

June 20, 2008

RE: SUBMISSION IN RESPONSE ACCC DRAFT RESPONSE TO REVOKE
EBAY IMMUNITY – NOTIFICATION N93365

I agree with the ACCC's draft response, which is fair and accurate. eBay is a website auction site and as such, cannot and should not dictate Seller payment methods to the public. Additionally, the ACCC should not allow eBay to force Sellers to offer PayPal, based on the following:

- 1) PayPal is not a safe method of payment. It is merely a conduit for other payment methods, such as Visa, Mastercard and bank transfers. Its "Buyer Protection Policy" is no more than a strongarm tactic that withdraws funds directly from Sellers' accounts without any reasonable dispute process or verification of validity of complaint. Unlike major credit cards, Sellers are not allowed to submit photographic or other evidence in the PayPal dispute process.
- 2) PayPal is only a payment Broker and as such, delays the payment of funds to the recipients in order to receive interest on said funds.
- 3) PayPal prevents direct reasonable access to Visa, Mastercard or bank employees to the Seller during the Dispute Process. At times when a Buyer may forget a purchase made, which has usually been the case for a credit card dispute when I had a retail store, this is normally easy to sort by direct contact with the payment institute. Not so with PayPal. PayPal not only does not allow direct communication or furnish the information of the payment institute concerned, it discourages communication between Buyer and Seller to resolve disputes.
- 4) PayPal is not set up properly for the Australian mail order market. PayPal refuses to accept the Australia Post Express Post delivery verification by telephone process, it is closed on holidays according to the U.S. holiday schedule without regard to Australia's time difference or Australia's holidays, its employees are not available by email for several days or longer and not by telephone during most of our working hours.
- 5) eBAY and PAYPAL have submitted <excluded> information regarding the use of PayPal by Australian Buyers. Prior to eBay's campaign in the last three months to rid itself of all other payment methods, my PayPal pmts were less than 50% of all payments received, despite offering PayPal on all my listing. It would be far less than that if I had ever been allowed to offer Paymate or similar instead of PayPal. Since that time, eBay has eliminated providing bank account information to Buyers (we were told this was a "glitch", however, this "glitch" has not been handled in over two months and has still not been handled), has threatened Sellers that do not offer PayPal that their accounts would be suspended or closed, has spread false marketing propaganda to Australian Buyers that it is "unsafe" to buy from Australian Sellers if they do not use PayPal, and done everything in its power to discourage payment by any other method.

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Conversely, it has threatened Buyers who make any statement on listings discouraging the use of PayPal. Additionally, eBay has offered bribes to many Sellers to offer "PayPal Only" on their listings. Statistically, this makes eBay and PayPal's information results regarding the use of PayPal an "invalid study" as the results have been tampered.

Additionally, news articles report that eBay has swamped its U.S. site with 10s of thousands of listings for its "Buy.com" partner, many of which did not even have actual items for sale, but PayPal was the only payment option offered. The U.S. statistics are mixed with the Australian statistics and this also makes eBay and PayPal claims of its "preferred use" invalid.

- 6) eBay's attempt to use PayPal only is an attempted "LATERAL MONOPOLY". This is when a business uses its market power in one area to attempt to gain a monopoly in a similar area. PayPal owns eBay. The Landmark U.S. Court Case against Microsoft requiring all users of their software to use its own Website Engine and preventing the use of other engines in the design of its software is a nearly identical example. Microsoft was severely fined for this and lost its court case. Similarly, eBay does not allow in its system the use of other payment systems without a great deal of difficulty.
- 7) eBay has stated that it will "Use What It Learns" in this "test" in Australia All countries that have eBay will be affected by the final decision of the ACCC.
- 8) Several of my customers have been badly abused by PayPal with "Account Holds" and false information given to me by PayPal stating that their payments were unauthorised or similar. One of these customers had to go to the Banking Ombudsman as she was unable to get any assistance from either PayPal or eBay to resolve the problem. (details available upon request.) Unfortunately, PayPal is unable to handle its problems on its own and requires frequent intervention from higher authorities. If PayPal became the only method of payment allowed on eBay, there would be very little, if any, desire to improve their system and even more of the Ombudsman's and others valuable time would be taken to clear up these abuses. This is a hidden expense to Australia of providing the customer service that is sadly lacking by PayPal.
- 9) As previously stated by many others, this action by eBay and PayPal is nothing more than a money grab. PayPal charges surcharge fees to Buyers who pay with their credit cards through PayPal, it charges fees to Sellers when a Buyer uses PayPal, and it charges a percent on exchange rates to International customers during money conversions. PayPal does not even insure the most risky areas and items of sale on eBay or eBay Sellers it considers risky. PayPal only insures against good, trustworthy, proven Sellers, such as myself, and its actions are abusive to both Buyers and Sellers as stated above. PayPal would like to increase its bottom line and stands to make millions if it is the only payment method allowed on eBay

or if direct bank transfer is eliminated as a payment method, which is THE preferred payment method in Australia.

CONCLUSION: The ACCC draft decision should stand, with the addition of requiring that eBAY must provide in its software equal opportunity and representation of other payment systems Sellers choose, INCLUDING Direct Bank Transfer, such as providing banking details if a Buyer chooses to pay by bank transfer or a button that can be clicked if another payment option, such as Paymate, is offered. eBAY should not be allowed to intimidate or threaten Sellers offering other payment systems, or in any other way discourage the use of other valid payment systems on eBAY. Sellers should not be required to offer PayPal, but allowed to offer it as an OPTIONAL payment method, and Sellers should be allowed NOT to offer PayPal if they do not wish to do so, as many Buyers and Sellers both are unhappy with PayPal and have been misled by false marketing propaganda. Buyers should be allowed to choose the payment method that best suits them and Sellers should be allowed to offer direct bank transfer, which is preferred by most Australian consumers, Paymate, Visa/Mastercard or other similar “safe” methods of payment. Sellers should be allowed in their listings to state their payment preference and why. I personally do not believe PayPal should be operating in Australia at all as they are not set up correctly to service the Australian market or consumer nor does this company show any interest in improving its service to Australia or change its policies to be more appropriate to our culture’s shipping and payment methods and preferences.

If eBAY does not wish to operate as an auction site any longer, it should set up a separate website and sell items itself - in which case, it must claim all income on all sales sold in Australia to the Australian government and pay GST to Australia on all items sold. eBAY and PayPal should not have the right to override the agreements between Buyers and Sellers if they are not involved in the sales process as merely a website environment for the sales to occur.

Thank you for your time and attention.

Sincerely,

Sheila Sandoz
eBAY Power Seller