



Submission to the Legislative Committee

Ticket Scalping Bill 2018

1. Background to the problem of Ticket Scalping

Sports, the performing arts and other live entertainment events play an important role in the lives of many Australians and increasingly issues arise when consumers are unable to access tickets to popular events which often leads to consumer dissatisfaction.

It is accepted that consumer dissatisfaction can be widespread as a result of market forces when high demand exceeds limited supply, particularly for popular events, rather than as a direct result of ticket reselling. The marketplace however has changed significantly in recent years with advances in technology and sophistication of the reselling marketplace.

In 2019, scalpers are utilising sophisticated software to bypass computer security systems to purchase large numbers of tickets. This has a detrimental impact on genuine fans who may miss out or have to pay hugely inflated prices for events.

The negative impacts of ticket reselling for consumers has shifted from dissatisfaction regarding fair access to tickets and a perception that ticket reselling is a problem to an issue of consumer detriment. Whilst some 10 years ago, there was a level of consumer distrust of the unauthorised 'online' ticket resellers, in an era of the sharing economy, consumers expect to be able to engage with the secondary market and procure tickets at a value they deem acceptable.

Ticket resellers are increasingly sophisticated and online platforms are promoted heavily and difficult to distinguish as unofficial outlets. Consumer detriment is realised when tickets purchased are not delivered or invalid upon attempting to gain entry to events.

Whilst promoters and performers have the ability to influence the resale of tickets, to address concerns related to profiteering, considerable industry resources are required to manage the tracking of the secondary market and to implement subsequent measures ie. changing the arrangements for ticket collection/delivery or cancelling the ticket.

The protection of a performer's reputation over the long term is important and there is an increasing consciousness by artists to maximise the opportunity for their fans to access their performances through reasonably priced tickets. This shift in approach is largely driven through the need for contemporary artists to tour more. When resellers then inflate ticket prices to reap profits, artists unfairly suffer negative publicity as a result, whilst not getting the economic benefit of the higher ticket price.

The establishment of ticket prices is a measured activity whereby promoters balance out the need to provide access to as many people as possible, whilst also ensuring an appropriate commercial return on the often-considerable risk they are taking. Where fans believe they are prevented from attending events as a result of being priced out of the market by on-sellers, the goodwill of the promoter is affected. Compounding this issue, when tickets are subsequently cancelled as they have been resold in breach of the terms and conditions – promoters often receive a backlash from consumers directly.

2. WA Sport and Entertainment Venues

VenuesWest as the agency charged with responsibility for the state's major sporting and entertainment infrastructure, has (in conjunction with its private sector operators) been managing the ongoing consumer impact of ticket scalping for some time.

It has become necessary for event organisers to implement the following types of measures at venue and ticket provider level to manage:

- At promoter's request/discretion, ticket printing is suppressed (normally only until GP on-sale, however for some events it extends out until 4 – 6 weeks out from performance date i.e. Midnight Oil.) Prince was suppressed until the day of the show (only ezytickets permitted).
- Patrons name printed on tickets with patrons advised that tickets could not be transferred (per Prince).
- Where the venue becomes aware of scalper activity (usually by patrons who contact us to check that tickets they have purchased are valid), then the venue will instruct the ticket provider to cancel and reissue the tickets with the collection method changed to venue collect.
- If the venue identifies a scalper, then contact is initiated with them directly (usually their mobile number is fake, however their email address is generally valid as it's the method used for delivery of their ezytickets). They are then advised that their tickets are believed to be offered for sale contrary to the terms and conditions under which they were purchased. They are also advised that their tickets will need to be collected from the venue on the night of the show.
- On event night, when patrons present at the box office because their tickets fail to scan, they are asked about who/where they were purchased. These details are recorded on a spreadsheet (including name of original patron, amount paid, and re-seller company details). Patrons are then given the option of purchasing tickets for the show (if available) and instructions regarding how to request a refund from the on-seller are provided via flyer.
- Ticketek pick up scalper activity when checking the ticket lists for an event. The ticket provider will generally check with the venue first and then a decision is made as to whether the tickets will be cancelled or the delivery method changed.
- AEG Ogden (Operator of Perth Arena) has monitoring programmes that detect Viagogo and Ticketmaster re-sale for upcoming shows and if they can identify a seller because it links directly to a listing, they will contact them. An increase in patrons from the US and Europe purchasing for our events (and other AEG Ogden venues) has been noticeable. The venue is confident that a substantial portion of these are scalpers. The delivery methods on these accounts are then changed to require venue collect (by the account holder only).

3. Drafting of Bill

The new stand-alone Bill for ticket resale and scalping is fully supported by VenuesWest who have worked collaboratively with Consumer Protection in the preparation of the draft Bill as it currently stands

Up until 2017, ticket resale and scalping had only been regulated in relation to declared major events in Queensland, South Australia, Victoria and New South Wales. In October 2017 however, NSW passed new legislation – the Fair Trading amendment (Ticket Scalping and Gift Cards) Bill 2017 - with the intent of ensuring all consumers had fairer access to the

sale of sporting and entertainment event tickets. This legislation came into effect in early 2018.

The Bill addresses unfair ticket sale practices caused by scalping by prohibiting anyone from reselling a ticket to a WA event for more than the original sale price, plus the transaction costs incurred in the original purchase. Transaction costs are to be capped at 10 per cent of the initial sale price. Penalties will be introduced for selling or advertising tickets for sale at higher than (10% above) face value, without the written approval of the event organiser and with burden of proof on the seller.

This approach enables significant harmonisation with the NSW legislation and also bans the use of 'bot' software. Bots are computer programs that allow ticket scalpers to circumvent the security measures on ticketing websites to rapidly buy tickets in large quantities and place them on resale websites at inflated prices.

The final element of the ticket resale and scalping drafting instructions addresses enforcement powers for the Consumer Protection Commissioner.

4. Bill Objectives

The Bill targets the problem of organised scalping rather than individuals who are engaged in 'reselling'.

Organised scalping is where individuals or organisations purchase large volumes of tickets, either by repeatedly purchasing maximum ticket allowances or using Bots which automatically purchase large volumes of tickets on-line, at a rate faster than humans can. This has the effect of:

- a. Denying access for large numbers of normal ticket buyers to face-value tickets; and
- b. Enables the creation of large caches of tickets that can be fed back into the market when they become scarce. In some cases, the volume purchases can, in itself, create scarcity.

In order to effectively reduce the impact of ticket scalping on event organisers and consumers, the bill prohibits individuals from reselling tickets contrary to the ticket conditions.

The bill provides penalties for:

- Selling or advertising tickets for sale at higher than (10% above) face value, without the written approval of the event organiser and with the burden of proof on the seller
- Organisations who scalp tickets to be impacted by higher level penalties than individuals

By pursuing legislation that affords for the above, it will not restrict people's ability to resell tickets where they have a legitimate reason to do so and where the transfer of the ticket is allowed under the conditions of sale. The 10 per cent margin allows people who are unable or no longer want to attend the event to recoup the ticket price and other costs associated with the purchase and resale of the ticket.

5. Consumer Education

In spite of the introduction of industry codes, advice provided by the Department of Consumer Protection, venues/event organisers and Live Performance Australia – consumer awareness has been limited to date.

Upon the passing of this Bill, a new campaign will be implemented by the Department of Commerce and supported at venue and event organiser level by VenuesWest and Tourism WA and Perth Theatre Trust.

With the introduction of legislative powers with respect to Ticket Scalping – ongoing Consumer Awareness/education campaign is still believed to be the most effective action to tackling the issue of scalping at this time. It will however have considerably more weight as it can point to the illegal nature of ticket scalping and the fact that real penalties exist – rather than simply appealing to consumers to use their ‘better judgement’.

6. Conclusion

VenuesWest is strongly supportive of the Bill and the measures contained within it.



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