Nancy Todd Tyner

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‘Choke Point’

The misguided campaign to strangle ‘Net casinos.

"Credit" is another word for confidence. The extension of credit is a gesture of trust; to withhold credit implies doubt.

That’s why the withdrawal of several major credit card companies from online gaming transactions is being read as an indictment against the industry. And that is exactly what the politicians and prosecutors who pressured them to pull out hoped to accomplish.

CITIBANK CAVES UNDER PRESSURE

In mid-June, Citibank announced a ban on the use of its credit cards in all online gambling transactions. The company, which serves 12 percent of the nation’s credit card holders, was not the first issuer to back out of online gambling -- but it was the largest. Others that have resigned in recent years include Bank of America, Direct Merchants Bank, Fleet, and Chase Manhattan Bank. Most cited the refusal of courts to enforce gambling debt and the perpetually looming (though never arriving) federal ‘Net gambling ban as reasons for their actions.

Citibank’s withdrawal was bad news for offshore cyber-casinos, but that’s not the worst of it. The new policy, announced jointly by Citibank and New York attorney general Eliot Spitzer, was soused in anti-gaming rhetoric, sealed with a legal agreement, and trumpeted as a political coup for Spitzer’s office.

Spitzer has been on the warpath against online gaming for several years, winning a state Supreme Court ruling in 1999 that declared ‘Net betting illegal for New York residents.' The Citibank agreement kicks off his new strategy to strangle cyber-casinos by cutting off their means of collecting payment. In his words, credit companies will be the "choke point" for enforcing anti-gaming policy.

And Spitzer wants us to believe that Citibank is pleased to be choked. The June 14 press release issued by Spitzer’s office and available on Citibank’s website is titled "Citgroup Joins Fight Against Online Gambling" and is riddled with rhetoric against Internet betting. In it, Spitzer rails against "this pernicious form of gambling" and commends Citibank for "recognizing the role it can play in avoiding the harmful effects of online gambling."

Come again? Since when are credit card companies in the business of supporting political crusades and making value judgments about the transactions they process? As *Washington Post* columnist Andrew Beyer noted in a July 25 piece, Citibank cards can be used to purchase pornography, buy weapons, and fund hate groups. Is ‘Net gambling more "pernicious" than any of those things?

The more likely -- and obvious -- explanation is that Citibank was strong-armed by New York’s attorney general into enacting a sweeping policy that will restrict not only New Yorkers, but all of Citibank’s card holders everywhere. The evidence is in the Assurance of Discontinuance signed by Citibank, which stipulates that Spitzer will accept the company’s withdrawal from online gambling "in lieu of a statutory proceeding."

Two other stipulations are worth noting. First, Citibank has agreed to pay $400,000 to combat compulsive gambling and pay $100,000 to the state for purposes not disclosed. Though Citibank admits no wrongdoing under the terms of the agreement, the payments look more like a slap on the wrist than an act of corporate generosity.

Second, the agreement has a limited term of five years -- a reminder that circumstances do change and Citibank might not be on the sidelines forever.

PAYPAL PULLS OUT

With credit card companies dropping out left and right, the spotlight recently shifted to third-party facilitators such as PayPal, which help customers make secure transactions which are then charged to their credit cards or checking accounts.

For PayPal, online gaming business was booming this year. Online gaming transactions -- for which PayPal received a higher vendor fee -- accounted for about 8 percent of all PayPal transactions in the first quarter of 2002, compared to 3.9 percent in 2001. Nearly 500 gambling sites signed up to use PayPal during that time, increasing its Internet casino roster by 50 percent.

Then, without warning, PayPal was purchased in early July by online action site eBay and the companies announced that online gaming transactions would no longer be served.

"In view of the uncertain regulatory environment surrounding online gaming, eBay plans to phase out PayPal's gaming business after the transaction closes," the companies said in a statement.

Interestingly, around the time of the announcement PayPal said it received a subpoena from -- guess who -- New York attorney general Spitzer, demanding documents related to its processing of online gambling transactions. There has been no news of legal action against PayPal, but the company said in a Securities and Exchange Commission filing that it expected to learn about potential proceedings after the subpoenaed documents are reviewed.

FILLING THE VOID

What will be the direct impact of the Citibank/PayPal double whammy on the Internet gaming business, which still draws an estimated 70 percent of its revenue from U.S. customers?

The most dire forecast was issued by Bear Stearns, which scaled back its 2003 online gaming revenue forecast from $5 billion to $4.2 billion after the Citibank announcement, and was expected to lower that number another 5 to 10 percent after PayPal's withdrawal.

"This is a real challenge for e-gaming companies," said Bear Stearns analyst Jason Ader. "Credit card transactions are their life blood. Without them, it will be tough for the sites to thrive."

Other analysts are less dubious. PayPal wasn't the only online transaction service in the game, and others will surely fill the void. There are several other companies -- many based and already widely used in Europe -- ready to step in. In fact, it's quite possible that Spitzer's strategy will backfire by moving control of online gambling transactions to overseas companies that can't be regulated any more than the casinos themselves. As with the casinos, the U.S. would relinquish both revenue and influence.

The exodus of U.S. credit card companies and PayPal will doubtless inconvenience online casinos and customers in the short term, but it won't choke the industry. Just as U.S. residents have persisted in playing at these supposedly illegal cyber-casinos, they'll find ways to pay. It's naive to think otherwise.

The real outrage is that financial companies are being used by anti-gaming lawmakers and prosecutors who are too cowardly to arrest private citizens, and too stubborn to resolve the legality of online gambling in federal law. In addition to direct threats of prosecution, financial companies are stymied by the continual refusal of courts to enforce credit card gambling debt, and the perpetual "cloud of uncertainty" over the legal status of online gambling in the U.S.

Given all of that, it's understandable that credit companies would "voluntarily" disassociate themselves from online gambling; it's simply not worth the risk, and they certainly have that right. But they undermine their own interests when they start signing legal documents promising to sit on the sidelines. At that point they become pawns in a power struggle.

There's nothing to stop Spitzer and his ilk from continuing this misguided and ultimately doomed crusade to strangle cyber-casinos by goading credit companies into submission. But don't expect for us to believe that the nation's financial community is piling onto some sort of moral bandwagon against gambling. Give us a little credit.

Nancy Todd Tyner is an international political consultant specializing in the gaming industry. Her firm, Nancy Todd, Inc., is located in Las Vegas, Nevada. She can be reached at 702-845-1265 or at www.NancyTodd.com