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20<sup>th</sup> November 2015

Dear

I am pleased to enclose on behalf of Ticketmaster UK, our submission of evidence to the Review of Consumer Protection Measures in the Ticket Resale Market.

If you have any immediate questions or if we can offer any further assistance, please do not hesitate to contact me or my colleague or our

We hope that it will be possible to discuss our submission in greater detail in person with Professor Michael Waterson, and his advisory team at some stage in the near future.

Yours sincerely

Chairman - Ticketmaster UK

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# **REVIEW OF CONSUMER PROTECTION MEASURES RELATING TO ONLINE SECONDARY TICKET PLATFORMS**

## **TICKETMASTER UK – EVIDENCE AND INFORMATION**

**20 November 2015**

**Confidential**

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## 1 Executive Summary

As a market leader in e-commerce and ticketing, Ticketmaster UK has a unique level of understanding and insight into the consumer and business dynamics, within both the primary and secondary ticketing sectors. As such we recognise that:

Consumer behaviour has changed and evolved very significantly:

- changes in technology allow consumers to buy tickets anywhere and at any time
- experiences in other retail sectors drive the expectation of constant availability and the right to sell goods at will, and at a price of the consumer's own choosing.
- the secondary ticketing sector is understood by consumers, but is not viewed as fundamentally different from primary.
- consumer purchasing is motivated by a blend of issues including value-for-money, choice, flexibility and consumer protection.

Ticket resale remains an emotive subject:

- opposition to it is driven by ideological or commercial interests.
- perception of the nature and scale of the secondary market by some in the events industry and political domain is very different to the market reality.
- myths are often perpetuated by opponents to resale.

The Consumer Rights Act 2015 ("CRA") was introduced on the premise of fundamentally flawed and exaggerated estimates of online ticket fraud in the UK live events sector:

- according to the latest police statistics, actual online ticket fraud within the UK live events ticketing sector is about 0.002% of the amount suggested during the CRA Parliamentary debates earlier this year.
- the major and reputable UK-based ticket resale marketplaces already offer high levels of consumer protection, minimal levels of fraud and a good customer experience.

New provisions within the Consumer Right Act, namely the obligation for all sellers to include ticket details, have proved to be ineffective and unenforceable:

- there are many legitimate reasons why all ticket seat details cannot be provided.
- consumers' fear of unfair cancellation and blacklisting by event organisers is acting as a material disincentive for sellers to include all details.
- it has created risk of more tickets being resold through offshore ticket marketplaces, with increased levels of consumer fraud.

Bots pose an increasing threat to the operators of UK ticketing websites:

- the threat is not unique to ticketing.
- there is an urgent need for updated and extended regulation.
- the wider ticketing industry must be more proactive on bot prevention.

New technologies offer event organisers the opportunity to adopt market-based solutions to improve ticket distribution, fan access to tickets, consumer choice and flexibility, and offer safe ticket resale marketplaces:

- ticket validation and access control solutions reduce the risk of forged or fraudulent tickets.
- market-based dynamic price solutions exist, offering fans the opportunity to pay market price (higher or lower than traditional face value) through primary sites and for event organisers to capture incremental revenue.
- event organisers and artists have the ability to ensure tickets get into the hands of their fans.

## 2 Introduction

Ticketmaster is part of Live Nation Entertainment, the world's leading live entertainment company, operating in concert promotion, venue and artist management and ticketing:

- Live Nation Concerts is engaged globally with over 60m music fans, promoting over 23k events per annum for over 2.7k international artists, operating in 33 markets.
- Artist Nation is the world's leading artist management company, including over 60 managers, more than 280 artists, who are engaged with over 750m fans through social media.
- Ticketmaster is the world's leading ticketing company, operating in over 20 international markets, engaged with over 450m customers and selling over 400m tickets.
- Operating within these multiple sectors on a global scale, we believe that Live Nation Entertainment, and more specifically Ticketmaster, together have a unique level of insight, experience and understanding of the live events industry, including ticketing and resale.
- Ticketmaster UK has been at the forefront of developing and providing business-to-consumer ('B2C') and business-to-business ('B2B') solutions to thousands of clients and millions of consumers, across all sectors of the live event ticketing industry, including concerts, sport, theatre and arts, family events and international tournaments:
  - 1981 Ticketmaster launched in UK and has since established itself as a market leader in live event ticketing and marketing, a key contributor within the successful UK live events industry.
  - 1998 launched our website Ticketmaster.co.uk, which now regularly ranks as one of the top 20 most popular e-commerce sites in the UK.
  - 2008 acquired GETMEIN!, a direct response to the profound changes witnessed within the ticketing industry, changes driven by emerging new technologies and shifting trends in consumer behaviour.
  - 2012 official ticketing partner for London 2012 Olympic and Paralympic Games (also Glasgow Commonwealth Games 2014 and the Rugby World Cup 2015).
  - 2015 acquired Seatwave, to extend our successful primary and secondary ticketing strategy to other international markets.

Ticketmaster has developed a unique level of understanding and insight into the consumer and business dynamics within both the primary and secondary ticketing sectors. Ticketmaster welcomes the opportunity to contribute to this Market Review and our intention is to:

1. outline our perspective on current attitudes to resale and to offer insight into some of the myths which we believe are used to fuel opposition to the resale sector.
2. outline our fundamental concerns relating to some of the provisions relating to the ticketing sector within the recent Consumer Rights Act; offer our insight on actual levels and types of ticket fraud in the UK ticketing sector and highlight our concerns relating to assumptions around levels of online ticket fraud which were a key rationale for the need to introduce these new provisions.

3. explain the real threat posed by bots; the need for updated and extended regulation to protect UK consumers and businesses and highlight the fundamental need for other UK ticketing business to take more action to protect consumers ability to access tickets.
4. highlight how the adoption of new digital products and technologies offers event organisers the ability to improve the distribution model for the allocation of tickets to their events and to address many of the concerns expressed around the issue of ticket resale through the adoption of market-based solutions.
5. Ticketmaster will require the opportunity to review and redact any commercially sensitive information contained within this submission prior to issue to any third parties or publication.

### 3 Ticketmaster's view of UK resale and debunking a few myths

Digital is now the preferred retail channel for consumers buying tickets and they expect to be able to buy a ticket to see their favourite artist, when they want, at a market price which they are willing to pay. The highly motivated fan is not concerned whether they buy the ticket from a primary or secondary channel.

Today's consumers regularly participate within global digital merchandise marketplaces. They do not discriminate between whether a ticket resale marketplace is based in the UK or overseas, or whether it is a primary or secondary ticketing site. They are most often aware of the differences, but their primary purpose is the acquisition of the ticket.

Ultimately, fans will do what the fans will do, when it comes to obtaining a ticket. As such, the best solution for the public interest is to provide fair access through effective ticket distribution models and safe environments within which consumers can resell and buy resold tickets, if they so choose.

New e-commerce and ticketing technologies have now provided the ability for event organisers and ticketing organisations to sell out high-demand major stadia and arena events in minutes.

Thousands of tickets can be sold every minute, as the ticketing industry experiences some of the biggest peaks in global e-commerce retail activity whenever a major event goes on sale. It should be noted that some closed user group pre-sales, e.g. previous bookers, fan clubs or sponsors' priority groups, can involve hundreds of thousands of consumers, resulting in high numbers of tickets being sold before they go on general sale to the wider general public.

GETMEIN! and Seatwave's policy is that tickets should only ever be listed for resale after tickets have become available, be that through a pre-sale or a general onsale. This is to ensure that tickets cannot be listed speculatively.

We estimate the actual percentage of tickets being resold as a proportion of total tickets sold for all events to be in the range of 1% to 3%.

Even for those highly popular events, where demand for tickets far exceeds availability, we estimate that ticket resale will account for a single figure percentage of the total tickets sold at face-value through the wider primary market. So the vast majority of tickets are bought by fans who do not resell them.

The headline-grabbing prices of resale tickets being offered for several thousands of pounds are in reality very rarely the price at which tickets are actually resold. These hackneyed examples are unrepresentative and extreme instances, or simply do not crystallise as sales in the market.

In resale marketplaces many tickets also sell at below face-value. In 2014, up to 40% of all tickets listed and sold within GETMEIN! were sold at below face value.

Ticketmaster does not unilaterally reallocate or divert tickets distributed to it by the event owner to be sold at face value to one of their resale sites. We are contractually obliged to



price and sell all tickets allocated to us by event organisers strictly in accordance with our client's instructions.

Ticketmaster UK can confirm that it does not purchase tickets direct from event organisers for resale above face value through anyone of its resale sites.

Also, GET ME IN! and Seatwave themselves do not buy and sell tickets or set prices; they are marketplaces where prices are set by the sellers at a level reflecting demand for the tickets. Consumers then decide how much they are prepared to pay for tickets.

In summary therefore, the true nature and scale of ticket resale in the UK is vastly different to the negative image often perpetuated by opponents of resale, in which consumers are purportedly powerless in the face of overwhelming commercial interests.

## 4 Attitudes to resale

Some event organisers oppose an active secondary market as it represents a potential threat to their key commercial interests, such as hospitality and debenture ticket sales. For others, ticket resale provokes an emotional response, due to a deep-rooted, ideological and ethical opposition to the very concept of ticket resale.

From an economic perspective, some event organisers consider that they have legitimate welfare objectives for setting ticket prices below market-clearing levels. The motivation for intentional under-pricing in the primary market could be to encourage sales of complementary products and goods, e.g. merchandise.

Other event organisers state that they price their events with the objective of long-term sustainability rather than the one-off optimum profit for a single event. In this scenario, the under-pricing of an event is sometimes positioned by an event organiser as being part of a strategy to foster consumer loyalty and to help support a stream of future and sustainable revenues.

It is important to note that promoters have the choice to restrict resale on deliberately under-priced tickets through technological means, e.g. personalised tickets without a need for any supporting regulation or law. We have the ability to deliver on this in line with client instructions and preferences.

All event organisers and consumer organisations might, however, reflect that placing such electronic restrictions on tickets runs counter to the wish of many of today's consumers for choice and flexibility. Consumers are not concerned whether they buy the ticket from a primary or secondary channel and want to be free to sell their ticket. So there is an inherent tension between event organiser and consumer interests at play here.

There are also many major UK and International event organisers who have responded to the opportunities of the resale sector, engaging directly with it, delivering market-based solutions, offering consumers greater choice, flexibility and protection.

In September 2014, Ticketmaster UK commissioned an opinion poll of over 2,000 people to examine current attitudes towards ticket resale across the population<sup>1</sup>. It found that most people believed that the secondary market had a legitimate role to play:

- 83% support safe, secure online resale with guarantees on the validity of the ticket, which GET ME IN! provides
- The majority (74%) of the British public feel they should be able to resell a ticket to someone else if they are not going to use it.

Consumers want the ability to be able to resell their ticket above face value, if they decide to do so. It is arguable that changes in technology mean that the UK ticketing sectors are operating more freely now than it has previously been able to do, and; as a result, event organisers will be compelled to adapt and update their ticket distribution strategies to reflect these fundamental changes in consumer attitude and behaviour.

<sup>1</sup> ComRes interviewed 2,034 GB adults online between 24th and 25th September 2014. Data were weighted to be representative of all GB adults aged 18+. ComRes is a member of the British Polling Council and abides by its rules: <http://www.comres.co.uk/polls/ticketmaster-reselling-survey/>

## 5 Consumer Rights Act 2015

The key political rationale cited by the Liberal Democrat-Conservative Coalition for the introduction of the Consumer Rights Act's new provisions relating to the UK ticketing market was to the need to reduce the risk of consumers experiencing any form of ticket fraud<sup>2</sup>.

The anti-ticket resale lobby had consistently argued, within both Houses of Parliament, that reported estimates of extraordinary levels of online ticket fraud offered a compelling rationale for the government to act and to introduce increased regulation within the UK ticketing sector.

As explained within section 5 of our submission to this Market Review, we are confident that this reasoning was in reality fundamentally flawed, and a gross exaggeration of the actual levels of fraud within the UK, as the cited figures were not in any way representative of the true picture of the UK online ticketing industry.

One of the key provisions within the Consumer Rights Act (*section 90, Duty to provide information about tickets*<sup>3</sup>) was the obligation upon ticket sellers to include all ticket details, in relation to block, row, seat and any other material information.

This seems surprising given the stated focus on reducing fraud as Ticketmaster has seen no evidence of any correlation between incomplete or incorrect seat details for a resale listing with an increased level of risk of consumer fraud. Were this to have been the case, it would have been a serious cost to our business, given the fact that we underwrite every transaction on our resale sites.

In the event that a ticket buyer is dissatisfied with the quality of the tickets they receive, they are able to contact our customer services team and to activate their customer guarantee for alternative tickets or for a full refund.

In 2014 less than 1% of all ticket buyers using GETMEIN! and Seatwave contacted our customer service team to highlight an issue in relation to the quality of their tickets.

Some event organisers and consumer organisations have recently cited the lack of ticket details being included within all listings within ticket resale sites as being symptomatic of a lack of compliance with the new provisions within the Consumer Rights Act and as a reason why they consider even further regulation is merited. This is roundly rejected by us as a false analysis.

It is important to understand the reasons why many ticket resellers are either unable or reluctant to comply with these new provisions, and why we consider that they are proving in practice unworkable, confusing to consumers and the potential cause of an increase in levels of online ticket fraud.

<sup>2</sup> See statement by Baroness Neville-Rolfe, The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills, Ping Pong: House of Lords, 24<sup>th</sup> February 2015: <http://www.publications.parliament.uk/pa/ld201415/ldhansrd/text/1502240001.htm#15022465000501>

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/2015/15/section/90/enacted>

## 5.1 Ticket location details

There may well be a number of legitimate reasons why all ticket details cannot be provided at the time of listing by the seller within a ticket resale marketplace.

For example, there may be instances where tickets are sold as 'best available' by the primary seller and, as such, the ticket buyer only becomes aware of the exact ticket details closer to the time of the event or upon receipt of the actual tickets.

This situation can occur if the event is being held at a new venue or if the exact seating configuration for the specific event has not been confirmed by the event organiser at the time that tickets are offered for sale to consumers. Sometimes this can occur when the primary ticket organisation is not offered sufficient time by the event organiser to program all of the seating detail before the event goes on sale.

For major sporting tournaments, tickets are allocated on a category and price level basis, often following the completion of ballot processes. The exact ticket details in terms of location are communicated to the ticketholder several months later. This was the case for the London 2012 Olympic and Paralympic Games, Glasgow 2014 Commonwealth Games and for the Rugby World Cup 2015.

Similarly, there may be instances where an individual or a sporting club may have been advised by the event organiser several months before the event that they will definitely be allocated a specific number of tickets, at a specific price level. However, they will not be advised of the exact location of these tickets until closer to the actual event date or until the tickets are physically distributed to the seller. We are aware that some of the major UK sports governing bodies have historically distributed significant numbers of tickets to their clubs and members on this basis. Many of these tickets end up on resale markets of one form or another.

In all these scenarios, there is a legitimate reason why the ticketholder would not be able to include the full detail of the tickets at the time of offering them for resale through marketplaces.

The dynamic nature of the market means that it is not possible to verify the validity and completeness of the block/area, row and seat details for every single listing for every event for which tickets are listed on GETMEIN! or Seatwave. Fundamentally, the only person that has the information to ensure the details are correct is the person who lists any tickets for resale.

## 5.2 Disincentive to ticket sellers to include all ticket details

Ticketmaster fears that another reason why many ticket sellers are currently reluctant to include all ticket details within their ticket listing is the significant risk of representatives of the venue or event-owner cancelling their original tickets.

There is a strong precedent and justification for this concern, as Ticketmaster has been requested to cancel an original transaction in cases where the event organiser has identified tickets to have been offered for resale through a secondary ticketing marketplace.

Ticketmaster is contractually obliged to act in accordance with its client's, or the event organiser's, instructions. We consider that this practice could be widespread across many sectors of the live entertainment ticketing industry and that consumers may already have been the victim of arguably unfair practice.

There may also be instances where the venue or event organiser directly cancels tickets being offered for resale. Similarly, an event owner or venue may operate a blacklist of ticketholders to whom tickets should not be allocated for future events, without the knowledge of their ticketing partners or the affected consumer.

Some of those who are opposed to ticket resale, on either ideological or commercial grounds, look upon ticket cancellation as a 'legitimate' opportunity to 'punish' both those ticket holders who resell their tickets and also those consumers who choose to buy their tickets through a resale marketplace.

In response to these practices, there is speculation that some ticket sellers may include apparently complete ticket information, but may have changed it marginally to ensure that any attempt to cancel their tickets by an event organiser would be unsuccessful.

For example, a reseller could include the correct, block, face value and seat number, but use a row number two or three rows behind the actual location of the seats. While the seller's incentive is to reduce the risk of cancellation by the event organiser, no consumer harm occurs as the buyer would receive tickets better than they expected and not complain to the marketplace.

The practice of cancelling tickets and blacklisting consumers from attending future events could be deemed to be both unenforceable and 'unfair' within the Consumer Rights Act 2015. Furthermore, the perceived risk of cancellation and blacklisting has created a material disincentive for ticket resellers to include all the required information.

Following the Consumer Rights Act, the CMA updated their guidance on unfair terms: see Unfair Contract Terms Guidance – Section 5.33.4 – Excluding the consumer's right to assign which states: "it is the CMA's view that a term which undermines a consumer's right to sell what they own is at risk of being regarded as unfair". This is a view supported by the Government, as Baroness Neville-Rolfe, Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills, expressed during the Consumer Rights Act: "An event organiser will not be able to cancel a ticket or blacklist a seller merely because a ticket is resold or offered for resale unless there is a term in the original sales contract that allows for this and, more importantly, the term is fair. It is our firm view that terms which prohibit resale are not always fair and therefore will not be binding on the consumer. This includes terms which seek to prohibit resale at or above a particular price. These too are not always fair and should not be thought of as binding"<sup>4</sup>.

### 5.3 Law of unintended consequences

We are deeply concerned that the unintended consequences of the ticket resale provisions within the Consumer Rights Act make the Act in practice unworkable.

<sup>4</sup> <http://www.publications.parliament.uk/pa/ld201415/ldhansrd/text/150224-0001.htm#15022465000501>

While impractical and operationally impossible, if we were to make the provision of full ticket information mandatory for every listing within our ticket resale marketplaces to include full ticket information, it could result in increased levels of tickets being listed and purchased through offshore and less legitimate sites, which offer reduced levels of consumer protection. The recent fraud in relation to Circle Tickets was an example of such a scenario<sup>5</sup>.

We have witnessed in other markets (e.g. France) that unworkable anti-resale legislation simply pushes consumers to unregulated offshore sites providing an opening to unscrupulous sites and fraudsters. This has included markets where attempts have been made to introduce a cap on potential levels of resale, but has proved to be unworkable and unenforceable.

The international legislative trend in similar economies to the UK is to accept the reality of the online economy and remove restrictions on resale. The Australian Senate recently found there was no case for regulation of the market and attempts to regulate on a state level in New South Wales have not succeeded because of grave concerns about the impact on consumers. Ontario in Canada and Michigan in the US are examples of states which have recently lifted restrictions on resale after realising the detrimental effects of such regulation.

Despite the claims of those on the pro-regulation side, there is no tension between access to sports events for grass roots fans and an open resale market. The National Football League ('the NFL'), the National Hockey League ('the NHL'), and National Basketball Association ('the NBA') in the US show that mass participation in spectator sports works well alongside a dynamic resale market.

#### 5.4 Background to Consumer Rights Act provisions relating to the secondary market

During the Parliamentary debates relating to the Consumer Rights Bill before the passing of the Act in March 2015, supporters of the anti-ticket resale lobby, within both the House of Commons and Lords, quoted extraordinarily high levels of fraud within the ticketing sector as being a key rationale for the Liberal Democrat-Conservative Government to act to regulate the sector through legislation.

In both Houses, numerous references<sup>6</sup> (see Report: 1st sitting: House of Lords, 19<sup>th</sup> November 2014 and Programme Motion: House of Commons, 12<sup>th</sup> January 2015) were made to fraud existing in the secondary market, based on the National Fraud Authority's ('the NFA') Annual Fraud Indicator report of June 2013<sup>7</sup>, which had included an estimate that levels of online ticket fraud in the UK had increased to what by any measure, was an extraordinary figure of £1.5bn. Ticketmaster was shocked when this figure was quoted during the debate, as it bore no resemblance to our direct market experience. Our

<sup>5</sup> <http://www.mirror.co.uk/news/uk-news/ed-sheeran-taylor-swift-fleetwood-5920954>

<sup>6</sup> See Report: 1<sup>st</sup> sitting: House of Lords, 19<sup>th</sup> November 2014 and Programme Motion: House of Commons, 12<sup>th</sup> January 2015

<sup>7</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/206552/nfa-annual-fraud-indicator-2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/206552/nfa-annual-fraud-indicator-2013.pdf)

subsequent findings have confirmed that this number had no relevance to the UK live events ticketing sector.

The NFA had estimated within its report that online ticket fraud had increased from £168m in 2011, to £864m in 2012 and £1.5bn in 2013, equivalent to a year-on-year increase of 514% and 173% respectively.

The NFA attributed some of this massive growth in their estimation of online ticket fraud to better data and insight. However, it is worth noting that even the NFA categorised the reliability of their own estimate as being 'Average', one category above their lowest level of 'Poor'.

The NFA had calculated the £1.5bn fraud loss estimate, using the prevalence rate of one in twelve reportedly identified in an OFT survey (2009)<sup>8</sup>, multiplied by an average fraud loss of £637 per victim, a value estimated by Action Fraud, in relation to reported instances of online ticketing fraud during 2012.

However, we would point out that this purported average value of a booking/purchase of £637 is vastly higher than the average value of a booking through Ticketmaster UK

The National Fraud Intelligence Bureau ("NFIB") stated that they estimate a total of circa £3.7 million was lost to ticket fraud in 2013, with victims losing on average £250 each, which compared with £2.7m in 2012. Recently received data indicates that ticket fraud in 2014 will be less than reported in 2013.

What this means is that the ideological and commercial opponents of secondary ticketing have opportunistically over-stated the extent of online ticketing fraud within the UK live events sector. This is highly regrettable, as the extremity of the claim coloured the debate in a way that arguably led to a disproportionate legislative response.

Ticketmaster consults closely with the police on a continuous basis, providing intelligence and reports on potential criminality across any area of our business, which have led to arrests and convictions. While we cannot comment on any individual case, we can confirm that we do have a zero tolerance approach to fraud. We pro-actively investigate any suspected fraudulent activity, involving the police if and when appropriate. We believe that this is the most practical way of tackling fraud.

Unnecessary regulatory burdens, such as the Consumer Rights Act 2015, simply penalise and tie-up in red tape those responsible companies that are seeking to protect consumers and fight fraud on the frontline, where it actually exists.

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<sup>8</sup> <http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.ofi.gov.uk/news-and-updates/press/2009/112-09>

## **6 Ticketmaster UK's experience of online ticket fraud & credit card fraud**

With over 95% of all tickets sales now being sold online or by mobile, purchased by consumers using their credit or debit cards, the risk of credit card fraud represents one of the most significant financial risks to Ticketmaster's business.

Ticketmaster therefore remains constantly vigilant to the risk of individual or organised attempts to purchase tickets through our websites through the fraudulent use of credit cards. We have achieved and maintain very high levels of control and fraud prevention, with levels of undetected credit card fraud currently trending downwards on a year-by-year basis.

Actual credit card fraud currently equates to less than 0.05% of the gross value of ticket sales being transacted through the ticketmaster.co.uk website.

These high levels of protection achieved by our business, and delivered to our clients and consumers, are the direct result of our investment in the latest third party fraud prevention software products and the allocation of experienced resource from within our internal Fraud Prevention team.

### **6.1 Forged, stolen or duplicated tickets**

Our experience has been that the levels of forged, stolen or duplicated tickets being sold and/or gaining access to UK events have been significantly reduced over recent years, driven primarily through the increased adoption of access control systems at venues and events, including green-field music festivals. This is the sort of new technology, which lies at the heart of our business. It protects fans and artists' revenue alike, and is firmly in the public interest.

Access systems ensure that all tickets are validated at the time of entry and invalid or cancelled tickets can be prevented from entering the event.

When instances of forged and duplicate tickets do occur, it is our experience that these tickets have been purchased offline in person through ticket resellers outside the event or through classified listings sites rather than sites like GETMEIN!

### **6.2 Ticket fraud in the secondary market**

The over-exaggerated and irrelevant figures relating to fraud levels within the secondary market repeatedly used during the passage of the Consumer Rights' Bill continue to be opportunistically used by those opposed to any form of ticket resale, whether for ideological or self-interested commercial reasons.

The actual figures show that actual levels of fraud within the ticketing secondary are very low, with consumers already being offered a high level of protection through the main ticket resale marketplaces.



Examples of fraud, as it relates to secondary ticketing, are no different to the sale of other goods on the internet and can be generally classified in the following scenarios:

1. Seller offering tickets for sale which they do not possess or do not exist. In this scenario the buyer will pay the seller, however the seller will fail to supply the tickets.
2. Seller offering tickets for sale which were originally acquired through the fraudulent use of credit cards or tickets stolen from or lost by the original purchaser. In this scenario, tickets may be cancelled before the event and the buyer may be refused entry or ejected from the event.
3. Seller offering forged or duplicated tickets, the original ticket having been purchased through either the primary or secondary sector.
4. Seller failing to provide any tickets or providing tickets of an inferior quality to those listed and purchased by the buyer. In this scenario, the buyer's recourse will be to complain to the seller or to the resale marketplace which has facilitated the sale.

In all of the above scenarios above, our commitment to all consumers buying tickets through either our GETMEINI or Seatwave sites is that if their complaint is confirmed as being valid, we will:

- a) secure tickets on their behalf of similar or better quality to those originally purchased so that they can still attend their chosen event; or
- b) if we are not able to secure alternative tickets, we will give a full refund.

GET ME INI's FanGuard guarantee was on average only triggered on less than 1% of all transactions in 2014 and in virtually none of these cases a link with deliberate fraud could be established. Rather, consumers failed to provide tickets due to negligence or forgetfulness. Ticketmaster further discourages fraud by holding buyer funds until after an event has been completed before distributing it to sellers.

The greatest level of risk of fraud to consumers is where they buy tickets from resellers offering tickets for resale through sites with little or no form of consumer protection e.g.

1. from offshore sites which operate outside of the reach of UK regulation.
2. classified advertisement listing sites like Gumtree, (where the buyer engages directly with often an anonymous seller).
3. offline in person from street resellers.
4. via social media or mobile app enabled marketplaces.

In the absence of choice of legitimate resale platforms offering full consumer protection, consumers will go wherever they are offered tickets via the examples above and will take the risk. Legitimate resale platforms should be € promoted to the consumer as the only way to buy secondary tickets. Restricting access to legitimate resale platforms or imposing unworkable legislation does not stop the consumer looking for tickets and will put them at increased risk of fraud.

## 7 STAR and the market opportunity for more effective self-regulation

As stated above, the consumer does not differentiate between buying a primary or a secondary ticket. The ticketing industry therefore bridges the two routes for the buyer to pursue. This evolution of the ticketing industry has been recognised by Society of Ticket Agents and Retailers (STAR), formed in 1997 and since becoming the leading self-regulatory body for the entertainment ticketing industry across the United Kingdom, with many of the biggest names in ticketing as members.

The opportunity for the ticketing industry's trade organisation STAR to take a more active and significant role in consumer education and protection in relation to the secondary market was highlighted within the 2009 Department for Culture, Media and Sport *Consultation on Ticketing and Ticket Touting*<sup>9</sup>.

In recent years, STAR has been at the forefront of cross-industry initiatives to improve consumer confidence and make ticket buying safer, working with the Office of Fair Trading and the Department for Culture, Media and Sport on ways of combating ticket fraud and mis-selling and on the introduction of Model Terms and Conditions of Sale.

In October 2015, STAR's membership voted in favour of allowing secondary ticket resellers to become members of STAR with the intention of extending the organisation's Code of Practice to resale sites, subject to such sites adhering to yet to be defined conditions. This is as a unique and timely opportunity for the wider ticketing and live entertainment industry to develop and adopt a code which will further increase consumer confidence and protection.

There is a compelling case for legitimate ticket resale sites, which conform with UK legislation and offer defined levels of consumer protection, should be assigned STAR's badge of legitimacy and industry recognition, in order that consumers can clearly identify those sites which offer them the best levels of customer practice and protection.

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<sup>9</sup> Department for Culture, Media and Sport, *Consultation on Ticketing and Ticket Touting*, 2009  
[http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/Images/publication\\_ticket\\_touting\\_Gov\\_Resp.pdf](http://webarchive.nationalarchives.gov.uk/20100407120701/http://www.culture.gov.uk/Images/publication_ticket_touting_Gov_Resp.pdf)

## 8 Bots

Botnets ('bots') are capable of harvesting significant numbers of tickets for popular events from primary ticketing websites.

Ticketmaster invests more in our technology systems and are more proactive at preventing bots securing tickets through our primary retail network than any other major ticket retailer in this sector. In short, we are on the front line in the battle against bots.

Our experience is that bots are a daily and significant threat to ticketing businesses and consumers' ability to be offered a fair opportunity to purchase tickets.

There is a compelling case for updated legislation to respond to this emerging threat to UK businesses and consumers. There is also a need for other UK primary ticketing businesses to do much more to respond to this threat and to ensure consumers have a fair and reasonable opportunity to purchase tickets through their sites.

### 8.1 What are bots?

An Internet bot, also known as web robot, BotNet or simply bot, is a software application that runs automated tasks over the Internet. Typically, bots perform tasks, which are both simple and structurally repetitive, at a much higher rate than would ever be possible for an individual human.

A more malicious use of bots is the co-ordination and operation of an automated attack by so-called 'bad actors' on a business's networked computers, known as a denial-of-service attack.

Bad actors use bots to try systematically and unfairly to buy up large numbers of tickets before genuine fans have the opportunity to buy them. Such bot attacks have also become commonplace across the wider e-commerce business world.

### 8.2 How is Ticketmaster trying to defend against bot activity?

We invest more in anti-bot technology and prevention measures than any other organisation in the UK ticketing industry. We regularly witness high levels of bot activity when tickets go on sale for major events and international tournaments. As we defend against these attacks, in some instances it can impact upon the performance of our websites, creating a frustrating user experience for those real fans trying to buy tickets. This is an inevitable consequence of the battle we are fighting.

Across our global ticketing businesses, we block tens of thousands attempts by bots to access our websites by every single day.

As we invest and innovate to prevent bots disrupting our business and affecting our consumers trying to buy tickets, the bad actors that operate these bots also adapt and try even harder to by-pass our programs.

Our consumers experience one of our anti-bot safeguards, CAPTCHA, when they are required to enter some form of random text or watch a short video at the very start of the

booking process. This type of bot prevention software has now been adopted across most leading e-commerce sites.

The technology we have in place only goes so far in tackling the threat. We believe that in order to strengthen the position of ticketing companies and other technology companies fighting against bots, updated legislation and criminal sanctions need to be introduced.

We believe that it is through a combination of state-of-the-art technologies and the threat of criminal proceedings that we will be able to get ahead in the battle against bots.

Whilst the Computer Misuse Act 1990 provides the current legislative framework for possible action against those using bots, legislation hasn't kept up-to-date with recent technological advances.

There is now a compelling case for a change in that legislation to protect consumers and to support the wider live events ticketing industry, which plays such a crucial role in the significant economic contribution from the live events sector.

## 9 Technology and market-based solutions for ticket resale

Just as technology has radically changed both the primary and resale ticketing sectors, new technologies offer event organisers the opportunity to respond to these changes and to develop their model for ticket distribution.

A primary ticketing strategy designed to get as many tickets into the hands of fans at an affordable ticket price, does not exclude the option of adopting dynamic pricing mechanisms or above face-value ticket resale marketplaces. These options are not mutually exclusive concepts.

Quite the contrary, these are now all key integral and essential components within an effective ticketing sales strategy in the digital era. We cannot see any rationale or benefit for extended regulation (including the CRA), as we already have consumer protection law, competition law and criminal law safeguarding consumers in the UK and there is no evidence to suggest that extra regulation aimed at the secondary ticketing market would be effective.

The greatest opportunity and responsibility to effect change lies upstream with event organisers and their ticketing partners, in terms of the adoption of new products and initiatives.

As a leading player in UK ticketing and e-commerce business, Ticketmaster is acutely aware of these rapid technological, cultural and consumer behavioural changes.

We have been required to adapt and transform our business, in order to remain a major player within the UK ticketing sectors, offering innovative solutions, high levels of service to our clients and consumers alike.

We have therefore included a summary of some of the latest key initiatives below:

### 9.1 Ticketmaster Verified

In the US, Ticketmaster developed and launched a new product called Ticketmaster Verified, where all primary and secondary tickets are presented to the consumer on a consolidated basis within one seating plan, so that the customer has real transparency on all ticket availability and the options open to them to buy tickets at a price they are prepared to pay.

For those venues and event organisers, which have adopted Ticketmaster Verified, if the consumer goes to ticketmaster.com the event is never sold out. Consumers can buy tickets when they want and at a price they are willing to pay.

The Ticketmaster Verified model is supported by real-time online ticket validation, which means every resold ticket is validated at the time of purchase. Event organisers have complete transparency on the number and value of tickets being purchased and resold, including data on all their customers. They also obtain valuable insight into the value of any tickets being resold, offering them the opportunity to review their current pricing strategies and adapt for future events.

This model is currently achievable in the US, as ticketing agreements with venues and event organisers are operated on an exclusive basis.

The development of products like Ticketmaster Verified will be the solution to event organisers gaining greater ownership, insight and influence of all ticketing activity relating to their events.

## 9.2 Pre-sales and data insight

More and more event organisers are adopting pre-sales to closed user groups such as fan clubs, loyalty groups and sponsorship partners. The O2 Priority presale group is perhaps one of the best known of these types of initiatives, with a reported membership of over 500,000 consumers.

Staged and closed user group presales offer an alternative approach for event organisers to the 'big bang', general onsale approach, when all tickets are put on sale at the same time, often resulting in massive levels of demand for a limited number of tickets and an unsatisfactory consumer experience online, with websites and IT systems put under extreme pressure.

We offer our clients increased levels of access to data analytics and insight tools, and through the use of these analytical and insight products, event organisers can obtain an increased level of insight into their customers and understand their purchasing preferences. Organisers can be more confident about who they are actually selling their tickets to and therefore target their ticketing strategy to their desired fan base more effectively.

## 9.3 Platinum Tickets

Ticketmaster's Platinum Tickets product offers event organisers the ability to activate a market-based pricing for best tickets for their event, with these tickets being listed and sold within ticketmaster.co.uk. Platinum Tickets offers an alternative, transparent and safe environment to buy the best tickets available, in the best areas.

Platinum Tickets are normally available from the moment that tickets go on sale, either through a pre-sale or general sale, and one of the objectives is to maintain ticket availability until shortly before the event. So the consumer has always the opportunity to buy some of the best tickets.

Through Platinum Tickets, event organisers can maintain ticket availability at a market based price through the primary ticket channel ticketmaster.co.uk, even at a time when all other face value tickets may have already been sold.

A key benefit of the Platinum Tickets initiative is that event organisers capture the incremental revenue generated through the ticket sales revenue.

## 9.4 Official ticket exchange/resale marketplaces

Ticketmaster's experience is that face value ticket exchange initiatives result in very limited customer adoption. The highest levels of adoption for face-value exchanges tends to be for International sports tournaments, when huge volumes of tickets are purchased many months in advance for multiple events, across a relatively short period of time.

Partisan motives may determine why fans may subsequently want to resell their tickets, i.e. if their team fails to qualify for the knock out stages. However even for these tournaments, if market conditions drive high demand for a limited number of tickets (e.g. if the host nation is successful and progresses to the later stages) face value exchanges become less attractive and many tickets will inevitably be resold at a market value through other sites.

In the US, a number of the world's leading sporting organisations, such as the National Football League ('the NFL'), the National Hockey League ('the NHL'), and National Basketball Association ('the NBA') offer their fans an official ticket resale marketplace for above face value resale through Ticketmaster, which also acts as their primary and exclusive ticketing provider.

In the UK, there has been limited adoption of such initiatives so far, although the Scottish Rugby Union signed official resale deal with Viagogo in 2013 and that the Lawn Tennis Association signed a similar deal with Stubhub, also in 2013. Aston Villa FC recently adopted Seatwave as its official ticket resale partner.

The Hydro Arena in Glasgow, a Ticketmaster client, has also adopted an integrated primary and resale offering, with GETMEINI becoming its official resale marketplace. A similar approach has been adopted by the Wembley Arena and The O2, London, with StubHub.

The opportunity exists for major sports governing bodies and other similar organisations to adopt the initiative of an official resale marketplace, offering their fans the opportunity to resale and exchange tickets in a safe, transparent and authorised market place, without the fear of tickets being cancelled or sellers blacklisted.

Such an initiative offers the relevant organisations full transparency on the levels of any ticket resale activity for their event, in terms of the number of tickets being resold, which parties or fans have a greater propensity to resell their tickets and the value at which tickets are resold.

The event organiser would have a significantly greater level of insight and understanding of both the primary and resale sectors and could adapt and develop their future ticket distribution to meet their wider strategic objectives. Income would be retained 'within sport', and could be channelled into the grassroots sport.

## 9.5 Paperless Tickets

Pioneered and launched by Ticketmaster in the UK in 2009, Paperless Ticketing is a fan-focused and market-based initiative designed to help artists and event organisers to get tickets directly into the hands of their fans.

Since it was first launched at the O2, London in 2009 for a Metallica concert, it has been adopted for major events across the UK, including for such global artists as Robbie Williams, Radiohead, Muse and Arcade Fire, and also for major comedy acts, such as Michael McIntyre and the Flight of the Conchords. It has also been used for ticket sales by the All England Tennis Club for the Wimbledon Tennis Championships.

Paperless ticketing is a market-based offering and an alternative delivery method offered by Ticketmaster which ensures the fan who purchased the ticket is the only one who can enter the event.

Paperless Tickets are often used as an integral part of a fan-focussed ticketing programme, which could include a fan club registration scheme and the running of ballots, so that tickets are allocated to a closed and targeted group of fans.

Paperless Tickets can only be adopted if Ticketmaster access control and ticket validation systems can be implemented at the event.

The ticket holder is verified at the time of entry to the event through the presentation of their credit card used at the time of purchase/application and also through a secondary level of personal ID.

Paperless Tickets can be adopted for all tickets for an event or alternatively can be applied to a limited number of the best tickets/seats within the venue.

Paperless Tickets have also been used alongside Ticketmaster's Platinum Tickets (i.e. market-based pricing) for a limited number of tickets, offering artists and event organisers increased options to manage their ticketing programme, while at the same time offering fans increased choice and flexibility.

## 9.6 Access control and ticket validation

Over recent years, many major venues, festivals and sporting organisations have adopted access control solutions, which not only assist with operational venue management but also facilitate ticket validation at the time of entry. Ticketmaster provides access control software and hardware to many of its clients.

Tickets are becoming a digital product, with an increasing percentage of tickets now being distributed through digital channels to the consumer. Access control solutions deliver ticket validation preventing fraudulent or forged tickets gaining entry, irrespective of whether the ticket is still a physical paper ticket with a barcode, print-at-home or on the consumer's mobile phone.

Furthermore, as Radio Frequency Identification ('RFID') and contactless and cashless solutions are used across the wider retail sector, we anticipate an increasing number of venues and event organisers will adopt these type of new technologies.



## 10 Conclusion

The rapid adoption of digital technologies by consumers within global retail marketplaces has irrevocably changed the way UK consumers now behave, when buying tickets to see their favourite artist, sporting team, musicals or other events.

They now operate in global marketplaces and increasingly do not recognise the differentiation between primary and secondary sectors. The concept of 'sold out' does not resonate with many consumers and the evolution of ticket resale marketplaces is a direct result of these changes in consumer behaviour.

Consumers have clearly demonstrated that they expect and demand to be able to buy a ticket when they want. If they miss the initial on sale of tickets, they expect to be able to choose to pay a market price to secure their tickets.

Event organisers and ticketing companies are now being constantly driven by consumer demand to adapt and develop their ticketing strategies, to ensure that tickets are offered and distributed as fairly and effectively as possible, offering good value-for-money, high levels of consumer protection, flexibility and great customer experience.

More than ever before, event organisers and ticketing organisations have access to sophisticated, new technology, digital, market-based solutions to deliver effective distribution of tickets to meet this consumer demand and expectation. This includes the application of anti-bot technology in ticketing websites to ensure that the fear of 'industrial-scale harvesting' of tickets will not be realised. But there is a compelling case for updated and extended regulation against bots to support the UK ticketing sector and to protect consumers from the threat posed by bots.

Wider regulation in the ticket resale sector has proved to be both unnecessary and ineffective. The recent provisions within the Consumer Rights Act have proven to be unworkable and unenforceable, with the unintended consequence being to potentially drive more consumers to offshore sites, with limited levels of consumer protection.

The rationale for the provisions within the Consumer Rights Act were based upon a fundamentally false premise of extraordinarily high levels of consumer fraud within the UK online ticketing sector, another myth apparently perpetuated by those opposed to resale and seeking increased government intervention and regulation.

The reality is that the level of UK online ticket fraud is in the region of 0.002% of that quoted as being the rationale for the introduction of these latest provisions. The legitimate UK based ticket resale marketplaces already offer consumer very high levels of protection, with minimal incidents of fraud.

Ticket resale remains an emotive subject and the true nature and scale of ticket resale in the UK is vastly different to the negative image often perpetuated by opponents of resale. The interests of the consumer will undoubtedly be best served by increased adoption of new technology solutions within all sectors of the ticketing industry.

Ticketmaster remains committed to working with all event organisers and artists across all sectors of the UK live entertainment industry to deliver market-based solutions, which deliver these stakeholders greater control, insight and understanding, whilst at the same time offering consumers greater choice, flexibility and protection.

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