

**Submission
No 5**

INQUIRY INTO FAIR TRADING AMENDMENT (TICKET RESELLING) BILL 2014

Organisation: Ticketmaster

Date received: 23/10/2014

The Director
General Purpose Standing Committee No. 4
Parliament House
Macquarie St
Sydney NSW 2000

Dear Director,

Thank you for inviting Ticketmaster to submit to the Committee's enquiry into the Fair Trading Amendment (Ticket Reselling) Bill 2014. Our submission is attached.

We would like to draw your attention to two recent reports into the issue of ticket scalping and ticket onselling (Senate Economics Reference Committee Report March 2014, and the Treasury Report of November 2010) which both found that ticket scalping was not of the scale in Australia as to require legislative intervention. The 2010 Treasury Report also noted that there were few sold out events in Australia each year to be of concern. Ticketmaster gave evidence at the recent Senate Committee hearing, and provided an extensive submission. Accordingly, senior Ticketmaster executives are willing to answer any questions your Committee may have in regard to this issue.

Ticketmaster is the worldwide leader in the ticketing sector. It is our experience that ticket scalping and other abuses in the general ticket market are often wrongly viewed as synonymous with the overall resale market. They are very different, as detailed in our accompanying submission.

Fans in Australia deserve and demand access to the full choice of available tickets at any point in time on the market. Fans also expect and should be confident in a safe and reliable marketplace in which to buy and sell any unwanted tickets. It is the view of Ticketmaster that the industry must create a marketplace to fulfil these needs. Ticketmaster has already taken a leadership position on this issue by launching an Australian resale marketplace earlier this year.

The best way to protect consumers, stop fraudsters and curb the growth of unscrupulous secondary sites is to provide consumers with a legitimate alternative that meets their needs and is accompanied by industry-wide self-regulation measures.

Yours sincerely,

Christoph Homann
Managing Director Resale
Ticketmaster International



Ticketmaster: Company Overview

Ticketmaster Australia is part of Ticketmaster Australasia Pty Ltd, wholly owned by Ticketmaster, the leading global event ticketing company. Ticketmaster serves more than 10,000 clients in 20 markets across the world and its website Ticketmaster.com is one of the world's top five eCommerce sites, with over 26 million monthly unique visitors.

In January 2010, Ticketmaster Entertainment merged with Live Nation creating the world's leading live entertainment, eCommerce and ticketing company. Live Nation Entertainment (NYSE: LYV) is comprised of four global market leaders: Ticketmaster, Live Nation & House of Blues Concerts, LN Media and Artist Nation Management.

Ticketmaster Australia provides ticketing sales, marketing and distribution through www.ticketmaster.com.au, numerous retail outlets and its company-owned and operated Contact Centre. The business has offices across the country located in Melbourne, Sydney, Perth, Adelaide and Brisbane.

Fair Trading Amendment (Ticket Reselling) Bill 2014

As the 2010 Treasury report into onselling of tickets noted, the ability of a consumer to use technology to sell unwanted tickets has meant a 'reduction in the distinction' between scalping and onselling.

*"Technology has given consumers the opportunity to engage in onselling to sell unwanted tickets. CCAAC found that there has been a reduction in the distinction between 'ticket scalping' (reselling with the intention to profit) and 'opportunistic onselling' (reselling a ticket originally purchased for personal use). People who may appear to be scalpers are often consumers who for one reason or another cannot use a ticket."*¹

We also remind the Committee of the recent recommendation of the Senate Committee enquiry into Ticket Scalping, namely:

*"Ideally, if the states want legislation to curb ticket scalping, they should aim at consistency and complementarity in legislation; and coordination and cooperation in implementing and enforcing the laws. In this regard, the committee sees a leadership role for the Commonwealth through the Council of Australian Governments to encourage the states and the Commonwealth to achieve this complementarity in their approach to stamping out unscrupulous ticket scalping."*²

Proposed NSW Legislation

The NSW Government has repeatedly claimed the proposed ticketing legislation is a 'light touch' approach, and not designed to impose an unreasonable burden on government, industry or community stakeholders. This is not so. The Bill will in fact see event organisers and/or ticketing companies forced to absorb the significant administrative costs of upholding the regulation, including the manual searches of resale ticket listings. The Government has not indicated how event organisers or ticketing companies will be compensated for this additional administrative burden. We note that this is also an inconsistency with the Government's commitment to support business investment by reducing regulation. Furthermore, it will not stop the very few scalpers who are operating in NSW.

Our concerns are specifically:

- **Against consumers.** The Bill is against the wishes of consumers and seriously restricts their rights.
- **Use of photograph.** This is the most problematic part of the proposed legislation. Our extensive ticket selling experience convinces us that such a requirement ensures that the sales process is cumbersome and impossible to secure, particularly in a world of mobile/virtual tickets. Publishing photographs of tickets (where possible to provide) will also create an opportunity for fraud. Images are simple to copy and duplicate; the proposition of hiding the barcode will be of little help as these can easily be added by fraudsters. It is also prone to be overlooked by the seller who takes the photograph.

¹ CCAAC Report. Page 9.

² Senate Committee Report into Ticket Scalping. Page 126

The use of photograph is also problematic because physical tickets are not generally released until one-two weeks before major events. Order codes, which have been proposed as alternatives to tickets, are not the industry standard.

- **NSW Department of Fair Trading to police the regulation.** Ticketmaster does not support the NSW Department of Fair Trading acting as the “enforcer” of terms and conditions. This applies to both the proposed fines, and requirements that force resellers to remove tickets for sale. Such options undermine the public confidence in the legitimate ticket resale market.
- **NSW will lose events.** In addition, the added cost and risks associated with this legislation are likely to impact international event organisers’ ability to choose New South Wales as a venue to stage concerts.
- **Offshore sites will flourish.** By its nature, this legislation will inhibit legitimate operations, while encouraging consumers to use offshore resale sites that will easily bypass any scrutiny or sanctions by NSW-based Fair Trading police.

Relevant industry facts

What is a secondary ticket market?

Tickets are a finite resource. Increased marketing and access for consumers means demand for high profile events always outstrips supply. Events sell out because of this high demand, not because the resale market exists.

There is a market demand for ticket resale in Australia, as there is globally. Earlier this year Ticketmaster responded to customer demands to provide a ticket resale service in Australia, where, it should be noted, the resale market is competitive.

Resale is what fans want

- The resale market is borne by market demand: a need from fans for a platform in which tickets can be bought and sold.
- True consumer protection will come from offering better consumer experiences, not limiting their choices. Fans need better choices for purchasing tickets than from scalpers. Fans should have a platform that is safe, secure, lawful and guarantees their money.
- The resale market can be advantageous to artists and venues – no one wants empty seats. Tickets cannot easily be returned by fans if they find they can no longer attend a concert. Resale is a solution to this common problem. Resale then also allows access to events that are not presently available through primary distribution channels.
- For sporting events, the resale market allows fans to maximise the use of their season tickets. People feel more comfortable committing to a season ticket when they know that they can resell the right to use it for certain events.

Customer perceptions, at a glance

- 33% of event attendees are already buying resold tickets, but are predominantly driven to non-specialist marketplaces or offline where they are not protected by customer service support or a moneyback guarantee should anything go wrong.
- 56% of people already expected Ticketmaster to offer secondary/resale tickets directly on the

Ticketmaster website when questioned in 2013.

- 62% of event attendees would be more likely to buy from a Ticketmaster owned website than from a competitor.
- 84% of people are comfortable for Ticketmaster to have secondary/resale tickets on the Ticketmaster website.
- 38% of event attendees think it's great to have the choice to buy/sell tickets for sold out events.

Consumers should expect a commitment to high standards of practice from ticket resale operators. The Ticketmaster hosted resale website provides:

- **Integration:** We have integrated our existing primary and resale offerings and are continuing to deepen this process. This ensures that consumers are given maximum choice of tickets at the point of sale from the minute an event goes on sale to the date of the show.
- **Investing in technology:** We ensure every ticket holder has a convenient way to resell their own tickets through a simple and reliable online/mobile resale solution that meets the highest standards in user experience and online security.
- **No Bots:** Ticketmaster has a zero tolerance approach to bots and invests heavily in technology to counteract the practice. Globally, Ticketmaster blocks 15,000 IP addresses each week (780,000 per year).
- **Customer protection:** We have the technology to validate and reissue barcodes giving consumers the peace of mind that tickets are genuine.

In addition:

- Sellers that advertise tickets they cannot deliver are blocked and banned from using the site.
- The face value of tickets is always shown at the point of purchase.
- Ticketmaster provides a full customer service offering for both buyers and sellers.
- All purchases are protected by Ticketmaster Resale's Fanguard Money Back Guarantee which ensures that in the unlikely event that sellers cannot fulfil their ticket orders customers will be refunded 100% of the price paid.
- Linking secondary tickets with primary sales is an advantage that Ticketmaster has in ensuring consistency and safety in transactions.

Scalping is not secondary ticket selling

While this Bill purports to be tackling scalping, it is actually focused on the secondary ticketing market. It confuses ticket scalping and selling a ticket through the secondary ticketing market. They are not the same. Ticketmaster has very advanced technological solutions to combat scalpers, and we have offered these insights to the NSW Government on a number of occasions.

Issues with NSW Fair Trading Ticket Amendment (Ticket Reselling) Bill 2014

1. Ticket scalping is not an issue in NSW

- The Senate Economics References Committee Report from March 2014 and the Treasury Report from November 2010 both found that ticket scalping was not of the scale in Australia to require legislative intervention.

2. Ticket scalping is often confused with ticket resale and legislation will impact on genuine resellers

- Ticket scalping and selling tickets through the secondary ticketing market are not the same thing and cannot be regulated in the same way.
- Ticketmaster already has advanced technological solutions to combat scalpers who are purchasing tickets unfairly, and a secondary ticketing platform to support genuine ticket resellers.

3. Consumers want resale

- There is a strong market for genuine ticket resale, and a need from fans for a platform in which tickets can be bought and sold.
- 33% of event attendees are already buying resold tickets, but are predominantly driven to non-specialist marketplaces or offline where they are not protected by customer service support or a moneyback guarantee should anything go wrong.
- 56% of people already expected Ticketmaster to offer secondary/resale tickets directly on the Ticketmaster website when questioned in 2013.
- 84% of people are comfortable for Ticketmaster to have secondary/resale tickets on the Ticketmaster website.
- 38% of event attendees think it's great to have the choice to buy/sell tickets for sold out events.

4. Industry will be forced to absorb the unnecessary legislative burden

- The Bill will see event organisers and ticket companies forced to absorb the significant administrative costs of upholding the regulation, including the manual searches of resale ticket listings.
- The Government has not indicated how event organisers or ticketing companies will be compensated for this additional administrative burden.

5. Ticketmaster's specific concerns include:

(a) Against consumers.

- The Bill is against the wishes of consumers and seriously restricts their rights.

(b) Use of photograph when advertising a secondary ticket

- The Bill requires photographs of tickets to be published for resale purposes. This will create an opportunity for fraud as images are relatively easy to duplicate. Also, despite the provision of hiding the barcode, a fraudster will be able to add one to the image digitally.
- In addition, physical tickets are usually not issued until one-two weeks before major events, leaving a reseller little time to advertise their unwanted ticket.

(c) NSW Department of Fair Trading policing legislation

- The Department acting as 'enforcer' of the ticket terms and conditions undermines public confidence in the legitimate ticket resale market, as the Department is under resourced to investigate claims, and has no powers outside of its NSW jurisdiction.

(d) The legislation will see NSW lose events

- Added costs and risks associated with the legislation will see event organisers avoid NSW as a major event venue.

(e) Unregulated offshore sites will flourish

- Legislation will inhibit legitimate operations, while encouraging consumers to use offshore resale sites that are not subject to scrutiny or sanctions by NSW-based Fair Trading police.

6. What is required to fairly regulate the secondary ticketing market?

- *Technological solution:*
 - Ticketmaster has a zero tolerance approach to bots. An investment in technology that combats a scalper's use of 'bots' is the most effective way to ensure safety.
 - Ticketmaster's resale website provides every ticket holder with a secure and convenient way to resell their own tickets online.
- *Consumer protection:* Consumers should be able to resell their own tickets through a simple and reliable online/mobile resale solution that meets the highest standards in user experience and online security.
- *Pan-Australian approach:* It is the obligation of the ticketing industry to create a safe marketplace. Ticketmaster believes that the ticketing industry can, and will, ensure consumers have access to an open and transparent marketplace without having to rely on additional legislation.

Conclusion

As a leading global ticketing operator, Ticketmaster has a substantial interest in stopping scalpers from siphoning tickets from the primary market and protecting consumers. We sincerely believe that the legislation does not serve this purpose.

Ticketmaster has made a significant investment in developing technology to address the 'scalping arms war', including a comprehensive approach to counteracting computer bots.

Unlike existing secondary players, Ticketmaster has the technology available to authenticate barcodes wherever possible to reduce the prevalence of counterfeit tickets.

It is the obligation of the ticketing industry to create a safe marketplace. It is the industry that can meet customers' needs without creating friction with the primary ticketing market.

Ticketmaster urges those seeking to regulate ticket resale to abandon outdated and nonsensical ideas of limiting consumer freedom by controlling resale. Such a notion not only undermines a consumer's right to choose, but also promotes a requirement that will be difficult, if not impossible, to enforce. This legislation poses a risk to consumers by forcing them to use unsafe, offshore websites that are difficult to police and virtually impossible to engage should redress be required.

We do not believe that the proposed legislation will be conducive to creating a safe marketplace for consumers; rather we fear it will do the opposite.