

EXHIBIT 9

# Citizens for Voluntary Trade

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*Better Living through Rational Thinking*

April 7, 2004

Ms. Renata Hesse  
Chief, Networks and Technology Section  
U.S. Department of Justice, Antitrust Division  
600 E Street, N.W., Suite 9500  
Washington, DC 20530

***Re: Public comment in United States, et al. v. First Data Corp. and Concord EFS, Inc., et al. (D.D.C., Civil No. 03-CV-2169).***

Dear Ms. Hesse:

Citizens for Voluntary Trade (CVT), a Virginia corporation, respectfully submits the following public comment under the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), in response to the *Federal Register* notice published by the United States on February 10, 2004, regarding the above-captioned case. CVT is a nonpartisan educational organization that analyzes the antitrust and competition laws from a pro-reason, pro-capitalism perspective. CVT regularly files public comments and *amicus curiae* briefs in antitrust judgments reached under the Tunney Act and the Federal Trade Commission Act. Neither CVT nor its officers or directors have a financial interest in the outcome of this case. CVT owns no subsidiaries and has no parent corporation.

CVT objects to entry of the Proposed Final Judgment. After reviewing the Competitive Impact Statement, the complaint, and the public versions of the parties' trial briefs, CVT concludes no rational individual would accept the plaintiff governments' position that PIN and signature-based debit networks constitute separate economic markets, nor would a properly-defined market exclude cash, checks, money orders, traveler's checks, and other forms of demand payment as reasonable alternatives to PIN-based debit cards. Had the plaintiff governments' properly defined the market, they would have concluded that the First Data-Concord merger posed no threat of monopolization or lessened competition. Accordingly, there is no identifiable public interest served by entering the Proposed Final Judgment.

CVT recommends the district court reject entry of the Proposed Final Judgment under 15 U.S.C. §16(e) and dismiss the complaint *sua sponte*.

Respectfully Submitted,

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S.M. Oliva  
President  
Citizens for Voluntary Trade