

eBay & BCR

eBay & Privacy

- In the EU our two major Services' EU headquarters (that is, eBay and PayPal) are located in Luxembourg. eBay Europe S.à r.l. a Luxembourg company, and PayPal Europe S.à r.l. & Cie, S.C.A., is a Luxembourg bank . These are the legal entities that EU-based Users contract with to benefit from eBay services.
- eBay's privacy function operates an internal control system that aligns current and ex-ante legal requirements to our operating processes. This alignment occurs through a variety of change management , advocacy and executive oversight mechanisms.
- In our ecosystem, individuals choose to share personal information about themselves, in order to build trust with each other. Protecting personal data is fundamental, as increased protection encourages broader data exchange, a more efficient market and as such higher transaction volume.
- Our payments system PayPal allows consumers to pay for transactions without exposing their financial information. PayPal is the most privacy protective payment mechanism commercially available today, demonstrating that the principle of 'privacy by design' has economic value.

Why BCR as the export solution

- SCCs unwieldy
- Infrastructure flexibility
- Makes a branding statement
- Provides a baseline for applicable law re. tax / disclosure / DPA oversight

Substantiating BCR/applicable Law

- User data is under the control of eBay Europe SARL & PayPal Europe S.à r.l. & Cie, S.C.A so our BCR applicant in the EU is a Lux entity, and all applicable privacy law for user data is Lux. The definition of Controller is set out by A29 WP169 – the tests we defend are:
- ***Controller shall decide who shall be responsible for compliance:*** specified in interim / corp. structure
- ***Controller shall allocate responsibility:*** Lux entities discharge governance through linking Privacy role with Fiduciary responsibilities, Legal, ERM & IRM functions
- ***Allocation of responsibilities based upon factual influence:*** The privacy officer's role is formalised through a variety of consultative and sign off procedures across the functions – i.e. marketing / contracts / escalated complaints + influence extended via other functions
- ***Control stemming from implicit legal competence:*** All EU users contract exclusively with Lux entities
- ***Determine purpose and means of processing:*** The general purpose and means of processing are set out in contract (UA / PP) – and controlled through various reporting processes adjudicated from Lux

BCR execution

- Binding Mechanism
 - Unilateral declaration Vs Contracts - some countries don't accept the former
 - A simple agreement provides the mechanism to bind subsidiaries to our guidelines
 - We piggyback that agreement with Controller to Processor agreement that reinforce our corporate structure
- Change control
 - Acquisition of new entity
 - Geographic expansion