



ticketing mailbox <ticketing@culture.gov.uk>

Review of Consumer Protection Measures relating to Online Secondary Ticketing Platforms - response from scarletmist.com1 message

>scarletmist.com>

18 November 2015 at 08:33

To: ticketing@culture.gov.uk

Ian Jenkins
Call for Evidence co-ordinator
Department for Culture, Media and Sport (DCMS)
100 Parliament Street
LONDON
SW1A 2BQ

Dear Mr Jenkins

Please find attached the response to the consultation on behalf of Scarletmist.com.

Scarlet Mist was established in 2004 as a free service providing a face-value ticket exchange service for music festivals and gigs. It provides a function that the entertainment industry is unable or unwilling to provide.

Kind regards

Scarletmist.com



Scarletmist.com response to secondary ticketing consultation.pdf

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

Response by Scarlet Mist Ltd.

Scarlet Mist was established in 2004 as a free service providing a face-value ticket exchange service for music festivals and gigs. It provides a function that the entertainment industry is unable or unwilling to provide. It generates income through advertising.

Scarlet Mist does not take ownership of the tickets, nor does it take part in the financial arrangements or transactions between buyer and seller, and merely functions as a 'noticeboard' to introduce users to one another

What has been the impact of the Consumer Rights Act 2015 protections: for individual consumers buying from the primary market (the organiser) or the authorised agent; or for those buying via an online secondary ticketing marketplace, or from an unauthorised secondary ticketing facility?

The Consumer Rights Act introduced a series of new measures - in particular:-

- Greater clarity of the descriptions of tickets on the secondary market
- Regulations governing 'blacklisting' of re-sellers
- Duty to report criminal activity

Definition of 'Secondary Ticketing Facility'

The Act refers to a 'secondary ticketing facility', but that term is not clearly defined. Our interpretation is that a secondary ticketing facility is one that takes ownership of the ticket and sells it to the new buyer. Sites such as Scarlet Mist merely advertise the tickets for sale, in an analogous way to Classified Advertisements, and we have acted on the assumption that the stipulations

around accurate descriptions of the ticket do not apply to us. This assumption is reinforced by paragraph 8(b) of Section 90, which states that the necessary information should be given to the buyer before the buyer is bound by the contract for the sale of the ticket - a process that takes place outside our website.

We would welcome some clarity on the definition of a Secondary Ticketing Facility.

Chain of Sellers and Veracity of Tickets

We feel that the relationship between promoter, Secondary sites (such as Viagogo, Seatwave, GetMein etc) and any intermediary sellers is still insufficiently clear.

We think that potential buyers should be able to determine the 'pedigree' of a ticket and the identities of all previous owner(s). In particular, buyers should be able to see whether the original ticket sale was to a third party or whether it was directly to a Secondary site, and whether the chain of sale was contractually legitimate at all stages.

What is the range of perceived impacts, both positive and negative, for events and event organisers of the secondary market?

Restricting profits of the Secondary Market

We recognise that the Secondary market exists, that secondary selling is not without risks and that a fall in demand can cause financial losses, and that individuals have a right to buy tickets at inflated prices if they so wish.

However we support a change in the law to cap the mark-up at 10%, and in particular we support the legislation proposed by Sharon Hodgson MP which would create this cap.

Fan-to-Fan or Professional Profiteer

Some tickets find their way on to the Secondary market because the original purchaser genuinely finds they are unable to attend an event. But we believe that a significant proportion are sold by sellers who have purchased the ticket with the express intention of making a profit.

We are concerned that the professional profiteers operate in a largely cash-based unregulated manner, and that they may evade paying appropriate taxes. We would like to see this properly addressed by the relevant authorities.

Covert increase in ticket prices

When there is over-demand for an event then the existence of the Secondary market allows event organisers to effectively increase the price of tickets without making this obvious to consumers. They can do this by covertly selling tickets to secondary sellers (or selling them via 'premium routes'), often at greater than the original face-value price. Several promoters have confessed to this practice.

The existence of the Secondary market also facilitates a very rapid selling-out, which indirectly increases the price and apparent popularity of the event.

Anti-consumer impact of non-exchangeable tickets

When there is insufficient demand for tickets, and the event is not a sell-out, then the existence of the Secondary market has the effect of reducing overall ticket sales, since potential buyers may be able to source a ticket at below face value from the secondary market. We cynically believe that part of the attraction to promoters of non-exchangeable tickets is to plug this resale and to force buyers to pay the full price. We do not think that this is in the interests of consumers. Where non-exchangeable tickets are used then promoters should offer some sort of exchange or refunds system at a nominal cost unless this is explicitly made clear at the time of purchase.

Fraud and Forgery

A seriously negative impact of the Secondary market is that it greatly facilitates the risk of buying forged or non-usable tickets (eg invalid e-tickets).

Has there been any apparent change in the demand for and supply of tickets on the primary and secondary markets?

We believe that the existence of a flourishing Secondary market creates an increase in the demand for popular events. It leads to market conditions where the prices are raised, ultimately reaching their true 'market value'. However there is inherently a degree of consumer deception as a part of this.

Are the new 2015 Act rules known and understood, being applied properly by event organisers and ticket sellers, and perceived to be fair?

We believe that the rules are fully understood by event organisers, but the secondary market operates with a less formal adherence to the law. We also believe that ticket buyers are not fully aware of their rights, and that in their eagerness to buy tickets for a popular event they are pressurised into agreeing to unfair conditions.

What views do consumers express on the effectiveness of existing/new transparency measures in providing clearly understood choices and terms?

Consumers are baffled at the rapidity with which tickets for popular events sell out. They are unaware that tickets are syphoned directly to the Secondary market, which they perceive as being very unfair.

How can prospective purchasers verify tickets as genuine?

The only way to ensure that tickets are genuine is to buy them directly from the official supplier. In practice it is difficult to be sure who the official supplier is, and the complex nature of the primary market makes this harder, particularly for the casual ticket-buyer.

What are the prices, costs, charges and commissions associated with tickets on the primary and secondary markets?

The price of tickets on the Primary market is very confusing, since it is made up from the 'face-value' price and a 'handling fee' and 'delivery charge'.

We recognise that postage and printing of physical tickets can be expensive, especially if the ticket is a complex design to minimise counterfeiting. But the costs of postage are sometimes excessive.

The practice of charging £1 for print-at-home tickets is a cheek.

The price of tickets on the Primary market should be quoted as an on-the-road price, and any separate per-transaction handling charges should be clearly stated on all advertising.

The Secondary market price comprises the initial ticket price, the mark-up of the secondary seller, and further handling and delivery charges. We think these should be explicitly listed.

How well is the market minimising illegal activity (e.g. by countering illegal botnets, but also by using other methods such as staggered release of tickets, release directly to the secondary market etc.)?

Release of tickets directly to the Secondary market is legal, but we consider it to be deceptive practice.

We believe that the industry is trying to clamp down on botnets, and we feel the use of a Captcha must help with this, but we also recognise that Captchas are very difficult for some consumers to use.

We remain concerned that the Secondary ticket market attracts a small but not insignificant criminal element who may advertise non-existent tickets, or who may issue invalid or forged tickets. Our impression is that a number of criminals are active and that the disparate nature of the market, combined with their adoption of multiple names and identities, makes it hard to trace these individuals. Individual victims cannot easily find out whether these criminals have committed the same crime many times. We would welcome further development of national initiatives to help coordinate and centralise intelligence on this.

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