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Media & Sport

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Fwd: Fw: Your Parliamentary Review of UK Secondary Ticketing Market - A Research Paper That Will Be of Interest

1 message

26 October 2015 at 08:44

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



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From: **Waterson, Mike** <

Date: 25 October 2015 at 08:58

Subject: Fw: Your Parliamentary Review of UK Secondary Ticketing Market - A Research Paper That Will Be of Interest

From: V

Sent: 24 October 2015 05:17

To: V

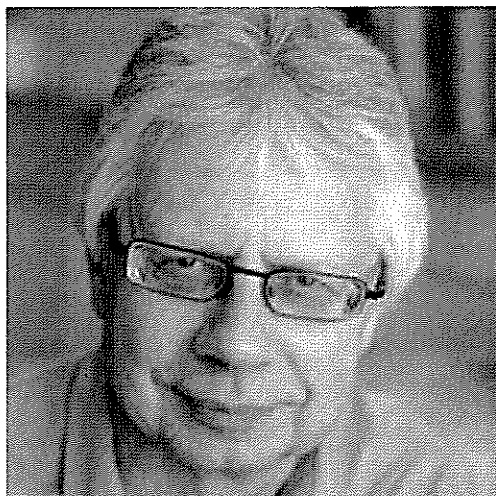
Subject: Your Parliamentary Review of UK Secondary Ticketing Market - A Research Paper That Will Be of Interest

Dear Prof. Waterson;

Congratulations on your appointment to Chair the Parliamentary Review of the UK Secondary Ticketing Market. We recently learned from posted media that you will be helping British legislators to evaluate the effectiveness of recent amendments to the Consumer Rights Bill passed in March, 2015. We wish you all the best in what we know will be a complex debate.

<http://www.musicweek.com/news/read/chairman-of-review-into-secondary-ticketing->

market-announced/063120



Chairman announced for review into secondary ticketing

...

The Government has announced economist Professor Michael Waterson as chairman of the upcoming review of the secondary ticketing market. Prof Waterson ...

[Read more...](#)

<http://www.bbc.com/news/entertainment-arts-34594712>

<http://www.westernmorningnews.co.uk/Ticket-touting-sites-fail-customers-watchdog/story-28020554-detail/story.html>

We would like to share with you a white paper we've produced on the state of the global secondary ticketing market (see attached), and would very much like the chance to discuss the particulars with you over the phone. We have been tracking the growth of a \$1 billion fraudulent ticketing industry that victimizes an estimated 5 million consumers each year. Unlicensed (but highly sophisticated) international brokers are leveraging "bot software" and market arbitrage to their fullest advantage, and are regularly transacting "cross-border" e-commerce that's extremely difficult to track and police. Even more damaging to consumers is the fact that less scrupulous agents will "short" their positions for major events, often without providing meaningful guarantees for their clients, and fail to fulfill orders (e.g. Super Bowl, Olympics, FIFA). While sometimes receiving their deposits back, consumers suffer the irreparable harm associated with non-refunded ancillary expenses like travel and hotel accommodations. In short, event tickets are being treated as instruments of speculation - like corporate stocks - but with the added risk-element of being a "perishable good" with a fixed expiration date-time stamp. Yet no secondary market jurisdiction in the United Kingdom, North America, Europe, or Australasia has considered applying the same level of transparent rigour and regulation typically found in "registered" global equity markets.

We believe we can help change the situation. But we'd very much like to hear your opinion. What's been missing is a universally applicable and highly adaptable enforcement technology. We are a technology provider based in Vancouver, Canada... FTS|authenTICKET. We have pioneered an independent, third-party ticket authentication platform for the live event industry that will enable legislators world-wide to endorse completely registered, centralized and transparent secondary marketplaces for the benefit of consumers and commercial interests alike. We can work with any major ticket provider - Ticketmaster, Tickets.com, Eventim, Spectra Tix, Eventbrite, etc. We have been in discussions with lobbyists and event properties in jurisdictions throughout North America to discuss how we can help to draft better laws. Our platform has been piloted in Manitoba, Canada. And we have the attention of properties in New York, New Jersey, Massachusetts, Illinois, Ontario, Arizona and California to name a few. We

believe we represent a new, more credible approach to a safe, transparent, rational, and consumer-friendly ticketing industry.

Our model and platform also has the support of Professor's Stephen Happel and Marianne Jennings who serve as North America's experts on secondary marketplaces. A long-standing "free market" economist, Prof. Happel along with Marianne Jennings have come to recognize the need to provide a universal standard for secondary market transactions and have acknowledged that our authentication platform can make the difference for government, event properties, authorized resellers, and consumers.

We would very much appreciate the opportunity to discuss with you our findings in more detail, and learn how we might be able to assist you in your own efforts vis a vis the current review of the United Kingdom's revised Consumer Rights Bill.

Sincerely,

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4 attachments





SECONDARY TICKET MARKET – Knowing the Real Damage

Who's At Risk of Irreparable Harm? And Who Propagates Those Risks?

TICKETMASTER vs. STUBHUB – A POLARIZED DEBATE

On March 29, 2015, StubHub launched a lawsuit against Ticketmaster claiming the primary ticketing provider has engaged in monopolistic, anti-competitive practices by attempting to exclude other secondary ticket exchange providers from participating in a highly lucrative secondary market for 2014/2015 Golden State Warrior tickets. Once again, we see two of the leading brands in event ticketing embroiled in a “polarized debate” over fair practices, with law courts and legislatures trying to determine what is best for the most important party in question – **the Consumer**.

RESTRICTIVE TECHNOLOGIES vs. UNREGULATED FREE MARKETS

Ticketmaster (North America) historically argues for a more regulated environment using restrictive “paperless” technology that hinders ticket mobility, but guarantees ticket authenticity and consumer safety. StubHub and commercial resellers, on the other hand, favor a largely unregulated, open marketplace that allows for consumer freedoms and ticket mobility, but at the expense of consumer safety.

GLOBAL IMPLICATIONS. A MINIMUM \$1 BILLION COUNTERFEIT TRADE. BATTLE OF THE BOTS

And let's be clear. This debate has worldwide implications given that both companies (and many others) are servicing a \$25 billion industry (Primary/Secondary) across the globe. Legislatures in the United States, Canada, the United Kingdom and Australia (as examples) regularly struggle to find the best means to regulate this rapidly growing market. And, more importantly, to determine how best to combat and eliminate what has now become a \$1 billion + counterfeit ticketing industry, effecting upwards of 5 million consumers a year, often perpetrated through intra-jurisdictional fraudulent trade that no single legislature is able to correct on its own.¹ Law enforcement agencies, including Homeland Security, have identified that some of this fraudulent activity is being perpetrated by organized crime groups associated with the trafficking of drugs and firearms.² We are also seeing a steady increase in the use of automated “Bot” purchasing software outlawed in multiple jurisdictions worldwide to illegally secure inventory ahead of the general public for the purposes of controlling supply, manipulating price on the secondary market, and thereby victimizing consumers. These “Bot” acquired tickets require a “clearing house.” And often those clearing houses are the very same secondary market platforms that StubHub (in its lawsuit) purports to represent.

TICKETING IS BROKEN

There is not a single legislature in any state, province, or country that has yet to find a market model or legislative framework that achieves a winning balance between **CONSUMER PROTECTION, CONSUMER FREEDOMS, and COMMERCIAL INTERESTS**. The fact that Ticketmaster and StubHub repeatedly face one another, and the fact that legislatures worldwide “re-open the books” time and again to find a better solution, are very clear and strong indicators of the following:

- 1) The Ticketing Industry is Broken
- 2) Criminal Activity is Increasing in Scale & Scope
- 3) Consumers Regularly Suffer Harm

The growing need for effective consumer protection, in particular, is reaching a critical juncture regardless of whether you refer to an event ticket as a revocable “license” or transferable “property.” The legal definition of

¹ <http://www.kgw.com/story/local/2015/04/24/12629124/>
<http://www.telegraph.co.uk/news/politics/11428131/Fans-who-re-sell-tickets-online-face-criminal-sanctions.html>
<https://www.mainstreet.com/article/counterfeit-tickets-could-ruin-your-summer-fun>

² <http://www.newsday.com/news/nation/fake-nfl-super-bowl-merchandise-in-record-seizure-1.7048624>

the instrument in question is irrelevant. The tradable currency, whether license or property, is subject to an ever increasing degree of manipulation, misrepresentation, and fraud that regularly exploits consumers.

THE INDUSTRY NEEDS A MAJOR FIX. AND NOW!

WHO ARE THE PARTIES – The Ones Who Are Harmed? And Those Who Propagate the Risks?

Let's consider this from a legislative perspective. To formulate a better law and market model for the secondary ticketing industry, it's essential to understand more clearly all parties with a vested interest, and even more importantly, those parties at most risk of harm. There are nine essential parties (or "players") directly affected by secondary market laws. And then there is the need to consider what is ultimately the safest, most transparent approach for "public interests," and the "public good." Let's take a closer look at each party, their basic interests, and their position in the context of a largely unregulated market model:

Individual Consumer (As a Buyer) – The individual consumer's needs, as a buyer, are very simple and straightforward. Consumers want open, transparent access to the largest variety of *authentic* tickets at the lowest possible price. Period. And they want a GUARANTEED EXPERIENCE. Not a "Money Back Guarantee." Many professional resellers and secondary marketplace platforms (e.g. StubHub) will argue that a "Money Back Guarantee" (MBG) protects the consumer. IT DOES NOT! It does not protect against the irreparable harm associated with incidental costs incurred by a consumer when a ticket proves inadmissible at the Gate. It does not guarantee consumers will secure comparable product in an inflating market where ticket prices are on the rise, product dissipates on the secondary, or most especially when cash refunds are issued only after the event. It does not protect consumers when events are cancelled after tickets were purchased *above* face value from an unregistered, otherwise unreachable scalper on the secondary market, leaving consumers with entitlement to at best a *face value* refund from the original ticket issuer. It does not protect consumers against unscrupulous resellers who hide behind MBG's to "short" their position with major events, only to fail in providing the desired product for the consumer. These are situations where consumers are often unaware a reseller is "shorting" his/her position, and are required to place their only discretionary deposit with that one broker, only to come out empty-handed, having traveled great distances (e.g. Super Bowl 2015).³ The fact that the National Association of Ticket Brokers (NATB) encourages its members to provide a 200% MBG for failed transactions is a tacit admission that the cost to a consumer for a failed ticket transaction goes well beyond the face value of that transaction.⁴ However, this suggested 200% MBG policy is an arbitrary figure, and is neither mandatory nor enforceable. (See "Money Back Guarantees – Why They Fail the Consumer in the Secondary" for a complete analysis of the failure of MBG provisions to protect the consumer.) Now let's add to these challenges the estimated 5 million "reported" victims swindled out of at least \$1 billion a year through out-and-out fraudulent ticketing activity because secondary ticket transactions are not centralized, registered, or properly regulated. Consumers are at risk of significant damage, and have very little REAL protection, for as long as we perpetuate a fractured, unregulated, non-centralized, and less than transparent secondary marketplace. Consumers (as buyers) actually have the most to gain through a combination of market decriminalization and transparent centralization.

Individual Consumer (As a Seller) – Now let's look at the consumer as an individual seller; because there are some very important and fundamental differences between the needs and interests of the "individual seller" and the bias of "commercial brokers/resellers/scalpers." Individual seller motivations are fairly simple, and always acceptable for entertainment properties. Individual consumers (e.g. single ticket buyers or recreational season ticket holders) generally want to sell their tickets for one of three reasons: 1) they have a conflict and can no longer attend an event; 2) they want to sell a portion of their package to underwrite the remainder of their package over the course of a season; or 3) they want to turn a modest profit when the market allows, but by no means would they see themselves as participating in a full-time, commercial endeavor on the secondary market. None of these actions are considered a threat for entertainment properties. On the contrary, allowing the free-flow of ticket inventory at fair market value is the most likely way for entertainment properties to "fill-the-house," which is generally of greater importance to the long-term integrity of an extended bottom-line (e.g. broadcast revenues, sponsorship revenues, incremental per cap), than the gross ticketing revenues of an individual event. ("Our whole team fears the day we can't say we're sold out." - Russ Stanley, Vice President Ticket Services, SF Giants at Sports Business Journal's 2015 Ticketing Symposium, June 10, 2015). And a direct, centralized, fan-to-fan marketplace (without intermediary brokers) truly does represent the ideal manifestation

³ http://espn.go.com/nfl/playoffs/2014/story/_/id/12255886/hundreds-super-bowl-tickets-fall-through

⁴ <http://www.natb.org/code-of-ethics-1>

of an open market economy for the consumer, driven by the well-trusted, transparent dynamics of supply-and-demand.

Individual sellers are best served by a single, non-fractured, centralized marketplace because their greatest priority is to sell unwanted product quickly and easily. This is most easily accomplished when all buyers and all sellers are gathered in one single location. An increased supply will lower fair market value for the consumer as a buyer. An increased, centralized audience will reduce turnaround time and simplify the sales effort for the seller. And to be clear, speed and convenience almost always outweigh the desire for excessive profits amongst individual, legitimate “fans” as a consumer-sellers. Because it is important to remember that all event tickets have a fixed expiry date, after which their value plummets to zero. Consequently, sellers are best served when they are provided all possible means to sell inventory in the simplest fashion, at a single location, given that unsuccessful sellers are left with a total loss. Building a centralized marketplace, while knowing every party in the venue, provides maximum possible speed, efficiency, and sales opportunity for sellers who are left with unwanted inventory. It also facilitates new, never-before-seen ways for entertainment properties to help individual sellers move their tickets. Bringing all sellers and buyers together into one location (“closing the loop”) means, for example, that entertainment properties can directly message availability of secondary tickets to all adjacent seat holders. This direct notification is critical given that adjacent seat holders are one of the first and most likely audiences to buy available seats on the secondary market. A fractured marketplace, on the other hand, precludes this type of directed service from every happening. Right now, individual sellers are left with a time-intensive exercise of having to post multiple listings for the same tickets across a range of seller sites and social media forums in order to even attempt broad product exposure and improve probability of a sale. But these repeat listings across a now fractured marketplace mislead buyers as to the actual state of supply, and also require buyers to comparison-shop unnecessarily and without true net benefit. At the same time, multiple listings are an inconvenience for consumer-sellers to administer. And they can lead to the unintended double-sale of tickets - a definite inconvenience for both the individual seller and buyer(s). This represents the antithesis of an efficient, transparent, convenient marketplace that provides the highest probability of sale for any seller, be they individuals or commercial brokers.

Commercial Brokers/Resellers/Scalpers (as unauthorized free agents) – Unregulated commercial resellers operating in a fractured, less-than-transparent marketplace, on the other hand, introduce a far greater element of risk and harm to the consumer. And let’s be clear. There are some well-managed, and very reputable, commercial resale operations running worldwide. Some of these operations even serve as official, authorized resellers within the sport and entertainment industry. But it is the mandate of government and their legislative bodies to legalize and regulate an industry environment that ensures ALL commercial resellers are delivering to a legislated standard of service and safety that protects consumers, the public good, and is truly enforceable. The reality is that a wide range of these resellers who operate worldwide, and between regional, national and international jurisdictions, can and have employed questionable business practices that harm consumers, and have gone unchecked. The latest example would be the “shorting” situation with Super Bowl 2015. Hundreds of fans were left suffering irreparable harm, even with the promise of MBGs for tickets that failed to materialize, because they incurred additional costs for travel, accommodation, meals and other incidentals that would not be reimbursed when brokers “sold” tickets they did not possess, and were ultimately unable to acquire. Consumers from multiple states, Canada, and Australia were among the victims in question.⁵ The Attorney General of Washington State alone collected a total of 133 complaints, representing \$820,000 in claims, against roughly 36 scalpers, across six states. This same Attorney General is now pursuing a lawsuit against SB Tickets (Melville, NY) – one of the named resellers that actually guaranteed ticket delivery in writing, and is now answerable to over \$200,000 in claims.⁶ This one example demonstrates the little-understood complexity of the re-sale market for high-demand event tickets. The lawsuit is originating on behalf of multiple victims in one state (Washington), regarding event tickets for a Super Bowl hosted in another state (Arizona), against a reseller operating out of a third state (New York), and in a situation where additional resellers from Washington, Texas, Illinois, California, Pennsylvania, and Missouri were also at fault for similar damages to consumers.

⁵ <http://globalnews.ca/video/1810481/couple-blames-ticket-broker-for-huge-super-bowl-disappointment>
<http://www.thechronicle.com.au/news/super-bowl-nightmare-devastates-toowoomba-man/2530157/>
http://www.clintonherald.com/cnhi_network/one-tough-ticket-super-bowl-xlix-seats-will-cost-fans/article_25fb0038-6256-5353-9d4b-30022c680f8c.html

⁶ <http://www.seattletimes.com/sports/seahawks/super-bowl-ticket-claims-by-washington-residents-reach-820000/>

But this example illustrates only part of the complexity of the national broker community in the United States. In many cases, it's even more convoluted, causing further cases of confusion and damages to the consumer. TicketNetwork is another player in the mix - a company that is said to provide a software solution and listing services for local and regional ticket brokers. Brokers throughout North America use Ticket Network to list their ticket inventory across multiple websites simultaneously for a license and/or sales fees, including Seat Geek, StubHub, and Ticket Liquidator. (Ticket Liquidator is actually owned by the founder of Ticket Network, and that founder has hosted other resale sites including: BuyBetterTickets, CheapPricedTickets, and LowBudgetTickets.) When a consumer purchases a ticket from Seat Geek, they often have no sense of the true source of tickets being purchased until after a credit card has been charged, and a receipt issued for the sale. As just one example during Super Bowl 2015, a consumer purchased \$9,400 in tickets from Seat Geek, only to receive a receipt published by Ticket Network referencing that tickets originated from a Bellevue, WA, broker - NW Ticket Pros. The consumer was eventually informed by NW Ticket Pros that the tickets would not be fulfilled (due to mismanagement of "shorted" positions) and was granted a full refund. Not being satisfied, the consumer approached Ticket Network for replacements. Because a refund had been offered by NW Ticket Pros, Ticket Network refused to source comparable replacements, but offered a 10% discount on a purchase of any remaining inventory. However, "fair market valuation" for the most affordable tickets available at that time had now increased to \$12,000. In short, while the consumer had been provided a "Money Back Guarantee," this in no way enabled that individual to source comparable product at a comparable price for the event. Ticket Network found itself in numerous "shorted" situations during the Super Bowl and has been named in at least 10 of the 130+ complaints compiled by Washington States Attorney General's office. Ticket Network, in turn, has sued one of the brokers within its network - DEM Ticketing (Pittsburgh) - for "shorted" sales where refunds were not provided. DEM Ticketing did not fulfill orders for at least 21 customers and is responsible for the second largest monetary amount (\$120,000) of Super Bowl related claims cited in Washington State.⁷ And while Ticket Network and certain networked brokers were willing to offer between 125%-135% refunds (a further admission of consumer costs beyond the cancelled transaction), many consumers felt these refunds were not adequate compensation given other incidental expenses they incurred. In short, consumers lack all sense of transparency around the origin of their tickets when dealing with this sort of broker community, they receive no real product guarantees, they risk irreparable harm when incidental costs are not refunded for failed transactions, and because of the veiled, convoluted nature of the brokerage network, consumers have no real way of "choosing" preferred brokers. This last point is especially key after a consumer may have been poorly served by a commercial reseller. They have no real knowledge, transparency, or choice when comparing providers.

"Bots" are another grave problem for consumers within the commercial secondary resale market. Automated purchasing software enables less scrupulous commercial resellers to acquire tickets in advance of the general public (and illegally so where "Bot" software is expressly outlawed by local or regional law), so as to control supply, manipulate pricing, and unfairly gauge consumers on the secondary market. Ticketmaster estimates that as much as 60% of the most desirable tickets for high-demand events are typically captured by unauthorized parties using "Bot" software. Josh LaBelle of the Seattle Theatre Group (a tickets.com client) estimates 35%-40% of tickets for "Hot Shows" in his venues are purchased by "Bots."⁸ These are just examples. But it is clear the challenges are significant, regardless of state, venue, or primary ticket service provider. And without enforcement technologies, there is no way to prevent many of these resellers (who operate anonymously) from illegally acquiring tickets only to sell them through either independent on-line retail sites, or through large-scale secondary marketplace platforms such as StubHub.

Commercial advocates of open, unregulated marketplace models also claim that the reason tickets are often listed on marketplaces like StubHub and Viagogo without a specific seat location is so that the individual seller (the lowly, poor, well-meaning "fan") can't be identified by the content owner and penalized for their actions. This is a highly misleading statement. First off, most content providers do not have the physical means to track every single independent reseller website and secondary marketplace platform to even determine where their ticket inventory is being sold through "unauthorized" secondary channels. For large-scale events, it's almost humanly impossible and would represent a significant cost in resources to monitor, manage, and police. Secondly, and as mentioned before, most content providers recognize the importance of allowing legitimate fans to circulate tickets (fan-to-fan direct) when the need requires. The reason why many commercial resellers, on the other hand, choose not to list exact seat locations on popular marketplace platforms is because they are

⁷ <http://www.seattletimes.com/sports/seahawks/ticketnetwork-just-shrugged-when-its-brokers-renege/>

⁸ <http://www.kentreporter.com/news/299125201.html>

“fishing” across multiple websites to widen their target audience, increase probability of sale, and test pricing thresholds. (See discussion about Ticket Network above.) A reseller will have a row of four, six or ten tickets, and list the row and quantity without specifying exact seat locations. Alternatively, local scalpers who work with part of a larger network of regional brokers will also employ this tactic to “rep” product that they can access, don’t yet possess, but know they can secure from their regional supplier once a transaction has been completed. Both tactics enable resellers to “fish” without committing to a sale, or risking cash on inventory. Once again, this commercial practice introduces another form of harm at the expense of the consumer because it misleads the consumer about the true state of market supply, and fair market value.

Unregulated commercial operators worldwide regularly host retail websites that are copycat internet portals for all manner of events, branded in a way that makes them look like the authentic primary ticketing provider, but are in fact something very different. They can’t guarantee authenticity. And they often list ticket product at inflated price points.⁹ (And some of these websites are more than likely populated with tickets sourced using “Bot” software.) Consequently, consumers think they are still purchasing tickets during the initial On-Sale of a special event from the primary ticket provider, venue, artist or sport team, when they are not. These consumers are regularly duped into paying far more than face value for tickets that are still available on the Primary market, or that are no longer available because they were sourced illegally through the application of “Bot” software.

In short, commercial resellers often use arguments around individual consumer freedoms as a means to defend their own business interests, and to deflect inquiry away from the industry’s questionable (and sometimes illegal) reseller practices. In this way, the unregulated, non-centralized, non-transparent commercial resale market actually propagates risk to the consumer. It certainly does not work towards protecting consumers against irreparable harm, or promoting the public good.

Authorized Resellers (and their Package Partners) – It is clear that unauthorized, unregistered commercial resellers (working as free agents) are in a position to introduce significant risk and harm to the consumer in the secondary marketplace. Having said that, there are certainly many instances where event properties trust and rely on the professional services of reputable, authorized resellers to help reach and service their customers. In some instances, consumers (as fans) may simply call upon an officially designated, local concierge agency to help source tickets when their own time is limited. More complex scenarios will see an event property engage any combination of regional, national or global hospitality agents to help package, promote and deliver complete event programs that include travel, transfers, accommodations, dinners, special access, and tickets to the main event. The Super Bowl, NCAA Final Four, PGA Tour, US Open, Olympics, America’s Cup, Rugby World Cup, Cricket World Cup and FIFA World Cup are only a few examples where multiple authorized resellers (working with travel partners and hospitality agents) are regularly contracted to deliver these specialized services. However, it is paramount that consumers are provided complete assurances that they are transacting with authorized resellers who deal solely in authentic product, and who deliver to a customer service standard that is reflective of the event property’s brand. These vendor contracts designate a reseller’s “official” status, and are essential for the safe, credible, well-serviced delivery of all-inclusive hospitality packages to the consumer. In reality, unregulated commercial operators across the globe routinely contravene these legal contracts. Not only is the contravention of these commercial contracts a civil infraction, but consumers are often misled into purchasing inferior (and sometimes fraudulent) ticket packages from unauthorized resellers who present themselves as having “official supplier” status. Others offer the promise of tickets as part of a larger all-inclusive package, only to renege at the last minute when “shorted” tickets do not manifest. The situation outlined with Super Bowl 2015 is only one example of what can and does occur with many of the world’s premiere events, including the Olympics and FIFA World Cup. And often in these instances, consumers incur significant expense and travel great distance only to be left empty-handed in a hotel lobby a few days or even hours before the marquee event in question. Enforcing “official” reseller status through a centralized and transparent marketplace where all ticket transactions are registered and verified as authentic is one of the best means to guarantee consumer safety, and protect legitimate reseller contracts.

Secondary Marketplace Platforms – Secondary marketplace platforms like StubHub and Viagogo do an excellent job at facilitating fan-to-fan ticket sales, it’s true. Some of these operations even serve as official, authorized secondary marketplace platforms for sport, music, and cultural properties within the entertainment

⁹ http://billingsgazette.com/news/local/scammers-scalpers-target-eagles-concert-ticket-buyers/article_fb4da43c-5be1-53fe-a38a-38c385ce0892.html

[http://www.scamnet.wa.gov.au/scamnet/Types Of Scams-Buying selling and online sales scams-Event Ticketing Scams.htm](http://www.scamnet.wa.gov.au/scamnet/Types%20Of%20Scams-Buying_selling_and_online_sales_scams-Event%20Ticketing%20Scams.htm)

industry. But it is the mandate of government and their legislative bodies to legalize and regulate an industry environment that ensures ALL platforms are delivering to a legislated standard of service and safety that protects consumers, the public good, and is truly enforceable. At the moment, the current unregulated, non-centralized market model does not accomplish the task.

Secondary marketplace platforms like StubHub and Viagogo share the same bias and vested interests as the unauthorized commercial resellers. This is true, in part, because many of the aforementioned commercial resellers use these widely known secondary marketplace platforms as their retail interface. A platform like StubHub enables a commercial reseller to reach and serve a wide audience at no marketing cost, and with little administrative effort. So a company like StubHub is best served by encouraging commercial resellers to use their site both to increase the supply of tickets traded on its platform, and to find ways to increase the individual valuation of every re-sale transaction conducted on its site. Secondary marketplace platforms make their revenue by charging a percentage of the gross value of a resale transaction. So if the quantity of transactions increases on its site, as well as the average transaction valuation, then companies like StubHub and Viagogo secure greater profits.

This means that allowing commercial resellers to “fish” with phantom tickets, or to list highly inflated, high-demand tickets secured using “Bot” software, both work to StubHub’s advantage. And they both cause harm to the consumer. StubHub has also been known to arbitrarily overlook its own customer service policies to the advantage of sellers, and at the expense of consumers (as buyers). One example in March, 2014, involved the cancellation and reversal of completed ticket transactions by ticket resellers during a 24-hour window when Derek Jeter’s retirement was announced and tickets for his final home game at Yankee Stadium in New York saw a sudden and rapid price inflation.¹⁰ Resellers were penalized for the cancellation, and StubHub made all efforts to replace cancelled tickets for its customers at the expense of those same resellers. But, ultimately, the resellers/brokers operating on the StubHub platform were allowed certain unacceptable freedoms of action at the expense of the consumer. And of equal concern was the fact that StubHub saw direct financial benefit in allowing these arbitrary cancellations to occur since they would have collected higher percentage-based commissions off the new, inflated re-list prices. Both StubHub and resellers came out on top at the expense of the consumer, and of a fair, transparent, consistently enforced service policy. Who policed that situation?

Another troubling activity that regularly occurs on secondary marketplace platforms like StubHub is the listing of high-demand tickets for major events before either the “Pre-Sale” or “On-Sale” has even been issued by the primary ticketing provider. The most recent example is with the 2015 Rolling Stones ZIP CODE tour.¹¹ Heinz Field (Pittsburgh) will serve as host venue for the act on Saturday, June 20th, 2015. The Ticketmaster “Pre-Sale” is scheduled for April 8, 2015. And yet 928 seats were listed by April 2nd, 2015, on StubHub’s site. (That number further increased to 1,038 by April 7th.) In almost all instances, no exact seat locations were provided for these 928 listings - only a row, section, quantity, and assurance that seats are “guaranteed together.” And all tickets are to be delivered by UPS, meaning no lists have access to a digital / PDF ticket for instant distribution. There are only two real scenarios for why these listings could occur: 1) resellers are simply “shorting” positions in the hopes that they will secure inventory after the fact; or 2) resellers are operating with certainty/near certainty that they will secure tickets through “bot” operations and/or through tickets sourced from the “inside.” The probability of “internal sourcing” is low, though acquisition through misappropriated channels has happened in the past. More than likely, however, these Rolling Stone tickets are either being “shorted,” and/or they’re being acquired by “bots.” In either instance, consumers could be subject to irreparable harm (see Super Bowl 2015), or they could be gouged by illicit operators who are circumventing general public sales using “bots,” unfairly acquiring premium product, and charging inflated prices on the secondary market. Either way, it’s important to note how this serves as another scenario where commercial resellers/“non-fan” resellers are purposely listing tickets without a seat location in order to conduct questionable business transactions that may prove harmful to consumers.

Also of significant concern as it relates to “policing” of secondary marketplace platforms is the fact that companies like StubHub effectively facilitate the daily contravention of the law in those local market jurisdictions where ticket scalping above face-value is outlawed. It circumvents this issue by arguing that the actual transactions in question occur on servers located outside the offended jurisdiction. But the company essentially

¹⁰ <http://www.si.com/si-wire/2014/03/05/stubhub-brokers-yankees-derek-jeter-tickets>

¹¹ <http://pittsburgh.cbslocal.com/2015/04/01/bbb-offers-advice-to-fans-hoping-to-buy-tickets-to-the-rolling-stones-concert/>

positions itself as the champion of free market principles. And so many individuals freely transact ticket sales on StubHub's platform in markets ranging from Manitoba to Massachusetts where resale above face-value is illegal. But the fact that StubHub disagrees with the legal position of said jurisdictions, is beside the point. And the fact that its servers reside in markets where ticket scalping is lawful is only a technological loophole. The reality is that StubHub regularly contravenes the "spirit" of what was intended. If effective enforcement technologies existed, those same legal jurisdictions would be well within their rights to properly enact their laws.

Ultimately, as with earlier observations about "Money Back Guarantees," secondary marketplace platforms like StubHub attempt to promote certain "guarantees." But there are continuous recorded episodes that suggest MBGs fall short of proper consumer protection, that finding comparable product is not always possible with high-demand events, that consumers still suffer some degree of irreparable harm, and that what consumers really want is a **GUARANTEED EXPERIENCE**. No company other than the Primary Ticket Provider and the content owner can deliver this guarantee. In fact, there are occasions where secondary marketplace platforms themselves suffer damages as the result of unscrupulous resale activity on their own websites. Again, citing the Super Bowl 2015 as one example, StubHub was reported to have purchased \$2.3 million in Super Bowl ticket assets from another official reseller – PrimeSport – in order to "make good" on transactions that had gone bad on its own website.¹² (A spokesperson for StubHub was later quoted in saying it was closer to \$5 million.¹³) This is not a viable business or customer service model in the long-run, most especially in those situations where StubHub is allowing the resale of tickets for high demand events where back-up supply of comparable, make-good product may not be obtainable, even through another secondary provider. As with all business, these costs and risks will eventually (and unnecessarily) be reflected in broker fees and will be borne by the consumer over the long run.

Yet StubHub regularly promotes the importance of a free and open marketplaces for the consumer; that it's important consumers be given the "choice" to sell their tickets on the open market. This campaign message around the importance of consumer "choice" is very deceptive and highly misleading. StubHub infers that by wanting "choice," the consumer wants multiple marketplaces, secondary platforms, and posting forums in which commercial resellers (some licensed; some not; some in-market; some overseas) operate. In reality, this is not what consumers really want, nor is it to their best interests. Consumers (as buyers and individual sellers) will be much more adamant to operate in a single, central, transparent marketplace where the benefits of vertical integration are made fully clear. What StubHub helps to perpetuate by advocating the current model are highly fractured, unregulated, inefficient marketplaces that allow commercial resellers and secondary marketplace platforms to conduct a wide range of ticketing activity that introduce unnecessary risk for and irreparable damages to the consumer. But consumers would be far better served by freely transacting purchases and sales on **a single, centralized, transparent, and registered marketplace**. They would be able to buy and sell tickets at any time, any price, to anyone, for any reason, with near perfect market information. Those are the real "choices" that are important to the consumer. But knowing there is just a single, central, "one-stop-shop" website where all parties have a complete and transparent understanding of total active supply, historic pricing, fair market valuations, and with the guarantee that every ticket is registered and valid – that is a vastly improved, consumer-friendly model that no single stakeholder has put forward.

Primary Ticket Service Providers (and their Secondary Platforms) - Primary ticket service providers are the only party in a position to provide consumers with 100% product guarantees while providing a fully serviceable, centralized, and transparent primary-secondary marketplace. Clearly they would see significant upside if they could lock-down their ticket circulation and customer eco-system. But for reasons mentioned above, so would the consumer. However, both the general public and conscientious legislatures will always have a very difficult time accepting that a primary ticketing provider will manage its primary-secondary platform in a fair and transparent manner without introducing independent, third-party authentication. (The lawsuit against Ticketmaster during the Bruce Springsteen Tour of 2009 where consumers were unknowingly redirected from Ticketmaster's Primary ticketing website to more expensive listings on its secondary site, TicketsNow, is a case in point.¹⁴) Third-party authentication allows for all the security and efficiencies of a centralized marketplace, while

¹² http://espn.go.com/nfl/story/_/id/12437041/first-class-action-lawsuit-filed-super-bowl-xlix-ticket-shortage

¹³ <http://www.seattletimes.com/seattle-news/ticket-resellers-prices-soaring/>

¹⁴ http://www.nj.com/news/index.ssf/2011/10/bruce_springsteen_fans_settle.html
http://www.nationalpost.com/Ticketmaster+faces+500M+suit+over+scalping+claims/1270355/story.html#_federated=1

also ensuring a degree of accountability on the part of the primary-secondary service provider(s) attached to a given entertainment property -- be it Live Nation, Ticketmaster, and their clients; AEG and AXS; or MLB, Tickets.com, and StubHub. Moreover, by ensuring total primary-secondary market supply is listed in one single location, as is currently the design goal of Ticketmaster's TM+ platform, every consumer will know the real state of current supply and fair market pricing at any given time. In short, all legitimate, authorized vertical partnerships would be best served if a third-party authentication platform could guarantee a secure eco-system on a centralized marketplace like TM+. And all consumers would be equally assured of the best possible mix of protections, freedoms, and convenience.

Entertainment Properties – The interests of the entertainment properties themselves are aligned with those of their official primary ticket service providers and authorized secondary platforms / resale agents. Opponents suggest that entertainment properties try to control supply and fix prices. But these are old arguments that do not reflect the changing practices of most progressive content providers in today's market. Entertainment properties recognize the importance of an active secondary market, and many are now experimenting with variable and dynamic pricing principles to better target fair market valuations from the outset. As mentioned, entertainment properties are far more driven to "fill-the-house," than to fix price, because a "full-house" is generally of greater importance to the integrity of an extended bottom-line (e.g. broadcast revenues, sponsorship revenues, incremental per cap), than the gross ticketing revenues of a single event or game. Protecting their eco-system, however, ensures that entertainment properties are able to capture and re-invest all potential profits attributable to the risks and financial burdens they bear to produce live event content in the first place. And this is especially important when demand for tickets sees a sizeable upswing, because it enables entertainment properties to capture essential, life-supporting profits when "times are good" in preparation for the inevitable downturn when clearing prices on an active and open secondary marketplace start to drop. Again, consumers are best served when content providers are able to capture critical secondary market commissions and customer data, because it leads to a more sustainable model of re-investment in product upgrades, and a far better, more personalized fan experience. Other benefits to market centralization, vertical integration, and ticket registration include the fact that artists will be given more effective means to eliminate the influence of "bots," and can even implement "ceilings/caps" for their fans as a way to maintain affordability. Ticketed charity events can guarantee all secondary market commissions are collected for their cause, and not misappropriated for the financial gain of unauthorized third parties. Naysayers will argue that centralization allows sport teams to introduce restrictive pricing "floors" on the secondary. But this is a misplaced argument. It will never be the team that sets true floors. Instead, it will be the marketplace. Fans will simply refuse to invest in costly season ticket packages if they do not have the means to mitigate their risks, and the ability to sell at any price. Sport teams cannot afford to alienate season ticket holders and lose what remains one of their most sizeable revenue streams. (And, regardless, legislatures would eventually be called upon to prohibit a property's restrictive pricing policies where it impeded consumer freedoms.) Meanwhile, Government authorities in regions like the United Kingdom are also especially concerned that both private sector profits, and corresponding tax revenues sourced from the sale of secondary event tickets, remain in-market so that those funds can be used to support the on-going growth of art, culture, music, sport and various philanthropic initiatives; so that they are not lost to out-of-market and/or non-taxable commercial enterprises that ultimately have the far more short-sighted goal of achieving profits, often banked out-of-market, without the pressures to refresh and revise cultural product and landmark venues.¹⁵ Only an authenticated, centralized marketplace can accomplish these "public good" objectives.

Criminal Elements – A simple enough argument: The longer the secondary market remains unregulated, non-centralized, and without proper enforcement technologies, the more difficult it becomes to thwart a growing billion dollar counterfeit industry that victimizes over 5 million consumers a year, whether specific acts are perpetrated by a widely networked organized crime group, or a less sophisticated individual. Because the secondary marketplace is an unregulated free-for-all, these criminal elements can quickly and cheaply set up web portals in far flung international communities in an effort to sell fraudulent product for a profit, abscond with cash deposits and disappear, or steal credit card numbers and digital identities. The risk to consumers in this regard is abundantly clear, represents sizeable stakes, and is only growing larger without proper market enforcement technologies.

¹⁵ <http://www.conservativehome.com/platform/2015/03/mike-weatherley-mp-two-cheers-for-new-law-on-touting.html>

Government/Public Domain – Government and taxpayers also suffer significant cost-damages so long as there is a failure to technologically enforce the law. In those legislative jurisdictions where scalping is outlawed, unauthorized resale activity will simply be driven underground, or will be perpetuated through the use of on-line marketplace platforms hosted out-of-market. But even in those jurisdictions where ticket scalping is decriminalized, much of the secondary market activity is still unregistered and/or conducted on portals residing out-of-market. This means that local, regional and federal governments are unable to collect applicable corporate business tax revenues or the retail tax revenues for commercial transactions that involve consumer services delivered in-market, and often at government funded, government-managed public venues.¹⁶ Some law-makers are also struggling with the fact that unregulated, free-market scalping (often conducted out-of-market) can drive ticket prices to a point where it's cost-prohibitive for average tax-payers to attend events in venues in their own market they have publicly funded.¹⁷ Moreover, many jobs relating to the delivery of an otherwise local, centralized, secondary marketplace can shift out-of-state if legislation is not introduced to protect and cultivate local economic activity. Policing efforts and legal proceedings to combat counterfeit trade and penalize fraudulent activity represent additional costs to the state and taxpayer. And by failing to empower venue operators to ensure every ticket transaction is registered and transparent, we hinder our ability to improve public safety and venue security. In an era where mass-gatherings are the potential target for large-scale, violent acts against society, it is now a stated priority of Secretary of Homeland Security – Jeh Johnson – to look at any and all additional means to deter would-be terrorists from targeting large public gatherings such as those found at a highly popular music or sporting event.¹⁸ A centralized secondary marketplace with registered ticket transactions would be a big step in the right direction.

DAMAGES, COSTS & “IRREPARABLE HARM” – To the Consumer and State

In short, there are significant consequences to both the individual consumer and the state while secondary ticket market laws remain in flux, and while legal jurisdictions allow for the decriminalization of ticket scalping without considering market centralization, ticket registration, ticket authentication, and fair market enforcement technologies.

CLARIFYING THE CONFUSION – Freedoms and Protection / Tickets vs. Marketplace

Government, advocacy groups, and consumers are struggling with a fundamental challenge in perception. Consumers and content providers both recognize the value in providing for consumer freedoms AND protection. There has been a collective failure, however, to effectively separate laws around the use and re-sale of a “Property”/“License” from those laws applicable to regulating or centralizing a transparent “Marketplace” in which tickets are transacted.

Consumer Freedoms = Rules Governing Tickets (Pricing/Mobility/Transferability) = Decriminalization
Consumer Protection = Rules Governing Marketplace (Transparency/Efficiency/Safety) = Regulation

THE IDEAL BALANCE

Public interests will be best served when a law is introduced that successfully strikes the winning balance between CONSUMER PROTECTION, CONSUMER FREEDOM, and COMMERCIAL INTERESTS. But what does that look like? How can it be accomplished? And most importantly, how can it be enforced?

INDEPENDENT, THIRD-PARTY AUTHENTICATION

(The Only Way to Balance Consumer, Commercial & Public Interests)

CREATING A TRANSPARENT MARKETPLACE THROUGH THIRD-PARTY TICKET AUTHENTICATION

Verification of registered tickets via an agnostic, third-party authentication platform is the best means by which event properties can create a fully enforceable, centralized, primary-secondary marketplace that ensures all tickets remain safely “on-the-grid;” that all transactions are authenticated by a single ticketing platform shared by a set of “authorized,” “legitimate” and/or “credible” sellers/resellers. It guarantees the following consumer, commercial, and public benefits:

¹⁶ <http://www.forbes.com/sites/robertwood/2014/07/25/who-scalps-ticket-scalpers-irs/>

¹⁷ <http://www.timesunion.com/tuplus-local/article/Should-Albany-County-taxpayers-be-shielded-from-6234905.php>

¹⁸ <http://www.macleans.ca/politics/washington/the-interview-u-s-secretary-of-homeland-security-jeh-johnson/>

CONSUMER BENEFITS

1. Creates a far safer, transparent, liquid, & efficient secondary marketplace. More tickets at true market values. Choice of any ticket format/delivery method. All registered tickets guaranteed to be authentic.
2. Creates a more reliable, convenient selling experience. Total purchasing audience in one location. Provides ease and speed to market at full exposure. Gives consumers every opportunity to sell tickets in one, single location before value plummets to zero after "Gates Open." Avoids unwanted, costly gifting.
3. Reduces if not entirely eliminates the effective use of "Bots" by unauthorized brokerage operations (often out-of-state) to unlawfully secure high volumes of prime tickets.
4. Eliminates the "irreparable harm" that consumers bear when "money-back guarantees" do not cover travel, hotel accommodations, incidental expenses, or the lost lifetime experience.
5. Facilitates a single, centralized, integrated marketplace in which all ticket transactions are made fully transparent so that consumers have the freedom to buy-and-sell tickets (fan-to-fan direct) at fair market rates, and with complete market knowledge.
6. Introduces controls to regulate the circulation of ticket inventories when restrictions around unsanctioned resale activity may be appropriate (e.g. when tickets originally sold for a mass relief fund-raiser are scalped without benefit to the charity in question);
7. Ensures fans exhaust all Primary ticket options before paying inflated prices for high-demand events on the secondary market.
8. Allows for much better direct, personalized servicing of customers – pre-event / during event / post-event. Example? Instant alerts when adjacent tickets are on-sale. Fan recognition and reward programs. Direct in-venue / social media engagement.
9. Immediately and drastically reduces what is now up to \$1 billion+ in fraudulent ticketing activity worldwide. By organized crime. It represents real consumer insurance.
10. Is a natural condition of admission given the 21st century climate for terrorism. We do it for planes. Hotels. Office towers. Why not arenas?

PROPERTY / VENUE OPERATOR BENEFITS

1. Recaptures an essential secondary market revenue source that can be re-invested to build a better product, a better fan experience, while helping to slow the pace of primary price-hikes.
2. Recaptures critical consumer data essential for delivering more effective customer communications and a better overall customer-centric service and fulfillment model.
3. Increases season ticket holder retention (sports, arts) through the introduction of a greatly improved and more convenient seller experience. Facilitates a far better means for legitimate "fans" to unload unusable inventory, thereby eliminating unwanted gifting and outright unredeemed ticket waste.

GOVERNMENT / LEGISLATIVE BENEFITS

1. Delivers a means to protect consumers through an independent authentication process that can be applied across all primary-secondary ticketing platforms, providers, and properties while allowing for total mobility and open pricing of a ticket within a centralized marketplace.
2. Recaptures retail/corporate tax dollars that are otherwise not collected due to unreported or out-of-market resale transactions.
3. Protects local market jobs.
4. Prevents out-of-market on-line brokerage platforms from circumventing local ticket scalping laws and/or contractual regulations through transactional and technological loopholes. Out-of-market platforms currently cause legal infractions with the knowledge that local event properties and judicial authorities do not have the financial means or political will to pursue legal recourse.

The well-known effectiveness of our stock markets has proven over a 100-year period that free markets work best when transparent, centralized and regulated. What's prevented legislatures from striking this sort of balance in the past? The technology to effectively, evenly, and universally enforce the model.

THAT CHANGES TODAY!



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