



Morag Bond & Kate Reader  
Joint General Managers - ACCC Digital Platforms Branch  
Level 27  
135 King Street  
Sydney NSW 2000

*Via online portal*

Dear Ms Bond and Ms Reader,

**Re: Digital Platform Services Inquiry - March 2022 - Report on General Online Retail Marketplaces**

eBay Australia welcomes the opportunity to provide a submission to the Report on General Online Retail Marketplaces. This submission builds on the initial discussions we have held with the Digital Platforms branch in July 2021.

***About eBay***

For more than 25 years, eBay has enabled commerce and economic opportunity for individuals, entrepreneurs, businesses and organisations of all sizes. Globally, there are more than 1.5-billion listings on eBay sites and 159-million active consumers in 190 markets.

Our role as a marketplace is to facilitate a safe and trusted way for businesses and consumers to transact with confidence. While responsibility for listing on our platform remains with the individual or business that originally listed the item, we support sellers and consumers with a range of services, guarantees and feedback opportunities to ensure transactions can be undertaken safely.

Our business model is illustrated in the diagram below.



In Australia, ebay.com.au has operated since 1999. 40,000 Australian businesses now sell via our marketplace and nearly 12-million unique visitors come to eBay every month.

Over our 20 years of operation in Australia, eBay has positively supported and enabled competition providing a platform for businesses of all sizes to compete and grow.

eBay has consistently evolved and innovated but remains a pure third-party online marketplace. To be clear, eBay does not sell, ship or stock any items appearing on our marketplace.

Our support for competition and entrepreneurship is clearly highlighted in the role eBay has played in the growth of new market entrants and e-commerce entrepreneurs. It should be acknowledged that Australian marketplaces identified in this review (Catch and Kogan) were created out of businesses originally developed on ebay.com.au. Similarly, the founders of Afterpay built and leveraged their knowledge of e-commerce on eBay to drive new innovations in payments while many pure play online retailers like The Nile<sup>1</sup> have been able to grow from small to larger businesses on eBay.

We are proud of our rich heritage and the positive contribution we have provided to enable business and competition over our 20 years in Australia.

<sup>1</sup> <https://www.ebayinc.com/stories/press-room/au/top-ebay-sellers-expecting-biggest-christmas-sales-ever/>

## ***Our Unique Offering***

eBay considers that the focus of this review on “*general online retail marketplaces*” limits investigation into a significant and important part of the eBay marketplace and the competitive environment within which we and our users operate.

Competition, in terms of the goods and services available through online retail marketplaces, takes place not just between marketplace providers, but also with and between providers of online retail sales and services, both from the demand and the supply sides. For example, eBay has a vibrant community of consumer to consumer (C2C) sellers<sup>2</sup> and for many this is an entry point into e-commerce and business; a way to participate in recycle/re-use or to help generate extra income when needed. Similarly, the competitive environment for marketplaces is increasingly driven by niche verticals and specialist marketplaces.

Our responses to relevant questions posed in the issues paper are set out below.

### **1. Which platforms are the most significant general online retail marketplaces in Australia?**

As identified by the ACCC, eBay, Amazon, Kogan and Catch are significant general online retail marketplaces in the Australian context, if significance is determined by reference to size,.

We emphasise however that there is a far more expansive range of online marketplaces which are available to Australian consumers, each of which is significant in their own way. These are both general marketplaces and niche verticals including Bunnings Marketplace, Myer Marketplace, Qantas Marketplace, The Iconic, Temple & Webster, Everyday Market by Woolworths, Wish, AliExpress, ASOS, GOAT, Grays, mydeal.com.au, Farfetch, Vestiaire Collective, Ozsale, Depop, Poshmark, Etsy, HardToFind and StockX.

As noted above, as a marketplace which provides and facilitates both business to consumer (B2C) and C2C transactions, eBay also competes with other consumer selling businesses such as Facebook Marketplace and Gumtree.

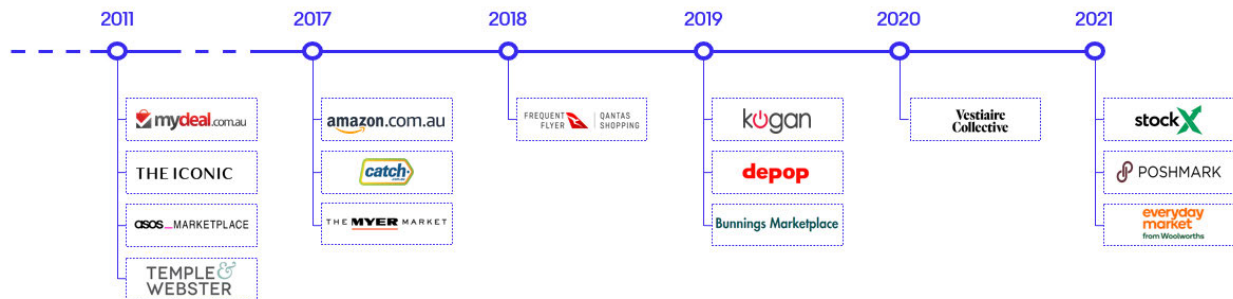
### **2. What are the barriers to entry and expansion in Australia for the supply of general online retail marketplaces? How have these changed over time?**

The barriers to entry and expansion in Australia for the supply of general online retail marketplaces are low, especially in terms of regulatory and financial barriers. This has not changed over time.

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<sup>2</sup> We use the terms third party seller(s) / seller(s) interchangeably throughout this submission. As a pure third party online marketplace, by definition all sellers on eBay are third party sellers (both B2C and C2C)

The relative lack of barriers to entry and expansion is evidenced by the fact that, since our launch in Australia in 1999, eBay has witnessed the growth of the general online marketplaces identified as part of this review as well as the expansive range of marketplaces and niche verticals we have listed at question 1. We have set some of these out in a timeline below:



To start a general online marketplace in Australia you need:

- A digital platform – The emergence of new platform as a service (PaaS) offerings such as Marketplacer and Mirakl have substantially reduced the technological requirements for new marketplace entrants providing a platform to develop a marketplace quickly and easily;
- An ability to facilitate payments - which can be done through agreement with a payment service provider (who will then be responsible for the regulatory requirements)
- To undertake marketing - to drive sellers and buyers to the marketplace

On that last point, the ability of a marketplace to expand is fundamentally driven by two factors; its capacity to attract consumers; and its ability to retain sellers. This provides significant opportunity for competition between marketplaces and the emergence of new marketplace businesses into Australia reflects this fact. We outline this dynamic in the following diagram.



The ability to innovate is an important factor in the ability to expand as an online marketplace provider. This can include:

- Developing and providing tools for sellers to assist them in promoting, selling and receiving payment for their goods and services. This can be done “in house” by the marketplace provider or through agreements with third-parties (such as research companies and payment service providers);
- Developing and providing policies and programs to allow buyers to transact safely on the marketplace. This can be as simple as putting in place systems to vet sellers to prevent fraudulent transactions or to terminate rights to sell where there is failure to adhere to policies designed to prevent abusive practices.

It should also be recognised that new software as a service (SaaS) offerings provided by businesses including Shopify, Magento, Squarespace, Woocommerce and BigCommerce have dramatically lowered the requirements for entry for new online retail offerings, significantly expanding competition in general e-commerce since eBay’s launch in the Australian market.

**3. To what extent do general online retail marketplaces compete with the third-party sellers that are selling directly from their own online stores? To what extent do they compete with physical stores?**

As a pure third-party online marketplace, eBay partners with the 40,000 Australian sellers on our marketplace but it does not compete with those sellers on the eBay platform. For abundance of clarity, eBay does not sell, ship or stock any items appearing on our marketplace.

However, as a location from which sales and purchases of goods and services may occur, all online retail marketplaces compete, **indirectly** with third-party online stores and physical stores, as well as comparison sites like Little Birdie and search engines like Google Shopping.

From a demand side perspective consumers can, and do, search for goods and services online through marketplaces and on third-party seller sites and at physical stores. From a supply side perspective many third-party sellers advertise and sell products through online marketplaces, their own online stores and at physical stores. Many well known bricks and mortar Australian retailers (including The Good Guys, Chemist Warehouse, Big W, Bing Lee, Supercheap Auto and Peters of Kensington) choose to leverage eBay as part of an omni-channel retail strategy.

As noted in the issues paper, despite the tailwinds of COVID, online retail spend in Australia is only 16% of total retail spend<sup>3</sup>. This is far lower than more developed e-commerce markets such as the UK (26%)<sup>4</sup> and Korea (45%)<sup>5</sup>. The vast majority of Australian retail trade (both food and non-food) still occurs in bricks and mortar stores.

**4. To what extent do third-party sellers make their goods available across multiple marketplaces? Are there reasons for picking one marketplace and not the other? To what extent can sellers bypass the marketplaces to reach consumers?**

As online marketplaces have continued to enter the Australian market, an increasing number of retail businesses are looking to sell on multiple marketplaces.

eBay facilitates multi-channel selling through a range of integrations with website services such as Shopify, BigCommerce and Wix. eBay can be easily added for businesses selling on multiple marketplaces or via their own website. We also work collaboratively with a range of multi-channel integration partners such as Maropost Commerce (formerly Neto), City Beach Software (Omnivore), Channel Advisor, Intelligent Reach, Merchant Spring, Codisto, M2EPRO CrescoData, Comestri, Feedonomics, Fooition and Zellis as they look to support businesses selling across multiple marketplaces.

As noted in our response to question 2 above, the general attraction of any marketplace for a seller is its audience size and level of engagement with consumers.

However, recent research undertaken by Newgate Research<sup>6</sup> for eBay indicates that beyond audience size, there are other benefits of online marketplaces that sellers rate as very important and would drive decision making on which marketplace to sell.

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<sup>3</sup> <https://www.abs.gov.au/articles/online-sales-june-2021-supplementary-covid-19-analysis>

<sup>4</sup> <https://www.ons.gov.uk/businessindustryandtrade/retailindustry/timeseries/j4mc/drsi>

<sup>5</sup> <https://kosis.kr/eng/>

<sup>6</sup> Findings taken from Online Marketplaces Research (Third Party Seller Community) an online community forum of 52 Australian third party online sellers conducted by Newgate Research for eBay Australia July 2021

<i>(n) who consider benefit 'very important'</i>	All participants	eBay Sellers	Non eBay Sellers	Low sales volume	High sales volume
	(52)	(32)	(20)	(21)	(31)
Gaining exposure to a bigger pool of potential customers	42	25	17	15	27
Having a safe and secure payment platform for transactions	39	23	16	16	23
Increases likelihood of your products appearing in web searches*	29	17	12	12	17
Associating your products with a well-known and reputable brand	19	12	7	10	9
Reduces the need (and expense) for your business to do its own advertising and promotion*	18	11	7	8	10
The ease of leveraging an existing platform rather than creating your own website	17	11	6	5	12

The safety and security of payments and increasing the likelihood of products appearing in web searches were emphasised as very important benefits for both low volume sellers (<\$50K p.a.) and high volume sellers (>\$50K p.a.).

eBay does not place restrictions on sellers also utilising their own websites or other marketplaces to sell their goods. Our member to member contact policy<sup>7</sup> makes it clear however that while open communication between sellers and consumers is encouraged, it is a breach of the eBay User Agreement to make offers to buy and sell outside of eBay. For instance, buyers and sellers can't engage in any action with a user on the site designed to complete or facilitate a transaction outside of eBay or use contact information obtained through an eBay transaction to offer to buy or sell an item outside of eBay.<sup>8</sup> Doing so is a breach of policy and eBay's User Agreement.

Attempts to bypass eBay and transact off platform exposes consumers to potential scam behaviour and means protections offered (such as the eBay Money Back Guarantee) are not available. It is also a poor experience for consumers to be directed to other sites to complete their purchase when they think they are transacting through eBay. eBay also does not allow sellers to use the contact details of buyers that we provide to them for the purposes of delivery to then send unsolicited marketing to buyers - doing so is a breach of eBay's User Agreement, User Privacy Notice (section 20) and SPAM Policy. Our links policy<sup>9</sup> also makes it clear that listings cannot include links to direct consumers to sites other than eBay.

While attempts by sellers to push transactions off our marketplace are not allowed, we enable sellers to build their brand and market to our 12-million unique monthly visitors in other ways. For example, eBay has recently launched a new coded coupon offering which allows sellers to directly offer consumers discounts on the seller's eBay listings<sup>10</sup>. A seller can make the coded

<sup>7</sup> <https://www.ebay.com.au/help/policies/member-behaviour-policies/membertomember-contact-policy?id=4262>

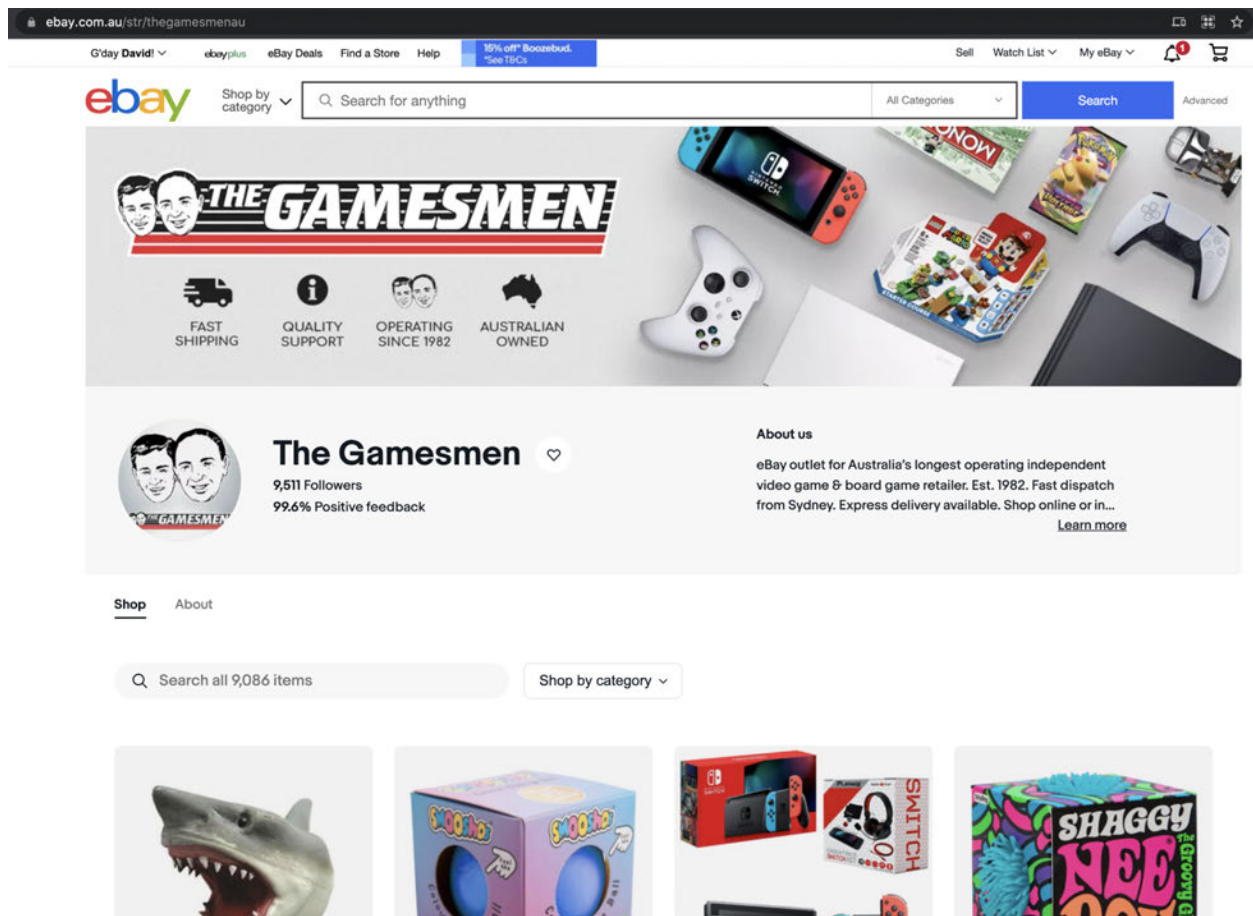
<sup>8</sup> <https://www.ebay.com.au/help/policies/payment-policies/offers-buy-sell-outside-ebay-policy?id=4272>

<sup>9</sup> <https://www.ebay.com/help/policies/listing-policies/links-policy?id=4248>

<sup>10</sup> <https://sellercentre.ebay.com.au/coded-coupons>

coupon publicly visible (on ebay.com.au) on their listings or share it privately through their own marketing channels.

Another example is a digital “eBay Store” where a seller can list all their inventory for sale on eBay under their own logo and branding. Many sellers utilise an eBay store to grow their overall business which in turn allows them to drive traffic to their own website or even their own physical store via click and collect. An example is set out below:



**5. Are any general online retail marketplaces considered a ‘must have’ for Australian third-party sellers or for sellers of a particular category of goods?**

As noted in our response to question 1 above, there are a growing number of both general online retail marketplaces and niche vertical marketplaces in Australia. The increased prevalence of multi and omni channel selling suggests sellers are using a mix of marketplaces, webstore and in-store strategies to engage with customers, with no one marketplace being a “must have”.

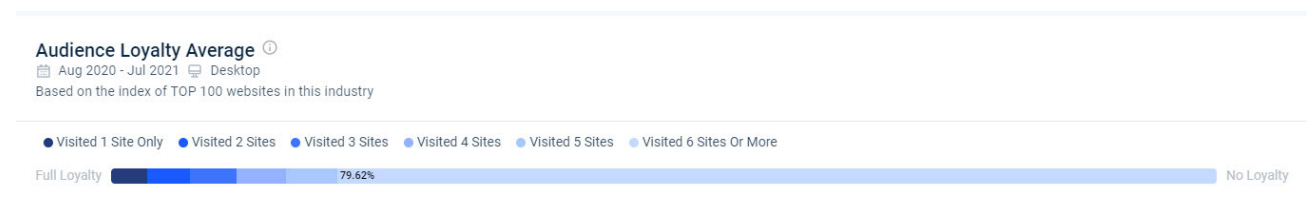
**6. To what extent do consumers use more than one marketplace? What role do**



## subscription/loyalty schemes have in consumer choice of marketplace? What role do non-price factors, such as the level of customer service or ease of access to refunds have in consumer choice of marketplaces?

As noted earlier, over recent years there has been significant growth in the number of general online marketplaces and direct online retail offerings in Australia. In an increasingly competitive retail environment, consumers have more choice than ever before. Consumers are leveraging this expansion in choice to utilise multiple marketplaces (both general and niche) when making purchasing decisions.

Reflecting this expansion in choice, preliminary (beta) data developed by Similarweb shows that over the past 12 months 79.6% of visitors to Australia's top 100 e-commerce sites, visited 6 or more other e-commerce sites<sup>11</sup>.



Beyond price factors, e-commerce consumers are generally driven by convenience with fast and free delivery of goods, exclusive offers and free returns being key considerations in addition to fundamental trust and safety considerations.

Recent consumer research undertaken by Newgate Research for eBay Australia indicated that when considering to purchase via an online marketplace, consumers rated as very or quite important considerations:

- Safe and secure payment system (95%)
- Knowing personal data is secure and won't be misused (93%)
- The platform is fair in resolving disputes between buyers and sellers (90%)
- Has a large range of items to choose from (87%)
- Offers free or cheap delivery options (87%)<sup>12</sup>

As some non-price factors may present a “premium service”, subscription programs are utilised to meet consumer demands and to drive brand loyalty. eBay Australia's subscription program,

<sup>11</sup> Source: Similarweb (Beta data) Timeline: Past 12 months (Aug '20-July '21) Data: Estimated % of the audience of top e-commerce and shopping sites (as defined by Similarweb based on estimated desktop traffic volume) that visits each site exclusively vs. multiple sites

<sup>12</sup> Findings taken from Online Marketplaces Research (Consumer Survey) a nationwide survey of 1,200 Australian consumers conducted by Newgate Research for eBay Australia August 2021

eBay Plus, offers members exclusive deals, fast and free express delivery upgrades on millions of Plus items, free returns and partner offers such as discounted movie tickets<sup>13</sup>.

The eBay Plus badge indicates that a listing is covered within the program. This is beneficial not just to consumers but to eBay sellers as well. Benefits for sellers include:

- Accessing more engaged consumers
- Access to exclusive eBay onsite promotions
- Increased visibility in eBay search
- Subsidised postage

For a seller listing to qualify for eBay Plus they are required to meet a range of criteria<sup>14</sup> including:

- Maintain a Top Rated or Above Standard rating
- Ensure all listings are located within Australia
- 0-1 day handling (time between transaction and the seller handing off to a shipping carrier)
- Accept 30 day returns for change of mind

Non-price factors do have a role in consumer choice. As a general observation, the extent to which these factors will drive decision making will often be dependent on the category a consumer may be looking to purchase in (for example a free return may be more important for a consumer buying clothing than it would be if the same customer was looking to purchase a book).

## **7. To what extent can consumers bypass marketplaces to buy directly from sellers?**

Consumers always have the choice as to where, and from whom, they acquire goods and services. As noted in our response to question 4 above, while eBay monitors attempts by both consumers and sellers to transact off platform where the contact has been made on the eBay platform, there are no barriers to a consumer buying goods directly from a seller. Indeed, unlike other marketplaces, eBay enables sellers to use and promote their own brand on eBay. Anecdotally, many sellers use eBay to build their brand. The growth of eBay businesses such as Catch and Kogan into marketplaces in their own right is evidence of this.

Many sellers will utilise marketplaces as an additional sales channel to their existing online offering. As a recent example, during Victoria's extended COVID lockdown in 2020, Yellow Earth Co., a manufacturer and retailer of sheepskin clothing, footwear and accessories, needed to move quickly as their physical retail stores were forced to close their doors. Sales from Yellow

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<sup>13</sup> <https://www.ebay.com.au/ebayplus/home>

<sup>14</sup> A full list of seller criteria can be found here: <https://www.ebay.com.au/help/selling/listings/creating-managing-listings/selling-ebay-plus?id=4756>

Earth Co.'s own e-commerce platform and a new store on eBay allowed the company to keep its six full-time staff and casual retail employees in work. As Director of Yellow Earth Co. Matthew Liu stated:

*“That income stream (physical retail) pretty much became zero but the online side allowed us to continue generating income into the business and help pay wages and keep some of the jobs running as well.*

*“Just a few weeks ago before lockdown began, online accounted for just 5 per cent of our overall sales, whereas it’s now around 60 per cent. eBay is already responsible for half of these sales which is more than we could have ever expected in such a short time”<sup>15</sup>*

#### **8. What services do marketplaces provide to assist or enable sellers to sell their goods? How have these changed over time?**

As noted above, seller engagement is critical to the health of a marketplace. eBay provides a range of services to assist sellers build and grow their business online. eBay undertakes marketing; provides data insights and tools; runs promotions via our home page and through emails and other owned channels; provides account management support; selling and listing integrations; negotiates competitive postal rates; establishes competitive third-party warehousing options; provides various seller protections; as well as enabling new payment options.

We outline some of the additional services offered by eBay below:

##### **Terapeak Product Research<sup>16</sup>**

Terapeak uses recent eBay supply, demand, and pricing data to help sellers determine what to sell, when to sell it, and at what price. It offers recent marketplace price trends and real-world sales data for millions of items to optimise listings and improve sales. Terapeak allows sellers to grow inventory on eBay by identifying key trends and opportunities. In 2017, eBay acquired Terapeak to support sellers in running their business<sup>17</sup>.

In April 2021, Terapeak Product Research (which provides insights on listings, how returns and shipping options drive performance and trends in prices, sales and product availability) was made free to all eBay sellers. Terapeak Sourcing Insights, which provides deeper and more current data on demand and supply trends, is free to access for all levels of eBay store subscriptions.

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<sup>15</sup>

<https://www.news.com.au/lifestyle/fashion/fashion-trends/sales-of-sheepskin-moccasins-and-boots-boom-during-lockdown/news-story/6a0581bacc95ed6aee399485a11f947>

<sup>16</sup> <https://www.ebay.com/help/selling/selling-tools/terapeak-research?id=4853>

<sup>17</sup> <https://www.ebayinc.com/stories/news/ebay-signs-agreement-to-acquire-terapeak/>

## Postage Labels

With eBay Postage Labels, eBay sellers can pay for their postage and print their Australia Post and Sendle postage labels, all on eBay. Postage is offered at a discounted rate.

## Afterpay on eBay

In 2020, we introduced Afterpay on eBay. This change offered consumers a new way to pay for items on eBay but also provided this payment option to eBay sellers free of charge (eBay pays the merchant fee for these transactions). The introduction of this new payment option was a strong driver for sales growth for businesses across eBay<sup>18</sup>. It was also made available free of charge to C2C sellers on pre-owned items, a global first for this premium payment method.

## Seller Growth Support

Through our partnership referral program<sup>19</sup> eBay provides certain referred new business sellers seller growth support to help them hit key milestones in their online selling experience. The program helps sellers overcome initial barriers to listing inventory, managing their first sales and ensuring they have their postal policies set up correctly.

## Advertising and Marketing Services

eBay provides new and established sellers with a variety of marketing and advertising services, primarily designed to either grow broad awareness of a product, seller or brand, drive lead generation, or promote and launch products across our marketplace. These services typically use our unique view of consumers to holistically tailor campaigns for seller success.

Promoted listings are offered to help sellers boost the visibility of their eBay listings and reach new consumers.

### **9. Are there any trends in consumer behaviour or preferences, such as increased online purchasing that have or will affect general online retail marketplaces? If so, describe what they are**

The COVID-19 pandemic brought a number of significant changes in consumer behaviour.

As our **Lockdown: One Year On**<sup>20</sup> report identified, COVID-19 saw a generational shift in how Australians shop online.

During lockdown periods Generation Z (18-24 years old) did more than half of their shopping online (57 per cent), while Baby Boomers (60+ years old) posted the biggest increase on their pre-pandemic online shopping figures (69 per cent).

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<sup>18</sup> <https://www.afr.com/companies/financial-services/afterpay-deal-has-helped-lift-sales-ebay-says-20201209-p56m14>

<sup>19</sup> eBay's partnership referral program is building a range of new partnerships with business services and industry associations that support small to medium businesses

<sup>20</sup>

[https://static.ebayinc.com/static/assets/Uploads/PressRoom/Local/eBay-Lockdown-Report.pdf?utm\\_source=301Redirect&utm\\_medium=301Redirect&utm\\_campaign=301Redirect](https://static.ebayinc.com/static/assets/Uploads/PressRoom/Local/eBay-Lockdown-Report.pdf?utm_source=301Redirect&utm_medium=301Redirect&utm_campaign=301Redirect)

While improved mobility has generally seen moderation in online shopping levels, on a pre-pandemic basis, more Australians than ever before are looking to buy online. In recognition that older and potentially less digitally literate Australians are shopping online, eBay has supported the efforts of the e-Safety Commissioner's Be Connected program. Be Connected is aimed at increasing the confidence, skills and online safety of older Australians when they use the internet.

As part of Be Connected, in 2020 eBay assisted in the development of a free module to take older and novice users through the basics of setting up an eBay account, making a purchase as well as how to list an item for sale<sup>21</sup>. Building digital literacy and confidence is one of the best ways to keep individuals safe when trading online and to also engage our community during times of isolation.

One of the positive changes we've also seen through the COVID-19 period has been increasing consumer preferences towards Australian Made goods. Searches for 'Australian Made' items on eBay were up significantly throughout 2020, rising by more than 430 per cent in July.

To make it as easy as possible to buy local on our platform, as part of Australian Made's first-ever partnership with an online marketplace, we created Australian Made on eBay<sup>22</sup> a one stop shop for Australian Made across categories including fashion, health, beauty, automotive, and home and garden.

Streaming video and movie services are also driving consumer purchasing habits on online marketplaces. As an example, the 2020 Netflix series The Last Dance (focussing on the Chicago Bulls final championship run) saw a rapid increase in searches for basketball memorabilia and merchandise on eBay (up 283%). Similarly, the period drama series Bridgerton saw a 357% increase in searches for regency fashion (tiaras and shawls) on eBay following its launch in Australia.

**10. Has competition, or potential competition, in the supply of general online retail marketplaces services been affected by:**

- a) acquisitions of start-up companies**
  - b) entry into the market by international businesses**
  - c) the acquisition or development of new technology**
  - d) acquisitions of companies operating in related sectors within the mobile and / or desktop device ecosystem?**
  - e) the current COVID-19 pandemic and the increase in online purchasing by Consumers**
- If so, please describe how.**

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<sup>21</sup> <https://beconnected.esafety.gov.au/topic-library/introduction-to-buying-and-selling-online>

<sup>22</sup> <https://www.ebay.com.au/e/special-event/australian-made>

eBay launched in Australia over 20 years ago. Our business has continued to evolve and adapt with changes in consumer demand, seller behaviours and competition from both domestic and international competitors.

eBay is a business that was founded on an ethos of providing a marketplace where all sellers could compete regardless of size. We have welcomed the entry of new competitor marketplaces as good for the market and reflective of the maturing of online retail in Australia. New entrants drive healthy competition for both marketplace consumers and sellers.

While we do not suggest that any of the factors above have negatively impacted competition, we do hold concerns that the current application of the Goods and Services Tax (GST) on low value goods may be having distortionary effects on competition between Australian online marketplaces and other international e-commerce platforms.

As you may be aware, the *Australian Treasury Laws Amendment (GST Low Value Goods) Act 2017* (the Act):

- Made foreign vendors, as well as re-deliverers and 'electronic distribution platforms' (EDPs), such as eBay, liable for GST on low value imported goods sold to an Australian consumer
- Required foreign suppliers that make sales of more than \$75,000 to consumers in Australia each year to register for and collect GST.

eBay Australia has worked hard to update our systems, communicate to our sellers and engage with the ATO to ensure we remain compliant with these requirements.

Under this model, without any direct action by them, a foreign supplier selling via a marketplace like eBay to consumers in Australia has GST automatically applied (eBay collects and remits).

On the other hand, a foreign supplier who sells direct to Australian consumers doesn't have to charge GST until they exceed \$75,000 in sales.

While eBay believes there may be more efficient models of collection, we hold concerns that there are business platforms that may not have been contemplated at the time of this legislation, or through its implementation and operation by the ATO, that should also be liable for collection of low value GST.

Businesses that provide e-commerce platform support for online stores and payment platforms are good examples. As these businesses charge transaction and payment fees on sales from those that utilise their platform, they would have the capability to assess GST taxable supplies, collect and then remit GST.

As it stands, a foreign business that chooses to sell into Australia via an EDP has GST applied from their first sale. Allowing foreign businesses that sell low value goods into Australia via other platforms without having GST applied is unfair. It creates distortions in the market, by enabling businesses who sell to Australia via an online store to charge 10% less than their eBay store or other domestic competitors.

This encourages consumers to shop on less trusted websites which do not provide guarantees on purchases, reduces government tax revenue and most importantly reduces the competitiveness of Australian retail.

We note the Board of Taxation is currently reviewing the Act<sup>23</sup>, but would welcome consideration of these issues by the ACCC from a competition perspective.

**11. What is the process for getting a product listed on a general online retail marketplace? What is the process for removing a product from the marketplace? Has this process changed over time?**

The process for listing an item is set out on eBay's help page<sup>24</sup>.

Sellers can utilise eBay's quick listing tool which provides the core features they need to start selling or alternatively, sellers that sell frequently and in bulk may use the business tool to list. Sellers can also utilise third party integrators to list such as Maropost Commerce Cloud (formerly NETO), Shopify, or otherwise list items directly through API integrations.

When listing an item, sellers can provide photos, brand, item description, item condition (e.g. used, new, certified refurbished etc.), physical details about the item ("item specifics"), pricing format (i.e. auction or fixed price) and service options (i.e. handling time, shipping options, returns).

Sellers listing via one of eBay's listing tools can choose to use eBay's product catalogue, which is an online library of details and images for products across a wide range of categories. The product catalogue pre-fills product information like brand, model number, dimensions, colour, capacity, compatibilities and also provides professional photos. Importantly, we do not insist on product-catalogue matching in order to sell on eBay.

Rules for listing on eBay are set out in our listing<sup>25</sup> and selling policies<sup>26</sup>. eBay also has rules around prohibited and restricted items<sup>27</sup> and policies to monitor and mitigate risk and fraud<sup>28</sup>. All

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<sup>23</sup> <https://taxboard.gov.au/review/low-value-imported-goods-review>

<sup>24</sup> <https://www.ebay.com.au/help/listings/creating-managing-listings/creating-listing?id=4105>

<sup>25</sup> <https://www.ebay.com.au/help/policies/listing-policies/listing-policies?id=4213>

<sup>26</sup> <https://www.ebay.com.au/help/policies/selling-policies/selling-policies?id=4214>

<sup>27</sup> <https://www.ebay.com.au/help/policies/prohibited-restricted-items/prohibited-restricted-items?id=4207>

<sup>28</sup> eBay's risk and fraud policies aren't publicly disclosed to mitigate users attempting to circumvent them.

of these policies ensure that eBay keeps its community of users safe and that local legal requirements are met.

As set out in the eBay User Agreement, eBay may take action if listings or sellers do not comply with eBay's policies, including by delaying the listing of an item, deleting the listing, or by restricting a users' activities on the site

eBay has automated models which may prevent an item from being listed on eBay. These models look to detect whether a potential listing is in breach of certain policies (for example, the prohibited and restricted items or counterfeits items policies) or represents a potential risk (such as fraud). These models monitor at both an item and account level.

While some listings will be automatically blocked by these models, others will be referred for internal review by our teams. These reviews assess whether a seller or the specific listing is in breach of policy.

Even where a listing has been initially allowed, eBay continues to monitor the marketplace and will take action on listings and sellers that are subsequently identified as breaching policy.

Where a listing has been removed, the seller is advised of the removal via the eBay message centre (and their registered email) and the reasons for the removal (the policy which the listing was in breach).

Seller account restrictions are advised via the same channels. As these restrictions may relate to potential fraud, specific reasons for the restriction are not generally disclosed. In most cases, eBay grants the restricted seller opportunities to provide further information to assist in reviewing the restriction.

While eBay makes significant investments in technology to stop items listing on our marketplace that should not be listed, we also encourage our community of users to report problems, offensive content, and policy violations. In particular, eBay's Verified Rights Owner (VeRO) Program<sup>29</sup> works to ensure that listed items do not infringe upon the copyright, trademark or other intellectual property rights of third parties. eBay's dedicated VeRO team investigates reported violations of third parties' intellectual property rights, and where appropriate, it may take action and remove listings.

In addition, eBay's Regulatory Portal<sup>30</sup> launched in Australia in 2021 is a first for an online marketplace. The Portal empowers trusted authorities from around the globe, including the ACCC and the Therapeutic Goods Authority, to efficiently report and remove listings for illegal or unsafe items. It allows a regulator to remove listings from the eBay marketplace without additional approval from eBay itself.

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<sup>29</sup> <https://www.ebay.com.au/help/policies/listing-policies/selling-policies/intellectual-property-vero-program?id=4349>

<sup>30</sup> <https://www.ebayinc.com/stories/press-room/au/ebay-launches-new-regulatory-portal-to-further-protect-consumers/>



eBay continuously reviews and adapts its policies and processes to improve the detection of breaches of policy and risk. While specific policies do not change frequently, internal triggers and models are updated on an ongoing basis to mitigate risk and adapt to the changing behaviour of fraudulent sellers.

## 12. How effective are the key marketplaces' current processes for reviewing and approving products? Do these processes operate to ensure low quality and products which may cause consumer harm are excluded?

eBay does not have a process for specifically reviewing products, nor does it “approve” products. However, listings and sellers are expected to comply with eBay’s policies (as noted above).

Our global efforts to both reactively and proactively address issues relating to prohibited and restricted items, listing and intellectual property violations are illustrated below:



### Case Study - COVID 19

While eBay has effective processes in place, we also look to evolve and adapt to emerging challenges. Our willingness to adapt to keep our community safe was demonstrated in 2020 as we responded to COVID 19.

eBay has a policy of not allowing sellers to list items that attempt to capitalise on disaster or tragedy<sup>31</sup>. eBay has also implemented an explicit price gouging policy<sup>32</sup> to make it easier for our users to report non-compliant listings.

<sup>31</sup> <https://www.ebay.com/help/policies/prohibited-restricted-items/disaster-tragedy-policy?id=5051>

<sup>32</sup> <https://www.ebay.com/help/policies/prohibited-restricted-items/price-gouging-policy?id=5106>

As we've noted above, ordinarily, as our community identifies instances of items in breach of our policies (or as our team undertakes sweeps of the platform), we remove those listings and when necessary block the associated user's account.

Due to the unprecedented nature of COVID 19 and the associated panic buying it inspired, the sheer volume of sellers that were looking to list items at excessive prices both in Australia and globally put our systems under immense strain. In large part, these sellers were private individuals trying to resell products they had bought from a retailer.

To stop this practice, eBay globally took proactive steps and restricted the listing of key items including face masks and hand sanitiser to only a handful of sellers.

In addition to masks and sanitizers, eBay Australia also restricted toilet paper to approved sellers. Restrictions were also applied to other products subject to panic buying (for example baby formula or nappies) to business sellers.

Our approach to restrict the listing of these items to certain sellers was taken as it was not technically feasible to implement a large-scale enforcement of the numerous products in these categories based on automated price assessments.

This practical action worked to ensure that those trying to take unfair advantage of the situation were stopped but also and importantly that consumers could still access these goods from legitimate sellers at a time of elevated demand. We welcomed acknowledgement of these efforts by the ACCC<sup>33</sup>.

### **13. What processes are in place (if any) for taking action in response to consumer reviews? Are products ever removed in response to poor consumer reviews?**

eBay has processes in place for consumers to provide product reviews. In addition, to help encourage positive behaviours on eBay, we provide the ability for both seller and consumer feedback.

Product reviews are an important tool to help consumers complete their entire shopping journey from research through to purchase. Based on information a seller provides in relation to their listing on eBay, relevant reviews will be matched for that item. While eBay does moderate reviews (as described below) it does not take action in response to product reviews.

eBay provides 2 types of product reviews:

- Verified Reviews: Left by consumers we know have purchased the item on eBay
- Unverified Reviews : Left by customers who have purchased the item elsewhere

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<sup>33</sup> <https://www.accc.gov.au/speech/managing-the-impacts-of-covid-19-disruption-on-consumers-and-business>

When searching for an item a star rating at the top of each listing is matched to a product review. The star rating is an average of all scores submitted for both types of reviews.

To help address the potential risk of manipulation by sellers, our reviews policy<sup>34</sup> makes it clear that listings for the following types of items are not allowed:

- Social media likes, followers, shares, or any type of social media engagement
- Services to leave, manipulate or improve reviews about products or companies

The policy means that an individual cannot make a listing offering social media likes, shares, or other social media engagement on eBay sites. Services to leave or manipulate reviews about products or companies also cannot be offered.

Like any breach of eBay policy, reporting channels are available for our community of users if they identify this behaviour and, where relevant, regulatory authorities can report on these matters as well. Appropriate action such as administratively ending or cancelling listings, hiding or demoting all listings from search results, lowering seller rating, buying or selling restrictions, and account suspension may be applied against a seller who breaches this policy.

As noted above, as an open marketplace, poor consumer reviews in and of themselves are not a basis for the removal of a listing on eBay. Where there is a breach of policy relating to a listing being unsafe or prohibited, action is taken quickly to remove the item.

eBay also provides an opportunity for consumers to feedback on their transaction experience with a seller which we explain in detail in our response to question 29 below.

#### **14. To what extent do the marketplaces' terms and conditions affect the pricing of goods by sellers?**

The price at which goods are listed on eBay is the decision of the seller.

From time to time, eBay offers promotions on its platform that may be fully or partially funded by the participating sellers. In its funding agreements with those sellers, eBay requires them to (among other things):

- agree not to increase the listing price of any included items prior to the start of the promotion so as to make the offer appear more attractive;
- act in good faith at all times in connection with the promotion;
- maintain price parity during the promotion between the items listed on their own website/s and any of their items listed on www.ebay.com.au which are included in the

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<sup>34</sup> <https://www.ebay.com.au/help/policies/listing-policies/social-media-reviews-manipulation-policy?id=5031>

promotion so as to ensure that the discount offered to buyers in the promotion is not rendered false or misleading.

- ensure that the discount represents a true and accurate percentage discount on the price at which such items are sold for the duration of the promotion; and
- comply with all applicable laws and in particular the Australian Consumer Law.

While pricing decisions are solely the decision of sellers, eBay encourages sellers to offer free postage for items they list. It's been consistently shown<sup>35</sup>, when buying online Australian consumers expect and search for free postage. We communicate to all sellers that offering free postage can make a big difference to their sales. If offering free postage isn't an option for a seller we suggest that they set postage discounts when consumers reach a minimum spend.

To be eligible to participate in the eBay Plus program, eBay sellers must offer free express shipping on eligible items. eBay contributes up to \$4 for express shipping of these items.

Where free postage is offered, a seller will need to factor this into the final sale price of an item. As noted in our response to Question 17 below, while free delivery is not preferenced in our search algorithm, sellers can expect that as items with free delivery convert better (as consumers regularly look for items with free delivery) they may see organic improvement in their search results on eBay.

### **15. What fees and charges do marketplaces charge to third-party sellers? How have these changed over time and how do these affect sellers?**

There are a number of fees charged for selling on eBay. For some fees, the amount charged will vary based on the category the seller is listing in and the store package that a seller has subscribed to.

It should be noted that as eBay is currently transitioning away from PayPal for payments processing, sellers on eBay are experiencing changes to their fees<sup>36</sup>. Sellers will be charged fees inclusive of payments processing. Previously sellers were charged this separately by PayPal when selling on eBay.

While sellers will see higher fees from eBay (as we now manage the payment process), most can expect to see overall savings as they transition onto the new payment system as well as other benefits including expanded payment options, consolidated reporting and improved integrations.

As all sellers will be onboarded to this new system, we have only outlined fees under our new managed payments structure.

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<sup>35</sup> <https://www.retailbiz.com.au/online-retailing/aussie-consumers-expect-free-delivery-and-returns-as-standard/>

<sup>36</sup> <https://sellercentre.ebay.com.au/managed-payments>

The main fees charged to sellers are as follows

### **Final Value Fees**

Once an item sells, a seller is charged a percentage of an item's total sale price. For most categories, the Final Value Fee for selling without a store subscription is 13.4% (GST incl.) or lower plus a \$0.30 transaction fee. For eBay store subscribers, Final Value Fees range from 5.5% - 13.1%(GST incl.) depending on store tier and the category in which an item is sold, plus a \$0.30 transaction fee.

### **Store Subscription Fees**

eBay offers a range of store subscriptions for higher volume and business sellers. With an eBay Store, sellers can display their listings in a single, branded location and also benefit from inclusive listings, discounted fees and additional tools to manage their business.

All eBay Store subscription packages offer lower Final Value Fees and benefits<sup>37</sup>(as compared to selling without an eBay Store). In addition store subscribers have access to additional tools to manage and promote their business, although some of these may incur additional fees. Sellers can choose between a Basic, Featured or Anchor store package with a scaling set of fee discounts and benefits.

### **Other Fees**

Some fees affect a smaller number of sellers and may apply in certain instances such as listing in Classified Ad format, listing in the Motors or services categories, upgrading or scheduling a listing, or for listings associated with international selling.

Over the last 12 months, eBay has removed fees to list an item. A fee is still however charged for excessive listing (applied when a seller exceeds 250,000 listings per month). This is to cover additional costs associated with the management of such a large volume of listings such as hosting, storage and computer infrastructure to serve fast search results.

Further detail on seller fees are available directly from the help pages on ebay.com.au<sup>38</sup>.

**16. What are the benefits of the additional services provided by marketplaces to third-party sellers (for example: warehousing, distribution)? To what extent are sellers able to use services other than those offered by the online retail marketplaces?**

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<sup>37</sup> <https://sellercentre.ebay.com.au/ebay-stores>

<sup>38</sup> <https://www.ebay.com.au/help/selling/fees-credits-invoices/ebay-stores-selling-fees?id=4809>

Although eBay does not directly provide warehousing or distribution services, we partner with third-party service providers<sup>39</sup> to offer such support to sellers on our marketplace.

Key benefits to sellers of utilising these services include reduced rates, simplified integration processes, faster delivery times and professional inventory management.

Generally eBay allows third-party fulfilment, including drop shipping. However, we don't allow third-party fulfilment if it could be confusing or misleading for the consumer (for example, because the packaging used makes it appear that their item was purchased from another retailer or marketplace instead of on eBay), or if the consumer's personal data is not sufficiently protected.

Our policy<sup>40</sup> also makes it clear that a seller listing an item on eBay and then purchasing the item from another retailer or marketplace that sends it directly to a customer is not allowed.

**17. How important is it for a product to be displayed prominently on a marketplace for the success of the product? How important is the product category or categories that a product is assigned to?**

When consumers search on eBay, the default order of results is generally called Best Match<sup>41</sup>. This ranking (ordering) is designed to show the most relevant listings, taking into account the criteria users find most important when they're deciding what to buy.

Final search ranking considers a number of different factors. These include:

- How closely the listing matches the consumer's search terms
- How popular the item is
- The price of the item
- How complete the listing is (Does it have photos? Does it have an item description?)
- The listing terms of service, such as a seller's return policy and handling time
- A seller's track record when selling on eBay
- Whether a listing is being promoted or not, with these listings clearly marked as sponsored
- The overall diversity of the results set (e.g. considering if varied item conditions are shown or not based on the query)

Sellers who follow best listing and selling best practices will maximize the chance to see their items appear higher in search results. Competitive pricing, reasonable postage, and outstanding customer service are a great starting point for sellers. To help to appear higher in search results we also recommend sellers take the following actions:

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<sup>39</sup> <https://sellercentre.ebay.com.au/ebay-fulfilment-partner-program>

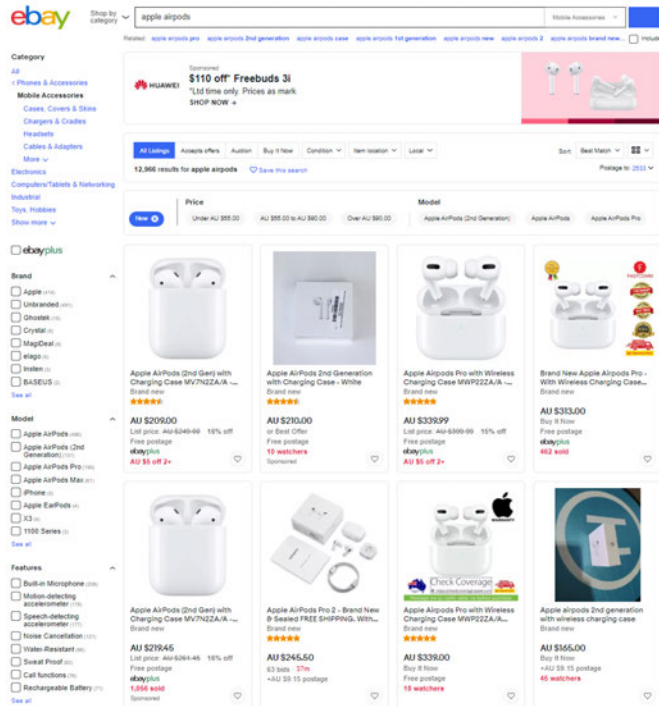
<sup>40</sup> <https://www.ebay.com.au/help/policies/selling-policies/selling-practices-policy/thirdparty-fulfilment-policy?id=4718>

<sup>41</sup> <https://www.ebay.com.au/help/selling/listings/listing-tips/optimising-listings-best-match?id=4166>

- Create complete and accurate listings (this helps eBay match more precisely to consumer searches)
- List in the most accurate category (a seller can also choose to list items in a secondary category)
- Use high quality photos
- Provide all selling terms (such as postage and handling costs and any international limits on listings)
- Maintain a positive sales history
- Handle customer complaints in a timely and professional manner
- Use a reliable, tracked delivery service such as Australia Post or Sendle.

In general, our approach to search results allows for any seller to be able to succeed in securing sales. Intermingled in the same results can be large brick and mortar retailers, online pure play distributors, small businesses and consumer sellers often selling a used version of the item. Ultimately, our search ranking is optimised towards answering a consumer's query most accurately, and therefore securing a sale for the seller that best meets that query. All the above factors are balanced in a multi-stage machine learned model to meet that outcome with no ability to manually and arbitrarily weight different factors independent of these stated goals.

A typical eBay search result is set out below:



Our search manipulation policy<sup>42</sup> makes it clear however that sellers attempting to manipulate eBay's search and browse experience by adding popular keywords in listings that don't have any relation to the seller's items, or using other tactics that could mislead consumers, is not allowed. Consumers are encouraged to report listings that they feel are breaching these rules.

**18. How do marketplaces determine how, and in which order, products are displayed? Which products (if any) benefit most from this? How has this changed over time?**

Please see our response to 17 above.

**19. Are third-party sellers informed of changes made by marketplaces as to how goods are displayed? If so, are sellers provided reasonable information on the changes?**

From time to time, eBay provides updates on changes across our marketplace. Updates relating to the functionality of eBay are generally provided through our regular Seller Updates<sup>43</sup> issued two or three times a year. Seller Updates provide details on key changes and how sellers can prepare for them.

While we don't provide sellers with detailed technical information on how the Best Match algorithm mathematically computes internal functional values as we believe this exacerbates risks of gaming, we do provide relevant detail on changes to factors that feed into Best Match results and thus provide information on how relative ordering of results are optimized. As an example, our Autumn 2021 Seller Update provided details on new Item Specifics for certain categories for goods<sup>44</sup>. Item Specifics are the details relating to a listing and are a factor that will assist a seller's items appearing in search.

**20. How has the methodology that marketplaces use to determine which goods to display prominently affected how sellers market their goods?**

Best Match encourages sellers to focus on sound business practices and deliver great value and service to consumers.

The methodology and factors that feed into Best Match help to drive better marketing approaches by sellers by favouring listings that include relevant details, have clear and clean photos and list in the right category. It bears repeating that eBay's search ranking works to optimise consumers' searches by matching them with items that they are looking to buy. Items that are well priced, from a known manufacturer, with a free delivery option and from a seller that does not have a track record of poor customer service will perform well with best match and

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<sup>42</sup> <https://www.ebay.com.au/help/policies/listing-policies/search-manipulation-policy?id=4243>

<sup>43</sup> <https://sellercentre.ebay.com.au/2021-autumn-seller-update/home>

<sup>44</sup> <https://sellercentre.ebay.com.au/2021-autumn-seller-update/listing-optimisation>



lead to conversion. Meeting these requirements help sellers of all sizes to compete effectively on eBay.

## **21. What range of consumer data can be collected from the use of marketplace?**

Section 4 of eBay's User Privacy Notice<sup>45</sup> ("UPN") sets out the range of consumer data collected by eBay about its users. That data includes:

- data provided by the user when using the service or creating an account (section 4.1);
- data that is automatically collected from the user when using the service or creating an account (section 4.2);
- data collected in connection with cookies and other similar technologies (section 4.3);
- data collected from other sources (to the extent legally permissible); and
- social network data shared by a user with eBay.

The data includes name, address, phone number, email address, transaction related data such as bids, purchases and sales, delivery address, billing details, financial information data and content shared with other users. It also includes data generated through user actions on the site such as saving sellers, user's searches, advertising preferences, computer and connection information including IP address and accessed pages, frequency and duration of visits, interactions with eBay's advertising partners and the segment into which the user falls (eg, male, 20-49 yrs old, interested in sneakers). eBay also collects consumer data from other sources where permitted such as public sources (eg for demographic data) and credit agencies.

### **a) To what extent is this data accessible to the seller, and for how long?**

Sellers get access to all data that is generally available to other users of the eBay site (for example, User IDs and feedback data relating to other users).

Data that is accessible to sellers over and above the data that is generally available to users on eBay, comes in two forms.

First, data that is shared with the seller after a transaction has occurred includes buyer name, buyer phone number, ship to name, ship to address, and ship to phone number. This data is available for viewing by sellers for up to 90 days from the transaction date. Sellers can also download their own selling history through downloadable reports on eBay's Seller Hub for up to 2 years..

Secondly, and as noted in our response to question 8 above, data is made available to sellers through Terapeak, which is an analytics tool eBay makes available to assist sellers with their selling journey. eBay provides all sellers with free access to Terapeak Research which provides sellers with insights from analyses of millions of listings across eBay's global platform including sales data, listing formats, average sales prices, shipping costs and buyer search terms. Sellers with a store subscription are provided access to Terapeak Sourcing Insights which also provides

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<sup>45</sup> <https://www.ebay.com.au/help/policies/member-behaviour-policies/user-privacy-notice-privacy-policy?id=4260>

sellers with data for items that are in or out of stock and category research on high demand low inventory items on eBay.

**b) To what extent is this data accessible to the marketplace or other third-party?**

Please see our response to question 21 in respect of the data collected and therefore accessible by eBay.

The circumstances in which eBay makes data available to third parties are set out in section 5 of eBay's UPN (**Purposes and legal basis for data processing and categories of recipients**):

- to fulfil eBay's contract with its users and to provide eBay's services (section 5.1);
- to comply with eBay's legal obligations (section 5.2);
- to protect the vital interests of users (section 5.3);
- for legitimate interests of eBay or third parties except where overridden by the user's interests, fundamental rights or freedoms (section 5.4);
- with the user's consent (section 5.5);
- sharing with other eBay group companies (section 5.6); and
- in the case of provision of payment services where such information is required to be shared (section 5.7).

The categories of third party recipients to whom consumer data is accessible are set out at the end of each subsection of section 5 in eBay's UPN.

For third party vendors with whom eBay shares personal data eBay has a robust Vendor Management Compliance program including Vendor Security Assessments run by its Information Security (Infosec) and Privacy teams who clear the third party prior to the sharing of any data. This ensures that eBay has the proper due diligence and governance in place for existing and new vendors. Any agreement with a third party of this nature will include specific data protection clauses that apply a GDPR standard with which the third party is required to comply.

- eBay has also set up a Data Council, made up of senior members from the legal, compliance, privacy, and product departments.
- Before certain data is shared with third parties it has to be approved by the Data Council a part of whose role is to conduct a review to make sure that our privacy statements and agreements are upheld, adequate contractual protections are in place and to maintain customer trust in eBay.

eBay stores personal data in accordance with applicable data protection laws to the extent necessary for the processing purposes set out in eBay's UPN (described below). When a user's data is no longer needed for the purposes for which it was collected, eBay will delete that data in accordance with its data retention and deletion policies unless we are legally obliged to keep a user's personal data for longer (e.g. for tax, accounting or auditing purposes). The retention periods depend on the type of data and the purpose for which the data is retained. More detail on storage, duration and erasure of personal data is set out in section 7 of eBay's UPN.

**22. For what purposes is this data collected? To what extent does analysis of this data affect future browsing and purchasing by consumers?**

***Purposes of data collection***

The purposes for which eBay collects consumer data are listed in detail in section 5 of the UPN and are summarised in our response to question 21. Such purposes include: providing the services to eBay users and enabling the performance of transactions, enabling delivery of purchased items, provision of eBay's payment services, prevention, detection and mitigation of illegal activities (eg fraud, money laundering and terrorist financing), complying with legal obligations to which eBay is subject, analysing and improving the Services (by reviewing site usage data to improve the user experience, customising page content and for product development) and personalisation, measurement and improvement of our and third party advertisements.

***Analysis of data which affects future browsing and purchasing***

Analysis of the data allows eBay to enhance the customer experience in many different ways, particularly on the eBay home page, within the search experience and in the View Item experience each of which may affect users' browsing and purchasing.

What is displayed to the user when they browse the site may depend on whether eBay can recognise the user (e.g. if they are signed into their account). For example, the home page for a user signed into their account may be populated with modules that show recently viewed items, watched items, items which are frequently searched for and items recommended for them, based on their past browsing and/or purchasing history.

As noted in our response to question 17 above, when a buyer searches for a specific item on the eBay site, eBay's Best Match algorithm determines the order of the results that is displayed to them. There are a number of factors considered by the algorithm to sort listings, based on data that eBay collects. Notwithstanding the operation of the Best Match algorithm, users can change the order in which items appear or exclude items from their search by adjusting the search filters available to them (eg, moving from Best Match to Lowest Price).

As discussed further in response to question 36, eBay uses consumer data to determine marketing segments that will receive specific marketing offers. In addition, analysis of consumer data is used to surface third party advertisements on its site. These experiences, in turn, may affect users' browsing and purchasing experience.

**23. What terms and conditions are in place between marketplaces and third-party sellers for the access of data by the marketplaces? What data are sellers required to provide marketplaces access to?**

Sellers on the eBay site agree to eBay's User Agreement<sup>46</sup>, UPN and, for managed payments sellers (described below), eBay's Payments Terms of Use<sup>47</sup>.

### ***User Agreement***

By accepting the User Agreement:

- a. users agree that the User Agreement, and the UPN apply when using the eBay Services;
- b. Sellers using eBay's managed payments service agree to a number of things including to provide the payments entity with information about the seller or their business required for eBay to meet its ID verification, AML and CTF legal obligations and provide bank account information; and
- c. users (including sellers) agree that when they upload content onto the eBay site, they grant eBay a licence to use the content (s.6 Content).

### ***UPN***

eBay's UPN (also discussed throughout these responses) sets out what personal data is collected by eBay and how a user's personal data is processed (see UPN sections 4, 5 and 6 and our responses to questions 21 and 22). It also includes notice of the fact that eBay and selected third parties may use cookies and similar technologies to provide the user with an enhanced user experience or to show the user personalised advertising (section 9, which also includes a link to eBay's Cookie Notice.)

### ***Payments Terms of Use***

eBay is now managing payments for sellers on the ebay.com.au site. Sellers whose payments are managed by eBay agree to the Payments Terms of Use under which they agree to provide eBay with:

- information required to establish their use of the service including information for verification purposes and AML/CTF compliance. Such information includes identity verification through the provision of name, address, phone number, date of birth, taxpayer ID number, bank account information, government issued identification as well as required business details including beneficial owners, directors, officers and contact information.

### **24. To what extent do marketplaces have processes in place to resolve third-party sellers' complaints? How effective are these processes?**

As a third-party online marketplace, eBay seller complaints commonly relate to disputes with consumers and breaches of listing rules.

eBay provides a range of self-help and reporting tools to assist in the management of complaints as well as active monitoring of the marketplace through both advanced technology

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<sup>46</sup> <https://www.ebay.com.au/help/policies/member-behaviour-policies/user-agreement?id=4259>

<sup>47</sup> <https://pages.ebay.com.au/payment/2.0/terms.html>

and human review. eBay's focus is on tools for quick and smooth consumer to seller resolution, process transparency and the surfacing and removal of banned items and bad actors.

In the first instance, we encourage sellers to utilise the information set out under our Seller Help pages<sup>48</sup>. When logged into eBay, this page will indicate any issues with a seller's account such as listing or policy violations, issues with their returns or payments. The page also sets out how these items can be resolved, as well as provides options to request assistance or status updates on prior requests.

As noted elsewhere in this submission, when on eBay, all users (sellers and consumers) need to follow our rules and policies<sup>49</sup>. These rules set out our expectations of member activity on the site, the actions we'll take to keep sellers and consumers safe when transacting and how we'll protect them if something goes wrong.

Our Seller Help pages also provide sellers with the ability to report consumers who they identify as not following the rules<sup>50</sup>.

Where we need to step in and assist, eBay customer service support teams are available:

- Mon-Fri 8am-8pm
- Sat- Sun 9am-7pm

Customer support can be reached during these times via eBay Customer Service<sup>51</sup>.

To contact customer support, sellers can either choose a topic or click on the "*contact us*" icon at the bottom of the page. Sellers don't have to be signed into their account to contact customer support.

For most help topics, all sellers can access both chat and voice support. In addition, we have a dedicated phone number and email address for sellers who are part of eBay's account management program.

Beyond our mechanisms for self and direct resolution of seller complaints, eBay works constructively with Australian regulators and ombudsmen / commissioner services to maintain a safe and fair marketplace.

eBay has recently developed a seller support playbook for the Australian Small Business and Family Enterprise Ombudsman. The Playbook details the key self service and supported reporting pathways for sellers as well as escalation opportunities for the Ombudsman to utilise.

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<sup>48</sup> <https://www.ebay.com.au/sellerhelp>

<sup>49</sup> <https://www.ebay.com.au/help/policies/default/ebays-rules-policies?id=4205>

<sup>50</sup> <https://www.ebay.com.au/help/selling/resolving-consumer-issues/reporting-issue-consumer?id=4084>

<sup>51</sup> <http://www.ebay.com.au/help>

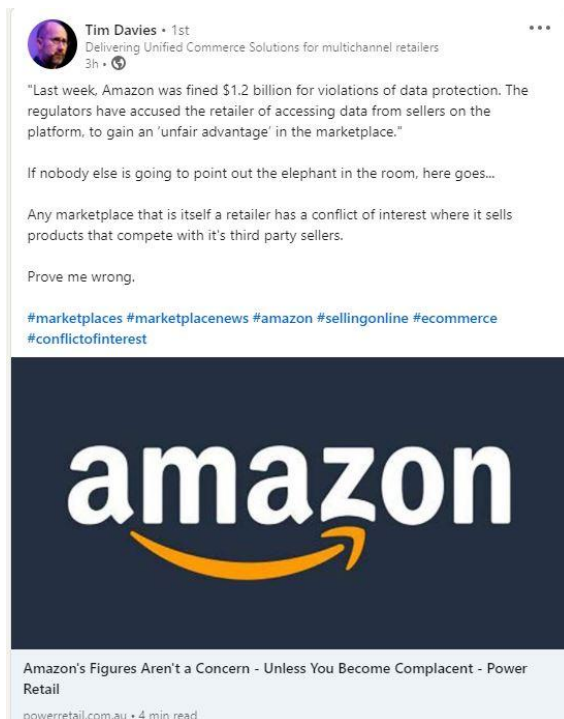
In addition, to gain direct insight into issues impacting on sellers and emerging trends, eBay convenes a weekly eBay Seller Panel between senior eBay managers and 10-12 eBay sellers. Sellers are drawn from a range of retail categories and business types (bricks and mortar, multi-channel and online pure play). Meeting agendas provide sellers with the opportunity to provide feedback on potential changes, suggest improvements as well as provide feedback and escalate issues that they are hearing from the wider seller community.

## 25) Do third-party sellers have any concerns about their relationships with the relevant online marketplaces?

eBay has assumed that this question is directed at third party sellers and accordingly, does not respond.

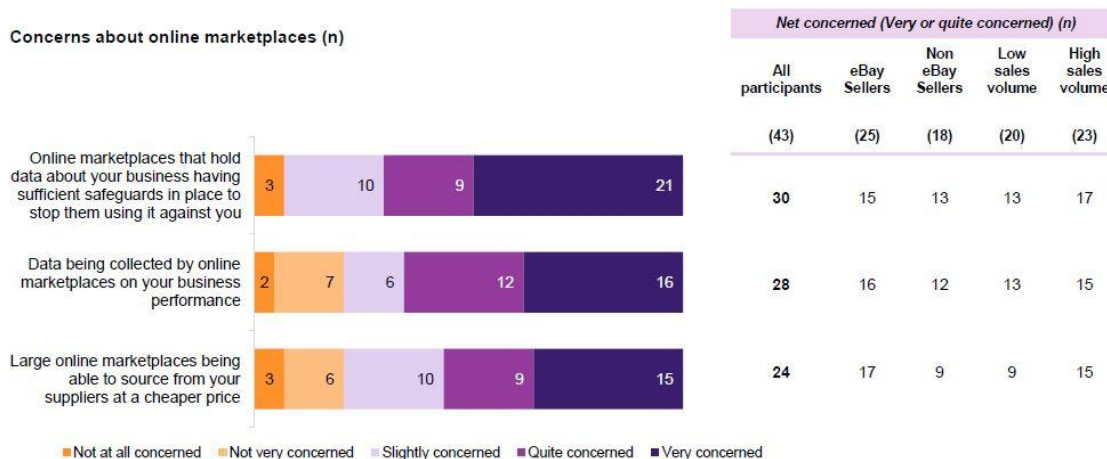
## 26. To what extent are marketplaces' relationships with third-party sellers affected by the marketplace acting as a seller in the same product category?

While eBay is a pure third-party online marketplace and cannot comment directly on these relationships, we are aware of seller concerns relating to competitor marketplaces which also act as a seller in the same marketplace. These concerns relate to the potential competitive disadvantage and conflicts of interest emerging. A recent LinkedIn post by a well known Australian multichannel retail advisor<sup>52</sup> reflects these concerns:



<sup>52</sup> [https://www.linkedin.com/posts/timdavieszellis\\_amazons-figures-arent-a-concern-unless-activity-6828513203874471936-Y4Lv](https://www.linkedin.com/posts/timdavieszellis_amazons-figures-arent-a-concern-unless-activity-6828513203874471936-Y4Lv)

Recent research conducted by Newgate for eBay Australia<sup>53</sup> in relation to online marketplaces, asked participants (Australian third-party online sellers) for their views around global proposals to restrict third-party online marketplaces from selling their own branded products.



Feedback indicated that while third-party sellers were generally comfortable with the concept of online marketplaces selling their own branded products, when acting as a retailer in their own marketplace, the customer data and analytics online marketplaces hold, gives these businesses a clear and unfair advantage. As one seller noted it was a:

*“Major conflict of interest and not in the spirit of good business”*

eBay sellers engaged in the research were most concerned about the capacity of large online marketplaces being able to source from their suppliers at a lower price. This may be a driver in their decision making to sell on a pure third-party online marketplace.

Seller sentiment on this issue was also impacted by a number of other considerations:

- If marketplaces prioritised their own products over others
- The type of product the seller stocked (niche, handmade versus everyday items)
- Concern that platforms might drop small sellers so they can sell own products
- Cutting into the profits of marketplaces might diminish their marketing budget (impacting the marketplaces wider performance)

A recently launched Australian online marketplace MedCart<sup>54</sup> explained its decision on not competing with sellers on its marketplace:

<sup>53</sup> Findings taken from Online Marketplaces Research (Third Party Seller Community) an online community forum of 52 Australian third party online sellers July 2021

<sup>54</sup> <https://www.medcart.com.au/>

*“Our job is to get them (third-party sellers) sales, and provide a seamless customer experience for our customers, but we’ll never enter into that arena of competing. It’s very tempting sometimes to do that, but we’ve started off with that as our vision and we will be keeping that into the future”<sup>55</sup>*

As the marketplace model continues to evolve in Australia, new entrants will need to balance their desire to build their own product lines, against third-party sellers preferences to be able to compete fairly on a platform.

## **27. What information are third-party sellers required to provide to customers about the product for sale, including in relation to quality or price?**

eBay requires that all sellers on its platform provide the following information to consumers in their listings: title, category, condition, photo, certain required item specifics<sup>56</sup>, item description, selling format (auction style or fixed price), price (for auction style listings a ‘starting price’, and for fixed price formats a ‘buy it now’ price), quantity, payment options, postage options, and the item location. The information that sellers are required to provide is set out as part of the listing creation process. Listings that do not contain all of the required information cannot be uploaded.

There are also some policies which require sellers to include certain information in their item description. For example, eBay’s Alcohol policy<sup>57</sup> requires sellers to display their license number and a disclosure pertaining to the age and location of the consumer, in their listing.

As the eBay marketplace is based on listings and not on products, it is not technically feasible for our systems to provide price assessments without determining exactly what item a given listing was offering, its quality and the quantity being offered.

We have noted above the steps eBay took during the COVID-19 period in 2020 to address potential consumer harm arising from price gouging of essential items. We have also taken steps to address the resale of event tickets at inflated prices through the onboarding of regulatory authorities<sup>58</sup> onto the eBay Regulatory Portal to accelerate removal of listings that are in breach of our policies.

## **28. What information do app marketplaces provide customers about the product or sale, including in relation to quality or price?**

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<sup>55</sup> <https://insideretail.com.au/e-commerce/5-e-commerce-experts-weigh-in-on-the-acccs-marketplace-inquiry-202108>

<sup>56</sup> Item specifics are attributes, such as brand, make, model, size, colour and style, that sellers can add to their listings. Item specifics match with the filters that consumers use on the eBay website and it allows sellers’ inventory to be more easily found. eBay mandates some item specifics (“Required Item Specifics”) and these vary depending on the category the item is being listed in. For example, the Required Item Specifics for an item listed in the Patio & Garden Tables category would be “Item Width” and “Item Height”.

<sup>57</sup> <https://www.ebay.com.au/help/policies/prohibited-restricted-items/alcohol-policy?id=4274&st=3&pos=1&query=Alcohol%20policy&intent=alcohol%20policy&luenceai=luenceai&docId=HELP1178>

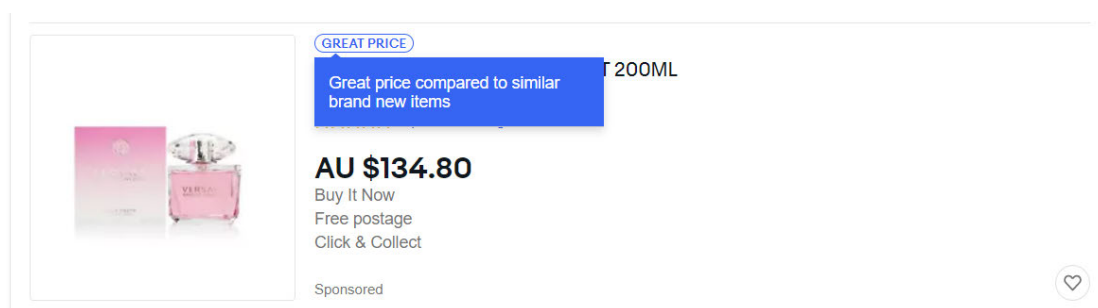
<sup>58</sup> The Victorian Department of Jobs Precincts and Regions (responsible for the *Major Events Act 2009*) has been onboarded as a reporting entity to eBay Regulatory Portal.



We assume for the purposes of our response, the ACCC is referring to online marketplaces and not app marketplaces.

As mentioned above, eBay is not the party that lists items for sale on its marketplace. Third party sellers provide information to eBay about an item they wish to sell when they create an item listing, and eBay displays that information to potential consumers via a “View item” page. The view item page of an item for sale includes all information about an item provided by a third party seller, and (where available) also displays product reviews and a seller’s positive feedback rating.

In relation to price, eBay provides a “great price” signal in search. This signal appears on the most competitively priced items from an aggregated list of item listings from trusted sellers who are selling the same item in the same condition.



## **29. What processes are in place for consumers to rate and review products? To what extent do reviews and ratings affect consumer choice of a product?**

Consumers on eBay are able to leave reviews on products (“Product Reviews”) and/or leave feedback on a seller following a transaction (“Seller Feedback”). Product Reviews and Seller Feedback assist consumers in making informed decisions about not just *what* they are buying but *who* they are buying from.

Our response to question 13 above provides the process by which consumers can rate and review products.

Seller Feedback is not a review of the product, but rather, allows consumers to provide reviews about a specific seller’s performance (including their communication, postage time and item description).

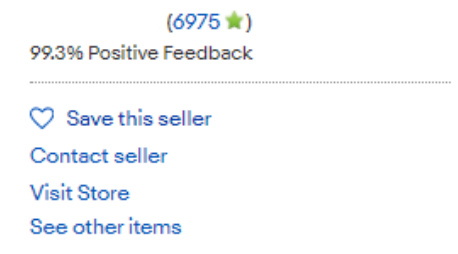
Seller Feedback can be left by consumers after every purchase<sup>59</sup>. After completing a purchase with a seller, a consumer is able to provide Seller Feedback on the specific seller. Consumers can:

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<sup>59</sup> <https://www.ebay.com.au/help/buying/leaving-feedback-sellers/leaving-feedback-sellers?id=4007>

- Select an overall Feedback rating – positive, neutral, or negative
- Rate aspects of the transaction – including whether the item arrived on time, the accuracy of the item description, shipping costs, and the seller's communication
- Write a comment about their experience

Users also receive a feedback score based on the feedback that has been left for them. Consumers can view a Seller Feedback score on the right panel of the “View Item” page. As explained on eBay’s Help Page<sup>60</sup>, a seller's feedback score is displayed as a percentage beneath their username on their listings. This is based on other users’ experiences with them as both a consumer and a seller on eBay. For example, if a seller has a score of 99.5% Positive Feedback, it means that 99.5% of their consumers left positive feedback about their experience with that seller.<sup>61</sup> Below is an example of how a seller’s feedback score is displayed on an item listing.



In addition, consumers can also view a seller’s entire feedback profile (by clicking on the numbers next to a seller’s username on their listing). The feedback profile contains their feedback ratings, detailed seller ratings (i.e. ratings on item description, postage and communication), as well as details of all feedback received and left for others. Below is an example of a seller’s feedback profile.

**Feedback ratings** ⓘ

This table shows the number of positive, neutral and negative overall Feedback ratings the member has received in the last 12 months.

Positive	2	10	33
Neutral	2	19	50
Negative	2	19	50

**Detailed seller ratings** ⓘ

Average for the last 12 months

Accurate description ★★★★★ (6460)	Reasonable postage costs ★★★★★ (6538)
Postage speed ★★★★★ (6502)	Communication ★★★★★ (6698)

**All received Feedback** Received as buyer Received as seller Left for others

9,146 Feedback received (viewing 1-25) Revised Feedback: 0 ⓘ

Search Feedback received as seller with an item title or ID. ⓘ

e.g. Vintage 1970's Gibson Guitars 🔍

Period: All ▾

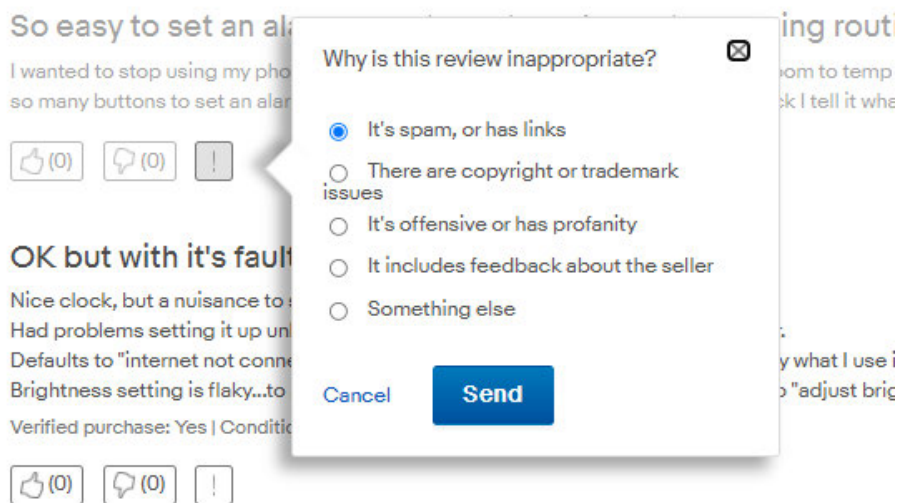
FEEDBACK	FROM	WHEN
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<sup>60</sup> <https://www.ebay.com.au/help/buying/resolving-issues-sellers/seller-ratings?id=4023>

<sup>61</sup> The positive Feedback percentage is calculated based on the total number of positive and negative Feedback ratings for transactions that ended in the last 12 months, excluding [repeat Feedback](#) from the same member for purchases made within the same calendar week ([eBay time](#)). Note: This could mean that the number of ratings used for this calculation is different from the same number shown in the recent ratings table on the left.

Seller Feedback and Product Reviews are run through filters that check for things like profanity, personal information (email, phone) and external hyperlinks prior to the review and feedback being published on the site.

For Product Reviews and Seller Feedback not caught by eBay's filters, there are reporting functionalities for users to report policy violations. In the case of Product Reviews, this allows users to report reviews that violate eBay policies (such as eBay's policy on profanity). Below is a screenshot of the choices users are given when using this functionality to report a Product Review. In the case of Seller Feedback, sellers can report when they are unhappy with feedback left by a consumer. eBay removes such feedback where it breaches its policy.



All eBay users can refer to Product Reviews (if applicable), and Seller Feedback prior to making a purchase. All of this information helps consumers be more informed about their purchase, based on the opinions and experience of other users.

### **30. What is the process for consumers to return products and/or report low quality or harmful products, and what role do marketplaces play in these processes? How effective are these processes for consumers?**

It is important to remember that transactions occurring on the eBay platform take place between the seller and the buyer and that eBay does not have visibility to the actual products supplied in any transaction. However, when listing an item on eBay, sellers are required to include information on whether or not they accept returns due to a change of mind of the buyer. If a seller does accept returns for this reason, they must confirm how long a consumer has to return it after the sale, and who pays for return postage<sup>62</sup>. A seller's acceptance of returns for a change

62

<https://www.ebay.com.au/help/selling/managing-returns-refunds/handling-return-requests/setting-return-policy?id=4368&st=12&pos=1&query=Setting%20up%20your%20returns%20policy&intent=return%20policy&docid=HELP1307>

of mind means a consumer can return an item for any reason, including because they changed their mind or chose the wrong item.

If a seller chooses to not offer returns due to a change of mind of the buyer, the consumer can still return an item if the reason they are returning it falls within the scope of eBay's Money Back Guarantee program (described below), or if they otherwise have rights in accordance with the statutory guarantees under the Australian Consumer Law. Our policies make clear that outside of any returns arrangements stated by sellers, consumers are not precluded from exercising their consumer law rights against a seller.<sup>63</sup>

The eBay Money Back Guarantee (“eMBG”)<sup>64</sup> covers most transactions on eBay and means consumers can get their money back if an item does not arrive, is faulty or damaged, or doesn't match the listing. The eMBG is not a product warranty, and does not replace consumer's rights under the Australian Consumer Law.

As set out in clause 10 of the User Agreement and the eMBG policy, all users agree to comply with the eBay Money Back Guarantee policy. Users also acknowledge and agree that eBay may exercise our reasonable discretion to make a final decision on any case – including an item returned for remorse reasons – where a consumer and seller cannot come to agreement.

How a return is managed depends on the return reason provided by the consumer. If a consumer returns an item because they changed their mind, management of the return will be governed by the seller's return policy. If the consumer is returning the item because it didn't match the seller's item description, this would be managed in accordance with the eMBG (or directly between seller and buyer under the consumer guarantee provisions of the Australian Consumer Law, if the buyer chooses to do so).

eBay offers a returns platform to manage communication between consumers and sellers in respect of returns. When a consumer opens a return, the seller is notified and is given 3 business days to resolve the consumer's issue.

- If the consumer and seller are able to come to an agreement, the case can be closed by the consumer or it will close automatically after 30 days from the date of the transaction.
- If the consumer and seller are unable to come to an agreement, either party can escalate the case to eBay. If eBay decides in favour of the consumer, the seller is required to issue a full refund to the consumer. In some circumstances, eBay may also step in and make a decision on a case after 3 business days without requiring the consumer to escalate.

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<sup>63</sup> <http://pages.ebay.com.au/returns/>

<sup>64</sup>

<https://www.ebay.com.au/help/policies/ebay-money-back-guarantee-policy/ebay-money-back-guarantee-policy?id=4210&st=12&pos=1&query=eBay%20Money%20Back%20Guarantee%20policy&intent=ebay%20money%20back%20gu&docId=HELP1238>

### **31. How easy is it for consumers to seek (and receive) a repair, replacement or refund for a harmful, faulty or not-fit-for-purpose product?**

Consumers' rights to seek repair, replacement or refund in respect of a product are a matter between the consumer and the seller and are, where appropriate, governed by the rights and obligations set out in the consumer guarantees in the Australian Consumer Law. While eBay is neither supplier nor manufacturer of any products sold through transactions on its platform, eBay does offer consumers the ability to quickly and easily open a return on eBay when they follow the steps detailed on our customer service pages within the relevant return timeframe<sup>65</sup>. Items which are faulty or not-fit-for-purpose are also generally covered by the eMBG.

Where a consumer needs additional assistance with a return, they can contact customer service for support<sup>66</sup>. eBay customer service will provide assistance when the contact falls within the Seller's return policy or within the eMBG timeframe.

After the period stipulated in the seller's return policy and eMBG timeframe lapses, consumers are directed to contact the seller directly regarding any issues they may have with their item(s).

As set out above, the eMBG is not a product warranty, and does not replace consumer's rights under the Australian Consumer Law rights. Consumers are always free to separately pursue their consumer law rights against a seller and this is made clear in the "Return Policy" section of each item listing.

### **32. What risks are there to consumers when making purchases on a general online retail marketplace? What measures are in place to protect consumers from the risks of scams, or harmful products, on marketplaces? What processes are in place to deter sellers from offering harmful products?**

As noted elsewhere in this submission, trust and safety are critical elements of any marketplace. eBay works to ensure that our marketplace is always a place where consumers can buy with confidence.

On-platform transactions are generally protected by the eBay Money Back Guarantee (eMBG) – ensuring consumers can get their money back if an item didn't arrive, is faulty, damaged, or doesn't match the listing. This is in addition to access to chargebacks and other consumer rights under Australian Consumer Law.

Consumers are also encouraged to report sellers who seek to trade with them off platform (where protections like the eMBG are not available and scam activity more prevalent). eBay monitors with AI for potential scams and fake transactions. eBay moves quickly to suspend offending users where there is a risk of consumer harm.

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<sup>65</sup><https://www.ebay.com.au/help/buying/returns-refunds/return-item-refund?id=4041&st=12&pos=1&query=Return%20an%20item%20for%20a%20refund&intent=return&docid=HELP1134>

<sup>66</sup> <https://www.ebay.com.au/help/home>

In addition, eBay works closely with various organisations including ACCC's Scamwatch to both identify and act on trends in scams and criminal behaviours.

Our commitment to work in partnership with safety regulators to address these issues is reflected in our participation as an inaugural signatory to the Australian Product Safety Pledge and our recent launch of the eBay Regulatory Portal.<sup>67</sup> The Product Safety Portal provides trusted regulators, including the ACCC and Therapeutic Goods Administration with the ability to take down listings directly where regulators have evidence of a risk to consumer safety. It should be noted that eBay is the only Australian online marketplace offering this functionality to regulators.

### **33. What complaints mechanisms are in place for consumers to report scams or harmful products to the marketplaces? How effective are these mechanisms?**

There are a range of reporting mechanisms for consumers to report scams, unsafe or harmful products on eBay. Our Customer Service pages<sup>68</sup> allow consumers to report a seller that they believe is violating our policies. This could include a seller who has:

- Offered to sell an item outside of eBay
- Provided false contact information
- Used abusive or vulgar language

Consumers can also report specific items or listings that they feel violate our policies<sup>69</sup>. Consumers are directed to a separate reporting flow in the event that the report relates to an item they've purchased (and they need help to get their money back).

As a well known and trusted brand, unfortunately bad actors look to leverage consumers' trust in eBay as a means to facilitate email and phone scams (off our marketplace)<sup>70</sup>. Consumers can report any suspicious phone calls or emails they have received claiming to be from eBay<sup>71</sup> and we use this information to work collaboratively with authorities. eBay also looks to engage with our community of users through our various social media channels to ensure people stay safe when buying online. An example is set out below:

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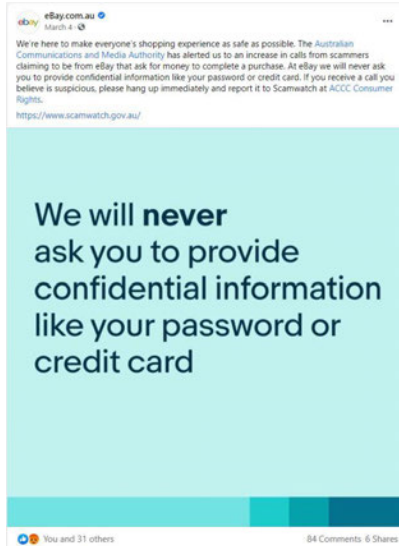
<sup>67</sup> <https://www.afr.com/politics/federal/regulators-allowed-to-directly-remove-dangerous-ebay-listings-20210521-p57ua3>

<sup>68</sup> <https://www.ebay.com.au/help/buying/resolving-issues-sellers/reporting-item-issue-seller?id=4022>

<sup>69</sup> <https://www.ebay.com.au/help/policies/member-behavior-policies/report-item-listing?id=4739>

<sup>70</sup> <https://www.acma.gov.au/articles/2021-03/scam-alert-acma-warns-ebay-scam-phone-calls>

<sup>71</sup> <https://www.ebay.com.au/help/account/protecting-account/recognising-phishing-phone-calls-emails?id=4195&st=3&pos=1&query=Recognising%20phishing%20phone%20calls%20and%20emails&intent=scams&lucenceai=lucenceai&docId=HELP1107>



While we encourage our community of consumers and sellers to report listings and behaviours that are not allowed under our policies, at eBay we look to address issues at scale through the development of filters and blocks to prevent consumers being harmed in the first instance.

We have noted in our response at question 12 of the effectiveness of these complaints mechanisms in removing listings from the eBay marketplace.

**34. To what extent are consumers informed about data collection by third-party sellers and the marketplaces? How is this information presented to consumers?**

Consumers are informed about data collection by eBay and third party sellers through the User Agreement, UPN and Cookies Notice.

***User Agreement***

eBay's User Agreement informs the user that:

- a. the User Agreement and the UPN apply while using the eBay services;
- b. eBay uses information only as described in the eBay UPN; and
- c. for a complete description of how eBay uses and protects personal information, the user should review the eBay UPN, which is clearly linked within the User Agreement.

***UPN***

eBay users (both buyers and sellers) are provided with a detailed description of eBay's data collection practices in eBay's UPN.

eBay's UPN is designed to be easily readable by eBay users. The UPN layout features:

- a. a clear index at the side of the UPN to enable users to click through to sections that a user may feel are particularly relevant to them;

- b. individual sections under clear headings, containing an overview of the main points with an expandable section underneath which users can read, by clicking “Learn More”, significantly more detail in easy to read bullet points; and
- c. the option to “expand all” of the sections in the UPN at the outset for a complete viewing of its contents.

The UPN is ordered in a way to provide users with key information early including the scope of the notice, the eBay entity responsible for collecting and processing data and the contact details for privacy concerns, followed immediately by other important information for a user including what personal data is collected (section 4), the purpose and bases for the processing of their personal data and categories of recipients (section 5). Section 9 informs users of eBay’s use of cookies and other technology used to collect and process data and contains a link to eBay’s Cookie Notice, which contains information about the use of cookies, web beacons and similar technologies used in connection with the provision of eBay’s services (and how they can be managed).

Further, sellers are informed that they must comply with applicable data protection laws and protect the rights of other users as data subjects (section 11).

### **eBay Policies**

Various eBay policies and help pages also reiterate what is stated in the User Agreement and UPN to the extent they are relevant to the subject matter of the policy or help page. For example the *Signing up for an eBay account*<sup>72</sup> help page reiterates that by selecting “create account” the user agrees to the User Agreement and UPN.

### **Sign up flow**

To first register an account with eBay, the sign up flow collects first name, last name, email address and contains the following wording above the “Create account” button:

*By selecting **Create account**, you agree that you’ve read and accepted our **User Agreement**, you’re at least 18 years old, and you consent to our **User Privacy Notice** and receiving marketing communications from us.*

### **Footer**

The footer of the eBay Home page and each page of the eBay.com.au website contains a link to the AU User Agreement, User Privacy Notice and Cookies Notice.

### **Links**

Each of the User Agreement, UPN and Cookies Notice contain cross references and links where applicable to each other.

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<sup>72</sup>

<https://www.ebay.com.au/help/account/signing-ebay-account/signing-ebay-account?id=4191&st=3&pos=1&query=Signing%20up%20for%20an%20eBay%20account&intent=Signing%20up%20for%20an%20eBay%20account&lucenceai=lucenceai&docId=HELP1076>



### **35. To what extent are consumers able to limit this data collection?**

Data is collected for the purposes described in our answer to question 21. Data collection that is necessary or associated with providing the service cannot be limited on the eBay site. This includes, for example, data which is necessary to fulfil our contract and provide users with the service such as product, transaction and payment details.

Some data collection (such as precise location of the user) can be managed by the user in accordance with the setting of the device they use to access the eBay site and use our services.

Users may be able to limit data collection by cookies used by eBay that are operationally necessary, performance-related or functionality-related to the provision of our services. This may be able to be done by the user, using the settings in the browser or device from which the eBay service is accessed, if this is supported by the particular browser or device. The settings must generally be made separately by the user for each browser or device used. If a user chooses to limit data collection in this way they may not be able to use certain eBay services.

Data collection by third parties for advertising related purposes can be limited by the consumer through the use of opt out provisions for third party cookies.

### **36. To what extent is consumer data used by third-party sellers or marketplaces to target consumers?**

#### ***Use of consumer data by eBay***

eBay uses consumer data to provide a more personalised service to its Users. Consumer data is used to provide targeted marketing and advertising.

In addition to the targeting of users on the eBay Home page as described in answer to question 22 above, eBay uses consumer data to target through marketing channels such as emails, push notifications and social media platforms. The marketing promotions users see may be targeted based on a number of things including items they've purchased, categories they have shopped in, items they have "watched" or "saved" and whether they are an eBay Plus member. eBay users have granular options to unsubscribe from various marketing communications.

eBay may target users with specific offers - for example, eBay may recognise that a user is accessing the site through a web browser on their mobile device rather than through the eBay App and accordingly may show those users promotions designed to encourage them to download the eBay App for a better shopping experience, including access to coupons, price alerts, and improved delivery tracking.

eBay may also target users with more general prompts and recommendations. For example eBay may surface item recommendations to buyers based on their previous search history or queries.

#### ***Use of consumer data by third party sellers***

Subject to what is said below, eBay cannot comment on the extent to which third party sellers use consumer data collected by those third party sellers. However, eBay allows sellers to offer newsletters to users who specifically sign up with the seller for that purpose. Users can elect to save sellers that they like and once saved, they can click on “subscribe to newsletter” next to that seller’s profile.

Third party sellers who misuse buyer data obtained as part of a transaction (for example, by using it to send marketing emails) are in contravention of eBay policy - in particular, in breach of eBay’s User Agreement, User Privacy Notice (section 20) and SPAM Policy<sup>73</sup>.

Sellers also have the ability to send offers to buyers who have ‘watched’ or added a seller’s item to their cart. Further information can be found on this help page under the heading ‘Sending offers to interested buyers’.

### ***Use of consumer data by both sellers and eBay***

eBay uses consumer data to facilitate its sellers’ display advertising on the eBay site. eBay may target those seller advertisements to its users based on consumer data that eBay has collected.

eBay also facilitates sellers displaying their listings in a targeted manner through eBay’s Promoted Listing tool. The Promoted Listings tool allows a seller’s listing to be displayed more prominently to a buyer in response to their search query or to appear as a “suggested” or similar promoted item alongside another listing the buyer is viewing.

### **37. To what extent (if at all) is a consumer’s data used in a way that affects the price offered to the consumer?**

As a pure third party online marketplace, third party sellers on eBay control the price offered on the items they choose to list and sell.

As we have noted previously in this submission, all eBay sellers are given access to the Terapeak Research and Insights tool which provides historical data on selling trends on eBay. At a seller’s discretion, Terapeak may be used to assist in setting prices for items they list on eBay.

If a seller is listing an item on eBay that has previously been sold, during the listing flow, a suggested price for that item will also be provided. This will be based on the condition identified by the seller and the average selling price of a similar item.

As mentioned above, eBay does use data to target users and in doing so it may offer certain targeted users discount coupons to apply that will affect the price a user pays for items on the eBay site. Sellers can also send offers to interested buyers as referred to above in response to question 36.

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73

[https://www.ebay.com.au/help/policies/member-behavior-policies/spam-policy?id=5033&st=3&pos=1&query=Spam%20policy&intent=spam&context=DEFAULT\\_BUYER&lucenceai=lucenceai&docId=HELP1558](https://www.ebay.com.au/help/policies/member-behavior-policies/spam-policy?id=5033&st=3&pos=1&query=Spam%20policy&intent=spam&context=DEFAULT_BUYER&lucenceai=lucenceai&docId=HELP1558)

Thank you once again for the opportunity to participate in this consultation. If you wish to discuss these matters further, please feel free to contact the writer via [REDACTED]

Yours sincerely,



Luke Aitken  
**Head of Government Relations and Public Policy**  
**eBay Australia and New Zealand**