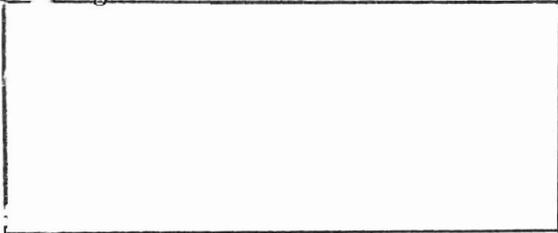


Personal Details:

Mr Nigel Marsh



EXCLUDED FROM
PUBLIC REGISTER

I am an I.T. and Business Studies Teacher, I have been involved with the computing world for nearly thirty years. Prior to my time as a teacher, I held managerial positions with Dick Smith Electronics and Myer.

I have also had an eBay account for a number of years, as well as an account with the now defunct Australian auction site know as Sold.

I have never used the sight to sell any items, and only operated as a buyer.

Objection In Brief:

I wish to lodge an objection to the exclusive dealing notification lodged at the ACCC by eBay International AG on 11th April 2008.

My objections are based on the following premise that:

The proposed conduct will result in a substantial lessening of competition.

The public benefit that may result from the proposed conduct would not outweigh the detriment to the public caused by the lessening of competition.

It is my belief that the proposed payment policy changes by eBay International AG represent anti-competitive conduct in contravention of the Trade Practices Act 1974.

Reasons for the objection:

1: The proposed conduct will result in a substantial lessening of competition.

It is my contention that since the Trade Practices Act 1974 is designed to encourage fair trading, and discourage anti-competitive behaviour, the burden of proof is on eBay International AG to show that its' actions will not discourage fair trading resulting a substantial lessening of competition, and that the advantages to the Australian public of this move outweigh the disadvantages.

According to eBay's own website

"US sellers can refuse to refuse to accept Paypal"

Found at:

<http://answercenter.ebay.com.au/thread.jspa?threadID=1000015212&tstart=12&mod=1206763648637>

An interesting insight to an overseas seller advice website states that sellers should:

- Refuse PayPal from most international buyers. It's just too risky. You can set your PayPal account to block them automatically. US, UK, and Canada sellers may sell to US, UK, and Canada buyers under SPP eligibility if they also meet the rest of the SPP requirements.
- Ship only to confirmed addresses. You can set your PayPal account to require confirmed addresses."

Found at: <http://www.fatwallet.com/forums/online-auctions/476549/>

It should be noted that Australian PayPal does not operate the system of "confirmed addresses" - hence the advice here is that sellers should avoid shipping to an Australian address as the PayPal account is not held at a "confirmed address". It should also be noted that from the first comment, buyers in Australia using PayPal can be automatically blocked from auctions.

With a little investigation by the ACCC, it should be simple to see how many overseas sellers will not deal with anybody without a "confirmed address" - the number is substantial.

The strength of feeling against the PayPal can be gleaned from the following websites:

<http://www.paypalsucks.com/>

<http://www.aboutpaypal.org/>

<http://www.paypalwarning.com/>

If the reports are true, it would seem that PayPal is in the process of fighting a class action from unhappy sellers.

As a ham radio operator, many of the items I need are available from a limited number of sources, the majority of sellers for the products I am interested in are overseas. Whilst I acknowledge that PayPal has holds some advantage, I have noted a resistance from many overseas sellers. For example, the common price of a brand new RF Parts 3-500z glass (radio) transmitting tube in the U.S. is around \$200.00 AUD (ten days delivery). For the same tube, sourced from RF Parts through a Melbourne Dealer is around \$350.00 AUD (often three to six weeks delivery). Similar results can be seen within the computer industry, where the ability for consumers to shop overseas can have a moderating effect on local market prices. As an example, the Microsoft Vista Ultimate (Full retail not OEM) operating system (until recently) had a recommended retail price of around \$750.00 AUD. The same package in the U.S. on eBay retails for below \$300.00 AUD. Notebook computer replacement batteries are generally around one-quarter to one-third of the local price when sourced overseas.

I have also noted that the influence of local eBay website extends beyond the classic retail market, as many of the prices in local "flee market" reflect the common eBay pricing, (my experience with the local computer "Sunday Markets" span's some fifteen years).

The proposed changes to the eBay payment system only appear to effect sellers wishing to operate in the Australian marketplace. It would seem reasonable that these proposed changes will deter overseas sellers from operating in and into the Australian market, as uneven rules and costs for sellers. The net effect will be to limit the number of global sellers, thus driving up prices through reduced competition.

2: The public benefit that may result from the proposed conduct would not outweigh the detriment to the public caused by the lessening of competition.

I have already given evidence of how these changes will restrict competition, and thus negatively impact on consumers through higher prices. What I haven't covered a cost benefit analysis of the proposed changes. Whilst I am not a seller and therefore privy to the cost of running PayPal as a payment option, I can make the following observation.

From a buyer perspective, the most common methods of payment and delivery on an eBay auction are

Method	Delivery Method	Advantage	Disadvantage
Direct Deposit	Post/Courier	Convenience/Very Low Cost	Goods may not arrive/ Not up to standard.
PayPal	Post/Courier	Convenience/Low Cost/Buyer Insurance	Limited seller participation/Some sellers add surcharge
COD	Post/Courier	Convenience/Cost?/ Payment on Arrival	Limited seller participation/Some sellers add surcharge
Cash Pickup	Customer Pickup	Savings on Postage/Goods inspected before payment	Buyer has to travel to point of pickup.
Savings/ Credit Card	Post/Courier	Convenience/No Charge /Low Charge/Credit Card Insurance (Depending on card goods insurance may be available)	Goods may not arrive/ Not up to standard

What this proposal seeks to do is to cut out Direct Deposit, the most popular, convenient, low cost option, which is almost universally available, and another popular option the Cash Pickup, which carries no risk to either buyer or seller. The savings to be made in the Cash Pickup model are considerable, as many sellers load the price of postage in order to make up for losses in an auction. I once paid over twenty dollars in postage on an item that I bought for ten dollars.

eBay have seems to make a small concession to the credit card companies by allowing credit card payments available – but only through PayPal. This is probably only to be expected, as in order to have a PayPal account, a buyer must link the PayPal account to an existing credit card account.

Two points are worth noting

A: How does this effect consumer insurance that may be attached to a credit card? Something that is as yet unknown and untested.

B: What extra charges are to be made in these transactions?

C: Sometime ago, eBay moved to ban the use of money wire transfers, citing security problems.

It would seem that the most popular, universally accepted low cost options (and in the case of Customer Pick-Up – safest for both buyer and seller), are eBay's main target.

Benefits:

A: The main benefit to the consumer seems to be that customers who use PayPal may receive a level of protection.

B: eBay will increase its' cash-flow. The all monies transferred will incur charges that in effect, increase the profitability of PayPal, a division of eBay at the expense of both Buyers and Sellers. In effect, this is a simple grab for cash by what is already a monopoly within the Australian context.

C: According to one web site, Australia has a low take up rate using PayPal, (a different website quoted an eBay spokesperson as saying that PayPal was booming in Australia. This will allow eBay to increase customer participation in the PayPal experience.

Costs:

A: Increased fees and charges for payments

B: Decrease in payment options (consumer choice)

C: Decrease in Seller Participation resulting in a decrease in competition and (potentially), higher prices in the auctions - with a knock on effect into the general market.

D: Consumers and Sellers (including those who use eBay rarely), virtually forced into disclosing banking details to yet another private company

E: PayPal will be the sole arbiter as to what level of protection is received (if any), and in the case of sellers – if some of their stories are correct – then the PayPal "protection" is more of a horror story.

F: Since eBay is in the position of being a monopoly (within the context of Australian online auctions), PayPal will have a virtual lock on most of the monies transferred within Australia as a result of internet online auctions, as COD, though used by some, is not as popular as the other options.

G: Potential new Buyers and Sellers will find that getting started, even on a casual basis will become more complicated.

H: The PayPal system is not 100% secure. A friend of mine once receive an email through his Lycos email account informing him that is account may have been breached, and that he should follow a supplied link to verify his account. It was a good con job, as he has never traded on eBay, and has no PayPal Account.

Summary

Having managed to see off the online auction competition many years ago, it seems that eBay is making a bid for cash, on the excuse for better customer protection. It should be noted that eBay itself runs an online rating system that consumers and sellers participate in. This system allows participants rate each other's reliability and service. Though not perfect, it is quite effective, and allows all users to make informed choices.

These changes are anticompetitive and will result in increased costs and charges to sellers and buyers, with little benefit.

As various IT commentators are now saying this is a move by eBay to see how Australia and Australia's regulating bodies are going to react. It seems that the common thought is that Australia is now a test case for eBay, the guinea pig if you like. The world is now watching the ACCC to see if it is a toothless tiger in the face of yet another monopoly.

As an Australian I think that I can reasonably say that we are sick of being nothing more than a cash-cow for big business.