



**The Written Testimony of**

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**Before the House Subcommittee on Crime, Terrorism  
and Homeland Security  
"Organized Retail Theft Prevention: Fostering a Comprehensive  
Public-Private Response"**

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**2141 Rayburn H.O.B.**

Mr. Chairman, Ranking Member Forbes and members of the Committee,

My name is Robert Chesnut, and I am the Senior Vice President for Rules, Trust and Safety for eBay Inc. I would like to thank the committee for giving eBay this opportunity to discuss the importance of fostering real and effective solutions to the problem of Organized Retail Crime, and I ask that my full statement be entered into the committee record.

Prior to joining eBay in 1999, I was an Assistant United States Attorney in the Eastern District of Virginia for 11 years. For 5 of those years I served as Chief of the Major Crimes Unit. My career at eBay has been focused on keeping our site safe for our community by working with the law enforcement community, the private sector, policymakers, consumer protection agencies and state and federal legislatures, so I very much appreciate the opportunity to speak with you today on behalf of eBay about this important topic.

eBay recognizes that organized retail theft is a serious problem facing many retailers in this country. This Committee should be applauded for the commitment it has shown to addressing this problem, compiling clear evidence that this is a problem that stretches back many years and occurs at a disturbingly large scale. We believe that it is a problem that deserves serious attention by lawmakers, law enforcement and all aspects of the retail businesses impacted. eBay stands ready to work with all stakeholders on balanced and thoughtful responses, including responses that account for the internet as one among many and varied ways that criminals attempt to sell stolen goods to unsuspecting consumers.

Let me be clear, eBay takes the problem of stolen goods, and all forms of illegal activity that can impact our users, very seriously. 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 2000 eBay Inc. employees around the world working to combat all forms of on-line fraud, including the sale of stolen goods. As we have grown as a business over the last 12 years, we have dedicated more and more resources to the fight against criminal activity that harms our users.

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. We established the feedback system which gave each member a rating for each transaction that any user could see, and for the most part all of the trust between buyers and sellers was based on that system in the early years of eBay. But 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 clear policies about what is allowed and not allowed to be listed on the site and built state-of-the-art tools to enforce those policies. We developed advanced anti-fraud tools 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 38 countries with over 240 million registered users. At any one time around 100 million items are listed for sale on eBay around the world. Millions of transactions take place everyday on eBay where both the buyer and seller walk away totally satisfied. Here in the United States, over 750,000 Americans make all or a large percentage of their income selling items on eBay.

Our acquisition of the online payment provider PayPal in 2002 only enhanced our ability to keep our users safe. PayPal offers our members a safe way to pay online, and in the last 5 years we have merged PayPal's anti-fraud experts with the engineers, statisticians and fraud modelists at eBay to create an industry-leading team of experts dedicated to keeping our sites and our community of users secure and safe. We dedicate significant resources toward cooperating with law enforcement agencies around the world. I am one of 8 former law enforcement officials that work at eBay and PayPal, and the fact that we have a fairly large internal contingent of folks from that community helps us understand the challenges faced by enforcement agencies and how we can help those folks do their jobs and keep our users safe.

Our Fraud Investigations Team works closely with law enforcement officials at the federal, state and local levels, and we have teams in San Jose and Salt Lake City to serve enforcement agencies throughout North America. Because we operate a truly global marketplace, we also have Fraud Investigation Teams in Dublin, Ireland and Dreilinden, Germany to serve law enforcement in Europe and Asia. Earlier this week, two of our law enforcement liaisons were in Romania working with officials there to combat fraudulent activity based in that country. This is the 6<sup>th</sup> time that our US-based staff has traveled to Romania in the last three years, and we have an attorney based in Eastern Europe who is dedicated full-time to working with police and prosecutors in that region. We make it easy for law enforcement officials to find us--we have dedicated hotlines, fax numbers and email addresses for law enforcement to be able to reach us quickly and efficiently. When agencies request records from us to support their enforcement actions, they receive those records in days---not weeks or months, as can be the case with other companies.

In addition to providing the records necessary to bring cases, our Fraud Investigations Team trains law enforcement officials around the United States and globally on the best way to combat crime online. My colleagues and I have spent a lot of time on the road in the last several years building relationships with enforcement agencies and teaching them how to investigate eBay and PayPal cases. In 2006 alone, we trained over 3000 law enforcement personnel in North America about online fraud in the eBay/PayPal context and how we can help them prosecute criminals who attempt to abuse our users. The assistance that our teams provide to law enforcement agencies around the world lead to an average of two arrests every single day. Our Fraud Investigations has worked on numerous cases with both law enforcement and loss prevention staff from the large retailers to make sure that thieves get prosecuted.

Our policies and commitment to combating the sale of stolen goods on eBay are straightforward. eBay is no place for the sale of stolen goods, and the transparency of our site combined with our commitment to working with law enforcement makes it an unwelcome venue for "fencing." The reality is that eBay is the riskiest way for a criminal to try to sell stolen products over the internet. We work both reactively and proactively with law enforcement, often referring cases out to the appropriate agency where we detect fraudulent behavior by one of our sellers, including the listing of stolen goods. When any retailer has concrete evidence to the effect that stolen property is on our site, we will work with them and law enforcement to address the problem, including sharing information about a targeted seller with the appropriate enforcement agency. This process already exists and we believe it works well.

In addition to our work with the law enforcement community, we have been engaging the retail industry for many years now to strengthen our relationships with retailer trade associations as well as individual companies to find ways we can work together to combat the sale of stolen property on eBay. We have held meetings with retailers all over the U.S. to hear their concerns and to explain how we can work with them on these issues. We have provided training to loss prevention teams about how to use the eBay website to investigate suspicious listings and gather information that can be used to bring a case to law enforcement. The manager of our Fraud Investigation Team in San Jose is presenting today at a joint law enforcement/retailer conference on Organized Retail Theft in Seattle, where over 400 officials from the retailer loss prevention community will be in attendance along with folks from local, state and federal law enforcement communities.

In addition to our outreach to the law enforcement and retailer communities, we have also taken additional steps internally over the last year to keep bad sellers off of eBay before they have a chance to harm our buyers. All new sellers on eBay.com must register a credit card with us and they must accept PayPal as a payment option. By requiring new sellers to take these steps we lower the chances of a criminal attempting to use our trading platform to commit fraud, as criminals don't generally like to provide financial information and use payment systems that make it easy to track them down once their illegal behavior becomes apparent. We have revamped our feedback system to allow buyers to provide much more detailed ratings of a seller's transactional performance. We have put higher standards in place for seller performance and suspend sellers who to a significant extent fail to satisfy their buyers. Sellers who fail to deliver the goods at all get referred out to law enforcement for prosecution. Let me reiterate that the delivery of stolen goods, counterfeit goods, or no goods at all is a horrible buyer experience for our customers. In the relatively rare circumstances where these activities take place, the buyer generally leaves our site and never comes back. And probably tells everyone he or she knows to never buy anything on eBay. Fighting fraud and keeping bad sellers off of our site are vital to our success as a business.

Regarding the broader ORC problem, this Committee has done significant work developing a record of this troubling issue. In terms of the distribution of stolen goods, your March 2005 Committee Report lists the following major venues: small shops (including beauty shops, gas stations, music stores, bars and gyms), flea markets, pawn shops, local fences, truck stops, newspaper ads, overseas buyers, and yes, the Internet through all types of web sites and chat forums. The Committee report also described how unscrupulous middlemen sell significant volumes of stolen goods back to traditional retailers blended in with legitimate products.

My point in mentioning the breadth of the process of turning stolen goods into money is that there are many avenues for this illicit process. Most of them are decidedly low tech in nature. While some tech savvy criminals are finding ways to use internet technologies, sensible solutions should address the entire range of distribution methods and not place disproportionate focus on less popular methods. Many large manufacturers and retailers have a negative view of the eBay marketplace because we provide an incredibly efficient secondary market for their goods. Our sellers are perceived by some as their competition, and one way to attack efficient secondary market competitors that sell goods at low prices is to suggest that there is something shady about those sales, when in reality those sales are completely legitimate.

This past summer there was a story in USA Today about the disdain that many large retailers have for individual entrepreneurs who use the Internet, usually eBay, to resell their products. A spokesperson from Gymboree, the popular children's clothing chain, explained their 5-item-per-customer limit by stating that "we need to protect our image...we don't want people to think we're selling things on eBay." A colleague of mine at eBay sells her kids' Gymboree clothes on eBay once they grow out of them. Those clothes are then worn by the buyer's kids, and my colleague uses the money to buy new clothes for her growing children. This is a truly efficient use of consumer goods, but Gymboree does not like it, as they seem to feel that the only place you should be able to buy Gymboree clothes is at the Gymboree store.

One approach to a legislative solution to the problem of organized retail theft is simple: increase the criminal penalties for this conduct. If these crimes are currently classified as misdemeanors, upgrade them to felonies. If the jail sentences tied to these crimes are too short, lengthen them. We have supported legislation in a number of states calling for tougher penalties, mandatory sentences and higher priority prosecutions of these criminals. We would support the same at the federal level. These steps will make these cases more attractive to law enforcement and will make judges more likely to put these criminals in jail rather than giving them probation. If these thieves make the unwise choice to use eBay to try and sell their stolen goods, we don't just want them off of eBay, we want them to see the inside of jail cell.

eBay has always been committed to providing a safe, well-lit marketplace. We believe that this commitment to our community has been key to growing eBay into the world's largest global online marketplace. Working in a cooperative relationship with business partners and law enforcement has been central to this effort, and we will continue in that manner going forward.

We look forward to working with this Committee on ways to effectively empower law enforcement to fight the problem of Organized Retail Crime. We stand ready to do our part to combat the long-term problem of retail theft in a balanced and responsible way. We believe that law enforcement is crucial to solutions regarding illegal activity, and we believe it is crucial across the board to protect the privacy and rights of the law-abiding citizens and small business people.