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Dear Event organiser,

Competition and Markets Authority (CMA) investigation into the secondary ticketing sector

An open letter to event organisers

1. As you may be aware, following enforcement action by the CMA several major ticketing websites must change their practices to ensure that they comply with consumer protection law. Further information on the sector wide investigation conducted by the CMA can be found [on GOV.UK](#).
2. The CMA secured a [court order](#) against viagogo requiring it to overhaul its practices, and obtained [formal commitments](#) from StubHub, GETMEIN! and Seatwave (owned by Ticketmaster) requiring them to make a number of changes to the way in which information is provided to their customers. GETMEIN! and Seatwave have subsequently closed, but the commitments will continue to apply to the resale of tickets through Ticketmaster's website. In this letter we refer to viagogo, StubHub and Ticketmaster collectively as 'the platforms'.
3. This letter sets out:
 - a. what you, as an event organiser, can do to help make sure that information about tickets for your events is disclosed on the platforms;
 - b. the steps event organisers who use restrictions on resale can take to reduce the risk of the CMA prioritising enforcement action against them for using unfair terms; and
 - c. reminds event organisers of their obligations under consumer protection law if they host a facility on their own websites which allow consumers to resell tickets they have bought for their events.

Making sure that the platforms are aware of restrictions on use (including restrictions on resale)

4. Before letting people list tickets, the platforms must look at certain pages on the website of at least one official seller on the primary market for information about restrictions on use which apply to an event (including restrictions on resale). The platforms must ensure that any event-wide restrictions they find are disclosed on their website.
5. So that restrictions on use are picked up by these checks and displayed, we are asking event organisers to make sure that, as a minimum, information about restrictions on use is **clearly and prominently disclosed on the event home page and the first page of the purchase process on the websites of all official sellers.**¹

Notifying the platforms about problems

6. If you are responsible for managing or organising an event, or you receive some or all of the revenue from the event, then you can notify the platforms about problems with information which is relevant to tickets for your event. They must then take appropriate action in response. We set out below how you can notify the platforms and what information you should provide. For the avoidance of doubt, the information you provide must be correct, complete and not misleading.

Before tickets go on sale on the primary market

Restrictions on use (including restrictions on resale)

7. If you notify the platforms that tickets for your event will be subject to restrictions on use then they must ensure that this information is displayed to consumers if tickets are subsequently resold through their website.
8. You must notify the platform **in writing** and:
 - a. confirm whether the restriction on use applies:
 - i. to **all** tickets;
 - ii. to an **identifiable category** of tickets (for example general admission); or
 - iii. to a **specific identifiable** ticket;
 - b. confirm the **terms of the restriction on use** and provide **a copy of, or link to, the relevant terms and conditions**; and

¹ Clearly and prominently disclosing upfront information about restrictions on use is also likely to help event organisers comply with their own obligations under consumer protection law.

- c. confirm that the restriction on use will be **publicised by all official sellers from the date on which tickets for the event first go on sale.**

Seat information

9. If you notify one of the platforms that block/area, row and seat details (as applicable) will be issued for all tickets, or all tickets within an identifiable category, for an event then they must ensure that this information is displayed to consumers if tickets are subsequently resold through their website.
10. You must notify the platform **in writing** and:
 - a. confirm whether seat information will be issued for **all tickets, or all tickets within an identifiable category**; and
 - b. confirm that the seat information will be **issued from the date on which tickets for the event first go on sale.**
11. It should also be noted that if you notify viagogo in writing that tickets for an event do not exist or have not yet been made officially available, then viagogo must suspend sales on its website until they are.

After tickets have gone on sale on the primary market

Restrictions on use (including restrictions on resale)

12. If you notify the platform about missing or incomplete information about restrictions on use, then they must update or correct the relevant ticket listings on their website.
13. You must notify the platform **in writing** and:
 - a. confirm whether the restriction on use applies:
 - i. to **all** tickets;
 - ii. to an **identifiable category** of tickets (for example general admission); or
 - iii. to a **specific identifiable** ticket;
 - b. confirm the terms of the restriction on use and provide **a copy of, or link to, the relevant terms and conditions**;
 - c. confirm that the restriction on use was **publicised by all official sellers from the date on which tickets for the event first went on sale**; and
 - d. provide a **copy of, or link to, an official seller's website** which discloses that the restriction applies to all tickets, or all tickets within an identifiable category, for the event.

Seat information

14. If you notify the platform about missing, incorrect or incomplete information relating to block/area, row and seat details (as applicable) then they must update or correct the relevant ticket listings on their website.
15. You must notify the platform **in writing** and:
- a. confirm whether seat information has been issued for **all tickets, or all tickets within an identifiable category**; and/or
 - b. confirm that the seat information disclosed on the platform's website is **incorrect** and **provide appropriate supporting evidence**.

Terms and conditions that restrict resale

16. Although the CMA's primary focus has been on addressing the platforms compliance with consumer protection law, it has also worked with event organisers to avoid the potential for consumer harm caused by terms and conditions that restrict resale, following a recommendation by Professor Waterson in his 2016 review of the secondary ticket market.
17. As part of this work, the CMA carried out a number of discussions with organisers of music, theatre and sporting events. Following these discussions the CMA has decided to help event organisers that use restrictions on resale to be clearer on where they stand – by setting out steps that they can take to reduce the risk of the CMA prioritising enforcement action against them for using unfair terms.
18. Attached to this letter at Annex A is a copy of the CMA's prioritisation statement on terms and conditions which restrict resale.

Facilitating the resale of tickets through your website

19. As part of its work the CMA has written an open letter to secondary ticket website operators to remind them of their obligations under consumer protection law, including what the CMA expects from them in order to comply with those legal obligations. This is so that they can consider whether their practices comply with those expectations. A copy of the open letter to secondary ticket website operators [can be found on GOV.UK](#).
20. We note that some event organisers are setting up facilities on their own websites which allow consumers to resell tickets they have bought for their events. If you operate a secondary ticketing facility on your website you must ensure that it complies with consumer protection law, in the same way as a secondary ticketing website.

21. We expect anyone operating a secondary ticketing facility, including event organisers, to change their practices where necessary and bring themselves into line with the law.

Yours sincerely

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Project Director

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Annex A - CMA prioritisation statement on terms and conditions that restrict event ticket resale

1. Over the last two years, the CMA has worked alongside other enforcement partners to improve the way that the secondary ticketing sector operates.
2. Although the CMA's primary focus has been on addressing secondary ticketing websites' compliance with consumer protection law, it has also worked with event organisers to avoid the potential for consumer harm caused by terms and conditions (T&Cs) that restrict resale. This action followed a recommendation by Professor Waterson in his 2016 review of the secondary ticket market that the CMA should 'develop best practice guidance on the practical application of unfair terms legislation to ticketing terms and conditions'.²
3. As part of this work, the CMA engaged in discussions with organisers of music, theatre and sporting events. The CMA has used these discussions to explain its understanding of the interaction between unfair terms laws and T&Cs that restrict resale and to understand more about how and why T&Cs that restrict resale are used by event organisers.
4. Depending on how they are applied, the use of T&Cs that restrict resale by event organisers have the potential to cause consumer harm by preventing consumers from recouping the money that they spent on tickets if they are no longer able to attend an event, or no longer wish to go. Problems may also be caused where end user consumers are prevented from entering an event for which they hold a resold ticket. Such T&Cs therefore have the potential to be unfair under consumer law because they may change the balance of the contract to the detriment of the consumer.³ If a term is unfair, it is not binding on consumers – regardless of legal arguments as to whether a ticket is a 'good' or a 'licence'. However, T&Cs that restrict resale are not automatically unfair.⁴
5. The basis on which the CMA considers that T&Cs are likely to be regarded as fair or unfair is explained in our guidance,⁵ which is general in character. The law in this area is complex, any assessment of a particular term will depend on the context in which it is being used and there is limited relevant existing legal precedent. Ultimately it is for the courts, not the CMA, to decide whether a term is fair or unfair.

² Professor Waterson's original report can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/525885/ind-16-7-independent-review-online-secondary-ticketing-facilities.pdf

³ In particular the unfair terms provisions in Part 2 of the Consumer Rights Act 2015 and the prohibitions against unfair commercial practices in the Consumer Protection from Unfair Trading Regulations 2008.

⁴ More information can be found on the application of consumer law to this sector in this response made by the CMA:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/500228/CMA_response_to_BIS_-_DCMS_consultation.pdf

⁵ <https://www.gov.uk/government/publications/unfair-contract-terms-cma37>

6. The CMA takes the view that, in light of the complexity, publishing further specific guidance on how unfair terms law applies in the sector would provide limited additional clarity for market participants. It decided instead to help event organisers that use resale restrictions to be clearer on where they stand – by setting out steps they can take to reduce the risk of the CMA prioritising enforcement action against them for using potentially unfair terms.⁶
7. The CMA is less likely to prioritise enforcement action against event organisers that use T&Cs that restrict resale when (1) they have a legitimate reason for using them, (2) their use is necessary and proportionate for achieving this and (3) the restriction is communicated with sufficient transparency.
8. With regard to (1), the following are (non-exhaustive) examples of reasons that the CMA would consider to be legitimate reasons for using such restrictions:
 - ensuring as many tickets as possible for an event are sold at a price affordable to a greater number of consumers (rather than being bought up by businesses to be resold at higher prices);⁷
 - ensuring that the event organiser is able to identify who is present at a venue or part of a venue due to a specific set of security concerns;
 - ensuring access for a specific and identifiable category of consumers (for example, wheelchair users); and
 - where such restrictions are required or permitted by specific legislation (for example, English Premier League football matches or the 2012 Olympic Games).
9. With regards to (2) and (3) (proportionality and transparency), the CMA would be unlikely to prioritise enforcement action to address the use of T&Cs that restrict resale for a legitimate reason, such as one of those listed above in paragraph 8 – where (to the extent relevant) the event organiser had also taken all the steps below to reduce the potential harm to consumers:
 - Providing full, clear, upfront and consistent disclosure of the relevant restrictions to the original ticket buyer on all sales channels;
 - Either providing a full refund to original ticket buyers who are no longer able to attend the event or alternatively making arrangements (see paras 15 and 16 below) which can effectively allow them to recoup or substantially reduce any direct financial loss;
 - Providing buyers of resold tickets who are prevented from using them with the evidence that they need to get their money back from the reseller, and where possible taking steps to help them by finding an alternative approach that will allow them to enter the event,

⁶ <https://assets.publishing.service.gov.uk/media/5a1d2a3be5274a1fabe586ba/update-on-unfair-terms-work-secondary-ticketing-final.pdf>

⁷ We are more likely to regard this reason to apply where the event organiser is taking clearly identifiable steps to prevent professional resellers from buying the tickets in the first place, for example where the event organiser is genuinely intending to permit entry only to specific named individuals and the tickets are marketed on this basis.

- Where a ticket is voided or cancelled for breaching resale restrictions, providing a full refund to an original ticket buyer whose ticket is voided or cancelled.
10. This statement is based on the CMA's understanding of the way that the sector currently functions. If market practices change or new evidence emerges about the way that the sector functions the CMA may wish to reconsider this position. Further, it only indicates how the CMA may prioritise further enforcement work. Other enforcers or individual consumers may also choose to challenge the use of a resale restriction under unfair terms law.⁸ See our general guidance on unfair terms for more information.⁹
11. In finalising this statement, the CMA has considered views from across the events sector. After publishing our preliminary thinking, a number of clarificatory questions arose. In response the CMA has revised some of the text above – but we have also added a Q&A section below to address a number of those questions explicitly.

Q&A to support updated statement

12. Isn't a ticket for an event a personalised licence? If so event organisers can deploy these terms as they please, can't they?

Regardless of whether a specific ticket is a personalised licence, consumer law (including unfair contract terms law) still applies to the transaction and specifically to the use of resale restrictions. If a term is unfair it is not binding on a consumer.

If event organisers wish to reduce the risk of CMA enforcement action under unfair terms law then they should ensure they comply with paragraphs 7-9 above – even where the organiser believes that the tickets that they sell do constitute personalised licences.

13. What do you mean by upfront, full, clear, and consistent disclosure of the resale restriction?

Consumers must be able to understand what the resale restriction will mean for them as the buyer. This information needs to be provided clearly and prominently before consumers make the decision to buy.

Most events operate a number of different sales channels and it is important that event organisers ensure that all agents are adhering to this standard and that the information they are supplying to their customers is consistent.

14. Does an event organiser need to issue a refund when they void a ticket if the buyer is a trader / business?

⁸ The fact that an event organiser, and their agents, do not comply with all of the above does not mean that a restriction on resale is unlawful or unenforceable but may increase the likelihood of this being the case.

⁹ <https://www.gov.uk/government/publications/unfair-contract-terms-cma37>

Yes. If the original ticket buyer's ticket is voided or cancelled then it is the CMA's view that the event organiser should refund the buyer as a matter of contract law.

15. If people can't enter a venue with a resold ticket because it is subject to T&Cs that restrict resale - isn't that the fault of the business that resold the ticket without informing the consumer of this important information and the platform that allows this to occur – rather than the event organiser?

The CMA has taken enforcement action¹⁰ aimed at ensuring that consumers that buy resold tickets:

- Will be made aware of any T&Cs that restrict resale which might prevent them from entering an event; and
- Will be told whom they have bought a ticket from and are able to claim for any losses that they suffer (whether from the platform or the business that they bought from).

If an event organiser opts to deploy and enforce T&Cs that restrict resale that have the potential to cause problems for buyers of resold tickets, then in the CMA's view, it should take steps to ensure that detriment for consumers is avoided / mitigated as set out at Paragraph 9 above.

The CMA thinks that event organisers should take steps to help buyers of resold tickets who they prevent from entering a venue. Where possible the CMA would like to see action taken that will allow the consumer to enter the event. However, we understand that there may be practical limits as to what can be done to help a consumer on the date of the event (for example where there is no more space in the venue).

If the ticket holder is not going to be allowed to enter the venue (for example because their ticket was voided and resold), the CMA would at the very least expect that person to be provided with sufficient evidence of this to facilitate them in claiming their money back from the website they bought from and / or the seller of the ticket.

16. You have said that event organisers should either provide a full refund to original ticket buyers who are no longer able to attend an event or alternatively make arrangements that can effectively allow them to recoup or substantially reduce any direct financial loss. This could be very expensive for my business.

Resale restrictions have the potential to cause consumer harm by preventing consumers from recouping or substantially reducing their losses if they find that they can no longer attend an event. If event organisers are concerned about the cost that they might incur in helping consumers to substantially

¹⁰ <https://www.gov.uk/cma-cases/secondary-ticketing-websites#history>

mitigate these potential losses – then the most effective way to avoid this is by selling tickets without resale restrictions.

If an event organiser chooses to implement a resale restriction then it is important for it to take steps to help consumers who have bought a ticket and can no longer use it to avoid financial detriment. In the CMA's view, the most effective way to do this is to provide a full refund.

The CMA might also consider other alternatives to be acceptable if i) a consumer would prefer the alternative offered to a refund; or ii) they are likely to be effective in allowing the consumer to be able to get their money back / or mitigate their losses. These might include:

- offering to exchange tickets for another date;
- providing a consumer with a 'credit note' that can be used in future for another similar event;
- providing a consumer with a method whereby they can resell a ticket.

The CMA understands that event organisers that do offer to provide a refund may need to protect themselves from a last-minute flurry of refund requests in the days prior to an event which may not allow them sufficient time to resell those tickets. The CMA would suggest that if the event organiser is not able to provide refunds up until the days immediately before the event, they should consider what else, if anything, can be done to help consumers who realise that they are unable to attend an event in the days leading up to it.

17. Is it permissible for event organisers to set up exclusive channels to re-sell tickets?

If an event organiser chooses to implement a resale restriction then it is important for them to take steps to ensure that consumers who can no longer use a ticket are not prevented from recouping their outlay.

The most effective way to mitigate this would be to provide a full refund. However, the CMA takes the view that providing a consumer with an exclusive resale channel, may be acceptable provided it is likely to be effective in allowing a consumer to get their money back on the ticket or substantially reducing their losses. Such a channel's terms and practices would also need to comply with consumer law.

There may be some potential benefits to a consumer of event organisers nominating an exclusive resale channel. For instance, it might help to ensure that buyers and sellers are brought together in the same place – allowing the market to work more efficiently.

The CMA would be particularly concerned about the use of such an approach if:

- The resale mechanism was unlikely to enable the ticket to be resold because, for example, the facility is not easy for buyers and sellers to use or to find;

- There were any limits placed on when the resale mechanism is available – for example only allowing resale to take place after all the event organiser’s tickets have sold out; or
- The consumer reseller was charged fees for the use of the platform that are either:
 - o substantially higher than fees being charged by other platforms; and / or
 - o not commensurate with the value of the ticket being traded.

However, the parties reaching any such exclusive agreements with resale channels should ensure that such agreements are compliant with competition law.

18. You have said that event organisers need a ‘legitimate reason’ for restricting resale. What does this mean?

Although the fairness of T&Cs is ultimately a matter for the courts to decide, the CMA is less likely to prioritise enforcement against event organisers using resale restrictions where:

- there is a legitimate reason for restricting resale; and
- any restrictions are necessary and proportionate for achieving that aim.

Given that restrictions on resale have the potential to cause detriment to some consumers, the CMA is more likely to consider a reason to be legitimate if its aim is to help or protect all of, or a group of, consumers – than a commercial one. However, even if the reasons for the restriction are legitimate, any restriction that an event organiser puts in place must be necessary for achieving that aim and not impose disproportionate detriment to consumers.

So, for example, if an event organiser claims to have a restriction on resale because the restriction will allow it to ensure that it knows who is in attendance for security reasons, this may not be consistent with allowing six (un-named) people to enter an event with a single, named, ticket holder.

If event organisers wish to reduce the risk of CMA enforcement action under unfair terms law then they should also take action in line with paragraph 9 above to mitigate the potential for harm to consumers – even where the event organiser believes that they do have legitimate reason for restricting resale.

19. We will allow resale through any channel at face value or below. Does your prioritisation statement still apply?

Yes. This is still a restriction on resale – as it places limits on the way that a consumer is able to deal with the ticket. Consumer law still applies and an event organiser should bring its practices into line with Paragraph 9 above. Terms or practices that are used by any resale channel must themselves comply with consumer law.

20. What about membership schemes or other ways of restricting resale or distribution?

Consumer law also applies to contracts of membership, under which some tickets may be issued. It would also apply to other steps such as blacklisting.