

## Roy, Lauren

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**From:** Petreski, Sonya on behalf of Adjudication  
**Sent:** Monday, 28 April 2008 10:29 AM  
**To:** Chisholm, Shane; Roy, Lauren  
**Subject:** FW: EBay International Exclusive Dealing Notification N93365 [SEC=UNCLASSIFIED]

**Categories:** SEC=UNCLASSIFIED  
**ACCC Classification:** SEC=UNCLASSIFIED

-----Original Message-----

**From:** Deanna Fleming [mailto:]  
**Sent:** Monday, 28 April 2008 12:20 AM  
**To:** Adjudication  
**Subject:** EBay International Exclusive Dealing Notification N93365

**EXCLUDED FROM  
PUBLIC REGISTER**

Attention: Lauren Roy.

I wish to make the following submission regarding EBay International Exclusive Dealing Notification N93365 lodged with the ACCC on 11th April 2008 in which eBay Australia is seeking for exemption from provisions of the Trade Practices Act and to be permitted to enforce Paypal a company owned by Ebay as the only payment option or Cash on Pickup.

EBay have claimed that this is for the safety of their customers, and that the perceived safety in on line trading will outweigh the detriments to users of eBay site to buy and sell products, this statement made by their own publicity people.

I have grave concerns about the above been endorsed and implemented I will outline my argument below.

1. EBay claim that Paypal is the only safe method to make payment online. Their suggestion is that all other payment methods currently accepted are not. Currently the most popular methods are Bank Deposit, Money order, cash on pickup and Paypal. Bank Deposit seems to be the payment method used by most buyers and as Banking Institutions are regulated by the XXX I cannot see how Ebay can make the claim bank deposit is not safe. Also in Paypal's user agreement they agree that they are not a financial institution and therefore cannot conduct banking business in Australia, they acknowledge they are a payment processing service which is not bound by the same laws as any other banking institution. This is disturbing as they are the holder of a large amount of money which seemingly is held offshore in a pooled account.

On top of this if Paypal was to fold for whatever reason all people who have funds in this company would lose it as it would be taken to pay creditors once again because they are not a licensed banking business. This exposes many millions of dollars to potentially be lost.

2. When a seller sell on Ebay they have to pay certain fees, this include a listing fee, any features they would like to add onto the auction and a final value fee. The final value fee is only calculated on the sale cost of the item not including shipping. These fees can come to quite a bit depending on how much you listed and sold your item for. If payment was to only be made through Paypal the seller would also have to wear another cost of 1.1% - 2.4% + .30 fee on the total cost including shipping. Most sellers would have to pay 2.4% because to qualify for better rates you are required to sell approx \$5000.00 per month. For small sellers this would not happen. So it seems that Ebay/ Paypal are wanting to improve their profits by the forcing of Paypal.

3. Ebay policy is that the seller is not allowed to pass on the cost of accepting normal payment methods, Ebay see Paypal as a normal payment method. As Bank Deposit is free most sellers only offer this, however in a Paypal only situation the seller would need to either build in the cost of the paypal expenses into their product, to which they would be paying ebay final value fees on or absorb the cost. By taking away the ability to offer Bank Deposit and so forth Paypal fees should be allowed to be charge

as it is no longer a normal payment method but the only payment method.

4. When selling internationally Paypal understate the exchange rate by at least 2c on the current market rate. When making a payment the buyer has to accept they will pay more than the standard rate leading to more cost to the buyer.

5. In Paypal user agreement they charge a person \$1.00 to transfer money to their bank account if the transfer amount is under \$150.00. In order for a seller to be able to post an item they may need access to the payment. Not only do they have to pay the \$1.00 if it is under this amount they also have to wait up to 4 days for the funds to appear in their account. With Bank Deposit if it is done via the internet it is normally within 48hours or if done over the counter immediately. It is unfair on the seller and the buyer as they both will have to wait for funds to clear in the account before the seller can pay for this. EBay and Paypal state that sellers should ensure they have enough funds in their normal accounts to cover the postage so this would not be a problem. I believe this statement is highly unfair and unreasonable.

6. Paypal EBay transaction hold policy. Paypal have implemented a policy that states in their discretion Paypal can hold funds for up to 21 days or until certain criteria are met. This is section 11 of Paypal User agreement. What they do not state is how they determine a transaction is a risk and even when all of the criteria is met the funds do not release immediately it is done manually. So not only do you have to wait until you meet the criteria you then have to wait until someone at Paypal decides to release your funds. Part of the criteria is that the buyer leave positive feedback however not all buyers leave feedback and at times it can be months before they do. This leaves the system wide open for fraudulent activity as a seller can send the goods, the buyer receive them and then within the specified time period lodge a claim the item has not been sent. This is totally unacceptable for Paypal just to decide when funds are held for what they believe is a risk without any guidelines available to the seller to state how these decisions are made.

7. By Paypal's own policy the seller must be able to prove that the item has been shipped in order for the seller to be protected. Currently the only method they will accept is a tracking number which can be used by Paypal in an online system to verify the item has been sent and to the address it has been sent to. In Australia the only companies that offer such a service are courier companies and the cost of a courier to ship an item out is considerable to Australia Post. Once again the seller is left with no protection as they cannot possibly provide the type of information that Paypal require in order to prove they have shipped the item.

8. EBay's stand is that they provide a platform for buyers and seller to meet and conduct business. EBay take no ownership of the items for sale or what is listed on their site. So why are they now trying to push Paypal as the only payment method, does this mean they will be taking legal responsibility for the items and actions of their members while trying to make EBay more like a shopping mall experience.

9. If Paypal were the only payment method allowed on EBay there would be no stopping fee hikes from both sides. Once again as they are not regulated and they would have the monopoly on how people would be able to pay there would be nothing from stopping them from doing this.

I cannot see how EBay and PayPal can make the statement Bank Deposits are not safe, they have no strong evidence to prove this fact. I believe they are trying to force people to use a payment method which only benefits EBay and PayPal.

I believe that they should make PayPal a mandatory option on all auctions but not the only option, it makes a total mockery of freedom of choice and competitiveness. eBay state that the people who are kicking up a fuss about this are in the vocal minority however by looking at the discussion boards this is not the case.

Please take all the above into account when making a decision on this critical matter. It will mold the way that businesses can conduct themselves. Also please have a look at the online petitions which are protesting this not only from Australia, but the USA

and UK as well. Not all people feel comfortable with writing submissions or putting thoughts into writing but do take note of what they are saying in these petitions.

Please do not allow this to happen as it will only open the floodgate to unfair charges, account freezes and other sever disruptions to peoples businesses and livelihoods.

Regards

Deanna Fleming