

Roy, Lauren

Subject: Objection to proposed changes to eBay International AG "Notification of Exclusive Dealing N93365 [SEC=UNCLASSIFIED]

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From: Sharon Davis

Sent: Wednesday, 7 May 2008 4:53 PM

To: Adjudication

Subject: Objection to proposed changes to eBay International AG "Notification of Exclusive Dealing N93365

I wish to add my voice of objection to eBay's proposed enforcement of PayPal on their site in June of this year.

I have no legal experience in this matter so forgive me if I give my experiences, opinions and grievances and hope you can find something in here that goes against the *Trade Practices ACT 1974*.

Please disregard a previous email sent that was unfinished and in draft stage. My apologies.

PayPal is not a bank and has no accountability to its users as Australian banks have to their customers. I have no confidence in PayPal having sole and complete discretion over what they will do with my money once it is a PayPal account. If PayPal falls into financial trouble what sureties do I have that my money is safe protected as it would be if held in an Australian Institution. Does PayPal Australia take responsibility for my money or the US paypal or eBay in Switzerland which is where my invoices that I pay originates from.

I have had a personal experience with this when I went to my eBay account and PayPal account yesterday and found they have been extracting fees from an expired card since January this year. The credit card had expired 01/2008 in red next to it so they knew it was expired and yet they continued to take fees from the card without authorization or knowledge to me that it had expired with an over site on my behalf to update the details. Neither did they endeavor to inform me.

The reason I went into my account is I have no confidence in the company and wanted to remove a card that had a large available limit attached to it in favor of a smaller amount limit. Also in the new guidelines one of the changes they seem to be able to do is freeze my PayPal account even though to date I have a 100% positive feedback no negative transaction issues and I didn't want my credit card caught up in the mess if it went that way.

It also seems eBay prefer a credit card not direct debit cards. I placed a

business cheque account into the papal system and unless I have a credit card with either a Visa or MasterCard symbol I have restrictions placed on my eBay account. That you will need to research if you need to find out any details as I have asked the question myself and have had an email sent back to me that I can't seem to make heads or tails from and would need a legal mind to clarify and interpret for me. As I now have a chq account linked and not a credit card I now have restrictions placed on my account once my fees for the month exceed \$40.00.

The other concern I have is if you do have a problem as I did a few years ago, EBay and PayPal will not talk to you. They will not answer queries or emails they are uncontactable. You cannot sort out problems as the environment seems to be that you are wrong and they are right. End of story so you pay up and give up or lose the privilege of using their services. They seem to be a law to themselves. They generate automated responses with bare minimum of information without fixing the complaint.

If I am, as many other people who deal with eBay are have a 100% positive feedback and the small number of negative feedback that some people may have, why does buyers need to be protected by us when there has been no reason given by us to protect them. What I mean is if positive feedback from buyers outweighs negative what are buyers being protected from. EBay currently have the power to shut you down if you are a dodgy seller so why the PayPal system only. Buyers are already protected with procedures in place for both buyers and sellers. There are currently a number of avenues for both seller and buyer if a transaction between them goes haywire through the guidelines set down by eBay.

How as a seller am I protected under this new system? In this system I am not protected and have, it seems no way to negotiate a problem that they perceive they have with me. What happened to innocent until proven guilty under these new guidelines if they can refund an amount from my PayPal account without authorization, freeze my account and deem me guilty without any way to defend myself.

I object to being forced to use a system I have no confidence in with just my experiences alone.

If I don't want my bank details and credit card details in cyberspace at all. If I don't own a credit card or such or have been bankrupt and unable to obtain one would I then not be able to buy or sell on PayPal either without restrictions.

This is essentially a one payment system that I have to abide by and I consider it a monopoly of sorts with no choice based on my circumstances. Currently if I buy something I can go into a bank and put the money straight

into a Australian bank, transfer funds through my own internet without the services of a third party and deposit money into an account without having my details splashed all over the internet at all and rely on my own banks security system. I can go to an Australian Post Office and obtain a money order and send this off to the seller and as a buyer I still have proof of payment. Or if I want to be completely paranoid I can order the item COD both the seller and buyer wins, as neither get paid or goods if the right thing is not fulfilled. Under this new system I have absolutely no choice in the matter and I feel strongly disadvantaged by this.

As well as being an expensive exercise. With direct deposit, internet transfer or money orders there are no fees attached so I am disadvantaged by being forced to use PayPal if I want to use eBay. if I have an item that is only a small amount but rather than throwing it away I think that someone may have use for it what if I eBay it and have to receive payment for it through PayPal then straight away I am at a disadvantage. I lost .49c on a \$1.25 item through PayPal on an item just recently. The item sold for \$1.25 the customer wanted it to be sent registered post which I did with insurance the total with postage came to \$7.10 and I paid .50 listing fee through eBay. I paid .47 in PayPal fees and then a final fee of .30c so respectively it cost me .02 for the privilege of selling it, but hey I am willing to have some listings like that, it happens but I would like to have a choice in smaller items in instances like that not to include PayPal as a option for payment I would have then made .45c at least on the deal. I should have just thrown in the bin but am under the illusion that there may be people that are housebound and disabled that can't get to the shop but have internet access and the parcel arrives at their door, that may appreciate my services on eBay. The fact that I pay these fees on postage rates as well when I don't make profit on postage is another slap in the face. When a buyer finishes his feedback he also has a vote on if you overcharged on postage and all sort of questions in a survey which also gets shown on your profile so if you want to be an honest seller you end up losing as I frequently do by paying a fee on postage that I haven't made and shouldn't make a profit on. Are not these buyers then disadvantaged if I no longer list these items due to feasibility?

Are the buyers which are my "customers" going to lose here? I believe they will because I will have to account for these fees somewhere long term either by putting my items up, charging additional handling fees to try and recoup or just quit selling, so for those people who are disadvantaged and housebound or disabled or not will have to pay more for items in the end for me to continue being a seller on this site.

If PayPal can extract money from an expired account and refund in an instance they deem fit or to refund to a possible fraudulent buyer which can and are some as well, and if PayPal can freeze my money in an account without any proof of any wrongdoing how can this be a benefit and safer

method to all interested parties. Sellers will now need to send all parcels registered to try and stop fraudulent buyers and then PayPal will still call you negligent or a risk without any proof whatsoever. And as I mentioned earlier as a seller and a customer of eBay I have no recourse as they do not deal with resolutions of problems. As a seller I will need to wear it. And as a buyer I will need to wear the cost of having to pay registered post so the seller can protect themselves on some level. So as a seller I am disadvantaged as I pay more PayPal fees due to registered post and as a buyer I am disadvantaged by paying more for postage through registered post. Both parties have lost and become financially disadvantaged.

I object to not being able to have funds deposited either by internet transfer which there is still a record for buyers or through direct debit to an account I see fit, and one that earns me interest on my balance to one using a system where it costs me money with every movement of funds in and out of my account and one that I get hit with more fees than another type of payment. If I try and withdraw my money I also get charged a fee unless it meets a required amount that the same PayPal sets. Currently I think it is in the vicinity of \$150.00 and I can only withdraw \$700.00 in one month unless I ask them and they deem it okay to lift that limit and then I will be asked to upgrade to a premier account which has more fees attached. For instance my husband has asked me to list from his business on eBay through my eBay account a vending machine which he would like to start the bidding at \$5000.00 and on a buy it now at \$7000.00 now this is a one of occasional item for me. If the buyer pays through PayPal it will take me 7 months to withdraw that amount if I sell it for \$5000.00. If it gets sold for \$7000.00 on a buy it now it will take me 10 months to withdraw funds unless I open a premier account with more fees which for me would be unfeasible as it is only a one of item not an every week occurrence. As well the thought that I could have \$7000 frozen in my account would send me into a fit of stress for 7 months while I withdraw \$700 a month as well as my other listings being deposited into my account that then may take me 12 months to get my money from PayPal. We would be seriously disadvantaged from this type of a restricted cash flow situation. They are making money through interest from my funds and I am losing money through interest and fees to them. It is not a win win situation. It does not benefit me as a buyer or a seller. I am seriously disadvantaged.

Apart from these issues there are then e-cheques which take up to 9 working days to clear and to date I have never had a e-cheque clear much earlier than that. Exchange rate is absolutely abominable. I recently got an exchange rate of .89c when the Australian dollar was .93c in the dollar. If I had do that again I would want a choice and using PayPal would most likely not be one of them. Not with the rates they are offering, as we were talking about \$700.00 worth of goods here. I even sent them an email complaining of the exchange rate and the response was something in the vicinity of they are not a currency dealer and therefore have to purchase foreign currencies from its banks. They charge

an extra 2.5 basis points for currency exchange. Well my argument is as a buyer if I am at a disadvantage by not being allowed a choice with how I make an international payment then how could this be for the benefit of all concerned. PayPal in this scenario have made a lot of money with every movement of every dollar plus made an extra profit on exchange rates and let's not forget eBay have still received there listing fees and final fees in all of this.

EBay confuses the commonly accepted use of the word "customer", as I am a seller and I pay eBay and PayPal fees for the use of their platform to advertise my wares and I have a guideline to adhere too am I not the "customer" and the "buyer" is that not then my "customer". "Buyers" which are my "customers" do not pay fees for the liberty of purchasing on eBay nor do they pay a membership fee. So I believe they are then my "customers" as the financial transaction is between them and me. In this new system I as a "customer" will be disadvantaged by lack of choice and restrictions on my cash flow and my "customers" will also be disadvantaged as my costs will be increased if I am to remain in the business of using eBay. To also add I am also a buyer on eBay and as a "customer" of a seller I will still be disadvantaged as I will now have increased prices under this new arrangement.

Now I am a very small seller with only about 200 listings up my sleeve if my experiences have been so abysmal how many more experiences do the serious "customers" sellers have with PayPal and eBay.

So in the final analysis yes I am being seriously disadvantaged both by being a seller which is a "customer" of eBay's and a buyer which is a "customer" of a seller of eBay and I believe that it is limiting competition to other markets by the way of payment to other financial institutions and by limiting my choice of payment therefore making me use methods I feel unsafe in doing and seriously effecting my cash flow. PayPal is not any safer than other forms of payment and is seriously less efficient and user friendly than other methods of payment. The claimed benefits of PayPal currently already exist and do not warrant exclusion of choice in payment methods. In addition, many of the benefits claimed to justify excluding other payment methods are in fact provided by other sources. EBay owns PayPal so stands to benefit from the exclusion of other payment methods to the detriment of its "customers" from buyers and sellers. There are other online payment services similar to PayPal which are being excluded as payment methods.

In my previous comments I can back up all of my experiences with hard copies of credit card payments to eBay with an expired card although I have since deleted that card from their site as I mentioned and I have a hardcopy of mentioned emails, exchange rate communication and emails explaining obscure restrictions on accounts as so forth.

Anything I can give you to back up my experiences I am willing to do.

I thank you for your interest

Sharon Davis