Attorney General Peter Kilmartin Applauds American Express Antitrust Decision as Victory for Consumers, Businesses

Attorney General Peter F. Kilmartin announced that a federal judge yesterday ruled in favor of the U.S. Department of Justice and 17 states, including Rhode Island, in finding that American Express Co.'s anti-steering rules – which prevented merchants from offering discounts to consumers who used certain brands of credit cards over others – violated federal antitrust laws.

The case involves fees that merchants have to pay credit card companies when they accept credit card payments from consumers.

For years, the major credit companies prohibited merchants from telling consumers about those fees and from offering discounts to consumers who used certain (cheaper-for-the-merchant) credit card brands over others.

In the decision, a federal judge has ruled that the restrictions American Express placed on merchants violated antitrust laws, reducing competition among credit card companies and leading to higher prices for merchants and in turn for consumers. The judge also ruled that increased competition among credit card companies would lead to lower prices for merchants, allowing merchants to pass on those savings to consumers through lower prices.

"American Express required merchants pay additional fees for the right to offer the credit card as a payment option, which were then passed on to the consumer. This decision is a victory for businesses that now have the ability to better negotiate with all credit card agencies and consumers will benefit as competition among credit card companies should result in lower prices," said Attorney General Kilmartin.

The decision, filed in the U.S. District Court for the Eastern District of New York, also means that agreements the states and the U.S. Department of Justice reached previously with MasterCard and Visa can be fully implemented pending the conclusion of any appeals to today's decision. Visa and MasterCard settled similar antitrust charges in 2010, agreeing to remove or revise many of their anti-steering rules. The settlements require Visa and MasterCard to allow merchants to offer discounts, incentives, and information to consumers to encourage the use of payment methods that are less costly to merchants.

In addition to Rhode Island, the states involved in the case include Arizona, Connecticut, Idaho, Illinois, Iowa, Maryland, Michigan, Missouri, Montana, Nebraska, New Hampshire, Ohio, Tennessee, Texas, Utah, and Vermont.