

## **Consumer Reports WebWatch's 'Look Before You Click' Campaign An Examination of Online Auction Fraud in New York State**

Internet crime continues to grow and has reached new heights, and online auction fraud plays a significant part. This report highlights areas of concern, examines the leading auction sites, details Consumer Reports WebWatch's experiences in shopping for products via online auctions, and offers tips and advice for protecting consumers.

### **The Big Picture: Online Fraud**

During 2007, the Internet Crime Complaint Center received 206,884 complaints nationwide of Internet crime, a slight decrease of 0.3% compared to the 207,492 complaints filed in 2006. But according to the organization's 2007 Internet Crime Report, more than 90,000 of these complaints were referred to law enforcement agencies, totaling nearly \$240 million in reported losses—an all-time high for Internet crime, and a \$40 million increase over 2006.

Topping this list of crimes was Internet auction fraud. Other problems cited in the report include fraudulent activity such as non-delivery of purchases and credit/debit card fraud, and non-fraudulent activity such as computer intrusions, spam/unsolicited email, and child pornography. In an effort to raise public awareness, the 2007 Internet Crime Report also describes the characteristics of commonly reported scams such as those involving the purchase or sale of pets, check scams, e-mail spam, and online dating fraud.

The Internet Crime Complaint Center (IC3), a partnership between the FBI and the National White Collar Crime Center, collects Internet crime complaints from private citizens and industry and refers complaints to law enforcement. The National White Collar Crime Center (NW3C), a Bureau of Justice Assistance program, provides a nationwide support system for agencies involved in the prevention, investigation, and prosecution of economic and high-tech crimes. The NW3C also supports and partners with other appropriate entities in addressing homeland security initiatives related to economic and high-tech crimes.

James E. Finch, the assistant director of the FBI's Cyber Division, issued this statement in April 2008: "The Internet presents a wealth of opportunity for would-be criminals to prey on unsuspecting victims, and this report shows how extensive these types of crime have become. What this report does not show is how often this type of activity goes unreported. Filing a complaint through the Internet Crime Complaint Center is the best way to alert law enforcement authorities of Internet crime."

### **Closer to Home: Online Fraud in New York State**

For residents of New York State, a closer examination of these statistics reveals some noteworthy trends. According to the IC3, a total of 10,178 complaints were filed by New York state residents in 2007, placing New York fourth nationwide, with 5.7% of all complaints in the United States. However, on a per capita basis, at a rate of 52.74 complaints per 100,000 citizens, New York ranks 29th in the nation.

Top categories for Internet crimes among New York state residents in 2007 were as follows:

- Auction Fraud: 37.5%
- Non-Delivery of Merchandise/Payment: 25.8%
- Check Fraud: 7.4%
- Confidence Fraud: 6.8%
- Computer Intrusion/Hacking: 4.8%
- Credit Card Fraud: 4.3%
- Financial Institution Fraud: 2.6%
- Identity Theft: 2.4%
- Investment Fraud: 1.1%

Statewide, losses from fraud totaled \$14.1 million, although the dollar amount per incident varied widely. Most losses were between \$100 and \$999 (43.6%), followed by losses of \$1,000 to \$4,999 (30.4%). In addition, there were significant losses under \$99 (15.7%) and from \$5,000 to \$9,999 (5.7%). Although there were fewer losses over \$10,000 (4.7%), the largest single complaint concerned non-delivery of merchandise, one that totaled \$207,000.

The total median dollar loss for all complaints reporting a dollar loss was \$609.98. What follows is a breakdown of the median losses reported for each type of Internet crime:

- Auction Fraud: \$438
- Non-Delivery: \$434
- Check Fraud: \$2,800
- Confidence Fraud: \$1,350
- Computer Intrusion/Hacking: \$1,000
- Credit Card Fraud: \$225
- Financial institution Fraud: \$1,500
- Identity Theft: \$745
- Investment Fraud: \$3,030

Demographically, of all New York State residents who filed complaints, males outnumbered females 55.9% to 44.1%. Those under 20 and over 60 lodged fewer complaints, with the highest average monetary loss (\$704.99) reported among those aged 40 to 49.

The perpetrators of Internet crimes are overwhelmingly male (75.1%), and in cases where they were identified, 9.9% were from New York State, which ranked third nationally. Although 12.6% of those who perpetrated fraud against New York State residents were New Yorkers themselves, even more perpetrators hailed from California (12.9%). Other states with high percentages of perpetrators committing crimes against New Yorkers were Florida (9.2%) and Texas (5.9%).

For further information:

- [The Internet Crime Complaint Center](#)
- [The National White Collar Crime Center](#)
- [The 2007 Internet Crime Report](#)
- [Sign up for FBI e-mail alerts](#)

### **WebWatch Examines Four Leading Sites**

During the course of this investigation, WebWatch studied and shopped on a wide variety of auction and bidding sites. We also placed bids and purchased items through four of the leading online auction sites: eBay, Overstock.com, uBid, and WeBidz. What follows are details about each of these sites.

#### **eBay - [www.ebay.com](http://www.ebay.com)**

Among auction sites, eBay is the industry giant. It's grown quickly since its founding in 1995, and now operates in 38 markets outside the United States. eBay claims 84 million "active" users worldwide, and estimates the total value of items sold on its site in 2007 at nearly \$60 billion.

Some analysts refer to eBay as an "online flea market" and in many ways the company itself seems to tacitly concur, since they take virtually no responsibility for the products or for the claims made by the sellers.

In August, eBay announced a series of changes in to its bidding and buying procedures in an effort to address concerns from its users. Effective Sept. 16, sellers can begin listing products using the "Buy It Now" fixed-rate format for a flat rate of 35 cents for a 30-day listing (previously available for just 7 days).

Other changes will be phased in through November 2008, including improvements to product search tools. In addition, eBay announced buyers who complete purchases through PayPal will

receive "buyer protection," consisting of protection for the full purchase price and original shipping costs on eligible PayPal transactions.

However, pricing for sellers using the auction function will remain unchanged. Lorrie Norrington, president of eBay Marketplaces, said: "We love auctions. Auction-style listings remain the ideal choice for sellers who are uncertain about the value of their item, have a scarce item in high demand, or are willing to start at a low price and let bidding determine the final value. With these changes [to Buy It Now], we're making sure sellers have competitive opportunities in both formats-auction-style and fixed price."

In response to criticism from sellers about eBay's commission fees, the site recently introduced a Diamond Power Seller option, coupled with lower fees, for sellers with very high sales volume. eBay also will eliminate all non-electronic payment options this fall. All transactions will require charge cards, PayPal, or ProPay. Cash, checks, and money orders no longer will be allowed.

According to the Better Business Bureau, eBay has been an accredited business since 1998, and is rated [satisfactory](#). The BBB processed 3,291 complaints against eBay during the last 36 months, and 1,139 in the last 12 months. Most complaints were filed for "Billing and Collection" and "Customer Service" issues. Many of these complaints undoubtedly stem from problems with individual sellers and not the site itself. But since eBay views itself as a facilitator of transactions, it remains a "caveat emptor" (let buyer beware) site.

These findings dovetail with the 2007 Consumer Reports National Research Center [survey of eBay users](#). In that study, respondents were asked what they liked about the site and only 14% rated "Help and Customer Support" as excellent (as opposed to 64% rating "Selection of Products" as excellent). In addition, only 16% said they liked "Protection from Deceptive Practices."

#### **Overstock.com - [www.overstock.com](http://www.overstock.com)**

Overstock.com, founded in 1999, eschews hand-me-downs, as exemplified by its "About Us" page. "The Salt Lake City-based company brought the outlet mall to the consumer via the Internet, providing the same brand-name products found in traditional retail stores at deep discounts. Overstock.com has established partnerships with many leading brand-name companies. Due to these relationships, we are able to buy products at significant discounts, which then allows us to pass these incredible savings on to you."

For the most part, the site is easy to use. One of Overstock.com's better features is a clear and concise guide to "Protecting Yourself from Fraud" in its Help Center. Although all the auction sites offer consumers advice, none are as user-friendly.

Here's how Overstock address the fraud problem in its [Auctions Help Center](#):

The following Red Flags will also help protect you from fraud:

- There are no payment instructions on the item.
- Seller only accepts wire transfers, money orders or cash transactions (e.g., Western Union).
- Seller requests that the money be sent outside the United States.
- Seller doesn't offer Google Checkout or PayPal as payment options.
- Seller requires the buyer to call or email them before or after bidding on an item.
- Seller suggests through external contact that the buyer completes a transaction outside the confines of an auction.
- Seller has excessive negative ratings from their Business Network. Always read a seller's ratings.
- Seller has no contact information. (Contact information is only provided after winning an auction.)
- Seller has no photo or information on their personal homepage.
- Seller is not located in the U.S.

- If an auction looks too good to be true, it probably is.
- Always contact the seller before bidding or before paying for an item. If anything seems suspicious, do not complete the transaction.
- If a person contacts you via email and offers to sell you an identical or similar item for a similar or lower amount, do not complete the transaction and report the user to Overstock.com Auctions.
- If you find two or more of these flags on an auction you are watching, we recommend that you do not bid on the auction.

Overstock.com has been a BBB-accredited business since 2000, and earned a [satisfactory](#) rating. The BBB processed a total of 1,969 complaints against Overstock.com in the last 36 months. Overwhelmingly, the largest number of complaints concerned "refund or exchange" issues, followed by "delivery" issues and "customer service" issues.

**uBid** - [www.ubid.com](http://www.ubid.com)

uBid has always been characterized by a flea market atmosphere, and now that perception has been institutionalized. In April 2008, this Chicago-based auction site announced it was changing its business strategy to focus solely on liquidating excess inventories from manufacturers. Since its inception in 1997, uBid says it has since liquidated more than \$2 billion of excess inventory for more than 7,000 sellers.

As stated on its site: "uBid.com Holdings, Inc. provides asset recovery solutions to brand-name manufacturers, distributors, and retailers who have excess inventory by utilizing a multi-channel selling approach which includes an online auction platform, a business-to-business unit, as well as brick and mortar sales. As a result, uBid is able to give its buyers an inside connection to excess inventory from the world's most trusted brands at prices far below retail. uBid works with top brands such as Sony, Polaroid, Dell, IBM, Nikon, Fuji, Casio, Hewlett-Packard, Compaq, Panasonic, Gateway, Seiko, Black & Decker, DeWalt, Honeywell, and KitchenAid."

For consumers, not dealing with unknown sellers means uBid is able to state: "We also stand behind everything sold on our site with our 100% Fraud Free Guarantee." Buyers with complaints are processed through an online message system (in our case, it took about 24 hours for a response).

In addition to the auction function, uBid announced four more buying channels in April 2008:

-uBuy: A traditional e-commerce method to purchase brand-name excess inventory.

-uLive: A facilities liquidation model with a new uLive channel.

-uBiz: A business-to-business model designed to accommodate large volume and wholesale transactions.

-uSaaS: A Software-as-a-Service model which allows selling partners to use uBid technology to conduct both charity-based auctions and private, invite-only auctions.

uBid sells Extended Protection Plans for many products, and does not ship outside the United States. uBid has earned a [satisfactory](#) rating with the Better Business Bureau. The BBB processed a total of 209 complaints about uBid in the last 36 months. Most of these complaints concerned "delivery" and "product" issues, as well as "refund or exchange" issues.

**WeBidz** - [www.webidz.com](http://www.webidz.com)

There's no confusion about how this Yakima, Wash.-based company wants to be viewed: On its homepage it bills itself as "An eBay Alternative Auction Site."

The fine print at the bottom spells out the site's goals: "We would like to thank all our members for supporting our online auction site, thus providing the rapid growth that our site has been receiving. The online auction community needs to take a stand against eBay, by supporting alternative auction sites such as ours and other free listing online auction sites. With the continued support of our auction sellers and buyers, we can make buying and selling in online

auctions fun and affordable once again. Our goal as a free online auction site is not only to become an eBay alternative, but to become a highly regarded online auctions marketplace."

From a seller's standpoint, WeBidz only charges a fee if the item is sold, an attractive option for many sellers. Buyers can also shop for free, although in order to become "verified" as a buyer on WeBidz, the user must pay a \$5 fee. This surcharge is described by WeBidz as "a much needed security feature, as well as it helps fund the daily operations of the site."

eBay, on the other hand charges sellers for listings whether they sell their products or not, making the WeBidz model more attractive for sellers. And while it costs nothing to shop on eBay, those fees are embedded in the product pricing. That said, the site's functionality is rather bare bones, and the inventory is skimpy for many products. WeBidz is not listed with the Better Business Bureau.

### **Sidebar: Tiffany v. eBay**

In late 2007, a federal court in New York City heard arguments in a case brought by Tiffany & Company against eBay. The jewelers claimed that eBay was facilitating the sale of fake merchandise under the Tiffany name. eBay's defense is that it will shut down a sale if it becomes aware of fraud, but it will not proactively screen for fraud or take responsibility for it.

In July 2008, a judge for the U.S. District Court in the Southern District of New York ruled in favor of the auction site in the *Tiffany v. eBay* case. The court ruled that using the Tiffany name in listings was necessary to accurately describe the jewelry company's products.

Judge Richard J. Sullivan noted: "It is clear that Tiffany and eBay alike have an interest in eliminating counterfeit Tiffany merchandise from eBay—Tiffany to protect its famous brand name, and eBay to preserve the reputation of its website as a safe place to do business. Accordingly, the heart of this dispute is not whether counterfeit Tiffany jewelry should flourish on eBay, but rather, who should bear the burden of policing Tiffany's valuable trademarks in Internet commerce."

The judge further noted: "[T]he Tiffany name is what gives the jewelry the cachet it enjoys. Absent the Tiffany brand, a silver heart necklace or a silver bracelet with an ID chain would simply be a piece of jewelry instead of a symbol of luxury. Indeed, were eBay precluded from using the term 'Tiffany' to describe Tiffany jewelry, eBay would be forced into absurd circumlocutions. To identify Tiffany jewelry without using the term Tiffany — perhaps by describing it as 'silver jewelry from a prestigious New York company where Audrey Hepburn once liked to breakfast,' or 'jewelry bearing the same name as a 1980s pop star'—would be both impractical and ineffectual in identifying the type of silver jewelry available on eBay."

For its part, eBay applauded the decision. Rob Chesnut, senior vice president and legal counsel for eBay, stated: "This ruling appropriately established that protecting trademarks is the primary burden of rights owners—not marketplaces like eBay. The court ruled that eBay does in fact meet its responsibilities regarding counterfeits. We aggressively fight counterfeits not only to meet our limited responsibilities, but also because counterfeits hurt the eBay community—the millions of honest sellers building their businesses and buyers who come to eBay for great value and selection. That's why we want to continue to work with rights owners to aggressively fight the sale of counterfeit items."

Tiffany responded on August 11 by filing an appeal in the U.S. Court of Appeals for the Second Circuit. Patrick Dorsey, general counsel for Tiffany & Co., stated: "Unfortunately, the trial court incorrectly held that trademark holders and not eBay are responsible for policing the eBay site. The effect of this is that eBay can continue to profit at the expense of consumers and trademark holders. In our view, this approach makes no sense as a matter of law or policy. Once eBay has reason to know that a specific brand like Tiffany & Co. is being widely counterfeited and sold, eBay should be compelled to investigate and take action to protect its customers and stop the illegal conduct."