

Foo, Raymond A

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From: Eva Glenda Foo [redacted]
Sent: Tuesday, 29 April 2008 12:41 AM
To: Foo, Raymond A
Subject: FW: eBay International AG - Notification - N93365. Eva G Foo Public Submission
Attachments: ACCC Submission on Ebay.doc

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From: Eva Glenda Foo [mailto:[redacted]]
Sent: Friday, 25 April 2008 12:45 AM
To: 'adjudication@accc.gov.au'
Subject: eBay International AG - Notification - N93365. Eva G Foo Public Submission

Good Evening,

Please treat this email and the attached formal submission document as part of my public submission regarding eBay's proposal to force the use of Paypal and the proposal for the ACCC to exempt it from certain parts of the Trade Practices legislation.

Generally, I applaud eBay's recognition that the online auction environment needs to be safe and as risk free as possible. Their solution however, will not solve this problem and is not should not be a justification for removing competition. My Submission will explain in detail that:

- There is an enormous amount of economic research in Australia and the world that supports empirically that competition is vital in nearly every sector except for a few exceptions. The Australian economy has benefited enormously over the past thirty years due to competitive pressures improving efficiencies and driving down costs, leaving a net benefit to the consumer. Online Auctions are not a special or exceptional industry, so it is not an area where we should limit competitive pressure.
- eBay is asking for an extraordinary privilege from the Australian people, a privilege only a few get, which is exemption from competitors in the settlement of auction proceeds. Extraordinary claims require extraordinary proof, and eBay should at the minimum, prove on a balance of probabilities that PayPal is safe and if fair to both legitimate buyers and sellers. A very simple hour of research via these submissions and other sites should provide compelling evidence that the contention PayPal is fundamentally safe is untrue.
- The proposed solution forcing the use of Paypal not a reliable solution as the use of Paypal for sellers is risky. There are more than an isolated number of sellers (several who have also made submissions) who attest to suffering real financial losses using Paypal. Viewing public boards in eBay's own site provides extra support to this contention;
- We accept the need to regulate dominant players eg: Telstra in the Telco industry and the Banks in the financial sector, even if the regulation is just oversight. eBay is without doubt the most dominant player in the Online Auction markets so it equally deserving of regulatory supervision.
- If the PayPal system was safe, reliable and equitable for both buyer and seller, eBay would not need to worry about the Exclusive dealing notifications register. It would automatically be the method of choice for buyers and sellers and there would be no need to force users.
- Credit card chargebacks are a major cause of concern sellers and a good proportion of the losses they face. As I mention in the formal submission document, eBay themselves recommend Sellers factor these losses into their business models.
- The proposal to force PayPal on eBay users places a disproportionate burden on sellers especially given they cannot hedge against risky credit card transactions.
- The ACCC is perfectly entitled to demand additional information from eBay and PayPal to support the claims eBay/PayPal make, even if it is sought in confidence. Two statistics which are private but would be instructive are:
 - How many disputes and chargebacks are settled in favour of the seller? And;
 - How many claims are made against the so-called Protection Plans and how many are successful? It is one thing to promise to protect a buyer or a seller with A20,000, but if the conditions and

requirements are such that buyers or sellers rarely succeed, then such a promise is to be considered at best misleading and at worst, bogus.

- PayPal as a clearing house/merchant is not of such a high standard with its management, systems or processes that it deserves to be given a monopoly.
- eBay's proposal is a conflict of interest. eBay stands to gain a very healthy windfall by receiving extra merchant fees on every item sold, on top of the fees they already collect such as listing fees etc. eBay makes no undertaking to the ACCC to assure the ACCC that there is not an issue of conflict of interest, nor are they proposing any fee relief to sellers and buyers as a result of the windfall.
- Many of the claims eBay/PayPal make such as "*with Paypal there is four times less risk than using other methods*" deserve to be scrutinised and questioned. Common sense dictates for instance that it cannot be less safe that a buyer and seller meeting, inspecting an item, agreeing to take it and paying the seller on the spot.
- Australia is a serious market and should be treated as such. A serious attempt to build the ultimate protection would involve several markets not just Australia since the risks are world wide.
- Allowing PayPal only would seriously curtail my business.

Anyway please find attached the formal submission, You may either contact me my husband Raymond Foo [redacted] for further clarification or information.

Kind Regards

Eva Glenda Foo

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Submission on Ebay's proposal to force the option of using Paypal on transactions (N93365)

A. Executive Summary

The proposal to the ACCC to exempt eBay from the Trade Practices act (Notification N93365) is without merit and the suggestion by eBay that there is a greater public interest in secure transactions is also completely without merit.

This submission argues that eBay's proposal is unwarranted and not in the interests of the Australian consumer. We understand the desirability of improving the online security of transactions and concur with proposals that could improve this. This proposal in its current form will not achieve this. The arguments are relatively straightforward:

- The proposal is entirely counter to policy pursued in other industries such as the Utility, Oil and Telecommunications;
- eBay's dominance of the world wide online auction justifies the need for extra vigilance against unintentional anti-competitive behaviour;
- eBay makes claims without evidence;
- Transaction security is not served by limiting choice;
- Conflict of interest in the proposal;
- Paypal does not guarantee security, and on the contrary increases risks to the seller;
- Paypal is not a sufficiently reputable organisation that it deserves a monopoly;
- Australia should not be seen as a guinea pig market.
- I am an eBay user and it will impact my ability to transact.

The net outcome of the eBay proposal should it be granted exemption from Trade Practices regulations is that it will reduce the options to Australian consumers, increase risks to sellers, inhibits the development of competitors to Paypal and rewards a less than competent merchant with a monopoly. The irony in this is that eBay owning Paypal stands to gain a windfall in fees from this proposal that would normally either not be paid or shared with competitors to Paypal and as such there is merit in the argument that the eBay has a conflict of interest in proposing this outcome. It is clearly more about improving eBay's position than genuinely protecting the Australian consumer. As an eBay user, my position is worsened not improved by this proposal.

B. The Arguments against granting eBay's proposal

Competition Policy

The idea behind the limiting or excluding competition in the interests of a greater public benefit is a concept which is disingenuous and completely lacking empirical support. This idea is outdated and comes from the days when it was also believed that Natural Monopolies like Dept of Posts, Telecom, the State Electricity Commission, the Board of Works and other similar monopolies could offer a greater public benefit by limiting competition.

In a developing country, there maybe merit in developing a natural monopoly to invest in a project which private business would not naturally invest in. In nearly all these cases, these monopolies were not entrusted to private enterprises but to Government as these were accountable to the people. In nearly all countries where this has occurred, once a market was mature, deep and sophisticated enough, the decision was made to deregulate, and break up the monopoly to create a normal competitive environment.

The trend based on decades if not centuries of empirical evidence is that public interest is best served by increased competition. This direction is not some unfounded observation, it is a trend seen in the financial markets, financial services, telecommunications, services and many other industries throughout the world. The original objectives of the Trade Practices Act aimed to encourage competition and exemptions should be granted sparingly. Additionally, one should not forget that it is observed in many markets that increased competition actually increases the market and business by stimulating latent demand.

Exemptions from competition are an extraordinary right to be granted to any individual or organisation and given the exemption sought the ACCC is entitled to insist on extraordinary evidence in support of eBay's claim.

We submit a counter view. It is unhealthy to allow only a single merchant like Paypal to have a monopoly for buyers and sellers. The interests of buyers and sellers are not served by this. As we've seen in industries as diverse as retail and telecommunications competition drives down prices, builds innovation and diversity of choice. Paypal shows publicly on their website the fees for doing business with them. These are currently quite high for the benefits offered. This is not a subjective view: it can be compared to competitors and other merchant facility providers. What the consumer needs is rules that encourage competitors not to institutionalise these high fees.

This proposal also precludes the ability of larger eBay sellers to use their own merchant facilities (which they may have paid to develop and integrate into eBay) which again, is unnecessarily anti-competitive.

Finally, competition is enhanced by transparency, not hidden charges. It is a stated policy of eBay and Paypal that sellers may not pass the

charges on to buyers directly (surcharging)¹. This directly contravenes the stated policy of the Reserve Bank of Australia who wish to bring transparency to the consumer by allowing for surcharging. By just passing the charges on in an opaque fashion by shoving it onto the price hides the real cost of Paypal compared to other options from the buyer.

eBay's Online Auction Dominance

eBay's dominance of the Australian online market is well known. The online monitor Hitwise was quoted that in February 2009, it estimated eBay comprised 42.19% of the total Australian Market². The second biggest competitor the Telstra Subsidiary Trading Post managed only 2.12%. In the online Auction, there are few competitors to eBay so the dominance of the online Auction market is probably even higher, with one source suggesting it is as high as 85%³.

The dominance of eBay in this particular market (the Online Auction Market) can automatically act as a disincentive to entry for competitors (as observed in the instance of companies like Telstra in the Telecommunications market). It is therefore arguable that eBay should be seen more as the "Telstra" of the online auction market and therefore extra vigilance is required to ensure that competition is improved in the online market, not reduced. Again, the ACCC is entitled to insist on extraordinary evidence from eBay to back it's extraordinary claim that it deserves to be exempted from prosecution under the Trade Practices Act, an exemption we note is not granted to many other players in the Australian economy.

Extraordinary Claims

The eBay submission is a polished professional document, which is expected given the financial resources of eBay and its ability to use well known legal professionals such as Deacons.

We on the other hand, are just ordinary Australians who normally have no interest in these affairs unless they affect us. One should expect our submissions to be somewhat less unpolished. On the other hand we will produce compelling evidence to back our claims.

We expect eBay to do the same. They claim that Paypal is a secure method of payment (5.5 (1) in the eBay submission) but produce nothing to verify that. Later on (5.5 (9) in the submission) eBay proudly

¹ <http://pages.ebay.com.au/help/policies/listing-surcharges.html>

² <http://www.smartcompany.com.au/free-Articles/The-Briefing-2008-17-REA-to-weight-up-on-Business-at-ACCC.html>

³ http://www.a.future.ca/bertha/ed/Internet_auctions.pdf

announces that Paypal will attempt to recover funds but cannot guarantee it, hardly an endorsement of security.

eBay makes claims that Paypal is the only merchant offering the sort of protections listed in 5.5 but fails to seriously produce evidence to back it up. There are other companies that offer merchant services like the Australian company Paymate which is being excluded under this proposed arrangement. Where is the evidence showing Paypal and eBay has protected the buyers under the various protection guarantees which currently exist (but are to be increased if this exemption is granted)? There is credible evidence that eBay and Paypal have often acted to exclude buyers and sellers from the protection arrangements. A recent story by the Current Affairs program Today Tonight 25/03/2008 highlighted some of these problems.

eBay also makes the claim that from its internal data users using Paypal are four times less likely to have problems. What is becoming typical of the eBay submission is that this claim is bandied about without any attempt to provide evidence comparing it against other options. I am currently an eBay member with a 100% feedback rating and most of my transactions are either by Bank Deposit, Cash on Delivery or Escrow. These are currently fee free (except for Escrow) and have not caused me loss. The 100% feedback rating also indicates the satisfaction of the customers I've dealt with.

We submit that eBay is obliged to produce extraordinary evidence to the ACCC to back these claims, so the ACCC can be satisfied it is acting in the public interest and that any ACCC ruling meets the test established in the *Coca Cola case* (Re Coca Cola Export Corp (1978) 4 TPR 523 at 524). The evidence need not be in the public domain; surely there is a mechanism where this evidence can be shared with the ACCC privately?

Privately or publicly, the ACCC should have this evidence. Extraordinary claims demand extraordinary evidence.

Transaction Security and Choice

The eBay submission makes a basic assumption that there is a direct relationship between Transaction Security and limiting choice. This seems *prima facie* to be a logical concept. It seems logical that fewer choices mean fewer possibilities for malfunction. This is a defective argument because it fails to consider the wider determinants of Transaction Security. It is nonsense to argue that limiting choice for the settlement of auction obligations is the only major player in transaction security.

Transaction Security is based on several issues:

Moral integrity of the Bidder (Clearly a major determinant);

- Moral integrity of the Seller (Clearly a major determinant);
- Ensuring expectations of both bidder and seller are met (achieved by honest descriptions so both parties are aware of what they are exchanging);
- PC security. Both the bidder and sellers computers need to be protected and secure.
- Appropriate clearing systems for settling auction obligations.

eBay are only considering part of the solution but are attempting to deceive the ACCC that the solution proposed is so good it should not face competition.

The most important determinant is the moral integrity of the operators in the market (buyers and sellers). Honest operators desire to perform honest transactions where both parties are informed and more importantly happy with the transactions they agree to enter into. Dishonest operators will harm the online auction market regardless of whether Paypal is or is not the only option used. We can fairly reliably gauge the integrity of the buyer (and they can do the same to us) using the feedback score. The higher the feedback over the number of sales has in our experience been an excellent guide with or without Paypal.

eBay if they were sincere about transaction security they would be doing more to ensure the genuine nature of buyers and sellers. An example can be seen from a competitor. A minor competitor to eBay in Australia, Oztion actually go to the trouble of verifying the addresses of the operators to verify their *bona fides* and even verifying identity of operators by the 100 point check⁴.

The other important factor which both eBay and Paypal could focus their attention on if they were really interested in transaction security is the PC security of the PC's involved in an eBay transaction and the accounts used in the transaction. A hacked eBay or Paypal account due to "Phishing" or other scams does nothing to promote transaction security. As explained later, I as an eBay seller and former Paypal merchant had the misfortune to losing money via a fraudulent "chargeback" from a buyer who had their Paypal account hacked. eBay and Paypal's response in these situations are that "Chargebacks are a part of life and should be factored into the sellers business model⁵." This is hardly an endorsement of the transaction security offered by the eBay submission.

The only serious idea that eBay and Paypal are able to manage with the best and brightest people on their teams are to suggest that offering only Paypal is the great solution, even though they have mentioned chargebacks are a part of life and should be factored into

⁴ http://www.oztion.com.au/company/careers/2007_08_Sep16_100_Point_Check.aspx

⁵ <http://forums.ebay.com.au/thread.jspa?messageID=501859961&forumID=10917801659981>

the business model. Currently with more secure methods such as COD where the seller views the goods and then pays cash does not have any of the risks associated with credit card frauds and chargebacks, and yet this option is to be denied or at least forced to have Paypal offered with it.

Again, the idea of offering one merchant such as Paypal is just not in the interests of better competition and it is hard to understand how it is guaranteed to offer better security than COD or an alternative system and direct Paypal competitor such as the Australian company Paymate which will suffer greatly from being shut out of the biggest online Auction provider in Australia. Where is eBay's evidence that Paypal is vastly superior?

Common sense must prevail: even if payment options were the only determinant of transaction security, it is not the limiting of the quantity of payment options that matters. What counts is the range of quality, safe and secure payment and delivery methods that matter.

Later we will submit that it is completely inaccurate to suggest that Paypal is a completely secure method.

Conflict of Interest

The ACCC as a general principle would be suspicious of any proposals from an organisation requesting exemption from the laws protecting the Australian people from anti-competitive behaviour. The degree of suspicion probably increases dramatically in this instance given the obvious conflict of interest in this proposal.

Paypal is an organisation owned by eBay. eBay will end up being the ultimate beneficiary of a greatly increased fee stream by the compulsory use of Paypal.

A cynical view might be that this is more to increase eBay (and Paypal's) viability by locking users into an inflexible fee structure which is over the usual fees normally slugged to sellers such as listing fees. As mentioned earlier, most likely thanks to a lack of transparency from both eBay and Paypal, the buyer remains ignorant of this and in the end is the ultimate victim.

On the other hand, if eBay were to allow other competitors to Paypal, it could quite reasonably demand that these competitors provide the same co-operation and information that they get from Paypal and then there is less of a conflict of interest as Paypal would be as "arms-length" in dealing with eBay as the competitors.

Paypal does not guarantee security and increases risks to the seller

This part of the submission I can speak of first hand. As mentioned previously I am a seller on eBay in good standing with a feedback score as at 23/04/2008 of 100% positive.

In October 2007 a bidder won an item (an Antique chair) I had listed on eBay. Within a few days of winning he unregistered himself but advised that he wished to make payment for this item using Paypal. Bear in mind that the bidder was a member when he won the bid and so I believed I was obliged to honour the transaction. Without going into all the details he paid me in full using Paypal an amount which covered the cost of the chair and an extra amount for couriering.

He led us to believe that he had a special courier who he used extensively in Australia who guaranteed him top service. He asked us to pay on his behalf the couriers' fee which we did since he paid us in full using Paypal.

We were scammed. The scammer used a hacked buyers' Paypal account and when we finally realised over a month later, we received a chargeback for the full amount. We disputed bearing the full burden of the chargeback since there was in our view contributory negligence from the buyer allowing their account to be hacked into and taking over a month to advise Paypal. This compares unfavourably to the rules here for people who lose their credit cards and don't inform their institution or people who allow through negligence third parties to access their internet banking.

Paypal found in favour of the negligent buyer, in spite of our perfect record and at no stage were we offered any of the so called protection even though this sale was made in eBay (not outside of eBay). We lost \$600.00

From fairly extensive experience having sold over 433 separate items in eBay over fifteen months, mostly not using Paypal, we've discovered the safest means of payment is Cash on Delivery (COD), Bank Deposit, Money Order and even Cheques (Cheques take 4 days to clear and cannot be reversed once paid). The big risk generally is Credit Cards which can accept chargebacks months later. Paypal allows a buyer to pay using a bank account, debit card or credit card but does not allow a seller to hedge risks for example only accepting Paypal from a buyer's bank account. Sellers therefore are at risk the moment they accept Paypal from credit card chargebacks.

Forcing us all to use Paypal without allowing for competition means all sellers are forced to assume these risks. Allowing competitors could mean a meaningful system because of competition could form that may allow us to have extra safeguards. Competition breeds innovation.

Paypal is not indispensable, despite the claims of eBay. In their submission, they talk of five million Paypal accounts. What they don't

tell you is how many sellers offer Paypal in Australia and I would guess it is not too many because of the risk.

Remember eBay in their own forums tell us to expect losses and to factor them into our business model. Why should we have to if we can factor the risk of loss out completely?

When we realised we were going to lose a decent amount of money using Paypal, we were at least able to hedge our risks by refusing to use Paypal. We have since sold over 100 separate items valued around \$2,500.00 without Paypal and we haven't lost a cent and with the 100% positive feedback rate over the total 433 separate sales, we believe this is empirical evidence that Paypal increases our risks and exposure to scams.

Paypal is not a sufficiently reputable organisation that it deserves a monopoly

I submit that Paypal is not a well run, well managed organisation that is so consumer focussed that it deserves to be given a monopoly. In the past badly performing companies with monopolies were only improved by introducing competition not by giving them a market on a silver platter. No one believes that we would have all the different telephony, mobile, internet and cable TV if Telstra was allowed to keep its monopoly.

eBay on the other hand wants us to go back to the discredited monopoly model which we the Australian people wrenched out of the hands of companies like Telstra. What we rightly deny to Telstra we are expected to extend to Paypal.

Having lost money at the hands of Paypal, I will briefly summarise the experience we had and it is up to the reader of this report to decide if this is excellent customer service so good that no-one else could match it:

- Paypal's website has no way to contact them directly regarding a dispute via Telephone, email or letter. The only method on the website is to use the online resolution centre.
- The online resolution centre surprisingly does not allow many choices in the categories of types of complaint you can make, meaning most time the complain category must be generic or general meaning the complaint probably gets routed to someone unqualified to handle it.
- The resolution centre was not flexible and did not allow easy upload of additional evidence for a current case for example.
- Files we uploaded as evidence sometimes seemed to "disappear"

- Response times are pathetic, most email responses are automated and form letter style, ignoring individual circumstances;
- Many times we just wanted to call someone, give our case number, and explain the situation, all we ever got was the resolution centre and it's slow speed of response.
- We had a strong impression that Paypal's email responses were largely automated and the answers often showed that the name of the person at the bottom of the email had probably not looked deeply into our case or read the 63 separate files we uploaded as evidence since the automated questions addressed issues or asked for information we had already provided.
- Even though we had raised a dispute with Paypal's decision and asked for them to review the decision, they did not suspend their demands for the \$600.00 that was defrauded from us from the scamming buyer. On the contrary, we emails demanding payment (which clearly showed no idea that a dispute was in progress). We were still waiting for a final decision when they sent the \$600.00 we allegedly owed to a debt collection service (Collection House Pty Ltd). A reputable, professional organisation would at least wait until they ruled on our dispute. This tactic more than any other, given there was a genuine issue we were disputing, was tantamount to bullying.
- The only way we finally managed to get a human being to talk with us and review our email was when the person from the Collection Agency showed some sympathy to our plight and gave us the name and phone number of a real person working for Paypal. We rang the number on two occasions each time we waited over thirty minutes under great stress, fearing we were going to suffer a bad credit rating only to find some unknown person agreeing to switch our call to a specialist resolution person. After another 15 minutes each time, we hung up.
- In desperation, we finally emailed the address we got and demanded a decision in time so if it went against us we would pay without having the collection agency mark my credit rating down. Naturally, without any serious reasoning the decision was we would bear the entire loss even though the buyer was at the least a contributory party to negligence and at the worst a willing participant in the scam.

Most of this has been my personal experiences which I understand the ACCC probably do not wish to rely on (as there is limited independent verification). There is however a plethora of internet sites damning the behaviour of Paypal⁶ and some of the horror stories on there are beyond belief and these are not old stories, some are very recent. In many of the cases, the decisions made by Paypal (Judge, Jury and

⁶ ~~http://www.paypal.com~~ ~~http://www.paypal.com~~ ~~http://www.paypal.com~~. Even if 1% of the allegations raised by the individuals are true, it is probably a more damning indictment on Paypal than anything I could write.

Executioner) were against the seller. The reason: probably Paypal thinks a seller can afford a loss better than a buyer. The reality is many sellers are small operator like me and can barely afford to lose \$600.00 out of \$3,500.00 in total sales.

Additionally Paypal has a judgement issued against it in 2004⁷ in a class action. In the class action there was criticism of the way Paypal handled disputes, provided dispute resolution procedures to its customers, and treated customers accounts (inappropriately freezing funds) etc. Paypal denied all the allegations and yet settled for the amount of USD 9.25m and agreed to introduce certain procedures regarding notice, dispute resolution and limiting accounts.

Additionally eBay to its credit has devoted a whole discussion board on its site to discuss these changes⁸. Looking at this discussion board, any discussion on the Paypal only policy is overwhelmingly negative, so the bad experiences I've had a more than likely shared by many. After all if it were such a good organisation, eBay would not have to force us to use Paypal, we'd be all on it and all be using it and there would be no need for a legislated monopoly.

Australia is not a guinea pig market

These changes that eBay are demanding us to adopt here are curious. If they were truly genuine about making the online marketplace safer these would be implemented around the world, not just Australia.

Currently the changes to the rules are only in Australia..

The only logical conclusion is that Australia is being treated as a guinea pig market. eBay does not really know if their cleverly thought out "marketplace protection" rules will work, so they decide to test it here. This is of course a surprising lack of confidence.

Additionally, the Australian market is deep, efficient and normally highly competitive and is sophisticated enough not to be subject to this pathetic and trivial experiment.

The effects of enforcing that (un)natural monopoly on the eBay user

The additional verification reforms proposed by eBay, extra protection, better validation and identity checking of buyers and sellers are worthwhile changes.

⁷ <http://www.scambusters.org/learn/learn4/navoel.html>

⁸ <http://forums.ebay.com.au/forum.jspa?forumID=52000001>

The Paypal only policy would affect sellers like me because it exposes me to:

- Higher fees
- Reduced flexibility
- Risks of loss via credit card scams
- Reduced choice/customer service.
- Additional time wasting with inefficient, unfriendly and incompetent online dispute resolution processes, when I should be able to offer safe methods and putting my time into listing more items to sell,
- Reduced competition (smaller buyers and sellers will quit eBay because of this change)
- From past experience I cannot be convinced a Paypal monopoly will act fairly.
- Arbitrary decision making. Paypal will always have the full choice in any case to make a binding decision. In my own case, who reviewed Paypal's decision?
- I will have to leave eBay if forced to accept Paypal as an option. I cannot risk another loss.

C. Final Summation

The proposal by eBay to allow only Paypal should be rejected. There has not been a compelling case raised that would satisfy the tests established in the Coca Cola Exports case (see earlier).

The ACCC in its wisdom may choose to revise the proposal and I humbly submit that we can simply apply the principles common to democracy and free competition. Should we accept what eBay is telling us or should we really cover the risks we could make and ask for more information? There is no hurry to make a decision and plenty of time to consider the best model for eBay/Paypal. Remember the burden of proof rests with eBay. Extraordinary claims require extraordinary proof.

The current solution as it stands will only damage and unduly restrict choice, and worse put the seller into the hands of Paypal. It does nothing to improve competition and in the final analysis does not guarantee the safer trading environment touted by eBay. Indeed, eBay's proposal if accepted is more likely to stifle the development of competition.

eBay could have made this a far lesser problem by canvassing those of us who spend each day in this market place – it's users. It seems eBay is as undemocratic and unfair as its proposal.

Even if the ACCC agrees with the contentions of most of the submissions made and disallows exclusive dealing arrangements with

eBay, we the users are still at risk. As I understand it, granting this exclusive listing only prevents eBay from being prosecuted. Refusing to grant will not stop them forcing sellers to use Paypal. As I sadly discovered as a former Paypal user, getting legal rights recognised is a "David and Goliath" battle and in the final analysis I couldn't afford to litigate against Paypal or eBay so I ended up absorbing a loss equal to around 17% of my gross sales. As I sell on consignment (70% of gross sales goes to the people who provide the items I sell) it actually wiped out 60% of my income earned on eBay. Therefore even if eBay is not exempt from prosecution, most of us cannot afford to prosecute.

The other problem is that most sellers can't really afford to leave or "vote with their feet" to try and get some reasonable outcome from eBay/Paypal. We therefore desperately need an advocate to ensure free competition and fairness between us and the "Telstra" of the Online Auction market.

Eva Glenda Foo