

**Roy, Lauren**

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**From:** Petreski, Sonya on behalf of Adjudication  
**Sent:** Thursday, 24 April 2008 7:58 AM  
**To:** Chisholm, Shane; Roy, Lauren  
**Subject:** FW: Application by eBay and Paypal - Notification N93365  
[SEC=UNCLASSIFIED]  
**Categories:** SEC=UNCLASSIFIED  
**ACCC Classification:** SEC=UNCLASSIFIED

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**From:** Eddie [mailto:  
**Sent:** Wednesday, 23 April 2008 3:49 PM  
**To:** Adjudication  
**Subject:** Application by eBay and Paypal - Notification N93365

**EXCLUDED FROM  
PUBLIC REGISTER**

Please treat as a public submission. (Please delete Surname from public view)

Attention: Lauren Roy.

EBay International Exclusive Dealing Notification N93365 lodged with the ACCC on or about 11th April 2008

As requested I would like to make the following submission regarding the application made by eBay International and as requested I will address the following two points that the ACCC has requested public submissions be made.

The proposed conduct will result in a substantial lessening of competition;

And

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

It is being claimed by eBay under the guise of being a safety issue that Paypal is the only safe way through which payments can be made for transactions that may be made using the eBay site.

If eBay are permitted to enforce the use of Paypal facilities only, this will substantially lessen competition as there are many other forms of payment that carry protection including:-

Use of a seller's own Merchant Card facilities.

Paymate - an Australian owned company which is very similar to Paypal but it deposits payments directly into the seller's banking account and not at a holding account owned by themselves as Paypal does.

Many buyers are very satisfied to use direct banking deposits as a form of payment and banks can and in some cases do arrange for funds to be returned when there has been a fraudulent transaction.

Money Orders, which are safe and the recipient must be identified by Australia Post before being able to cash the Money Order.

I could easily make a longer list, but I consider that this shows that the conduct will lead to a substantial lessening of competition, simply because no competition will be permitted.

Paypal is not a bank and as such is not subject to the safety net that covers banks and therefore should Paypal find itself with massive debts, it could easily use member funds to meet debts and the members would be left with no avenue to recoup their money.

The perceived public benefit that eBay claim as safety does not out weigh the detrimental effect to all sellers on eBay. There will be increases in fees as all transactions will now attract a Paypal fee and those fees will naturally be passed on to the Buyers. This will make items more expensive for Buyers to purchase.

It is also to be noted that should eBay be granted the immunity they seek, then Paypal will hold millions of dollars of members funds and they clearly state that they can at their discretion withhold payment to the seller for a period of up to 21 days. During this time the seller is still required to meet his commitments and pay fees associated with use of eBay and Paypal. Paypal uses these funds on the money market, but do not pass any interest on to its members.

Further to this issue that eBay are claiming that Paypal is totally safe, is the fact under the request submitted by eBay where they have stated that they will allow items to be picked up and paid for in cash. What they fail to make clear is that Paypal must also be offered as a payment option for items that will be picked up.

Again eBay fail to address the issue that any buyer who has the mindset to do so can very easily purchase an item, pay for it using Paypal (which the seller will not be permitted to refuse), and then claim to Paypal that the item was not received. The seller has nothing that Paypal will accept as proof of delivery - they do not accept signed invoices - and Paypal will refund the buyer and take the funds from the seller's account. The seller will lose both the item and the payment and other than Police action will have no recourse.

This certainly cannot be seen as being of benefit to the public at large and in fact this detrimental factor alone should be sufficient to deny eBay's application.

There is another detrimental factor that also needs to be considered and that is the fact that many Australians simply will not place their banking details into any computer and they will only pay either by Money Order or payments made over the counter at a bank branch. To allow eBay to enforce Paypal only on all transaction removes the right of these members of the community to trade with other members who may have articles they wish to purchase.

A third actor to consider as being detrimental is that although eBay state that they will allow items to be picked up, there are many who do not like giving out their private addresses to total strangers and therefore desire to retain some anonymity. It is certainly a detrimental effect to even in a small way try to force any member of the public to divulge the address of their private residence.

Finally there is very little if any protection for the seller against fraudulent claims made by buyers, and they can certainly be in a position where they do not have access to their payments for a period of up to 21 days. Surely this is a major detrimental factor.

The only obvious benefit is to eBay and Paypal themselves in that they will certainly increase profits. The perceived comments about the "only safe way to pay" cannot be proven in any way and as stated above, there is a very similar Australian company that offers the same protection and is currently permitted to be used as a payment option. If this application is granted they will no longer be permitted as a payment option, although their reputation is in fact much better than the one Paypal now have in respect of disputes. One only has to do a quick search to find many, many disgruntled Paypal customers who have lost money.

Taken together, the lessening of competition by banning any other forms of payment (other than cash on pick up, which I suspect has been permitted so eBay can claim that buyers still have a choice of payment methods and for no other reason), and the very clear detrimental effects as opposed to any perceived benefits, there does not seem to be any evidence to support eBay's application and it should therefore be rejected.

Thank you for permitting this submission.

Eddie  (Please do not show Surname for public viewing)

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