

Macrae, Tess

Subject: FW: eBay International AG - Notification - N93365 [SEC=UNCLASSIFIED]

Categories: SEC=UNCLASSIFIED
ACCC Classification: SEC=UNCLASSIFIED

**EXCLUDED FROM
PUBLIC REGISTER**

-----Original Message-----

From: David Bromage [mailto:
Sent: Monday, 30 June 2008 2:25 PM
To: Adjudication
Subject: eBay International AG - Notification - N93365

To whom it may concern,

I wish to support the draft ACCC decision to revoke immunity and urge the ACCC to make this the final decision.

I would like to raise several issues for further investigation by the ACCC.

* Since January 2007, eBay has required all new members to be registered with and offer PayPal. This would appear to be third line forcing. To the best of my knowledge, eBay did not file a Notification of exclusive dealing prior to commencing this action.

* eBay has previously prohibited the use of Moneygram and Western Union money transfers as a form of payment. To the best of my knowledge, eBay did not file a Notification of exclusive dealing before lessening consumer choice in this way.

* eBay has previously prohibited the use of cash by mail as a form of payment, despite the fact that Australia Post permits banknotes and coins up to a maximum face value of A\$200 to be sent by Registered Post within Australia. To the best of my knowledge, eBay did not file a Notification of exclusive dealing before lessening consumer choice in this way.

* According to eBay's "Discouraging Payments policy", a seller may not "selectively offer those payment methods to buyers" or "discourage buyers from using those payment methods". eBay has used this policy to cancel any listings which nominate a preferred payment method (e.g. "direct deposit preferred"), and in the case of cancelled listings the listing fee is not refunded. However use of eBay's own "PayPal preferred" icon is not considered to be a breach of the "Discouraging Payments policy" and is in fact encouraged by eBay. It is possible that applying undue pressure and unfair tactics by selectively applying this policy to favour PayPal may be unconscionable conduct.

* In all recent changes to policy, eBay has made unilateral variations to terms and has not demonstrated any willingness to negotiate. It is possible that the sum of recent changes (beyond the proposed conduct in the Notification) may be unconscionable conduct.

Please place this submission on the public register.

Yours sincerely
David Bromage