

Secondary ticketing websites

Update on CMA's work with the live events industry on the application of unfair terms law to ticketing terms and conditions

1. Earlier this year the CMA held discussions with representatives of the live events industry on how unfair terms law applies to ticketing terms and conditions – in response to a recommendation from Professor Waterson's independent review of the secondary tickets sector.
2. Based on our discussions with the industry we are aware that there are a number of motivations for event organisers using resale restrictions. These include:
 - ensuring as many tickets as possible for certain events are sold at prices that are affordable to a greater number of consumers (rather than being bought up by businesses to be resold at a profit);
 - 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).
3. The CMA has previously said that although terms which restrict a consumer's right to resell a ticket are open to scrutiny regarding their fairness, they should not automatically be regarded as being unfair terms. The basis on which the CMA considers that terms open to scrutiny under consumer law are likely to be regarded as fair or unfair is explained in our guidance, which is general in character (and is intended to apply to ticketing contracts regardless of legal arguments as to whether a ticket is a good or a licence). Such terms are more likely to be considered fair if there is a legitimate reason for restricting resale and any restrictions are necessary and proportionate for achieving that aim.
4. The CMA takes the view that publishing further specific guidance on how unfair terms law applies in the sector would provide limited additional clarity for market participants. 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.

5. Therefore, in order to help event organisers that use resale restrictions to be clearer on where they stand, the CMA proposes to set out steps that they can take to reduce the risk of the CMA prioritising enforcement action against them for using unfair terms.¹
6. The CMA's current view is that taking the following steps should mitigate the potential for the use of resale restrictions to cause consumer harm - and reduce the likelihood of the CMA prioritising enforcement action:
 - (a) full and clear disclosure of any resale restrictions upfront;
 - (b) putting in place arrangements for consumers to exchange, return and / or resell tickets – that can be effective in allowing the original ticket buyer to recoup or mitigate any financial loss if they are unable to use the ticket;
 - (c) full refunds to be issued to any consumer whose ticket is voided;
 - (d) putting in place arrangements that help to ensure that those people who have bought resold tickets, and have not been fully and clearly informed about these restrictions, will not lose out.
7. We plan to listen to any views that interested stakeholders have about these proposed steps in the coming weeks before finalising this position – developing it further, if necessary.
8. It is, however, important to note that once finalised, this statement:
 - will be 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; and
 - will only indicate how the CMA might prioritise further enforcement work. Other enforcers or private individuals might also choose to challenge the use of a resale restriction under unfair terms law.

¹ In deciding how it prioritise its enforcement work, the CMA has regard to certain principles. It assesses the impact of practices on consumers and the strategic significance of an issue. We balance this against the risks and resources involved in enforcing. See our [prioritisation principles](#).