IN-CAMERA REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE NO. 4

INQUIRY INTO THE FAIR TRADING AMENDMENT (TICKET RESELLING) BILL 2014

CONFIDENTIAL

At Sydney on Monday 3 November 2014

The Committee met in camera at 9.00 a.m.

Evidence omitted by resolution of the Committee

PRESENT

The Hon. S. Mitchell (Chair)

The Hon. R. Borsak Dr J. Kaye The Hon. T. Khan The Hon. A. Searle The Hon. Lynda Voltz Evidence in camera by WITNESS A, Secretary, Ticket Broker's Association of Australia, sworn, and

Evidence in camera by **WITNESS B**, Vice President, Ticket Broker's Association of Australia, affirmed:

CHAIR: I welcome everybody to this hearing today of the General Purpose Standing Committee No. 4 inquiry into the Fair Trading Amendment (Ticket Reselling) Bill 2014. I will provide more information when we go into public session.

WITNESS B: I thank the Committee for inviting us to give evidence and allowing us to appear in camera. I am the Vice President of the Ticket Broker's Association of Australia [TBA] and alongside me is the Secretary, Witness A. The TBA was incorporated in April last year basically to be the face of the ticket broking industry. At this stage there is a very significant negative portrayal of ticket brokers by the media. Anyone who has a look on eBay can see that five or 10 minutes after an event goes on sale there are tickets on that site. I suppose our role is to inform the public about some glaring deficiencies apparent in the primary market, so before the tickets even reach the secondary market, which are perhaps creating a shortage of tickets. We have all the blame assigned to us. Before legislating I think we need to take a step back and have a look at this. I will be outlining a few different elements that are present in the primary market, as I have done in my submission, which perhaps could be addressed prior to imposing legislation.

We have a standard of conduct, which I have handed out to you, which is based on that of the National Association of Ticket Brokers in the United States of America. That is an umbrella organisation for all ticket brokers over there. Our role is to work with the media to try to educate people about the secondary market and about safe secondary market alternatives to simply buying tickets, for example, on Gumtree. We are all taxpayers. We pay our income tax and goods and services tax. We are registered businesses. Most, if not all, of the purposes of the legislation as outlined in the second reading speech of the Minister for Fair Trading are not going to be met.

The Minister for Fair Trading said that the law would address openness and transparency. Our experience suggests that if legislation is imposed of the breadth anticipated by the Minister for Fair Trading it will simply drive the trade underground or to overseas operators. It is not difficult for an overseas ticket exchange like ticketbis, which is based in Latin America, to simply pay for Google advertisements in Australia, thereby directing any traffic to them. They could get the first click and direct traffic straight to their exchange, obviously circumventing any legislation that the Parliament would impose. Obviously there are no consumer protections afforded when using an overseas-based exchange. There is also a greater chance of people arriving with tickets that have been identified on auction sites and invalidated—where, for whatever reason, the ticket agent was not able, through its best endeavours, to contact purchasers and advise them of the cancellation. Obviously that does not occur at this stage because photographs of tickets are not required to be advertised on auction sites.

Another one of the criteria which the Minister for Fair Trading identified as being solved by the legislation was price gouging. I daresay that if the secondary market for the resale of tickets above face value is eradicated or outlawed then the primary market will simply come in to fill that void. So dynamic pricing will become more common. I have handed the Committee a handout about an announcement by the National Rugby League of its dynamic pricing in regards to the State of Origin tickets, where prices can fluctuate up or down. A perfect example of potential price gouging is the Australian Football League [AFL] grand final. You are not able to sell tickets above face value for that. They have quite a tight control on the distribution of tickets to the general public. People are compelled to purchase packages ranging from \$1,500 to about \$2,800.

WITNESS A: Which is a significant increase on what packages used to sell for before the legislation came in.

WITNESS B: And it does not protect consumers from fraud. If anything, the new photograph requirement proposed by the legislation will simply result in people doctoring otherwise valid tickets for their own nefarious purposes and onselling them in the full knowledge that the person is not going to get in. It will have a manufactured barcode. I think a lot of thought needs to be given to requiring that photograph. The legislation will meet the requirement for event promoters to enforce their tickets—that is without question. I know that in their submission Ticketek failed to mention that they are a subsidiary of Nine Live, which is an event promoter. They have brought out One Direction. They are bringing out Ricky Martin. They have their

own prices. They are selling their own packages, obviously in direct competition with us. So it is an interesting dynamic you have there in the primary market.

Another matter that needs to be addressed in the primary market is the big packages that have been created. So instead of releasing all the tickets at the beginning, the best tickets will be packaged up and, a couple of weeks before the concert, any unsold packages will be released on the sly to the general public. If it is not on the sly, there will be an announcement that due to updated production—

WITNESS A: They say a lot of different things, which are pretty misleading to the public, when the truth of it is that they have been unable to sell the packages at the higher price and they have unbundled them and now released them back as tickets. I have never heard a promoter or an event organiser admit that that is exactly what they are doing, which would be the transparent way of doing things.

CHAIR: I am conscious of time so we might move to questions. We will start with questions from the Opposition.

The Hon. ADAM SEARLE: I have read your submission. What sort of individuals or organisations are members of your organisation?

WITNESS A: We are all individual people. Some people are running just with an Australian Business Number [ABN] and some are registered companies.

The Hon. ADAM SEARLE: But there are people whose business it is to buy and sell tickets, is that right?

WITNESS B: Correct.

WITNESS A: Yes, some people are part-time and have other jobs; some people do it full-time as their primary profession.

Dr JOHN KAYE: So you are not event promoters?

WITNESS A: No, we are ticket brokers. These are people who actually trade in tickets rather than putting the event on themselves.

The Hon. ADAM SEARLE: What proportion of tickets only become available to purchasers fairly close to the event? I note that in relation to proposed section 59 (5), in your submission you make the point that a number of tickets do not become readily available necessarily even at the point of sale—they become available later.

WITNESS A: Sometimes they become available before the point of sale; and sometimes they are there but they have never been released to the general public. So in the recent instance of the Rolling Stones concert, they were promoting tickets for general admission at the front which were \$600 or \$1,300 as a package. We are not aware of them releasing one single ticket at the \$600 price. We think that they kept them all for the \$1,300 packages.

WITNESS B: Is that what you were asking?

The Hon. ADAM SEARLE: No, that is not what I am asking. If I have gone online to one of the big ticket sellers and bought a ticket for a concert which is not for six months, sometimes I do not get an email giving me a pdf of the ticket for three or four months, so there is a time lag.

WITNESS A: Sometimes they withhold the tickets. I went to the Coldplay concert, and WITNESS B did as well, which was at the Enmore Theatre recently. I had to pick up the tickets at the venue. The tickets were released on the day; they were emailed out on the day.

WITNESS B: That was done as an anti-ticket broker mechanism.

The Hon. TREVOR KHAN: To avoid scalping.

WITNESS B: Exactly, and it was effective. There was no secondary market. You will hear the promoters admit that they cannot do this in every instance because it is too cost intensive.

WITNESS A: It also prevents people wanting to go. The only reason they could do that was because it was Coldplay and it was such a small venue and the tickets were cheap. So if 80,000 people decided they wanted to go on the day they would not have been able to.

WITNESS B: Where there can be transfers and there are not those resale restrictions you can often have ticket printing delays of up to, I think, it was nine months with One Direction when that was out.

WITNESS A: They put the tickets on sale 18 months before the concert.

The Hon. ADAM SEARLE: What I am getting at directly is the legislation says that if you are going to resell the ticket you have to provide a photograph of the ticket. How will that work in circumstances where the ticket does not become available for some period after the purchase?

WITNESS B: It will delay your ability to resell it.

The Hon. ADAM SEARLE: Or when it is available on the day maybe it would preclude it?

WITNESS B: Yes.

The Hon. ADAM SEARLE: What is an alternative fraud-prevention or scalping-prevention method?

WITNESS A: There is a significant difference between what people would call scalping and what is called a fraud—

The Hon. ADAM SEARLE: I will stay with scalping then.

WITNESS A: Ironically, one of the biggest promotions of fraud is the use of a PDF ticket.

The Hon. ADAM SEARLE: How does that work?

WITNESS A: If I have a PDF ticket I could print one million copies and sell them on Gumtree. There are cases of people who have done this. You cannot do that with a hard ticket because once you have handed it over to someone you cannot rip off the second person.

WITNESS B: But, again, that costs Ticketek and ultimately the promoter more.

WITNESS A: In the case of the AFL grand final, they do not sell a single ticket in PDF form; everything has to be collected. They do not post them out. You have to go to Ticketek to collect your ticket.

The Hon. LYNDA VOLTZ: I refer to Ticketek and Nine Live, being a promoter. What is the issue with them?

WITNESS A: I note that they have put in a submission claiming that they were representing a neutral force, being the ticket agent, when their owner really is the promoter. Ticketek's owner, being Nine Live, would believe they would benefit financially by this legislation coming in.

WITNESS B: By eradicating any secondary market, they basically have a captive market and a ceiling, therefore, on the price of tickets. They can charge however they like and as a consequence of the legislation anyone who wants to resell the ticket can only do so at or below face value.

WITNESS A: We do believe that the legislation could have a negative impact on our business.

The Hon. TREVOR KHAN: Clearly.

WITNESS A: There will be other people who will come in today and speak to you, we suspect, who know that their business will benefit from it but they may not admit it.

The Hon. LYNDA VOLTZ: I do not understand why it is a problem if it is their product and they choose a way to sell it.

WITNESS A: What do you mean?

The Hon. LYNDA VOLTZ: For example, you spoke about One Direction and the release of tickets 18 months before. For example, the general admission, dance floor, for a Beyoncé concert will sell out pretty quickly but then there will also be VIP tickets that are held aside, which is their market to sell.

WITNESS A: It is their market to sell and they are segmenting it to try to maximise the amount of money they can extract from the general public. My general understanding is the government interfering in that sort of market should be acting for the consumer.

The Hon. LYNDA VOLTZ: But if the consumer is buying them at the VIP price, why is that an issue?

WITNESS A: I handed out some papers to explain what we do. One sheet has "John Farnham/Olivia Newton-John" and one "Eagles Friday" which I will talk about. The John Farnham and Olivia Newton-John one, I went online last night to see what was currently available and you can see down the bottom of the page that you could buy eight category 1 tickets that were in section 23, row J, which I have circled, that appear to be up the back. I am not sure how they are category 1 as the ticket promoter did not actually release a proper map. If you wanted to buy a package you can pay \$325 a ticket and you get seats in, say, section 14, row GG, which are better but the sort of benefits you get are a lanyard and wine cooler bag with pictures of Olivia Newton-John and John Farnham. They are the two options that are currently available to you if you go on to Ticketek.

Where we operate is, say, I have some seats that are in section E on the floor. If I price them higher than \$200 but less than \$325 I am providing an alternative option to someone who would be looking to attend that concert right now. They would get three choices. Depending on what I charge, if I charge \$320 no-one will buy my tickets, but if I charge \$250 or \$240 then an informed consumer can actually choose my product and get it for less.

The Hon. ROBERT BORSAK: Will you explain how you can sell tickets at this early stage at that price?

WITNESS A: The concert has already been on sale. This concert was released to the public probably six weeks ago, so the tickets are out there.

The Hon. ROBERT BORSAK: You go online and buy tickets?

WITNESS A: Yes, I am in possession of tickets for that concert.

Dr JOHN KAYE: How did you get those?

WITNESS A: Those particular ones I actually bought through Ticketek.

The Hon. TREVOR KHAN: How many did you buy?

WITNESS A: Only six tickets.

The Hon. LYNDA VOLTZ: Are they for your personal use?

WITNESS A: No, they are not for personal use.

The Hon. LYNDA VOLTZ: They are for resale?

WITNESS A: They are for the primary purpose of resale to look after my clients. I have sold two of them; I have four left. They are not listed on any forum at the moment. They are for when my clients call me. That is one example of where we position ourselves in the market. Another one is that for the Eagles format: there are no packages but the platinum seats, which are marked in blue, were priced at \$660, and the gold seats were priced at \$260, which is significantly cheaper. You can see that there is a vast range between the quality of the best gold seats which would be in, say, sections D, E or F as opposed to seats that are up the back of sections

4, 5 and 6. Right now if you went online to Ticketek you could pay \$660 and sit in the front. I have marked a red line, and that is available right now. Or you could pay \$260 and sit halfway back in section G, which is marked there as well.

The Hon. TREVOR KHAN: But that is why you go onto the map and you go through that exercise of nominating what tickets you want, is it not?

WITNESS A: Often they sell very quickly. This is a situation where this is what is currently available. So if you went online tonight you would probably be able to get some more options from there. I have been selling to clients seats in section E for \$360. People are viewing that they are happier to pay a premium for a very good gold seat but they are also seeing that that was a significant discount on what they would have to pay to sit in the platinum seats.

The Hon. TREVOR KHAN: But you are able to do a good gold seat because you buy a bundle of tickets which then are not available to the general public when they go onto the Ticketek site and choose the seats that they are going to buy. Is that why you are able to do that? You hit the site earlier and buy a bundle.

WITNESS A: Earlier? I have got 20 tickets to that concert, so it is not a significant number. But what I know is a lot of people feel that if there are, say, 10 tickets on eBay and a concert is sold out, everyone thinks that if only those tickets had been there they would have got them themselves. Whereas we know that there might be hundreds of people out there who have missed out on tickets for the show and whether or not the seats were on eBay it would not actually assist them in getting the ticket themselves.

The Hon. LYNDA VOLTZ: For example, did you by tickets for the Beyoncé concert?

WITNESS A: Yes, I did.

The Hon. LYNDA VOLTZ: When the website went up I tried to get tickets to the Beyoncé concert for my 17-year-old as a birthday present and I could not and was forced to buy the VIP package to get tickets.

WITNESS B: What we do not know is how many of those packages there were. They have made it so that very few, if any—

The Hon. LYNDA VOLTZ: There was a mobile app. I tried to link in on a computer to the website. For some reason, even though I was logged in, I could not get on but if you were on a mobile phone you could. That is a technology problem and the way the internet works.

WITNESS A: Ticketek is the agent and the Beyoncé concert is trying to sell the tickets quickly. They know that not everyone is able to get those seats and we believe that they would have held back those VIP packages for people like yourself who chose to buy them. If no-one had bought those VIP packages you would then have been able to pick up the tickets cheaper.

The Hon. LYNDA VOLTZ: I had to buy that because there was no general admission. The only way I could ensure that I got the ticket was to go for the VIP.

WITNESS A: You could have bought from us as an alternative option.

WITNESS B: That is their tactic: They release only very few general public tickets and they try—

The Hon. LYNDA VOLTZ: But I do not like buying outside the selling agent because there is always a risk of who and where you are getting your ticket from.

WITNESS A: That is true, and it is completely your prerogative how you would like to spend your money. The odds of, say, the tickets that had been on eBay had not been on eBay that you would have then bought them is probably quite unlikely, especially if you feel you had a technology issue. It would not have made any difference to whether or not you had acquired tickets at the cheaper rate.

The Hon. ROBERT BORSAK: I have never bought any tickets off agents, but I do not think there is anything wrong with entrepreneurial zeal. Let me get this right: When a concert or a football game opens its

tickets for sale, you then go in and in your own right buy a line of tickets at whatever price they are coming off the website?

WITNESS A: We can do that or we may have sourced them from an alternative option. We may have paid a premium for the tickets ourselves.

The Hon. ROBERT BORSAK: When you say there is an alternative, do you have an alternative that is not available to the general public?

WITNESS B: We do. We have to pay a premium for it—like any other premium reseller. There are a few of us.

The Hon. TREVOR KHAN: What is the alternative?

WITNESS B: We do not have a secret stash of tickets or a secret allocation that Ticketek only gives us, if that is what you are suggesting.

The Hon. ROBERT BORSAK: I am not suggesting anything; I am just asking questions because I do not know how your market works. It will help us if we can better understand where you get your tickets from. There is no issue with what you are doing as far as I am concerned. You have to go on the website and buy tickets the way anybody else does?

WITNESS B: Correct.

The Hon. ROBERT BORSAK: What is your other source of tickets then?

WITNESS A: They can come from other allocations: the promoter may have an allocation, the venue may have an allocation, corporate sponsors like Telstra—

The Hon. ROBERT BORSAK: So they might have decided they do not want to use them for whatever purposes and they will sell them in a line to you or to somebody else?

WITNESS A: Yes, that can happen.

The Hon. ROBERT BORSAK: I understand that now. That makes sense.

WITNESS A: I would like to stress that no tickets have been stolen or fraudulently acquired.

The Hon. ROBERT BORSAK: No-one is suggesting that in any way, shape or form. You would not be here as an association if you were doing that; you would be in Long Bay. To make your margin you are gambling that the price of those tickets is going to go up—

WITNESS A: Correct.

The Hon. ROBERT BORSAK: —from the time that you buy them to the time that the event ultimately occurs?

WITNESS A: Yes.

The Hon. ROBERT BORSAK: That makes sense too.

WITNESS A: Yes. Like other investors, people who would choose to invest in stocks or houses or things.

The Hon. ROBERT BORSAK: Just listening to what you were saying in your answers to earlier questions, are you saying that this legislation, if it is promulgated and becomes law, will create a tighter market for tickets and effectively promote monopolistic practices from the event managers and their direct agents?

WITNESS A: Yes. There are two ways that we would argue that. You are probably familiar with the legislation in Victoria and Queensland in tickets for a while. The AFL grand final, when the legislation came in

I think the top level of tickets was about \$100 and official packages were about \$500. We are talking 11 years later and the \$100 has turned into \$400 and the \$500 has turned into about \$1,750. It is way beyond inflation.

The Hon. TREVOR KHAN: The sport has changed significantly in that time as well.

WITNESS A: It has but the legislation was brought in with a clear goal. It said it in the "purpose": to maximise the ability for the general public to attend sporting events.

The Hon. TREVOR KHAN: I understand that, but you are not comparing apples with apples when you talk about what the AFL was 10 years ago and what it is now.

WITNESS A: You are correct. We cannot sell AFL grand final tickets but our phones go berserk in grand final week with people wanting to buy tickets from us for \$800 or \$900. They do not care whether it is official or not, they just want a cheaper ticket than what the AFL is forcing them to pay at \$1,500.

The Hon. ROBERT BORSAK: So what you are effectively saying is that the legislation in Victoria, for example—and maybe it is not apples with apples—is a form of retail price maintenance.

WITNESS A: Yes. I think it is faulty legislation in that there was nothing to prevent the AFL significantly increasing the price. The QRL has done something similar where you used to be able to just buy a ticket to the State of Origin match up there as a general public. They have tried to create a membership where you pay \$150 and the only benefit is that you can buy in earlier into the allocation. They are effectively doubling the cost of a ticket to the State of Origin match, and that is also being done with the eradication of the secondary market in Queensland. If the Parliament has concerns about price gouging, which is the actual price the consumer pays, I strongly believe that you need to have some controls over the organisations that are likely to profit from the proposed legislation if the goal is consumer protection.

The Hon. ROBERT BORSAK: So what you are clearly saying is that the legislation would reduce the opportunity for competition in the secondary market.

WITNESS A: Yes. It would make it more of a monopoly, effectively.

Dr JOHN KAYE: And that monopoly would be the ticket promoter or the ticket seller?

WITNESS A: The ticket promoter, yes. As the Parliament, you could elect to protect the organisation or protect the consumer or attempt to do both.

The Hon. ROBERT BORSAK: Are you saying that this legislation, as it is proposed, would not protect the consumer?

WITNESS A: I do not believe so, no.

The Hon. ROBERT BORSAK: If the consumer's right is to get the best seats at the best price?

WITNESS A: At the cheapest price. As a consumer I want to attend this event as easily as possible with a range of options, if I was wanting to attend the event myself.

The Hon. ROBERT BORSAK: How does a person become a member of your association?

WITNESS A: Just speaking to other people that are in the industry. We have talked with like-minded people; we have not advertised for people to be in the association.

WITNESS B: It has a total membership of eight; it is not as extensive as you think. We want to, essentially, be heard and not have negative media publicity without any right of response. It is difficult; we have been attempting to liaise with the media and, unsurprisingly perhaps, they do not want a bar of us. But perhaps as time progresses that might change. The industry is far more advanced overseas; it is still in its infancy in Australia.

WITNESS A: This was the second reading from Mr Anthony Roberts. He mentioned a few things and I will just read from it:

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.

I would say the primary market behaviour had a major impact on the secondary market. The Lions Rugby test had a couple of releases later where they had held back tickets for corporate and overseas. For the Manchester United event, I think probably about 20,000 tickets were held back for months. So in that time we had people who were forced to buy from the secondary market who did not even know that these tickets were being held back.

For the NRL grand final they create a market by selling tickets to people who do not even know if their team is in it. So what you had this year was that because Souths got in, the market would have been very strong. Personally, neither of us had any tickets for the NRL grand final but if we were in the business of making money this year it would have been a good year. Last year I think you could get tickets for below face value quite easily that week because once people's clubs have been knocked out they are wanting to get rid of their tickets.

The Hon. ROBERT BORSAK: Just looking at that example you handed out there, what the NRL was promoting as dynamic pricing, is that not corporate scalping?

WITNESS A: I would say that.

The Hon. ROBERT BORSAK: Would you classify that as corporate scalping?

WITNESS B: Yes. Imagine if we are not an integral part of it, the NRL could bring in dynamic pricing in respect of all of its matches. I think at this stage it is restricted to its Origin matches, but that is where it is headed.

WITNESS A: I have got another sheet on the NRL if you would like a copy.

Document tabled.

The Hon. TREVOR KHAN: It is more formal here than the Senate.

WITNESS A: We do not often appear before government committees. We would have liked to have done in the past; we just have not been invited. The sheet I am having handed around at the moment has a map of the seating chart for the 2012 and the 2013 NRL grand finals and it has the public justification for why the NRL chose to significantly increase the price of the tickets that year.

Dr JOHN KAYE: The basic problem we are dealing with here, as I see from your perspective, is that the production of tickets for a particular event is a natural monopoly—there is only one producer of those tickets.

WITNESS A: Yes.

Dr JOHN KAYE: Therefore, they have enormous market power. Basically what all these pieces of paper you have handed around show is that the event promoters or the ticket generators are exercising enormous market power. The second part of your argument, as I understand it, is that a healthy resale market will, to some extent, reduce that market power.

WITNESS A: Yes.

Dr JOHN KAYE: Can you explain how that is? If I control the tickets and I can release them, just outline for us what competition against the natural monopoly you provide.

WITNESS A: Going back to the Beyoncé concert example, there are people that would choose to buy tickets from us as opposed to buying the VIP packages. Every person who chooses to do that has saved themselves money and will result in tickets that were being held for the VIP packages being released back into public allocation.

Dr JOHN KAYE: So you are putting pressure on the event promoters. By breaking people away from buying more expensive tickets you are putting pressure on the event promoters to release the tickets more cheaply. Is that what you are saying?

WITNESS A: I am not sure whether we would put pressure on them; it is just a natural part of the market.

Dr JOHN KAYE: I suppose "pressure" is the wrong word. You remove buyers, otherwise—

WITNESS A: The event organisers are certainly not transparent in how they allocate these packages. In the case of the Eagles they have played around with the maps and which seats are actually platinum and which are gold a couple of times.

WITNESS B: The major feature of the platinum ticket is that it is now gold-priced, without any announcement.

WITNESS A: And you cannot say to them, "Hang on, why did I pay \$660 when the people sitting next to me were sold tickets later for \$260?"

Dr JOHN KAYE: But that is a separate issue.

WITNESS A: It is.

Dr JOHN KAYE: There are two separate issues here: one is just the straight market power they have that they can hold back tickets and release tickets—

WITNESS A: Yes, they can.

Dr JOHN KAYE: —which you, to some extent, ameliorate by having a separate stream of tickets on the market.

WITNESS A: Yes.

Dr JOHN KAYE: The second issue is changing the product definition after tickets have been sold. That is what you are really saying. You sell me a ticket in what I thought was going to be the premium location and the person sitting next to me is paying a lot less because you have now defined it as not a premium location because you could not sell it at that price.

WITNESS A: Yes. If you tried to buy Mariah Carey tickets this week and you are a My Ticketek member, all of the \$300 tickets you can now buy for \$100. They are not advertising it, but it just came out to anyone who is a My Ticketek member.

Dr JOHN KAYE: Just to be clear, what you are calling unconscionable behaviour might be said to be standard marketing practice. Airlines have been doing this. All of us have sat on an airline where the person next to us, who is in an identical seat, because they purchased a ticket earlier or later than us are paying a different price. You are calling it unconscionable; other people would call that valid marketing practice.

WITNESS A: I am not calling it unconscionable; I am saying that it is no different from what we are doing. Let us say that the Melbourne Storm make the NRL grand final. The airlines will push up the price of flights from Melbourne to Sydney, the hotels will be charging more that week than they would normally and ticket brokers may also be making money. You are not necessarily looking at the bigger picture; you are simply looking at one aspect of it. There is nothing saying that the airlines and hotels are not allowed to price gouge.

Dr JOHN KAYE: There are two aspects of the legislation. One is the requirement to provide a photo of the ticket you want to sell. The second aspect is increasing the capacity of the ticket generator to cancel tickets if they have been not sold the way they want them to be sold.

WITNESS A: Yes. Everybody says that they would prefer to have people not get in at the gate. That is a choice made by the promoter to cancel tickets. They generally choose not to cancel tickets. It causes problems if someone turns up at the venue and cannot get in. A third option is that if someone buys from me directly as a

client or I have tickets listed on Ebay or Ticketmaster Resale, they are covered by Australian consumer protection laws. If you introduce a law that drives things underground, then the reputable and responsible people either will not be involved or things will move offshore. One of the Ticket Brokers Association of Australia members spoke to Ticketbis and asked what it was proposing to do in response to the New South Wales legislation. Ticketbis is a large overseas broker. They said, "What is New South Wales?" They were not being funny; they had no idea. They know what Australia is, but they just sell tickets. I cannot speak for them, but I believe they will ignore any legislation you implement and sales of tickets will still go on, but that will happen outside Australia.

WITNESS B: Our experience with effective legislation, at least in respect of Victoria, is that it is strictly policed and there is a lot of media coverage about it. You would have to be out of your mind to resell an AFL grand final ticket. It is very selective. You do not have many declared events in Victoria.

The Hon. TREVOR KHAN: That is correct and it is declared.

WITNESS A: The events that are not declared are the Australian Open, the Melbourne Cup and the car and bike grand prix. The only events declared at the moment are the AFL grand final and next year's Cricket World Cup.

The Hon. ADAM SEARLE: It is sporting events.

WITNESS A: Yes. They could choose it for other events, but they never have. It would appear that they are keeping it for extreme cases.

The Hon. TREVOR KHAN: You have referred to the "alternate market". I take it that is what generally applies for concerts. Does it also apply to sporting events?

WITNESS A: It applies to concerts and sporting events.

The Hon. TREVOR KHAN: Let us talk about the concerts first. Is your primary source of tickets for concerts the Ticketek site or the alternate market?

WITNESS B: From Ticketek, the primary market.

The Hon. TREVOR KHAN: How many tickets are provided to promoters?

WITNESS A: They are the promoter, so they have them originally.

The Hon. TREVOR KHAN: I understand that. But is it not the case with some overseas acts that bundles of tickets are held back and then controlled by the promoter as opposed to being made available to the general public?

WITNESS B: That is exactly right, but we do not know how many.

WITNESS A: They have their corporates that they deal with. We do not know because they do not tell us. The Committee could ask them.

The Hon. TREVOR KHAN: We may, but I am trying to get a feel for it. I understand that some overseas acts are paid by being allocated a bundle of tickets that they sell on the secondary market.

WITNESS A: I believe that can happen.

WITNESS B: It is all anonymous; we have no idea. The secondary market exchangers would not disclose that to us.

The Hon. TREVOR KHAN: Apart from those bundles of tickets that are being held back either for the acts or their managers to onsell, what other groups receive bundles of tickets before they are made available to the public?

WITNESS A: At a venue?

The Hon. TREVOR KHAN: Yes.

WITNESS A: There are often credit card deals or a bank may be a sponsor. There are other sponsors and acts.

The Hon. TREVOR KHAN: If it is a credit card provider—Visa, American Express or whatever—are we talking about them being at the entertainment centre—

WITNESS A: Sydney Entertainment Centre and Qantas Credit Union—

The Hon. TREVOR KHAN: If there is a credit card sponsor, how many tickets do they get?

WITNESS A: We do not know. I would suspect that if you are a senior person in the Qantas Credit Union you will not have much difficulty getting tickets.

The Hon. TREVOR KHAN: Again, I am trying to avoid that scenario. How many of those tickets are feeding into your style of secondary market?

WITNESS A: We do not know. Even between brokers we do not disclose the way that our individual businesses work.

The Hon. ROBERT BORSAK: How big is the market that you and your members are dealing with?

WITNESS A: The Commonwealth has said that it is less than 1 per cent of all tickets sold in Australia. It varies event by event and it is difficult to put a finger on it.

The Hon. ROBERT BORSAK: We are being asked to create a sledgehammer to wipe out 1 per cent of the market.

WITNESS A: Yes.

The Hon. ROBERT BORSAK: Your proposition is that it is really all about giving more control of the pricing of tickets to the marketplace because there is no perception of a secondary market.

WITNESS A: Yes.

The Hon. ROBERT BORSAK: Or in reality there will not be one.

WITNESS A: You cannot rely on the primary market to act in the best interests of the consumer. The Rolling Stones have done a lot of concerts over the past 12 months and tickets in Australia are by far the most expensive. You would have to ask the promoters why Australians are being asked to pay more. The Australian dollar has been high, but the tickets have certainly been cheaper in the United States and Europe.

The Hon. TREVOR KHAN: You cannot put that down to legislation.

WITNESS A: I am not saying it is to do with legislation.

The Hon. ROBERT BORSAK: You see that with software and music. Australia cops it.

WITNESS A: A popular opinion is that the promoters are all lovely and the scalpers are all evil. We are simply painting a different picture.

The Hon. TREVOR KHAN: The One Direction debacle demonstrates that what you say is correct. They cancelled or stalled their concerts for a considerable period.

WITNESS A: They originally came on a promotional tour and played at three small venues, including Hisense Arena in Melbourne. They used small modes with only 4,000 tickets that were cheap—they were \$70. I had not even heard of the band.

The Hon. LYNDA VOLTZ: I certainly had; I had tickets.

WITNESS A: The tickets went on sale quickly and about one-quarter were released to the general public at that stage. The demand was so strong that on the resale market they were worth up to about \$1,000. We believe that was a deliberate effort by the promoters to create hype and to ensure that every girl in Australia realised that One Direction was the hottest ticket. Within a week after the three concerts they announced a full arena tour involving many more concerts at large and appropriate venues. The hype enabled them to sell out. That is clever marketing, but it is not necessarily acting in the best interests of the consumer.

The Hon. ROBERT BORSAK: I do not agree. They are entitled to market in any way they like.

WITNESS A: Yes, I agree.

The Hon. ROBERT BORSAK: However, they are not entitled to prevent people buying tickets from other sources at whatever price they can. They may be cheaper or they may be more expensive.

The Hon. TREVOR KHAN: In that case the sale of tickets a long time before the concert—

WITNESS A: It was 18 months. I spoke to parents who were concerned that their daughters were not going to like the band by then. They still had no choice; they felt they had to get the tickets for their kids.

The Hon. LYNDA VOLTZ: I had tickets to both concerts.

The Hon. ADAM SEARLE: Declare an interest.

The Hon. LYNDA VOLTZ: They were front-row tickets to the second concert.

WITNESS A: The second concert sold very badly.

The Hon. LYNDA VOLTZ: I know, but unfortunately you have to buy the tickets early because you do not know.

WITNESS A: Yes. There is a range of issues with introducing legislation. Fraud is probably the biggest issue when it comes to ticketing. It is a concern that whenever something is published in a newspaper it is a story about a man who tried to buy tickets for his daughter on Gumtree and wired money through Western Union but did not get the tickets. That is not a resale or scalping; it is clear fraud. It is about selling something you do not have.

The Hon. TREVOR KHAN: You are absolutely right. However, whatever the arguments otherwise in favour, if you allow a secondary market then you open up that opportunity for fraud. If people believe that they can buy tickets on a secondary market in an uncontrolled sense, the opportunity exists for shysters to take advantage.

WITNESS A: It will still happen. In fact, I think it will happen more.

The Hon. TREVOR KHAN: Why?

WITNESS A: If I were selling a ticket to a **Beyoncé** concert I would be happy to provide you with photo ID because it is currently legal in New South Wales. If legislation prevents something, it goes underground. Suddenly you know that you cannot necessarily trust the person you are buying from and you are exchanging money that is not traceable. It is not done through bank accounts and it will not be taxed either.

The Hon. LYNDA VOLTZ: However, when I do not get the tickets they cannot be reprinted. There are no consumer protections for me when I buy from that secondary market.

WITNESS A: That is not necessarily true. That can happen from location and events.

The Hon. LYNDA VOLTZ: My **Beyoncé** tickets did not arrive and they had to reprint them and send them to me. There was a lot of kerfuffle. But that happened only because I had the credit card I used to purchase them.

WITNESS A: Yes. I have had instances where my own client has misplaced some tickets and I have been able to reprint them.

The Hon. LYNDA VOLTZ: That is because you have used your credit card.

WITNESS A: Yes, that has happened. But I am a reputable person to deal with. If I were disreputable then my phone number would probably not work anymore.

The Hon. TREVOR KHAN: I accept that you are a reputable person. What is the concern with you being publicly identified?

WITNESS B: Simply because we understand that Ticketek has made a submission to the Committee. We both have Ticketek accounts in our names and there are purchases on them.

The Hon. TREVOR KHAN: For six and eight tickets.

WITNESS B: If you have submissions from us showing that we have engaged in ticket sale above face value—

The Hon. LYNDA VOLTZ: They will block you.

WITNESS B: They may.

WITNESS A: We do not know whether they would.

WITNESS B: If they were nice and provided a resale platform like Ticketmaster Resale for us it would be different.

CHAIR: It is a specific concern with Ticketek.

WITNESS A: Yes. Not with Ticketmaster. As you would have seen from their submissions, those companies have very different views.

CHAIR: Thank you very much for appearing before the Committee today. I do not think you took any questions on notice.

WITNESS A: If members wish to ask any more questions we would be happy to respond.

(The witnesses withdrew)

(Evidence in camera concluded)

(Public hearing resumed)