

To Whom it May Concern

I wish to log my objection against eBay's notification for exclusive dealings with PayPal as the only payment method on their website and I will address both points regarding reduced competition and detriment outweighing public benefit

The proposed conduct will result in a substantial lessening of competition

There is no question that this proposal will not only lessen competition, but also at one level, eliminate it entirely.

1) Competition between safe payment methods

There are several online payment options that provide security to consumers, and have built in safety features designed to protect the consumer

In direct competition to PayPal are other services such as PayMate, and Moneybookers which provide the exact same protection to the consumer's ID through Verisign. Verisign is in fact a recent eBay acquisition, so in this respect, the safety features between the payment methods are identical.

The only claim of 'superiority' PayPal have over these payment options are the buyer and seller protection policies, which offer limited protection.

It should be noted that PayPal have an escape clause in their terms and conditions whereby they may cancel both buyer and seller protection at any time without notice to the consumer. With this in mind, this so called 'advantage' is not set out in concrete, but is a transient policy.

If eBay are allowed to implement this policy they will effectively eliminate all competition for online payment methods, whilst at the same time give no guaranteed long term additional benefits to the Australian consumer over any other safe payment method

2) Competition between online businesses, and mum & dad sellers.

The implementation of this policy will affect the public considerably as there will be a shift in the balance of market dominance for online sellers. Only the larger sellers on eBay who have considerable volume of transactions will be able to be awarded the cheapest tier 1.1% PayPal fee rates.

See <http://pages.ebay.com.au/useprotection/fees.html> for a list of PayPal fee tiers.

Mum and Dad sellers, and small volume sellers will be priced out of the market.

Ebay approximates that all the sales on its site contribute \$2.6 Billion dollars to the Australian economy. Much of this figure comes from mum and dad sellers. The so called "power sellers" on the other hand are a small percentage minority.

I would encourage the ACCC to investigate what it would cost in fees to list a widget on eBay, along with the associated final valuation fee (FVF), and then investigate the associated fees PayPal will further add to the transaction. PayPal fees, it should be noted, will also be charged on the postage component that is paid as well by the buyer in the single paypal payment to the seller.

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

Public Benefit

As stated earlier, there are other safe payment options available that are identical to PayPal as they all use Verisign, such as PayMate which is an Australian company and pays taxes in Australia

The only claim eBay has to PayPal being 'superior' is the Buyer and Seller protection, which it reserves the right to cancel at any time in its terms and conditions. With this in mind, there is no guarantee of public benefit in the long term for the consumer.

Allowing eBay exclusive dealings, however IS permanent, which is definitely a financial benefit to *eBay*.

It should also be noted that what is perceived a 'BENEFIT' would be in my own words, a move designed to improve safety for the consumer when all other safety improvement avenues have been exhausted.

Let me highlight from a different angle why the exclusive dealings is NOT a benefit to the consumer (by consumer, I refer to buyers on eBay, full-time sellers on eBay as well as mum & dad sellers)

1) Security flaws are of eBay's own creation

It should be stated that this PayPal only move is designed to eliminate DOMESTIC competition of payment options, and not INTERNATIONAL. The reason why I say this is that consumers already use PayPal as the preferred international payment method, over bank transfer as well as international bank cheques since it is cheaper than the latter options.

So, with that established, let me describe the situation further. This PayPal only policy, implemented with the DOMESTIC market in mind, is designed to reduce fraud between Australians paying Australians, as well as Australians paying international scammers posing as Australians on the Australian eBay site. There is no other possible scenario covered by its implementation

a) Poor account verification

eBay have resisted the moves to implement ID verification on eBay Australia. This alone would eliminate international scammers from joining as an eBay Australia member, and

Such a measure is available on other Auction sites like Oztion

b) Poor activation measures for new accounts

Ebay have on other sites such as the former eBay China site implemented account activation measures such as SMS verification of the user.

The significance of this sort of move is that international registrants to the site can not have their accounts activated as they are unable to enter the phone number of a foreign country mobile number in order to get the activation code, and stealing a domestic mobile number is next impossible for someone overseas to get hold of, and hold long enough before the stolen number is disconnected.

Effectively with point a) and b), eBay could have virtually WIPED out entirely international scams where nigerians or other common scammers pose as Australians. Had they done this, we would have only been left with domestic disputes.

It is more profitable for eBay to sell a solution to the problem, ie PayPal rather than FIX the problem.

There are many other measures that can also be implemented to wipe out international log-ins from fraudsters such as IP logging. None of this is new technology and all of these could have been implemented a decade ago.

2) “Overwhelming majority of eBay transactions in Australia are trouble-free”

Note, I am quoting the head of Trust & Safety who constantly repeats the above statement. Effectively, he has stated the amount of fraud on eBay is a drop in the ocean, yet they want to penalise all their users and make a profit as well over these measures.

3) eBay have artificially made PayPal the safer and “more popular” alternative than the other payment options

Prior to June 2007, eBay offered buyer protection on all payment methods to the tune of \$400 coverage.

Ebay then announced that they were increasing buyer protection through PayPal only, however as a footnote in their announcement they stated that the general buyer protection on all payment methods would be removed, since paypal was the most popular payment method.

It was a move designed to increase their PayPal userbase.

Refer to archived announcement (scroll down to 9th May 2007)
<http://www2.ebay.com/aw/au/archive.shtml#2007-05-09083931>

Detriment to Public

1) Undisclosed fraud

eBay made no mention in their notification to the ACCC of what percentage of its userbase lose money despite following all the rules. There are quite a number of loop-holes in the scheme where buyers can end up with both the produce and their money back

2) Sacrificing of choice of numerous payment methods with built in protection for a payment method that provides no guaranteed long term protection.

3) No guarantee of service.

Over the last 2 weeks, there have been notable faults with PayPal whereby BigPond cable users located in Queensland were blocked by PayPal from logging in or paying by this payment method.

It took a full 2 weeks to rectify the problem, but what was clear through the workshop and through questioning the eBay staff was that there is no contingency plan in place to protect seller's businesses and incomes due to PayPal service disruption.

It is highly likely that such a policy will result in loss of sales, with no legal recourse, as the guarantee of service is disclaimed away by PayPal in the user agreement.

Another recent glitch on eBay was the loss of bank details so that buyers could pay by bank transfer, ie the BSB numbers from the banks went missing. This took a full 2 months before they returned.

4) Many mum and dad sellers will be eliminated from the market

They will be priced out by the bigger 'power-sellers' that are awarded the discount PayPal fee rates, whilst themselves being burdened with ever decreasing margins.

This move clearly benefits eBay's “preferred” high sales turnover members.

5) The consumer will pay higher prices

Sellers will pay more fees, with questionable 'benefit' from the move, and many believe more risk (see point above on undisclosed fraud)

Buyers will pay more as competition is reduced, and prices start to rise. Buyers also lose out through very poor money exchange rates implemented by PayPal as compared to that provided by their own banks.

6) The consumer will have LESS CHOICE in how they want to pay and receive payment

Bank cheques, Money order, Bank transfers, PayMate, and preferred payment methods will be eliminated. Many people will simply stop transacting online as they do not trust leaving their bank or credit card details with a foreign company.

7) No guarantee of confidentiality

eBay have acknowledged that there will be information sharing between its owned companies such as PayPal. There is no guarantee how this information is used if a subsidiary is sold off as is the rumour about Skype. There are no laws presently protecting Australians from what companies do with Australians consumers

Conclusion

My advice to the ACCC would be to reject eBay attempt in exclusive dealings outright.

There is no denying that such a move will seriously affect competition in Australia at several levels, as well as provide no clear long term benefit to the consumer (both buyers and sellers), whilst introducing many variables that will result in decreased income and sales, and decreased choice.

The only clear winner in such a move would be eBay.

Thank-you for your time and for reading my submission.

Kindest regards,

Valentino Cosic