

Biographies

**FTC: Kindly redact our biographies and personal/contact information (this page) before posting the submission on the FTC website.**

[Redacted]

## Abstract

### How Changes to Privacy Policies Impact Consumers: An Empirical Study of PayPal and its Customer Relationship

Karl T. Muth and Vanessa K. Burrows

Reputable commercial websites post privacy policies that, while seldom read by consumers, offer a window into the company's data collection and uses. As a company becomes more sophisticated, its interpretations, transfers, and uses of consumer data may change substantially. Its privacy policy may foreshadow – and should, at a minimum, indicate *ex post* – these changes. Similarly, if a company becomes a separate business, is divested, or sells its assets, new representations made by the new entity may be reflected in its (and its former parent's) privacy (and other) policy changes.

PayPal began life as a payment facilitator or a payment system within the popular online auction site eBay, allowing people to transfer funds to settle transactions initiated on eBay. In 2015, PayPal was spun off from eBay and became a separate company. By the time PayPal became separate from eBay, it had evolved into something that looked, and functioned, more like a standalone retail bank or credit card provider than a payment mechanism on a website. This paper measures, examines, and seeks to explain the changes in the privacy policy utilized by PayPal before and after the spin-off with a specific focus on the customer-facing implications of these changes.

The researchers, using computer-assisted content analysis and traditional textual analysis with reference to the pertinent legislation and regulation in place at each point in time, have assembled a longitudinal survey of each change in PayPal's privacy policies over the past several years, including those contemporary to PayPal's formal separation from eBay. Within this comprehensive survey, the researchers have isolated three areas of interest from a regulatory standpoint: 1) changes that signal PayPal's autonomy or independence relative to earlier versions, 2) changes that relate to PayPal's functioning as a financial institution (including issues that implicate customer privacy or data collection matters), and 3) changes that directly affect, alter or reinterpret PayPal's regulatory compliance. These changes parallel, and in some cases signal, operational changes in PayPal's business.

The core finding of this research is that PayPal's relationship to the customer has changed substantially and quickly, with much of the focus being on PayPal's collection of information, archiving of information, and sharing of information with third parties. The researchers, after reviewing changes in PayPal's relationship to its customers, discuss the implications of institutions like PayPal for regulators, particularly as such institutions may have many of the identifying characteristics of banks but may not behave – or be required to behave – as banks do. The researchers pay particular attention to if, and how, PayPal's changes to its policies accommodate or respond to concerns raised in recent advisory opinions and enforcement actions.

After performing an initial literature review of the pertinent materials, the researchers have not discovered other similarly-situated or similarly-timely research surveying and analyzing changes to user agreements, the impacts of such changes on consumers, and the regulatory consequences of such modifications. The researchers are excited to share this research with academics, colleagues, and the FTC so that those drafting, interpreting, and shaping policies like those PayPal has promulgated can better-understand the issues at hand and the concerns that may arise if the language used in these policies is not well-tailored to fit the consumer's relationship to the firm.