



## Full Day Hansard Transcript (Legislative Council, 10 September 2014, Proof)

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Extract from NSW Legislative Council Hansard and Papers Wednesday, 10 September 2014 (Proof).

### FAIR TRADING AMENDMENT (TICKET RESELLING) BILL 2014

#### Second Reading

**The Hon. MATTHEW MASON-COX** (Minister for Fair Trading) [11.45 a.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Fair Trading Amendment (Ticket Reselling) Bill 2014. 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 is the unauthorised resale of tickets for a price above the original value of the ticket. It 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 immediately 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 more and more high-profile events and international acts, the issue of ticket scalping is attracting increasing levels of media and public interest.

Event organisers employ a variety of ticketing strategies to reduce scalping. These include staggering the release of tickets, providing tickets to fan clubs and using e-tickets. However, they have not been successful in preventing ticket scalping. Strategies such as requiring names to be printed on tickets and the presentation of photo identification or a credit card on entry are expensive. These strategies are also only suitable for events where attendees arrive over a long period of time due to the potential to create bottlenecks. Most tickets are sold subject to restrictions on resale and particularly on resale for a profit. However, it is difficult for events owners to enforce such conditions because resale advertisements do not provide enough details to enable identification of the ticket.

The reforms in this bill will protect consumers who are purchasing tickets for prices above face value 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. The reforms in this bill have been developed following consultation with representatives of sporting codes, the entertainment industry, ticketing organisations and consumer groups. As a result, a number of these stakeholders have publicly supported the measures in the bill. 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, the reforms have been welcomed by Mr Michael Gudinski, Managing Director of the Frontier Touring Company, who said:

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.

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Mr Cameron Hoy, Managing Director of Ticketek Australia said:

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

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 two conditions: first, a condition prohibiting the ticket being resold or resold for a profit; and, second, a condition requiring an event owner to take reasonable steps to notify a ticket holder if the event owner intends to cancel the ticket for being resold in breach of a resale restriction. 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 restricting 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. The bill sets out a number of requirements for resale advertisements for tickets that are covered by the bill and are being resold at a price above the face value of the ticket. The Government has limited the bill to tickets being resold at a price above face value in order to ensure that ordinary consumers who wish to resell tickets at face value, because they can no longer attend an event, are not covered by the bill's requirements.

For tickets being sold above face value, the bill requires that a resale advertisement, other than an advertisement published by or on behalf of the event organiser or their agent, must: specify the ticket number, and the bay, row and seat number if applicable; specify the terms and conditions of the ticket or where these can readily be 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. 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 which is emailed to the buyer and 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.

The requirements in the bill aim to address the information imbalance that exists in the secondary ticket market by 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 in the photograph is to prevent unscrupulous persons from printing out the barcode and using it to gain entry to the event. Including the ticket number and bay, row and seat numbers in advertisements for tickets resold at a profit 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. Event organisers, whether of a sporting code, an artist or a performer, are accountable to their fans to ensure equitable access to tickets, to keep ticket prices affordable and to prevent fans being disadvantaged. They are 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. An event owner who intends to cancel a ticket must take reasonable steps to give the ticket holder reasonable notice of the event owner's intention to cancel the ticket. This will help to ensure that event owners cancel the correct ticket, and not the ticket of an innocent consumer who has not resold the ticket in breach of its conditions. 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 the event owner or their nominee 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 obligations 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 officially authorised by the event owner to carry ticket resale advertisements for an event. This means that the

bill will not impede efforts by event owners and the ticketing industry to provide their own official resale marketplaces, which offer consumers protection against fraud and price gouging. This is appropriate.

The 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 purchase tickets in the secondary marketplace, with minimal cost and disruption for event organisers. I commend the bill to the House.