

**Roy, Lauren**

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**Subject:** OBJECTION TO EXCLUSIVE DEALING APPLICATION BY EBAY  
INTERNATIOANL AG - ACCC REFERENCE - N93365 [SEC=UNCLASSIFIED]  
**Categories:** SEC=UNCLASSIFIED  
**ACCC Classification:** SEC=UNCLASSIFIED

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**EXCLUDED FROM**

**PUBLIC REGISTER**

**From:** Cliff Chambers [mailto:  
**Sent:** Wednesday, 30 April 2008 9:30 AM  
**To:** Adjudication  
**Cc:**  
**Subject:** OBJECTION TO EXCLUSIVE DEALING APPLICATION BY EBAY INTERNATIOANL AG - ACCC  
REFERENCE - N93365

**NAME OF PERSON MAKING SUBMISSION:** Clifford CHAMBERS

**ADDRESS:** excluded

**CONTACT NUMBER:** excluded **EXCLUDED FROM  
PUBLIC REGISTER**

Dear Commissioners,

My thanks to the Commission for the opportunity to record an objection to this application.

I have been a user of EBay Australia as both buyer and seller since July 2000. I have used various payment methods including Paypal. In the course of more than 3000 EBay transactions, I have found Paypal to offer no more certainty of receiving goods as a buyer or receiving payment as a seller than any other.

I have, however, experienced illegal behaviour in only one instance and that was by Paypal itself. When I authorised a payment using my credit card, Paypal instead processed the debit to my bank account, describing the transaction as a 'Periodic Payment'. I had not, and have never, given Paypal an authority to deduct Periodic Payments from my account. In so doing it was able to overdraw my account and cause my bank to charge me a reference fee. However, because the debit was described as it was, the payment was processed. Only after representations by my bank did Paypal reverse the transaction and refund the reference fee.

Complaints to the Banking Ombudsman about this action proved fruitless as Paypal is not subject to Australian banking regulations. I must therefore question why the ACCC would consider permitting this organisation to hold and control Paypal users' funds for up to 21 days and charge substantial fees for doing so without forcing it to submit to scrutiny by an Australian regulatory body.

In terms of the anti-competitive nature of this proposal, there are several issues which merit ACCC scrutiny;

Paypal is a dominant entity in the on-line auction market. There are other organisations which provide similar functions but none in this country that provide similar levels of access to a worldwide market. EBay can therefore be considered a monopoly in this growing area of domestic and international commerce.

I know of no other major organisation operating in Australia that insists that the

**only acceptable means of payment its services is a cash transfer system owned and operated by the service provider.**

**Should EBay succeed in its application of exclusive dealing via its Paypal money transfer arm, a precedent will be set for other organisations to implement similar arrangements. An example would be a large supermarket chain insisting that all purchases from its stores are made using a debit card issued by the store and which carries a fee each time the card is used.**

**Other organisations such as Paymate provide services similar to Paypal, yet their use is for EBay transactions is FORBIDDEN. Western Union is a large and highly respected provider of money transfer services worldwide and would provide levels of security at least equal to those available via Paypal, Yet all EBay listings carry warnings that payments using Western Union and similar services are specifically FORBIDDEN. This in itself demonstrates EBay's anti-competitive stance towards services which it does not own and which do not contribute to its profitability.**

**Older EBay users (and I know several) are not comfortable with the need to lodge their credit card and/or bank account details with a large, offshore organisation such as Paypal which is not subject to fiduciary scrutiny within Australia. When paying for EBay items, many such people prefer to transfer funds directly into the seller's account or send an Australia Post money order. The compulsion to use Paypal removes these options. It also impacts on the opportunities for banks and Australia Post to compete in the market for payments to EBay sellers.**

**EBay claims in its submission that the community benefits of Paypal compulsion outweigh the anti-competitive effects of such a proposal.**

**In addition to my own experience of illegal Paypal behaviour, I have found no instance where Paypal offers a discernable improvement in safety or certainty over other payment method.**

**The three times I have reported undelivered items from overseas to Paypal, the reporting process was extremely difficult and obviously designed to minimise the volume of claims received. In two of the instances the Paypal response was that the item values were below the claimable limit (at the time US\$50) and therefore not eligible for Buyer Protection. The third instance involved a \$250 purchase from an EBay Power Seller in the USA but again Paypal didn't help. After several weeks, Paypal's response was that the seller 'did not wish to participate in mediation' and they could take no further action.**

**During the past fortnight I have emailed Paypal enquiring if the \$50 minimum on Buyer Protection payments still applies but have not received a definitive response, only a computer-generated promotion for Paypal's 'services'.**

**I am not aware of EBay offering any substantiation of its assertion that Paypal users experience four times fewer problems than those who accept or pay by other methods.**

**Before further consideration of its Exclusive Dealing submission is undertaken, EBay should be required to undergo independent audit and scrutiny of the data it has accessed in making this assertion. If necessary, an extended independent audit of Paypal dispute handling and user satisfaction with that process should be implemented.**

**As a seller on EBay, losing access to my funds for up to 21 days (or longer if the buyer raises a dispute) will have a financial impact that more than outweighs any allegedly heightened safety offered by Paypal.**

**In holding and investing these funds for extended periods, Paypal is 'double dipping'. It charges a fee based on the value of the transaction then generates income from the funds it is holding without offering any share of the income generated to the owner of those funds. Other operators of trust funds, such as solicitors or real estate agents, are required to pay interest on funds held in trust for significant periods, so why is Paypal not subject to such a requirement?**

**My final comments relate to EBay International AG's actions in providing financial advice without being licensed in Australia for such activity and the inflationary impact of its proposal.**

**Paypal is not a bank, not subject to independent scrutiny and licensed with APRA only as a funds transfer service. EBay - which wholly owns Paypal - is advising (insisting) that all its users sign up to this service without providing any independent review of the financial impact this action might have on the user or accepting any liability or redress for loss that a user may suffer through use of Paypal.**

**Why is it necessary for other organisations which provide such advice to be licensed and subject to significant scrutiny and penalties for Code of Practice violations when EBay is not?**

**At a time when inflation is having serious effects on the Australian community, the requirement for all EBay users to use Paypal will add substantially to seller costs and these costs will in many instances be passed on to buyers. As people in isolated areas have come to use EBay as a source of items which are not available locally, the cost burden will fall most frequently and unfairly on rural users of this service.**

**Again, my thanks to the Commission for the opportunity to participate in this forum.**

**Yours faithfully  
Cliff Chambers**