

Roy, Lauren

From: Petreski, Sonya on behalf of Adjudication
Sent: Monday, 28 April 2008 10:16 AM
To: Chisholm, Shane; Roy, Lauren
Subject: FW: eBay International AG exclusive dealing notification N93365
 [SEC=UNCLASSIFIED]
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From: Douglas Crosher [mailto:
Sent: Thursday, 24 April 2008 12:24 PM
To: Adjudication
Subject: eBay International AG exclusive dealing notification N93365

**EXCLUDED FROM
 PUBLIC REGISTER**

Please reject eBay's notification application because it will significantly reduce competition and has no benefit to the public and is of significant detriment to the public.

Further their notification appears to have serious omissions and makes false and contemptuous claims. Allowing companies to benefit from the immunity from the Trade Practices Act based on such a misleading application is not in the benefit of the Australian public, so please explore the full extent of the law in prosecuting them for any possible fraud etc.

1. The Conduct would substantially lessen competition.

eBay have a monopoly in the online auction and sales market. There is a network effect because buyers want to use a web site with a large range of items and sellers want to use a web site with a lot of buyers. Through this network effect eBay has evolved to be one of the largest online auction and sales web sites.

If eBay is allowed to dictate the payment methods that sellers can use then competition in the market of payment methods will be significantly reduced.

For the purpose of determining eBay's market power their market can be usefully defined by their description of business in Section 1a of the notification, and within this well defined market eBay have a lot of market power due to network effects.

Irrespective of eBay's claims in Annex "A" Section 4.4 that they are unable to define their own market, they certainly operate in the online auction market which has strong network effects, and thus I appeal to you to reject their claim in Annex "A" Section 4 that the Conduct would not substantially lessen competition.

eBay suggests its market and market power in Annex "A" Section 5.14

where it states that sellers that trade in second-hand goods "many otherwise have few alternatives to sell unwanted items if potential buyers continued to leave eBay". If eBay were not so dominant in the market then sellers would have alternatives!

2. Public benefit does not outweigh the detriment to the public.

Forcing buyers to use Paypal has no benefit that would not be obtained by simply allowing buyers the choice to use Paypal. Using Paypal as a payment service adds extra costs for sellers and these costs will be passed on to buyers, and this increased cost is a detriment to the public. Without competition in payment methods the fees will surely increase which is the detriment to the public.

Many of the claimed public benefits of the Conduct appear misleading because they are really claimed benefits of using Paypal which would be available without forcing the use of Paypal. Annex A 5.18 claims a benefit from a reduction in credit card fraud as a result of the Conduct however all the claimed benefits appear to be obtainable by simply choosing to use Paypal and thus there is no benefit of the Conduct as claimed. Annex A 5.20 claims Paypal offers merchants a cheaper method for accepting credit card payments however sellers can choose to use Paypal without being forced to use Paypal thus there is no benefit of the Conduct as claimed, and on the contrary without competition the fees will surely rise.

Paypal transactions can take longer to complete than alternatives such as direct bank deposits. Paypal 'e-cheque' payments are withdrawn from the buyers bank account and then Paypal credits the amount to the seller, and in my experience this transaction is significantly slower than a direct bank deposit, taking 4 days or more for an e-cheque to be credited to the sellers account compared with 1 or 2 days for a direct bank deposit.

eBay offers a seller and buyer rating system based on feedback from buyers and sellers respectively. The seller rating allows buyers to avoid poor or dishonest sellers and motivates sellers to provide good service. This provides sufficient "trust and safety" for many transactions without the added costs and slow service from Paypal.

eBay failed to declare this seller and buyer rating and feedback system in their notification. Since this service may create sufficient "trust and safety" for many transactions and thus make the claimed benefits of Paypal unnecessary for many transactions I believe this is a significant omission.