



Department
for Culture
Media & Sport

ticketing mailbox <ticketing@culture.gov.uk>

Submission to the Review of Consumer Protection Measures relating to Online Secondary Ticketing Platforms.

1 message

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

20 November 2015 at 16:45

Dear Sir/Madam,

Please find attached (as word document as a pdf) - also pasted in beneath - a submission to the Review of Consumer Protection Measures relating to Online Secondary Ticketing Platforms.

Kind regards,

www.livemusicexchange.org

Submission to the Review of Consumer Protection Measures relating to Online Secondary Ticketing Platforms:

– on behalf of Live Music Exchange – a Knowledge Exchange and research network run from the Universities of Newcastle, Edinburgh, Glasgow and East Anglia.

This submission contains observations pertaining to the Review of Consumer Protection Measures relating to Online Secondary Ticketing Platforms.

Whilst not amongst the stakeholders (other than as consumers) listed on the call for evidence we nevertheless have expert knowledge via extensive research into the live music sector including monitoring of the secondary market - in particular the history of attempts to regulate it – and the cultural as well economic aspects of live music.

To this end I would like to make a few points pertinent to the call for evidence. Some observations are summarized below.

1) Changes in the market have been considerable since early discussion of ticket reselling. The 2015 Consumer Rights Act provides far weaker regulatory control than initial proposals over the past two decades, over which time ‘touting’ has grown, not shrunk, in scope and scale.

The scope of this inquiry pertains to existing legislation. Nevertheless, it warrants mention that this legislation is the result of many years worth of *attempts* to regulate the secondary market, each proposal successively weaker during which time the secondary market has grown considerably and become normalized as a part of the live music industry (and marketplace) despite often adding little economic or cultural value.

Early calls were for an effective ban on reselling, with Office of Fair Trading ultimately noting that although 75% complaints submitted to it had come about the secondary market (OTF 2005: 3) fraudulent transactions were covered by existing law and that resellers served a function in a growing market.

The cross-party parliamentary Culture, Media and Sport Committee launched in 2007 reached baulked at a ban, although noted that “more work needs to be done” (Culture, Media and Sport Committee 2008: 38) even if legislation was only to be considered a last resort.

However, the market moves faster than legislators. The Ticketmaster/Live Nation merger in 2010 came after Ticketmaster’s purchase of GetMeIn but before The Sale of Tickets (Sporting and Cultural Events) Bill 2010-12 was talked out on its second reading in January in 2011 and fell there.

This proposed a 10% cap on the mark-up on the resale of tickets.

The transparency requirements included in the Consumer Rights Act 2015 is then a significant diminution of regulatory strength from initial calls, through a statutory cap on mark-up to the current situation. In this time, the convergence within the live sector, and in particular convergence between primary and secondary sellers has been marked.

We would argue, then, that current provisions should stand as a bare *minimum*.

2) The mark-ups on tickets by the major resellers far exceed those that ordinary ticketholders wishing to resell would deploy. Research carried out by the Association of Independent Festivals, for example, found that only 0.9% of audience members surveyed admitted to reselling for a profit, with strong negative sentiments expressed to qualitative questions about buying or concert or festival tickets for the purpose of reselling at a profit. (Webster 2014: 11)

3) Our research into the *cultural* value of live music suggests that the benefit of live music does not map easily onto easily quantifiable instrumental criteria (still less purely economic criteria).

It also showed points of similarity and comparison across genres and types of venue in terms of how audiences valued the music, despite obviously different outward behaviours at different types of event, like a rock show or chamber orchestra. (Behr et al 2014)

Given this, it is arguable that there is considerable cultural value in those events most susceptible to the secondary market (high demand popular music events). It has proved possible in the past to legislate regarding tickets for sporting events on safety grounds (football) or political/economic requirements (the Olympics).

In broadcasting, there are also certain 'crown jewel' events where free to air provision is protected. There is, then, a precedent for ascriptions of 'cultural value' to be applied to certain events to protect provision and access across the financial spectrum as a bulwark against pure market forces (i.e. high demand).

4) We continue to work in this area. In ongoing research on this topic, anecdotal evidence from artists and music industry personnel, given off the record, abounds regarding tickets going direct to the secondary market without the opportunity for fans to purchase at face value first.

In sum:

The growth and reach of the secondary market has historically outpaced attempts to regulate it. 'Touting' (resale) has become 'normalised' as an activity although it is at odds with the cultural value of the events and potentially distorting the market.

The markups of professional re-sellers far exceed those of ordinary fans attempting to sell their tickets due to inability to attend.

There is precedent for regulating the ticketing of live event ticket resale on other grounds. This 'normalisation', then, need not be taken as a given. It should be noted that the Consumer Rights Act 2015 is, comparably, not very stringent in terms of its requirements. We would argue that it should be seen as a baseline, not a contentious imposition.

We continue to work in this area and will be happy to correspond.

(Newcastle University, Live Music Exchange), on behalf of
Live Music Exchange

- (Newcastle University)
- (University of Edinburgh)
- (University of Glasgow)
- (University of Edinburgh)
- University of East Anglia)

- Behr, A. , Brennan M., and Cloonan, M. (2014), 'Cultural value and cultural policy: some evidence from the world of live music', *International Journal of Cultural Policy*, Available at:
<http://dx.doi.org/10.1080/10286632.2014.987668>
- Culture, Media and Sport Committee (2008), *Ticket Touting: Second Report of Session 2007-08*. London: The Stationery Office
- Office of Fair Trading (2005), *Ticket Agents in the UK*, London: Office of Fair Trading
- Webster, E. (2014) *Association of Independent Festivals Six-Year Report 2014*, AIF/Live Music Exchange, Available at:
<http://livemusicexchange.org/resources/association-of-independent-festivals-six-year-report-2014-emma-webster/>

