

Roy, Lauren

Subject: Objection to ebay's proposal to make paypal the only avenue of payment
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EXCLUDED FROM

From: name excluded **PUBLIC REGISTER**

Sent: Thursday, 1 May 2008 8:59 PM

To: Adjudication

Subject: Objection to ebay's proposal to make paypal the only avenue of payment

Dear Sir/Madam,

I wish to register an objection to ebay's application to make paypal the only means of transferring funds for ebay purchases.

The essence of my objection is that the proposal is strongly anticompetitive and that there is no off-setting public benefit.

Ebay is seeking to abuse its position as effective monopoly supplier and its submission ought not to be allowed.

Background

I have been an ebay customer for over five years. I have made nearly 300 purchases through ebay and my feedback rating is 100% positive. During that time, I have seen ebay make a number of adjustments to their business model. Too often, the changes have been to ebay's advantage at the expense of sellers and buyers and this proposal for paypal exclusivity is yet another of them.

A. Paypal is Obscenely Expensive

I have a paypal account, which I use primarily for foreign purchases. Paypal is highly profitable for ebay. Apart from taking a wide spread on exchange rates (allowing it to take a significant profit from the purchaser), its commission to sellers is also very high. For example, in a recent purchase, the selling price was A\$160, of which the ebay fees consumed \$11.75 and the paypal fee consumed a further \$4.56 (i.e. a combined skim exceeding 10%). It is clear that paypal is as expensive as the most hungry credit cards when it comes to merchant fees, but, unlike a credit card, paypal carries no risk of bad debts to justify the expense. The only justification for the high cost of paypal is convenience. However, not everyone needs or wants to pay such a high price for convenience and it ought not to be made compulsory.

Ebay's proposal is akin to forcing people to shop at 7-Eleven while barring them from Woolworths.

B. Ebay's Claim That Paypal Reduces Fraud Is Laughable

According to the *Australian Financial Review* (Tues 29.4.2008, page 29), Ebay claims that purchasers encounter fewer problems if they use paypal than other means of payment.

This claim does not match my experience.

In my nearly 300 transactions, which divide roughly 80:20 between bank transfers and paypal, I have been defrauded twice. One occasion involved a bank transfer and the other paypal. In both cases, payment was made, but no goods were sent. This experience suggests that, if anything, paypal is more subject to fraud than bank transfer.

C. Paypal's Claims For Buyer Protection Are Misleading

Ebay prominently displays signs on its website that suggest that buyers are protected from fraud when using paypal and, until I was defrauded, that was part of my justification for using paypal.

Accordingly, when I was defrauded and it was a paypal transaction, I followed paypal's dispute procedure. They awarded a full refund, but I received nothing because the seller had already cleaned his account out. This opened my eyes to the essentially worthless "buyer protection" that paypal pushes so hard.

In reality, there is no buyer protection, because the paypal guarantee is limited to returning funds still in the vendor's account and fraudulent vendors are not stupid enough to leave funds sitting in their paypal account. Moreover, the "buyer protection" leaves honest vendors open to fraudulent claims by dishonest buyers, the cost of which will eventually be worn by the honest buyers. This situation can only become worse if paypal is made obligatory as the increased costs will force some vendors to cease trading and the remaining vendors to raise their prices.

13/05/2008

D The Real Protection Against Disputes Is The Other Party's Feedback Rating

Every ebay transaction has provision for both buyer and seller to provide feedback on the transaction. When I am deciding on a purchase, a key consideration is the vendor's track record to date.

Unfortunately, track record provides no protection against someone who establishes an initial good rating as a prelude to a quick string of frauds (this was the pattern both times I was defrauded.)

On the other side of the transaction, anyone can open a buying account with no bona fides required. If ebay were serious about the integrity of transactions, it would look more closely at the rights of newcomers to initiate disputes with well-established clients with good track records.

E Some Of Ebay's Actions Seem To Contradict Its Espoused Values

Here are two examples:

(1) When fraud is suspected, ebay's response is to suspend an account. Among other things, suspension means that vendors or buyers are no longer able to provide feedback on unresolved transactions. As most or all of this feedback would be negative, the effect is to make the suspended account seem more honest than it really is. It seems that ebay is more concerned about saving face than about providing market information.

(2) Another example was a recent occasion when I bid on a new computer. Unprompted by me, the vendor (a new ebayer with no feedback) closed the five-day auction early (within a few hours of listing) to sell her brand new computer to me at \$900 when the fair market value would have been \$1500. This was highly suspicious so I checked the vendor's listings and discovered that she had relisted and resold the computer in a suspicious fashion several times over the ensuing 48 hours. A telephone call to the vendor did nothing to allay my suspicions, so I emailed the other buyers to alert them to the other sales.

Ebay's response was two-fold. A day after I alerted the other buyers (and receiving some grateful emails), ebay blocked my account from contacting third parties on ebay. I have been given no notification or explanation of this change, but the block prevents me from checking with previous buyers if I need to get more information about their experience with a vendor. This action clearly diminishes the security of ebay for me. The second part of ebay's response was to suspend the computer vendor's account about a week after the "sales", but the cause could just as easily have been a failure to pay ebay's listing fees rather than her questionable sales.

My conclusion is that much of ebay's professed concern about security is no more than lip service.

F Even Blind Freddy Can See That Paypal Increases Transaction Risk Not Vice Versa

According to the *Australian Financial Review* (29.4.2008, page 29) ebay asserts that paypal creates a public benefit by "increasing confidence in the online payments channel." Gee, that seems like a powerful argument, so let me see if I understand it.

If I pay by direct deposit, I have to trust my bank or my credit card to get it right. On the other hand, if I pay by paypal, paypal makes the same transfer from my bank account or credit card and then passes it on to the other party. Gee whiz!! Somehow paypal has not only eliminated any stuff-ups the bank or credit card may make but also guarantees that it will make no stuff-ups itself. You have to hand it to those americans: not only are they infallible, but they can do it all without any supervision from the Australian Government and without any need to worry about privacy legislation.

Sarcasm aside, even Blind Freddy can see that taking an existing on-line payment system (direct transfer from bank or credit card) and adding a second layer (paypal) can only increase the scope for error. There is no way that any rational person could see this as likely to increase confidence in a payment system.

G Allowing This Application Will Only Further Entrench Ebay's Monopoly.

Ebay has an effective monopoly in online auctions for small-ticket items. No doubt ebay will point to other auction sites as evidence of competition, but these comparisons are akin to claiming that the local high school musical production provides serious competition for the Australian Opera Company. The facts are that the barriers to entry are high and no other online auction site has achieved critical mass, and, in my view, none is likely to do so in the foreseeable future. The likelihood of serious competition arising will be even further reduced if ebay is allowed to make paypal the only payment option, especially as paypal is a wholly owned subsidiary of ebay and could easily freeze out aspiring on-line auction sites.

(I acknowledge that some of the national auction houses have established on-line supplements to their physical auctions but all involve big-ticket items like late-model cars, a market in which ebay has only token involvement. In auctions for items of lesser value, ebay has no real competitor.)

In summary, I urge the ACCC to do everything it can to rein in ebay's monopoly and do nothing that would further entrench it. There is nothing in ebay's behaviour to suggest that it will do anything other than abuse its monopoly.

Yours sincerely,

name excluded

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