

SUBMISSION TO ACCC REGARDING

PROPOSALS TO LIMIT PAYMENT OPTIONS

ON EBAY AUSTRALIA

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THE AUTHOR

The author has been a member of eBay since 2001, is a former Powerseller and has conducted around 3000 transactions on eBay. Although relatively inactive over the last three years, he has maintained an interest and buys and sells on eBay occasionally. His spouse is also a small but active buyer and seller.

He is a user of Paypal (also since 2001).

Prior to a change in employment in 2003 he was a consultant for a number of industry groups and has submitted written and verbal presentations to a number of Parliamentary and Productivity Commission Inquiries. He has a Degree in Economics.

SUBMISSION OVERVIEW

The author is a highly satisfied user of both eBay and PayPal – both are excellent services. However, the proposed exclusion of other payment services from the eBay platform is un-necessary, un-competitive and undesirable and should be opposed.

EBAY PROPOSAL TO MANDATE EXCLUSIVE USE OF PAYPAL

This submission is in response to the eBay proposal to mandate the use of Paypal (a wholly owned subsidiary of eBay) as effectively the only payment medium on eBay other than cash on delivery.

eBay and PayPal Market position

eBay has a market domination in the Australian market. eBay's own submission claims some 5,000,000 members in Australia. It's next nearest competitor (Oztion) has some 275,000 members.

At the same time, Paypal is a significant player in the online payments market, both on the eBay platform and on other online marketing environments. The online payments market is more competitive than the on-line auction market, with all banks and credit card companies, as well as services provided by organisations such as PayMate, BPay and Australia Post being available to customers.

Author's contention

The author's contention is that the eBay Australia decision to limit all on-line transactions on the eBay system to its wholly owned subsidiary is anti-competitive and monopolistic, and creates significant barriers to market entry that will be to the disadvantage of Australian business and Australian consumers.

What makes it more surprising is that the proposal is coming from a company which is effectively built on the basis principles of market competition.

eBay's contention re "Bad Buyer Experiences"

eBay has used as a basic argument in support of its decision the "fact" that buyers using PayPal are four times less likely to have a "bad buyer experience" (BBE) than those who use other means of payment.

The author believes this contention needs to be examined very carefully:

1. eBay has always contended that the overall number of BBE's is low – and that the overwhelming majority of transactions on eBay are successful. So, if we are talking 1 BBE per 1000 for Paypal and 3 BBE's for non-Paypal transactions with 996 successful transactions the problem is relatively minor. We have no idea whether these are the figures – our point is that they need to be more closely examined. It is difficult to accept, however, that problems at the margins are sufficient justification in themselves for such a significant restriction of competitive choice, which co-incidentally delivers such a significant advantage to the corporation.
2. The definition of a BBE also needs to be examined. Is it a transaction that is fraudulent? Is it a transaction where there was dispute, and was the dispute actually resolved? What was the cause of the dispute in the first place, and how many of the transactions classed as BBE's

were actually concluded successfully? eBay does seem to blur the definitions between BBE's and fraudulent transactions in putting its case.

3. One of the reasons why PayPal transactions go so smoothly is the inherent ease because the systems are integrated, whereas with bank deposits account numbers need to be manually transferred. It is this process of transfer rather than the payment method itself which creates the BBE. It IS (currently) more error prone than PayPal, but a blanket ban does nothing to address the problem or encourage solutions.
4. eBay's own management of the online payments process also needs examining. As a regular user of the system, we have found eBay's support for non Paypal means of payment less than satisfactory, and the payment process in existence does encourage the use of PayPal. Alternative payment information filed by sellers has not been as easily accessible to buyers, and in the month prior to this announcement a "bug" in the eBay system caused BSB numbers not to display at all. To some extent these "system problems", which co-incidentally seem to favour eBay's preferred fully owned online payment system, may have caused at least some of these BBE's.
5. The relative differences in the level of BBE's of Paypal v other systems is also – to some extent - reflective not of inherent problems with the other payment systems but of the built-in integration between Paypal and eBay. The same outcome may well be achieved by improving communication tools.
6. Another issue is the relative value of the transactions. It would be interesting to compare the level of fraud or BBE's on small versus large transactions, for example, how many of them fall below any threshold that PayPal imposes on its buyer protection scheme, and how many of these would have been problematic even had PayPal been used?
7. The real value of the increase in the PayPal "protection" from \$3,000 to \$20,000 also ought to be considered somewhat carefully. At the time of writing this submission there were 13,287 items for sale on eBay Australia in the price range of \$3,000 - \$20,000. 11,223 of these were Cars, Bikes and Boats, 481 of them were in the business and industrial category. These are **specifically excluded** from the Paypal buyer protection scheme, as are some of the other remaining items. Around 15% actually sold, and nearly all of those were "pickup only" and thus also outside the PayPal protection.

It is also worth noting that if someone enters into a transaction of this size without taking suitable precautions to validate the transaction (e.g. tracked postage with insurance) then Paypal protection is not applicable. If they do take such precautions, the protection is not needed (for example - it would be covered by the insurance).

It's difficult not to see this increased "buyer protection" as anything other than window dressing intended to provide "spin" and sweeten the pill of this change without actually offering significant real benefits to users (or costs to the proponent).

Alternative Payment Methods

Online banking

1. One of the contentions in the eBay submission is that the use of internet banking forces the parties to reveal their account details to third parties. Whilst this is certainly true in the case of a seller (who has to provide account details to the buyer) the buyer may generally make the payment without disclosing any account details.
2. There IS some risk that the seller's account COULD be accessed by a third party once the details have been provided. There are however a number of safeguards that either are in place or could be put in place by a seller. For example, our practice has been to have an account specifically established only for receiving payments online, and the balance is deliberately kept low. At the same time, our bank (Commonwealth) requires us to answer two questions we have created before we can add a new payee, and sends an email advising when a new payee has been created AND also when the first transaction is made. Even if our account was hacked this actually provides a level of security **over and above** that provided by PayPal.
3. One of the major deficiencies is that the buyer has no comeback in the event of a problem. Once the transaction has been made via internet banking there is limited scope for a reversal or refund if the goods are not delivered or are deficient. In theory at least PayPal offers greater flexibility and protection although in many cases this is difficult to effect – e.g. if goods are not as described the goods need to first be returned to the seller via traceable means at the buyer expense. For small value items in particular, this is simply not viable. For many low value transactions, online banking is a practical and viable payment method.

At the same time, PayPal does not have an exclusive advantage in this regard. Competitors such as PayMate and others offer similar (and in some cases superior) levels of protection and fraud prevention. Their exclusion from this proposal by eBay suggests there is more to the agenda than just simply consumer protection.

4. It is noted that the direct deposit method IS open to error through incorrect keying of numbers. At best this will result in a rejected transaction a few days later (and maybe a dispute between buyer and seller about late payment). At worst, if the numbers keyed were another valid account it can result in the loss of funds. There are however solutions which banks could implement to prevent this (eg customer protection schemes, more rigid account verification) as could eBay (greater integration).

In this context the author has no objection to a *standards based* approved transaction platform policy, provided that the option is open to use any transaction platform that meets a defined standard. The current proposal to use one exclusive (co-owned) platform does not meet this requirement.

5. The services provided by the financial sector are continually evolving and it is likely that we will see the sector develop a range of new online banking and insurance products (possibly

superior to PayPal) which may well deal with some of the risk factors involved. Their use (and probably their development) is precluded by this policy.

Again, any system should be *standards based* not exclusive.

Other services

There are already a number of alternative online payment services in place. eBay itself mentions both Paymate and Bpay in the submission, and no doubt others exist or will be developed in time. These are precluded from eBay under this proposal, even if they are equal to or better than PayPal.

It is perhaps interesting to note that eBay was instrumental in the establishment of Paymate and in fact promoted its use widely prior to the PayPal acquisition. This previously perfectly acceptable means of payment is now not permissible.

Ebay Customer impacts

Many people earn their living on eBay. Many others use eBay to supplement income. An inability to conduct the business, even for a short time, could have a devastating impact on these people and their businesses and families. If PayPal is the only acceptable means of receiving payment and something goes temporarily wrong then the effects could be significant.

A Paypal account could be suspended, or payments held up, for a number of reasons. These could range from an invalid/expired/cancelled linked credit card or bank account, through to a number of incorrect or unsubstantiated claims from buyers. There would be scope, for example, for competitors to orchestrate such a series of complaints.

In the current environment, if the Paypal facility is not working most sellers can work around this. This would be denied in a PayPal only system. The key point is that PayPal don't always get it right and the wrong decision can have dire consequences for the seller.

On the other side of the coin, there are many reasons why a buyer's Paypal account may unexpectedly or temporarily not be "working". Without an alternative option of payment, the buyer faces a dispute and sanctions with no way around it. This is not in anyone's interests.

Wider competitive impacts

Ebay is clearly the dominant player in this market, 20 times the size of its nearest competitor. As a result, it is also a dominant influence in the supporting services such as payment systems.

By locking potential competitors out of this market place, eBay significantly limits the viability of other existing third party payment providers, and severely limits the market entry opportunities for new players, thereby creating entry barriers which reduce competition and stifle innovation.

At the same time, PayPal is (deservedly) a market leader in online payments and cannot be ignored by sellers either on eBay or on other online auction sites. If there is reduced service provider competition in the market place generally, this dominance can only increase. The eBay/ Paypal conglomerate is already in a position to collect a considerable level of "inside information" about its

competitors and about its own members and their business activities outside the eBay site, and if competition is further stifled by this move then the situation is exacerbated..

Neither of these outcomes is healthy or desirable.

Practical considerations

eBay has no way of controlling communications between buyer and seller. How does one stop a seller from sending a message that they will accept an alternative payment method or a buyer from asking? How does eBay know that the failure to complete a transaction was because a seller refused a cash payment offer? What sanctions will apply? If a buyer has successfully dealt with a seller before and has their bank account details already on file, why would they not wish to continue to do business that way and why should they not be able to? What happens when the buyer makes a direct deposit in these circumstances – is the seller to refuse it for fear of being expelled from eBay? And as this rule currently applies only to Australia, what happens if an International buyer wants to pay a different way that is acceptable on their home country system?

Removal of market place disciplines

A competitive market place imposes disciplines on the participants in relation to costs, service levels and innovation. By closing its market place to competitors, eBay is creating an environment for PayPal where it is not subject to these demands. With the best will in the world this is not conducive to providing best business practice and service.

The irony is that eBay is built on the concept of a free and open market.

One of eBay's core values states that *"We believe that an honest, open environment can bring out the best in people"*.

Closing off a core part of the trading environment would not seem to be consistent with this and we would suggest that the longer term impacts for eBay and Paypal are undesirable – artificial tariffs and trade barriers have typically proven to be inefficient and counterproductive.

Alternatives

The author is not completely opposed to the idea of eBay requiring all members to register with Paypal, and requiring all sellers to offer PayPal as a payment option. This does provide eBay with a verification system which helps identify parties and minimise fraud. However, there are other third party services which could also provide a similar level of verification.

We also can see the point in outlawing payment methods that are open to significant abuse – although here the issue is not just how many more times is the method likely to result in Bad Buyer Experiences but a range of other factors such as the nature of the problems, how readily they can be fixed, how many of them resulted in unfulfilled transactions, and what solutions exist or might exist in future.

Practicalities are also an issue – short of banning all communications other than through the eBay system eBay cannot monitor this or properly investigate an alleged breach, presumably with sanctions that might result in suspension and loss of income.

Finally, we would also note that eBay may not always be the owner of PayPal.

CONCLUSIONS AND RECOMMENDATIONS

1. The exclusive use of PayPal is not supported, on the basis that it creates an un-necessary and unhealthy restriction of competition and choice, and is likely to stifle product development.
2. Similarly, a requirement that Paypal must be offered (exclusively or non-exclusively) on all transactions is not supported – parties should have choice in this regard.
3. However, the requirement that all members should register with Paypal OR ANOTHER APPROPRIATE SERVICE as a security and ID verification measure is supported. Where a third party service is used eBay would need to be able to receive appropriate confirmation.
4. That if eBay wishes to limit payment options, it should do so by defining a set of functional and transparent criteria that need to be met and allowing payment methods that meet these criteria.
5. Competing payment systems should have appropriate access to the eBay transaction data to enable the transaction to be completed with a minimum of errors.
6. Even though the Direct Deposit system is seemingly more prone to problems, it remains a significant and appropriate payment method for many buyers, especially on small transactions. This should be allowed to continue.