

14 NOVEMBER 2013

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FAIR TRADE AMENDMENT (TICKET RESELLING) BILL 2013

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Bill introduced on motion by Mr Anthony Roberts, read a first time and printed.

Second Reading

Mr ANTHONY ROBERTS (Lane Cove—Minister for Fair Trading) [3.55 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Fair Trading Amendment (Ticket Reselling) Bill 2013. This bill will bring openness and transparency to the secondary ticketing market, help to protect consumers from price gouging and fraud, and empower event organisers to enforce their ticket terms and conditions. Ticket scalping, or the unauthorised resale of tickets for a price above the original value of the ticket, is an ongoing problem for consumers, event organisers, sporting codes and performers. When tickets, having sold out on official sites within minutes of going on sale, are immediately listed on online auction sites for several times the original price, consumer confidence in the ticket market is eroded. Spruikers selling tickets outside venues just prior to an event are almost a thing of the past, as the internet is now the main arena where scalping takes place.

Consumers who buy tickets from scalpers face the risk of counterfeit tickets. Even if a purchased ticket is genuine, the ticket may still be worthless if the event promoter cancels the ticket for being resold in breach of its terms and conditions. From the perspective of event organisers, sporting codes and artists, scalping diverts income towards those who took no part, and bore no risk, in staging an event. Performers and sporting codes may also deliberately set ticket prices to be affordable for their fans, an aim that can be frustrated by scalping. With New South Wales attracting increasing numbers of high-profile events and international acts, the issue of ticket scalping is also attracting increasing levels of media and public interest.

In the first half of 2013, tickets to the Lions Rugby test, the Ashes Sydney test, the Manchester United v A-League All Stars game, the NRL Grand Final and the Pink Sydney concert were all offered for sale by scalpers at significant mark-up. Tickets to the NRL Grand Final were on sale before they had been released to the general public. While event organisers employ a variety of ticketing strategies to reduce scalping, including staggering the release of tickets, providing tickets to fan clubs and using e-tickets, these have not been successful in preventing scalping. Strategies such as requiring names to be printed on tickets and requiring presentation of photo identification or a credit card on entry are expensive and, due to the potential to create bottlenecks, are only suitable for events where attendees arrive over a long time period.

Although most tickets are sold subject to conditions on resale, it is difficult for event owners to enforce such

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conditions as resale advertisements do not provide enough details to enable identification of the ticket. The reforms in this bill will protect consumers by ensuring that they have clear information to make informed decisions. These reforms will also empower event organisers, who are accountable to their fans, to enforce their ticket conditions. The reforms are a light touch and will not involve the imposition of costly red tape. These reforms come following consultation with stakeholders over the past 12 months.

I, along with the former Minister for Sport and Recreation, have held forums with representatives of sporting codes, the entertainment industry, ticketing organisations and consumer groups. Our offices have also met individually with key stakeholders. Throughout these meetings we discussed the ways to improve transparency in the marketplace, whilst also ensuring that event owners can enforce their terms and conditions. As a result, a number of these stakeholders have publically supported the measures we are taking to tackle ticket scalping. When I announced these reforms in October, Mr James Sutherland, Chair of the Coalition of Major Professional and Participation Sports [COMPPS], said:

COMPPS believes that these reforms will introduce fairness and transparency to the ticket resale marketplace, which is sorely needed.

Similarly, these reforms have been welcomed by Mr Michael Gudinski, Managing Director of the Frontier Touring Company:

For too long scalpers have been able to hide behind anonymity online. Music should empower and real artists do not want to see their fans ripped off.

And Mr Cameron Hoy, Managing Director of Ticketek Australia said:

Ticketek welcomes the NSW Government reforms in this area and supports measures such as these to clamp down on this unsound practice.

I thank those who have engaged with my office and me over the past year as we have gone about setting these new rules that make the selling of tickets fair and transparent in the secondary marketplace. I now turn to the detail of the bill. The bill applies to tickets to sporting and entertainment events held in New South Wales, but only if the ticket is subject to a condition limiting the circumstances in which the ticket can be resold. This recognises that most tickets to major events are subject to a condition of sale prohibiting the ticket being resold, or resold for a profit, and allowing for cancellation of the ticket if this condition is breached. Such a condition aims to prevent scalping and keep ticket prices affordable for genuine fans.

The setting of ticket conditions is a matter for event organisers and sporting codes, which are accountable to their fans to ensure access to tickets. Limiting the bill's application to tickets with conditions limiting resale recognises that it is not appropriate for the bill's requirements to cover small-scale events such as the local school play, where the event organiser has not deemed it necessary to impose such conditions, so the member for Baulkham Hills should have no fear. The bill provides that an advertisement for the sale of tickets, other than an advertisement published by or on behalf of the event organiser or their agent must: specify the ticket number, and the row and seat number if applicable; specify the terms and conditions of the ticket or where these can be readily found; include a notice specifying the circumstances in which the resale of the ticket may result in the cancellation of the ticket; and contain a photograph of the ticket that clearly shows any ticket number, row number or seat number, but does not show any barcode on the ticket.

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The requirements to disclose ticket details and display a photograph of the ticket will also apply to e-tickets.

E-tickets can take the form of a PDF file emailed to the buyer which is able to be printed, or an electronic ticket which remains on an electronic device such as a person's phone. Similar to paper tickets, e-tickets contain details of the ticket number and seat and row numbers, and a photograph of the ticket can be taken by a screenshot of the phone or other means. These requirements aim to address the information imbalance that exists in the secondary ticket market, alerting consumers to the possibility that tickets may be cancelled and providing important information about the ticket. While a photograph in an advertisement cannot provide a complete assurance against fraud, genuine resellers of most goods accept that transparency requires a photograph and tickets should be no exception.

The requirement that any barcode on a ticket should not be shown is to prevent unscrupulous persons from printing out the barcode and using it to gain entry to the event. Including the ticket number and row and seat numbers in the advertisement will also assist event owners to enforce their ticket conditions. The decision on whether to cancel a ticket in line with stated terms and conditions belongs to an event organiser. The event organiser, whether a sporting code, an artist or a performer, is accountable to the fans to ensure equitable access to tickets, to keep ticket prices affordable and to prevent fans being disadvantaged, and is best placed to make decisions about how to do this.

Importantly, the bill restricts an event organiser's ability to cancel tickets by providing that cancellation can only take place if the front of the ticket carries a prescribed warning advising purchasers of the risk of cancellation for unauthorised resale. This restriction will provide an incentive to event owners to ensure tickets provide this warning to consumers. The event owner will still be able to enforce any other terms and conditions of the ticket, including those related to event entry and behaviour. In order to ensure that advertisements comply with the new requirements, the bill provides that a person who provides a public forum for advertisements, such as a website, newspaper or magazine, will be subject to certain obligations.

First, the person will be required to take reasonable steps to ensure that advertisements posted in their forum comply with the new requirements. Secondly, they will be required, when notified in writing by any person of a non-compliant ticket advertisement on their forum, and where it is reasonably practicable, to remove the advertisement or ensure that the advertisement is amended so that it is compliant. These requirements will apply to forums that are accessible to the public at large. The requirements will not apply to private communications used by consumers to offer their tickets to limited personal networks, such as a post on a private Facebook page.

The obligation to take reasonable steps to ensure that advertisements comply will require hosts or publishers of advertisements to use mechanisms similar to those already used to ensure that advertisements are not in breach of the law or the host or publisher's policies. It is anticipated that NSW Fair Trading will consult with relevant hosts and publishers of ticket advertisements and, if necessary, issue guidelines regarding what may constitute "reasonable steps" in this context. The obligations will not apply to any host or publisher that has been authorised by the event organiser to carry ticket resale advertisements for an event. This means that the bill will not impede efforts by event organisers and the ticketing industry to provide their own resale marketplaces which offer consumers protection against fraud and price gouging.

The New South Wales Government recognises that there is a need for a secondary ticket marketplace for people who can no longer attend an event and need to sell their ticket. The measures in this bill, which have the support of sporting bodies, entertainment promoters and the nation's leading ticket facilitator, will provide greater protection and transparency to consumers who wish to sell or purchase tickets in the secondary marketplace, with minimal cost and disruption for event organisers. I commend the bill to the House.

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Debate adjourned on motion by Ms Tania Mihailuk and set down as an order of the day for a future day.