2022 Hearing Of The House Financial Services Subcommittee On Consumer Protection And Financial Institutions, Entitled "The End Of Overdraft Fees? Examining The Movement To Eliminate The Fees Costing Consumers Billions."** [HFSC, [03/31/22](#)]

*Zywicki Insisted Regulations Could Have Unintended Consequences On Consumers And Small Banks Resulting In Both Higher Fees And Lower Revenues.*

**March 2022: Zywicki Said Regulating Junk Fees Could Hurt People Who Use Overdraft In Place Of Credit And On Necessities After Finding That “Overwhelmingly, The Places Where People Overdraft Are Grocery Stores, Gasoline Pumps, And The Like.”** “People who use overdraft a lot are also people who do not have access to credit cards, and if they do have access to credit cards, they have much less credit access on their credit cards. So, most consumers use credit cards for short-term expenses, but they cannot. The second thing to know about these people is that heavy overdraft protection users use it for what could be called necessities [...] we found that overwhelmingly, the places where people overdraft are grocery stores, gasoline pumps, and the like.” [HFSC, [03/31/22](#)]

**March 2022: Zywicki Said Regulating Junk Fees Could Hurt Small Banks Bottom Lines, As They “Tend To Be More Dependent On Overdraft Fees Than Large Banks.”** “The second group this hits are small banks. Banks, as we have heard, generate a lot of revenue from this. But what we have found is that small banks tend to be more dependent on overdraft fees than large banks. Why? Because large, megabanks have multiple lines of revenue, wealth advising services, insurance, all these sorts of things. Small banks will have a much more difficult time diversifying if they lose this stream of revenue.” [HFSC, [03/31/22](#)]

**March 2022: Zywicki Said Regulating Junk Fees Could Result In Banks Raising Other Fees Or Minimum Deposits, And Threatening Free Checking Accounts.** “The third thing, and the one I want to close on, is to talk about the impact on other consumers, consumers who don’t use overdraft protection, which is if we get rid of overdraft protection and banks move to pick up revenues somewhere else, what are we going to see? We will see higher bank fees, we will see higher minimum monthly deposits as basically insurance against overdrafting, and we will see a loss of access to free checking, and this will impact low-income households the most.” [HFSC, [03/31/22](#)]

**In The Same Hearing, Zywicki Defended Junk Fees As “Pric[ing] Risk” And Preventing Others From Having To “Subsidize My Behavior,” Adding That Eliminating Junk Fees Would Encourage Banks To Invent New Ones And Consumers To Start To Overdraft More**

**March 2022: Zywicki Defended Junk Fees As Something That “Prices Risk” And “Prevents Other People From Having To Subsidize My Behavior.”** “If I overdraw my account, why should somebody else have to pay for my overdrafts? If I pay my credit card late, why all of a sudden is that a junk fee rather than something that prices my risk and prevents other people from having to subsidize my behavior? So, I think the junk fees rhetoric covers a lot of serious economic questions.” [HFSC, [03/31/22](#)]

**March 2022: Zywicki Insisted Banks Would Respond To Junk Fee Regulations By Inventing New Ones, Causing Customers To Start To Overdraft More.** “The first thing that will happen is they will have to find fees somewhere else. The second thing is that people are probably going to overdraft more, which probably means your losses are going to go up as well.” [HFSC, [03/31/22](#)]

**Todd Zywicki Was The Director Of A Consulting Firm That Was Frequently Hired To “Influence The CFPB And Other Regulatory Agencies” For Financial Industry Clients That Have Paid Hundreds Of Millions Of Dollars In Fines For Consumer Abuses.**

**Todd Zywicki Has Served As A Director Of Global Economics Group, A Consulting Firm That Has Been Hired By Financial Corporations Such As Visa, Bank Of America And Citigroup In Order To “Influence The CFPB And Other Regulatory Agencies.”**

**Todd Zywicki Has Served As A Director Of The Global Economics Group, A Consulting Business That Has “Been Hired By Industry To Influence The CFPB And Other Regulatory Agencies.”** “What isn’t contained in Zywicki’s university profile, CV, byline or congressional testimony is the law professor’s other job: he is a director of the Global Economics Group, a consulting business that boasts in a brochure that its experts have been hired by industry to influence the CFPB and other regulatory agencies.” [The Nation, [10/23/13](#)]

**Global Economics Group’s Clients Included “Some Of The Biggest Names In The Financial Industry,” Such As Visa, Bank Of America And Citigroup.** “Nor does Zywicki advertise Global’s client list, which includes some of the biggest names in the financial industry, among them Visa, Bank of America and Citigroup.” [The Nation, [10/23/13](#)]

**Zywicki Failed To Disclose His Work For Global Economics Group On His “University Profile, CV, Byline Or Congressional Testimony.”** “What isn’t contained in Zywicki’s university profile, CV, byline or congressional testimony is the law professor’s other job: he is a director of the Global Economics Group, a consulting business that boasts in a brochure that its experts have been hired by industry to influence the CFPB and other regulatory agencies.” [The Nation, [10/23/13](#)]

**Todd Zywicki’s Firm Was Retained For \$500 An Hour By Morgan Drexen, A Debt-Relief Company That The CFPB Accused Of “Deceiving Consumers And Charging Illegal Upfront Fees”—A Federal Judge Ultimately Ordered The Firm To Pay “About \$133 Million In Restitution And \$40 Million In Civil Penalties.”**

**Todd Zywicki's Firm Was Paid \$500 An Hour To Be Retained By Morgan Drexen, A "Debt-Relief Company Accused By The CFPB Of Deceiving Consumers And Charging Illegal Upfront Fees."** "Last summer, Zywicki's firm was retained for \$500 an hour on behalf of Morgan Drexen, a debt-relief company accused by the CFPB of deceiving consumers and charging illegal upfront fees. None of these potential conflicts of interest, however, have been disclosed during the course of Zywicki's anti-CFPB advocacy in the media or in government." [The Nation, [10/23/13](#)]

**Morgan Drexen Was Accused Of Charging "More Than 22,000 Customers Millions Of Dollars In Illegal Upfront Fees To Help Them Resolve Outstanding Debts."** "The federal government's consumer financial watchdog [...] sued Morgan Drexen Inc., of Costa Mesa, alleging it charged more than 22,000 customers millions of dollars in illegal upfront fees to help them resolve outstanding debts. The suit by the Consumer Financial Protection Bureau says Morgan Drexen and its chief executive, Walter Ledda, illegally deceived consumers into signing up for costly bankruptcy-related services by telling them they would be 'debt-free in months.'" [Los Angeles Times, [08/20/13](#)]

**Morgan Drexen Was Ordered By A Federal Judge To Pay "About \$133 Million In Restitution And \$40 Million In Civil Penalties" After It "Illegally Charged Customers Upfront Fees."** "A Costa Mesa-based debt settlement company that illegally charged customers upfront fees was ordered to pay roughly \$173 million in restitution and penalties by a federal judge. [...] In Thursday's judgment against the company and Ledda, a federal judge ordered the company pay about \$133 million in restitution and \$40 million in civil penalties, although because Morgan Drexen is in bankruptcy any payment will have to go through the bankruptcy process." [Orange County Register, [03/21/16](#)]

## **The CFPB Ordered Citigroup And Its Subsidiaries To Pay Tens Of Millions Of Dollars For Consumer Abuses.**

**In January 2017, The CFPB Ordered CitiFinancial Servicing And CitiMortgage To Pay "\$28.8 Million For Giving 'The Runaround' To Cash-Strapped Homeowners Who Were Facing Foreclosure."** "The Consumer Financial Protection Bureau ordered CitiFinancial Servicing and CitiMortgage to pay \$28.8 million for giving 'the runaround' to cash-strapped homeowners who were facing foreclosure. 'Consumers were kept in the dark about their options or burdened with excessive paperwork,' said CFPB Director Richard Cordray, in a release on Monday. 'This action will put money back in consumers' pockets and make sure borrowers can get help they need.'" [CNN Money, [01/23/17](#)]

- **"The CFPB charged that in 2014, CitiMortgage requested unnecessary documents and forms from some homeowners who were seeking foreclosure relief. Many of these letters requested documents that had already been provided or weren't needed in the application process, according to the CFPB."** [CNN Money, [01/23/17](#)]

**In February 2016, The CFPB Ordered Citibank To Pay "\$5 Million Back To Customers And \$3 Million In Penalties Over Its Debt Sales And Collection Practices."** "The Consumer Financial Protection Bureau said on Tuesday it ordered Citibank to pay \$5 million back to customers and \$3 million in penalties over its debt sales and collection practices." [Reuters, [02/23/16](#)]

- **Citibank Was Fined For "Selling Credit-Card Debt With Inflated Interest Rates And For Not Forwarding Consumer Payments Promptly To Debt Buyers."** "In a statement, the agency said it took action against the financial services company for selling credit-card debt with inflated interest rates and for not forwarding consumer payments promptly to debt buyers." [Reuters, [02/23/16](#)]

**Todd Zywicki Co-Wrote A Paper On The "Durbin Amendment" And Debit Card "Interchange Fees" That Was Funded By A Group That Received Financial Backing From Mastercard.**



## **Todd Zywicki Co-Wrote A Paper About The “Durbin Amendment” And Debit Card “Interchange Fees” That Was Funded By An Organization That Received “Financial Support” From MasterCard.**

**June 2014: Todd Zywicki Co-Wrote A Paper On The “Durbin Amendment” And Debit Card “Interchange Fees.”** “In 2009, the U.S. Congress passed the ‘Durbin Amendment’ to the Dodd-Frank financial re-forms [sic]. In October 2011, the Durbin Amendment was implemented by a Federal Reserve rule-making that effectively halved the debit card ‘interchange fee’ that may be charged by banks with over \$10 billion in assets. This paper assesses the emerging data on Durbin’s effects and provides an in-depth review of the actual U.S. experience with the Durbin Amendment.” [George Mason University Antonin Scalia School Of Law, [2014](#)]

**This Paper Was Funded By ICLE, Which Itself Had “Received Financial Support From Mastercard.”**

<sup>1</sup> Todd J. Zywicki is George Mason University Foundation Professor of Law at George Mason University School of Law, Senior Fellow at the International Center for Law and Economics, and Co-Editor of the Supreme Court Economic Review. Geoffrey A. Manne is the Founder and Executive Director of the International Center for Law and Economics. Julian Morris is Vice President of Research at Reason Foundation, Visiting Professor in the Department of International Studies at the University of Buckingham, and Senior Fellow at the International Center for Law and Economics. ICLE, which funded this work, has received financial support from MasterCard.

[George Mason University Antonin Scalia School Of Law, [2014](#)]

**Todd Zywicki Criticized The Credit CARD Act Of 2009, Arguing That Everyone Will Pay More If Card Companies Can’t Raise Risky Borrowers’ Interest Rates—Yet The Law, Which Has Fought “Unfair Rate Hikes And Hidden Fees,” Saved Consumers \$16 Billion From 2011 To 2014.**

**Todd Zywicki Criticized The Credit CARD Act Of 2009 As A “Counterproductive” Response To The Financial Crisis, Claiming “If A Card Issuer Cannot Raise A Customer’s Interest Rate When She Becomes More Risky, The Issuer Will Raise Everybody’s Interest Rates Ahead Of Time.”**

Todd Zywicki Wrote That The Credit CARD Act Of 2009 Illustrated “The Counterproductive Nature Of Legislative Responses To The [Financial] Crisis,” Arguing “If A Card Issuer Cannot Raise A Customer’s Interest Rate When She Becomes More Risky, The Issuer Will Raise Everybody’s Interest Rates Ahead Of Time.” “The Credit CARD Act of 2009 illustrates the counterproductive nature of legislative responses to the crisis. One of the important things that the Credit CARD Act does is to make raising interest rates more difficult when a borrower’s risk profile changes. If a card issuer cannot raise a customer’s interest rate when she becomes more risky, the issuer will raise everybody’s interest rates ahead of time, exactly what has happened in response to the Credit CARD Act.” [Harvard Journal of Law and Public Policy, accessed [06/07/23](#)]

**The CFPB Found That Just From 2011 To 2014, The Credit CARD Act Saved Consumers \$7 Billion In Late Fees And \$9 Billion In Over-Limit Fees.**

In 2015, The CFPB Found That, Through The Credit CARD Act Of 2009, “Consumers Saved More Than \$7 Billion In Late Fees And Avoided More Than \$9 Billion In Over-Limit Fees From 2011 Through 2014 Alone.” “The Credit CARD Act of 2009 is more important than many people may realize. The Consumer Financial Protection Bureau, or CFPB, released a report in 2015 detailing the law’s impact since going into

effect. The CFPB found that consumers saved more than \$7 billion in late fees and avoided more than \$9 billion in over-limit fees from 2011 through 2014 alone.” [Credit Karma, [08/09/19](#)]

## **The Credit CARD Act Of 2009 Was Designed To End “Unfair Rate Hikes And Hidden Fees” And “Unfair Fee Traps”—Which Contributed To The \$15 Billion In Penalty Fees Consumers Paid At The Time Of The Law’s Enactment.**

**The Credit CARD Act Of 2009 Was Designed To End “Unfair Rate Hikes And Hidden Fees” And Prevent Companies From “Leading Consumers To Pay More Than They Reasonably Expect.”** On May 22, 2009, “President Obama sign[ed] the Credit Card Accountability, Responsibility, and Disclosure (CARD) Act of 2009, marking a turning point for American consumers and ending the days of unfair rate hikes and hidden fees. Americans need a healthy flow of credit in our economy, but for too long credit card contracts and practices have been unfairly and deceptively complicated, often leading consumers to pay more than they reasonably expect.” [The Barack Obama White House Archives, [05/22/09](#)]

**At The Time Of The Credit CARD Act’s Enactment In 2009, Consumers Paid “Around \$15 Billion In Penalty Fees” Each Year.** “Every year, Americans pay around \$15 billion in penalty fees. Nearly 80 percent of American families have a credit card, and 44 percent of families carry a balance on their credit cards. To tackle these problems, the Administration moved swiftly with the Congress to enact reforms.” [The Barack Obama White House Archives, [05/22/09](#)]

### **The Credit CARD Act’s “Critical Elements” Included Bans On “Unfair Rate Increases,” Measures Against “Unfair Fee Traps,” And Easier-To-Understand Disclosures:**

The Administration applauds the legislative efforts of both the House and the Senate. By working closely together, the House Financial Services Committee and the Senate Banking Committee were able quickly to enact strong protections that the President signs into law today. Below we highlight the critical elements of reform in this new law:

- Bans Unfair Rate Increases
- Prevents Unfair Fee Traps
- Plain Sight /Plain Language Disclosures
- Accountability
- Protections for Students and Young People

[The Barack Obama White House Archives, [05/22/09](#)]

**Todd Zywicki Believes Overdraft Protection Is A “Valuable Source Of Revenue For America’s Community Banks”— The CFPB Found That Consumers Who Enroll In Overdraft Protection Pay Seven Times More In Fees.**

**Todd Zywicki Has Praised Overdraft Protection As A “Valuable Source Of Revenue For America’s Community Banks” That “Promotes Free Checking And Has Served As A Lifeline For Many Credit-Impaired Consumers.”**

In November 2014, Todd Zywicki Wrote That "Overdraft Protection Has Emerged As A Valuable Source Of Revenue For America's Community Banks," And That "It Promotes Free Checking And Has Served As A Lifeline For Many Credit-Impaired Consumers Seeking Alternatives To Payday Lending And Pawn Shops." "In recent decades, overdraft protection has emerged as a valuable source of revenue for America's community banks. It promotes free checking and has served as a lifeline for many credit-impaired consumers seeking alternatives to payday lending and pawn shops." [Mercatus Center, [11/24/14](#)]

### **The CFPB Has Found That Consumers Who Enroll In Overdraft Protection "Pay Seven Times As Many Fees As Those Who Forgo It."**

In 2014, The CFPB Found That "Consumers Who Choose Overdraft Coverage Pay Seven Times As Many Fees As Those Who Forgo It." "The consumer bureau's own research found in 2014 that consumers who choose overdraft coverage pay seven times as many fees as those who forgo it." [The New York Times, [06/21/19](#)]

### **Before Overdraft Protection Was Regulated, Banks "Automatically Enrolled Customers In Overdraft Coverage, Sometimes Without Their Knowledge" And Consumers Paid Substantially Higher Fees.**

Before The 2009 Overdraft Rule, "Many Banks Automatically Enrolled Customers In Overdraft Coverage, Sometimes Without Their Knowledge"—And Consumers Could Pay High Penalties For Overdrafting On Even Small Purchases. "Before the rule, many banks automatically enrolled customers in overdraft coverage, sometimes without their knowledge. A small purchase — like a cup of coffee — could hit account holders with a penalty much higher than the price of the item." [The New York Times, [06/21/19](#)]

- **The Overdraft Rule, Originally Issued By The Federal Reserve Board In 2009, Fell Under The CFPB's Oversight In 2011.** "The Federal Reserve Board issued the rule in 2009, and it took effect in 2010. The consumer bureau became responsible for the rule in 2011 and is now reviewing it under a federal law, the Regulatory Flexibility Act." [The New York Times, [06/21/19](#)]

Consumer Advocates Have Argued That The Federal Reserve's Rule Regulating Overdraft Protection Have Substantially Reduced Fees. "'Fees were reduced substantially' as a result of the rule, said Rebecca Borné, senior policy counsel with the Center for Responsible Lending, a nonprofit advocacy group." [The New York Times, [06/21/19](#)]

**At Least Three Of The Seven Republican Senators On The Subcommittee Have Railed Against Efforts To Crackdown On Junk Fees Negatively Impacting Consumers, Including Senators Jerry Moran (R-KS), Ted Budd (R-NC), And Cynthia Lummis (R-WY).**

### **In September 2022, Sen. Jerry Moran (R-KS) Signed On To A Republican Letter To The CFPB Which Defended Overdraft Fees, Calling Them "An Alternative To Short-Term Loans" And Said Consumers "Opt-In" To These Services.**

September 2022: Sen. Jerry Moran (R-KS) Signed On To A Republican Letter Sent To The CFPB That Said The Agency Was "Pursuing A Radical And Highly-Politicized Agenda." "We are deeply concerned that under your leadership, the Consumer Financial Protection Bureau (CFPB) has returned to its Obama-era roots as a lawless and unaccountable agency. Rather than operating as a tough, but fair and sensible regulator, the CFPB is again pursuing a radical and highly-politicized agenda unbounded by statutory limits." [Republican Letter To CFPB, [09/12/22](#)]



**The Senators Specifically Noted The CFPB’s “Relentless Smear Campaign Against Banks That Offer Optional Overdraft Services To Their Customers.”** “For example, the CFPB has launched a relentless smear campaign against banks that offer optional overdraft services to their customers.” [Republican Letter To CFPB, [09/12/22](#)]

**In The Letter, Republicans Defended Overdraft Protection, Saying Consumers "Opt-In" And Overdraft Was "An Alternative To Short-Term Loans."** "With overdraft protection, consumers willingly agree to pay a fee for the product’s flexibility and to have an alternative to short-term loans, and under current regulations, customers must affirmatively opt-in to the service after banks have provided them with a description of the product and fees." [Republican Letter To CFPB, [09/12/22](#)]

**In May 2017, Then-Congressman Ted Budd (R-NC) Penned An Op-Ed Railing Against Regulating Debit Card Fees And In May 2022 Signed A Letter To The CFPB Director Denouncing The Bureau’s Efforts To Regulate Junk Fees.**

*In A May 2017 Washington Examiner Op-Ed, Then-Congressman Ted Budd (R-NC) Complained Regulating Debit Card Fees Constituted Soviet-like Price Controls That Hurt Consumers And Small Businesses.*

**May 2017: Then-Congressman Ted Budd Complained Regulating Debit Card Fees Constituted Price Controls That Threatened “World-Changing Innovation.”** “In the 11th hour of negotiations over the Dodd-Frank bill, they and some allies in Washington were successful in inserting a provision, called the Durbin Amendment, which ordered the Federal Reserve to figure out ‘a reasonable and proportionate’ debit card fee, and then set the price of swiping a debit card at that level. It’s a price control, and what used to be a private market that delivered a world-changing innovation is now under the supervision of the federal government.” [Washington Examiner, [05/05/17](#)]

- **May 2017: Then-Congressman Budd Conflated These Policies With Those Of The Soviet Union.** “The effects are typical for this type of policy — they’re the same ones we saw in the Soviet Union, and the same ones we saw during Nixon’s price controls in the 1970s. At the end of the day, somebody pays.” [Washington Examiner, [05/05/17](#)]

**May 2017: Then-Congressman Budd Defended Debit Card Fees Claiming Without Them Consumers And Small Businesses Paid A Greater Price In Rising Costs.** “Now, instead of businesses that accept debit cards, the person who pays is the consumer. Free checking has plummeted, and minimum account balances have increased dramatically. Price controls often serve as price floors, and small businesses that take debit cards have seen their costs rise because regulation has squeezed the flexibility out of the system.” [Washington Examiner, [05/05/17](#)]

*Then-Congressman Ted Budd Signed On To A Letter Addressed To CFPB Director Chopra Denouncing The Bureau’s Efforts To Regulate Junk Fees.*

**March 2022: Then-Congressman Budd Signed On To A Letter Addressed To CFPB Director Chopra Denouncing The Bureau’s Efforts To Regulate Junk Fees.** [HFSC, [03/30/22](#)]

**March 2022: The Letter Complained The CFPB Broadly Grouped Consumer Fees As “Junk Fees” Without Providing Any Definition Of The Term.** “Furthermore, the CFPB broadly groups all fees associated with consumer products and services as ‘junk fees’ and does not provide any legal definition of the term or any statutory authority to define such a term. The CFPB gives examples of the types of fees on which they are soliciting information including “unexpected fees” and “fees that seemed too high” [HFSC, [03/30/22](#)]

**March 2022: The Letter Claimed Efforts To Regulate Junk Fees Were Imprudent And Would “Stifle Financial Inclusion Or Consumer Choice.”** “A key feature of the U.S. financial system is its wide range of

institutions with varied business models and offering a broad selection of products and services to consumers. Any attempts by the CFPB or other financial regulators to stifle financial inclusion or consumer choice or undermine the safety and soundness of particular financial institutions or the financial system as a whole would be imprudent." [HFSC, [03/30/22](#)]

**In April 2023 And September 2022, Sen. Cynthia Lummis (R-WY) Signed On To Republican Letters Sent To The CFPB Defending Overdraft And Credit Card Late Fees, Accusing The Agency Of "Demoniz[ing] Commonsense Incentives That Promote Financial Responsibility, Such As Overdraft Fees And Credit Card Late Fees," Calling Overdraft "An Alternative To Short-Term Loans."**

**April 2023: Sen. Cynthia Lummis (R-WY) Signed On To A Republican Letter Sent To The CFPB Accusing The Agency Of "Demoniz[ing] Commonsense Incentives That Promote Financial Responsibility, Such As Overdraft Fees And Credit Card Late Fees."** "We write to express our concerns with the Consumer Financial Protection Bureau's ('CFPB's') efforts to demonize commonsense incentives that promote financial responsibility, such as overdraft fees and credit card late fees, as well as perfectly reasonable and legal business service fees including for timely distribution of Government benefits." [Republican Letter To CFPB, [04/13/23](#)]

- **Republicans Also Said The Crackdown Was "Unfair."** "Last year, the CFPB launched an unfair initiative targeting standard fees charged by credit providers that included reasonable payment incentive mechanisms such as overdraft and credit card late fees." [Republican Letter To CFPB, [04/13/23](#)]

**September 2022: Sen. Lummis Also Signed On To A Republican Letter Sent To The CFPB That Said The Agency Was "Pursuing A Radical And Highly-Politicized Agenda."** "We are deeply concerned that under your leadership, the Consumer Financial Protection Bureau (CFPB) has returned to its Obama-era roots as a lawless and unaccountable agency. Rather than operating as a tough, but fair and sensible regulator, the CFPB is again pursuing a radical and highly-politicized agenda unbounded by statutory limits." [Republican Letter To CFPB, [09/12/22](#)]

- **The Senators Specifically Noted The CFPB's "Relentless Smear Campaign Against Banks That Offer Optional Overdraft Services To Their Customers."** "For example, the CFPB has launched a relentless smear campaign against banks that offer optional overdraft services to their customers." [Republican Letter To CFPB, [09/12/22](#)]
- **In The Letter, Republicans Defended Overdraft Protection, Saying Consumers "Opt-In" And Overdraft Was "An Alternative To Short-Term Loans."** "For example, the CFPB has launched a relentless smear campaign against banks that offer optional overdraft services to their customers. With overdraft protection, consumers willingly agree to pay a fee for the product's flexibility and to have an alternative to short-term loans, and under current regulations, customers must affirmatively opt-in to the service after banks have provided them with a description of the product and fees." [Republican Letter To CFPB, [09/12/22](#)]