

TESTIMONY OF

Scott R. Shipman

**Associate General Counsel, Global Privacy Leader
eBay Inc.**

BEFORE THE

United States House of Representatives

Committee on the Judiciary

Subcommittee on Intellectual Property, Competition and the Internet

**“New Technologies and Innovations in the Mobile and Online Space, and the Implications
for Public Policy”**

PRESENTED

Rayburn House Office Building, Room 2141

June 19, 2012

10:00 AM

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Chairman Goodlatte, Ranking Member Watt, and Members of the Subcommittee: Thank you for the opportunity to testify today about eBay Inc. and what we are doing to enable commerce and engender trust through the use of innovative consumer privacy protections.

My name is Scott Shipman and I am the Associate General Counsel and Global Privacy Leader for eBay Inc. Founded in 1995 in San Jose, Calif., eBay Inc. connects millions of buyers and sellers globally on a daily basis through eBay, the world's largest online marketplace, and PayPal, which enables individuals and businesses to securely, easily, and quickly send and receive online payments. We also reach millions through specialized marketplaces such as StubHub, the world's largest ticket marketplace, and eBay classifieds sites. Currently, we have

over 102 million users worldwide and in the first quarter of 2012 alone over \$16 billion in goods were traded on our site.

Additionally, eBay Inc. is actively working to revolutionize global commerce with the recent additions of mobile technology companies WHERE, Milo, Zong and others combined with the seasoned services of eBay Marketplaces Mobile and PayPal Mobile. In fact, in 2011, eBay Inc. generated nearly \$5 billion in global mobile sales, which was a 150 percent increase from the previous year. eBay Mobile also experienced great popularity across the globe, with consumers from over 190 countries worldwide downloading eBay Inc.'s applications 80 million times. Our global consumers bought everything from cars, clothing, shoes, electronics, and toys from eBay's mobile applications.

But eBay Inc. is not just about "E" commerce. eBay is about "Commerce." We facilitate consumers buying just about anything whether on or offline. We enable consumers to pay online, pay with a phone, pay with a card from your wallet or pay with nothing but a phone number and a secure pin.

Current retail trends show that the future of retail is no longer brick and mortar vs. online or eCommerce vs. Commerce. The traditional boundaries between the offline and online marketplace are blurring and soon it will all just be *Commerce*. All sustainable 21st Century retail business models, large and small alike, will use the Internet and mobile technology tools. In fact, the Census Bureau and Forrester Research show that web-influenced in-store retail will represent almost 40% of all retail in 2012.¹

With this growing trend in mind, eBay Inc. has evolved its business model to include technology solutions for traditional brick and mortar stores, both large and small. Retailers and sellers of all sizes need a partner who will help them succeed in this new technology-driven environment, and who will not compete with them. We are that partner.

¹ Forrester Research: Web-Influenced Retail Sales Forecast 2010-2015 (US).

Through our company GSI Commerce, eBay Inc. has become the leading provider of eCommerce and interactive marketing services for many of the world's premier brands and retailers, such as Toys R Us, Ralph Lauren and Dick's Sporting Goods. In addition, our recent launch of PayPal Here, a mobile payment solution, is designed to help small businesses accept almost any form of payment from almost anywhere.

eBay Inc. is a very diverse family of businesses supporting millions of users ranging from individual consumers to merchants and retailers of every shape and size. Over the years we have learned that one of the keys to success is engendering consumer trust and confidence. It is our belief that without trust, the Internet and mobile marketplaces will fail to reach their full potential. Privacy and trust are mutually reinforcing. It is hard to build consumer trust when you are not respectful of a consumer's personal information.

To foster that trust, we've had to meet customer privacy expectations with every product we offer. Even before "privacy by design" was a popular, mainstream concept, eBay made privacy expectations a fundamental building block of our products and services. It is my job to ensure that we continually strive to meet and exceed consumer expectations, while offering greater levels of transparency, consistency, and consumer control. I'm proud to report that as a result of our focus on privacy, eBay Inc. was twice ranked by consumers as the most trusted brand for privacy through the Ponemon Institute².

I would like to take the next few minutes to highlight some of the successful privacy-related programs and products that have led to eBay Inc. being rated one of the most trusted companies for consumer privacy.

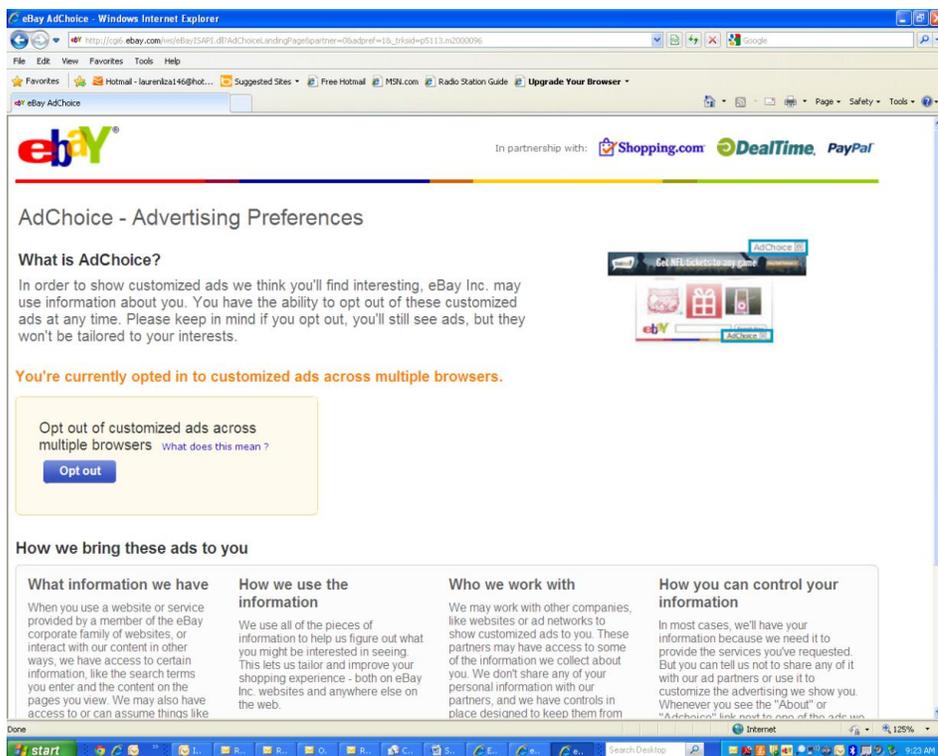
AdChoice

eBay Inc. has consistently been an Internet industry leader in advocating for strong privacy protections and consumer control. Since eBay Inc.'s inception, our core privacy

² Survey Conducted by Ponemon Institute and TRUSTe in September 2009. See www.truste.com, Press room, Archives, September 16, 2009 : [2009 Most Trusted Companies In Privacy Announced](#)

commitment has been that eBay will not sell the personal information of our customers to third parties for marketing purposes. However, we also recognized that a mechanism was needed to provide consumers with more meaningful choices over the way their aggregate anonymous data was used for behaviorally targeted advertising purposes. Years before there were any industry wide solutions, eBay developed and implemented a program called AdChoice. AdChoice allows eBay users to choose whether to receive behaviorally targeted third party advertising on eBay and on the websites of our advertising partners.

The AdChoice program works as follows: third party advertisements on and off eBay powered by our behavioral targeting engine have an AdChoice link. When eBay users click on the link, they see a pop-up window that gives them the ability to specify their advertising preferences, opt-out of receiving third party tailored ads, and read our privacy policy.³ It is important to note that eBay's AdChoice program offers a server-based mechanism, not the traditional cookie-based mechanism, which means choices and preferences are permanently stored and not erased when a user clears their cookies.



³ eBay's Privacy Policy: <http://pages.ebay.com/help/policies/privacy-policy.html>

Since the launch of our AdChoice technology in 2007, at the Federal Trade Commission's "Behavioral Advertising" Town Hall, eBay Inc. has received positive feedback from consumers, lawmakers, and fellow industry leaders. In fact, our AdChoice program has been so successful that in October of 2010, a group of major marketing and media companies launched a similar program, which endorsed the use of the "Advertising Option Icon." The "Advertising Option Icon" is displayed within or near online advertisements or on Web pages operated by members of the participating entities. However, the industry solution is still cookie-based and not persistent like the server-based AdChoice program.

eBay Inc. believes that programs like AdChoice not only give consumers greater choice and control over the use of their information for behavioral advertising, but also foster an environment that allows companies to innovate and create new technological solutions that could surpass current models.

PayPal: Shop without Sharing

PayPal and its "shop without sharing" design is another perfect example of innovative technology that encourages consumer privacy and consumer control. PayPal is an eBay Inc. company that acts like a digital wallet where you can securely store all your payment options, such as your bank account and credit card. When you want to make a payment, you don't have to pull out your credit card or type your billing information every time. With 110 million active registered accounts in 190 markets and 25 currencies worldwide, PayPal is enabling global commerce and providing a faster, safer way to pay and get paid online.

Privacy is one of the fundamental building blocks of the PayPal services. The beauty of PayPal is that it allows consumers to send money or pay for a good or service without ever having to expose their credit card or bank account information to merchants or other PayPal users. It allows consumers to shop online or on their mobile device without having to share the most sensitive personally identifiable information, financial and banking information. Not only

does this privacy-enhancing technology allow consumers to fully enjoy the convenience of online and mobile commerce without worrying about safety and security concerns, but it also allows merchants to receive payments without the cost and potential liability associated with processing and securing financial information. We believe enabling consumers to pay merchants without sharing their financial information is the ultimate ‘privacy by design’ financial service. Notably, this PayPal design has been a key feature of PayPal since its inception. It’s a win-win for both consumers and merchants.

However, PayPal’s technology is only part of our overall efforts to encourage greater privacy awareness and protection. PayPal also provides an extensive security education center for consumers to learn how to protect their personal and financial information online. We not only want to partner with consumers and merchants to enable global commerce, but we also want to partner with our users to ensure safe and secure shopping experiences.

Mobile and Geo-location Technology

Mobile applications and technology continue to grow in popularity and importance, not only to society, but to commerce as well. Due to the technology’s flexible and transient nature, mobile has truly become the next commercial frontier. Recognizing early on that customers wanted access to our services anytime and anywhere, eBay Inc. quickly “mobilized” to meet our users’ growing demands for new and innovative mobile services. Through the launch of several new and exciting mobile applications that offer a multitude of mobile commerce and payment services, eBay Inc. has experienced rapid growth in the mobile arena.

However, being a leader in mobile and geo-location technology is more than just offering cool new services. It is also about balancing the needs and wants of the consumer against the “creep” factor and sensitivity of geo-location and mobile data. We want to delight customers, provide consumers with the services they desire, such as local advertisements, saved history of offers, and location information on their favorite places, and we want to accomplish this in a way that does not go against consumer expectations for privacy.

Therefore, eBay Inc. is building mobile applications that offer the same transparency, choice, and level of privacy protection as our traditional Internet platforms. In fact, we believe that mobile technology may be able to communicate privacy policies in an even more transparent manner than traditional Internet platforms. We want our users to have the same level of confidence and trust in our mobile services as in our online services. In order to further these efforts, eBay has made it a policy that all consumers must opt-in (rather than opt-out) to turn on geo-location for all of eBay Inc. mobile applications. And we give consumers the ability to decide what communications and notifications they want to receive and how.

A perfect example of an eBay Inc. mobile application that encapsulates the “privacy by design” philosophy is WHERE. WHERE, which is the leading location media provider in North America, provides personalized, hyper-local recommendations, offers, and deals to millions of mobile consumers. More than 120,000 retailers, brands and small merchants use these services daily to reach new audiences and deliver real-time foot traffic to their doorstep. And for consumers, WHERE helps users discover, save, and share their favorite places by putting the best local information at their fingertips and offering great deals from nearby businesses.

Even before we acquired WHERE in 2011, the company was a leader in mobile privacy. WHERE made it a policy to:

- Only collect information insofar as necessary or appropriate to fulfill the purpose of the user’s interaction;
- Not associate personally identifiable information with location data unless given express permission;
- Not collect, maintain or track location history;
- Not share personally identifiable information with third parties or service providers.

eBay Inc. remains committed to continuing the privacy tradition of WHERE, and as mentioned earlier, we have now made it a standard practice that **all** consumers must opt-in to turn on geo-location for **all** of eBay Inc. mobile applications. Mobile and geo-location services

are the future of commerce, and as an industry leader, we want to ensure that we are setting the bar high in order to build the trust that is necessary for the long-term success of this technology.

Binding Corporate Rules

I have spent a lot of time discussing what we do from a technological perspective to protect consumer data. However, I wanted to spend the last few minutes of my testimony discussing our implementation of a voluntary global corporate compliance strategy, which we have undertaken in order to ensure we can live up to the trust we seek from our customers worldwide.

In addition to eBay Inc.'s privacy principles and the practices described in our privacy policies, eBay Inc. has established a set of Corporate Rules (also referred to as Binding Corporate Rules), approved by the Luxembourg National Data Commission.⁴ These Corporate Rules are a commitment by eBay Inc. to protect our users' personal information regardless of where the data resides. It is important to note that our Corporate Rules do not just protect the personally identifiable information of our European users; we have made the decision as a company to apply these privacy protections to the personal information of all eBay Inc. customers and employees globally. eBay Inc. was actually the first eCommerce company to receive this approval and the first company to receive approval for employee and customer rules.

Conclusion

To conclude, eBay Inc. is committed to delighting our customers and exceeding their expectations at every turn. We recognize that privacy is a key component of their experience and the trust they place with us. As technology changes, as the world changes, expectations will continue to change. My role is to keep up with those changing expectations and help eBay Inc. surpass the bar that our consumers and employees challenge us to reach on a daily basis. eBay Inc.'s role is not to guarantee absolute privacy in a vacuum, but to build a relationship based on

⁴ eBay Inc.'s Corporate Rules: <http://www.ebayprivacycenter.com/privacy/binding-corporate-rules>

trust. It is our hope that in the years to come the trust within that relationship will only grow stronger because our customers will know and trust that we will treat them with respect and we'll get it done right.

I appreciate the opportunity to testify before the Committee, and I look forward to your questions.