

Roy, Lauren

Subject: eBay International AG exclusive dealing notification N93365 – interested party consultation [SEC=UNCLASSIFIED]

Importance: High

Categories: SEC=UNCLASSIFIED

ACCC Classification: SEC=UNCLASSIFIED

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

From: Joshua Gladwin [mailto:]

Sent: Thursday, 1 May 2008 5:28 PM

To: Adjudication

Subject: eBay International AG exclusive dealing notification N93365 – interested party consultation

Importance: High

Dear Sir or Madam,

**EXCLUDED FROM
PUBLIC REGISTER**

I wish to comment on the lack of public benefit as a result of the proposed arrangements.

eBay's various claims that the Conduct has public benefits are seriously flawed.

With respect to paragraph 5.3 in the notification, eBay mentions that "...there will be direct and immediate benefits to eBay buyers that would have had..." "bad buyer experiences" were it not for the implementation of the Conduct. However, no direct correlation has been linked between the payment method chosen, and the "bad buyer experience". There is simply no proof that buyer experiences will improve with the compulsory requirement to use Paypal.

In paragraph 5.5(8) of the notification, eBay supports its assertion of "public benefit" by relying on the fact that when the Conduct is introduced, the protection under the Buyer Protection Policy will be "significantly increased" to \$20,000. However, what eBay fails to mention are the myriad of conditions that will apply for a buyer to receive such a level of protection. At present, in order to qualify for the \$3,000 protection, the following 10 conditions must be satisfied:

- 1) The seller's eBay feedback rating is 50 or above, and at least 98% positive.
- 2) The item listed on an eBay website had a notation next to it stating that it may be eligible to receive the applicable amount for \$3,000 protection
- 3) The seller has a Verified Premier or Verified Business Account in good standing,
- 4) The seller is a PayPal User from one of several countries outlined in the policy;
- 5) a qualifying item must be purchased;
- 6) the purchase must take place on an 'eligible eBay website', which conveniently excludes all of the Asian eBay sites, such as China (www.ebay.cn <<http://www.ebay.cn/>>), Hong Kong (www.ebay.com.hk <<http://www.ebay.com.hk/>>), and Taiwan (www.tw.ebay.com <<http://www.tw.ebay.com/>>);
- 7) the buyer must have a Paypal account in good standing;

- 8) you must use PayPal as your funding source when you make the payment;
- 9) the dispute must be filed within 45 calendar days of the date that you made the payment to the seller;
- 10) you must escalate the dispute to a claim within 20 calendar days of the date you filed the dispute;

If one of the above conditions is not met, the buyer gains no protection whatsoever. Furthermore, clause 6(ii) of the Buyer Protection Policy states that during the dispute and claim process "you may not post any message that is offensive, discourteous, false, misleading, profane, abusive, threatening or otherwise inappropriate." Presumably, if this condition is not complied with, Paypal may also deny one's claim. Furthermore, if a seller's Paypal account is not in good standing, Paypal can deny a buyer's claim. Such "public benefit" is by no means obvious in this sense.

Most noteworthy is the fact that in order to obtain the highest level of protection, a purchase must be made from a seller with a minimum feedback rating of 50, of which 98% is positive. These are the precise sellers with whom buyers feel the most safe, as outlined in eBay's notification. Why, then, can't such sellers have a choice as to which payment methods to adopt?

Recommendation: Given the fact that merely \$400 Paypal protection is afforded to buyers who purchase from sellers with less than 50 feedback, the proposed Conduct should be altered to require all sellers with under 50 feedback to only accept Paypal or local pickup / COD. However, such a policy should not be imposed upon everyone under the guise of increased "public benefit".

Sincerely,

Joshua Gladwin.

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