

Dear Sir

Thank you for the opportunity to make further comment on the proposed changes
The following can be treated as a public submission

I have been an eBay user from a number of years (since 2003), initially as a Buyer and then later as a seller over the years I have tried a number of different payment systems, which eBay has allowed at the time and have found the fastest and safest payment method is bank deposit.

The notification that all eBay sellers must offer PayPal from the 21 May, is an unjust imposition on the way a seller can conduct their business. The forced imposition of offering PayPal from the 21 May does not offer any additional safety or security to sellers. Many arguments offered by eBay in their submission focus on the buyers and the buyers only without any consideration of the changes upon the seller. eBay have taken the stance that all sellers are bad and corrupt and that there is no other method of weeding out the bad sellers without resorting to these draconian measures. Missing from the argument is that there are just as many bad/corrupt buyers out there who wish to exploit the system, and unfairly/unjustly claim an item was never posted and / or the items are significantly different to the description.

Over the years I have been subject to a number of bad/corrupt buyers, the latest where I had to seek protection from the courts to prevent further harassment from the buyer, who insisted I return his money and that I had not sent the item. Previously to this another buyer insisted a brand new sheet set (retail value \$500) sold for \$270 had bleach stain on the sheet set and that I return her money that she was going to raise a dispute. I asked for photos which were never forthcoming, the fact that you cannot remove a sheet set from its packing and reinsert the sheet set into the packing is impossible, this fact was lost on the buyer. Under the proposed changes, being forced to offer PayPal, a corrupt buyer WILL use PayPal as they know the system favors the buyer (and that they can cause problems for the buyer and in most cases get a refund without returning the item) these corrupt buyers will raise a dispute with PayPal, PayPal will remove the money from my account and put it into a hold account (where they accrue interest) and then depending upon the speed of the buyer responding they can drag the dispute out from 90+ days. If I withdraw my PayPal money from MY PayPal account then when PayPal put the \$270 into a hold account meaning my account will go into the negative and until such time I bring the balance back into the black then I cannot offer any further items to sell on eBay...The moment I have asked for proof of that an item may not be as described, by supplying a photo, the buyer suddenly has problems with email or a camera or some other reason not to supply the photo. With the imposition of PayPal only then these types of buyers will not only increase in numbers but in frequency also, meaning the seller will be more vulnerable to the demands of the buyer..

Further to these changes which are being proposed, eBay, use varying techniques to ensure that PayPal receives prominence when people are checking out and when people are waiting to pay. When someone has not checked out PayPal send a reminder to the buyer to pay with PayPal, even when PayPal was not offered in the original offering, secondly when checking out to pay for an item eBay have a huge eBay banner and default to PayPal when it is offered and to the unwary they will be taken to the PayPal website, it is only when you go back to the previous page that you realise there was an option of bank deposit and other repayment methods at the very bottom... The last underhanded technique will be termed a fault by eBay, but even when people have chosen to pay by bank deposit then eBay have not shown the BSB to the buyer, making the buyer and the seller upset as the seller thinks everything is ok as it was working previously and the seller has not changed anything in their setup, the buyer is getting upset and thinks the seller is useless, and is determined now to use PayPal on the next transaction as it takes too long to pay by bank deposit.

It is proposed that sellers can direct buyers to a third party checkout, however this is only really possible for sellers who have a retail website, have their own checkout facility and who have a SSL certificate for their website; however for the bulk of the Mum and Dad sellers who are trying to make a little bit of money to make ends meet; then this is not really possible to have third party checkout facility, to have a website set up with all the merchant facilities required to set up selling on the internet. The imposition of PayPal onto sellers means that the mum and dad seller will find it even harder to make ends meet and that if they want to sell the items then they will be forced to use the eBay system, there will not be any choice despite the fact that there are other sites. Yet despite eBay indicating a third party checkout can be used then the only payment options which are available are those on offer by eBay, i.e. you can ONLY offer PayPal.

Australia only has a small population and as such ebay are in a monopoly situation where they can dictate and control the online auction market, this is reflected in the ebay user agreement (<http://pages.ebay.com.au/help/policies/user-agreement.html>) where if you do not agree to the terms and conditions of the user agreement, then you must notify ebay and they will cancel your user id and you can no longer use ebay as an online auction site.

Further to this, under *section 3.2 (Safe trading) of the user agreement*; ebay indicate that they cannot verify the identity of a ebay member, yet it is this very reason why we must be forced to use paypal as they can verify the person's identity. Other Auction sites use a tiered verification system such as a Letter (snail mail) being sent to the persons registered address (very difficult to fake as you must physically go to the address and collect the letter), verification using a landline phone(easy to fake), photo id verification(difficult to fake), credit card verification (easy to manipulate) , Australia post verification (100 point check costing \$20, almost impossible to fake). All these combine to ensure that the buyer will have confidence in the member as well as ensuring that the buyer is genuine and not a scammer, enabling law enforcement officers to take action should there be a problem. At a very minimum address verification should be mandatory for all buyers and sellers in Australia. Yet ebay offer only phone verification or credit card verification, both subject to manipulation and easily circumvented meaning that true scammers can say they live in Australia, use the white pages to get a name and address and then use a skype type phone, register a new id and phone verify..in the mean while still sitting in Malaysia or China...Ebay go on further to stipulate that this is the reason for the introduction of member initiated feedback system, yet from the first of may it is not possible for a seller to reflect the negative experience of a particular buyer, to show how honest and trustworthy the buyer is.

From the 1st May is no longer possible for a seller to be confident that the buyer will be honest and direct with him and that the buyer will not utilise the This will lead to a biased transaction where the balance of power rests with the buyer sites such as amazon.com are truly only applicable to America and

Buyer Protection

the safety of the supposed Buyer protection via paypal, only exists when the buyer elects to pay for registered post and or proof of delivery option by a courier. When Multiple purchases are made then it is not possible to combine postage as each items must be registered and signed for, meaning that there is a negative GREEN impact by the additional packaging for the additional items as well as the additional cost to the consumer. Any seller being forced to use Paypal for a eBay transaction must insist on the buyer taking registered mail (with signature) or courier the item with proof of delivery option, otherwise the seller will be in a predicament where the buyer can state that he never received the item and then raise a dispute with Paypal and then get the monies back... leaving the seller without the item and with no money for their effort.

Without the ability to leave negative feedback to buyers who try to pull this stunt then the seller is at the mercy of the buyer who holds all the cards and can force the seller into providing a refund for an item which was perfectly ok. it will no longer be possible to offer a merchandise credit for a defective item. When the Buyer claims that the Item not as described, without the ability to leave negative feedback to buyers who try to pull this off, despite the ad description being very accurate then a buyer can make a statement to paypal and the seller be forced into providing a refund, abusing the Goodwill of the seller, with no recourse through any channel to address the inequity.

I have been victim to people who have bought items and then stated that they were faulty, the first time this happened I was troubled as I test extensively all my items and check and recheck to ensure that the item is working so believed maybe I forgot to test the item, and subsequently believed the buyer and provided a refund, however I started to tag electronic items with ultra violet markers and cable ties and when these items came back without the tag then it was clear the buyers were purchasing the items to replace defective items which they knew and then stating the item which they bought was faulty.

Under the New proposal by ebay and notification N93365, then I would be forced to provide a refund, forcing myself out of business very quickly as I would not be able to sustain the losses forced upon me by ebay.

This potentially would have a run on impact to Australian economy whereby Sellers who were once making minimal profits and running their own business/cottage industry will be forced onto the unemployment queues and forced to look for work to help make ends meet.

Speed

Bank deposit will be available to a seller, the same day when the person deposits it directly to the bank account. When the money is transferred online from one bank account to another (the sellers account) then the money is available in 2, max 3 days. After the money is transferred then it becomes available for use by the mum and dad trying to make an extra dollar to help pay the bills or use in the business which many people now have, having turned their ebay hobby into a business.

Should I be forced to use paypal as the only method of payment, it will take in excess of 5 business days and in most cases it will take 7+ days for an echeque to clear. Note paypal own information on their website indicates echeques take 7-9 days.

This delay is not due to a safety requirement as the money is going from one person's bank account into the paypal account. To transfer money from a bank account it only takes 2-3 days max, this money is being held by paypal in order to generate additional monies/revenue for them.

Fees

When a buyer transfers money from their bank account to my bank account then I do not incur any fees and neither does the buyer. However when I am forced to just use paypal for an ebay transaction then I will be charged a fee not just on the cost of the item but on the cost of the item plus postage. Many proponents of paypal will say that it is just 2.4 % of the final price plus postage.. This is simply NOT TRUE

Volume

However the fee charged by paypal changes dependant upon the Sales volume which is going through paypal the volume though is based upon thousands of dollars passing through paypal and paypal term this as performance based system and helping you grow your business. However a check of the fee structure shows that the fees up to 4.4% are charge for a personal account (which most people will have) see

https://www.paypal.com/au/cgi-bin/webscr?cmd=_display-fees

However that is not half of the story, take the case of a single mum trying to recoup some money by selling her children's old toys on ebay.. the fees imposed by both ebay and paypal (as they are the same company) ebay fees are on <http://pages.ebay.com.au/help/sell/fees.html>

up to \$75 ebay charge a fee of 5.25%

Old TOY ---- Start Price \$1.10	---- Fee \$0.50	
Use of Gallery to get higher interest -----	Fee \$0.59	
Final Sale Price \$2.00	----- Fee \$0.105	
postage \$5	Paypal fee on \$7	----- Fee = \$0.30 + \$0.238
total fees = \$1.73		

==> ebay/paypal received 59.75% of your money before postage is taken into account from the total money including **postage ebay/paypal receive \$1.73** it is assumed you are not making any profit from the postage and if your postage charges have not included paypal fees then you are losing

Should I now decide to transfer this money to my bank account I will be charged a further \$1 meaning they have now received \$2.73 reducing my profit margin further... this \$1 charge is not recouping the fees to transfer the money.

however one further example on the exorbitant fees is that the same toy only receives one bid and sells for \$1.10

meaning that before you receive any money then ebay have taken \$1.25 meaning you have lost on the transaction and this is before any paypal fees have been taken. and should your item not sell then you have incurred fees and still have to relist possibly reducing the start price to attract more buyers and only in some circumstances will ebay offer a free insertion for a second listing.

Should you not be familiar with HTML and making nice ads for ebay then you may decide to use the listing designer which will incur an additional 10 cent fee and should you have multiple listings and need to schedule at a specific time then there will be a further cost of 20 cents per listing to schedule your listing, thereby adding further costs to the mum and dad sellers

for an item reselling up to \$20 (with one picture gallery) then the fees which ebay and paypal will be charging will be approx 12.4% of the final value. The move to paypal as the only payment method is not a safety/security issue but a mere grab for additional revenue which will help ebay keep their stock prices going up. The fact that other payment methods offer a higher security model and better risk management is ignored by ebay/paypal and no evidence has been offered to show how these other payment methods are less secure.

the fact remains that the new fees and imposition of paypal on everyone will mean a lessening of competition. The fact that ebay has a monopoly and has built a large following over the years means that even if people move across to other auction sites, there will not be buyers at the other site to make their business a success. Consequently people will still have to use ebay and be forced to use the methods dictated by ebay/paypal meaning consumers do not have any choice in the matter.

The Ebay Notification

4.5 In light of the detailed analysis and conclusions contained in the NERA Report, eBay submits that the Conduct would not be likely to have the effect of substantially lessening competition within the meaning of section 47. Alternatively, any anticompetitive effect of the Conduct is likely to be relatively minor.

It is interesting to note that ebay admit the implementation is anti competitive

"4.6 In any event, eBay submits that the Conduct would be likely to result in significant public benefits as set out in section 5 below, and that these benefits outweigh any detriment to the public constituted by any lessening of competition that may result from the Conduct."

As seen by the comments below, it can be seen that there are alternatives to online security problems, most notably a better verification model to ensure that the buyer is truly the buyer they claim to be and the seller is the true seller. A better verification model will reduce the incidence of shill bidding, will ensure that those buying are those people who live at the registered address, that with 100 points of identification should there be any problems then the law enforcement agencies can act swiftly and efficiently, there are no benefits to the public from the implementation of the conduct. The fact that the only people who will benefit from the implementation of the conducts are the shareholders and ebay/paypal will help their bottom line and make it harder for mum and dad seller to make ends meet

Section 5.2

As previously noted, eBay understands that one of the two biggest reasons that eBay buyers decide not to purchase additional products on the eBay Site is "trust and safety" issues, including "bad buyer experiences". Common sources of disputes and "bad buyer experiences" include:

- (1) fraudulent/ unauthorised use of buyer credit card and / or account details where a method of payment has been used that involves disclosure of the buyer's account or credit card details;*
- (2) purchased items not being received; and*
- (3) purchased items being significantly not as described upon delivery.¹⁴*

At no Point have ebay provided information as to 1) the total number of Listings within a specified period, 2) the total number of items which have sold, 3) the total number of sellers that have a problem with the buyer, (waiting too long for non payment, I have changed my mind about buying the item, my husband/wife/son etc purchased the item in error, the buyer did not read the whole description and claims it is faulty / not genuine etc) and lastly 4) the number of problems experience by buyers. Ebay seldom serve buyers to find out about the types of problems which they are experiencing and whether the problem was resolved to their satisfaction.

Point 1 is would be minimised / eliminated when 100 point verification is used or address verification is used, Paypal as the only option is not required to resolve this problem as the solution already exists in the verification models utilised by other auction sites

Point 2 (purchased items not received) this problem is easily resolved without forcing people to accept paypal; by paying for registered post with signature or courier with proof of delivery option. YET in order to claim the buyer protection, paypal insist that you must have registered post with proof of signature / proof of delivery before the claim can be processed. So the solution to point 2 is potentially solved without forcing people to accept paypal as the only form of Payment.

This is the first clear evidence that forcing Paypal as the only payment method is not about security but a grab for cash as the problem could be solved by buyers taking out signed proof of delivery, which paypal will insist if the buyer protection is requested..

Point (3) purchased items being significantly not as described upon delivery, no evidence is provided as to whether or not the item was genuine and or the buyer

did not read the description fully/correctly. Within this category, the reader needs to be provided information as to what category the items have fallen under eg Tiffany necklace for 99 cents or a Collectable Green Glass..or in small print there is a disclaimer etc. A Common technique (used on antiques, porcelain etc) to con buyers into purchasing the item is to state this item is collectable and would look lovely in your collection or to state that the picture tells the story. A Buyer who looks at the Collectable green glass will automatically assume that it is depression glass and pay depression glass prices for the item from china which is only worth a few cents at most. The buyer feels duped and raises a dispute and the seller points out in the description that they did not mention it was depression glass the buyer feels disgruntled and contacts ebay/ live help ebay then send a survey to these people and hence get the incorrect impression of the situation

The mechanism to resolve this problem already exists and that is by reporting the item as a fake to ebay, the fact that ebay do not take any action against these sellers, indicates that they condone the behaviour and are only interested in generating income for the company and not concerned about protecting the integrity of the site by only ensuring genuine articles are offered for sale. Whose fault is it if the buyer has not read the whole description, it is the buyer's problem as they get too excited over this bargain they are going to get... it is a bargain for a reason...and the reason is that it is fake depression glass....
eg item is a good example of a fake collectable tractor...
item is green glass as depression glass.

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5.3 There will be direct and immediate benefits to eBay buyers that would have had one of the above "bad buyer experiences" were it not for the implementation of the Conduct.

The point made by section 5.3 of the notification is baseless as other alternatives are available to solve the problems as highlighted above and that by the implementation of the Conduct there will be a lessening of rights for the Seller and a no measures have been implemented to prevent corrupt buyers from harming the genuine sellers

5.6 The nature of the PayPal services also means that sellers will directly benefit from the features referred to at paragraph 5.5 above, and from the reduced likelihood of loss due to fraudulent/unauthorised use by buyers of credit card and/or bank amount details to purchase items.

Paypal is not the only secure online payment system, PayMate exist with a highly secure risk and security model preventing fraud. This options can and should be allowed. No Facts or figures are provided as to how many sellers have been subject to fraud by a buyer. The very nature of a banking transaction ensures that when a seller deposits money into the sellers, there cannot be any incidence of fraud in this type of transaction, no pre-assessment is needed to minimise any risk and the transaction is conducted quickly and efficiently without the addition of paypal fees

Point 2 of section 5.6, is misleading/deceptive as the applicant indicates that the seller only has to provide proof of shipment, where as in fact the seller must already provide proof of signature when disputing even under the current process, a seller protection program is only needed when the applicant acknowledges that there is potential for buyer abuse of the system. Under the present system, when there is a dispute and the buyer indicates the seller has not sent the item then the seller must provide the buyer signed for the items. when the seller faxes through a copy of the post office receipt then paypal do not accept this as proof of shipment. This system is already in place and does not need the implementation of the Conduct being proposed by ebay. There is no benefit of seller protection to the seller

Furthermore from paypal's own user agreement (section 4.2.4)
<https://www.paypal.com/au/cgi-bin/webscr?cmd=p/gen/ua/ua>

then to qualify for the seller protection, you cannot combine items to assist in reducing shipping cost (another way top ensure paypal maximise profit by taking fees from each and every ebay transaction) that if you do not have a signaturred delivery then you do not qualify for seller protections that if the item is intangible then you are not qualified for seller protection, you allow pick of the item or hand deliver the item then you are not entitled to seller protection, or the buyer has raised a item not as described dispute or paypal determine you have not complied to their terms and conditions.

the second last point meaning that buyers will initially raise an item not received and then item not as described meaning the seller still has no recourse to recover their product or monies which have been put onto temporary hold by paypal.

Foot note 18 Under this policy, buyers must follow a procedure for filing complaints or "disputes" in PayPal's online dispute resolution centre. Where a dispute cannot be resolved between the buyer and seller, it can then be escalated to a claim under the Buyer Complaint Policy and PayPal will request that the seller provide proof of shipment. If proof of shipment cannot be provided, PayPal may use its best efforts to reverse the transaction if there are sufficient funds in the seller's account.

This statement is deceptive in that paypal take the money immediately from the seller immediately a dispute is raised (termed temporary hold) and even if there is insufficient monies in the account then Paypal still take the money out of the sellers account and the seller is missing this money until the transaction is resolved in their favour.

Section 5.6 point ...The fact that sellers do not have to disclose account details to buyer's means those sellers are not subject to the risk of identity theft through misappropriation of those details.

As no evidence is provided to the lay person in the notification it is difficult to determine if the statement is correct, though experience has shown(5 years on ebay) that it has never happened to me as a seller, and that identity theft is a very serious crime in which the incidence I expect should not be particularly high. However when ebay implement a more secure verification model then this will eliminate identity theft, by the fact that each person would be providing 100 points of identity as well as address verification. however it is well known that the largest security threats posed by a registered user of ebay is the security of the paypal system itself.

eBay Sellers: Sales Down Due to PayPal MOS Glitch
By Ina Steiner
AuctionBytes.com
November 29, 2007
<http://www.auctionbytes.com/cab/abn/y07/m11/i29/s01>

PayPal Glitch Sends eBay Packages to Wrong Buyers
By Ina Steiner
AuctionBytes.com
September 11, 2007
<http://www.auctionbytes.com/cab/abn/y07/m09/i11/s02>

Consumer Alert: PayPal's Problems

Customer service woes continue to plague popular payment service.

Tom Mainelli

<http://pcworld.about.com/magazine/2007p030id101525.htm>

<http://www.paypalsucks.com/>
<http://www.paypalwarning.com/home>

these are some of the problems which have made it onto the internet press, the problems have plagued paypal from the very beginnings and still persist, the other stories which are highlighted in www.paypalwarning.com show many of the stories which do not make it to the internet press

5.9 eBay submits that its data indicates that the use of PayPal for the making of payments on eBay significantly reduces the probability of either buyer or seller disputes arising. Individuals who would otherwise choose to transact on eBay using a less secure payment method than PayPal (such as direct deposit by means of internet banking) directly benefit from the mandated use of PayPal through a reduction in the risk of being involved in a dispute, regardless of the additional benefit of buyer protection.

eBay has not submitted any data or proof to substantiate their claim that the use of paypal will reduce the probability of either a buyer or seller raising a dispute, On the contrary the probability of a dispute arising from a buyer will be significantly increased due to lack of choice arising from the forced use of paypal as the only means of paying for an ebay item. Data from other eBayers indicates that their high feedback and method of payments mean that other payment systems are as secure if not more secure than the Paypal system. The PayMate system has a highly developed risk and security model and has not been involved in the same type of disputes/glitches which paypal suffers from

The statement that In eBay's experience, the avoidance of such risks is a choice buyers or sellers may not otherwise make through poor understanding of the risks involved, so in effect eBay are now taking responsibility for a buyers or sellers own choices, what is next, suggesting we invest also in Opes Prime....

One of the reasons behind buyer disputes claimed by ebay are that the item description does not match the item sold, yet it is ebay who do not police the quality of the auctions. The entire site is designed to minimise human intervention and through the disclaimer process that they are not to be held responsible for the accuracy of the descriptions. Ebay then introduce a reporting mechanism where by users can report any violation, In all cases when an item is reported, then there is a email to indicate that they have received your report and in the email they indicate that no further action will be given. Very few of the items reported are removed one notable example is item , these items are very easy to pick up and should be automated with a grammatical checker to not allow the listings to proceed prior to listing. Ivory should not be allowed in any way or form on ebay, other examples are people who describe the item as collectable and whose fault is it if the buyer does not read the whole description, should paypal be introduced just because a person does not read the whole description , should someone look at the item the may believe it is depression glass, but the description states clearly it is just green glass, in fact all items from the seller starlite2 (<http://search.ebay.com.au/W0QQsassZ2starlite2>) in fact all items from this seller are fake and reproductions but portrayed to look like the real thing... the fact that the buyer states the items are collectable and does not mention antique then the buyer is at fault when they realise it is not the item they thought it was..

another example of a fake is

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. Individuals that might otherwise not be aware of the risks of using less secure payment methods, or may perceive the costs of using PayPal to be high relative to the benefits obtained, may be encouraged to use secure payment facilities again if their experience is a positive one. This would contribute to a reduction in the number of online transactions that are exposed to fraud.

This is purely supposition and is supported by the terms "if the..", "Individuals that might...." and "may be encouraged to use "; it is up to the Financial services department, the RBA, banking ombudsman and other government financial arms to ensure that there is adequate protection for purchases online by allowing a choice of payment methods and allowing the use of PayMate on ebay then a more fair and equitable

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5.11 By introducing the benefits to users that form part of the Conduct, this may encourage other online businesses and payments services providers to offer similar levels of transactional security and protection to their users, including similar protection programs to PayPal's Buyer and Seller Protection Policies. This would likely enhance the security of the internet as a platform for transacting, and increase the protections afforded to buyers and sellers undertaking online transactions, more generally, to the benefit of all users. Improving the level of security and protection around online payments and reducing the incidence of bad buyer experience, fraud or identity theft will likely encourage further growth of online businesses. This may also encourage businesses that do not currently have an online presence to enter the online retail marketplace, thereby providing those businesses with the opportunity to expand their customer bases, provide quicker and more efficient services and reduce overheads.

PayMate has a high level of risk and security management and at present no data has been presented to show that the risk and security model of PayMate is flawed. There is flexibility in the payment systems which offer a high degree of security of equal or higher than Paypal.

Ebay have introduced a number of schemes where they have claimed they were introduced for additional security. The First of these measures concern **Second Chance Offers**. The second chance offer is where a seller sells an item and then they may have a second or more of the same item available and then the seller can offer the second and others to the next highest bidders. The first security flaw is that most users create an ebay id similar to their email address so most scammers can work out the email address of a person, this check can be made easily, secondly security flaw is that when a messages is sent between members then the default is to show the email address then should be changes so that the default is not to show the email address, The next security flaw is the second chance offer itself, many people use this options to sell more items as you are only charged the final value fees and no insertion fees , however if the insertion fees were lower (similar to oztion.com.au) then there would not be any need to introduce this option and expose more buyers to added risk, a consequence of the second chance offer is that scammers try to identify the email address of the person and then send a fake second chance offer to the second highest bidder and others in an attempt at phishing the bank information/ credit card information etc. Unfortunately many people still cannot detect a Phishing email and click on the email and enter the private information into these sites and people get caught. As a result of the mechanism of the second chance offer and the lack of security when inputting the user email address and the similarity it is to their user id then Phishing scams happen. To this effect, ebay started to hide the email addresses of the bidders for bids over \$250. this in effect meant that when the price was over \$250 it was not possible to see the user id of the bidder(except to the seller). This in turn was masqueraded as a security improvement but the effect of this introduction was that it made it easier for Scammers to artificially inflate the price of the item being sold. This is called shill bidding... as it was not possible to see the identity of the bidder then it was not possible to run a tool (BAYCHECK) to identify the buying pattern of that buyer(i.e. do they just bid on one person items or do they bid on multiple items) if the bidder is just bidding on the sellers item then it is likely that the bidder is shill bidding. Anyone discovering this behaviour could then report the incidents to ebay.... ebay will then decide whether or not to take actions.. As the ids are now hidden then a consequence is that shill bidding will increase and a consequence is that the item will attract a higher final price, ebay will get moor in the final value fees and consequently make more profit. The method of hiding the id's above \$250 was extended to all items no matter what the start price was, meaning the actions of shill bidders will go un noticed by the majority of the ebay population. Should ebay wish to discourage shill bidding then they could simply implement a better verification model to ensure that only users living at a verified address can sell.

Despite the fact that ebay has introduced all these practices and security improvements they still insist that the only way to secure the security of the people is via the introduction of paypal. All of the previous methods introduced will eliminate the need for the introduction of paypal. The requirement to introduce paypal as the only method of payment is not for security but as a grab for cash and there are sufficient methodologies in place to prevent any further issues relating to security and should ebay take the lead from Oztion and introduce a better verification model, then the security will be enhanced to prevent any further scams and as a result paypal does not need to be introduced.

5.13 By strengthening the eBay platform as a secure trading environment, the Conduct ensures continued efficiencies in the trading of goods sold on the eBay Site. The Conduct, by reducing buyer migration (caused by lower confidence in online transactions) to other retail websites or to offline retail stores, will benefit the large number of existing sellers that rely on eBay as their only or primary source of income. Further, this will help to ensure continued innovation within the online retail space, allowing new online' businesses to develop, grow and potentially migrate off the eBay

Reducing Buyer Migration is not a plus as buyers should be given and allowed a choice as to the number of payment possibilities, by allowing the implementation of the conduct then ebay have admitted in 5.13 that **ebay** do indeed have a monopoly and that they have acknowledged that buyers are reluctant to move to the other auction site.

By the implementation of the conduct, buyer and sellers will have less chance to make a reliable income from a hobby especially for the mum and dad users, who have solely relied upon ebay as their only trading platform to turn unwanted goods into cash and consequently help make ends meet. Yet because ebay have a strangle hold over the online auction market due to their marketing (some say propaganda campaigns(eg I got this laptop on ebay for \$138 or this alannah hill cami for 99 cents, in the ad no mention is made as to the quality of the item, how old the item is, the average selling price for a laptop is \$138, did the laptop have an operating system, how old was the laptop, was the laptop working and more... questions arise) then sellers have no chance to make a living by moving to the other auctions sites(as the buyers are still not registered on the other site) .

Innovation does not come from restricting the number of payment options but by allowing other payment options to develop and the world's best practice to be adopted. By restricting the number of payment options this will stifle innovation and reduce the number of options available to sellers and the only benefit of the implementation of the conduct will be the additional fees being paid to paypal and this benefit is not to the benefit of either the seller or the buyer but to the company implementing the conduct... The conduct should not be allowed and the notification from ebay should be rejected outright.

5.14 The Conduct will also be of particular benefit to those sellers that trade in secondhand goods, who may otherwise have few alternatives to sell unwanted items if potential buyers continued to leave eBay as a result of previous bad buying experiences. As noted in the Allen Report (the Executive Summary of which forms Annexure "E" to this Notification), by reducing search costs and increasing the efficiency of trade in second-hand goods, eBay increases consumer welfare by promoting the transfer of goods to those that place the highest value on them

Bad buying experience will happen regardless of whether the conduct is implemented or not, and by restricting the conditions in which a seller can sell and a buyer can make a purchases, will not benefit the seller as the seller will have a reduced profit margin, the buyer will have to pay more for their items, plus once again eBay have acknowledged that they do indeed have control over the auction market and hence they have a monopoly and noted that sellers only have one option to sell online and that is with ebay due to the monopoly and strangle hold that they have with the online auction market...it should be noted that sellers have other options available to sell second hand goods, these are, car boot sales, school fetes, local ads in the newspaper, garage sales, through the development of their own web sites and regardless of the outcome of the notification buyers will still have these options.

“5.15 Strengthening the eBay platform would benefit the Australian economy. It is concluded in the Allen Report that:

(1) eBay's contribution to the Australian economy is estimated to be \$2.6 billion annually (representing around 0.27 per cent of Gross Domestic Product);...”

There is no evidence that the implementation of the conduct will strengthen the eBay platform in fact the converse is true as true bargains will be harder to find due to the increased fees, that the mum and dad will find it harder to make ends meet as they will no longer be able to sell items for several dollars due to the extra costs in listing and selling as well as increased costs on postage ensuring that all items must be registered with signature meaning that the mum and dad seller will have to go to the post office to post the items and waste time queuing to be served rather than just posting in a mail box(with satchel and more).

“5.16 These figures are the outputs of an economic model that estimates eBay's impacts on the Australian economy as a result of its demonstrated effects in reducing prices and stimulating competition. By improving the eBay Site and thereby attracting more users to effect transactions through the eBay Site, the Conduct will further enhance economic activity and stimulate competition in both online and offline retail markets....”

Implementation of the Conduct will restrict economic activity and place restriction on how a business can conduct their business. This is against the Trade Practices Act and should not be allowed.

“5.18 By reducing the incidence of fraudulent online purchases, the Conduct would also provide online merchants with the benefit of avoiding the losses associated with credit card fraud. Financial institutions are, generally speaking, unwilling to accept the additional risks associated with online credit card fraud. This means that losses associated with fraudulent online purchases are often borne by online traders who accept payment for the goods online.²⁴ When a cardholder claims that an online purchase was fraudulent and not undertaken by them or an authorised party, their financial institution generally takes them at their word and is required to submit a refund of the price of the goods from their bank to the cardholder's (known as a "chargeback") even though they do not receive the goods back in return. The only recourse for online traders who receive a chargeback is to pursue the matter privately with the customer. This is a difficult, costly and time-consuming process..”

As noted in the conclusion and the ebay annual report (year ending December 31 2006) Paypals automated system makes it very attractive to fraud, so rather than reducing fraud by the introduction of the conduct(one payment option), fraud will increase leading to increased customer dissatisfaction and meaning more people will not buy online and make purchases at traditional offline outlets. This in contrast will mean mum and dads will be much worse off by the introduction of the conduct, hence the Notification by ebay should be rejected

5.19 In addition to the consumer protection benefits of PayPal discussed above, PayPal's buyer protection mechanisms are also likely to provide more effective consumer protection because research has shown that many consumers are not aware of their credit card chargeback rights. While the terms and conditions of most credit cards specify that consumers will not be liable for unauthorised transactions as long as the transactions are reported immediately, it is debatable whether consumers are aware of their chargeback rights or have any understanding of the operation of chargeback

Consumers in Australia are very aware of the banking Ombudsman as well as the fair trade office in each and every state and pursue the opportunity to bring the scammer to justice should they unfortunately be a victim of a scammer. Further to this should ebay have a better verification model where a 100 points of identification are required to sell then the police and all other law enforcement agencies can bring the scammer to justice much much faster... Last but not least paying by credit card and direct bank deposit, the consumer is protected by the safeguards of the financial legislation and by the banking ombudsman, however as paypal does not come under the same regulations as banks and other financial institutions and should a seller have a problem then the seller has no recourse to recovery of monies should he be a victim of a false dispute made by a buyer. Under the current AUSTRALIAN financial regulations both the seller and buyer are protected and have access to government regulated options of a solution, whereas under The Conduct, both buyer and seller will not have access to a independent umpire and as such the Notification made by eBay should be rejected.

THE ALLEN CONSULTING GROUP 'I got it on eBay' Report

It is claimed that eBay has been great for competition and that significant savings can be made by purchasing on ebay (re The Allen Consulting group, the economic impact of eBay in Australia) as compared to other online sites and retail outlets, showing the savings be made by purchasing on ebay.

In Background it is stated that "eBay is a significant platform for Australian commerce, with over five million registered users trading within its online marketplace.", yet because eBay do not verify the address of each and every registered user then this statement is questionable, however when read correctly, it can be seen that the claim is not 5 million different people but 5 million users, meaning 5 million ebay ids have been created many people have multiple ids as suggested by ebay (help within turbolister) to manage different inventory items. These multiple ids create a fake impression as to the user base for eBay as well as

Under Section 2 and Table 2.1, a comparison is made as to the savings a person can make when purchasing on eBay in comparison to retail and other online outlets. it is stipulated that the items are new and that the price comparison was made during November 2007. The first point to not is that according to the trade practices act and the Queensland police website

<http://www.police.qld.gov.au/programs/crimePrevention/eCrime/internet/>

then when any goods are bought at auction then there are no warranties, next point that bring the statistics into question is that jewellery, watches, clothing and perfume are subject to being copied and being sold on ebay as genuine yet when someone is selling a \$120 Ralph Lauren polo shirt (being sold for \$40) or a \$600 Dior Handbag for under \$100 then it is clear the items are not the genuine article.

Forcing a Seller to use Paypal as a means of ensuring that the items are genuine and without fault infringes upon the rights of a seller to conduct his business in the manner that he sees fit. Where a genuine seller will want to get repeat business and return customers then the need to force paypal onto that seller is needless as he will try to ensure that the customer is happy, it is only the fake sellers who have no interest in repeat business or repeat customers that

It is stated "By category, eBay provided the most significant average price savings in the Jewellery, Gems and Watches category (average 49.6 per cent saving), while the most marginal average price savings occur in the Music category (average 0.1 per cent saving)". Is it not surprising that the most significant savings are made in areas where fakes are most prevalent.

It is also pointed out in **appendix A** (*The Allen Consulting group, the economic impact of eBay in Australia*), the offline retailers included the likes of David Jones, Myer, and other high value retailers who attract a premium price due to their shop frontage, ease of access to the consumer as well as the warranty offered by the manufacturer.

The report did not consider genuine factory clearances, discount stores and other alternative cheap sources of products in the comparison to potential saving offered by purchasing on eBay. Additional to this the reports has also ignored the fact that many sellers on ebay make alot of their profit in the postage of the items Casio G watch has sold for \$50, it firstly could be fake and secondly if the postage of the item is \$120 plus insurance charges and handling fees they seller has managed to get a significantly higher price than reflected in the report.

The prices mentioned in **table 2.1 and appendix A** show the walk away price from Myer but the price offered as a comparison was the price of the item should pick up be allowed (in most cases pick up is not allowed), so additional to this postage must be added to the items, meaning that the price comparison is not correct and is fundamentally flawed and cannot be utilised as a comparative study for potential savings.

The Last flaw with the reports is that the comparison was done in November 2007 well before the price rises in 2008 meaning that the report is not accurate in terms of being relevant to the current pricing strategy for sellers with respect to the current fees imposed by eBay

CONCLUSION

The whole process is fundamentally flawed and there is no security / safety to protect sellers from unscrupulous buyers in the paypal process. Ebay has a monopoly and is abusing its market place dominance in the online auction market and should not be allowed to continue with the forced imposition of paypal onto sellers.

The proposal (Notification - N93365) should not be allowed as it is in violation of the Trades Practices act, as well; other methods, processes and models are available to tackle the security problems being faced by ebay. The fact that there are a number of basic security flaws, it should be highly recommended that ebay change its verification model and business model to focus on customer service and finding a balance to protect both buyers and sellers, with a better verification model similar (if not identical) to that implemented by ozton. The Notification is a grab for cash to improve the bottom line of ebay/paypal. As noted on page 18 of the ebay annual report (ending 31 December 2006) "...PayPal's highly automated and liquid payment service makes PayPal an attractive target for fraud..." this is admission that the risk and security model by paypal is not effective... Further to this on the same page it is stated that "...If PayPal were unable to accept credit cards, the velocity of trade on eBay could decrease, in which case our business would further suffer. PayPal has been assessed substantial fines for excess charge-backs in the past, and excessive charge-backs may arise in the future.." this is a clear admission that without paypal then the profits of ebay will decline, not only that but by eBay's own admission they charge excessively and inappropriately issue charge backs and they do not expect the situation to improve in the future. Yet we are asked in Notification - N93365 to accept paypal as the only choice in payment with all its flaws and faults as well as excessive chargeback's....

Regards Anthony Curran