

September 13, 2022

The Honorable Sherrod Brown
Chairman
Senate Committee on Banking,
Housing, and Urban Affairs
Washington, DC 20510

The Honorable Patrick Toomey
Ranking Member
Senate Committee on Banking,
Housing, and Urban Affairs
Washington, DC 20510

Dear Chairman Brown and Ranking Member Toomey:

On behalf of the Electronic Transactions Association (ETA), we appreciate the opportunity to submit this statement for the record before the Committee’s hearing, “New Consumer Financial Products and the Impacts to Workers.”

ETA is the world’s leading advocacy and trade association for the payments industry. Our members span the breadth of significant payments and fintech companies, from the largest incumbent players to the emerging disruptors in the U.S and in more than a dozen countries around the world. ETA members make commerce possible by processing more than \$21 trillion in purchases worldwide and deploying payments innovation to merchants and consumers.

ETA and its members are dedicated to continuously driving innovation in the payments space – including the development and deployment of Buy Now, Pay Later (BNPL) and Earned Wage Access (EWA) products. BNPL and EWA services are consumer-friendly and innovative product offerings that provide many consumers with greater control, stability over their financial lives, and helps them avoid costly fees.

EWA gives consumers the flexibility to access already earned wages that has not yet been distributed. These services give consumers the ability to smooth out their cash flows between their pay cycles, allowing consumers to cover general living expenses or unexpected costs without subjecting themselves to fees or the need to resort to outside financing or loan products, which is often more costly and burdensome. It is estimated that one in five families have less than two weeks of liquid savings, which leaves them exposed to financial shocks.¹ And this average does not account for racial inequities, as Black and Hispanic households are considerably more likely to face financial emergencies than white households.² Under the current paradigm, workers give their employers interest-free loans until payday. In 2022, these products offer workers an alternative.

BNPL products enables consumers to make fixed payments for individual purchases, often repaid in interest-free installments over a short period of time. While many BNPL customers have the ability to pay for the purchase up-front, they can choose to spread out payments over 6 or 8 weeks without the interest that traditional forms of credit would charge.

¹ CFPB, *Insights from the Making Ends Meet Survey: Research Brief No. 2020-1* (July 2020), available at https://files.consumerfinance.gov/f/documents/cfpb_making-ends-meet_survey-results_2020-07.pdf.

² Ganong et. al, *Wealth, Race, and Consumption Smoothing of Typical Income Shocks* (July 2020), NBER Working Paper Series, available at https://www.nber.org/system/files/working_papers/w27552/w27552.pdf.

Consumers are demanding more flexibility in how they shop and pay for goods and services. For example, US e-commerce sales have increased 15% each year since 2015, with a 30% spike in growth during the COVID-19 pandemic.³ To adapt to this shift, most retailers have an online presence and many are using new point-of-sale offerings like BNPL to increase customer exposure, provide more payment options, and boost sales.⁴

Additionally, consumers' needs and the technology that supports them are constantly changing. The financial industry is continually looking for new ways to enable consumers to receive, hold, and spend their money. This includes embracing greater flexibility in spending patterns and adopting new technologies that can help manage their basic financial needs, including cash flow and budgets. While these trends were particularly evident in 2020, as consumers relied more on platforms which allowed them to connect, find value and maintain control over their finances throughout the COVID-19 pandemic, and the trend has continued into 2022.

ETA member companies are continually improving the electronic payments and financial ecosystem so that remains accessible for all consumers and small businesses, while ensuring their transactions can be completed securely, efficiently, and ubiquitously. ETA strongly believes that these product offerings foster strong competition among financial service providers and innovation for new financial products that ultimately benefit consumers. ETA is supportive of guidelines that allow this competition and innovation to continue while ensuring the correct level of consumer protections for the users of this product.

Currently, BNPL and EWA products are subject to key consumer protection regulations and ETA members are committed to ensuring that consumers use all financial/payments products and services responsibly. Today, these providers are compliant with consumer protection laws and regulations such as anti-money laundering, privacy, and electronic fund transfers enforced by the CFPB, FTC, and numerous state regulators.⁵

If policymakers adopt any new regulations governing these products, they should be designed to fit within this established, robust, regulatory framework. Any new public policies for these products should complement, and not conflict with, existing laws and regulations as well as private sector rules and practices. ETA believes appropriate regulation should be tailored to the risks that they or the activity in which they are engaged, pose to the payments' ecosystem, and consider any potential downsides to consumers.

Considering the tangible benefits of such technological advancements, ETA urges policymakers to remain thoughtful and forward-thinking in how to best support industry's on-going efforts to provide opportunities for all consumers to access and benefit from innovative financial products and services. Efforts by policymakers to regulate financial products and services should be done

³ US Census Bureau (2021), Latest Quarterly E-commerce Report

⁴ Alexandra Tachalova, Business.com (2018), Make more sales with E-commerce payment options

⁵ For example: the California Department of Financial Protection and Innovation subject lenders to California's UDAAP law; BNPL offerings may be subject to anti-discrimination provisions in the Equal Credit Opportunity Act (ECOA); BNPL offerings that provide open-ended credit may be subject to the Truth in Lending Act (TILA) or Military Lending Act (MLA); financial institutions and others that receive nonpublic personal information from a financial institution are subject to Gramm-Leach-Bliley Act (GLBA)

collaboratively with industry participants and with careful consideration of the many types of business models and products in the marketplace. ETA stands willing to work with the Committee to create a positive regulatory environment.

ETA appreciates the opportunity to provide the Committee input on this important issue. If you have any questions, please contact me or ETA's Senior Vice President of Government Affairs, Scott Talbott at stalbott@electran.org.

Sincerely,



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