



26 July, 2019

Hon Dr Sally Talbot MLC
Chair
Standing Committee on Legislation
Legislative Council
Parliament House
PERTH WA 6000

Inquiry into the *Ticket Scalping Bill 2018*

Dear Dr Talbot

Thank you for the opportunity to provide comment on this Bill.

AEG Ogden is the manager of the RAC Arena, under contract to Venues West. We also operate major arenas in other major Australian cities and around the world.

We strongly support this initiative by the government to protect consumers from paying inflated prices for access to concert, sport and entertainment events in the face of extensive misrepresentation and, at times, fraudulent activity by third parties uninvolved with these events.

In particular we commend the introduction of the related offence of advertising the offer to resell a ticket at a price in excess of that mandated by the Bill. This prohibition is not present in similar legislation that exists in other states in Australia.

The recent decision by Google to cease accepting advertising from *viagogo* highlights the very problem caused by such advertising. Scalpers earn much more for each ticket they sell than any party in the legitimate supply chain and thus spend more ensuring that their offers attract potential patrons acting on their desire to buy tickets.

We are further encouraged that the Commissioner of Fair Trading can delegate authorised persons who can carry out investigations of potential infringements of this Act. We believe this will be more practical than the limitation in some other jurisdictions that only police officers can deal with such breaches of the law. The demands on our police forces often lead to ticket scalping slipping down the levels of priority with which they must assess the matters they take up for investigation.

We further endorse the opportunity for a review of this Act on its fifth anniversary.

AEG OGDEN PTY LTD

'The Pavilion on the Lake', Brisbane Entertainment Centre, Melaleuca Drive, Boondall QLD 4034, Australia
GPO Box 1040, Brisbane QLD 4001, Australia **ABN 12 010 835 551**
Tel: +61 7 3363 3666 Fax: +61 7 3265 5899 Email: admin@aegogden.com Website: www.aegogden.com

We note some obligations on event presenters to clearly notify potential patrons of the terms and conditions of sale of tickets, and will review those we currently present to ensure they conform.

We thank the Committee and the Parliament for its careful crafting of this Bill.

The issue that remains is that of access to off-shore operators who use the internet to deal with patrons in Australia. It is our belief that the only resolution to this aspect of the problem lies with the Federal Communications Department. As it has done recently to protect the intellectual property rights of Foxtel and Village Roadshow ([Copyright Amendment \(Online Infringement\) Bill 2018](#)), we believe that the ACMA should have the power to direct Internet Service Providers to block sites against which the ACCC has won Federal Court action for breaches against federal consumer regulations. We acknowledge that this is outside the purview of the Parliament of Western Australian.

Thank you again for the opportunity to provide comment.

Yours Sincerely,
AEG Ogden

A handwritten signature in blue ink, reading "Rod Pilbeam", with a horizontal line underneath.

Rod Pilbeam
Director & COO

Attachment 1: Impacts of scalping on the live entertainment and sports industry

Impacts of Scalping On the Live Entertainment and Sports Industry

The taxpayers who build the vast majority of the expensive venues in which our events are presented are increasingly being held to ransom by black-marketeers. The community is entitled to demand that they are given fair and equal access to see the events presented in their venues.

Ticket scalping so rarely leads to lower prices for tickets as to render this argument for "competition" laughable. Resellers aren't interested in anything other than the highest prices as their fees are calculated as percentage shares of the ultimate selling price.

That some event tickets are in high demand is a direct result of passionate human emotions surrounding the event.

The event's producer, or the artist walk a fine line between maintaining fan allegiance engendered by minimal ticket prices, and finally earning some reward for years of development of a career that may last 30 years – or just 3! The costs of touring, ticketing and venues are known and can be factored when developing ticket pricing for an event. But when scalpers swoop and hold the artist's fans to blackmail, that artist is disempowered and the relationship with his/her fans is hijacked by the third parties who add NOTHING to the process.

Genuine patrons who purchase tickets with the real intention of attending an event and who encounter an incident that will prevent their attendance are very much a minority of cases leading to tickets being resold. Indeed, ticket offices have quietly assisted the majority of such patrons to resell their tickets since tickets were first sold in advance, notwithstanding the generally stated conditions declining any refunds.

Furthermore, most genuine patrons in this position are so grateful to have their money returned that they do not risk scaring off potential purchasers by demanding an inflated price.

This is the province of the black-market scalper who buys tickets with no intention of attending the event, by which action the tickets he purchases are removed from the reach of genuine patrons, who are then blackmailed into paying highly-inflated prices for the same seats. This scalper adds nothing to the process and, in fact leaves his purchasers at risk of losing their funds should the event be cancelled or transferred to a date on which they cannot attend, or if the event owner enforces conditions of sale denying resale at inflated prices.

These days, the biggest issue is the misleading and, at times deceptive information being circulated by scalpers and resale brokers. They operate web sites that purport to be genuine, authorised ticket sales agents for events for which they offer tickets. Some that operate as legitimate contracted sales agents for some events also operate in an unauthorised capacity for events they have NOT been engaged to sell.

Intending patrons have difficulty discerning the genuine sales channels from the resellers.

Misinformation ranges from the obvious price distortion, to the advice that the Resale broker currently has "no tickets available" which is read by most unwitting fans as stating that the event is sold out. Often, large numbers of tickets remain available – at lower prices – through the legitimate channels, but fans give up, beaten by the system.

As most entertainment events, from concerts to stage musicals operate on low profit margins, such loss of sales will eventually have a strong negative impact on the presentation of events. Events that are presenting multiple performances on a staggered release will find that the high demand necessary to sustain such a strategy will weaken to the point where the full season never makes it over the counter.

In addition, it can readily be seen that a regular concert-goer is not going to attend as many events if the cost goes up three and four fold for each event.

Scalpers add nothing to the process of the entertainment or sports industries, but they are doing terrible harm to the public's trust in participating in the process of buying tickets.

Scalpers don't provide marketing support for events as they often claim. Purchasers go to them looking for a particular event. One of the current major problems they are causing is the confusion resulting from the misleading advertising in which they indulge.

Many patrons seeking tickets to an event enter the event name and their city in one of the popular internet search engines. Unfortunately, the operators of these search engines sell the rankings of the results which they return to the often unsuspecting patron. Such ranking placings are broadly purchased by scalpers in order to place their own listing immediately below and even above the legitimate search response. There have recently been moves to have such purchased rankings identified as Paid Listings to provide some warning to viewers.

The scalpers have been using words like "genuine" and "authorised" in their results to further encourage patrons to select their result. They may have only a small number or even no tickets for the event but do not provide any information that would assist patrons in locating the genuine outlet for tickets for the event.

There is no public benefit in scalpers' activities.

Worse still for the public, we see them suffer fraudulent practices as many sales through unauthorised sites actually distribute stolen, forged or multiple copies of Tickets.

THE COMPETITION QUESTION

Should entertainment and sports tickets be treated as tradeable commodities rather than the financial transaction intended to simplify the pay-as-you-enter chaos that would otherwise ensue if such tickets were not sold in advance of the event itself.

The ticket itself has no actual value on its own. Indeed, the cardboard or paper ticket is rapidly being replaced by an electronic file containing all the data related to the seat entitlement and its purchase. These instruments merely bear the record of the contractual promise by which the purchaser has become entitled to experience the event. It also references the conditions under which this entitlement has been purchased.

The product itself differs from other tradeable goods in that it is in limited supply, has a limited life and generally its supply cannot easily be increased to meet high demand.

Accordingly many events are open to price exploitation by unscrupulous third parties.

To try and head-off the black-market profiteers, artists have in recent years raised prices on choice seats in order to soak up the higher sums willingly paid to touts and scalpers. Unfortunately, this has not put much of a dent in their activities.

In this second decade of the 21st century, technology is available to aid their quest to find ways to interpose themselves between patrons actually intending to go to the events, and good seats on sale through legitimate channels.

Whether through automated on-line computer raids (such automated activity is being banned from certain trading on share markets due to the devastation it has wrought on the economies of many countries and the world at large), or the well-prepared activities of rapid human purchasing, tickets for seats that are in high demand are quickly taken up. They then reappear almost instantly on unauthorised resale sites and highly-inflated prices.

Although demand for premium seats may be high, the "owner" of the product (the artist or sports team) cannot simply create more seats.

So patrons are left to fend for themselves in a market around which there are none of the rules that protect customers of travel agents or share brokers.

It is accepted that there is not an open market for the buying and reselling of airline seats nor for advertising space in prime locations. It is not possible to buy and resell operating theatre slots in major hospitals.

Clearly there are products in our community which we accept being subject to limited competition *in the public interest*.

Interestingly, none of the visible resale operators has expressed any interest in creating their own competitive product offer – presenting their own concert or sporting event – because it is a highly complicated activity with high risks and low returns.

Operators of events and the venues in which they appear have been working to provide better levels of information to the public including how to stay clear of the black market, how to avoid the unauthorised sites, find the legitimate channels and the prices actually being asked by the presenter of the event.

In recent years, there has been a growing international reaction from the professional entertainment and sports industry against the unauthorised reselling of tickets to our events, particularly around Australia, in the UK and across Europe.

At venues operated by AEG Ogden, we have developed a comprehensive marketing strategy across all our communication channels, seeking to warn our patrons against the wiles of such frauds. Regular buyers of tickets to our events have become much more careful but the younger and newer patrons are still falling prey to operators peddling misrepresentations on the internet, particularly through the many and varied social media channels that operate freely.