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GOP Congressman: Choke Point Bureaucrats Deserve Brushback

By: Kevin Wack

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In strongly worded remarks Tuesday, House Oversight Committee Chairman Darrell Issa vowed to continue his fight against government efforts to tighten access to the payment system.

Issa, R-Calif., drew an analogy to baseball, with himself standing on the pitcher's mound, and the various federal agencies that are part of Operation Choke Point waiting in the batter's box.

"We've got to do what baseball pitchers do anytime somebody's crowding the plate. And that is, we're going to put the ball close enough that either they're going to jump back, or we're going to hit them with the ball," Issa said. "Because what they're doing is wrong, and we've got to show that."

The remarks, which were made to a friendly audience at the Cato Institute, a libertarian think tank in Washington, came about six weeks after the House committee that Issa chairs issued a report calling for the dismantling of Operation Choke Point.

Federal authorities say their efforts are designed to crack down on mass-market consumer fraud by choking off bad actors' access to the payment system.

As part of the probe, the Justice Department has opened both civil and criminal investigations of banks and payment processing firms. One bank that settled with the department was accused of doing business with online payday lenders that were defrauding consumers.

But critics of Operation Choke Point say that some legitimate businesses, including check cashers, payday lenders and gun sellers, are also losing their access to the payment system as a result of the stepped-up scrutiny.

Some of Issa's harshest remarks Tuesday concerned the Federal Deposit Insurance Corp.'s role in Operation Choke Point. The FDIC has promulgated a list of businesses that it deems high-risk for banks, including Ponzi schemes, pornography, payday loans, firearms sales and tobacco

sales.

Issa said Tuesday that FDIC officials are making inappropriate phone calls to banks, and those calls are leading the banks to sever their ties with certain businesses.

"This is just a field agent, somebody who doesn't even know any better. He's just read the directive, and he calls up because he sees that you're working with somebody who's got a gun shop. And they may or may not have a bias against guns," Issa said.

"They call up the bank and say 'I see that you've got several gun shops - we're very concerned.' That phone call will get those companies dropped."

Despite his distaste for Choke Point, Issa declined to endorse legislation sponsored by Rep. Blaine Luetkemeyer, R-Mo., that's meant to undermine the multi-agency probe. It would offer legal protection to banks and credit unions as long as their merchant customers meet certain licensure or other criteria.

When asked by an audience member about the bill, Issa was complimentary of his Republican colleague, but also said: "You can't pass a law for every bureaucrat to do the right thing. You can only pass laws which are generally good, and then see that they're faithfully enforced."

Also during his appearance Tuesday, Issa said that marijuana businesses in states where pot is legal should have access to the banking system. In February, the Financial Crimes Enforcement Network issued guidance meant to assure banks and credit unions they can take steps to take to avoid getting in trouble while providing banking services to pot businesses that are authorized under state laws.

"To the extent that something is lawful, they should have access to the banks. And if they don't, then you're forcing a cash economy," Issa said. "You don't have to watch 'The Godfather' to understand that the history of criminal enterprises has been all about working in cash, not in traceable events."

Later, an audience member asked Issa whether he believes that banks should break federal law, which outlaws marijuana, in order to serve pot businesses in states like Colorado and Washington.

In his response to the question, Issa was critical of the Obama administration for what he described as its failure to enforce laws consistently, but he also said: "I think a state-chartered bank has an absolute obligation to support enterprise consistent with their charter in their state, and the laws passed in that state. That's federalism at its most basic."