



# Department of Justice

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ATR  
(202) 616-2771  
TDD (202) 514-1888

## **JUSTICE DEPARTMENT FILES ANTITRUST SUIT AGAINST VISA AND MASTERCARD FOR LIMITING COMPETITION IN CREDIT CARD NETWORK MARKET**

Washington, D.C. -- The Justice Department today sued Visa and MasterCard, the nation's two largest credit card networks, for limiting competition in the credit card network market. Together Visa and MasterCard account for 75% of all credit card purchases.

The complaint challenges the joint control of both networks by the same group of banks, known in the industry as "duality," which lessens competition between the networks. In addition, the complaint challenges exclusionary rules adopted by both networks that restrict the ability of banks to do business with other credit card networks, such as American Express and Discover.

"Visa's and MasterCard's anti-competitive behavior has stifled competition between these two dominant networks and has thwarted competition from smaller networks," said Attorney General Janet Reno. "Competitive initiatives that could benefit consumers have been abandoned, delayed or suppressed. Consumer choice has been reduced, and competition among card networks has been substantially restrained."

Visa and MasterCard are both associations that are owned, governed, and operated by their member banks. The Department charges that Visa and MasterCard violated the antitrust laws by placing authority for their competitive decisions in the hands of banks that have significant financial interests in both networks - known in the banking industry as "duality." These governing banks have rejected competitive initiatives that might lead consumers to switch from one association's brand of card to the other's.

"This action will promote innovation and higher quality in credit card products, and provide greater choice for consumers," said Joel I. Klein, Assistant Attorney General for Antitrust. "Vigorous competition among credit card networks is critical to ensure that consumers have the benefit of the best payment methods, particularly as more and more commerce is conducted through credit cards and electronic forms of payment."

The government's complaint alleges that duality substantially lessens competition in a number of specific ways. Visa and MasterCard do not target one another in advertising campaigns and have slowed down the development of new card products and technologies such as smart cards, commercial cards, and systems to permit secured card transactions over the Internet. Also, as a result of duality, products, services and innovations that could benefit consumers are not seriously considered or even proposed.

The complaint quotes current and former Visa and MasterCard officers who have admitted that duality lessens competition. According to the complaint, one top Visa executive testified that: “It is very difficult for us to take a step, an aggressive step that hurts MasterCard because the same banks who sit there on the board, who are in Visa are also in MasterCard.” The complaint also quotes a top MasterCard executive who said, “It is clear that because of duality you don’t see MasterCard and Visa in the marketplace attacking each other.”

The Department also charges that the Visa and MasterCard networks both adopted exclusionary rules that prohibit member banks from doing business with other networks, such as American Express and Discover. Although Visa and MasterCard allow member banks to issue each other’s card, if a bank were to issue an American Express *or* Discover card that bank would lose its right to issue Visa *and* MasterCard products.

“Banks that want to offer their customers card choices beyond Visa and MasterCard have been prevented from doing so,” Klein said. “Consumers have had fewer choices in the types of card products available to them, and networks like American Express and Discover have been effectively precluded from competing to enlist banks to issue their cards.”

The complaint also states that the exclusionary rules impair the ability of other networks to compete with Visa and MasterCard, particularly with respect to debit and smart cards that are dependent upon a cardholder’s bank relationship. Increased competition from other network competitors would spur development of new and higher quality products.

The Department’s proposed relief would require that banks governing an association be dedicated to one particular network. The Department also seeks removal of the exclusionary rules.

The lawsuit was filed in U.S. District Court for the Southern District of New York. Visa USA, Inc. and Visa International, Inc. are named as defendants in the suit. Both are Delaware corporations headquartered in San Francisco. Also a defendant is MasterCard International, Inc., a Delaware corporation headquartered in Purchase, N.Y. which sets policies for and operates the MasterCard network throughout the world.

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