Huge credit card settlement conceals fraud and criminality

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Credit card companies Visa and Master Card as well as several banks announced July 13 that they would agree to pay a total of $6.6 billion in settlement to retailers, bringing an end to a bitter lawsuit first brought in 2005. If the proposed settlement is agreed to in court, lawyers involved in the case claim it will represent the largest antitrust settlement in history.

Although the outcome of the lawsuit against Visa and Master Card—which together account for over 80 percent of all credit and debit card purchases—has been hailed in the press as a victory for small business, it has become increasingly clear that the settlement represents a cover-up to avoid further lawsuits as well as criminal investigations. Among the accused were J.P. Morgan Chase, Bank of America, and Wells Fargo.

The lawsuit, filed on behalf of some 7 million retailers, put forth allegations of collusion between the banks and credit card companies. Merchants accused them of price-fixing charges associated with card processing known as “interchange fees.” The credit card companies extract these fees from retailers when a customer makes a purchase with a credit or debit card. The initial processing charge first travels through a banking partner and then is split with the credit card company.

Interchange fees have been on the rise since 2003, and now correspond to roughly 2% of each purchase. According to the National Retail Federation, merchants pay roughly $30 billion per year for card purchases. Jockeying for the exclusive partnership of the big banking institutions, Visa and Master Card have allegedly engaged in the competitive re-pricing of interchange fees in order to provide the biggest cut. In addition to the accusation of the manipulation of processing charges, credit card companies allegedly prohibited retailers from compelling customers to pay with cash or check. This practice makes the price of interchange fees non-negotiable.

Visa has agreed to bear the brunt of the settlement, providing $4.4 billion or 67 percent of the sum. Master Card is expected to pay $790 million or 12 percent, and the banks will shoulder the responsibility for the remaining $1.39 billion or 21 percent. In addition to these payments, credit card companies will lower the interchange fees for eight months. Retailers will save approximately $1.2 billion from the deal and will be granted the choice of whether or not to charge extra for credit card purchases.

Though the lawsuit is championed as the victory for small businesses, the conditions of the settlement will not better the lot of the vast majority. In fact, it provides a better situation only for the large retailers—such as Kroger, Publix, Rite Aid, and Payless Shoe Store. The National Association of Convenience Stores, representing 3,700 small shops, has declared opposition to the lawsuit's outcome. A recent statement by the group protested that the settlement would not “introduce competition and transparency within a clearly broken market.” More importantly, customers will likely suffer additional charges when purchasing with credit cards.

Both Visa and Master Card greatly desired a quick closing of the dispute, as the lawsuits had become a burden on their stock prices. In a public statement issued recently, Master Card's general counsel Noah Hanft said, “our stakeholders are best served by an amicable solution." Since the market opened Monday morning, Visa's shares have risen by 3.2% to $128 and Master Card's by 2.8% to $441.77. Visa has announced it will make an initial payment of $4.1 billion and will receive a tax benefit of $1.5 billion in return, which the company will use to buy back 10 million shares.

The outcome of this case demonstrates the unchecked criminality of the ruling elite. Earlier this year, J.P. Morgan, Wells Fargo and Bank of America were released from any liabilities associated with their role in the mortgage crisis, in return for a cash settlement. Along with two other major banks, these institutions were let off the hook for all criminal and fraudulent acts that led to the foreclosure of four million homes.

In a statement after the credit card settlement, Hanft expressed satisfaction that the deal had avoided "years of litigation and uncertainties that are inherent in such cases." Such "litigation and uncertainties" undoubtedly refer to the prospect of retribution for what are in fact illegal acts. Joseph W. Saunders, Chairman and CEO of Visa, was quoted claiming that his company was "comfortable with the terms" of the settlement and did not believe it would sour its "current guidance." This statement by Saunders makes it totally clear that neither the credit card companies nor the banks intend to put an end to collusion or price gouging.

When compared with the breakup of Standard Oil a century ago, this settlement appears a mere farce. The largest credit card companies in the world are set to walk away from the case without a scratch. None of the perpetrators—by now the "usual suspects"—face further investigation, let alone criminal prosecution.