

Roy, Lauren

Subject: eBay and Paypal new policies. [SEC=UNCLASSIFIED]

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

From: Elizabeth Summerell [mailto:elizabethsummerell@adjudication.gov]
Sent: Thursday, 1 May 2008 4:55 PM
To: Adjudication
Subject: eBay and Paypal new policies.

**EXCLUDED FROM
PUBLIC REGISTER**

Re: Notification of Exclusive Dealing N93365 EBay and PayPal PUBLIC REGISTER VERSION

I would like to make a formal submission regarding the above notification which as I understand it is for the internet auction site eBay, of which I am a member, to implement a new policy whereby from May 21st, 2008 Paypal will need to be offered as a payment method on all listings, and from June 17th 2008 Paypal will be the only method accepted for payment—apart from cash on pickup.

I am completely against this proposed change to eBay's policy particularly because it disallows a basic right that customers of eBay (sellers) and customers of sellers on eBay (buyers) should be allowed to have. Choice of payment method should be a right of the customer of oligopolies like eBay and not for them to dictate to its sellers what they should do. This issue is particularly poignant as eBay constantly declares itself a venue only and disassociates itself of any responsibilities it has to its members. Choice of payment method should be there to suit the millions of buyers and sellers personal preferences.

I am also very much against forcing sellers to have Paypal as the only payment method because eBay own Paypal. There are choices of similar styled money transfer/holding companies out there, so there is no reason to not be allowed to offer these payment companies as well.

I firmly and strongly believe that this new proposal will substantially result in a lessening of competition for financial services involved in the transaction of funds. Banks, Building Societies and Australia Post Money Orders will suffer as funds will be kept in people's Paypal accounts for both buying and selling, and will consequently decrease the use of all of the above services as well as reduce their own interest earnings and those of the Paypal account holder.

I also firmly and strongly believe that any possible benefit to the public from this move will be far outweighed by the detriment. The choice of payment will be substantially lessened and there will also be a possibility that people will lose funds, lose monetary interest, lose control of their funds and lose their privacy with this move. These are all very important issues to most Australians as well as being financially detrimental. Many hundreds of cases that support this belief of mine are shown in this website.
<http://www.paypalwarning.com/>

Paypal is a large company owned by eBay. This in itself shows that exclusive dealings with this company will be a constant and permanent guaranteed supply of funds to eBay and Paypal. I believe that this is completely wrong as it significantly reduces competition in the money exchange marketplace. It stops any freedom of the marketplace to allow the true benefits of a company to be shown to the public. It discourages all competing companies to give of their best to its present and future customers and thus disallows choice to the customer using the eBay site. It thwarts any will or need for improvements to the company that can benefit the customers, and in fact may lead to removal of benefits simply because there is no incentive to do this—there is no competition.

Even though eBay and Paypal are registered as separate companies, because they are owned by the same people I see this proposal as exclusive dealing and third line forcing which is not allowed by The Trade Practices Act.

I have been a member of eBay for nearly 7 years. eBay prides itself on their innovative member feedback system which as a user we are encouraged to build. This is a window to us as a person and shows our ability to trade with honour and integrity. In the time I have been with eBay I have been able to earn my feedback rating of 817 100% positive and have had well over 1000 transactions mainly as a buyer, but also as a seller. In that time as both buyer and seller most of my transactions have been with internet bank deposit, direct bank deposit, Australia Post Money Order, personal or bank cheque or cash. Those transactions through Paypal have only been approximately 1% of my transactions. Most of these have been because it can make dealing overseas easier--or so the perception is. I have also sent insured cash concealed and within the allowed amount by Australia Post. This has also arrived safely and quickly every time, so as a buyer this to me is just as safe—it would simply depend on if the seller accepted it.

So to my mind and to me as a customer of eBay, the new Paypal only system will replace a way of dealing that I have never had a problem with.

In fact, of the few times I have used Paypal I have had occasional problems with it. On one occasion I did not (and still haven't) received a notification of payment. This had never happened in the past and there was nothing from Paypal to suggest they may have problems sending these emails. This consequently led me to wait unnecessarily for the notification even though the buyer had already paid. It was only through personal contact with the buyer that I was informed payment had been made. This is an example of how a service that I pay for has not delivered.

There is a problem that has been happening just recently and according to the Paypal help board is still not resolved for its customers. There are a great number of people that have not been able to log into their Paypal account for at least two weeks and there has been little information and help from Paypal about it. The consequences of this are multiple—buyers can't pay and sellers can't get paid while Paypal are earning interest on these people's funds without any recompense to them.

I am also concerned with Paypal's rules relating to disallowing the claiming of funds left in an account after a certain length of time. This to me is theft regardless of any clause allowing this. It is my money and any bank trying to do this would be sanctioned.

Additionally Paypal is not registered as a bank or financial institution in Australia and therefore is not subject to Australian laws and regulations regarding financial services. They are based in the USA and all correspondence comes from an internet contact address that is not contactable in person at a street office. There is no office listed for Paypal in Australia. This is extremely unnerving and does nothing to reassure the customer of its security or ability to perform customer service with integrity and legality. In fact I have little confidence in a company that has no government body overseeing its actions.

Paypal promotes itself on its new seller and buyer protection program and for this reason they believe they can charge fees on the money it holds for us. I would argue that its protection program is faulty as there is much anecdotal and listed evidence that they do not provide this consistently. They often do not answer emails or answer them in an untimely manner or without addressing the issue at hand. This is also typical of eBay and there is no customer service office that one can go to in person to clear things up quickly. In fact many times it appears that responses are computer generated with key words being picked out by the computer. This is totally unsatisfactory and so I would argue that the service of having Paypal is actually a detriment to us as buyers and sellers. If there are no other options of payment, buying and selling on eBay will have the potential to become a slow, painstaking and possibly very costly event.

It also appears from the new user agreement that Paypal are allowed to put your Paypal account on hold for 21 days if they deem the item being dealt with or the buyer or seller are potentially risky. This poses many possible problems that Paypal have as yet not addressed. Firstly with no ability to transact AT ALL the seller can be put in a dire financial situation even if they are not the one posing the risk. Secondly, it also does not allow any choice of using other payment methods to keep money liquidity going and further trading, or even being able to correct the issue at hand with Paypal. Some sellers use eBay selling as their livelihood and to have possibly thousands of dollars tied up with no access to it, borders on the criminal. Paypal would be earning interest on this money however, the account holder would not receive any of these interest payments. This is unlike a similar better system with real estate whereby when money is held by the agent it earns interest and this interest is

then paid to charity.

Another problem I see is with their seller protections program. To be eligible for this the item must be sent separately and with registered post. This is unfeasible for many, as sellers are not allowed to ask the buyer to pay for this extra cost. This will either mean the seller will raise prices to compensate or will wear the cost themselves which will further erode into their earnings and make it unviable for many sellers to continue selling within the eBay venue.

Paypal charge a percentage of the money transacted when both deposited and also when withdrawn under the amount of \$150. As I rarely sell and use Paypal and only sell cheaper items, it is unviable for me to wait until I have over \$150 dollars. Most times if I waited it would go over the time that I am allowed to leave funds in Paypal without losing my money. This to me is wrong and double dipping for funds. This is my money and I don't see why they need to charge for this. They are basically doing me a compulsory service that the banks and credit cards companies do for nothing.

Also because the WHOLE money sum of the transaction goes through Paypal they will be charging me a fee on the postage component. This is completely unfair and wrong to charge for a service (postage) that has already been paid for by the buyer once. Paypal also charges a 30 cent fee EXTRA on ALL transactions on top of its graded fees. This is excessive to my way of thinking.

Exclusive trading being forced upon us by eBay to deal only with Paypal leaves me no choice in transacting as both a buyer and seller. This is immoral and dictatorial by a company that has been built so successfully on small secondhand sellers and prolific buyers like myself. I feel like I have been betrayed and gagged. I have always done my best to be a great buyer and seller and have thoroughly enjoyed all my time dealing on eBay. I have met many wonderful people through this site and made long time and long-term friends. The opportunity to transact with people in other countries made eBay another exciting and profitable proposition for many collectors like myself who could then on-sell their collections if needed. Now because they have taken away my choices in paying for these transactions and are also charging me many times over for the one sale, I feel I will not be able to viably sell or comfortably buy. As a seller I will be charged fees on the listing, the final value, the payment and the withdrawal. Plus if the buyer refuses to pay for registered post, which eBay demands is used or else all compensation for sellers is null and void, I will have to pay for this as well. I feel I will be unable to comfortably buy as prices of items will increase as sellers try to recover all the extra costs involved with the system changes. I also feel if there is a problem with Paypal in any way I will not have recourse to pay via another option to either speed up the transaction or rectify it quickly.

Registered post includes an insurance component—however, Paypal also by its very nature is an insurance. Thus I see this as paying for insurance twice. If Paypal were not charging fees then they could ask for registered post, or, they need to refund the registered post component to the buyer after the transaction has been completed.

Another issue that I feel will be to the detriment of Australians is the issue that many have, but especially older generation Australians have, with divulging their bank account or credit card details to a third party, but especially to a very large corporation that is not under any government jurisdiction or even has residence in Australia. They find they cannot trust this sort of demand and many will shop elsewhere if they cannot deal with either their own bank directly or with cash or Money orders. Many people also have problems with using computers and internet sites and will try and do as much as they can as easily as they can thus avoiding the clumsy Paypal site.

The simple fact that we are handing over money to a third party without it answering to any laws and only to its own policies that can be changed at their discretion, rings alarm bells to me. What if the company collapses? Do we get our money back or receive compensation?

What if there are technological problems with the transactions? How long will it take to repair them? What is the emergency plan if their computer system breaks down or there are "glitches" in the system? There have recently been problems with people unable to access the Paypal site with many unable to pay, withdraw and use the system. That problem at present has alternative methods of money changing hands and so a seller could get paid via other systems. After June 17th this will not be possible and could effectively put the system and its customers in chaos.

eBay is allowing cash on pickup of items. This is their way of saying they have given everyone two choices of payment. However firstly this is not viable for most people as

the item has to be within the vicinity of the buyer, and it can exacerbate safety issues rather than anul them, which is WHY eBay are supposedly implementing their Paypal only payment system. They are also encouraging the payment of pickup items with Paypal, however, as there is no official proof of postage, they cannot be claimed on if faulty, or the seller does not provide the item for a reason.

On reading the Paypal user agreement I find that there is a section there that states...

Availability. PayPal reserves the right to change or discontinue the PayPal Buyer Complaint Policy or the PayPal Buyer Protection Policy in its sole discretion at any time and without notice. All payments made under these Policies will be made a PayPal's sole discretion. Pending claims at the time of any such discontinuance will continue to be processed until a final decision is reached.

This is very worrying because this basically tells us once the new rules come into force and we are locked into Paypal only, there will be nothing to stop Paypal discontinuing with their complaint and protection policy if they see fit, and so we will be paying for and locked into a service that gives us no protection at all.

Paypal's monetary exchange rates are much lower than the official international ones quoted. I am unclear if this is legal and I would like the offical stance on this from a Government body. If there isn't one it should be something that should be investigated about eBay and Paypal...along with many others! So as a buyer who buys from overseas I am actually paying more for my item than I should be, but the seller is not receiving this amount as they are charged fees plus the opposite of the exchange rate. Even though Paypal state they don't charge the buyers for their use of the system this is one way that the charges are made but in a hidden manner. Who knows what the exchange rate will be when we are forced to deal with Paypal exclusively? They could use any rate and we would have no choice but to accept it.

I would also like to argue against the claim that Paypal make that payment is fast and immediate for an item. This may be so if talking about the money appearing in the Paypal account, however most people would need the money from a sale to use, so it needs to either be manually transferred to their bank account or credit account from the Paypal account. This is the part that Paypal charges for. In any case for this to happen it takes around 7-10 days and with an e-cheque on payment longer again. This is an unnecessarily long time for money transfer. We are paying for this service that is very poor indeed. The transfer of money with direct bank deposit makes it available to the seller straight away and with internet deposit about 12-48 hours. Money Orders on average take a day which is simply the time it takes for a letter to arrive, and the money can be cashed immediately. This shows that Paypal is not fast but in fact slower than other payment methods.

Lastly I would like to point out the huge responsibility eBay has to the public domain. Being a company with such large responsibility they cannot simply drop this when they want to make some extra money for its shareholders. There must be some amount of ownice of the people that made the company and return of goodwill to the people that serve them.

The changes eBay has made lately and the new ones coming in are so dramatic in a negative way that I feel eBay have betrayed the people that both made and are making it the success it is.

I feel there must be a lot more give and take when it comes to the issues its users' feel are important. The way to solve a problem, eg fraud—can be dealt with in a variety of ways, not simply by exclusive dealing. I feel the fraud issue could have been dealt a lot more successfully by eBay still allowing choice of payment to customers but making sure they had a strong and rigorous verification system upon joining. Coupled with a disclaimer ticked box the buyer must pass through before paying with another method other than Paypal, this could have made the site safer and much more user-friendly.

There must be some amount of corporate morality to be shown in a monopoly like eBay, so that its many customers do not become so angry that they are compelled to take public action such as striking and boycotts and even legal action. eBay has established itself as a super large and successful internet trading site. It is used by millions of people daily worldwide. People can literally buy almost anything they need off the site. It is important for all kinds of people as both buyers and sellers, and for millions it is integral to their daily lives—be they isolated people, handicapped, or Mums and Dads wanting to spend more time rearing their children. Some people's livelihoods are tied up in eBay as they have established successful businesses, so any changes can either make or break them. As the changes to come in

will not be in the public interest, and will most likely drive prices up and buyers away, this could mean many people's livelihoods are taken away and lives changed to their detriment. It is not always easy to set up "somewhere else" or in some other way, as people have millions tied up in stock, have mortgages to pay for and food to be put onto the table.

I implore you as the body that can turn around this decision of eBay's to please consider my submission and the aspects I have talked about and use them as part of your reasoning behind doing so.

Thanking you sincerely,

Liz Summerell



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