



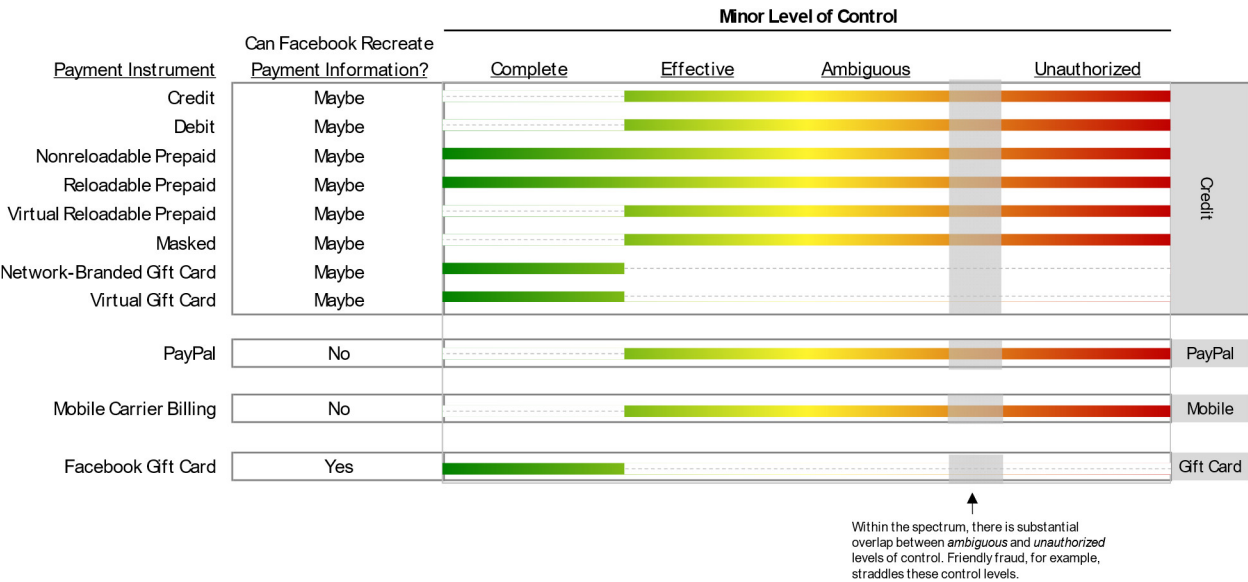
Control of Payment Instruments by Minors

In *I.B., by and through Glynnis Bohannon, et al. v. Facebook, Inc.* (N.D. Cal. No. 5:12-cv-01894), two minor plaintiffs used their parents’ payment cards without permission to make purchases on Facebook. Plaintiffs alleged that Facebook’s payment terms, which informed users that “all sales are final,” violated California’s contract laws because state law allows minors to disaffirm any contract within a reasonable amount of time. They further argued that Facebook routinely refused requests to refund transactions by minors that were subject to disaffirmance under California law.

Vega’s payment systems expert Dr. Ethan Cohen-Cole was retained by Facebook to provide expert analysis to assess whether it was possible to distinguish, on a class-wide basis, between a minor who had complete control over the payment instrument and a minor making an unauthorized transaction.

The Vega expert opined that minors using Facebook could use a wide variety of payment methods to make purchases, including credit cards, debit cards, PayPal, prepaid debit cards, gift cards, and mobile phone payment mechanisms. As shown in **Figure 1: Minor Level of Control By Payment Instrument**, minors could have complete or effective control over the payment method and/or the funds underlying the payment method.

Figure 1: Minor Level of Control By Payment Instrument



The expert concluded that for many transactions, Facebook’s data did not allow it to determine the specific type of payment instrument used for a minor’s purchase. The expert also found that Facebook

had no way of determining on a class-wide basis what level of control each individual minor had over the payment method or the underlying funds used for a transaction. Moreover, even if Facebook were able to determine whether a minor made an unauthorized purchase, the card agreement between the issuer and the parent could allow the transaction. These issues undermined the determination of monetary relief for the class.

The court found that plaintiffs had not shown how monetary relief would be incidental to the injunctive or declaratory relief and that the “[m]yriad claims for restitution ... would overwhelm the claims for injunctive or declaratory relief.”¹ Thus, plaintiffs’ motion to certify the class for declaratory and injunctive relief was granted, but their motion to certify the class for restitution and monetary relief was denied.

About Vega Economics

Vega Economics provides economic consulting and expert testimony in all phases of complex litigation and regulatory proceedings. We work with an extensive network of academic and industry professionals that provide support in a variety of practice areas. We always pair the best suited consultant or expert witness for each case. For additional inquiries, please contact info@vegaeconomics.com.

¹ Order Granting in Part and Denying in Part Plaintiffs’ Motion for Class Certification. *I.B., by and through his guardian ad litem Glynnis Bohannon, et al., v. Facebook, Inc.* (5:12-cv-01894) (Mar. 10, 2015).