



**The Written Testimony of
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Subcommittee on National Security and Foreign Affairs
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Mr. Chairman Tierney, Ranking Member Shays, and members of the Committee,

My name is Tod Cohen, and I am Vice President and Deputy General Counsel for Government Relations at eBay Inc. I would like to thank the Committee for giving eBay this opportunity to discuss the sale of certain military items on our site, and I ask that my full statement be entered into the committee record.

My 8-year career at eBay has been focused on making sure that we work closely with government agencies to keep our site safe for our community of users. We seek to achieve this goal by working with government experts to create clear, effective rules regarding what can and cannot be listed for sale on our site and then aggressively enforcing those rules. We also partner with law enforcement agencies proactively and reactively to make sure that sellers who break the law get prosecuted. When eBay first emerged as a dynamic way for people to buy and sell items online back in 1995, there were really no rules in place for our users to follow and there was no team of investigators ready to help law enforcement prosecute criminals who abused our platform. The company realized in those early years that in order to become a truly safe and trusted e-commerce site we needed to put policies and tools in place to make sure that illegal items and harmful sellers were quickly identified and removed from our platform.

We created prohibited and restricted items policies and built tools using state-of-the-art technology to enforce those policies. We developed advanced programs to identify suspicious behavior, remove members who engaged in harmful practices and take steps to keep them from coming back on the site. And we established a global Fraud Investigations Team to partner with law enforcement to make sure that criminals who seek to abuse our community of users get prosecuted to the fullest extent of the law. Largely as a result of these efforts, we now have trading platforms in 39 markets with over 82 million active users worldwide. At any one time, around 113 million items are listed for sale on eBay worldwide. Six to seven million new items get listed everyday. With such a high listing volume on our sites, it is a challenge to enforce our policies—but

a challenge we must meet to be successful. The only way to meet that challenge is to work closely with regulatory and law enforcement agencies like the ones represented here today.

The “rules of the road” for sellers on eBay consists of over 60 separate prohibited and restricted items policies. These policies cover everything from firearms to prescription drugs to counterfeit goods to drug paraphernalia – all things that we do not allow to be listed on our site. We work with subject matter experts in the law enforcement and government agency communities to make sure these policies are accurate and that we enforce them effectively.

We have detection tools in place that flag listings that may violate one or more of our policies, and we have teams of agents all over the world that review these listings 24/7 and remove any listings that are found to be in violation. These tools utilize key words and phrases that are commonly used to describe the goods that we want to prevent from being sold on eBay.

In many cases, we obtain these words and phrases directly from the government agency that oversees a particular prohibited item, as those agencies have the latest and most useful information that we need to build effective detection tools. Once an item is flagged and deemed to violate one of our policies by the reviewing agent, we remove the item and take action against that seller ranging from a warning to a listing limitation to outright suspension of all eBay privileges, depending on the egregiousness of the violation. In some cases where a knowing violation of the law is apparent, we will refer a suspended seller to law enforcement for investigation.

One of our 60 prohibited items policies concerns the sale of military items—it is found within our policy on Firearms, Weapons and Knives. Any eBay user can find a link to our policy page at the bottom of every single page on the eBay site, our rules are not hard to find. I have copies of that policy should the Committee like to review it, but it essentially prohibits the sale of military items that have not been disposed of in accordance with Department of Defense regulations. It also prohibits the sale of all military ordnance, whether or not the item has been “demilled” or made “unserviceable.” The policy also prohibits the sale of hand grenades. We have worked over the years with branches of the military as well as federal government agencies to effectively enforce this policy.

One example of this cooperative effort is our work to prevent the illegal sale of military body armor on eBay. Three years ago we started working with staff from the Defense Criminal Investigative Service (DCIS) in Raleigh, North Carolina after they brought it to our attention that some eBay sellers were listing body armor on our site that is not permitted to be resold under Department of Defense regulations. We have also worked with DCIS staff in Philadelphia on this issue.

We worked closely with both teams to build detection tools to flag listings of potentially illegal body armor while allowing the sale of certain types of armor that are legal to sell

commercially and that can be found at any Army/Navy store. We necessarily depended on the DCIS staff to help us, as they are the true experts in this area and were able to give us the key words and terms that would most likely appear in a listing for body armor that cannot be sold commercially.

We established the filters, began a test phase with extensive input and follow-up from DCIS, and eventually developed highly effective tools to flag suspicious body armor listings for review by our agents. In 2007, we reviewed 4273 such listings that were flagged by our body armor filters and removed 1278 from eBay. The ones that were not removed were deemed to be “false positives.” Our Fraud Investigations Team has also assisted in a number of cases involving the illegal sale of body armor by providing seller information to DCIS and other enforcement agencies.

Another good example of our efforts is in the area of Meals, Ready-to-Eat, commonly referred to as MREs. We worked with government officials several years ago, predominantly the Defense Supply Center in Philadelphia, to create an effective policy dealing with the sales of these meals to make sure that such transactions be conducted safely and legally. We do not allow the sale of the MREs that come with heating devices called “Flameless Ration Heaters,” as those devices can be hazardous when not shipped correctly. We banned these heating devices at the request of the Defense Supply Center back in 2002. In 2007, we flagged 1,039 MRE listings based on the appearance that the meal came with a prohibited heating device and removed 202 listings after review. We also do not allow the sale of expired MREs and require our sellers to state in their listings when the meal will expire. Back in 2004, we set up messaging that appears to anyone that lists an MRE on eBay and puts them on notice of these obligations.

Along with our own internal enforcement efforts, we rely on members of our community as well as our partners in law enforcement and regulatory agencies to report items to us for review and possible removal. As we are dealing with millions of listings, we need a multi-pronged approach to flagging and removing listings that have no business being on eBay. Any eBay member can report an item to us instantly by simply clicking the “Report This Item” link at the bottom of every item listing on eBay. Our government and law enforcement relations teams also act on reports directly from regulatory and law enforcement personnel. In general, if an official from GAO or the Department of Defense contacts us and tells us an item is illegal and needs to be removed, it comes down as soon as possible. We depend on these agencies and our community to supplement our own enforcement efforts in this manner.

In addition to aggressively enforcing our rules and regulating our sellers’ activities, our Fraud Investigations Team partners with government and law enforcement agencies to help them investigate and prosecute cases where sellers list illegal items on eBay. We conduct a great deal of outreach with law enforcement agencies in North American America and around the world to make sure they know that we stand ready to help them investigate any illegal practices that involve the use of the eBay platform. Our fraud investigations and outreach teams work closely with the Government Administration Office as well as several investigative units within the U.S. military.

When our team receives a request for member records from GAO or one of the military investigative services, they quickly receive the requested records. Our goal is to make it as easy as possible for these agencies to prosecute criminals that abuse our marketplace, and we work tirelessly to attain this goal. In addition to providing records to help make the case, our investigators appear as witnesses to support prosecutions of sellers who list stolen or illegal military items.

Just last fall, for example, one of our fraud investigators testified in a court martial case brought by the Office of Special Investigation at Whitman Air Force Base involving the sale of stolen military items including night vision goggles and body armor by a Senior Airman. The defendant was dishonorably discharged and sentenced to 18 months of confinement. As is the case with our prohibited items policy enforcement, we can always do better when it comes to helping law enforcement agencies---military or civilian---bring these important enforcement actions, and we want to work with you and our government partners to do a better job.

We have the most pro-active policies and tools to combat fraud and illegal activity of all the major internet commerce companies. There are over 2,000 eBay Inc. employees around the world working to combat all forms of potentially harmful behavior on our sites, including the sale of illegal or stolen items. As we have grown as a business over the last 12 years, we have dedicated more and more resources to the fight against problematic activity that harms our users.

eBay is no place for the sale of stolen or illegal military goods. The transparency of our site, our rules, enforcement tools, and our commitment to working with law enforcement makes it an unwelcome venue for criminals seeking to “fence” these goods. We look forward to working with this Committee, and our partners in the military and the federal government on ways to more effectively prevent stolen or illegal items from being listed on our site. We very much appreciate the opportunity to participate in this important hearing, and thank you for your time and consideration.