December 2012

eBay Inc. position

Industry, Research and Energy Committee draft opinion on the General Data Protection Regulation

eBay Inc. thanks Sean Kelly MEP for his work for the Industry, Research and Energy Committee on the General Data Protection Regulation proposal. We believe the draft opinion reinforces legal certainty and streamlines the general rules affecting data processing for companies.

As a leading player in connected commerce, eBay Inc. hereby suggests some additional changes, in particular on the main establishment, the extraterritorial scope of the Regulation, the use of consent in situations of 'significant imbalance between a data controller and data subject', the right to data portability, the right to rectification, bureaucratic requirements and data breach notification requirements.

Main establishment and one-stop-shop

In order to reinforce legal certainty and avoid disputes over Data Protection Authorities competences, Mr. Kelly rightfully advises for a controller to be responsible to designate its main establishment, based on objective criteria. We believe these criteria should also be explicitly referred to in Recital 27. Secondly, it should be clarified that the designation of an establishment for data protection compliance purposes should be without prejudice to such designation for other purposes of EU law.

Recital 27

Text proposed by the Commission	*Amendment*
(27) The main establishment of ***a controller*** in the Union should be ***determined*** according to objective criteria and should imply the effective and real exercise of management activities determining the main decisions as to ***the purposes, conditions and means of*** processing through stable arrangements. This criterion should not depend whether the processing of personal data is actually carried out at that location; the presence and use of technical means and technologies for processing personal data or processing activities do not, in themselves, constitute such main establishment and are therefore no determining criteria for a main establishment. ***The main establishment of the processor should be the place of its central administration in the Union.***	The main establishment of ***an enterprise or group of undertakings*** in the Union should be **designated** according to objective criteria and should imply the effective and real exercise of management activities determining the main decisions as to ***data*** processing through stable arrangements. This criterion ***shall apply both to data controllers and data processors*** and should not depend whether the processing of personal data is actually carried out at that location; the presence and use of technical means and technologies for processing personal data or processing activities do not, in themselves, constitute such main establishment and are therefore no determining criteria for a main establishment. ***Objective criteria for the designation of main establishment include the global or European headquarters of an enterprise or group of undertakings; the location of the group's European headquarters, or, the location of the company within the group with delegated data protection responsibilities, or, the location of the company which is best placed (in terms of management function, administrative capability etc) to address and enforce the rules as set out in this Regulation, or, the place where the main decisions as to the purposes of processing are taken for the regional group.***

eBay EU Liaison Office – 44 Avenue des Arts, B-1040 Brussels
Tel: +32 (0)2 788 97 12 – Fax: +32 (0)2 788 97 50 – www.ebay.eu

Recital (28 a new)

Text proposed by the Commission	*Amendment*
	(28 a new) ***The designation of an establishment for data protection compliance purposes should be without prejudice to such designation for other purposes of European Union law such as tax, insolvency and other compliance purposes.***

Extraterritorial scope of the Regulation

eBay acknowledges that it is desirable to have companies based outside of the EU respect EU data protection standards when processing personal data of EU citizens. However, in a cross-border context, we believe that the term 'offering' of goods and services does not constitute a valid legal basis for determining the applicable law and jurisdiction. In accordance with European Court of Justice jurisprudence, we suggest replacing the word 'offering' in Article 3.2(a) with 'targeting' or 'directing' goods or services and to clarify in corresponding recitals that the mere availability of the controller's website to a data subject residing in the Union is insufficient to trigger the application of EU data protection laws.

Recital 20

Text proposed by the Commission	*Amendment*
In order to ensure that individuals are not deprived of the protection to which they are entitled under this Regulation, the processing of personal data of data subjects residing in the Union by a controller not established in the Union should be subject to this Regulation where the processing activities are related to the offering of goods or services to such data subjects, or to the monitoring of the behaviour of such data subjects.	In order to ensure that individuals are not deprived of the protection to which they are entitled under this Regulation, the processing of personal data of data subjects residing in the Union by a controller not established in the Union should be subject to this Regulation where the processing activities are related to the offering of goods or services ***expressly targeted*** to such data subjects, or to the monitoring of the behaviour of such data subjects. ***The mere availability of goods and services from third countries to data subjects residing in the Union should not trigger the application of EU data protection legislation.***

Article 3

Text proposed by the Commission	*Amendment*
1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller ***or*** a processor in the Union. 2. This Regulation applies to the processing of personal data of data subjects residing in the Union by a controller not established in the Union, where the processing activities are related to: (a) the offering of goods or services to such data subjects in the Union; or (b) the monitoring of their behaviour. 3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where the national law of a Member State applies by virtue of public international law.	1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller**,** a processor ***or enterprise*** in the Union. 2. This Regulation applies to the processing of personal data of data subjects residing in the Union by a controller not established in the Union, where the processing activities are related to: (a) the offering of goods or services ***expressly targeted*** to such data subjects in the Union; or (b) the monitoring of their behaviour. 3. This Regulation applies to the processing of personal data by a controller not established in the Union, but in a place where the national law of a Member State applies by virtue of public international law.

Conditions for consent

eBay EU Liaison Office – 44 Avenue des Arts, B-1040 Brussels
Tel: +32 (0)2 788 97 12 – Fax: +32 (0)2 788 97 50 – www.ebay.eu

We would like to question the notion that an imbalance between a data subject and a data controller (Article 7.4) would invalidate the use of consent as legal ground for processing personal data. eBay considers that the language proposed by the Commission is too broad and could actually miss its target. Let us take the example of a professional seller who works from home and relies on eBay to generate business. eBay would process data that, although business-related, can also be considered personal data as the individual seller would probably use his name and physical address for transactions. The fact that eBay is the main source of revenue of this seller should in no circumstances prevent eBay as a data controller from using consent as a legal ground for processing the seller's personal data. Similarly, data controllers should not be prevented from using consent when their service is very popular thanks to a network effect. eBay believes the objective of this wording is better achieved through court decisions and DPA enforcement on a case-by-case basis taking into account the condition that consent shall only be valid if it is "freely given", as required in the definition of consent (Article 4.8).

Recital 34

Text proposed by the Commission	*Amendment*
(34) Consent should not provide a valid legal ground for the processing of personal data, where there is a clear imbalance between the data subject and the controller. This is especially the case where the data subject is in a situation of dependence from the controller, among others, where personal data are processed by the employer of employees' personal data in the employment context. Where the controller is a public authority, there would be an imbalance only in the specific data processing operations where the public authority can impose an obligation by virtue of its relevant public powers and the consent cannot be deemed as freely given, taking into account the interest of the data subject.	***Deleted***

Article 7 – paragraph 4

Text proposed by the Commission	*Amendment*
4. Consent shall not provide a legal basis for the processing, where there is a significant imbalance between the position of the data subject and the controller.	***Deleted***

RIGHT TO DATA PORTABILITY

Article 18 is meant to establish data portability rights for user-generated content stored on platform systems to avoid 'lock-in'. However, it has been drafted to apply to any type of personal data in any type of processing, including non-platform systems used in the back office of the data controller. Non-platform systems, such as Human Resources - or Customer Relationship Management-systems, are created serving the purposes of the data controller only. The data in such systems are not meant or suited to be portable. Platform services on the other hand are filled by users and serve the purposes of the users in their use of the platform. Our proposed solution would therefore be to differentiate between user-generated data that are created and uploaded by data subjects

eBay EU Liaison Office – 44 Avenue des Arts, B-1040 Brussels
Tel: +32 (0)2 788 97 12 – Fax: +32 (0)2 788 97 50 – www.ebay.eu

themselves (such as pictures, videos, blogs and so on) and data that are compiled as the result of their interaction with the service providers and other users of the service. The right to data portability should only apply to user-generated data. Secondly, we suggest clarifying that Article 18 does not impact the right for the controller to retain personal data for compliance reasons or other legitimate purposes. We take the view that Article 18 should include a paragraph limiting the applicability of the right to data portability similar to the list of exceptions mentioned for the right to be forgotten.

Recital 55

Text proposed by the Commission	*Amendment*
To further strengthen the control over their own data and their right of access, data subjects should have the right, where personal data are processed by electronic means and in a structured and commonly used format, to obtain a copy of the data concerning them ***also in commonly used electronic format***. ***The data subject should also be allowed to transmit those data, which they have provided***, from one automated application, such as a social network, into another one. ***This should apply where the data subject provided the data to the automated processing system, based on their consent or in the performance of a contract.***	To further strengthen the control over their own data and their right of access, data subjects should have the right, where personal data are ***published by the data subject and*** processed by electronic means and in a structured and commonly used format, to obtain a copy of the data concerning them ***which allows the further use of such data by them, such as the transmission of user-generated content*** from one automated application, such as a social network, into another one. ***This right should be without prejudice to the continued processing of the personal data by the controller for the controller's legitimate interests, as there may be a necessity to process the personal data after the data have been transmitted to the data subject, such as the continuation of services provided to the data subject, compliance with Union or Member State law or for the retention of personal data for purposes of proof.***

Article 18

Text proposed by the Commission	*Amendment*
1. The data subject shall have the right, where personal data are processed ***by electronic means and in a structured and commonly used format***, to obtain from the ***controller*** a copy of ***data undergoing processing in an electronic and structured format*** which ***is commonly used and*** allows for further use by the data subject. ***2. Where the data subject has provided the personal data and the processing is based on consent or on a contract, the data subject shall have the right to transmit those personal data and any other information provided by the data subject and retained by an automated processing system, into another one, in an electronic format which is commonly used, without hindrance from the controller from whom the personal data are withdrawn.*** ***3. The Commission may specify the electronic format referred to in paragraph 1 and the technical standards, modalities and procedures for the transmission of personal data pursuant to paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).***	1. The data subject shall have the right, where personal data ***are published by the data subject through an information society service***, to obtain from the ***information society service provider*** a copy of ***such content,*** which allows for further use by the data subject. 2. ***Deleted*** 3. ***Paragraph 1 shall be without prejudice to the continued processing of the personal data by the controller for the legitimate purposes for which the data were collected or further processed, in particular the retention of such personal data for purposes of compliance with a legal obligation or proof.***

Article 21

Text proposed by the Commission	*Amendment*
1. ***Union or Member State law may restrict by way of a legislative measure the scope of the*** obligations and rights	1. ***The*** obligations and rights provided for in points (a) to (e) of Article 5 and Articles 11 to 20 and Article 32 ***may be***

eBay EU Liaison Office – 44 Avenue des Arts, B-1040 Brussels
Tel: +32 (0)2 788 97 12 – Fax: +32 (0)2 788 97 50 – www.ebay.eu

provided for in points (a) to (e) of Article 5 and Articles 11 to 20 and Article 32, when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard: (a) public security; (b) the prevention, investigation, detection and prosecution of criminal offences; (c) other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters and the protection of market stability and integrity; (d) the prevention, investigation, detection and prosecution of breaches of ethics ***for regulated professions***; (e) a monitoring, inspection or regulatory function connected, even occasionally, with the exercise of official authority in cases referred to in (a), (b), (c) and (d); (***f***) the protection of the data subject or the rights and freedoms of others. 2. ***In particular,*** any legislative measure referred to in paragraph 1 shall contain specific provisions at least as to the objectives to be pursued by the processing and the determination of the controller.	***restricted***, when such a restriction constitutes a necessary and proportionate measure in a democratic society to safeguard: (a) public security; (b) the prevention, investigation, detection and prosecution of criminal offences; (c) other public interests of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters and the protection of market stability and integrity; (d) the prevention, investigation, detection and prosecution of breaches of ethics ***or confidentiality obligations***; (e) a monitoring, inspection or regulatory function connected, even occasionally, with the exercise of official authority in cases referred to in (a), (b), (c) and (d); ***(f) the protection of health, safety and security of individuals;*** ***(g) the legitimate interests of the controller and its employees, in particular the protection of intellectual property rights, trade secrets, reputation or the preservation of confidentiality in business transactions;*** (***h***) the protection of the data subject or the rights and freedoms of others. 2. Any legislative measure ***of the Union or the Member States restricting the rights*** referred to in paragraph 1 ***for the purposes referred to in paragraph 1 section (a) to (g)*** shall contain specific provisions at least as to the objectives to be pursued by the processing and the determination of the controller.

RIGHT TO RECTIFICATION

eBay believe a distinction should be made between user-generated data and data that are the results of an interaction between a user and a service provider. Indeed, Article 16 may prove to be an issue with regard to information of a subjective nature, such as feedback left by buyers and sellers on the eBay marketplace. We therefore suggest excluding user-generated data from the scope of Article 16, with the exception of defamatory remarks.

Article 16

Text proposed by the Commission	*Amendment*
The data subject shall have the right to obtain from the controller the rectification of personal data relating to them which are inaccurate. The data subject shall have the right to obtain completion of incomplete personal data, including by way of supplementing a corrective statement.	***1.*** The data subject shall have the right to obtain from the controller the rectification of personal data relating to them which are inaccurate. The data subject shall have the right to obtain completion of incomplete personal data, including by way of supplementing a corrective statement. ***2. The controller shall restrict processing of personal data where their accuracy is contested by the data subject, for a period enabling the controller to verify the accuracy of the data.*** ***3. Paragraph 1 shall not apply to personal data published via information society services, with the exception of data which are of a defamatory nature.***

Administrative requirements

eBay believes instead of encouraging the use of privacy enhancing measures, thereby reducing the administrative obligations on controllers and processors, the Commission proposal introduces new

eBay EU Liaison Office – 44 Avenue des Arts, B-1040 Brussels
Tel: +32 (0)2 788 97 12 – Fax: +32 (0)2 788 97 50 – www.ebay.eu

and onerous requirements that will substantially increase the compliance burden for businesses without mitigating potential privacy risks unless they are appropriately defined. Mr. Kelly amendments are to be welcomed in that regard and we suggest making the following additional changes: impact assessments should be applied on a risk based approach, compliance requirements should be eased for controllers that are part of a group and should in no circumstances be duplicated in sectors that are already regulated.

Recital 70

Text proposed by the Commission	*Amendment*
Directive 95/46/EC provided for a general obligation to notify processing of personal data to the supervisory authorities. While this obligation produces administrative and financial burdens, it did not in all cases contribute to improving the protection of personal data. Therefore such indiscriminate general notification obligation should be abolished, and replaced by effective procedures and mechanism which focus instead on those processing operations which are likely to present ***specific*** risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes. In such cases, a ***data protection*** impact assessment should be carried out by the controller ***or processor*** prior to the processing, which should include in particular the envisaged measures, safeguards and mechanisms for ensuring the protection of personal data and for demonstrating the compliance with this Regulation.	Directive 95/46/EC provided for a general obligation to notify processing of personal data to the supervisory authorities. While this obligation produces administrative and financial burdens, it did not in all cases contribute to improving the protection of personal data. Therefore such indiscriminate general notification obligation should be abolished, and replaced by effective procedures and mechanism which focus instead on those processing operations which are likely to present ***significant*** risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes. In such cases, ***privacy*** impact assessment should be carried out by the controller prior to the processing, which should include in particular the envisaged measures, safeguards and mechanisms for ensuring the protection of personal data and for demonstrating the compliance with this Regulation.

Article 22

Text proposed by the Commission	*Amendment*
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures referred to in paragraph 1 other than those already referred to in paragraph 2, the conditions for the verification and auditing mechanisms referred to in paragraph 3 and as regards the criteria for proportionality under paragraph 3, and considering specific measures for micro, small and medium-sized-enterprises.	***4. Paragraphs 1 and 3 of this article, do not apply to controllers, which are part of a group of undertakings, provided such group of undertakings, through its main establishment or otherwise, has implemented a common framework of policies and measures as referred to in paragraphs 1 and 2, which cover the processing of personal data by such controllers.*** ***5. Paragraphs 1 and 3 shall also not apply if and insofar as the controller is subject to a similar obligation by virtue of Union law and under supervision of an independent sectorial supervisory authority.*** ***6.*** The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of specifying any further criteria and requirements for appropriate measures referred to in paragraph 1 other than those already referred to in paragraph 2, the conditions for the verification and auditing mechanisms referred to in paragraph 3 and as regards the criteria for proportionality under paragraph 3, and considering specific measures for micro, small and medium-sized-enterprises.

Article 33 – title

Text proposed by the Commission	*Amendment*
Data protection impact assessment	***Privacy*** impact assessment

eBay EU Liaison Office – 44 Avenue des Arts, B-1040 Brussels
Tel: +32 (0)2 788 97 12 – Fax: +32 (0)2 788 97 50 – www.ebay.eu

Article 33 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Where processing operations present ***specific*** risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller ***or the processor acting on the controller's behalf*** shall carry out an assessment of the impact of the envisaged processing operations on the ***protection of personal data***.	1. Where processing operations ***are likely to*** present ***significant*** risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes, the controller shall carry out an assessment of the impact of the envisaged processing operations on ***the rights and freedoms of the data subjects, especially their right to privacy***.

Article 33 – Paragraph 4

Text proposed by the Commission	*Amendment*
4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations.	4. The controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of commercial or public interests or the security of the processing operations, ***unless this is factually impossible or would require a disproportionate effort on the part of the controller***.

Data breach notifications

While we welcome amendments from Mr. Kelly on data breach notifications, we provide below some additional clarifications, such as the possibility to allow for a full exemption when technical protection measures have been implemented to render the data unintelligible.

Article 31

Text proposed by the Commission	*Amendment*
1. ***In the case of a personal data breach***, the controller shall ***without undue*** delay ***and, where feasible, not later than 24 hours after having become aware of it,*** notify the personal data breach to the supervisory authority. ***The notification to the supervisory authority shall be accompanied by a reasoned justification in cases where it is not made within 24 hours.***	1. ***Where a personal data breach is likely to have a significant adverse effect on the rights and freedoms of the data subjects, especially their right to privacy,*** the controller***, after having become aware of it,*** shall ***within reasonable*** notify the personal data breach to the supervisory authority.
2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller immediately after the establishment of a personal data breach.	2. Pursuant to point (f) of Article 26(2), the processor shall alert and inform the controller immediately after the establishment of a personal data breach.
3. The notification referred to in paragraph 1 must at least:	***3. The notification of a personal data breach shall not be required if the controller or the processor has implemented appropriate technological protection measures, which were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.***
(a) describe the nature of the personal data breach including the categories and number of data subjects concerned and the categories and number of data records concerned;	
(b) communicate the ***identity and*** contact details of the ***data protection officer*** or other contact point where more information can be obtained;	***4. In case of joint controllers or where the controller is part of a group of undertakings, the personal data breach may be notified by the controller or undertaking designated by the joint controllers or group of undertakings.***
(c) recommend measures to mitigate the possible adverse effects of the personal data breach;	***5. Without prejudice to Article 51, paragraph 2, controllers shall notify the supervisory authority of the Member State in which they are established. Controllers which are not***

eBay EU Liaison Office – 44 Avenue des Arts, B-1040 Brussels
Tel: +32 (0)2 788 97 12 – Fax: +32 (0)2 788 97 50 – www.ebay.eu

(d) describe the consequences of the personal data breach;

(e) describe the measures proposed or taken by the controller to address the personal data breach.

4. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.

6. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

established on the territory of the European Union shall notify the supervisory authority of the Member State in which their representative is established.

6. The notification referred to in paragraph**s** 1 ***and 2*** must at least:

(a) describe the nature of the personal data breach including the categories and number of data subjects concerned and the categories and number of data records concerned;
(b) communicate the contact details of the ***controller*** or other contact point where more information can be obtained;
(c) recommend measures to mitigate the possible adverse effects of the personal data breach;
(d) describe the consequences of the personal data breach;
(e) describe the measures proposed or taken by the controller ***or processor*** to address the personal data breach.

7. The controller shall document any personal data breaches, comprising the facts surrounding the breach, its effects and the remedial action taken. This documentation must enable the supervisory authority to verify compliance with this Article. The documentation shall only include the information necessary for that purpose. ***This obligation shall also apply to the processor insofar as he is responsible for the personal data breach.***

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements for establishing the data breach referred to in paragraphs 1 and 2 and for the particular circumstances in which a controller and a processor is required to notify the personal data breach.

9. The Commission may lay down the standard format of such notification to the supervisory authority, the procedures applicable to the notification requirement and the form and the modalities for the documentation referred to in paragraph 4, including the time limits for erasure of the information contained therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Article 32

eBay EU Liaison Office – 44 Avenue des Arts, B-1040 Brussels
Tel: +32 (0)2 788 97 12 – Fax: +32 (0)2 788 97 50 – www.ebay.eu

Text proposed by the Commission	*Amendment*
1. ***When the personal data breach is likely to adversely affect the protection of the personal data or privacy of the data subject, the*** controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay.	1. ***The*** controller shall, after the notification referred to in Article 31, communicate the personal data breach to the data subject without undue delay***, unless this is factually possible or would require a disproportionate effort on the part of the controller***.
2. The communication to the data subject referred to in paragraph 1 shall describe the nature of the personal data breach and contain at least the information and the recommendations provided for in points (b) and (c) of Article 31(3).	***2. In case of joint controllers or where the controller is part of a group of undertakings, the personal data breach may be communicated by the controller or undertaking designated by the joint controllers or group of undertakings.***
3. The communication of a personal data breach to the data subject shall not be required if the controller demonstrates to the satisfaction of the supervisory authority that it has implemented appropriate technological protection measures, and that those measures were applied to the data concerned by the personal data breach. Such technological protection measures shall render the data unintelligible to any person who is not authorised to access it.	***3****.* The communication to the data subject referred to in paragraph 1 shall describe the nature of the personal data breach and contain at least the information and the recommendations provided for in points (b) and (c) of Article 31(3).
4. Without prejudice to the controller's obligation to communicate the personal data breach to the data subject, if the controller has not already communicated the personal data breach to the data subject of the personal data breach, the supervisory authority, having considered the likely adverse effects of the breach, may require it to do so.	**4**. **(*deleted in favour of Art. 31.3 new*** 4. Without prejudice to the controller's obligation to communicate the personal data breach to the data subject, if the controller has not already communicated the personal data breach to the data subject of the personal data breach, the supervisory authority, having considered the likely adverse effects of the breach, may require it to do so.
5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.	5. The Commission shall be empowered to adopt delegated acts in accordance with Article 86 for the purpose of further specifying the criteria and requirements as to the circumstances in which a personal data breach is likely to adversely affect the personal data referred to in paragraph 1.
6. The Commission may lay down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).	6. The Commission may lay down the format of the communication to the data subject referred to in paragraph 1 and the procedures applicable to that communication. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

For further information, please contact:
Jan Barnes, Senior Manager Government Relations EU eBay Inc.: jabarnes@ebay.com

About eBay Inc.
Founded in 1995 in San Jose, Calif., eBay Inc. (NASDAQ:EBAY) is about enabling commerce. We do so through eBay, the world's largest online marketplace, which allows users to buy and sell in nearly every country on earth; through PayPal, which enables individuals and businesses to securely, easily and quickly send and receive online payments; and through GSI, which facilitates ecommerce, multichannel retailing and digital marketing for global enterprises. X.commerce brings together the technology assets and developer communities of eBay, PayPal and Magento, an ecommerce platform, to support eBay Inc.'s mission of enabling commerce. We also reach millions through specialized marketplaces such as StubHub, the world's largest ticket marketplace, and eBay classifieds sites, which together have a presence in more than 1,000 cities around the world. For more information about the company and its global portfolio of online brands, visit www.ebayinc.com.

eBay EU Liaison Office – 44 Avenue des Arts, B-1040 Brussels
Tel: +32 (0)2 788 97 12 – Fax: +32 (0)2 788 97 50 – www.ebay.eu