

# United States Senate

WASHINGTON, DC 20510

October 14, 2022

Mr. Dan Schulman  
President & CEO  
PayPal  
2211 N. 1st St.  
San Jose, CA 95131

Dear Mr. Schulman,

We write to you today to express our deep concern regarding PayPal's recent announcement of a policy intended to financially punish its own customers for expressing views which PayPal arbitrarily classifies as "misinformation."<sup>1</sup> Though we are pleased that PayPal opted to rescind the adoption of this provision from its Acceptable Use Policy (AUP), we remain concerned about the processes and values in place at PayPal that allowed a policy such as this to move forward in the first place.

As widely reported, PayPal issued an update to the terms and conditions of its AUP, which is scheduled to take effect on November 3, 2022. This update included language that would have allowed PayPal to fine any one of its 429 million users up to \$2,500 per offense for spreading "misinformation."<sup>2</sup> Disturbingly, the drafting of the policy gave PayPal "sole discretion" regarding what constitutes "misinformation."<sup>3</sup> In effect, PayPal sought the ability to define, then punish its users' public thoughts.

Since withdrawing this provision from its scheduled AUP update, PayPal has consistently spread the dubious claim that this provision was "never intended to be inserted in our policy" as stated by a company spokesperson.<sup>4</sup> If accurate, this statement indicates an astonishing lack of internal oversight at PayPal.

Additionally, PayPal attempted to downplay the dramatic shift in policy this provision envisioned by arguing that its user agreement "has long-stated that PayPal can take funds of up to \$2,500 or local equivalent from an account for each violation of the Acceptable Use Policy."<sup>5</sup> Yet a review of PayPal's current Prohibited Activities list shows the vast majority of violations arise from breaches of public law or transactions for specific disfavored items or business

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<sup>1</sup> Cristiano Lima, *PayPal faces backlash after floating fines for sharing misinformation*, Washington Post, Oct. 10, 2022, <https://www.washingtonpost.com/politics/2022/10/10/paypal-faces-backlash-after-floating-fines-sharing-misinformation/>.

<sup>2</sup> Ben Zeisloft, *New PayPal Policy Lets Company Pull \$2,500 From Users' Accounts If They Promote 'Misinformation'*, Daily Wire, Oct. 7, 2022, <https://www.dailywire.com/news/new-paypal-policy-lets-company-pull-2500-from-users-accounts-if-they-promote-misinformation>.

<sup>3</sup> *Id.*

<sup>4</sup> Cristiano Lima, *PayPal faces backlash after floating fines for sharing misinformation*.

<sup>5</sup> *Id.*

practices.<sup>6</sup> The addition of a vague prohibition on spreading “misinformation” not only would have concerningly expanded the scope of punishable actions, but also would have decreased clarity and increased subjectivity within the Prohibited Activities list. PayPal users deserve clear rules of the road for using the platform, not punishments for open-ended, subjective offenses.

Given these concerns, we request written answers no later than October 28, 2022, to the following questions:

1. Does PayPal have a defined internal process for the drafting and vetting of proposed updates to its AUP?
  - a. If so, who reviews AUP updates before they are published for public consumption?
2. How did text “never intended to be inserted in our policy” find its way into a finalized update to the AUP?
  - a. Who drafted this change to the AUP?
  - b. Why did they draft this change?
  - c. Why was it included in the published AUP?
3. Regardless of the rescission of the AUP update, what assurances can PayPal give users that it will not limit their access to PayPal, throttle their transaction speed, financially punish them, or otherwise target users for statements that PayPal may view as “misinformation”?
4. Will PayPal commit that in the future it will not implement the provision removed from its AUP, or any substantially similar policy?

Greater encroachment by large technology and financial companies into public speech will only exacerbate Americans’ increasing mistrust of such institutions.<sup>7</sup> Moreover, countless major news events over the past several years have taught us that public information continually evolves, often causing individuals, groups, and organizations to reassess what once appeared to be settled fact. Given this reality, policies that empower companies to punish individuals’ beliefs by acting as arbiters of fact in our ever-changing news and public debate environment represent poor business decisions. Instead, large technology and financial institutions should focus on serving the needs of their customers without bias.

We look forward to receiving your responses to our questions.

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<sup>6</sup> PayPal, *Acceptable Use Policy* (last updated Sept. 20, 2021), <https://www.paypal.com/us/legalhub/acceptableuse-full>.

<sup>7</sup> Jeffrey M. Jones, *Confidence in U.S. Institutions Down; Average at New Low*, July 5, 2022, <https://news.gallup.com/poll/394283/confidence-institutions-down-average-new-low.aspx>.

Sincerely,



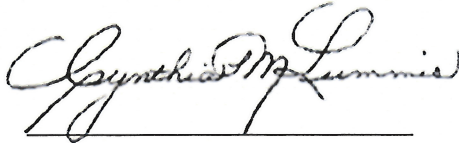
Thom Tillis  
United States Senator



Pat Toomey  
United State Senator



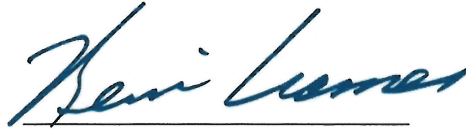
Tim Scott  
United States Senator



Cynthia Lummis  
United States Senator



Bill Hagerty  
United States Senator



Kevin Cramer  
United States Senator



Steve Daines  
United State Senator