



CADE overturns VisaNet ruling

Friday, 18 September 2009 by David Thorley

Brazil's antitrust tribunal CADE has overturned an injunction made by the country's consumer protection agency, the SDE, against credit card payment processor VisaNet.

Yesterday, CADE ordered that the exclusivity contract between VisaNet and Visa, which the SDE suspended last month, be allowed to continue.

Paulo Mattos, a partner with VisaNet's counsel Brasil Pereira Neto Galdino Macedo Advogados, says, "This is the first time in CADE's jurisprudence that a interim measure imposed by SDE has been completely rejected. In other cases, like Telefónica and AmBev, measures have been reformed, but never rejected outright."

CADE says that in spite of its ruling, the SDE's investigation of whether VisaNet is acting uncompetitively by asserting its exclusive right to accredit businesses to accept cards bearing the Visa logo will continue.

Mauro Grinberg of Barcellos Tucunduva, who is representing Visa, points out that the contract is due to expire in June next year, saying, "Visa has succeeded in proving that the alleged harm to the credit cards holders and to the whole system would be even worse if this successful relationship were ended up abruptly under the SDE's ruling."

Mattos agrees, saying the exclusivity partnership between Visa and VisaNet was forged in a time when VisaNet was a direct subsidiary of Visa.

Following VisaNet's landmark IPO in June, however, he says, the vertical relationship between Visa and its processor ended, and now he argues what is required is "a transitional period in which all acquirers will probably adapt their networks to allow them to process transactions for multiple brands."

MasterCard's payment processor in Brazil, Redecard, is also under investigation by antitrust authorities over restrictive practices, and the two companies have agreed to terminate their exclusive agreement.

CADE is the tribunal responsible for assessing the investigative findings presented by the SDE, an office of the ministry of Justice which assesses anticompetitive practices, and the SEAE, a department of the ministry of finance which is responsible for economic investigations.

Counsel to Visa

Barcellos Tucunduva

Partners Mauro Grinberg and Leonor Cordovil and associate Camilla Paoletti in Sao Paulo

Counsel to VisaNet

In-house counsel – Carlos Renato Pompermaier

Brasil Pereira Neto Galdino Macedo Advogados (formerly known as Leoni Siqueira Advogados)

Partners Caio Mario da Silva Pereira Neto, Paulo Todescan Lessa Mattos and associate José Inácio de Almeida Prado in Sao Paulo

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87 Lancaster Road, London, W11 1QQ, UK | Tel: +44 207 908 1188 / Fax: +44 207 229 6910
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