

**Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. First National City Bank, FNCB Services Corp., Hilton Credit Corp., Hilton Hotels Corp., and Carte Blanche Corp., U.S. District Court, S.D. New York, 1978-2 Trade Cases ¶62,223, (Sept. 7, 1978)**

Federal Antitrust Cases

65 Civ. 3963 (JMC)

Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶62,223

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United States v. First National City Bank, FNCB Services Corp., Hilton Credit Corp., Hilton Hotels Corp., and Carte Blanche Corp.

1978-2 Trade Cases ¶62,223. U.S. District Court, S.D. New York, No. 65 Civ. 3963 (JMC), Filed September 7, 1978.

Case No. 1882, Antitrust Division, Department of Justice.

### Clayton Act

#### Headnote

**Acquisitions: General Injunctive Relief: Credit Card Industry: Vacation of Antimerger Decree.—**

A 1968 antimerger consent decree that prohibited a bank holding company from acquiring a credit card firm was vacated without opposition from the government. A contention by an interested party, another credit card firm, that the acquisition would be anticompetitive because of the acquirer's participation in two bank credit card programs was rejected. The acquirer did not control the bank plans and, furthermore, the objecting firm could sue to block the acquisition. Also, a motion to intervene was denied, since the moving party failed to show that the government was not vigorously and faithfully representing the public.

**Vacating** [1968 Trade Cases ¶72,411](#).

#### Memorandum

Cannella, D. J.: Motion by defendant Citicorp, successor to defendants First National City Bank and FNCB Services Corporation, to vacate the consent decree entered in this action on May 10, 1968, is granted.

On May 9, 1978 defendant Citicorp moved to vacate the consent decree entered in this action nearly a decade earlier. At that time the Government took the position that it would not oppose such a motion, but requested (1) that Citicorp publish notice of its application to vacate the consent decree and (2) that interested parties be afforded an opportunity to comment. The consent decree prohibits Citicorp from acquiring Carte Blanche Corporation ("Carte Blanche").

The only comments submitted in response to the public notices were the comments filed by Mr. Anthony R. Martin-Trigona and by the American Express Company ("Amex") in opposition to the motion to vacate the consent decree. The thrust of the Amex comments is the allegation that Citicorp's membership, in the joint ventures that control the two bank card systems, renders its acquisition of Carte Blanche anticompetitive. The Court is not persuaded by this argument for two reasons. First, Citicorp does not control either bank card. See Plaintiff's Response to Comments of American Express Company, at 9. Indeed, a lawsuit brought by Citicorp against one of the bank cards is pending before this Court. See Complaint, *Citicorp v. Interbank Card Association*, No. 78 Civ. 1632 (JMC) (S. D. N. Y. April 12, 1978). Second, if Citicorp does acquire Carte Blanche and if that acquisition adversely affects competition "a private party (Amex) could simply invoke the antitrust laws

itself." Hearing Transcript, at 17 (August 1, 1978) (William T. Lifland, Esq., for defendant Citibank); *id.* at 19, 26; see 15 U. S. C. §15.

Anthony R. Martin-Trigona has also filed a motion to intervene in this Government proceeding as a party plaintiff. The motion is denied because Martin-Trigona has failed to show "that the Government is not vigorously and faithfully representing the public interest." *United States v. Hartford-Empire Co.*, 573 F. 2d 1, 2 (6th Cir. 1978).

For these reasons, the Court will file an Order and Judgment with this Memorandum, vacating the consent decree and terminating this action.

So Ordered.