

To whom it may concern ...

I have read the Ebay notification and their submissions to the ACCC about exclusive dealing. I have also read many submissions against the proposed conduct and the ACCC's draft notice of revocation.

I agree with the ACCC's draft notice as I believe Ebay's proposed conduct would decrease competition and in effect, constitute a monopoly, thereby blocking many other standing and developing institutions from providing alternative services in addition to increasing costs for consumers and sellers while drastically limiting consumer choice.

I request that ACCC's draft revoke Immunity for both Ebay's Paypal on all listings and Paypal only Policy (Notified Conduct Parts 1. and 2.)

Notified Conduct Stage 1. Paypal must be offered in all listings. As an auction platform, Ebay can promote and highlight Paypal to the detriment of other forms of payment. Currently there is a large logo for Paypal payment in all listings and smaller logos for alternatives. This gives Paypal greater exposure and increases the chances that people will assume it to be the only form of payment.

Notified Conduct Stage 2. Mandatory Paypal is detrimental to the entire 'community' (details below)

Ebay's User Agreement states

3.1 Online Auctions. Although we are commonly referred to as an online auction web site, it is important to realise that we are not a traditional "auctioneer". Instead, our Site merely acts as an online venue to allow members to communicate and offer, sell, and buy just about anything, at anytime, from anywhere, in a variety of formats, including a fixed price format and an auction-style format commonly referred to as an "online auction". YOU ACKNOWLEDGE AND AGREE THAT EBAY IS NOT INVOLVED IN THE ACTUAL TRANSACTION BETWEEN BUYERS AND SELLERS. AS A RESULT, EBAY HAS NO CONTROL OVER THE QUALITY, SAFETY OR LEGALITY OF ITEMS OR CONTENT POSTED BY MEMBERS ON OUR SITE, THE TRUTH OR ACCURACY OF LISTINGS, THE ABILITY OF SELLERS TO SELL ITEMS OR THE ABILITY OF BUYERS TO BUY ITEMS. WE CANNOT ENSURE AND DO NOT GUARANTEE THAT A MEMBER OR BROWSER OF OUR SITE WILL ACTUALLY COMPLETE A TRANSACTION OR ACT LAWFULLY IN USING OUR SITE.

Thus Ebay, by proposing that Paypal should be offered on all listings (Notified Conduct Part 1) and that after 15 July, Paypal will be the only means of paying (Notified Conduct Part 2), contradicts Ebay's own statement "...THAT EBAY IS NOT INVOLVED IN THE ACTUAL TRANSACTION BETWEEN BUYERS AND SELLERS".

By determining which method of payment is used and additionally, by taking a commission from all payments, Ebay contradicts this statement.

It is important to clearly state that both Immunity for Stages of Notified Conduct should be revoked.

Further reasons to revoke Ebay's immunity

- Ebay's claim that Paypal is safer is unfounded. While Paypal does provide *some* consumer protection with the Paypal "Buyer Protection" scheme, this has been undermined by the recent changes to the Feedback system, in which the level of protection to the consumer is, in part, determined by the sellers' standing within Ebay. By changing the Feedback system, Ebay have allowed buyers to leave negative or neutral Feedback to sellers and have left the sellers unable to respond. This has effectively reduced the standing (or Feedback rating) of many sellers thereby reducing the level of liability within the two-tier protection scheme offered by Paypal.
- Paypal will remain unsafe for Australian users until it becomes a signatory to the Electronic Funds Transfer Code of Conduct (EFT Code). Signing this agreement would not negate other arguments regarding the imposition of the Notified Conduct Stages 1 & 2.
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- Consumer Protection. Alternative payment methods such as bank deposit, payment via Money Order in registered post and payment by credit card all offer protection to consumers. Ebay has produced no empirical evidence to support the claim that Paypal is safer than these methods.
- Increased costs for consumers. The use of Paypal only will increase costs for sellers when receiving payment and will also have a 'knock on effect' increasing costs for buyers.
- Consumer Choice The use of Paypal only severely limits consumer choice.
- Effective Monopoly. The use of Paypal only will block other emergent payment options such as Paymate and Google systems from developing and/or providing competition to Paypal.
- Consumer Service .The Notified Conduct Parts 1 & 2 will effectively remove any incentive for Paypal to innovate, remain cost effective or to improve service to consumers.

CONCLUSION

Ebay's Notified Conduct Stages 1 & 2 will have little beneficial impact for consumers. While acknowledging that there will be some consumer protection, current alternative payment methods also provide protection to consumers. In addition, that protection will be at the cost of customer choice and increased charges. A healthy marketplace is one where competition, innovation and consumer choice are present.

The Notified Conduct Parts 1 & 2 will not promote a healthy marketplace.

I hereby request that ACCC's draft revoke Immunity for Ebay's Mandatory Paypal in all listings (Notified Conduct Part 1) and Paypal only Policy (Notified Conduct Part 2.)

Yours

Storm Schumacher