

Roy, Lauren

Subject: Interested Party (eBay user) for Exclusive Dealing Notification N93365
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**EXCLUDED FROM
PUBLIC REGISTER**

From: Melanie Ryan [mailto:
Sent: Wednesday, 18 June 2008 7:55 AM
To: Adjudication
Subject: Interested Party (eBay user) for Exclusive Dealing Notification N93365

Dear Adjudicator,

As a regular user of eBay, I feel that I am an interested party in eBay's Notification for Exclusive Dealing (N93665) dated 11 April 2008 (referred to herein as "eBay's Notification").

While I am a PayPal user, I only use PayPal to pay for items which are located in countries other than Australia. Within Australia I prefer to pay directly through my bank or by making a cash deposit over the counter at a branch. The reason I prefer this method is that I incur less fees from my own financial institution than I do when I pay via PayPal. I also feel I have more control over my money that way.

Outlined below are my responses to eBay's Notification:

Annexure A Point 1.8 However, eBay is aware that in some cases, a buyer and seller will agree not to use the eBay Checkout facility and instead complete their transaction privately using an alternative payment method. If the transaction is completed other than using eBay Checkout, then eBay will not have any record of the transaction being completed.

This is not true. Currently eBay has a system in place whereby the buyer selects an option in their "My eBay Summary" (for the purposes of this complaint I will refer to it as the "Summary") which states "Payment Sent", the seller then has the opportunity to mark that the payment has been received. The seller then will be able mark that same section in their Summary that the item has been sent. The buyer is then able to mark the item as received in their Summary and then both parties have the option of leaving feedback. Therefore, eBay *does* have the ability to keep a record of the transaction being completed. <!--[if !supportFootnotes]-->[1]<!--[endif]-->

Annexure A Point 1.11 eBay charges sellers fees for use of its sales platform. Buyers are not charged fees. For details of the fees see <http://Noaaes.ebay.com.au/hei~/sellifees~html>.

With the implementation of the new system whereby buyers are obligated to pay via PayPal, sellers will be charged twice as many fees, thereby doubling eBay's profit. This would be counter-productive for some sellers who start their auctions at prices as low as \$0.01. The minimum insertion fee for an auction listing with eBay is \$0.30, couple that with the fees the seller bears when receiving the payment through PayPal, even if the auction price reaches \$1.00 the seller would not make any profit from the listing itself. This would in turn cause the seller to increase the cost of postage (justifying it by charging for handling of the item) which as a regular purchaser on eBay is a complete turn off.

Annexure A Point 1.22 states *Fees apply in certain circumstances to both the sending and receipt of funds, although most commonly to the receipt of funds by sellers.*

This is contradictory to their statement in Point 1.11 “buyers are not charged fees”.

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

It used to.

Annexure A Point 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.

While this is true, nearly every auction I have searched where the seller does not have an online store but is selling single items or only a few items, specifically states (in general terms) “PayPal is offered, but I would prefer you use other payment methods”. One listing said “I have had a bad experience with PayPal and would prefer bank deposit” another said “PayPal fees are killer”.

Annexure A Point 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 mandating that PayPal and cash on pickup be the only payment methods, eBay is limiting a buyers’ ability to choose their preferred method of payment. There are other companies online which offer the same services as PayPal, examples are www.bidpay.com and www.paymate.com – Two sites which I might note, were once allowed (and encouraged) on eBay.

Annexure A Point 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.

eBay alleges that their mandating use of PayPal would “benefit” users “beyond their experience solely on eBay” and “encourage them to use PayPal or another secure online payment facility”, the problem is, by limiting the secure payment methods allowed to eBay users, eBay and PayPal will be limiting the competition by limiting their exposure to potential users.

Annexure A Point 6.1 The Conduct would not be likely to have the effect of substantially lessening competition for the purposes of section 47, and in any event, any detriment to the public which may be caused by a lessening of competition as a result of the implementation of the Conduct would be outweighed by the significant public benefits that would be likely to result from the Conduct.

This statement is contradictory to point 5.10 in that eBay alleges that by offering PayPal on their site, it has encouraged users to use other secure online payment facilities, but by only offering

PayPal as a payment option, they are lessening the competition by not allowing them to compete for new users.

Not to mention the fact that some other secure online payment services charge lower fees than PayPal. eBay charges sellers to list items and then PayPal charges the seller to receive the payment. In some cases the buyer is also charged. By mandating that PayPal be the only acceptable online payment option, they are not only limiting the competition, they will be doubling their profits.

<!--[endif]-->

<!--[if !supportFootnotes]-->[1]<!--[endif]--> If eBay made this system compulsory, then users would not be restricted in making payments via PayPal as eBay would have a record of the complete transaction.

I would appreciate you taking my comments into consideration when making your final decision.

Yours faithfully,

Melanie Ryan
(eBay user mcs013 - registered user since July 2001)