

**Roy, Lauren**

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**Subject:** eBay International exemption application [SEC=UNCLASSIFIED]

**Categories:** SEC=UNCLASSIFIED

**ACCC Classification:** SEC=UNCLASSIFIED

**EXCLUDED FROM  
PUBLIC REGISTER**

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**From:**   
**Sent:** Friday, 2 May 2008 3:41 PM  
**To:** Adjudication  
**Subject:** Re: eBay International exemption application

**ATTENTION: LAUREN JOY**

I have some comments in relation to the exemption to the third line forcing rule of the Trade Practices Act that eBay have applied for on 11 April 2008.

The application has been made stating that the use of Paypal only will provide more security for eBay's customers. The way I see it is that eBay's customers are the sellers, as sellers pay eBay firstly to list their items and then secondly a commission on the final sale price once an item sells. That in my view would constitute a customer relationship. Buyers on eBay in my view are not customers of eBay. They don't pay eBay for any service so can't be considered customers. Once they purchase an item from a seller the contract of sale exists between the buyer and the seller not eBay.

Paypal is definitely not more secure for eBay's customers (sellers) there are plenty of horror stories out there about Paypal. In USA there have been multiple lawsuits against Paypal and CBS News covered a story about this here is the address <http://www.youtube.com/watch?v=0DILK7aS8PE&feature=related> please view this, is a terrifying but all too common story.

What scares me is that Paypal can freeze your account if there is an issue with one transaction. They have also been known to do this if you have too many transactions and your account can remain frozen for more than 6 months, some peoples accounts have been frozen for years. Now if I had thousands of dollars in there I would not be at all happy with this. Who would be?

You only need to take a look at the eBay forums and see how many people have had trouble with Paypal and how many have had trouble with bank deposit. I have not seen a single customer complaining about having issues with bank deposit.

A poor man in the states sold an amp for \$1200. The customer was happy with the amp but decided he wanted to paint it. A little while after he decided he wanted a refund so he put in a Paypal claim. Paypal denied it because he had painted the item. He then put in a chargeback claim with his credit card company. The chargeback was granted and he is now being chased up for the \$1200 by Paypal. The following address is of a follow up call made by Paypal in their attempt to chase the money. In the later part of this clip you will hear the comment that if you accept credit card payments through paypal then chargebacks is a risk you take. This is a concern because eBay stipulate that you cannot tell buyers you don't accept credit card payments through paypal. Here is the address:

<http://www.youtube.com/watch?v=7wNsd0i7sIg&feature=related>

I would now like to refer you to the following site. <http://www.paypalwarning.com/>, there are hundreds more of these sites so forgive me for the lengthiness of this submission, but I would like to show at least a small proportion of just how many issues there are with Paypal, I can't list all the sites as the list would be endless. These cases are not just in USA either. I have had some issues with Paypal myself the main one being a charge back for an apparent stolen credit card. If Paypal is so secure, how could a registered user even have a stolen credit card registered on Paypal? I definitely don't believe it is more secure. My opinion is it is the most risky form of payment to accept. As a seller I do

26/05/2008

accept it from overseas buyers, but have now been told that I have to accept it from everyone I am not allowed to use it for overseas buyers only. I feel that sellers should be able to choose how much risk they are willing to take in relation to transactions. The reality is any buyer can put in a claim at any time. I am happy to refund if an item is faulty in some way, but I do expect return of the item, I feel that is reasonable. Yet Paypal do not enforce this, that in my view is wrong, they take a back seat and say they're not responsible for the return of items. I worry everytime I sell something overseas and it is paid with Paypal.

Paypal are now saying that the new rule coming in is that funds from so called high risk transactions will be held for 21 days unless the buyer leaves feedback before this time, the reality is Paypal can state every transaction is a risky transaction and lock all your money away for this 21 day period. If paypal is the only payment option it is not unrealistic for sellers to have tens of thousands of dollars locked away unaccessible in their paypal account. A frightening thought when you look at how many people have had their paypal accounts frozen without warning and for silly things like having too many transactions in their account, or one large transaction. Unfortunately that is the reality and it is why a lot of sellers are very scared about this possible change coming through. eBay states that they would like buying on line to be as safe as going to the shops and making a purchase, they would be great but we don't live in the fairy tale kingdom of Far Far Away. Unfortunately that goal is unrealistic and people still have problems when they do go shopping at a normal shopping centre. Most sellers on eBay are honest sellers, there are very few dodgy sellers and even with these new changes the true scammers will find their way around it.

Since buyers have problems even when shopping at their local shopping centre is the solution to make all Australian businesses accept Paypal only when their customers pay for an item and the funds cannot be touched by that business for 21 days cause they're high risk transactions? I am sure there would be a lot of businesses going broke if that was the case. Imagine walking into Harvey Norman buying an item telling the sales rep that you are paying with Paypal, but the funds will be held for 21 days and if I am not happy in that time I can claim my money back without returning the item and I can put a sign out the front stating that I am unhappy with them and they can't do anything about it. That is the situation eBay sellers will be faced with should these changes come into effect, as sellers will no longer even be able to leave negative feedback for a buyer. You get non payers too bad, you get scammed too bad, there will be no recourse. That's right there will be no way of warning other sellers if someone is a scammer.

One incident I am aware of is a situation where a lady I know purchased a bracelet on eBay, the buyer thought it was a designer brand and listed it as that brand. It however was not this particular brand and the buyer claimed her money back. Fair enough the item wasn't what it was supposed to be. The buyer wanted to return the bracelet to the seller but did not have her address overseas. She contacted Paypal asking if they could tell her the address because she wanted to return the bracelet, naturally they told her they could not give her that information. When she explained the situation they told her it doesn't matter she has her money back and just to keep the bracelet. How is that fair on the seller? They have lost their money including postage costs and the item too. You don't get a refund for a returned item in a shopping centre without returning that particular item, so why isn't that the case in Paypal disputes? This is where it is wrong!

I also found a site containing a news video from CBS 2 News in the states about multiple law suits taken out against Paypal. Now I should find this surprising since Paypal is so secure I wonder why you don't hear about law suits being taken out against banks after they have frozen their customers funds oh maybe it's because they aren't allowed to freeze peoples accounts. Yet Paypal can! Here is the address for the news report:

<http://www.youtube.com/watch?v=0DILK7aS8PE&feature=related> some people might think that these are problems in the United States and doesn't apply to us here in Australia, but bear in mind that Paypal has an office in Australia it is still the same company and I have found sites with Australian Paypal members complaining.

I was interested to know what the Act states about Third Line Forcing so I checked it out when I entered your site to lodge my original complaint. This is what I found:

### **Third line forcing**

Third line forcing is a specific form of exclusive dealing prohibited outright by the Trade Practices Act. It is not subject to the substantial lessening of competition test. It involves the supply of goods or services on condition that the purchaser buys goods or services from a particular third party, or a refusal to supply because the purchaser will not agree to that condition.

Since it states that Third line forcing is prohibited outright I would have thought that it would stand. Oh well I guess some of the big companies like to think they're above the law.

I must say that I was surprised at the way eBay announced the change. They emailed their customers and said that from 21 May all sellers have to offer Paypal as a payment option and from 17 June Paypal will be the only payment option unless the item is picked up in which case it can be paid COD. They had not even lodged an application with you the ACCC! Very confident of receiving an exemption from the law I must say! I feel that the only reason eBay are attempting to bring in such a change is to make more money, after all Paypal is a subsidiary of eBay and paypal certainly knows how to charge fees. They are charged to the sellers of course, that was changed a few years ago in order to get more buyers to use it.

What a back flip, it was only a month ago (25 March to be exact) that eBay were saying on National Television that very few transactions go wrong on eBay and most of those are communication issues. That I would have to agree with as a buyer and a seller. Now it seems as though they are trying to say the opposite declaring security is an issue and it can be addressed by using Paypal. What a turnaround!. The Today Tonight report is quite interesting. It has an Australian eBay sellers who has had his account frozen with over \$7000 in there because of apparent suspicious activity and a buyer who never received his item, paid for Registered Post and didn't receive Paypal's so called buyer protection. Here is the address, please view:  
<http://www.youtube.com/watch?v=KA1M0E-zrhM>

I have to wonder if eBay would be pushing Paypal so hard if they didn't own it?

The fact is there is a lot of distrust out there for Paypal and you can't push something onto consumers if there is no consumer confidence in it. The distrust has been rightly acquired from where I am standing and Paypal has a long way to go if they want to really address buyer and seller concerns on eBay.

While there are some people who are fortunate enough not to have had any problems with Paypal, it seems there are thousands that have had a lot of trouble with them. There are sites dedicated the Paypal, they even have a nick name scampal? I think that tells us something.

Basically this change wouldn't be so bad if:

1. Paypal was accountable in some way like banks are in Australia and didn't have so many issues with fraud and freezing peoples accounts, so much so that they have their own dedicated scampal, paypal sux plus more sites with thousands of people who have had problems.
2. The sellers weren't charged such high fees to use the service and sellers also had **real** protection from fraudulent buyers. Sellers don't seem to be getting this advertised protection at the moment.
3. They weren't bringing in a new rule about holding funds from so called high risk transactions for 21 days unless feedback is left before that time (I mean what is the definition for these high risk transactions going to be?) the fact is they will use this to hold most funds in a sellers account. Just like the fact that they can freeze your account without reason. From all my research on the net it seems that the people with frozen accounts (some frozen for 6 months and even years) have large amounts in there and they have had no problems with any of their transactions. This is a disgrace! imagine a bank doing that with your bank account! Not to mention the fact that is is not unrealistic for medium to large scale sellers having ten thousand dollars or more going into their accounts in a 21 days period. Should this change come into place, will these funds be held for 21 days? Will they end up frozen because there's too many transactions? The account freezing is in the Paypal user agreement, apparently they're allowed to do it.
4. If we were able to say weather or not we accept credit card payments through paypal. Paypal themselves say that chargebacks are a risk you take as a seller if you accept credit card payments, yet we aren't allowed to stipulate no credit card payments. What's that about?

5. There were tighter controls in place to stop hacking of Paypal accounts, this is yet another problem.

eBay have already started making new eBay members sign up to Paypal if they don't they can't register on eBay. Once they have registered if they wish to sell they have to offer Paypal as a payment option on all their listings, again if they don't offer Paypal as a payment option they are violating eBay policy and can be kicked off the site. Now eBay have not applied for an exemption for third line forcing for that rule they forced upon their members. They have also made a new rule that sellers cannot accept paypal from overseas buyers only. If you accept paypal you have to accept it from everyone. Again, another case of third line forcing and since Paypal is owned by eBay I think it is fair to say that their eye seems to be fixed on increasing revenue. There is risk involved in using Paypal, that's a well known fact. Sellers should be able to decide how much risk they are willing to take when selling goods and buyers should be able to choose what payment method suits them best. Most eBay sellers are honest, not all scammers! and unfortunately there will always be disputes that arise between buyers and sellers, some buyers you just can't seem to please. This is not going to go away with the new Paypal system. All the statistics that eBay post on their web site about less disputes opened for transactions paid with Paypal and how sellers sales are increased by using Paypal amaze me. I would be interested in finding out where these figures come from, do they just pluck them off the top of their heads? If you read the forums a lot of sellers state that after offering Paypal their was no increase in their sales and the costs of using Paypal were so high that they are no longer offering it. Hmm!!

If eBay wish to increase security why not email members now and again reminding them to exercise some common sense when buying. I mean I buy and sell and I haven't had any major dramas. I don't use paypal to pay I use bank deposit and I have all my purchases sent either Registered Post or Express Post.

I have had trouble with a charge back as a seller which should be a surprise since **Paypal is so secure!** Now tell me if they are so secure how did a Paypal member manage to register a stolen credit card and then use it through paypal? I did not receive any compensation for the money that was charged back. This is what frustrates sellers, they do nothing wrong and this happens. A lot of sellers are scared at the thought of these changes coming through and really who can blame them? I am concerned myself, sure some people think that Paypal is the bees knees and if they haven't had any issues good luck to them. But you can't ignore the fact that thousands of people, buyers and sellers have had some major dramas with them. Do we really want to be the guinea pigs for this eBay experiment? Please don't let this happen!

I have a list of some feeds from forums in relation to Paypal and some of the addresses are also listed so you can access some of these pages. I would recommend that you have a look at some of these sites. If you do a basic google search for Paypal scams, Paypal sux and thing like that you would be surprised as to how many pages come up. Please do have a look before you make your decision, you might be shocked at what you find out. Thank your for your time.

I wish to draw your attention to eBays Paypal payments policy:

#### PayPal Payments Policy

Sellers who offer PayPal as a payment option on eBay (either using logos or text in the item description) must accept all forms of PayPal payment including account balance, bank account transfer, and **credit cards**. Sellers must have a Premier or Business PayPal Account or be willing to upgrade from a Personal PayPal Account to a Premier or Business Account if sellers **receive a credit card payment**.

Sellers may not communicate to buyers that they accept, or will not accept, specific forms of

PayPal payment.

Violations of this policy may result in a range of actions, including:

- Listing cancellation
- Forfeiture of eBay fees on cancelled listings
- Limits on account privileges
- Loss of PowerSeller status
- Account suspension

Some Examples Hide

Listings Allowed:

"I accept all forms of PayPal payment"

Listings Not Allowed:

"I accept PayPal but do not accept credit card payments through PayPal"

"I only accept PayPal if the bid amount is greater than \$15"

Additional Information Hide

PayPal's Payment (Sending, Receiving, and Withdrawal) policy update can be found at the following address: [https://www.paypal.com/us/cgi-bin/webscr?cmd=\\_update-policy](https://www.paypal.com/us/cgi-bin/webscr?cmd=_update-policy)

Why does eBay have this policy? Hide

eBay's PayPal Listing policy is written to ensure that all eBay members are aware of PayPal's Payment policy and that all members abide by that policy. This policy ensures a consistent user experience and a fair and level playing field for all buyers and sellers on eBay.

Related Help topics

[Listing Policies for Sellers Overview](#)

a little article from the eBay forum well worth reading:

[4403davidw <contactUser.jspa?requested=4403davidw>4403davidw](#)  
[\(188 <viewFeedback.jspa?userid=4403davidw>\(188](http://myworld.ebay.com.au/4403davidw)  
<http://feedback.ebay.com.au/ws/eBayISAPI.dll?ViewFeedback&userid=4403davidw>)>

<http://members.ebay.com.au/aboutme/4403davidw>>  
<http://members.ebay.com.au/aboutme/4403davidw>>View Listings

<http://cgi6.ebay.com.au/ws/eBayISAPI.dll?ViewSellersOtherItems&userid=4403davidw>| [Report](#)  
[advice.jspa?threadID=600083910&messageID=603031314](http://cgi6.ebay.com.au/ws/eBayISAPI.dll?ViewSellersOtherItems&userid=4403davidw)>15-04-08 23:11 EST 39 of 46 PayPal did exactly the same thing to me yet they stupidly accessed my CC to make payment to a seller I had purchased from, and did so without consent as I had closed the original linked bank account so they thought they would just make payment from there. When I told the seller I had sent her a Money order and that she may have been paid twice we both contacted PP to have the funds

restored, they said there was nothing they could do about it and the seller should just return the Money Order. We both agreed this was wrong so I decided to take them to task.

Fortunately my partner works within the banking industry and ensured my CC fraud claim went to the right area. It took a while but I got my money back from the b\*\*\*\*\*s. They definitely went down fighting and still laying the blame with the seller... the finger they pointed at her clearly pointed 3 fingers back at where the blame really lay... with the ineptness of the PP staff and the continual deflection of responsibility.

The sad part of it was that the B\*\*\*\*\*s then got into the seller, froze her account, withdrew the funds from her account (not including their dipping into in in the first instance), They then restored the funds to her account and hit her again for account deposit fees, then withdrew them again, last thing I heard was her account was still frozen and she was having hells own time getting the account unfrozen let alone trying to get the fees refunded.

That is one reason WHY I would NEVER have another PayPal account and would guide most in the other direction. I honestly wonder how any staff at either eBay or PayPal can hold their heads up. Is it any wonder no one I know works for either company, no one I know knows anyone who works for either company... then again, surely they MUST be ashamed to admit it?

PayPal, you and eBay STINK!

\*holds hands out for a severe rap on back of hands from the unbiased moderators for adding to a COMMUNITY discussion!\*

check this link for more: <http://forums.ebay.com.au/thread.jspa?threadID=600083910&start=0>

### Suspicious of Paypal

[tabathat80 <contactUser.jspa?requested=tabathat80>tabathat80](http://myworld.ebay.com.au/tabathat80)  
[\(103 <viewFeedback.jspa?userid=tabathat80>\(103](http://myworld.ebay.com.au/tabathat80)  
[http://feedback.ebay.com.au/ws/eBayISAPI.dll?ViewFeedback&userid=tabathat80>\)](http://feedback.ebay.com.au/ws/eBayISAPI.dll?ViewFeedback&userid=tabathat80) View  
[Listings <http://cgi6.ebay.com.au/ws/eBayISAPI.dll?ViewSellersOtherItems&userid=tabathat80>](http://cgi6.ebay.com.au/ws/eBayISAPI.dll?ViewSellersOtherItems&userid=tabathat80)  
[Report <advise.jspa?threadID=600086899&messageID=603031013>](http://cgi6.ebay.com.au/ws/eBayISAPI.dll?ViewSellersOtherItems&userid=tabathat80) 15-04-08 21:54 EST I bought something for the first time using the Paypal Credit card option, normally I had always used the bank account deposit option. I get a call from my bank the next working day to say there are four foreign transactions on my VISA, so my card had to be cancelled to stop anymore funds being taken from my bank account.

Is Paypal safe? I have used my VISA card numerous times on the internet and this has never happened to me before. I am concerned that if Paypal becomes the mandatory point of sale that I will not be able to buy things on Ebay anymore as I don't trust Paypal anymore due to my experience.

[lindsey2573 <contactUser.jspa?requested=lindsey2573>lindsey2573](http://myworld.ebay.com.au/lindsey2573)  
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[<http://feedback.ebay.com.au/ws/eBayISAPI.dll?ViewFeedback&userid=lindsey2573>\)](http://feedback.ebay.com.au/ws/eBayISAPI.dll?ViewFeedback&userid=lindsey2573) View  
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[ViewSellersOtherItems&userid=lindsey2573>](http://cgi6.ebay.com.au/ws/eBayISAPI.dll?ViewSellersOtherItems&userid=lindsey2573) Report <advise.jspa?

[threadID=600086761&messageID=502771642](http://www.ebay.com.au/forum/threadID=600086761&messageID=502771642)>14-04-08 20:03 EST 13 of 15 I've been paid via paypal with a stolen credit card, paypal took 3 months to notice & then took the money back from me. I ended up the big loser, the criminal ended up with the goods & there was not a thing I could do about it.

As a buyer I had goods sent with international tracking that never arrived. The seller provided proof of postage & that was the end of paypals involvement. Again, not a thing I could do about it. Don't try & tell me paypal is safe.

We spend money we don't have, buying things we don't need, to impress people we don't like.  
{';'}

[nova\\_xi <contactUser.jspa?requested=nova\\_xi>nova\\_xi <http://myworld.ebay.com.au/nova\\_xi>](http://www.ebay.com.au/contactUser.jspa?requested=nova_xi)  
([\(<viewFeedback.jspa?userid=nova\\_xi>](http://www.ebay.com.au/viewFeedback.jspa?userid=nova_xi)([\(<http://feedback.ebay.com.au/ws/eBayISAPI.dll?ViewFeedback&userid=nova\\_xi>](http://www.ebay.com.au/ws/eBayISAPI.dll?ViewFeedback&userid=nova_xi)) [View Listings <http://cgi6.ebay.com.au/ws/eBayISAPI.dll?ViewSellersOtherItems&userid=nova\\_xi>](http://www.ebay.com.au/cgi6.ebay.com.au/ws/eBayISAPI.dll?ViewSellersOtherItems&userid=nova_xi) | [Report <advise.jspa?threadID=100076789&messageID=300597971>](http://www.ebay.com.au/advice.jspa?threadID=100076789&messageID=300597971))>20-07-05 15:12 EST 36 of 45 Maybe this info is not needed anymore, as these rules seem to be for US and CA eBay listngs.

BUT

As someone new to eBay/PayPal I still remember the finer details of what the rules quoted above mean.

Put simply, a buyer can fund a paypal payment either with a credit card OR with money in their paypal account (you know, the imaginary paypal dollars that you haven't "downloaded" to your real bank account ).

A seller can only accept a credit card funded payment if they have a premium/business paypal account. Without a business/premium paypal account a seller can only accept payments funded by the buyer's paypal account (i.e. imaginary paypal dollars only, no credit card funded payments).

Here's the trick: Sellers with a regular (non premium/buisness) paypal account can accept paypal payments funded by the buyer's paypal account balance (imaginary paypal dollars) FEE FREE!! As soon as the seller upgrades to premium/business, all payments incur fees. That is why they say sellers must be willing to accept ALL types of paypal payments.

Horribly confused yet?

If so, the gist of it is eBay/PayPal are closing a loophole that some sellers were using to avoid paypal fees.

Another complaint from and Australian paypal user:

User #116924 18 posts

[Pharley </forum-user.cfm?id=116924>](http://www.ebay.com.au/forum-user.cfm?id=116924)

Forum Regular

Hi - yes, that's the problem with people not realising what can happen. I had never had a problem either. But all of a sudden, they have \$7663 of my money locked up in that account and I can't get it. Yes \$7663 !!!!! A few hundred bucks and I'm annoyed, but for this amount I'm seriously p! #@\$#d off!!! Plus I'm the type that if I get great service I tell everyone, but if I get lousy service and treatment, I'll damn well do something about it! Go to, otherwise nothing gets done.

The address for this site is:

<http://forums.whirlpool.net.au/forum-replies.cfm?t=939605>

Yet another thread from a discussion forum site:

**EXCLUDED FROM  
PUBLIC REGISTER**

and the list goes on and on need I say more!