

31 July 2019

Ms Tracey Sharpe (Committee Clerk)
Standing Committee on Legislation
Parliament House
4 Harvest Terrace
West Perth WA 6005



Submission – Inquiry into Ticket Scalping Bill 2018

Dear Committee

Thank you for the opportunity to provide this submission to the Standing Committee on Legislation in relation to your inquiry into the Ticket Scalping Bill 2018 (the Bill).

The following submission outlines viagogo's concerns with the Bill, particularly regarding its feasibility to address its stated policy objectives and the disproportionate and unnecessary impacts on Western Australian consumers.

The submission details our recommendations that would allow the Bill to more fairly and comprehensively address its underlying policies.

ABOUT VIAGOGO

viagogo is a global online secondary marketplace for live sport, music and entertainment tickets that aims to provide buyers with the widest possible choice of tickets to events across the world.

viagogo is a secure, safe and transparent option for reselling tickets that the original owner no longer wants or can use. They give Australian customers a second chance to buy the tickets they may have missed out on first time round. viagogo does not buy or sell tickets and it does not set prices.

viagogo has partnered with many of the world's leading brands in sport and entertainment and over the last year, we have helped thousands of Australians safely buy or sell tickets to a wide range of events across the country and around the world, in addition to helping tourists attend events in Australia while visiting.

ABOUT THE SECONDARY TICKET MARKET

Prior to the existence of secure online ticket marketplaces like viagogo, ticket fraud and scalping were unfortunately very common. Consumers were forced to take their chances outside venues, putting themselves at risk of purchasing fraudulent or invalid tickets with little or no recourse should things go wrong.

Secondary ticketing sites that operate in a safe, secure and transparent fashion serve a necessary function that is in the interest of the consumer. They provide access to events because of the limited number of tickets available released by primary ticket providers.

Our research shows that people use the secondary ticket market for a number of reasons. Buyers have typically missed out on tickets in pre-sale or general release. They might be attending an event out of town or have only heard about a concert or sporting event at the last minute. These people are typically happy to pay a premium to secure events that they consider "must see". Sellers are typically unable to attend an event due to

unforeseen circumstances like a change of plans or diary clashes. This is not surprising when you consider many events are sold out many months in advance.

OUR POLICY POSITIONS

We support measures to ensure that customers have the information that they need to make an informed decision about their purchase, either on the primary market or on the secondary market. **However, we believe that organisers and promoters must disclose their ticketing practices and its impact on the public sale. If consumers require further educational measures, this must start by knowing the percentage of tickets that are available to the public at the start.**

We support this Bill's ban on "bots" and remain committed as we have previously stated publicly to other governments and regulators of our support for an outright ban on using software ("bots") to circumvent security protocols on primary selling websites in order to purchase tickets above allowed levels through deception. We also extend this support and offer of assistance to primary market ticket sellers who are targeted by these means. Primary market ticket sellers, however, are best-placed to enforce a ban on ticket-buying bots.

We would also welcome moves to prohibit the circumvention of ticket purchase limits in other ways, for example, by the use of multiple credit cards, false names etc. to ensure any one individual is only able to purchase tickets up to the designated per person limit for the event.

RECOMMENDATIONS

I. DEFINITION OF "ORIGINAL TICKET PRICE" CREATES AMBIGUITIES THAT RENDER THE BILL UNWORKABLE AND IS NOT FAIR TO CONSUMERS

Relevant Section of the Bill

Part 1 – Preliminary: Section 3 – Terms used

Proposed change

original ticket price, in relation to a ticket offered for retail sale for admission to an event, means the amount for which the ticket was purchased when first offered for retail sale by the event organiser or an authorised ticket seller (and includes, if a booking fee or other commission was payable to an authorised ticket seller in relation to that sale, the amount of that fee or commission).

Reason for proposed change

The language associated with "original ticket price" creates unnecessary ambiguities that make enforcement of the Bill unworkable in practice. The current definition assumes that all tickets relating to an event are first offered for retail sale. In fact, many (and for some events most) tickets are never offered for retail sale. For these tickets, there is no "original ticket price". These tickets are held by venues for their own VIPs, provided to sponsors like credit card companies, for distribution, and distributed to organisers, promoters, and artists as comps.

Further to this point, for larger high profile and in demand events the practices of yield/revenue management (dynamic pricing structures), queue pricing¹ and selling tickets as part of packages are quite common. In all the above common-practice scenarios, it can be difficult if not impossible to place a monetary 'original ticket price' on an individual ticket.

¹ A practice whereby in advance of public sale, fans are encouraged to purchase an artist's products or special promotional items and share multiple social media activities in order to increase the position in the queue.

In some jurisdictions, roughly half of the available tickets are reserved for a variety of industry stakeholders, including:

- performers and their managements
- members of performers' fan clubs
- venues and members of their clubs
- corporate sponsors
- holders of certain credit cards
- customers of some telecom's services, record labels and media organisations

We encourage and support any initiative or legislation that provides transparency on the primary market to reveal how many tickets are actually available to the general public.

The basis of any functioning market, and a consumer's ability to determine what is a fair price, is the knowledge of the full supply quantity of a good.

Further, for tickets that are repurchased and resold, the new seller may not be aware of the original ticket price if such tickets were not available for resale. If such a scenario seems far-fetched, consider that many public sales for tickets are made more than six months in advance of an event, meaning that many buyers will have changed circumstances before the date of sale. In this instance, requiring individuals who purchase tickets – and are subsequently forced to resell tickets under changed circumstances – to investigate the original price paid by the original seller is unfair and unreasonable. It will also inevitably lead to breaches of the legislation as buyers and sellers approximate the “original ticket price.”

As such, we recommend that the definition of “original ticket price” only pertain to tickets “offered for retail sale”, for which sellers have a readily identifiable ticket price.

II. TICKET RESALE ADVERTISING LIMITATIONS CREATE PROBLEMS OF APPLICATION

Relevant Section of the Bill

Part 2 – Resale, supply or advertising of tickets: Section 9 – Prohibited advertisements.

Proposed change

- (2) A ticket resale advertisement must specify —
- (a) the original ticket price, if any; and
 - (b) details of the location from which the ticket holder is authorised to view the event (including, for example, any bay number, row number and seat number for the ticket)

Reason for proposed change

As discussed above, the original ticket price for a ticket may be difficult to identify, and for many tickets, there may not be an original ticket price. The definition of “ticket resale advertisements” should reflect this fact.

For this reason, we propose clarifying language that requires specification of an original ticket price in only those instances where an original ticket price exists (that is, where tickets for an event were sold at a public sale at a retail price).

III. APPLICATION OF THE ACT PROMOTES UNFAIR RESTRICTIONS ON RESALE

Relevant Section of the Bill

Part 1 – Preliminary: Section 5 – Application of Act.

Proposed change

- (1) This Act applies to tickets for admission to events in Western Australia:
- a. that are subject to a resale restriction; and
 - b. for which the event organiser or an authorised ticket seller have provided an accessible alternative option for persons to list tickets for resale.

Reason for proposed change

We support limitations on resale restrictions, as resale restrictions on tickets violate buyers' right to free use and enjoyment of their property. Moreover, many event tickets are contracts of adhesion. They are offered for public sale in a situation of extreme scarcity, in situations where resale options are extremely limited or non-existent. Consumers best interests are served by providing them with a readily available and accessible option for ticket resale.

We propose that the applicability of the Bill be limited only to events that are subject to resale restrictions and where authorised in which ticket sellers or event organisers offer reasonable alternative means to resell or transfer tickets that purchasers can no longer use. This will promote additional resale options for consumers, or in the event that organisers are unwilling to invest in offering buyers the opportunity to resell, allows the secondary market to fulfil its valuable social function of offering greater flexibility and choices for buyers.

IV. PRICE CAP LIMITATIONS ARE NOT FEASIBLE IN APPLICATION

Relevant Section of the Bill

Part 2: Resale, supply or advertising of tickets: Section 6 – Ticket scalping

Proposed change

Remove Section 6.

Reason for proposed change

viagogo operates all over the world. This experience means that we have a unique view on the effectiveness of prices caps. This experience demonstrates consistently that price caps do not work. They create an inefficient, informal online market, which cannot be policed and results in higher prices and fewer protections for consumers.

In addition, it is our experience that price caps are impossible to enforce and drain resources unnecessarily. Central to this is the acceptance that when legitimate, safe platforms like viagogo are shut down or put at a competitive disadvantage, the reselling of tickets does not stop but only moves to informal channels, such as social media, fan websites, and the streets outside of venues where consumers have no rights or protections.

Further, moving the resale of tickets to the informal market will not result in cheaper prices. In fact, our experience shows it drives prices higher. A lack of transparency and limited options means consumers are unable to find the best possible deal.

Affordability and accessibility issues would be better addressed by requiring event organisers to put a higher proportion of tickets on-sale to the general public at a wider variety of price points.

CONCLUSION

A free, open and transparent ticket resale market is in the interests of consumers. It provides a valuable mechanism to recoup the cost of unwanted tickets, while also providing protection against ticket fraud and the kind of scams that previously plagued the streets outside venues.

The ticket resale market delivers a number of important benefits to consumers:

- The resale market provides a **safe and secure** place for people to sell tickets they no longer need.
- Ticket marketplaces provide consumers with **access and choice**. Tickets are almost always available on the secondary market, even if those tickets are sold out on the primary market. Resale markets provide a place for people to buy tickets to attend events that they consider to be 'must see' if they have missed the initial sale period. Secondary marketplaces also generally provide consumers with a large range of pricing and seating options.
- Secondary markets provide a system to recoup the cost of unwanted tickets. They offer consumers much needed **flexibility** in a sector where they often have little recourse if something unexpected prevents them from attending an event. Adequate refund mechanisms for tickets are rare in the primary market. In many cases, the secondary market offers the only opportunity for consumers to recoup the expense of tickets they are unable to use.
- Formal resale market places provide a greater level of protection for consumers. For example, viagogo extends the viagogo guarantee to all our customers. This ensures that, if any problem arises, viagogo will step in to provide comparable replacement tickets or a refund. In addition to this, our customers can contact our customer service support at any time.

We would welcome a greater level of industry-wide cooperation to deliver the best solutions for consumers. It is our strong view that targeting only one aspect of the ticketing sector will not deliver any meaningful change. We need reform across the board – across the whole ticketing sector.

Again, thank you for the opportunity to provide this submission to the Standing Committee on Legislation.

We would be happy to clarify our concerns for the Committee and provide further information if any member requires it.

Yours sincerely



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