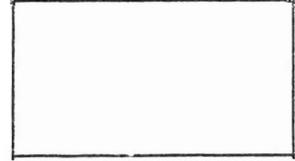


EXCLUDED FROM  
PUBLIC REGISTER

Simon Lovett



The General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
GPO Box 3131  
Canberra  
ACT 2601

Dear Sirs

Re: eBay International AG International Exclusive Dealing Notification N93365

Thank you for the opportunity to forward my submission *against* the above captioned notification as outlined in your letter of 16<sup>th</sup> April attached to your email of 24<sup>th</sup> April.

I have read with care the accompanying document. Admittedly I have no legal background, however, on reading the guidelines as to what acts contravene the provisions of the Trade Practices Act 1974 and the details of eBay's notification, I can only surmise that I (and like minded) eBay seller's are correct in our proposition that eBay's proposal contravenes the act in two areas:

- 1) Exclusive dealing in the form of "Third Line Forcing". eBay's proposal will require
  - (a) The exclusive use of one form of payment transfer via PayPal. PayPal must be considered as a separate entity and therefore a third party supplier of services. The additional fees put sellers at a disadvantage.
  - (b) The additional payment method of "cash on pick up" is wholly unworkable for any transactions between sellers and buyers in different town let alone separate states or for buyers that are unable to pick-up. This is a restriction that will only act to the detriment of an eBay seller wishing to reach a truly Australia wide community.

- 2) Exclusive dealing in the form of limiting the acquisition of services from an alternative competitor/supplier.
  - (a) Clearly these services are available from any bank that provides for physical cash deposits to be made at their branches, Internet fund transfers and Australia Post through their Money Order System.
  - (b) The banks and post office have been providing this service for a number of years, often at a cheaper rate with an often speedier outcome.

Additionally if the ACCC were to grant eBay immunity under their notification it would have a severe detrimental trading impact on the sellers and buyer's for the following reasons:

- i. The buyer's choice is severely restricted and many may choose to leave eBay as a result. Many existing buyers choose to use direct deposit at a bank branch or send an Australian Money Order. Typically these buyers distrust Internet banking or fund transfer in any form including that via PayPal. To limit their choice will clearly force many from this category from the eBay market.
- ii. Many buyers live in remote rural communities or are housebound and do not have access to markets that carry products or collectables that are readily available in larger cities; or that they are unable to get out to the shops. For these buyers eBay and their sellers provide a vital source. They frequently choose to deposit at a local branch, to forward a Money order on their regular trip into town or to arrange for a carer to deposit/send MO for them.
- iii. PO and Internet transfers incur either a flat fee or no charge on the amount transferred. However PayPal's fee is calculated on a percentage of the total of the item purchased plus that of the postal costs. eBay's rules do not allow the seller to pass on these additional fees as part of the overall costs. Therefore, the additional fee impost will have a detrimental impact on the seller's business.
- iv. Sellers incur extra hidden costs in relation to PayPal's fee being applied to the postal cost. eBay through their third party subsidiary unfairly benefit from this extra commission/fee. Undoubtedly this puts the already struggling eBay vendor at a commercial disadvantage.
- v. Under the PayPal system transfer to the seller's account takes between 3 and 5 days, however in order to provide an efficient service he is obliged to post the item when he hears from PayPal that the buyer has settled.

This means that the seller is required to fund the postal cost element. On an individual trade this is not significant but a successful seller may take up to 40 parcels to the post office and be faced with funding a much larger cumulative bill until the funds are transferred from PayPal. A burden is unnecessary.

eBay has explained in its various press announcements and via its notice board that the restriction in payment terms is designed to reduce the number of cases of fraudulent sales. As a regular buyer and seller, with a cumulative total of approx 6000 trades, I have never come across a situation where a matter cannot be resolved between the buyer and seller. Additionally I am in contact with a network of similar buyers/sellers who all report the same successful trading activities. Therefore eBay's defence of the action to implement the proposal on the grounds of trying to reduce fraud would appear to be a spurious argument.

Once again I thank you for this opportunity to make my submission against this notification and agree that it should be placed on the Public Register. Should you need to contact me please email me at:

Yours faithfully

Simon Lovett

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PUBLIC REGISTER