

The Consumers' Association of Ireland

26 Upper Pembroke Street, Dublin 2. Tel: (01) 637 3961

www.thecai.ie



**Department of Jobs, Enterprise and Innovation
Earlsfort Terrace
Dublin 2.**

Submission to the Public Consultation on the Resale of Tickets for Entertainment and Sporting Events

30th March 2017

INTRODUCTION

The Consumers' Association of Ireland (CAI) is making this submission in the more appropriate format of a general statement as is recommended in the detail of the call for submissions.

As this is a widespread call to gather full and specific detail surrounding the sale of tickets there are many questions posed which would not be within our capability or scope to respond to and will be for the promoters, entertainers, management and promoters, sellers and reselling facilitators to answer, definitively. We have indicated these within the submission.

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30th March 2017.**

Context of the Call for Submission.

EXECUTIVE SUMMARY - INTRODUCTION

1: The resale of tickets for major entertainment and sporting events at a price in excess of their face value is a cause of recurring public concern. This consultation seeks the inputs and views of interested parties – consumers, performers and their representatives, promoters, sporting bodies, primary ticketing services providers, secondary ticket marketplaces and others – on possible measures aimed at securing fairer access to tickets for consumers.

A list of the questions on which views are sought is given in the Annex to the consultation paper.

2: Concern over ticket resale is not confined to Ireland. Provisions aimed at regulating ticket resale have recently been enacted or are currently under consideration in the United States, the United Kingdom, Italy and the Netherlands.

Question 1 Not for the CAI

What proportion of primary ticket sales are accounted for respectively by –
a) online sales
b) telephone sales
c) sales through agents in retail outlets
d) box office sales

Question 2 Not for the CAI

Approximately how many entertainment and sporting events each year in which you are involved or about which you have information give rise to a significant level of secondary ticket sales? What characteristics, if any, do these events have in common? Do they wholly or mainly involve large-scale events in major venues?

Question 3 Not for the CAI

What proportion of tickets offered for sale on secondary marketplaces and platforms are sold –

- a) for a price above the face value of the ticket (plus any applicable service charges or booking fees),
- b) at the face value of the ticket,
- c) for a price below the face value of the ticket,
- d) fail to sell. Information on the size of the mark-ups above, or discounts below, face value prices would also be welcome.

Question 4 Not for the CAI

How common is ticket fraud involving the supply of fake tickets or the non-delivery of tickets?

How frequently, and in what numbers, are persons producing fake tickets denied access to entertainment and sporting events?

Question 5 Not for the CAI

What proportion of tickets for high-demand entertainment events are typically allocated for pre-sale or other allocation prior to going on general sale to the public?

What parties or groups are the main recipients of such pre-sales and pre-allocations?

Question 6

Are you aware of tickets being supplied to secondary sellers or marketplaces by persons involved in the primary market for entertainment or sporting events such as artists and their representatives, promoters or primary ticket sellers? If so, how prevalent is the practice and what is its scale? **This is an area where it has become entirely clear that the primary seller in Ireland, Ticketmaster, facilitates the resale of tickets they have sold through a connected organisation, Seatwave. As many tickets for main event concerts appear for resale at inflated prices, within minutes of the initial sale, by allowing this to occur, Ireland is facilitating touting and denying consumers the opportunity to access tickets at the set price.**

Question 7 Not for the CAI

Are parties who engage in ticket resale on a systematic basis and on a significant scale a feature of the secondary ticket market in Ireland? What proportion of secondary sales for high demand events are accounted for by such sellers? Do such sellers receive more preferential terms, such as early payment, from secondary marketplaces?

Question 8 Not for the CAI

Is there evidence of the use of software (bots) to source multiple tickets for high-demand events on the primary market in Ireland and to circumvent security measures? How common or extensive is the use of such software for this purpose?

Question 9 Not for the CAI

What means other than bots are used to obtain large numbers of tickets on the primary market for the purpose of resale?

Question 10 Not for the CAI

What proportion of tickets offered for resale for major entertainment and sporting events in Ireland are listed by sellers from outside Ireland?

Question 11 Not for the CAI

What actions are currently taken by primary ticket sellers and ticketing service providers to prevent purchases in excess of the contractually permitted number of tickets or resales in breach of the terms of the primary ticket contract? What is the level of ticket cancellations for the breach of such terms? What is the level of denial of access to venues and stadia for breach of such terms?

Question 12

Do secondary marketplaces consider themselves to be under an obligation to assist event organisers who wish to identify ticket resellers acting in breach of their contract with the primary seller? **Not for the CAI**

Should they do so? **If there is a provision introduced then the answer here would be, yes. However, the lack of initiative in this area makes the direct reply to the question posed to be a No. See CAI General Statement.**

Should they be required to do so? **Yes, as outlined above.**

Question 13

Should websites which sell tickets for an event on the primary market redirect purchasers to secondary platforms selling tickets to the same event? Should any such redirection be subject to a requirement that the consumer be informed of the status of the secondary site and that ticket prices are likely to be higher?

NO. To do so will facilitate a continuity of the unacceptable variations that exist within our marketplace.

Question 14 Not for the CAI

How many events in Ireland, and what proportion of their tickets, have featured ‘Platinum Tickets’ or other dynamic-pricing approaches to ticket pricing? What was the average price of such tickets? Did such tickets sell out?

Question 15 Not for the CAI

Is a dynamic pricing approach to event tickets likely to be adopted on a significant scale? If so, when and for what type of event is this likely to occur? If not, what are the main reasons why it will not be pursued?

Question 16 CAI General Statement

What additional steps, if any, could performers and their managements, sporting bodies and event promoters take to minimise secondary ticket selling at inflated prices and ensure fairer access to tickets for fans?

Question 17 Not for the CAI

What additional technical measures, if any, are primary ticket sellers planning to implement or develop to prevent purchases made with the aid of bots?

Question 18 Not for the CAI

Are personalised or paperless tickets an effective method for curbing ticket resale? What drawbacks, if any, are associated with such approaches? Has experience with these methods in Ireland been positive, negative or mixed?

Question 19 CAI General Statement

Do primary sellers or venues offer a facility for the return and refund of tickets that purchasers are unable to use? If so, what conditions apply to this facility? If not, what are the reasons why primary sellers do not offer this facility? Would they consider the introduction of such a facility and, if so, under what conditions?

Question 20

Do secondary ticketing websites consider themselves under an obligation to ensure that resellers who qualify as traders under relevant consumer protection legislation inform consumers of their status as traders and of the rights that consumers buying from such sellers have under that legislation?

This is wishful thinking at best. The requirement for the consumer to read through pages of highly legalistic terms and conditions in an attempt to find those that refer to their rights has long been acknowledged to be near to impossible in the context of most sale events in which they partake.

Having an obligation does little to benefit the purchaser unless it is specific in every detail as to how, where and when that purchaser Must/Will be so advised.

Question 21 CAI General Statement

Should legislation be introduced to regulate ticket resale and the secondary ticketing market? If so, what form should such legislation take and what penalties should apply to breaches of its provisions? If not, what are the reasons why legislative measures should not be pursued?

Before considering what possible measures might be taken to address ticket resale, it is worth summarising the information about the primary and secondary ticket markets outlined in the previous parts of this paper. Among the main points to emerge were the following:

- ♣ Events in which tickets are resold at prices in excess of their face value account for a small proportion of the total number of ticketed entertainment and sporting events. **This may be the present situation but initiatives must be taken to protect all consumers at all times.**
- ♣ The prices advertised for tickets on secondary websites are not necessarily the prices for which the tickets are sold. Prices tend to peak at, or shortly after, the time tickets go on general sale and may decline as the date of the event approaches. Up to half of tickets sold on secondary sites may be sold for a price at or below their face value. **This may be the present situation but initiatives must be taken to protect all consumers at all times.**
- ♣ A proportion of tickets for major entertainment events are distributed through allocations and sales occurring prior to the commencement of the general sale. For major sporting events, there may be no tickets available to the public on general sale. Some tickets offered for sale on secondary websites may be sourced from these pre-allocations and sales. **This presents the position where the consumer is taking the decision to purchase in a private and personal capacity within a structure where the tickets were sold to individuals under very specific terms and conditions. See the CAI General Statement.**
- ♣ Though some tickets on secondary websites come from fans unable to attend the event or who seek to subsidise their own attendance by purchasing extra tickets, a sizeable proportion appear to come from parties involved in the resale of tickets on a regular basis. This last group is the main focus of public concern over ticket resale. **Acknowledged.**
- ♣ Increasingly tickets obtained on the primary market for subsequent resale are obtained through the use of software (bots) that enables large numbers of tickets to be purchased in a short time and security measures put in place by primary sellers to be circumvented. **Acknowledged. See the CAI General Statement**
- ♣ Event organisers and sporting bodies who seek to enforce contractual restrictions on the resale of tickets encounter difficulties in identifying the location in venues of tickets listed for resale and the identity of the sellers who list them. Secondary ticketing marketplaces do not appear to consider themselves under an obligation to assist with such identification. **Acknowledged and entirely unacceptable. See the CAI General Statement.**
- ♣ The practice of primary ticket sellers redirecting purchasers to related secondary websites is a source of contention to consumers and some performers and has given rise to enforcement and legal action in other countries. **Acknowledged and entirely unacceptable. See the CAI General Statement.**

General Statement.

It is the view of the Consumers' Association of Ireland (CAI) that action must be taken to determine a set of fixed legislative provisions under which resident consumers can access for purchase, tickets to entertainment and sporting events at the original fixed face-value of the ticket.

We use the term 'resident' as we consider it necessary that we first resolve our national problems through defining structural change. Once this is completed we can then set about engagement with our EU Member State partners to seek agreement for a standardised approach across the single market. International agreements can be considered for their potential - especially through engagement with the sellers who, it must be acknowledged hold a significant and dominant presence across this global market and who must be encouraged to take greater responsibility or face consequences.

The actions to be taken will require to include the following for consideration:

- A ban on the resale of all tickets for all publically advertised and promoted events above face value plus the addition of between a 5% - 10% resale charge. This will work toward eliminating the 'legitimacy' that has been allowed to take form through sites and business entities that resell tickets at prices above face value;
- A single national non-profit resale website to be established where tickets can ONLY be placed for resale. The tickets to be resold at face value including original purchase surcharges and the 5% (Tickets valued below €60), 7.5% (Tickets valued between €61 and €90 or 10% (tickets valued over €90) – to fund the resale platform;
- Unlike the present circumstance which we find to be a barrier to legitimate reselling there should be no additional charge to the selling consumer of the original ticket. They should receive a face value refund including any original fees paid to the seller;
- In the event that the percentages are insufficient then the site could be provided through a levy on the selling agencies;
- The selling agencies should be required to fund an independent ombudsman scheme for resolution of complaints;
- There requires to be discussion with the ticket providers to review their 'per ticket' charges for review unless they agree to take responsibility for providing/inserting/affixing any security measure deemed essential to facilitating full ID of the purchaser – at their own cost and liability;
- Ticket sales to be reduced to a maximum of four per purchaser;

- Consumers to be advised, in all transactions, in a prominent placing, that the purchase of tickets outside of the primary or single resale facility will deem the seller to be breaking the law or the tickets to likely be counterfeit and that, in both instances, they are without any right to compensation of any kind;
- In addition tickets sold outside of the system are subject to seizure and both parties liable to possible penalties for breach of the Legislation covering the Sale and Resale of Tickets for Entertainment and Sporting Events;
- The issue regarding the resale of tickets which were not placed on original sale to the public reflects a poor level of oversight from the promoters – many of whom portray their organisations as upholding only the most stringent of ethics and good governance. However, as these are outside of the system then it is, at best, a matter of personal consumer choice as to the price at original, below or above face value that they wish to pay. Again, unless there is strict oversight with penalties – enforced penalties, with attaching fines or loss of membership, then the matter will remain unresolved and consumers will remain open to purchase of counterfeit tickets, indirect support of criminal activities and be out of pocket;
- We see little point in attempting to restart a national discussion regarding these ‘private’ events and their relationship with the very different level of high-tech and determined touting that exists and is growing around concert and online ticket selling. When we consider the sums involved and the wide span across all genres of population the effect upon all concerned is significant and unacceptable for continuity. We have to attach priority where it is necessitated;
- The logical alternative solution is for secondary sale agents to be required to comply with the same national regulation;
- There is great merit in exploring the positive elements of personal identification attaching to each ticket rendering it unusable and impossible to resell except through an official channel;
- Commencement, at the earliest possible date, with the European Commission to consider the establishment of a single market approach to protect consumers and all concerned with the professional promotion of concerts and national events, against those who seek to seize control with criminal intent including money-laundering and market control.

**Consumers' Association of Ireland
30th March 2017.**