

THE WIKILEAKS SUIT AGAINST VISA AND MASTERCARD

You may have heard that WikiLeaks is suing Visa and MasterCard for refusing to process donations to it.

That's not actually the case. Forbes has gotten a copy of the complaint, and as it lays out, an Icelandic company called DataCell is suing, and it's suing in Europe, not the US. DataCell is basically a hosting service for WikiLeaks and "businesses, NGOs, humanitarian organisations and others." It had contracted with two payment services companies, Teller and Korta, on October 18, 2010, with the explicit intention of accepting donations for WL. But on December 7 (not long after the WL cables started coming out), they terminated those services. But that affects both WL and any other clients DataCell might have. And according to an explanation from Teller, no payment services company will contract with DataCell, even if it doesn't work with WL.

[A]ccording to Teller's explanations acquiring firms in Europe are not about to be allowed by MC and Visa to open merchant agreements with DataCell, irrespective of whether the company would service Sunshine press/Wikileaks as a payment facilitator or not.

And that's true even though DataCell has nothing more than business relationship with WL.

There are no ownership or "board or management" connections between DataCell and the Sunshine Press Foundation, the corporate part of Wikileaks. The relationship between DataCell and Sunshine Press/Wikileaks is a pure business relationship.

DataCell also notes that Visa and MasterCard have sustained relationships with other media outlets that have published WL content.

Of note, Teller is also the company that has admitted that WL had broken none of Visa's rules or Iceland's laws.

Teller has found no signs indicating that Sunshine Press acts in contravention of Visa rules or national legislation in Iceland. Neither Teller nor Visa licence holders may enter into any agreement with Sunshine Press on the possessing of Visa payments, until this has been approved by Visa Europe. Teller now awaits Visa Europe's approval.

All of which is the basis for DataCell's argument that by refusing to let any of its payment services companies in Europe to provide services to DataCell, Visa and MasterCard have violated Europe's competition laws. It argues that they have used their monopoly position—Visa has 68% of the market and Mastercard has 28%—to prevent DataCell from competing in Europe.

Now, I have no idea how this suit will fare legally.

But I'm interested in what it does rhetorically. Effectively, DataCell has been treated like companies that provide material support for terrorism (without being listed in any list of entities that do so); either through US intervention or via voluntary actions from Visa and MasterCard, they have singled out DataCell to put out of business because of its tie to WL. And it has done so in a market that is none too impressed with US claims about WL's dangerousness, nor with US bigfooting Europe on data issues.

Effectively, it calls attention to the way that Visa and MasterCard abuse their monopoly position to do the bidding of the US.

We'll see how that goes over with European

consumers.