

March 20, 2023

Representative Dennis Powers
Banking and Consumer Affairs House Subcommittee
425 Rep. John Lewis Way N.
Suite 674 Cordell Hull Bldg.
Nashville, TN 37243

RE: H.B. 846 – 90-Day Notice of Online Payment Systems

Chair Powers and Distinguished Members of the Banking and Consumer Affairs House Subcommittee:

On behalf of the Electronic Transactions Association (“ETA”), the leading trade association representing the payments industry, I appreciate the opportunity to share our broad concerns with H.B. 846.

This bill, as currently drafted, would infringe on the contractual obligations of payment processors to their multiple partners and significantly weaken their ability to fight fraud and ensure that consumers have access to safe, convenient, and affordable payment services.

The highly regulated payments industry is already subject to numerous state and federal laws and regulations. Payment systems are subject to federal consumer protection regulation under the Electronic Fund Transfer Act (P.L. 95-630), anti-money laundering requirements under the Bank Secrecy Act (P.L. 91-508), and numerous state licensing, safety and soundness, anti-money laundering, and consumer protection requirements.¹ ETA supports a positive regulatory environment that ensures consumers are protected and that allows for innovation.

Furthermore, fraud prevention processes and anti-money laundering protocols are indispensable tools in consumer protection efforts. Unfortunately, H.B. 846 would significantly weaken this safety net. For instance, law enforcement often requires payment processors to hold funds during investigations of fraud or illegal activity, but the current version of H.B. 846 would create a difficult dynamic for payment processors to be compliant with existing federal and state guidelines and authorities. While we are confident that this was not the intent of the legislation, we are very concerned that if enacted, H.B. 846 would inadvertently create an environment that would hinder fraud and security protection for consumers.

When fraud or suspicious activity occurs, funds need to be frozen due to assist law enforcement with investigations and support to make consumers and small businesses whole. If a bad actor is given a 90-day advanced notice when committing fraud and illegal acts, it will allow them the

¹ <https://sgp.fas.org/crs/misc/R45927.pdf>

opportunity to pull their funds and move to another payment platform, evading law enforcement. Consequently, small businesses and consumers will suffer significant losses if the payments industry is incapable of monitoring and identifying fraud, bad actors, and illegal activity.

Moreover, the Tennessee Department of Financial Institutions is currently undertaking a modernization effort to update Tennessee's money transmission law to be more uniform with other states. Adopting an additional unique requirement on money services businesses to implement a 90-day notice requirement on freezing funds would only make Tennessee an outlier as it relates to money transmission law uniformity.

Thank you for the opportunity to share our broad concerns with H.B. 846. If you have any additional questions, you can contact me or ETA Senior Vice President, Scott Talbott at stalbott@electran.org.

Respectfully Submitted,



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