



Department
for Culture
Media & Sport

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RFU submission

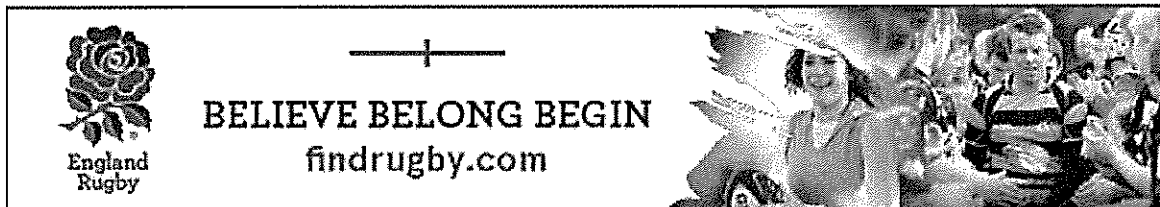
1 message

20 November 2015 at 16:05

To: "ticketing@culture.gov.uk" <ticketing@culture.gov.uk>
Cc: "i

Please find attached the RFU's submission to the Secondary Ticketing Review.

Kind regards,



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RFU and England Rugby 2015 Limited Response to Review of Secondary Ticketing

Who we are

The Rugby Football Union (RFU) is the governing body of rugby union in England. The RFU is a not for profit organisation and every penny made or saved is reinvested in rugby. Our core purpose is to grow rugby through our values and performance. The RFU is responsible for governing the game at all levels. Twickenham Stadium hosts many international and domestic rugby and non-rugby events each year. The capacity of the stadium is 82,000, and would typically be sold out for international matches including the RBS 6 Nations and Autumn Internationals. Ticket prices start from £41 for an England international against a top tier nation, with tickets for other matches at lower prices.

In 2009 the RFU was awarded the right to host the Rugby World Cup 2015 tournament. The RFU established a wholly-owned subsidiary, England Rugby 2015 Limited (England Rugby 2015), to organise and stage the tournament on the RFU's behalf. England Rugby 2015 was responsible for the ticketing policy for the tournament and was the exclusive distributor of tickets. The Rugby World Cup 2015, held at 12 venues across England and in Cardiff was the most successful Rugby World Cup to date with more than 2.47 million tickets sold across the 48 matches. Face value ticket prices started at £7 for children and £15 for adults to ensure the tournament was inclusive and accessible for a broad base of fans. England Rugby 2015 ran a very successful official resale platform to enable fans to resell their tickets at face value to other fans safely and securely.

Executive Summary

- The RFU and England Rugby 2015 recognise that a properly regulated secondary market which genuinely works in the interests of consumers can have value.
- Boosting participation in sport can generate a variety of social-economic benefits (source: Economic Value of Sport report published by Sport England, 2013). Ticket distribution and pricing models are set by the RFU and England Rugby 2015 in such a way to raise participation and support the long term sustainability of the sport.
- The resale of tickets above face value on the secondary market works against this because fans on lower incomes can be priced out of attending elite sporting events as a result. Ticket 'profiteering' exacerbates the challenge of raising levels of participation in sport amongst lower socio-economic groups.

- The opportunity to resell tickets for sporting events at a profit attracts criminality. The link between ticket touting and organised crime has been proven and the Police believe there is an overlap between ticket touting and ticket fraud (source: Ticket Crime report published by the Metropolitan Police, February 2013). Statutory intervention is needed to protect consumers when purchasing tickets on both the primary and secondary markets and to disrupt criminal activity.
- Compliance by the secondary market with the Consumer Rights Act is unacceptably low, making it difficult to judge the benefits of the new measures for consumers. The review should consider why many operators of secondary market facilities do not consider they are subject to the Act. Government should clarify the territorial scope of the legislation and enforcement agencies should be given stronger sanctions if they need them.
- The Rugby World Cup 2015 tournament was projected to boost UK GDP by up to £982,000,000 and attract between 422,00-466,000 international visitors to the country (source: 'The economic impact of Rugby World Cup 2015' published by Ernst & Young LLP, 2014). The agreement awarding the RFU the right to host the tournament included an obligation on the RFU to lobby Government for anti-scalping legislation to be introduced and we believe other event owners look favourably on jurisdictions which have such legislation in place. Better regulation of the secondary market would assist the UK in winning bids to host future international sporting events. Missing the opportunity to host such events would not be in the public interest.

1. The Role and Operation of the Secondary Ticketing Market

Role of the Secondary Market

The RFU and England Rugby 2015 recognise that the secondary market can play a useful role in connecting those who wish to dispose of tickets to those who wish to buy them. We know that plans can change for fans and a desire to attend a match may increase or decline for a whole range of reasons. This is where the secondary ticketing market can fulfil a useful function. However, the market must be transparent, tickets must be acquired legitimately, and fair and reasonable terms and conditions set by event owners must be respected.

Our experience matches research by consumer organisations which suggests the secondary market is significantly larger than the numbers of fans wanting to dispose of tickets they purchased and cannot use. Media reports state that the market for reselling tickets is £1 billion a year. However, a Dispatches programme broadcast in 2012 claimed that only a third of sales on the sites came from legitimate fans trying to re-sell tickets they cannot use.

We urge the Review panel to consider the size and scale of the secondary market, and test the assertion made by secondary ticketing websites that they are merely facilitating fan to fan exchanges. Investigations by Channel 4 Dispatches and the consumer group Which? suggest this not to be the case.

Speculative Sales

For the Rugby World Cup we saw tickets advertised on secondary platforms months before the ballot for tickets had opened – speculative sales are clearly not sales by fans who have bought tickets with the intention of use and are subsequently unable to attend.

Analysis by England Rugby 2015 on 12 June 2013 showed that 26 tickets were advertised for sale on Viagogo for the Rugby World Cup Final at prices ranging from £2,935.37 to £4,254.54 per ticket (the face value of tickets for that match ranged from £150 to £715 per ticket). However England Rugby 2015 had not sold any tickets for the Rugby World Cup at that point in time.

Analysis by England Rugby 2015 in the spring of 2014 showed that the number of tickets advertised for sale on Viagogo for certain Rugby World Cup matches exceeded the number of tickets that had been sold by England Rugby 2015 at that point in time for those matches. For example, on 23 April 2014 132 tickets were advertised for sale on Viagogo for the Ireland v Romania match due to be held at Wembley Stadium on 27 September 2015 at prices ranging from £120 to £600 per ticket (the face value of which ranged from £50 to £175 per ticket) whereas England Rugby 2015 had only sold 8 tickets for that match by that date.

The review should consider whether existing legislation should be strengthened to protect consumers from speculative selling.

Ticket Resale in the Interests of Consumers

As noted above, the RFU and England Rugby welcome the flexibility of a secondary market operating in the interests of consumers. The RFU's ticket terms and conditions allow for the transfer of tickets at face value and provide legitimate avenues for buyers to resell tickets.

The RFU has put significant resource into protecting fans and taking reasonable steps to ensure unwanted tickets can be resold back to genuine fans at a fair price. Steps taken include:

- 1) Guaranteeing refunds for high demand England International matches up to 1 hr before kick off
- 2) Raising awareness - making customers aware of fair terms and conditions which state that tickets cannot be resold above face value.
- 3) Providing legitimate resale avenues - allowing clubs to sell at profit to approved partners so investment goes back in to rugby.
- 4) Monitoring the secondary ticketing market and taking action where made aware of fraudulent or misselling activity.

England Rugby 2015 provided ticket purchasers with a safe, secure and transparent facility to resell unwanted tickets to other fans at face value and on a commission-free basis using England Rugby 2015's official website. Over 100,000 tickets were resold using this official resale platform. England Rugby 2015's terms and conditions of sale provided that tickets were otherwise non-transferable and non-refundable. 67% of those surveyed who resold tickets using the official resale platform told us that they did so, rather than use unauthorised channels, because they wanted to ensure their tickets were sold to other genuine fans (survey size 994).

Consumers vs Traders

Much comment has been made over what constitutes a "genuine fan" or consumer. We would class it as an individual who buys a ticket with the intention of attending the event. Those who purchase tickets with the intention of trading the ticket on the resale market should be considered a trader, and comply with consumer law relating to traders.

During the passage of the Consumer Rights Bill, their Lordships debated at length the definition of a consumer and trader in relation to existing legislation covering the resale of tickets. The Review panel should consider whether an individual selling numerous tickets at many times face value, perhaps even before the event organiser has released tickets, is a consumer or a trader. The lack of transparency and lack of

compliance may be allowing traders to operate under a cloak of anonymity so they do not need to comply with existing regulations covering trader to consumer sales and UK tax law.

Links to criminality and fraud

The opportunity to resell tickets for sporting events at a profit attracts criminality. The Metropolitan Police believe there is an overlay between ticket touting and ticket fraud (source: Ticket Crime report published by the Metropolitan Police, February 2013). Online ticket fraud is reported to cost £1.5 billion with 2.3 million people being victims of this crime each year, although prosecutions for ticket related crime are extremely low. The Metropolitan Police undertook detailed work through Operation Podium to prevent ticket crime around The London 2012 Olympic and Paralympic Games. The Met consider that “ticket fraud is significantly under reported” and that “the lack of legislation in this area enables fraud and places the public at risk of economic crime” (source: Ticket Crime report published by the Metropolitan Police, February 2013). The Review panel should carefully consider the Operation Podium evidence and meet with The Met experts from London 2012.

England Rugby 2015 worked with the City of London Police and the National Fraud Intelligence Bureau to identify potentially fraudulent secondary ticketing websites targeting fans wanting tickets for the Rugby World Cup. The Police suspended eight websites which were purporting to offer Rugby World Cup tickets for sale however many more potentially fraudulent websites were based overseas and outside the immediate jurisdiction of the UK authorities.

The Consumer Rights Act placed a new duty on secondary ticketing websites to report suspected criminal activity to relevant authorities and event organisers. The Review should enquire whether any such reports have been made since the Act was passed. England Rugby 2015 did not receive a single report from secondary ticketing websites relating to Rugby World Cup tickets, although ticket fraud cases were identified by the City of London Police and the National Fraud Intelligence Bureau.

2. Ticketing policies of sports events

The RFU ticketing policy is designed to complement various initiatives to grow participation in rugby union and to sustain the grassroots of our sport by ensuring that those who contribute to the game, whether that be a coach at a community rugby club or a volunteer who supports the running of the game, are able to watch the pinnacle of English rugby. For major international matches involving England, over 50% of the tickets are offered to member clubs, constituent bodies and referees societies to buy. A proportion are also issued to those who have the right of application including schools, local residents and partners who invest at all levels of the game. The remainder are made available for public sale.

This is strongly in the interests of sustaining the grassroots of our sport. Ministers have long supported the idea that major sports events inspire participants and that access to elite sport should be for as wide an audience as possible. The Minister for Sport said recently that “major events will help to drive performance of UK athletes at an elite level, whilst creating additional opportunities at a grassroots level for people to engage with sport, inspiring them to get involved either as participants, coaches or volunteers” (Beyond Sport Summit, October 2015).

The RFU does not use a dynamic pricing model because we believe it would be detrimental to the long term interests of the sport. The RFU does not set prices to maximise profit, although of course it is important to raise revenue to invest back into the sport. There may be other overriding considerations – the need to bring in young people, to price affordably for families, to recognise volunteers at the grassroots, to ensure stadia have great atmospheres, which mean prices will not be set at the level that they might be in an open market. The motive of maintaining ticket prices at these levels to promote the sport was recently described by Lord Kerr in the Supreme Court as “entirely worthy”. (Source: Supreme Court judgment in RFU v Consolidated Information Systems Limited 21 November 2012, paragraph 45). In a recent speech on sport the Business Secretary said that “someone who puts business before sport knows the price of everything and the value of nothing” (Source: Sport and Business: a winning combination, 18 November 2015). We agree.

Similar considerations were made by the tournament organiser of the 2015 Rugby World Cup. Tickets for the tournament were priced so as to encourage attendance by as wide an audience as possible, thereby helping to raise levels of participation in rugby union. This was achieved by ticket prices for some matches being as low as £7 for a child and £15 for an adult with more than 500,000 tickets priced at £50 or less and more than one million tickets priced at £100 or less.

Government encouraged the implementation of an affordable ticket pricing strategy for the tournament. As part of the Government’s undertaking to underwrite part of the costs of staging the tournament, England Rugby 2015 was required to implement a ticketing strategy which “encourages attendance at certain matches by those on medium and low incomes”.

Over 2.47 million tickets were sold for the tournament. Approximately 14% of tickets were sold directly to members of rugby clubs in recognition of their support and contribution to the game, 2% were sold to RFU debenture holders, 3% were sold to official sponsors of the tournament, 3% were sold to rugby unions and other constituent groups, 10% were sold as part of official travel and hospitality packages and 69% were sold direct to the public.

As noted above, England Rugby 2015 provided ticket purchasers with a safe, secure and transparent facility to resell unwanted tickets to other fans at face value. Over

100,000 tickets were resold using this official resale platform. 67% of those surveyed who resold tickets using the official resale platform told us that they did so, rather than use unauthorised channels, because they wanted to ensure their tickets were sold to other genuine fans (survey size 994)

Both the RFU and England Rugby 2015's experience is that the public supports a ticketing strategy which prioritises genuine fans and those who support grassroots rugby rather than those who apply for tickets with the intention of reselling them for a profit. It would appear that the Government supports the intention for tickets to be sold at an inclusive rate rather than market rate based on the wording in the DCMS-England 2015 agreement. The RFU and England Rugby 2015 do not currently believe a dynamic pricing model is in the interests of fans. However, if the Government would like to see these type of pricing strategies employed with ticket prices for premium nationally significant matches rising significantly, this should be made clear.

The RFU and England Rugby 2015 would urge Ministers to consider whether specific legislation covering resale of tickets for major international and national sports events should be introduced. The Government introduced legislation covering unauthorised resale of tickets for the London 2012 Olympic and Paralympic Games, the Glasgow 2014 Commonwealth Games and football matches. A comprehensive piece of legislation would ensure consumers are better protected and recognise the specificity of sport.

3. The Consumer Rights Act

The inclusion of transparency measures related to the resale of tickets in the Consumer Rights Act 2015 was an important step forward. The new provisions are clear for sellers, and empower buyers by assisting them to make an informed choice. They oblige secondary ticketing platforms to report suspected criminal activity, and empower event organisers to help protect their fans. They also recognise the primacy of an event organiser's ticket terms and conditions, providing of course that they are fair and reasonable.

The ticketing provisions have only been in force for six months and we recognise that the changes will take some time to bed in. We recognise the need to complete this Review within a year of the Act, but it is too early comprehensively to judge the benefits of the new law on consumers. An unusually short notice period of five weeks was given for this Review submission and further evidence from sports and arts events needs to be collected before a proper analysis of the Act's impact on the secondary market can be made. The RFU and England Rugby 2015 therefore encourage the Review panel to avoid rushing to conclusions given that the provisions only came into force in May.

The RFU and England Rugby 2015 have been monitoring the secondary platforms in relation to the RBS 6 Nations 2016 and the Rugby World Cup 2015 respectively. The lack of information provided by sellers means that it has been difficult for us as event organisers to track the resale market and protect rugby fans as effectively as we would like to. Without ticket information, we cannot raise cases of potential fraud, misselling or breaches of our fair terms and conditions with the relevant authorities.

The scale of breaches of the transparency measures in the Act sets a worrying precedent in consumer law. We urge the Review panel to assess levels of compliance and consider why it is so low.

Rugby World Cup

Rugby World Cup 2015 is a test case for the Act as it is one of a small number of very large ticketed events that has occurred since the Act came into force in May 2015.

England Rugby 2015 found compliance with The Consumer Rights Act 2015 to be inconsistent. Two of the largest secondary ticketing platforms who have been selling Rugby World Cup tickets have not helped their customers to comply with the legislation, and in the case of one platform their systems actively prevented compliance.

No listings of Rugby World Cup tickets found by England 2015 on Viagogo disclosed block, row and seat location details, in contravention of the legislation. Only half of listings of Rugby World Cup tickets on Stubhub were compliant. Viagogo's data capture pages for listing a ticket for sale include fields for seat number, row and block, however all three of these were 'greyed out' automatically if an individual listed a Rugby World Cup ticket for sale. An individual listing a Rugby World Cup ticket on Viagogo was therefore simply unable to provide any seat location details. England Rugby 2015 drew this to the attention of the Competition and Markets Authority and National Trading Standards. England 2015 also wrote to Viagogo directly in August 2015, but did not receive a response.

Use of Botnets

The use of botnets to sweep up large numbers of premium high demand tickets faster than a real customer can when they are released on public sale is a concern for event organisers. Their use undermines event organisers' attempts to distribute tickets evenly or to recognise those who contribute most to the sport. Research by Which? indicated that these illegal computer systems are likely to be responsible for some suspicious selling patterns on resale websites.

England Rugby 2015's ticketing system was targeted by more than 100 bots which we believe had been written specifically to target the Rugby World Cup. At times this resulted in the system working at full capacity but with very few sales able to be

processed – the bots overloaded the capacity of the system as they waited to Hoover up the most in-demand tickets.

The sophistication of bots continues to evolve rapidly meaning that event organisers face an uphill battle to protect their systems from renewed attack. It is not clear the extent to which the use of bots is covered by existing legislation. We believe that their use should be considered a Section 2 Fraud offence as loss or harm has occurred if genuine potential purchasers have been prevented from getting tickets.

The technological challenges of identifying the source of bots reinforce the importance of the transparency measures in Chapter 5 of the Consumer Rights Act. Improved transparency at the point that tickets are offered for resale on the secondary market will help event organisers identify suspicious buying patterns and allow the authorities to take action against those who initially acquired the tickets illegitimately.

Sanctions in the Act

The Act clearly states that “the seller and each operator of the facility must ensure the buyer is given the information” (block, row and seat number; face value price; usage restrictions). The sanction for non-compliance is a £5,000 fine, although it is unclear from the Act whether this is per listing or per ticket.

£5,000 is an inadequate deterrent, when high demand events may have tickets being sold for tens of thousands of pounds per ticket. The fine for selling tickets contrary to Section 31 of the London Olympic Games and Paralympic Games Act 2006 was originally £5,000 but was increased to £20,000 following a recommendation from the Police. The RFU would like to see the penalty for non-compliance with the measures in Chapter 5 to be increased to the same level per ticket.

Territoriality of the Act

Some of the secondary ticketing platforms the RFU and England Rugby 2015 have contacted have stated they do not need to comply with the Consumer Rights Act because they are not based in the UK. Stubhub told England Rugby 2015 it does not need to comply with the Act because it is based in Luxembourg.

There is some confusion about the territorial scope of the measures in Chapter 5 of the Act. The Review panel should ask HMG to clarify the territorial scope of these measures.

4. Actions to Protect Consumers

The RFU and England Rugby 2015 want fans to have a positive experience and have used the new powers in the Act responsibly. Concerns raised by the secondary market during the passage of the Bill that event organisers would use the

transparency measures effectively to ban the secondary market by widespread ticket cancellation or blacklisting of sellers have not come to fruition.

Where England Rugby 2015 was able to identify individuals offering tickets for sale in breach of the ticket terms and conditions, the individuals were asked to remove their tickets from sale and directed to official resale platform. Over 1,400 individuals were contacted and in the vast majority of cases agreed to remove their tickets from sale. In no cases did England Rugby 2015 cancel tickets unless there was reason to suspect the tickets had been acquired illegitimately (such as through the use of Botnet or use of a false identity).

It should be noted that in legal terms a ticket is a “licence” to enter an event, not a good or commodity which can be traded. Tickets are issued clearly stating they remain the property of the event organiser at all times. The terms and conditions also place restrictions on those who have paid for the licence to enter. The secondary ticketing websites have indicated in the past that they do not consider some ticket terms and conditions to be fair. Until such time as an official body makes this judgment, they are valid and should be adhered to.

Summary of Recommendations:

The Review panel should:

1. Consider the size and purpose of the secondary market and test the assertion that the majority of sales are consumer to consumer.
2. Meet with the Operation Podium team and consider The Met’s “Ticket Crime” report published in February 2013.
3. Consider whether there is underreporting of ticket crime.
4. Not rush to any conclusions on the Consumer Rights Act considering that the ticketing provisions have only been in force for six months, and take further evidence from future events.
5. Monitor compliance by secondary ticketing platforms and sellers and investigate why compliance is low.
6. Call on the Enforcement agencies to take a more proactive role in enforcing the Consumer Rights Act provisions and ask questions on further powers or sanctions required.

HMG should:

1. Be clear about whether it wants sports event owners to price events inclusively or at market rate by for example using a dynamic pricing model.
2. Re-examine the case for specific legislation for sports events on ticket resale.
3. Clarify the territorial scope of Chapter 5 of the Consumer Rights Act.
4. Criminalise the use of ticket bots.