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United States Senate

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October 12, 2022

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

Mr. Schulman:

I was gravely concerned by the recently reported updates to PayPal, Inc.'s Acceptable Use Policy (AUP) that would provide the firm carte blanche authority to levy financial penalties against users it determines have violated poorly-defined anti-“misinformation” policies. Private companies have no authority to serve as arbiters of free speech or public policy and the proposed changes represented a gross overreach of PayPal's fiduciary duty to its shareholders. I am glad that the swift and vocal backlash on behalf of PayPal's 429 million consumers and merchants has forced the company to reexamine this deeply flawed policy.

There is absolutely no place for discrimination in the financial services industry. Unfortunately, we know exactly what happens when firms attempt to play policymakers. Financial institutions provide financial services; they are not engineers of social policy. They should not punish legal industries like firearms dealers or media companies because they disagree politically, nor should they promote credit to politically favored industries. Increasingly, companies seek to benefit from US regulatory backstops and stability, while blatantly ignoring or subverting long-standing US protections for free speech and political diversity. Going forward, I strongly urge PayPal to clarify how it will make its business decisions based on consistent, quantifiable risk-based analysis of customers, rather than internal policy decisions about what legal products and services should be available to consumers and markets.

As PayPal works to remedy this erroneous policy and implement an AUP that mitigates the conflicts of interest and concerns associated with the previously announced changes, I ask that you keep my office apprised of these efforts and provide a written response to the following questions:

1. What prompted the development of the originally proposed changes to PayPal's AUP?
2. Which teams internally were responsible for crafting the originally proposed policy and were these efforts aided by any external stakeholder groups or consultants?
3. Are there internal processes being established to prevent PayPal from implementing future AUPs that would empower the firm to discriminate against legal industries or otherwise chill free speech?
4. What outside authorities and experts were going to be utilized to determine “acceptable” speech or to identify “misinformation” or inform your in-house judges?

As stated earlier, it is not the role of private financial intermediaries, like PayPal, to be de facto arbiters of social policy outcomes – that is a right reserved for elected policymakers who are held accountable to the voters who put them in office. I look forward to receiving your responses to the questions above no later than November 18, 2022.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Tim Scott', with a long horizontal flourish extending to the right.

Tim Scott
United States Senator