

Roy, Lauren

From: Petreski, Sonya on behalf of Adjudication
Sent: Tuesday, 22 April 2008 2:47 PM
To: Chisholm, Shane; Roy, Lauren
Subject: FW: Objection to eBay International AG exclusive dealing notificationN93365 [SEC=UNCLASSIFIED]
Categories: SEC=UNCLASSIFIED
ACCC Classification: SEC=UNCLASSIFIED

From: ann ... [mailto:] **EXCLUDED FROM PUBLIC REGISTER**
Sent: Tuesday, 22 April 2008 10:54 AM
To: Adjudication
Subject: Objection to eBay International AG exclusive dealing notificationN93365

To The General Manager,

I am writing to object to eBay's current proposed changes submitted to the ACCC regarding enforcement of eBay's wholly owned subsidiary Paypal as the only acceptable payment method on eBay Australia, as of the 17th of June 2008. I have submitted a complaint previously but have since realised I did not specifically address the key areas required for consideration, which I do so here.

***the proposed conduct will result in a substantial lessening of competition**

There is no Australian site anywhere near comparable to eBay, to give people an alternative choice about where they can go to buy and sell online. For example, the Australian owned Oztion site is growing but with current membership numbers at only 5% of eBay's 5 million members it cannot be considered a competitor in the same class at this time.

Enforced Paypal payment removes choice for the many eBay members who wish to buy and/or sell on eBay but do not wish to sign and accept the Paypal user agreement in order to do so. However I accept it may be reasonable to argue that since sites such as Oztion are growing as a result of disenchanted eBayers, the move may be seen to be resulting in contributing to competition in this regard.

Considering payment service options however, I believe there can be no question that the proposed conduct will result in a substantial lessening of competition. Five million Australian eBay members compelled to become five million Paypal members means that 25% of Australians will have been secured as Paypal customers virtually overnight.

It would be reasonable to expect, and no doubt eBay do expect, that these Paypal customers will progressively use Paypal's services more in other markets outside the eBay site to the increasing exclusion of other payment service providers. Therefore to lock other payment service providers out of a market the size of eBay Australia will necessarily lead to a substantial lessening of competition in this service area.

***the public benefit that may result from the proposed conduct would not outweigh the detriment to the public caused by the lessening of competition**

I strongly reject eBay's claim that in removing payment service choices such as bank deposit, money order, Paymate and credit card facilities (unless conducted through Paypal and therefore subject to additional charges payable to Paypal), and implementing exclusive Paypal enforcement, that this will result in benefit to the public that outweighs the detriment to the public.

It would not be enough that enforced and exclusive Paypal payment reduces fraud more than any other payment service provider, if in fact it can be independently proven that it does. It must also, for the additional and compulsory costs imposed, provide a workable, effective and reliable customer service to its members in instances where fraud still occurs. And it must also be accountable and challengeable where disputes arise regarding decisions made about member's money at Paypal's 'sole discretion'.

The Paypal user agreement allows Paypal access and control to delay, hold or remove funds at their sole discretion with an absolute minimum of notice, explanation, discussion or accountability. The inadequate standard of Paypal's computer generated customer service email notifications are legendary within the eBay community, and it is because so many members know this from experience, that I consider eBay's claim of benefits outweighing detriments from the proposed changes to be questionable at the very least.

eBay has stated that Australians have been slow to uptake use of Paypal. Now eBay seeks immunity in order to force Australians to use Paypal by locking other competitors out of their market. However given Paypal's poor reputation for customer service, the public of Australia can only benefit from the continuing availability of choice in payment service options.

If Paypal can lift their game in a competitive market and secure the confidence of the majority of Australian eBay users then their membership will grow and eBay will get what they want because both they and their subsidiary Paypal will have earned that confidence. The eBay site aggressively promotes Paypal to its members as the safest way to trade online but unless or until such time as Paypal legitimately earns Australia's trust and confidence, I believe it is against the public interest to deny us choice and allow eBay to enforce compulsory Paypal payment on the eBay Australia site.

In addition I would like to point out that eBay's members may be buyers or sellers and are very often both, so that members when selling are eBay's customers and when buying are eBay seller's customers. eBay members may expect to be entitled to policies that protect and ensure their trading safety when trading in either role. Yet while eBay contends that enforced and exclusive use of their Paypal payment service will be to the public's benefit by making buying transactions safer, on the the other hand their own direct customers – eBay sellers – will be trading less safely by eBay's own admission, due to the conditions imposed by Paypal's Seller Protection Policy.

For example, eBay will enforce acceptance of Paypal on pickup items despite Paypal's seller protection not covering sellers who receive payment via this method rather than cash for such items. eBay assures us that the boost in buyer confidence is worth the risk to sellers of buyer fraud with pickup items, which it claims is negligible. Since such fraud is negligible it would boost seller confidence for eBay to underwrite such minimal risk as imposed by Paypal policy, however they do not. Meanwhile it is significant that with the implementation of eBay's proposed changes, eBay's additional Paypal revenue would be lost on every pickup item not posted, and paid for with cash.

Also eBay encourages buyers on the site to expect better shipping deals by spending more and combining purchases with a seller, yet Paypal's seller protection does not apply to combined shipping. Sellers electing to stay safe from fraudulent Paypal claims on combined shipping may cease to offer this service, meaning buyers will have to pay more for individual shipping, and I have yet to hear the eBay/ Paypal spin that succeeds in deeming this a benefit to the public.

It is clearly a benefit to eBay however since through Paypal they receive a % revenue of every package posted. In addition to listing and final value fees for each item sold, eBay will increase their revenue on each item sold, through Paypal's flat transaction fee, % of the sale price, plus % of the shipping charge - note that shipping also will be necessarily more expensive since Paypal's seller protection applies only to registered or trackable postage methods.

Please note also that eBay refuses sellers the right to pass these additional Paypal selling costs directly on to buyers, I can only assume this is so buyers will believe the protection Paypal offers them costs them nothing. Yet buyers will end up paying indirectly anyway through higher prices overall as sellers seek to recoup the additional compulsory Paypal costs incurred – and buyers will no longer be able to choose alternative payment methods that will save costs for trusted sellers and therefore, for themselves.

In conclusion, I support eBay's desire to make their venue a safer place for Australians to trade but I reject absolutely eBay's contention that the current proposed changes will ensure this end to the greater good. I believe that enforcing exclusive use of Paypal will substantially lessen competition between payment service providers in this country. And I believe the benefits to be gained by granting eBay immunity will benefit eBay greatly, and the Australian public not enough to outweigh the detriment caused.

Thank you for your time and consideration in this matter.

Yours sincerely,
Ann Smedley

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