

Submission in response to eBay International AG - Notification - N93365: This submission consists of points (in bold italic type) in response to certain statements eBay has included in its notification N93365 to the ACCC.

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PUBLIC REGISTER**

ANNEXURE "A"

1. FACTUAL BACKGROUND

1.2 As stated in item 1 (b) of the Notification, eBay operates the eBay Site. eBay facilitates trade by bringing buyers and sellers together in what can be described as an online marketplace.

1.11 eBay charges sellers fees for use of its sales platform. Buyers are not charged fees.

- ***Sellers are customers of eBay and therefore entitled to consideration in the question of fair trade.***

1.13 PayPal first started operating in Australia in January 2005. PayPal is a subsidiary of eBay Inc. and a related body corporate of eBay. PayPal currently has over 5 million registered accounts in Australia.

1.15 To become a member of PayPal, users must agree to the terms and conditions of PayPal's User Agreement and provide PayPal with a number of personal details, which are subject to verification by PayPal. A limited exception exists, whereby a buyer is able to use the PayPal Guest Checkout facility for a limited number of transactions to complete a credit or debit card purchase that is processed via PayPal without first becoming a member of PayPal. A similar facility exists for off-eBay transactions.

1.17 PayPal members [buyers] are able to use a variety of sources to fund transactions via PayPal.

- ***No such choice in ACCEPTING payments exists for sellers under the PayPal proposal.***

1.18 PayPal oversees the entire transaction between the buyer and seller. If either a buyer or a seller raises a complaint regarding the transaction (for example, if a seller complains about non-receipt of funds or a buyer complains about the condition of goods received), PayPal can act as an intermediary in resolving the dispute.

1.22 ...Fees apply in certain circumstances to both the sending and receipt of funds, although **most commonly to the receipt of funds by sellers.** (Buyers are charged

a conversion fee when making payments for international transactions in different currencies).

- ***Sellers will have no choice but to pay eBay/PayPal such fees under the PayPal proposal. PayPal currently charges sellers exorbitant fees; if eBay is permitted to inflict compulsory exclusive PayPal dealing on its members it will be free to increase fees as it chooses without regard to competition. Removing the competition currently provided by the variety of payment methods available will result in the inflation of prices on eBay, and the failure of many small businesses.***

1.28 For PayPal members who purchase eligible items on eBay, PayPal offers additional buyer protection where an eligible item is not received or is "significantly not as described". Under PayPal's Buyer Protection Policy members that purchase eligible items on eBay can currently be protected for up to \$400 for any purchase (excluding certain categories, such as intangible items) or up to \$3,000 where the seller has received an eBay feedback rating from 50 unique transactions and has also achieved at least a 98 per cent positive rating for that feedback.

On 17 June 2008, PayPal's Buyer Protection Policy will be expanded to provide coverage of up to \$20,000 per eligible transaction. PayPal is able to offer this additional protection for eBay customers because, as a related entity, it has additional information in regard to the transaction history of sellers through both feedback ratings and other metrics (such as risk data) shared with eBay.

- ***This raises concerns regarding the privacy of members details, and the ease with which malicious competitors may abuse the eBay Feedback System, thus potentially affecting a seller's access to PayPal's Buyer Protection Policy.***

1.29 Under PayPal's Buyer Complaint Policy (which applies to transactions made using websites other than eBay), PayPal will use its best efforts to attempt to recover the funds, but does not guarantee a reversal of the transaction.

- ***This implies that the Buyer Complaint Policy is intrinsically flawed and thus has no guarantee of successful outcomes.***

1.30 In connection with the implementation of the Project, PayPal has also introduced additional protection for eligible sellers through a new Seller Protection Policy, at no additional cost to sellers. Under the Seller Protection Policy, PayPal can provide protection to eligible sellers for unauthorized payments, and for "item not received" disputes where the seller can provide proof of shipment of the item through an approved postage service and other information, as required by PayPal. In this event, sellers will be entitled to retain the funds.

- ***The requirement of 'Proof of Shipment' in providing protection to sellers is met by sellers' sending items via Australia Post Registered Post and should not need to be limited to items paid via PayPal in cases of "item not received" disputes.***

1.31 Currently, no other Buyer Protection Program (apart from PayPal's) specifically exists for eBay transactions.

- ***eBay itself has had in the past a Buyer Protection Program covering various types of transaction payments which was withdrawn prior to the mandate that PayPal must be offered on all listings on the site***

- **2. DESCRIPTION OF THE CONDUCT OR PROPOSED CONDUCT**

2.1 eBay's research indicates that one of the two biggest reasons that customers choose not to return to purchase products on eBay in the future is "trust and safety reasons" including past "bad buyer experiences" (BBE)'.
[RESEARCH RESTRICTED FROM PUBLIC REGISTER]

2.3 In order to address the issue of problematic or fraudulent transactions and the associated customer churn [sic] due to BBE, eBay proposes to take advantage of the enhanced security features of PayPal by mandating the use of PayPal for almost all transactions on the eBay Site. eBay will continue to permit sellers to offer to accept "Pay on Pickup", as this payment method is not likely to give rise to BBE.]

- ***Pay on Pickup is NOT viable on the vast majority of eBay sales due to the interstate/international nature of many transactions, and therefore can only be seen as a surreptitious attempt by eBay to obfuscate the fact that SELLERS will NO LONGER have a choice of acceptable payment options.***

2.4 Since 17 January 2007, as part of its security initiatives, eBay has required new sellers on the eBay Site to nominate that they will accept PayPal or a merchant credit card facility as a payment method for all transactions on the eBay Site. In addition, the overwhelming majority of eBay sellers already offer to accept PayPal in their listings.

- ***On April 16th, 2008, Robert H. Swan – Chief Financial Officer, Sr Vice President of eBay stated:***

“PayPal posted yet another very strong quarter with total revenue coming in at \$582 million, a 32% increase versus the same period last year. Total payment volume in the quarter was \$14.4 billion, an increase of 34% year over year. TPV grew by 29% in the U.S. and 43% internationally.

“We believe the strong growth trajectory we’ve seen at PayPal over the past quarters is a reflection of the continued progress in our efforts to ACHIEVE UBIQUITY for PayPal on the web, through increased penetration on eBay and an expanded footprint beyond eBay.”

This statement exemplifies the risk of the misalignment of eBay’s commercial objectives (to achieve ubiquity for PayPal) with the overriding social policy objectives (supposedly to provide buyer’s with increased protection)

2.5 Specifically, under the Project it is proposed that:

(1) effective on and from 21 May 2008, eBay will amend its User Agreement and alter the functionality of the eBay Site such that all sellers (including both new and existing sellers) will be required to offer PayPal as one of their accepted payment methods;

(2) Effective on and from 17 June 2008, eBay will amend its User Agreement and alter the functionality of the eBay Site such that eBay will supply the services on the eBay Site to users on the following conditions:

(a) Sellers may only offer to accept payment made through PayPal, Pay on Pickup or Visa/Mastercard processed by PayPal

- **Permitted on eBay.com.au:**

“PayPal.

Sellers may also offer to accept cash (but not by post or courier), money orders, bank or personal cheques and other negotiable instruments but only on the physical delivery or pick up of or transfer of title to an item.”

Surely this clause, from eBay’s amended Accepted Payments Policy – in force from June 17th, 2008 – defies logic as:

- 1) The majority of transactions on eBay are interstate/international and Pay on Pick-up is not a viable option***
- 2) If payment methods other than PayPal are considered so ‘unsafe’ that they are to be banned in other circumstances, surely they are ‘unsafe’ across the board?***

(b) All eBay transactions must be paid for using PayPal, Pay on Pickup or by Visa/Mastercard processed by PayPal, and not through the use of any other payment method

(c) Sellers will still be permitted to have arrangements with third party providers that provide checkout facilities (commonly as part of an overall business/inventory management facility). When a customer purchases a product from these sellers, the customer is not taken to eBay checkout -but instead redirected to a third party checkout facility.

However the seller must be a PayPal member and the product must be paid for using eBay’s accepted payment methods and not through the use of any other payment method.

- **There are inherent risks associated with this proposal, as outlined in eBay’s Buyer Complaint and PayPal Buyer Protection Policy :**

a) PayPal will make its best efforts to recover your payment from a seller, but recovery of your payment is not guaranteed*

b) PayPal reserves the right to change or discontinue the PayPal Buyer Protection program for any reason, at any time and for any duration at its sole discretion*

c) It is possible that the PayPal Service may be rendered temporarily unavailable to some or all users from time to time. This may be caused by...PayPal’s system*

d) In certain circumstances, PayPal may limit your ability to send money or make transfers from your PayPal account*

e) Restoring access to your PayPal account [following an investigation for example] may take time and until it is restored you will not be able to use your PayPal account.

Such restrictive conditions constitute a real risk to sellers when utilizing the PayPal gateway and this is one important reason why many eBay sellers are reluctant to accept mandatory use of the PayPal system

3. THE TRADE PRACTICES ACT

3.5 Section 93(3) places the onus on the Commission to make a number of findings in relation to the conduct the subject of a Notification before it can withdraw the statutory protection. The Commission must satisfy itself that:

(1) The conduct is likely to have the effect of substantially lessening competition, and

(2) In all the circumstances, no public benefit is likely to result from the conduct, or any likely public benefit would not outweigh the detriment to the public constituted by any lessening of competition that is likely to result from the conduct.

3.6 In *Re Coca Cola Export Corp* (1 978) 4 TPR 523 at 524, the Trade Practices Commission expressed the test as follows:

"The Commission thereby clearly directed to allow exclusive dealing notification to stand unless:

(a) It is satisfied as to the anti-competitive effect of the conduct;

(b) It finds positively that the conduct is not justified on public benefit grounds."

- ***The mandatory use of PayPal will result in increased fees(a minimum of 2.4% per transaction) and expenses for sellers, thus necessitating the increase of commodity prices as sellers pass on those costs to buyers in order to maintain a viable profit margin***
- ***eBay is using its dominant market position to reduce/eliminate competition in the marketplace***
- ***Such a proposal disadvantages a large proportion of the community that does not trust online payment methods which require them to supply their personal and financial information to a third party***
- ***PayPal is not a registered bank and as such is not governed by Australian (or U.S.) law in respect of financial propriety. PayPal pays no interest on money lodged, charges enormous fees for using their service and for withdrawals of less than \$150, an extra 2.5 basis points for currency exchanges, and provide a poor customer service base in the event of a claim. It is anti-competitive to allow one, unregulated company to obtain market exclusivity, particularly in the light of eBay's Sr Vice President's statement presented earlier in this submission.***
- ***The majority of Bad Buyer Experiences on eBay stem from the extraordinary growth over the past 5 years of online buying and a lack of education on the site as to how to avoid unprofessional and criminal conduct by sellers. If buyers were required to complete a simple education tool prior to utilizing the site, and sellers were properly verified prior to being allowed to list items for sale, there would be***

minimal cause for complaint without the third-line forcing of PayPal being an necessary.

4. MARKET DEFINITION AND PUBLIC DETRIMENTS – EFFECT ON COMPETITION

4.3 Whilst the Report speaks for itself, eBay notes in particular that NERA has found that, due to the complexities of the two-sided markets in which eBay and PayPal operate, it is not possible to form a definitive view of the likely markets in which eBay and PayPal respectively operate.

4.4 The NERA Report also concludes that:

(1) It is not possible to form a definitive view as to whether eBay possesses a substantial degree of market power, due to the difficulties inherent in defining the market in which eBay operates and determining the strength of any network effects enjoyed by eBay in that market.

In conclusion, on the information available, NERA has been unable to determine whether any of the four conditions necessary for the Conduct to have anticompetitive consequences are met.

[INFORMATION EXCLUDED FROM PUBLIC REGISTER]

- ***I find this conclusion extraordinary, but the anecdotal evidence of eBay's dominance in the online marketplace is obvious. Nevertheless, John J. Donahoe - President, Chief Executive Officer, Director, eBay stated on April 16th, 2008 that:***

“eBay Australia has always been a proving ground for new programs and policies, so we will carefully evaluate the impact of safer payments and then use this to inform our approach in other countries.” (eBay Q1 2008 Earnings Call Transcript – http://seekingalpha.com/article/72603-ebay-q1-2008-earnings-call-transcript?source=homepage_transcripts_sidebar&page=1)

4.5 In light of the detailed analysis and conclusions contained in the NERA Report, eBay submits that the Conduct would not be likely to have the effect of substantially lessening competition within the meaning of section 47. Alternatively, any anticompetitive effect of the Conduct is likely to be relatively minor.

- ***This begs the question, ‘if NERA’s own report is “unable to determine whether any of the four conditions necessary for the Conduct to have anticompetitive consequences are met” how can eBay possibly submit the unsubstantiated point 4.5 above to the ACCC?***

5. PUBLIC BENEFITS

5.5 As described under heading I of this Annexure "A" above, PayPal has several features as a payment method that mean that the disputes and "bad buyer experiences" referred to above, will be substantially reduced or minimised when PayPal is used to process payments for purchases on eBay. The enhanced security delivered through PayPal's "closed loop" system is particularly beneficial to buyers. By way of summary, these features include the following:

(6) eBay will also soon implement a "holds" policy whereby, when eBay considers that a transaction on eBay is high risk for the buyer, it will notify PayPal that it should hold the payment for the transaction. PayPal will then exercise its discretion as to whether to hold the funds and wait until it either receives confirmation from the buyer that he or she has received the item and has no cause to raise a dispute, or 21 days have passed without the buyer having raised a dispute.

- ***This is a point of major concern to sellers as eBay will remove their right to leave feedback for buyers in May, 2008, impairing the ability of sellers to gauge the caliber and past performance of any buyer they are dealing with. Sellers funds may be held to ransom at the 'discretion' of PayPal, at the whim of a buyer who may have a poor track record.***

(7) For PayPal members who purchase eligible items on eBay, PayPal offers additional buyer protection where an eligible item is not received or is "significantly not as described". Under PayPal's Buyer Protection Policy members that purchase eligible items on eBay can currently be protected for up to \$400 for any purchase (excluding certain categories, such as intangible items) or up to \$3,000 where the seller has received an eBay feedback rating from 50 unique transactions and has also achieved at least a 98 per cent positive rating for that feedback. PayPal is able to offer this additional protection for eBay customers because, as a related entity, it has additional information in regard to the transaction history of sellers through both feedback ratings and other metrics such as risk and disputes data.

- ***Any form of payment could be covered by this policy if eBay were prepared to accept legitimate evidence of transactions having been carried out i.e. direct deposit receipts, credit card/bank statements etc. In fact, eBay's Buyer Protection Policy was modified several years ago to exclude the once-covered Bank Deposit (paid via secure gateways) in favour of the eBay-owned and fee-generating PayPal (also paid via a secure gateway).
If the ACCC allows eBay to go ahead, online vendors in Australia will be forced to use eBay's "in-house banker" PayPal to facilitate transactions from June 17th, 2008. This will be at the expense of alternate merchant services such as direct deposit, money orders, cheques and other online systems.
It is therefore reasonable to surmise that eBay has applied for the PayPal exemption because eBay owns PayPal and thus desires exclusivity of payment gateway in order to increase its profits. It follows that by severely limiting competition, eBay will reduce consumer choice and drive buyers away.***

(9) Under PayPal's Buyer Complaint Policy (which applies to transactions made using websites other than eBay), PayPal will attempt to recover the funds, but does not guarantee a reversal of the transaction.

- ***If a buyer has paid by Credit Card, he has the option of seeking redress from the Credit Card Provider whether he has paid via PayPal or not, which undermines one of the pillars of eBay's exemption application – PayPal is not the only safety mechanism available for online payment and in the interest of fair trade, should not be expounded as such.***

5.6 (3) The fact that sellers do not have to disclose account details to buyers means that sellers are not subject to the risk of identity theft through misappropriation of those details.

[INFORMATION EXCLUDED FROM PUBLIC REGISTER]

- ***eBay supplies no evidence of the prevalence of "identity theft through misappropriation of those details" and, anecdotally, the evidence of such theft from sellers is extremely low as opposed to the complaints of unfair PayPal charge-backs and the arbitrary freezing of PayPal account funds. PayPal's self-regulatory mechanisms and dispute-handling processes are notoriously arbitrary and erratic at best.***

5.9 eBay submits that its data indicates that the use of PayPal for the making of payments on eBay significantly reduces the probability of either buyer or seller disputes arising. Individuals who would otherwise choose to transact on eBay using a less secure payment method than PayPal (such as direct deposit by means of internet banking) directly benefit from the mandated use of PayPal through a reduction in the risk of being involved in a dispute, regardless of the additional benefit of buyer protection. In eBay's experience, the avoidance of such risks is a choice buyers or sellers may not otherwise make through poor understanding of the risks involved.

- ***As the purported 'data' is not available for public viewing, it's relevance can only be surmised.***
- ***Payment methods are only as safe as the protection policies or insurances attached to them. When Direct Deposit was covered under eBay Buyer Protection it was 'safe' too. When you consider many of PayPal purchases will still be funded from a bank account, but via PayPal's gateway, it somewhat negates the whole argument it is UNSafe.***
If a buyer pays with bank deposit currently, he makes the payment through his own bank's website, utilising their very secure gateway to process the funds. If he pays with PayPal choosing to fund with a bank deposit, then he is utilising PayPal's secure gateway to make that payment.
There is no difference in the level of safety. There is however a difference in who gets paid for facilitating it.

5.10 The benefit to PayPal users would extend beyond their experience solely on eBay if the mandated use of PayPal on eBay also encouraged them to use PayPal or another

secure online payment facility for other online payments. Individuals that might otherwise not be aware of the risks of using less secure payment methods, or may

perceive the costs of using PayPal to be high relative to the benefits obtained, may be encouraged to use secure payment facilities again if their experience is a positive one. This would contribute to a reduction in the number of online transactions that are exposed to fraud.

- ***There is a viable alternative for those buyers who wish to use 'secure payment facilities' on eBay and other online site . It is called PAYMATE, but is not owned by eBay.***

5.14 The Conduct will also be of particular benefit to those sellers that trade in secondhand goods, who may otherwise have few alternatives to sell unwanted items if potential buyers continued to leave eBay as a result of previous bad buying experiences. As noted in the Allen Report (the Executive Summary of which forms Annexure "E" to this Notification), by reducing search costs and increasing the efficiency of trade in second-hand goods, eBay increases consumer welfare by promoting the transfer of goods to those that place the highest value on them.

- ***"Sellers are threatening to boycott eBay because of fee rises and rule changes which they say favour big business and will dismantle the site's give-and-take "community" element. "The changes are being introduced by John Donahoe, who took over as chief executive last month. He has said he wants to upgrade eBay's image from a flea market to something more like a shopping centre. The suspicion that eBay is favouring big business was sharpened in February when the company made changes to its charging structure. The cost of listing items for sale was cut by up to a third, but the fee payable on completion of the sale - based on a percentage of final price - rose from 5.25% to 7.25%. Those who sell large quantities of items through the site can qualify for discounts of up to 40%."***
(www.timesonline.co.uk/tol/news/uk/article3779829.ec)

5.19 In addition to the consumer protection benefits of PayPal discussed above, PayPal's buyer protection mechanisms are also likely to provide more effective consumer protection because research has shown that many consumers are not aware of their credit card chargeback rights. While the terms and conditions of most credit cards specify that consumers will not be liable for unauthorised transactions as long as the transactions are reported immediately, it is debatable whether consumers are aware of their chargeback rights or have any understanding of the operation of chargeback arrangements. It should be noted however that eBay buyers who choose to make a PayPal payment that is funded by their credit card will still be entitled to access the chargeback protections afforded by the credit card provider, provided that they do not engage in 'double recovery' of any loss they might suffer.

- ***The customer service from PayPal is abysmal. Please see the following link for PayPal's "Contact Us" information:***
<https://www.paypal.com/au/cgi-bin/searchscr?cmd=sitewide-search>

It would seem to be more circumspect of eBay to perhaps ADVISE consumers of their "credit card chargeback rights", rather than attempting to garner further financial gain by implying that PayPal is

the ONLY safety net available to them when making online purchases.

ANNEXURE “C”

3.1 Online Purchase Consideration

Barriers to Consideration

Eighty percent of online Australians would *not* consider an online purchase across all tested product categories, with the majority (81%) listing the lack of online tangibility as the reason for their non-consideration....

Another barrier to online purchases is the need for consumers to speak and interact with a salesperson face-to-face....**Trust in the available online payment methods is a perceived online shopping obstacle for very few consumers, with only 3 percent listing this aspect of online purchasing as a perceived barrier.**

- ***It would appear that eBay's data must differ greatly from these data in the Nielsen Survey in Australian Online Retail Monitor, Quarterly Edition, Quarter 4 2007***

3.4 Online Shopping Problems

Results are relatively consistent from Q3, with delivery issues at the top of the list (lengthy delivery 39%, expensive delivery 31%) and **more serious issues such as credit card fraud (4%) and identify theft (3%) suffered by the minority of Australian online consumers.**

Overall, experiencing issues with online shopping does not appear to deter online Australians from continued purchasing. For example, 75% of credit card fraud victims shopped online within the past 30 'days (compared to 66% of the overall AU online population) - additionally, those with past troubles online appear to spend similar amounts online compared to their problem-free counterparts.

These data contradict eBay's own concerns regarding the prevalence of ID theft and credit card fraud online, and their affect on buyer experience.

3.5 Online Payment Behaviour & Preferences

As shown in the chart below, Paypal, Bpay and direct deposit are generally used as online payment mechanisms; paying at the shop, cheque or money order are skewed toward offline purchases. Of note, the chart below demonstrates that past usage of PayPal jumped significantly from Q3 results - increasing from 56 percent ever used.

In addition to past usage behaviour, respondents using PayPal and Bpay were also asked:

"If PayPal and Bpay was not available, would you still purchase items online?"

The majority of both PayPal and Bpay users would still purchase online if these payment options were not available.

'No sign up process' is an essential factor to around half of online consumers, with this fact hinting that **payment processes which require a sign-up process (such as PayPal and Bpay) are at a distinct disadvantage for at least half of today's online shoppers.**

Older consumers are driven by security perceptions, with **100% of all consumers aged 55 and above rating security as a 'very important' factor when deciding which online payment method to use. Additionally, these older (and potentially less computer-savvy) consumers are more likely to value the payment method not having a sign-up process (51%) and an overall familiarity with the payment mechanism.**

- ***These data contradict eBay's view that the mandatory use of PayPal on its site will improve sellers' experience through increased buyer satisfaction.***

ANNEXURE "E"

The economic impact of eBay in Australia

February 200

Section 2

Price impacts

Not only does eBay facilitate price competition through the large number of sellers that trade and compete in its marketplace, but the minimal search costs involved allow buyers to easily identify low-cost sellers, while also having access to accurate estimates of reasonable prices (as recent auction results are available for similar products). While buyers able to demand lower prices, eBay's low-cost distribution platform enables sellers to largely meet these price expectations. This effect on online prices may also have an 'induced' effect on offline prices, as traditional retailers find it increasingly necessary to compete with online retailers on the basis of price.

- ***eBay removed extended auction results from public access some time ago and now only the past 14 days' results are available to members unless a fee is paid. In allowing eBay an exemption for the sole use of PayPal as a payment gateway, sellers will find it increasingly difficult to meet 'price expectations' due to increased associated costs. The likelihood of higher fees in the future will be increased if PayPal is permitted to monopolise the market.***

Benefits for sellers

The ascending auction format offers two principal benefits for sellers. Firstly, due to the price discovery mechanism, the seller is not forced to choose a price for an item with uncertain demand (Lucking-Reiley 1999). The majority of goods on eBay have

indeterminate values, and thus have uncertain demand (Cohen 2002). eBay auctions, relative to traditional advertising, allow a seller to avoid 'risking a too-low guess which gives a 'steal' to the first person to answer the ad, or a too-high guess which causes the good to go unsold' (Lucking-Reiley 1999, p. 3). There is no need for sellers to research the worth of a particular item - they can simply list the item on eBay, and let the market set the price (Cohen 2002).

Secondly, by letting the market determine the price, the seller is able to maximize revenue. As the bidding process is open, bidders have access to information during the auction that allows them to revise their estimates of value: there is less uncertainty about the 'winner's curse' (the bidder knows that others are willing to pay nearly as much), and sellers benefit by selling only to those with the highest willingness to pay.

- ***These figures are almost 10 years old and as such have little relevance in today's marketplace. The recent introduction of Hidden Bidder IDs on the eBay platform has severely impacted on the price discovery mechanism, demand and value of items on eBay by inhibiting buyer activity and eroding buyer confidence far more than any threat of online fraud has done. Whilst it was true in the past, if sellers NOW list an item on eBay, at the 0.99c opening price promoted by eBay as the best way to attract buyers to an item, (<http://cgi5.ebay.com.au/ws/eBayISAPI.dll?SellHub3Visitor&trksid=m37>) and 'let the market set the price' they are in real danger of losing their businesses.***