

Roy, Lauren

Subject: eBay International A.G. notification N93365 [SEC=UNCLASSIFIED]

Categories: SEC=UNCLASSIFIED

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From: Buchanan sunflowercastle

Sent: Friday, 2 May 2008 4:04 PM

To: Adjudication

Subject: eBay International A.G. notification N93365

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PUBLIC REGISTRY

To the ACCC

- 1) The proposed conduct will result in a substantial lessening of competition
- 2) The perceived advantages do not outweigh the detrimental effect it will have on consumers.

Removing buyers and sellers freedom of choice in regard to payment methods by way of forcing paypal as a payment method is anti competitive.

Currently buyers and sellers can use a range of payment options; paypal, credit card via Merchant Credit Card Facility, money orders, personal cheques, bank cheques, bank deposit (internet and over the counter), COD, cash for pick-up. Sellers can also tick the box which states 'Other - See Payment Instructions for payment methods accepted'.

If ebay did not own paypal, and if ebay were not making money everytime paypal is used, would ebay then be forcing/promoting the use of paypal?

Ebay will only allow paypal or pay on pick-up (cash on pick or pay by paypal before picking up), pickup is not used by most buyers and/or sellers which means pick-up is not a option for most people, making paypal the only option. If paypal was completely free of fees and charges for sellers (it is free for buyers) then it would not be so bad but it would still be anti competitve.

Forcing buyers and sellers to only use paypal, there is a conflict of interest, ebay owns paypal, even though they are separate companies. If a buyer or seller feels that paypal is of benefit to them for whatever reason, they will use the service of paypal without being forced.

When paypal is being used, ebay does not allow sellers to charge a surcharge. In Australia it is legal to charge surcharges. Whether it is legal or illegal in the US is irrelevant, because we are in Australia we follow Australian laws not US laws. Companies/businesses who process credit cards are allowed to charge a surcharge, those same businesses, if they trade on ebay using paypal and they are getting credit card funded payments via paypal (this attract a higher fee) ebay does not allow them to charge a surcharge.

18 July 2001 I used paypal to pay for an overseas ebay transaction, US\$164.99 which at that time was AU\$305.84 according to paypals conversion rate. I had funds in my paypal account which I did not want to use, I specifically wanted to pay using my credit card, paypal would not let me pay by credit card (credit card payment would have given me protection, my credit card company would have provided me some form of protection) but instead the payment had to be made using my paypal funds. I never received the item and paypal never refunded me. I paid for insured surface mail, paypal stated too much time had passed and they would not refund. Surface mail from US to Australia can take up to 3 months. Had paypal not been so restrictive in what funding source they would let me use, I would have been able to use my credit card via paypal instead of my paypal funds, and I would have had protection from my Credit Card company. To this day paypal/ebay still have not refunded me. I could not get refunded from ebay because too much time had passed due to waiting for surface mail delivery. I did not know about the Banking Ombudsman, otherwise I would have gone there to get my money back. Not everyone knows they can take their complaints to the Banking Ombudsman.

Another serious concern in being forced to only use paypal is the (21 day) hold on paypal funds if ebay/paypal think there is a risk. How do they access risk? What if their assessment is incorrect? This paypal hold on funds is also going to be tied in with the ebay star rating system, which is flawed.

The star rating system is flawed because buyers do not have to give accurate ratings, there is no guarantee a seller will receive accurate star ratings from buyers. Getting inaccurate star ratings can destroy a sellers reputation and have adverse consequences to the seller. Sellers cannot defend/protect themselves against inaccurate star rating from buyers

Star rating system - a buyer can get exactly what they paid for, but due to buyers remorse or they have since seen the product else where cheaper, they can leave a seller bad star ratings. Postal service which seller has no control over could be slow, the buyer can leave a seller a bad star rating. Competitors can buy products and leave bad ratings. It is impossible that all buyers will always leave accurate star ratings. The star rating system is flawed and should never be used to access risk. A seller cannot protect themself against receiving inaccurate star ratings and this could result in them having their paypal payments held.

How can ebay/paypal hold a sellers paypal payment for 21 days or for any number of days? Ebay and/or paypal do not own the goods, they never have ownership of the goods. The money/paypal payment never belongs to Ebay and/or paypal, it is not their money and at no point does the money belong to them. Seeing as the goods and the money never belongs to ebay and/or paypal how can they have any right to hold or to freeze anyones money that is in a paypal account - and sellers will be forced to have their money paid into a paypal account and then ebay and/or paypal can hold or freeze payments.

This anti competitive policy forces sellers to use an expensive payment method when there are other cheaper and other free payment options available for sellers to use.

Paypal fees are very high, and if the payment is coming from an overseas buyer, paypal will charge the seller an extra fee, an across the border fee, seller gets charged an extra 1%.

Paypal costs most sellers 3.4% plus \$0.30 AUD for domestic transactions. Unless the seller is a high volume \$ seller and then the seller can get a slight reduction in fees, but if the sellers \$ volume of transactions falls the seller goes back to the basic/full paypal charges. Also add on 1% fee if the buyer is an overseas buyer.

If a seller receives a paypal payment in a different currency, paypal's exchange rate includes a 2.5% fee, this then pushes the paypal fees to over 5%. Paypals exchange rate differs to that of financial institutions.

This new policy by Ebay will not allow sellers to use their own merchant credit card facility. If a person pays with a credit card, they automatically have a certain amount of protection. There are many sellers on ebay who are registered businesses who have their own merchant credit card facility.

For sellers who are registered businesses and who have their own merchant credit card facility (MCCF) when those sellers process credit card payments from overseas buyers the sellers do not get hit with an extra fee/charge because their buyer is from overseas but if you receive a payment via paypal from an overseas buyer, paypal will charge the seller an extra 1%.

Paypal is expensive, and no seller should be forced to use it, it should be up to the sellers to decide if they want to use paypal. Buyers should not be forced to use paypal if sellers are prepared to offer a choice of payment methods.

If you have funds in your paypal account and you want to withdraw those funds, if you are withdrawing \$149.99 or less paypal will charge you a \$1.00 fee. If you are receiving small payments, then you might have to wait a fair while before you can withdraw money, too expensive to withdraw small amounts.

Sellers who are registered business with a Merchant Credit Card Facility (MCCF), are already paying fees/charges to have their MCCF now they will be forced to use paypal.

Banks and credit card companys can they hold or freeze ones money? but paypal can do these things?

This is from Paypal's website:

Paypal's PRODUCT DISCLOSURE STATEMENT

Dated: 27 March 2008

Risks associated with using the PayPal Service

Unauthorised transactions: There is a risk your PayPal Account may be compromised and subject to an account takeover, unauthorised transactions, or other type of fraudulent activity.

From the paypal website:

PayPal's Right to Hold Funds. In order to ensure the integrity of a transaction PayPal reserves the right to hold funds or proceeds from transactions by placing them in a "pending" or hold status beyond the normal distribution period. PayPal may do this in order to mitigate risk related to transactions it considers suspicious.

This is from Paypal's website:

eBay Transaction Holds. PayPal may, in its sole discretion, determine to place a hold on a payment you receive for an eBay transaction, based on the reasonable belief that there may be a risk associated with the transaction. Such a hold will show as "pending" in your PayPal Account. PayPal will release the eBay transaction hold after 21 days from the date the hold is placed, unless you receive a dispute, claim, chargeback, or reversal on the transaction subject to the hold, in which case PayPal may hold the payment until the matter is resolved pursuant to this Agreement. PayPal may choose to release the hold earlier if the buyer leaves positive feedback on eBay or where PayPal is otherwise satisfied that the transaction has completed successfully.

For me as a buyer and seller, to be forced to use only paypal, the disadvantages far outweigh the benefits. I am a better judge than ebay of which payment method(s) suit me and my circumstances.

I hope the ACCC does not allow this policy to go through and protects competition.

Kind regards,
Sunflower Castle

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