

**Macrae, Tess**

---

**Subject:** FW: eBay International A.G. notification N93365 Submission re Draft Report by ACCC [SEC=UNCLASSIFIED]  
**Categories:** SEC=UNCLASSIFIED  
**ACCC Classification:** SEC=UNCLASSIFIED

**EXCLUDED FROM**

---

**From:** Eddie [mailto:**PUBLIC REGISTER**]  
**Sent:** Thursday, 19 June 2008 2:13 PM  
**To:** Adjudication  
**Cc:** Roy, Lauren  
**Subject:** eBay International A.G. notification N93365 Submission re Draft Report by ACCC

(Please withhold surname and address from public view)

**EXCLUDED FROM**  
**PUBLIC REGISTER**  
Eddie **EXCLUDED FROM**  
<address excluded> **PUBLIC REGISTER**

The remainder can be treated as a public submission

Eddie

Subject - eBay International A.G. notification N93365

Dear Sir/Madam,

I have read the application submitted to the ACCC by eBay for immunity from prosecution under the Trade Practices Act made by eBay International on or about 13th April 2008.

I previously sent my own submission in respect of this application and I have also read many of the other submissions made that are on the public register.

I have further read in detail the proposal by the ACCC issued on Thursday 12th June 2008 stating that it was proposed to remove the immunity granted under the Act and the proposed conduct that eBay was seeking immunity from would not be permitted to be implemented.

It is noted that eBay, notwithstanding with some obvious reluctance, agreed on Friday 13th June 2008 to postpone the second part of the

changes that are referred to in the application as the “conduct”, or in simple English the forcing of consumers to only be permitted to use the eBay owned Paypal payment system on the eBay site until July 15th 2008.

This seems to me to be a little presumptuous of eBay in simply assuming that they will be able to ignore the Draft Report and proposed actions of the ACCC in removing the immunity that eBay has at present.

It would be my understanding that once the ACCC removes immunity, then eBay are liable to prosecution for breaches of the Trade Practices Act and perhaps even contempt. (for which intent does not need to be proven)

It is also noted that eBay are surreptitiously trying to enforce a Paypal only regime even at this point in time, again notwithstanding the fact that they would be aware of their responsibilities to not pursue any of the “conduct” referred to in the application until such time as a final adjudication is given by the ACCC.

However eBay have sent out mails to many if not all members with an “Important Announcement” that states inter alia the following.

*“As you may be aware, a number of changes were scheduled to come into effect on eBay.com.au on 17 June 2008.*

*Most of these changes have been delayed by almost one month and are now scheduled to commence on 15 July 2008.*

*Current policies regarding accepted payment methods still apply. This means PayPal is required on all listings on eBay.com.au. Other payment methods (i.e. bank deposit, cheque/money order) may also be offered until 15 July 2008.*

*As previously communicated any listings that do not comply with eBay's Accepted Payments Policy will be removed. We strongly recommend that in order to ensure your listings comply with the Accepted Payments Policy you remove any details of payment methods other than PayPal or pay on pick up within the item description.”*

This clearly gives an impression that members should refrain from using anything but Paypal as from the date of the mail (June 17th

2008) with the implied threat that listings will be removed. There are many members who are very confused about this issue and on reading the comments in eBay's mail it could very easily be taken to mean that all other Payment Methods must be removed from listings forthwith.

This to me seems to show that eBay are simply showing contempt for the ACCC and attempting to use the confusion they have created to get as many members as possible signed up with Paypal, and therefore be in a far stronger position in respect of member numbers at Paypal than they would otherwise have been.

This also leads to a further issue in respect of the proposed "Conduct" that eBay had applied to the ACCC to grant immunity.

The changes that eBay were requesting immunity for were to be rolled out in two stages.

Stage One was to enforce all members to offer Paypal, even if they wished to offer other methods of payment. That stage was implemented in May prior to the Draft report issued by the ACCC on Thursday 12th June 2008.

Stage Two was to have been effective on June 17th 2008, but have now been deferred until July 15th 2008.

If the ACCC does not alter (or only alters in minor ways) the Draft Report issued on June 12th 2008, then the "Conduct" that immunity was requested for should no longer be permitted. In that case, should not the changes of enforcing Paypal on everyone from May 2008 also be revoked as they were part of the application which the ACCC has proposed that they will withdraw the immunity granted by submission of the application by eBay.

Furthermore, all new members (Sellers) since January 2007 have been forced to offer Paypal on their listings. As the ACCC has intimated that the conduct is not of sufficient public benefit, and that consumers themselves are in the best position to judge what they consider the best option for them may be then the enforcement of Paypal at all seems to be a breach of the Trade Practices Act and eBay should be informed that they should remove that obligation from ALL members, regardless of when the member joined eBay

Australia.

I submit that in my opinion, eBay should be informed that they are required to remove all compulsory requirements in respect of Paypal and that members be permitted to make their own choices in line with the findings outlined in the ACCC Draft Report dated June 12th 2008.

Finally I would like to place on record my complete support for all the findings and proposals made by the ACCC and outlined in full in your Draft of June 12th 2008 regarding the application numbered N93365 submitted by eBay International.

Thank you for reading my submission.

Eddie