# SUPREME COURT OF THE UNITED STATES

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Nos. 96–843 AND 96–847

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NATIONAL CREDIT UNION ADMINISTRATION, PETITIONER

96–843 *v.*

FIRST NATIONAL BANK & TRUST CO. ET AL.

AT&T FAMILY FEDERAL CREDIT UNION, ET AL., PETITIONERS

96–847 *v.*

FIRST NATIONAL BANK AND TRUST CO. ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[February 25, 1998]

JUSTICE O'CONNOR, with whom JUSTICE STEVENS, JUSTICE SOUTER, and JUSTICE BREYER join, dissenting.

In determining that respondents have standing under the zone-of-interests test to challenge the National Credit Union Administration's (NCUA's) interpretation of the "common bond" provision of the Federal Credit Union Act (FCUA), 12 U. S. C. §1759, the Court applies the test in a manner that is contrary to our decisions and, more importantly, that all but eviscerates the zone-of-interests requirement. In my view, under a proper conception of the inquiry, "the interest sought to be protected by" respondents in this case is not "arguably within the zone of interests to be protected" by the common bond provision. *Association of Data Processing Service Organizations, Inc.* v. *Camp*, 397 U. S. 150, 153 (1970). Accordingly, I respectfully dissent.

I

Respondents brought this suit under §10(a) of the Administrative Procedure Act (APA), 5 U. S. C. §702. To establish their standing to sue here, respondents must demonstrate that they are "adversely affected or aggrieved by agency action within the meaning of a relevant statute." *Ibid.*; see *Air Courier Conference* v. *Postal Workers*, 498 U. S. 517, 523 (1991); *Lujan* v. *National Wildlife Federation*, 497 U. S. 871, 882–883 (1990). The two aspects of that requirement correspond to the familiar concepts in standing doctrine of "injury in fact" under Article III of the Constitution and "zone of interests" under our prudential standing principles. See, *e.g.*, *Bennett* v. *Spear*, 520 U. S. ___, ___ (1997) (slip op., at 6).

First, respondents must show that they are "adversely affected or aggrieved," *i.e.*, have suffered injury in fact. *Air Courier*, *supra*, at 523; *National Wildlife Federation*, *supra*, at 883. In addition, respondents must establish that the injury they assert is "within the meaning of a relevant statute," *i.e.*, satisfies the zone-of-interests test. *Air Courier*, *supra*, at 523; *National Wildlife Federation*, *supra*, at 883, 886. Specifically, "the plaintiff must establish that the injury he complains of (*his* aggrievement, or the adverse effect *upon him*), falls within the 'zone of interests' sought to be protected by the statutory provision whose violation forms the legal basis for his complaint." *National Wildlife Federation*, *supra*, at 883; see also *Air Courier*, *supra*, at 523–524.

The "injury respondents complain of," as the Court explains, is that the NCUA's interpretation of the common bond provision "allows persons who might otherwise be their customers to be . . . customers" of petitioner AT&T Family Federal Credit Union. *Ante*, at 7, n. 4. Put another way, the injury is a loss of respondents' customer base to a competing entity, or more generally, an injury to respondents' commercial interest as a competitor. The

relevant question under the zone-of-interests test, then, is whether injury to respondents' commercial interest as a competitor "falls within the zone of interests sought to be protected by the [common bond] provision." *E.g.*, *Air Courier*, *supra*, at 523–524. For instance, in *Data Processing*, where the plaintiffs– like respondents here– alleged competitive injury to their commercial interest, we found that the plaintiffs had standing because "their commercial interest was sought to be protected by the . . . provision which they alleged had been violated." *Bennett*, *supra*, at ___ (slip op., at 21) (discussing *Data Processing*).

The Court adopts a quite different approach to the zone-of-interests test today, eschewing any assessment of whether the common bond provision was intended to protect respondents' commercial interest. The Court begins by observing that the terms of the common bond provision– "[f]ederal credit union membership shall be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district," 12 U. S. C. §1759– expressly limit membership in federal credit unions to persons belonging to certain "groups." Then, citing other statutory provisions that bar federal credit unions from serving nonmembers, see §§1757(5)–(6), the Court reasons that one interest sought to be protected by the common bond provision "is an interest in limiting the markets that federal credit unions can serve." *Ante*, at 12. The Court concludes its analysis by observing simply that respondents, "[a]s competitors of federal credit unions, . . . certainly *have* [that] interest . . . , and the NCUA's interpretation has affected that interest." *Ante*, at 13 (emphasis added).

Under the Court's approach, every litigant who establishes injury in fact under Article III will automatically satisfy the zone-of-interests requirement, rendering the zone-of-interests test ineffectual. See *Air Courier*, *supra*, at 524 ("mistak[e]" to "conflat[e] the zone-of-interests test

with injury in fact"). That result stems from the Court's articulation of the relevant "interest." In stating that the common bond provision protects an "interest in limiting the markets that federal credit unions can serve," *ante*, at 12, the Court presumably uses the term "markets" in the sense of *customer* markets, as opposed to, for instance, product markets: The common bond requirement and the provisions prohibiting credit unions from serving nonmembers combine to limit the customers a credit union can serve, not the services a credit union can offer.

With that understanding, the Court's conclusion that respondents "have" an interest in "limiting the [customer] markets that federal credit unions can serve" means little more than that respondents "have" an interest in enforcing the statute. The common bond requirement limits a credit union's membership, and hence its customer base, to certain groups, 12 U. S. C. §1759, and in the Court's view, it is enough to establish standing that respondents "have" an interest in limiting the customers a credit union can serve. The Court's additional observation that respondents' interest has been "affected" by the NCUA's interpretation adds little to the analysis; agency interpretation of a statutory restriction will of course affect a party who has an interest in the restriction. Indeed, a party presumably will bring suit to vindicate an interest only if the interest has been affected by the challenged action. The crux of the Court's zone-of-interests inquiry, then, is simply that the plaintiff must "have" an interest in enforcing the pertinent statute.

A party, however, will invariably have an interest in enforcing a statute when he can establish injury in fact caused by an alleged violation of that statute. An example we used in *National Wildlife Federation* illustrates the point. There, we hypothesized a situation involving "the failure of an agency to comply with a statutory provision requiring 'on the record' hearings." 497 U. S., at 883.

That circumstance "would assuredly have an adverse effect upon the company that has the contract to record and transcribe the agency's proceedings," and so the company would establish injury in fact. *Ibid.* But the company would not satisfy the zone-of-interests test, because "the provision was obviously enacted to protect the interests of the parties to the proceedings and not those of the reporters." *Ibid.*; see *Air Courier*, 498 U. S., at 524. Under the Court's approach today, however, the reporting company would have standing under the zone-of-interests test: Because the company is injured by the failure to comply with the requirement of on-the-record hearings, the company would certainly "have" an interest in enforcing the statute.

Our decision in *Air Courier*, likewise cannot be squared with the Court's analysis in this case. *Air Courier* involved a challenge by postal employees to a decision of the Postal Service suspending its statutory monopoly over certain international mailing services. The postal employees alleged a violation of the Private Express Statutes (PES)– the provisions that codify the Service's postal monopoly– citing as their injury in fact that competition from private mailing companies adversely affected their employment opportunities. 498 U. S., at 524. We concluded that the postal employees did not have standing under the zone-of-interests test, because "the PES were not designed to protect postal employment or further postal job opportunities." *Id.*, at 528. As with the example from *National Wildlife Federation*, though, the postal employees would have established standing under the Court's analysis in this case: The employees surely "had" an interest in enforcing the statutory monopoly given that suspension of the monopoly caused injury to their employment opportunities.

In short, requiring simply that a litigant "have" an interest in enforcing the relevant statute amounts to hardly any test at all. That is why our decisions have required

instead that a party "establish that the *injury he complains* of . . . falls within the 'zone of interests' sought to be protected by the statutory provision" in question. *National Wildlife Federation*, *supra*, at 883 (emphasis added); see *Bennett*, 520 U. S., at ___ (slip op., at 21). In *Air Courier*, for instance, after noting that the asserted injury in fact was "an adverse effect on employment opportunities of postal workers," we characterized "[t]he question before us" as "whether the adverse effect on the employment opportunities of postal workers . . . is within the zone of interests encompassed by the PES." 498 U. S., at 524; see also *National Wildlife Federation*, *supra*, at 885–886 (noting that asserted injury is to the plaintiffs' interests in "recreational use and aesthetic enjoyment," and finding those particular interests "are among the *sorts* of interests [the] statutes were specifically designed to protect").

Our decision last Term in *Bennett* v. *Spear* is in the same vein. There, the Fish and Wildlife Service, in an effort to preserve a particular species of fish, issued a biological opinion that had the effect of requiring the maintenance of minimum water levels in certain reservoirs. A group of ranchers and irrigation districts brought suit asserting a "competing interest in the water," alleging, in part, injury to their commercial interest in using the reservoirs for irrigation water. 520 U. S., at ___ (slip op., at 4). The plaintiffs charged that the Service had violated a provision of the Endangered Species Act requiring "use [of] the best scientific and commercial data available." *Id.*, at ___ (slip op., at 21). We did not ask simply whether the plaintiffs "had" an interest in holding the Service to the "best data" requirement. Instead, we assessed whether the injury asserted by the plaintiffs fell within the zone of interests protected by the "best data" provision, and concluded that the economic interests of parties adversely affected by erroneous biological opinions are within the zone of interests protected by that statute. *Ibid.* (observ-

ing that one purpose of the "best data" provision "is to avoid needless economic dislocation produced by agency officials zealously but unintelligently pursuing their environmental objectives").

The same approach should lead the Court to ask in this case whether respondents' injury to their commercial interest as competitors falls within the zone of interests protected by the common bond provision. Respondents recognize that such an inquiry is mandated by our decisions. They argue that "the competitive interests of banks *were* among Congress's concerns when it enacted the Federal Credit Union Act," and that the common bond provision was motivated by "[c]ongressional concerns that chartering credit unions could inflict an unwanted competitive injury on the commercial banking industry." Brief for Respondents 24–25. The Court instead asks simply whether respondents have an interest in enforcing the common bond provision, an approach tantamount to abolishing the zone-of-interests requirement altogether.

II

Contrary to the Court's suggestion, *ante*, at 13–15, its application of the zone-of-interests test in this case is not in concert with the approach we followed in a series of cases in which the plaintiffs, like respondents here, alleged that agency interpretation of a statute caused competitive injury to their commercial interests. In each of those cases, we focused, as in *Bennett*, *Air Courier*, and *National Wildlife Federation*, on whether competitive injury to the plaintiff's commercial interest fell within the zone of interests protected by the relevant statute.

The earliest of the competitor standing decisions was *Association of Data Processing Service Organizations, Inc.* v. *Camp*, 397 U. S. 150 (1970), in which we first formulated the zone-of-interests requirement. There, an association of data processors challenged a decision of the

Comptroller of the Currency allowing national banks to provide data processing services. The data processors alleged violation of, among other statutes, §4 of the Bank Service Corporation Act of 1962, 76 Stat. 1132, which provided that "[n]o bank service corporation may engage in any activity other than the performance of bank services." 397 U. S., at 154–155. We articulated the applicable test as "whether the interest sought to be protected by the complainant is arguably within the zone of interests to be protected or regulated by the statute . . . in question." *Id.*, at 153.

In answering that question, we assessed whether the injury asserted by the plaintiffs was to an interest arguably within the zone of interests protected by the relevant statute. The data processors, like respondents here, asserted "economic injury" from the "competition by national banks in the business of providing data processing services." *Id.*, at 152, 154. We concluded that the data processors' "commercial interest was sought to be protected by the anti-competition limitation contained in §4," *Bennett*, *supra*, at ___ (slip op., at 21) (discussing *Data Processing*), explaining that the provision "arguably brings a competitor within the zone of interests protected by it," 397 U. S., at 156.

Our decision in *Data Processing* was soon followed by another case involving §4 of the Bank Service Corporation Act, *Arnold Tours, Inc.* v. *Camp*, 400 U. S. 45 (1970) *(per curiam)*. *Arnold Tours* was similar to *Data Processing*, except that the plaintiffs were a group of travel agents challenging an analogous ruling of the Comptroller authorizing national banks to provide travel services. The travel agents, like the data processors, alleged injury to their commercial interest as competitors. 400 U. S., at 45. Not surprisingly, we ruled that the travel agents had established standing, on the ground that Congress did not "desir[e] to protect data processors alone from competi-

tion" through §4. *Id.*, at 46. Unlike in this case, then, our decisions in *Arnold Tours* and *Data Processing* turned on the conclusion that economic injury to competitors fell within the zone of interests protected by the relevant statute.

We decided *Investment Company Institute* v. *Camp* (*ICI*), 401 U. S. 617 (1971), later in the same Term as *Arnold Tours*. The case involved a challenge by an association of investment companies to a regulation issued by the Comptroller that authorized national banks to operate mutual funds. The investment companies alleged that the regulation violated provisions of the Glass-Steagall Banking Act of 1933, 48 Stat. 162, barring national banks from entering the business of investment banking. We found that the investment companies had standing, but did not rest that determination simply on the notion that the companies had an interest in enforcing the prohibition against banks entering the investment business. Instead, we observed that, as in *Data Processing*, "Congress had arguably legislated against . . . competition" through the Glass-Steagall Act. 401 U. S., at 620–621.

The final decision in this series was *Clarke* v. *Securities Industry Assn.*, 479 U. S. 388 (1987). That case involved provisions of the McFadden Act, 44 Stat. 1228, allowing a national bank to establish branch offices only in its home State, and then only to the extent that banks of the home State were permitted to have branches under state law. The statute defined a "branch" office essentially as one that offered core banking services. The Comptroller allowed two banks to establish discount brokerage offices at locations outside the allowable branching area, on the rationale that brokerage services did not constitute core banking services and that the offices therefore were not "branch" offices. Representatives of the securities industry challenged the Comptroller's action, alleging a violation of the statutory branching limitations.

We held that the plaintiffs had standing under the zone-of-interests test, but again, not simply on the ground that they had an interest in enforcing the branching limits. Instead, we found that, as in *ICI*, Congress had "arguably legislated against . . . competition" through those provisions. 479 U. S., at 403 (internal quotation marks omitted). Specifically, Congress demonstrated "a concern to keep national banks from gaining a monopoly control over credit and money through unlimited branching." *Ibid.*; see also *id.*, at 410 (STEVENS, J., concurring in part and concurring in judgment) ("The general policy against branching was based in part on a concern about the national banks' potential for becoming massive financial institutions that would establish monopolies on financial services"). The Court makes no analogous finding in this case that Congress, through the common bond provision, sought to prevent credit unions from gaining "monopoly control" over the customers of banking services.

It is true, as the Court emphasizes repeatedly, see *ante*, at 8–11, 13–17, that we did not require in this line of decisions that the statute at issue was designed to benefit the particular party bringing suit. See *Clarke*, *supra*, at 399–400. In *Arnold Tours* and *Data Processing*, for instance, it was sufficient that Congress desired to protect the interests of competitors generally through §4 of the Bank Service Corporation Act, even if Congress did not have in mind the particular interests of travel agents or data processors. See *Arnold Tours*, *supra*, at 46. In *Clarke*, likewise, the antibranching provisions of the McFadden Act may have been intended primarily to protect state banks, and not the securities industry, from competitive injury. Respondents thus need not establish that the common bond provision was enacted specifically to benefit commercial banks, any more than they must show that the provision was intended to benefit Lexington State Bank, Piedmont State Bank, or any of the particular banks that filed

this suit.

In each of the competitor standing cases, though, we found that Congress had enacted an "anti-competition limitation," see *Bennett*, 520 U. S., at ___ (slip op., at 21) (discussing *Data Processing*), or, alternatively, that Congress had "legislated against . . . competition," see *Clarke*, *supra*, at 403; *ICI*, *supra*, at 620–621, and accordingly, that the plaintiff-competitor's "commercial interest was sought to be protected by the anti-competition limitation" at issue, *Bennett*, *supra*, at __ (slip op., at 21). We determined, in other words, that "the injury [the plaintiff] complain[ed] of . . . [fell] within the zone of interests sought to be protected by the [relevant] statutory provision." *National Wildlife Federation*, 497 U. S., at 883. The Court fails to undertake that analysis here.

III

Applying the proper zone-of-interests inquiry to this case, I would find that competitive injury to respondents' commercial interests does not arguably fall within the zone of interests sought to be protected by the common bond provision. The terms of the statute do not suggest a concern with protecting the business interests of competitors. The common bond provision limits "[f]ederal credit union membership . . . to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district." 12 U. S. C. §1759. And the provision is framed as an exception to the preceding clause, which confers membership on "incorporators and such other persons and incorporated and unincorporated organizations . . . as may be elected . . . and as such shall each, subscribe to at least one share of its stock and pay the initial installment thereon and a uniform entrance fee." *Ibid.* The language suggests that the common bond requirement is an internal organizational principle concerned primarily with defining mem-

bership in a way that secures a financially sound organization. There is no indication in the text of the provision or in the surrounding language that the membership limitation was even arguably designed to protect the commercial interests of competitors.

Nor is there any nontextual indication to that effect. Significantly, the operation of the common bond provision is much different from the statutes at issue in *Clarke*, *ICI*, and *Data Processing*. Those statutes evinced a congressional intent to legislate against competition, *e.g.*, *Clarke*, *supra*, at 403, because they imposed direct restrictions on banks generally, specifically barring their entry into certain markets. In *Data Processing* and *ICI*, "the question was what activities banks could engage in at all," and in *Clarke*, "the question [was] what activities banks [could] engage in without regard to the limitations imposed by state branching law." 479 U. S., at 403.

The operation of the common bond provision does not likewise denote a congressional desire to legislate against competition. First, the common bond requirement does not purport to restrict credit unions from becoming large, nationwide organizations, as might be expected if the provision embodied a congressional concern with the competitive consequences of credit union growth. See Brief for Petitioner NCUA 25–26 (Navy Federal Credit Union has 1.6 million members; American Airlines Federal Credit Union has 157,000 members); see also S. Rep. No. 555, 73d Cong., 2d Sess., 2 (1934) (citing "employees of the United States Government" as a "specific group with a common bond of occupation or association").

More tellingly, although the common bond provision applies to all credit unions, the restriction operates against credit unions individually: The common bond requirement speaks only to whether a *particular* credit union's membership can include a given group of customers, not to whether credit unions *in general* can serve that

group. Even if a group of would-be customers does not share the requisite bond with a particular credit union, nothing in the common bond provision prevents that same group from joining a different credit union that is within the same "neighborhood, community, or rural district" or with whose members the group shares an adequate "occupation[al] or association[al]" connection. 12 U. S. C. §1759. Also, the group could conceivably form its own credit union. In this sense, the common bond requirement does not limit credit unions collectively from serving any customers, nor does it bar any customers from being served by credit unions.

In *Data Processing*, *ICI*, and *Clarke*, by contrast, the statutes operated against national banks generally, prohibiting all banks from competing in a particular market: Banks in general were barred from providing a specific type of service (*Data Processing* and *ICI*), or from providing services at a particular location (*Clarke*). Thus, whereas in *Data Processing* customers could not obtain data processing services from *any* national bank, and in *Clarke* customers outside of the permissible branching area likewise could not obtain financial services from *any* national bank, in this case customers who lack an adequate bond with the members of a particular credit union can still receive financial services from a *different* credit union. Unlike the statutes in *Data Processing*, *ICI*, and *Clarke*, then, the common bond provision does not erect a competitive boundary excluding credit unions from any identifiable market.

The circumstances surrounding the enactment of the FCUA also indicate that Congress did not intend to legislate against competition through the common bond provision. As the Court explains, *ante*, at 12, n. 6, the FCUA was enacted in the shadow of the Great Depression; Congress thought that the ability of credit unions to "come through the depression without failures, when banks have

failed so notably, is a tribute to the worth of cooperative credit and indicates clearly the great potential value of rapid national credit union extension." S. Rep. No. 555, *supra*, at 3–4. Credit unions were believed to enable the general public, which had been largely ignored by banks, to obtain credit at reasonable rates. See *id.*, at 2–3; *First Nat'l Bank & Trust Co.* v. *National Credit Union Administration*, 988 F. 2d 1272, 1274 (CADC), cert. denied, 510 U. S. 907 (1993). The common bond requirement "was seen as the cement that united credit union members in a cooperative venture, and was, therefore, thought important to credit unions' continued success." 988 F. 2d, at 1276. "Congress assumed implicitly that a common bond amongst members would ensure both that those making lending decisions would know more about applicants and that borrowers would be more reluctant to default." *Ibid.*; see *ante*, at 12, n. 6; A. Burger & T. Dacin, Field of Membership: An Evolving Concept 7–8 (2d ed. 1992).

The requirement of a common bond was thus meant to ensure that each credit union remains a cooperative institution that is economically stable and responsive to its members' needs. See 988 F. 2d, at 1276. As a principle of internal governance designed to secure the viability of individual credit unions in the interests of the membership, the common bond provision was in no way designed to impose a restriction on all credit unions in the interests of institutions that might one day become competitors. "Indeed, the very notion seems anomalous, because Congress' general purpose was to encourage the proliferation of credit unions, which were expected to provide service to those would-be customers that banks disdained." *Id.*, at 1275; see also *Branch Bank & Trust Co.* v. *National Credit Union Administration Bd.*, 786 F. 2d 621, 625–626 (CA4 1986), cert. denied, 479 U. S. 1063 (1987).

That the common bond requirement would later come to be viewed by competitors as a useful tool for curbing a

credit union's membership should not affect the zone-of-interests inquiry. The pertinent question under the zone-of-interests test is whether Congress *intended* to protect certain interests through a particular provision, not whether, irrespective of congressional intent, a provision may have the *effect* of protecting those interests. See *Clarke*, 479 U. S., at 394 (the "matter [is] basically one of interpreting congressional intent"); *id.*, at 400; 988 F. 2d, at 1276 ("To be sure, as time passed– as credit unions flourished and competition among consumer lending institutions intensified– bankers began to see the common bond requirement as a desirable limitation on credit union expansion. . . . But that fact, assuming it is true, hardly serves to illuminate the intent of the Congress that first enacted the common bond requirement in 1934"). Otherwise, competitors could bring suits challenging the interpretation of a host of provisions in the FCUA that might have the unintended effect of furthering their competitive interest, such as restrictions on the loans credit unions can make or on the sums credit unions can borrow. See 12 U. S. C. §§1757(5), (6).

In this light, I read our decisions as establishing that there must at least be *some* indication in the statute, beyond the mere fact that its enforcement has the effect of incidentally benefiting the plaintiff, from which one can draw an inference that the plaintiff's injury arguably falls within the zone of interests sought to be protected by that statute. The provisions we construed in *Clarke*, *ICI*, and *Data Processing*, allowed such an inference: Where Congress legislates against competition, one can properly infer that the statute is at least arguably intended to protect competitors from injury to their commercial interest, even if that is not the statute's principal objective. See *Bennett*, 520 U. S., at ___ (slip op., at 21–22) (indicating that zone-of-interests test is satisfied if one of several statutory objectives corresponds with the interest sought to be pro-

tected by the plaintiff). Accordingly, "there [was] sound reason to infer" in those cases "that Congress intended [the] class [of plaintiffs] to be relied upon to challenge agency disregard of the law." *Clarke*, *supra*, at 403 (internal quotation marks omitted).

The same cannot be said of respondents in this case, because neither the terms of the common bond provision, nor the way in which the provision operates, nor the circumstances surrounding its enactment, evince a congressional desire to legislate against competition. This, then, is a case where "the plaintiff's interests are so marginally related to or inconsistent with the purposes implicit in the statute that it cannot reasonably be assumed that Congress intended to permit the suit." 479 U. S., at 399. The zone-of-interests test "seeks to exclude those plaintiffs whose suits are more likely to frustrate than to further statutory objectives," *id.*, at 397, n. 12, and one can readily envision circumstances in which the interests of competitors, who have the incentive to suppress credit union expansion in all circumstances, would be at odds with the statute's general aim of supporting the growth of credit unions that are cohesive and hence financially stable.

The Court's attempt to distinguish *Air Courier*, *ante*, at 17–18, is instructive in this regard. The Court observes that here, unlike in *Air Courier*, the plaintiffs suffer "competitive and direct injury." 498 U. S., at 528, n. 5. But the lack of competitive injury was pertinent in *Air Courier* because the statutes alleged to have been violated– the PES– were "competition statutes that regulate the conduct of competitors." *Ibid.* The common bond provision, for all the noted reasons, is not a competition law, and so the mere presence of "competitive and direct injury" should not establish standing. See *Hardin* v. *Kentucky Util. Co.*, 390 U. S. 1, 5–6 (1968). Thus, while in *Air Courier* "the statute in question regulated competition [but] the interests of the plaintiff employees had nothing to do

with competition," *ante*, at 18, here, the common bond provision does *not* regulate competition but the interests of the plaintiff have *everything* to do with competition. In either case, the plaintiff's injury is at best "marginally related" to the interests sought to be protected by the statute, *Clarke*, *supra*, at 399, and the most that can be said is that the provision has the incidental effect of benefiting the plaintiffs. That was not enough to establish standing in *Air Courier*, and it should not suffice here.

IV

Prudential standing principles "are 'founded in concern about the proper— and properly limited— role of the courts in a democratic society.'" *Bennett*, *supra*, at ___ (slip op., at 6) (quoting *Warth* v. *Seldin*, 422 U. S. 490, 498 (1975)). The zone-of-interests test is an integral part of the prudential standing inquiry, and we ought to apply the test in a way that gives it content. The analysis the Court undertakes today, in my view, leaves the zone-of-interests requirement a hollow one. As with the example in *National Wildlife Federation*, where the reporting company suffered injury from the alleged statutory violation, but the injury to the company's commercial interest was not within the zone of interests protected by the statute, here, too, respondents suffer injury from the NCUA's interpretation of the common bond requirement, but the injury to their commercial interest is not within the zone of interests protected by the provision. Applying the zone-of-interests inquiry as it has been articulated in our decisions, I conclude that respondents have failed to establish standing. I would therefore vacate the judgment of the Court of Appeals and remand the case with instructions that it be dismissed.