

Roy, Lauren

From: Petreski, Sonya on behalf of Adjudication
Sent: Tuesday, 22 April 2008 9:10 AM
To: Chisholm, Shane; Roy, Lauren
Subject: FW: eBay International AG - Notification - N93365 [SEC=UNCLASSIFIED]
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From: Dana Bachour [redacted]
Sent: Monday, 21 April 2008 9:12 PM
To: Adjudication
Subject: eBay International AG - Notification - N93365

**EXCLUDED FROM
PUBLIC REGISTER**

Attention: Lauren Roy

I wish to make the following submission opposing the eBay International Exclusive Dealing Notification N93365 lodged with the ACCC on or about 11th April 2008 in which eBay Australia is seeking for exemption from provisions of the Trade Practices Act and to be permitted to force all members of eBay to pay for all transaction using their own company Paypal.

eBay claim that this is for the safety of their customers, and that the perceived safety in on line trading will outweigh the detriments to users of eBay site to buy and sell products. In addressing this claim, please consider the following points.

Is Paypal REALLY the only safe method?

eBay claim that their service Paypal is the only safe way to make payment on line. This is easily disputed as there are many other methods that are safe for Buyers and Sellers to utilise. Some that are currently permitted to be used on eBay will no longer be permitted, despite their safety. These include Paymate, Seller's own Merchant Card Facilities (directly - not through Paypal as is being requested), Bank Cheques, Personal Cheques, Money Orders and many others too numerous to mention.

Paypal is the CAUSE of most problems:

If you were to conduct an independent survey (i.e. not generated by eBay or its interested parties), you will find that Paypal has been the leading cause of many problems to both buyers and sellers. These problems include:

- a) Paypal retains the money from the transaction for a longer period than what would be considered an average timeframe with other means of payment, causing delays in the transaction and issues to arise between buyer and seller.
- b) Paypal's promised "protection" is highly inadequate and does not cover small purchases, and upon investigation you'll find that most items sold on eBay do not fit Paypal's strict criteria of what is claimable.
- c) On the rare occasion that a protection claim fits the acceptance criteria, it takes many many weeks to resolve the claim. During this time, Paypal refuse to refund, and simply hold onto the funds, thereby earning interest for themselves at Buyers and Sellers expense.

Paypal's history - The FACTS:

If you were to investigate Paypal's reputation, you would find that there are many web sites dedicated to horror stories resulting from the use of Paypal. (Examples: <http://www.paypalwarning.com> ; <http://www.paypalsucks.org/> ; <http://www.www.paypalsucks.com/> and many, many more). Rarely would you find any websites dedicated to the vices of any other payment method, which clearly indicates many people have been "burned" and ripped off by Paypal. Obviously, despite eBay's assertion, evidence indicates Paypal is NOT the totally safe method of payment that eBay claim it to be.

23/04/2008

Paypal withholds funds at ITS discretion:

Paypal state that they will in some cases withhold payment from the Seller's access for 21 days or until the Buyer leaves positive feedback. The fact is that many eBay users simply do not leave feedback, so in effect Paypal will simply be locking up a third party's (Seller's) funds for no apparent benefit to the Seller, but an obvious monetary gain for Paypal as it earns interest on those funds for the 21 day period.

Paypal is a financial RISK:

Paypal is not a bank, and therefore is not subject to Australian Banking Laws. As such, should Paypal fall into decline, all funds held by Paypal on behalf of Sellers would simply be utilised to pay creditors and all Sellers would be left to carry the financial burden of Paypal's demise.

Paypal does NOT issue Tax Invoices:

Paypal sends their accounts from offshore and therefore do not issue Tax Invoices. The fees they charge can be in respect of any business trading on eBay a legitimate expense, but there is no Tax Invoice issued to prove this expense.

Who is this so-called CUSTOMER that will benefit?

eBay state that the proposed change is in order to benefit "their customers". In fact when a seller sells an item, they are in a contract with the Buyer and they simply pay eBay a fee for having "introduced the buyer to them". The buyer cannot be in any way classed as a customer of eBay, they never pay eBay any fees and they have no contractual agreement with eBay in any way other than to agree to the policies as described for membership of eBay. Similarly, a seller is not a customer of eBay, they simply agree to use eBay as a platform to list and sell their product. In fact, eBay themselves state that they are not auctioneers, but merely a platform to enable Buyers and Sellers to come together to trade their goods.

Additional and UNNECESSARY costs to sellers:

Enforcing all transactions through Paypal will place an unfair cost and burden on Sellers, especially if their Buyers are prepared and willing to make payments through other means which attract no extra fees to the Seller (eg, Direct Deposit). These savings can then be passed on to the Buyer. If the application is granted, one can assume there will be a marked increase in costs to Buyers as Sellers pass the increase in fees on.

Paypal's fees are applied to POSTAGE:

At present eBay take a percentage of the final sale price of the item upon sale. If this proposal is granted, then Paypal will be taking a further percentage on the payment, which will have included any postage price that may apply. This is simply greed and it cannot be disguised in any manner.

Paypal deducts money WITHOUT permission from seller:

If a Seller cannot prove that an item has been posted to Paypal's satisfaction, Paypal simply remove funds from the Seller's account without any warning and there is no attempt made to allow the Seller to address the matter further.

The consequential rise in FRAUDULENT claims:

In the event of a claim made by the buyer for non-receipt of goods, the seller is presumed guilty by Paypal and must prove his/her innocence, which is almost impossible to do by Paypal's standards, since their requirements are unreasonable and almost impossible to meet. By allowing Buyers to demand that they pay using Paypal for items that are picked up is simply opening a door to obviously fraudulent claims. Under the proposed changes that eBay are requesting, a Buyer can purchase an item, even of considerable value, then proceed to pay for the item using Paypal. The Buyer can then attend at the Seller's place of trade and pick the item up. At a later time, but within time frames permitted for any dispute, the Buyer could then claim that the Seller has failed to deliver the item, even though it was paid for. The Buyer would have no proof at all of delivery (Paypal will not accept signed receipts or letters as proof of pick up), and Paypal without warning to the Seller will simply refund the Buyer who now has both the item and their money refunded. Obviously this is a criminal act and perhaps Police may get involved, but there is never any guarantee of restitution and in any event it may take many weeks if not months to resolve. However eBay still claim that Paypal is the safest method of payment.

Fees to withdraw your OWN money:

When an item is paid for by the buyer, the payment is actually placed into a Paypal account and not the Seller's bank account, so the Seller cannot access the funds immediately and have to transfer those funds to their own bank account. If the amount is under \$150.00 there yet another fee charged, plus the time factor

taken (approximately 5 to 7 days) for the funds to transfer. If payment had been received by Direct Deposit (or even Money Order) the Seller would have instant access to **THEIR** money without any extra fees to pay.

The PROOF is in the pudding:

The claims made in eBay's submission simply cannot be proven as any reading of the hundreds of posts on eBay's own Discussion Board show that many users have utilised Direct Deposit without any issues for many years. Suddenly eBay has decided that Direct Deposits are an unsafe method of payment. It is interesting to note that at the same time eBay state that it is safe to pay your own eBay account using Direct Deposit if you wish.

Removing our freedom of CHOICE:

It is my opinion that the proposed "benefits" which in reality only serve to increase income for Paypal (and its offside eBay as they are co-owned), simply cannot outweigh the loss to the consumer. The consumer (whom eBay claim to be their customers), will lose the essential right that we all have when living in a democratic society and that is one of freedom of choice in issues that are not circumventing any law of the land. eBay is attempting to remove that freedom of choice, although both Buyers and Sellers who use eBay have clearly supported the fact that they are not in favour of this proposed change.

It is further my opinion that most users of eBay do not mind the fact that Paypal **MAY** be an option for payment, but it should **NEVER** be a condition of listing that payment **MUST** be made only utilising Paypal to the exclusion of any other form of payment.

EBay showed NO regard for government bodies nor for its community:

EBay clearly showed its arrogance towards its members and also the ACCC and the laws that protect Australians, by initially releasing this proposal to the media, then the next day to its members due to a media leak, and finally to the ACCC. It seems that eBay consider that this matter will simply be "rubber stamped".

It is against the LAW:

It is my opinion that the submission made by eBay is in contravention of the Trade Practices Act, and that eBay have not shown any realistic reason for the application to be exempted from the provisions of the Trade Practices Act to be granted.

CONCLUSION:

The application should be denied.

Regards,

Dana Bachour

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