



**Testimony of David L. Strider, Executive Vice President  
of NOVA Information Systems, Inc.  
before the  
Committee on Energy and Commerce  
Subcommittee on Oversight and Investigations  
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Congressional Testimony**

Good morning Mr. Chairman and Members of the Subcommittee. On behalf of NOVA, I would like to thank you for this opportunity to address NOVA's efforts, as a member of the financial services industry, to combat the sale and distribution of child pornography over the Internet. Specifically, I would like to provide the Subcommittee with an overview of the due diligence NOVA conducts before approving a new merchant account, the ongoing monitoring NOVA performs on existing merchant accounts and the actions NOVA takes if a merchant account is engaged in prohibited or illegal activity, which would include child pornography.

NOVA is committed to preventing merchants engaged in child pornography from using its payment services. In addition to NOVA's individual efforts, which I will describe during my testimony today, NOVA has joined forces with others in the financial services industry, the National Center for Missing & Exploited Children and the International Centre for Missing & Exploited Children as a member of the Financial Coalition Against Child Pornography. As you know, the goal of the FCACP is to eradicate commercial child pornography by 2008.

By way of background, NOVA provides integrated credit and debit payment processing, electronic check services, gift card and prepaid solutions, and software applications to businesses. Established in 1991, NOVA currently is the third largest acquirer of credit card transactions in the United States with approximately 800,000

merchants nationwide. Since its acquisition by U.S. Bancorp in 2001, NOVA has been a wholly-owned subsidiary of U.S. Bank National Association, the sixth largest financial institution in the United States.

NOVA is somewhat unique in the acquiring industry since it is a wholly-owned subsidiary of a national banking organization. This means that in addition to being subject to the rules and regulations of the card associations, NOVA is also regulated and routinely audited by the Office of the Comptroller of the Currency and the Federal Reserve. The regulators regularly review NOVA's sales and operations departments to ensure compliance with the policies and procedures of both NOVA and U.S. Bank.

I would like to turn now to a brief review of NOVA's operational policies and procedures regarding the approval of new merchant accounts, the monitoring of existing merchant accounts and the steps NOVA would take in the event a merchant account was suspected of being engaged in child pornography. It is important to note NOVA applies these policies and procedures to every prospective and approved merchant account serviced by NOVA.

First and foremost, NOVA has a strict policy against processing for a merchant engaged in any illegal activity including child pornography. Moreover, NOVA's credit and underwriting policy strictly prohibits the approval of any adult business regardless of the legality of such activity. NOVA strives to prevent any such business from being approved by employing a very strict credit and underwriting policy to, and undertaking a rigorous due diligence review of, every prospective merchant account.

NOVA also conducts a rigorous due diligence review of every prospective merchant account. The due diligence process generally starts with a physical site survey

of a “brick and mortar” merchant to confirm the existence of the merchant and the type of goods and services sold. Merchants engaged in business on the Internet, for whom a physical site survey is not possible, are classified as “higher risk” and are subjected to additional scrutiny by NOVA’s credit and underwriting department. This additional scrutiny includes a full scan of the merchant’s website as well as all links to other websites; a search of the merchant name on Lexis/Nexis, Google and other search engines; cross-reference of the merchant name, address and phone number against the credit report; and a telephone interview that includes challenge questions to confirm the applicant and the merchant are one and the same.

Credit and background checks of the business and, in many instances, its principals, partners or owners are also a regular part of NOVA’s due diligence process. NOVA also queries the card associations’ MATCH file (which stands for Member Alert to Control High Risk Merchants) to determine if the business or its principals, partners, or owners have been reported by a previous acquirer for violations of the card association rules and regulations. Additionally, NOVA’s Anti-Money Laundering Policy requires NOVA to screen all prospective merchants against various sanctions lists including the SDN list maintained by the Office of Foreign Asset Control.

In most cases, NOVA is able to confirm a prospective account is legitimate and creditworthy through the diligence process. From time to time, however, information discovered during the diligence phase raises a “red flag” for NOVA, leading to further investigation and, in certain cases, the decline of an account. Red flags indicating a prospective account may not be legitimate include the use of false names, addresses, social security numbers; no refund policy posted on the website; products and services

offered for sale other than those described in the application; and, with respect to adult businesses specifically, links to adult websites and advertisements for sex toys.

Once a merchant account is approved, NOVA continues to monitor the account for changes in processing parameters through automated systems that queue a merchant for further review if certain changes are noted in the system. The parameters reviewed in this fashion include the size of a merchant's average sale and the number and level of authorization requests, declines, sales, credits and chargebacks. Additionally, NOVA's loss prevention department routinely monitors merchant accounts for changes in type of business (for example, from a retail to a mail order/telephone order environment) and for changes in the types of product or services sold. For Internet merchants, these analysts verify there have been no changes through a number of avenues including a review of the merchant's website; review of links to other websites; and in some cases, test transactions or calls to cardholders to confirm the nature of goods and services being provided.

In addition to dedicating internal resources to these tasks, NOVA has engaged an industry-approved vendor to assist with the ongoing review of merchant websites. NOVA regularly provides this vendor with merchant websites to review. Given NOVA's policy against processing for any type of adult merchant, the vendor searches merchant websites for trigger words associated with adult businesses generally including "sedation" and "bestiality" as well as trigger words associated with child pornography such as "Lolita", "pedo" and "preteen."

Merchants confirmed to be engaged in activities prohibited under NOVA's policies are closed and reported to the MATCH file as appropriate under the card association rules and regulations. Many of these types of businesses, while prohibited

under NOVA's policy, are legal and consequently are not reported to law enforcement or to the MATCH file.

Merchants suspected of being engaged in an illegal activity, which of course is also prohibited under NOVA's policies, are reported to the appropriate law enforcement agency. NOVA frequently works with law enforcement in the subsequent investigation. In some cases law enforcement has required NOVA to keep a merchant account open to allow law enforcement to gather information about the merchant or the consumers purchasing from the merchant. Once the investigation is complete, and with the approval of the law enforcement agency, NOVA then closes the merchant account and reports the merchant and its owners to the MATCH file as required.

With that general overview, allow me to turn to the very few circumstances of suspected child pornography NOVA has encountered and then to the reasons why the number of instances has been so low. Over the last six years, NOVA has discovered or been notified of only a handful of instances of suspected child pornography. In each case, NOVA had approved the merchant's application for a different type of business. The suspicious activity was identified in some cases by NOVA and in others by the card associations or law enforcement.

NOVA investigated each incident thoroughly and worked closely with law enforcement and the card associations as requested. In many of the cases, the investigation revealed the merchant was engaged in an adult business but did not confirm the merchant was engaged in child pornography. Given its strict policy against any adult business, NOVA immediately closed those accounts and reported the merchant and its principals, partners, owners to MATCH if required under the card association regulations.

In one case in particular, law enforcement requested that NOVA keep the merchant account open to allow enforcement to complete its investigation. Following completion of the investigation, NOVA terminated the merchant account and reported the merchant and its principals, partners, owners to MATCH as required under the card association regulations.

NOVA firmly believes its experience, or lack thereof, with merchants peddling child pornography is the result of a number of factors including its stringent approval policy and diligence requirements and continued monitoring of its merchant accounts, and the fact that those policies and procedures apply across the board to every prospective merchant and approved merchant serviced by NOVA. That said, those engaged in illegal activity of any type constantly look for ways to beat the system. Therefore, NOVA and its colleagues must remain vigilant and keep abreast of changes in methods and technology in order to prevent those engaged in illegal activity from taking advantage of the payment system. NOVA fully supports the efforts of the FCACP to assist acquirers in that regard by providing a forum for sharing information and experiences from which everyone in the industry can learn.

I hope my comments today have been informative. I appreciate the Subcommittee's time and I look forward to answering any questions you may have.