

Congress of the United States  
Washington, D.C. 20515

October 18, 2022

Mr. Dan Schulman  
President and Chief Executive Officer  
PayPal  
2211 North First Street  
San Jose, CA 95131

Dear Mr. Schulman:

Thank you for the briefing provided to Minority staff of the House Committees on Energy and Commerce and Financial Services (the Committees) on October 11, 2022. As a follow-up to the briefing, we write to request more information on the changes made to PayPal's Acceptable Use Policy (AUP). On October 8, 2022, PayPal updated its AUP to prohibit users from transactions that "involve the sending, posting or publication of any messages, content, or materials" that are objectionable as determined by "PayPal's sole discretion."<sup>1</sup> A fine of \$2,500 would be imposed on objectionable violations, including transactions that promote misinformation, or depict or promote criminal activity.<sup>2</sup> Later that day, a PayPal spokesperson stated that the updated user agreement "went out in error" and "included incorrect information."<sup>3</sup> A copy of the since removed AUP is attached.

As a leading financial technology company, it is concerning that a user agreement that contemplates the restriction of free speech was uploaded and disseminated to PayPal users – even if in error. We understand your company is currently investigating this matter. Upon the conclusion of your investigation, we request that you provide a briefing for the Committees as soon as practicable. In addition, to assist the Committees in better understanding PayPal's processes for changing its AUP, please provide written answers to the following questions:

1. Where and with whom did the text of the October 8, 2022 AUP originate?
2. What is PayPal's approval process for changes made to the AUP? Are there PayPal guidelines that document this process? If so, please share the guidelines related to the AUP.
  - a. Who is authorized to make the changes?
3. Did the text that was updated October 8, 2022 go through the typical approval process?
4. Were the changes made to the AUP on October 8, 2022 ever contemplated within PayPal?
5. How and at what frequency is the AUP updated?

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<sup>1</sup> PayPal Holdings, Inc. *Acceptable Use Policy*, Updated October 8, 2022.

<sup>2</sup> *Id.*

<sup>3</sup> Adam Sabes, *PayPal user agreement fining users up to \$2,500 for promoting 'misinformation' was sent 'in error,' spox says*, FOX Business, Oct. 8, 2022.

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6. Were any entities affected by the updated AUP issued October 8, 2022? If so, please list these entities.
7. What are your internal control policies for making changes to PayPal's AUP?
8. What is the notice requirement given to PayPal customers for an updated AUP?
9. Is there any indication an external party updated the AUP? If not, how do you know?
10. Are third-party contractors held to same internal protocols and standards as PayPal employees?
11. With respect to violations of the AUP, is a fined individual notified with specificity?
12. Is there an appeals process for violations of the AUP? If so, what is it?
13. In the briefing you provided to the Committees, you indicated that the company was handling the investigation internally. Can you please provide the process for that investigation?
14. What is the timeline of your investigation?
15. Have any PayPal employees met with the Executive Branch regarding disinformation initiatives?
  - a. If so, please name the employees, their affiliations, and the dates of the meetings.

Please provide your response as soon as possible, but no later than Thursday, October 27, 2022. The Committees prefer to receive your response electronically to the extent possible. If you have any questions, contact Sean Brebbia of the Committee on Energy and Commerce, at Sean.Brebbia@mail.house.gov, and Rachel Kaldahl of the Committee on Financial Services, at Rachel.Kaldahl@mail.house.gov. We appreciate your time and attention to this important matter.

Sincerely,



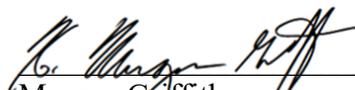
Patrick McHenry  
Ranking Member  
Committee on Financial Services



Cathy McMorris Rodgers  
Ranking Member  
Energy and Commerce Committee



Tom Emmer  
Ranking Member on the Subcommittee  
on Oversight and Investigations  
Committee on Financial Services



Morgan Griffith  
Ranking Member the Subcommittee  
on Oversight and Investigations  
Energy and Commerce Committee

Enclosure

[PayPal](#)

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# ACCEPTABLE USE POLICY

 [Download PDF](#)

Last updated on November 3, 2022.

You are independently responsible for complying with all applicable laws in all of your actions related to your use of PayPal's services, regardless of the purpose of the use. In addition, you must adhere to the terms of this Acceptable Use Policy. Violation of this Acceptable Use Policy constitutes a violation of the PayPal User Agreement and may subject you to damages, including liquidated damages of \$2,500.00 U.S. dollars per violation, which may be debited directly from your PayPal account(s) as outlined in the User Agreement (see "[Restricted Activities and Holds](#)" section of the PayPal User Agreement).

## Prohibited Activities

You may not use the PayPal service for activities that:

1. violate any law, statute, ordinance or regulation.
2. relate to transactions involving (a) narcotics, steroids, certain controlled substances or other products that present a risk to consumer safety, (b) drug paraphernalia, (c) cigarettes, (d) items that encourage, promote, facilitate or instruct others to engage in illegal activity, (e) stolen goods including digital and virtual goods, (f) the promotion of hate, violence, racial or other forms of intolerance that is discriminatory or the financial exploitation of a crime, (g) items that are considered obscene, (h) items that infringe or violate any copyright, trademark, right of publicity or privacy or any other proprietary right under the laws of any jurisdiction, (i) certain sexually oriented materials or services, (j) ammunition, firearms, or certain firearm parts or accessories, or (k) certain weapons or knives regulated under applicable law.
3. relate to transactions that (a) show the personal information of third parties in violation of applicable law, (b) support pyramid or ponzi schemes, matrix programs, other "get rich quick" schemes or certain multi-level marketing programs, (c) are associated with purchases of annuities or lottery contracts, lay-away systems, off-shore banking or transactions to finance or refinance debts funded by a credit card, (d) are for the sale of certain items before the seller has

- control or possession of the item, (e) are by payment processors to collect payments on behalf of merchants, (f) are associated with the sale of traveler's checks or money orders, (g) involve currency exchanges or check cashing businesses, (h) involve certain credit repair, debt settlement services, credit transactions or insurance activities, or (i) involve offering or receiving payments for the purpose of bribery or corruption.
4. involve the sales of products or services identified by government agencies to have a high likelihood of being fraudulent.
  5. involve the sending, posting, or publication of any messages, content, or materials that, in PayPal's sole discretion, (a) are harmful, obscene, harassing, or objectionable, (b) depict or appear to depict nudity, sexual or other intimate activities, (c) depict or promote illegal drug use, (d) depict or promote violence, criminal activity, cruelty, or self-harm (e) depict, promote, or incite hatred or discrimination of protected groups or of individuals or groups based on protected characteristics (e.g. race, religion, gender or gender identity, sexual orientation, etc.) (f) present a risk to user safety or wellbeing, (g) are fraudulent, promote misinformation, or are unlawful, (h) infringe the privacy, intellectual property rights, or other proprietary rights of any party, or (i) are otherwise unfit for publication.
  6. relate to transactions involving any activity that requires pre-approval without having obtained said approval.

## Activities Requiring Approval

PayPal requires pre-approval to accept payments for certain services as detailed in the chart below.

<b>PayPal requires pre-approval to accept payments for certain items and services as detailed below.</b>			
<b>Section</b>	<b>Category</b>	<b>Item or Service Requiring Pre-Approval (not intended to be an exhaustive list)</b>	<b>Contact Information</b>
1	Transportation	Airlines and scheduled or non-scheduled charters/jets/air taxi operators.	For general questions, please refer to our Help Center.
2	Charities / Non-Profit	Collecting donations as a charity or non-profit organization.	

3	High Value Items	Operating as a dealer in jewels, precious metals and stones.	If you have questions about obtaining a pre-approval or opening a new PayPal Business account that offers services requiring pre-approval, please contact our <a href="#">Sales team</a> .
4	Payment Facilitator	Providing payment services which would fall under the definition of a money service business or an electronic money institution. Services would also include the sale of stored value cards and escrow services.	
5	Investments	Buying, selling, or brokering stocks, bonds, securities, options, futures, commodities, contracts for difference/forex, mutual funds or an investment interest in any entity or property.	
6	Gambling, Gaming, Prize Draws and Contests	Activities involving gambling, gaming and/or any other activity with an entry fee and a prize, including, but not limited to property/real estate prizes, casino games, sports betting, horse or greyhound racing, fantasy sports, lottery tickets, other ventures that facilitate gambling, games of skill (whether or not legally defined as gambling) and sweepstakes, if the	

		operator and customers are located exclusively in jurisdictions where such activities are permitted by law.		
7	Cryptocurrency	Any digital representation of value that can be digitally traded, transferred, or used for payment, including, but not limited to, crypto currencies, virtual in-game currencies, or non-fungible tokens.		
8	Prescription Items	The sale of any product(s) requiring a prescription or prescription dispensing services.		
9	Telemedicine Services	Providing medical services and consultations in a remote fashion.		
10	Mature Audience Content	Any adult content delivered digitally including video on demand (VOD) and web-cam activities. PayPal may be restricted from processing payments in certain jurisdictions for adult DVD's, magazines and other adult themed products or services.		
11	Online Dating	Any dating services that enable		

		individuals to find and introduce themselves to new people with the goal of developing a personal or romantic relationship.		
12	Live Streaming/Broadcasting	Any activities in which people transmit video, voice or text content in a live environment with the potential of user interaction.		
13	File-Sharing	Providing file sharing services including cyberlockers and similar remote digital file sharing services where uploaded content is accessible to the public or the service pays uploaders for content.		
14	Alcohol	Selling alcoholic beverages.		
15	Tobacco	Non-cigarette tobacco products, e-cigarettes, cigars		
16	Medical Items or Services	All items classified as medical devices, and all services or treatment provided by a person or organization holding itself out as a provider of health-care services, including, but not limited to, all health-care services for which government licensure is required in the provider's		

		<p>jurisdiction or in the jurisdiction where services are being provided.</p> <p>This category includes “Medical Tourism” involving medical services to be provided to a patient outside of that patient’s home country.</p>		
17	Multilevel Marketing and Direct Selling Organizations	<p>Direct Sales Organizations (“DSOs”) and the Multi-Level Marketing (“MLMs”) are distribution and marketing models in which products or services are sold via a network of independent distributors or representatives. DSO and MLM models rely on personal sales and frequently require the independent distributors to recruit new distributors in order to advance within the organization or gain incentive compensation.</p>		
18	Marketplaces	<p>A marketplace is an e-commerce solution where third-party sellers can sell their products or services to customers.</p>		

## **More Information**

To learn more about the Acceptable Use Policy, please refer to our [Help Center](#).

## **Violations of the Acceptable Use Policy**

We encourage you to [report](#) violations of this Acceptable Use Policy to PayPal immediately. If you have a question about whether a type of transaction may violate the Acceptable Use Policy, or wish to file a report, you can do so [here](#).