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Viewpoint

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Industry Must Set Record Straight on Payroll Card

By Cathy S. Beyda, Paul Hastings

In 1924, *Time* magazine published an article exploring whether it would make sense for employers to pay their employees by check rather than in cash.[1] The magazine reported that employees viewed the idea with disfavor, fearing check fraud, loss of confidentiality and inconvenience (specifically, that they would be forced to waste time cashing their checks during banking hours). Despite the initial objections, paper paychecks soon became the standard method of wage payment.

Several decades later, suggestions that direct deposit may be a more efficient method of wage payment were again met with opposition. In 1974, the *University of Michigan Journal of Law Reform* published an article examining the surprisingly slow transition away from paper paychecks to direct deposit despite the increased security and convenience of the latter payment option. The author observed:

> *The legal restrictions on wage payment methods, which seem so out of date in the 1970s, may take on new vigor as opponents of new funds transfer systems arise and breathe new life into the statutes. Union sentiment may find in the introduction of new wage payment systems still another example of management callousness toward the needs of working people.*[2]

The author observed that employee resistance to direct deposit was based, at least in part, on the "illusion" that cash in the hand was "real money" while the credit of wages to a bank account was not. Employees also feared that they would lose individual freedom if employers were permitted to prescribe direct deposit.

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History Repeats Itself (Again)

Today, three out of four employees who have access to direct deposit sign up for it. According to NACHA, 97 percent of these employees are very satisfied with direct deposit.[3] Unfortunately, however, direct deposit is not an option for many of the more than 25 percent of U.S. households that are either unbanked or underbanked.[4] Network branded payroll cards, the latest wage payment innovation, bring the benefits of electronic wage payment to these employees.

Like past wage payment innovations, network branded payroll cards have been met with skepticism and, in some instances, hostility. More than a decade after network branded payroll cards were introduced, we continue to hear claims that the cards are unregulated, that employers offer the cards to the detriment of their workers and that it's inconvenient and costly for employees to access cash off their payroll cards.

Public Perception: Industry's Biggest Challenge

There has been a great deal of misinformation published in the media recently relating to payroll cards. Unfortunately, media plays a large role in shaping public perception. Reporters often seek sensational headlines, without regard for objectivity or truth, while claiming that employers and program managers are being deceptive. After all, a report that a minimum wage earner paid a fee to access his or her wages attracts more attention

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than a report that an employee was able to access cash off his or her payroll card at tens of thousands of branch locations nationwide with no cost, in addition to the other methods of free cash access made available to employees by the program manager. As a result, there is a perception that payroll cards carry significant hidden fees and, therefore, deprive employees of full and free access to their wages.

Call to Action: Education Regarding the Benefits of Payroll Card

The prepaid industry must seize on the recent media frenzy as an opportunity to inform and educate the public, government officials and other policymakers. We, as an industry, are very familiar with the benefits of payroll cards, both to employers and to their employees. We need to educate others to ensure that they know what we know; namely, that electronic wage payment (direct deposit *and payroll cards*) is safer, more secure and less expensive than paper paychecks. Employees without bank accounts, who are likely to be the primary users of payroll cards, often rely on expensive check cashing services simply to access their wages. They then incur additional expense when purchasing money orders to pay their bills. Payroll cards also facilitate the reliable delivery of wages, even when employees are away from the workplace and during severe weather conditions, and provide underserved workers with a pathway into the financial mainstream.

Employers realize significant cost saving and streamline their payroll operations using electronic payment methods. Direct deposit and payroll cards reduce, and even eliminate, the cost of printing and distributing paper paychecks as well as the costs associated with replacing lost or stolen paychecks. Reliable delivery of wages not only benefits workers, but also helps employers comply with strict state law requirements relating to the timely payment of wages.

Educate on Optimal Card Usage

Industry also needs to provide employers and their employees with the information and tools they need to use their payroll cards wisely. This means transparent disclosure of the program's terms and conditions, including all fees, and clear notice of the protections afforded to cardholders. Transparency is critical to our ability to demonstrate to the public and to policymakers that payroll cards are a safe and convenient way for employees to receive their wages.

In addition, we should make sure that employers who offer payroll cards are aware of certain basic legal principles and best practices, such as Regulation E's prohibition on requiring employees to open an account with a particular financial institution, the importance of full and free access to wages and the need to provide access to account information without cost (e.g., at a minimum, through IVR and/or over the Internet). We should also make sure employers know what these principles mean.

For example, even in states that allow employers to eliminate paper paychecks, employers who offer payroll cards must provide their employees with an alternate payment option, such as direct deposit. Employers should also be advised of the importance of ensuring that their employees know how to cash out their wages each pay period without cost, even though most employees will choose not to use their cards in this manner.

This does not mean that financial institutions or program administrators should be held responsible for labor law compliance—this is the responsibility of the employer. But program administrators and financial institutions that offer payroll cards should make sure that these basic principles are understood by employers. This will help ensure positive programs that reflect positively on the industry as a whole.

> *"A report that a minimum wage earner paid a fee to access his or her wages attracts more attention than a report that an employee was able to access cash off his or her payroll card at tens of thousands of branch locations nationwide with no cost, in addition to the other methods of free cash access made available to employees by the program manager."*

History has shown that changes to wage payment methods have been met first with skepticism, then with hostility and eventually with acceptance. Unfortunately, the public perception of payroll cards has taken a hit recently due to one-sided and uninformed media attacks. Adherence to the basic principles discussed above will help earn public trust in this truly beneficial payment option and enable a smooth transition to public acceptance of payroll cards.

[1] Check vs. Cash, *Time* Magazine (Business & Finance August 11, 1924).

[2] Issiah Baker, *What Ever Happened to the "Checkless Society"?*, 7 U. Mich. J.L. Reform 481, 488 (1974).

[3] *Frequently Asked Questions About Direct Deposit visa ACH*, at http://www.electronicpayments.org/individual/direct-deposit/learn/faqs#299.

[4] FDIC National Survey of Unbanked and Underbanked Households (Sept. 2012), available at http://www.fdic.gov/householdsurvey/2012_unbankedreport.pdf.