

Roy, Lauren

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

Importance: High

Categories: SEC=UNCLASSIFIED

ACCC Classification: SEC=UNCLASSIFIED

EXCLUDED FROM

From: Scotty H **PUBLIC REGISTER**

Sent: Thursday, 1 May 2008 5:59 PM

To: Adjudication

Subject: eBay International A.G. notification N93365

Importance: High

Submission by an Interested Party - a consumer,

I urge the Commission to reject eBay's exclusive dealing notification.

I am an Australian citizen & customer who utilises eBay - (as a buyer and seller). I do utilise PayPal and other payment processing services and familiar with eBay and PayPal, in Australia and the UK.

1) eBay has huge power in the marketplace. Competitive alternative sources for electronic auction services are not readily available in the marketplace.

2) eBay seems to me, from my use over a number of years, to be already 'safe'. I have never had any fraudulent issues or problems. To say that consumers will feel "safer" with this new policy is absurd. If the consumer did not feel confident (or the sellers), then eBay would hardly be where it is today! I have never met anyone who has expressed or reacted in a way of fear about using eBay.

3) to my mind, this new policy is nothing more than eBay trying to scoop more profits by FORCING people to use a company that they own!
If this is not anti-competitive I do not know what is. What would be the situation if Myer or K-mart announced that they would now only accept their own branded store card for all purchases!

4) eBay's proposal is a third line forcing conduct. Contrary to the implications presented in their notification, all credit card processing mentioned therein would be required the use of eBay's PayPal service. Furthermore eBay's policy and PayPal's policy already allow PayPal to seize the consumer's funds in PayPal and to freeze the PayPal service and to shut down the consumer's ability to sell on eBay whenever eBay/PayPal deem that an offered alternative payment processing method (including cash) is not approved by them. eBay's proposed immunity will therefore allow eBay to force consumers to accept only PayPal regardless of any potential competitive alternative.

5) PayPal's User Agreement allows PayPal to "fine" consumers \$2,500 USD for every "infraction" of selling any item "that might be construed as obscene" as determined solely by PayPal or for offering for sale product not fully under the control of the consumer offering it at the time of offer (again as determined solely by PayPal), and to seize the consumer's PayPal balance for 180 days. The consumer waives the right to redress in a legal system when accepting PayPal's User Agreement. eBay's proposed Exclusive Dealing conduct will only increase the public detriment from their already anti-competitive policies.

6) There is no public benefit to exclusively using PayPal. In contrast to traditional merchant credit card processors and banking institutions, PayPal is virtually unregulated in many legal venues.
Consequently many of the public protections and regulations that consumers are entitled to are not only absent, but are unknown to them. For example, with other online stores, upon entering my Visa card, an ANZ 'verification page' loads, to ask me an additional password (known only to ANZ), before allowing any transaction.

Thanks for your time, and the work you do to protect Australian consumers against this

sort of thing.

Best Regards,