

WRITTEN STATEMENT

OF

MARK MACCARTHY

ON BEHALF OF

VISA U.S.A. INC.

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

U.S. SENATE

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Chairman Shelby, Ranking Member Sarbanes and Members of the Committee, my name is Mark MacCarthy. I am the Senior Vice President for Public Policy for Visa U.S.A. Inc. Thank you for the invitation to participate in this hearing. Visa appreciates this opportunity to testify as part of the Committee's investigation into the exploitation of children on the Internet.

The Visa Payment System is one of the leading consumer payment systems in the world. Visa itself performs communication and settlement services for participating financial institutions. The financial institutions that participate in the Visa system are the entities that issue Visa payment cards to individual consumers and authorize merchants to accept Visa payment cards in payment for transactions. Visa itself does not have direct relationships with merchants that accept Visa payment cards. In the jargon of the industry, the financial institutions that have a direct relationship with the merchants that accept Visa payment cards are called acquiring financial institutions or acquirers.

Visa rules require acquiring financial institutions to assume responsibility for their relationships with merchants. A fundamental Visa rule is that these acquirers submit only legal transactions into the Visa payment system. In addition, Visa has an explicit rule obligating acquirers to ensure that Internet merchants do not submit child pornography transactions into the Visa system.

Visa recognizes that payment cards are an important part of electronic commerce and believe that we have responded, and continue to respond, effectively to the challenges posed by Internet transactions. In addition to our rule against introducing illegal transactions into the Visa payment system and our explicit rule against child pornography transactions, Visa has a long history of working with law enforcement

where the Visa Payment System may have been used in connection with illegal transactions. In this regard, Visa maintains ongoing working relationships with a variety of law enforcement agencies including the Secret Service, the Federal Bureau of Investigation, the Federal Trade Commission, and state and local law enforcement.

Our anti-pornography program has two components. The first is a set of due diligence requirements designed to prevent child pornography merchants from entering our payment system. The second is a monitoring program to detect and expel from our system any child pornography merchants that manage to fraudulently enter our system despite the best efforts of our acquiring banks to keep them out.

But first I want to mention our involvement with the Financial Coalition Against Child Pornography. Visa has made substantial progress with its own anti-child pornography program. So have the other major payment systems. But we cannot do it alone. We need to share information and work collaboratively together. That is why under the leadership of Senator Shelby, Visa, other payment systems and financial institutions joined with the National and International Centers for Missing and Exploited Children to form the Financial Coalition Against Child Pornography. In March of this year, there was a public launch of this program at a press conference with Senator Richard Shelby. This effort reflects our shared belief that child pornography is a global problem in need of a coordinated response. For many years, Visa has worked on its own to rid our system of this deplorable activity. By joining the Coalition, we reaffirmed and strengthened our long-standing commitment to doing our part to prevent the exploitation of children. Together with our Coalition partners, we will enhance our efforts to identify Web sites and pinpoint merchants that are trafficking in this illicit activity, cut them off

from use of our networks, and provide assistance to law enforcement to shut them down for good.

Visa's Due Diligence Requirements

Visa requires acquiring financial institutions to ensure that all merchants are properly qualified to accept Visa cards. Visa acquirers must determine that a prospective merchant is financially responsible, and will abide by Visa requirements, as well as applicable law. There are a variety of methods that acquirers may use to determine these qualifications, including credit reports, business financial statements, and income tax returns, conducting physical inspections of the business premises of a prospective brick and mortar merchant, and for electronic commerce merchants obtaining a detailed business description and examining the merchant's Web site.

By taking these precautions, acquirers can provide a line of defense against child pornography merchants entering the Visa system. These due diligence requirements are closely observed by acquirers, but they are not a panacea for addressing the problem of the use of Visa cards for child pornography transactions. Child pornography merchants do not present themselves as such to acquiring financial institutions. They often appear to be legitimate merchants. They use a variety of techniques to fool acquirers and thereby gain access to the Visa system, despite the best efforts of these acquirers to screen them out of the system.

Anti-Child Pornography Program

Accordingly, Visa has supplemented these due diligence requirements with an explicit program directed against child pornography transactions. The elements of this program are

- An explicit rule prohibiting any Visa financial institution from acquiring these transactions
- A series of specific penalties for violation of this policy
- A program of searching the Internet to detect any website that appeared to be accepting Visa cards for child pornography transactions and processes to immediately stop this acceptance

An explicit ban against child pornography transactions within the Visa system is the first part of this program. Acquiring financial institutions are under an obligation to carefully review the website names and URLs of their Internet merchants to ensure these prohibited merchants are not operating within their portfolios. Acquiring financial institutions must ensure that all prohibited activity is immediately halted.

Violation of this policy may subject the offending acquirer to significant penalties including the imposition of conditions and termination of Visa Membership privileges. Visa acquiring financial institutions have been notified and reminded of these penalties several times since 2002. If Visa identifies a child pornography merchant in their portfolio, they must terminate the merchant immediately. If the merchant is not terminated within 7 calendar days, the bank is fined. Repeated offenses are punished with a system of escalating fines and other sanctions including preventing the offending

acquiring financial institutions from signing up any new Internet merchants, requiring them to terminate existing Internet merchants and ultimately revocation of their Visa acquiring license.

Visa has not found it necessary to use these sanctions often. Early in our program some acquiring banks were initially reluctant to follow these required procedures. They were fined. They got the message. Since then, Visa acquirers have abided by our policy against child pornography.

In support of our efforts to keep child pornography transactions out of the system, Visa maintains a monitoring campaign to identify and eliminate transactions emanating from child pornography merchants. Since 2002, Visa has retained the services of an outside firm to search the Internet for child pornography websites that appear to be accepting Visa payment cards. This firm uses advanced web crawling and filtering technology to detect these websites. It looks for websites that display the Visa logo, and that satisfy one or more indicators that they are engaged in the sale of child pornography or are marketing themselves as engaged in that business. The sweeps are ongoing; they are conducted daily and search hundreds of millions of web pages each month.

When our search firm detects one of these problematic sites, they conduct test transactions to see whether in fact the site is accepting Visa cards or whether they are merely illegally using our trademark on their site. The search firm tells us immediately if they find a site that is accepting Visa cards for these transactions. Unless requested by law enforcement to leave these sites open, Visa then contacts any acquirer found to be processing these child pornography transactions and directs them to stop processing these transactions immediately. If they have not done so within 7 calendar days, they are fined.

If these identified sites are not in fact accepting Visa cards, but are merely using the Visa trademark on their site, Visa uses its best efforts to locate the web hosting company to direct them to remove the Visa logo.

In addition, Visa provides information regarding all these sites to U.S. and international law enforcement officials and to the National Center for Missing and Exploited Children. At their request and as part of an ongoing law enforcement investigation, Visa would allow these problematic sites to remain operational.

Visa's anti-child pornography program is making significant progress in the fight against the use of our payment system for these activities. Our experience is that fewer child pornography sites are displaying the Visa logo now than when we started the program in 2002 and that alternative payment mechanisms are increasingly the way these transactions are financed.

The way forward lies in collective action. We need to share information and work collaboratively together with other payment system providers and with law enforcement. Visa has recently taken an additional cooperative step in its anti-child pornography efforts. In April 2006 Visa signed a three-year partnership agreement with the newly created Child Exploitation and Online Protection Centre (CEOP), a London-based law enforcement agency. CEOP carries out proactive investigations worldwide and provides a single point of contact for the public, law enforcers and the communications industry, enabling suspicious activity to be reported direct, 24 hours a day. The unit, staffed by about 100 police, computer technicians and child welfare specialists, also offers advice to parents and potential victims. As a CEOP partner, Visa will provide not only financial support, but also use our knowledge and resources to strengthen the Center's Finance

Desk. This uses financial investigation tools to identify people engaged in the sexual exploitation of children for profit, setting out to confiscate offenders' assets and disrupt their activities.

In addition to this work with CEOP, Visa intends to continue and to increase our cooperative efforts with law enforcement and with other payment systems in the Financial Coalition Against Child Pornography.

Visa appreciates the opportunity to appear before you today. I would be happy to answer any questions that you may have.