

Roy, Lauren

Subject: eBay International A.G. notification N93365 [SEC=UNCLASSIFIED]

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PUBLIC REGISTER**

From: Andrew Lane [mailto:

Sent: Sunday, 15 June 2008 9:02 AM

To: Roy, Lauren

Subject: Re: eBay International A.G. notification N93365 [SEC=UNCLASSIFIED]

Hello Lauren,

Thank you for this notification. I sincerely thank the ACCC for the draft notice informing Ebay of your decision to revoke their immunity and strongly urge you to confirm this decision when the final ruling is published.

Unfortunately, it seems that Ebay is not accepting the umpires decision on this issue and while they have delayed the implementation of the "PayPal only" rule for a month, they seem as committed to the plan as ever despite the overwhelming arguments against.

Basically, my supplementary submission is to record my strong support for the draft ACCC notice with the hope that immunity is revoked as soon as possible and the current rule to compulsorily offer PayPal is removed as well. Some points are listed below to reiterate my support on various issues listed in the draft notice.

Specific points:

- a) The first stage of the conduct requires all members to accept PayPal on all transactions. PayPal staff have confirmed that even where goods are picked up in person, the buyer may insist on paying by PayPal but there is NO seller protection at all because the item cannot be posted using an approved postal method. This can lead to fraud where buyers later claim the cost of the item back with no recourse for sellers to protect themselves. This is NOT safe.
- b) Seller and buyer protection is not available where consumers use PayPal to purchase goods off Ebay - the misleading propaganda currently be put out by Ebay may lead consumers to believe they have a higher level of protection when using their PayPal account off Ebay.

For example: The headline of Ebay's response to your draft notice is "ACCC undermines online consumer protection" - hardly a constructive attitude and a statement which implies that the role of PayPal is to protect consumers when shopping online. As you have rightly pointed out, consumers can decide this for themselves. From 4 years experience selling online, I know that consumers have different views of risk and will act accordingly - some prefer PayPal (which I accept), some prefer completely offline payments to avoid risk of identity theft and account hijacking (which I also encourage).

Additionally, the community announcement about the delay of the proposed plan is titled "*Important Announcement regarding changes on Ebay.com.au*" while the announcement concerning the planned new rules is still on display and titled a much more compelling "*****Reminder - ensure your listings comply for 17 June*****". Ebay's publicity officer has been quoted saying that their public consultation (aka invitation only meetings with 400 people) offered a diverse range of views - maybe she was at a different set of meetings because all other reports indicated overwhelming anger and strong disagreement for the plan as the ACCC submissions showed.

c) Ebay makes much of the fact that buyers and sellers do not have to share financial information when using PayPal. They conveniently ignore the fact that buyers do not share their information when using direct deposit and that although sellers give their bank details to buyers, these cannot be used for withdrawals without a direct debit authority.

I am sure you are aware of the current controversy regarding the German CEO of Ebay (and formerly CEO of PayPal in Germany) who is insisting that buyers provide him with scanned copies of passport and front/reverse credit card when using PayPal in order to prevent chargebacks on his account - in his own words, he makes it clear that PayPal is not a safe payment method. Yet Australians are now forced to accept it (under stage 1 of the plan) and if immunity is not revoked, we are to be forced to remove all other payment alternatives.

d) Ebay contends that the purpose of the plan is to reduce BBE - yet in their own words, they claim that most BBE arise from miscommunication with buyers/sellers over item descriptions/delivery, etc and that only a small proportion can be attributed to problems with payment methods. If the purpose of the plan is to reduce BBE, then implementation will only address part of the problem. If the purpose is to increase revenue, then it will succeed spectacularly and at the expense of sellers in the form of reduced sales and consumers who will inevitably have to pay more. No-one actually believes Ebay when they claim it is about protecting consumers and they would have a lot more credibility if they just owned up to the fact that it is about making more money for the company.

Although the ACCC has not relied on any of the information available that might suggest that eBay is implementing the conduct for reasons other than transaction security, it is an issue as clearly the push to force PayPal will not have the claimed improvements in transaction security. The system is already too insecure and all risk is assumed by sellers - a situation that is clearly unfair to a large group of people, many of whom are small volume and cannot absorb risks that they cannot control (due to inadequacies of PayPal customer service and procedures).

e) Ebay's claim that disgruntled buyers/sellers can use alternatives are facile to say the least. Paymate was summarily removed as an integrated payment method from Ebay when they purchased PayPal and BPay is not a relevant method to this type of market (small sellers, peer to peer, etc). Ebay has already used its market power to restrict the growth of Paymate quite effectively, simply by removing the ability of sellers to offer it within the Ebay checkout system.

f) Guest Checkout - Ebay/PayPal has refused to state how many times a buyer without a PayPal account can use the Guest Checkout - buyers will not know if they reached the limit until they have actually committed to buy the item. Hardly a transparent system! There are also implications for seller protection if a buyer purchases through the Guest Checkout and does not ultimately register a PayPal account - a situation ripe for the scammer and again, the seller must assume all risk without having any control over those risks.

g) *The ACCC considers that the notified conduct may reduce the number of BBEs if disputes are satisfactorily resolved by PayPal. If the notified conduct is likely to reduce BBEs then the notified conduct is likely to result in public benefit.* However, the way PayPal operates means that satisfactory outcomes to disputes are as often a result of good luck than good management. There is no customer support telephone line for PayPal, email responses are automated and usually unhelpful, determinations are final and cannot be appealed, both sellers and buyers may be unfairly acted against and redress is extraordinarily difficult (often impossible). Even where disputes are eventually ruled upon in a fair way, often this takes a very long time. This will not help the BBE problem.

h) PayPal claims that \$20,000 seller protection is the highest available - however, it is not available if the buyer claims the item is significantly not as described (a loophole the size of a barn door) or if the item is picked up in person or hand delivered. There is some question over whether sellers need "Proof of Delivery" rather than "Proof of Postage" for items over \$350 in value - while courier

delivery can sometimes be arranged at additional cost, it is impossible to arrange that the actual buyer of the item is the person who signs for the parcel (another potential loophole) at the PayPal registered address. The fact that these details are difficult to clarify with Ebay/PayPal makes a mockery of the whole seller protection issue.

I wont go on - this plan clearly does not have the claimed public benefit and reduces competition in a market that is important for a large number of people. Please revoke the immunity as soon as possible and thank you for giving me the opportunity to provide a submission.

thanks you

Leah and Andrew Lane

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