



**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HIKINA WHAKATUTUKI



# Discussion document

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## Ticket reselling in New Zealand

March 2019

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# 1 How to have your say

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## Submissions process

The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the issues raised in this document by 5pm on **Thursday 18 April 2019**.

Your submission may respond to any or all of these issues. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.

Please include your name and contact details in the cover letter or e-mail accompanying your submission.

You can make your submission:

- Completing the online summary submission form which can be found at [www.mbie.govt.nz/ticket-reselling](http://www.mbie.govt.nz/ticket-reselling). This form is for people who are limited on time or who only wish to comment at a general level on ticket reselling issues and options.
- By sending your submission as a Microsoft Word document to [consumer@mbie.govt.nz](mailto:consumer@mbie.govt.nz). Please use the detailed submission template which can be found at [www.mbie.govt.nz/ticket-reselling](http://www.mbie.govt.nz/ticket-reselling).
- By mailing your submission to:

Competition & Consumer Policy  
Building, Resources and Markets  
Ministry of Business, Innovation & Employment  
PO Box 1473  
Wellington 6140  
New Zealand

Please direct any questions that you have in relation to the submissions process to [consumer@mbie.govt.nz](mailto:consumer@mbie.govt.nz).

## Use and release of information

The information provided in submissions will be used to inform MBIE's policy development process, and will inform advice to Ministers on ticket reselling. We may contact submitters directly if we require clarification of any matters in submissions.

MBIE intends to upload PDF copies of submissions received to MBIE's website at [www.mbie.govt.nz](http://www.mbie.govt.nz). MBIE will consider you to have consented to uploading by making a submission, unless you clearly specify otherwise in your submission.

If your submission contains any information that is confidential or you otherwise wish us not to publish, please:

- indicate this on the front of the submission, with any confidential information clearly marked within the text
- provide a separate version excluding the relevant information for publication on our website.

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The Privacy Act 1993 establishes certain principles with respect to the collection, use and disclosure of information about individuals by various agencies, including MBIE. Any personal information you supply to MBIE in the course of making a submission will only be used for the purpose of assisting in the development of policy advice in relation to this review. Please clearly indicate in the cover letter or e-mail accompanying your submission if you do not wish your name, or any other personal information, to be included in any summary of submissions that MBIE may publish.

## 2 Minister's Foreword

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Attending live entertainment events is an activity most New Zealanders want to enjoy at some point in their lives. For some, these events are once-in-a-lifetime opportunities and create memorable experiences with friends and family.

I am concerned to hear that a growing number of New Zealanders are missing out on event tickets or being ripped off because of ticket scalping. This tends to happen when popular events sell out and tickets then instantly appear on resale websites for huge mark ups. This extra money goes to scalpers instead of the event's creators or remaining in the pockets of consumers. These practices reduce consumer wellbeing and I believe that many New Zealanders would think this is unfair.

The Government is committed to protecting consumers and ensuring that markets are working competitively. As part of this, I want to make sure that consumers get a fair go when purchasing tickets, and that New Zealanders are protected when buying and reselling tickets.

This discussion document seeks to identify and gather evidence on the issues, and asks for feedback on potential options to address these issues

I am aware of hundreds of New Zealanders being subject to ticketing scams and fraudulent tickets, as well as being misled into buying higher-priced tickets from unofficial sites. This can be hugely disappointing for consumers who have looked forward to attend the event only to find out their tickets are not valid.

While we already have broad consumer protection laws to prevent consumers from being misled or deceived when purchasing tickets, there is growing public concern that many New Zealanders are being ripped off and harmed by ticket scalping practices.

I look forward to hearing from consumers, industry participants and other interested parties on the issues and proposals in this paper. Your feedback will help us to design the right solutions to address these issues.

Ngā mihi nui

A handwritten signature in blue ink, appearing to read 'Kris Fafoi', written in a cursive style.

Hon Kris Fafoi  
Minister of Commerce and Consumer Affairs

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# 3 Executive summary

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Ticket reselling is a consumer issue that is of increasing concern to New Zealanders. While ticket reselling has existed for a long time, the development of online technologies has transformed the ticket resale market into a huge global industry, which has led to consumers feeling ripped off and calling for action to stop these practices.

The primary ticket market is where tickets are first sold by an official ticket seller, on behalf of the artist and their promoter, and the secondary (resale) ticket market is where tickets are resold by a third party, usually through a ticketing website or online platform, to other consumers.

Ticket reselling practices can cause a number of consumer harms to consumers who buy resale tickets. The key issues we have identified are that:

- Consumers are being misled and deceived when purchasing resale tickets
- Consumer welfare is being reduced by ticket reselling practices
- Potential competition problems in the primary ticket market, which lead to issues in the secondary (resale) ticket market.

The overall objective of consumer policy is to promote the long-term interests of consumers. In order to achieve this objective, it is important to ensure consumers are well-informed when they purchase resale tickets and have appropriate access to redress if things go wrong. Markets also need to be well-functioning and competitive to promote good consumer outcomes. In addition, there is strong public interest in reducing consumer harm from inflated prices and lack of fair access to tickets.

We have outlined a number of potential options (not mutually exclusive) which could be taken to address the issues above, along with our views on the advantages and disadvantages of each option. The potential options are:

- Maintain the status quo (no change)
- Impose a price cap on resale tickets
- Information disclosure requirements
- Ban on ticket-buying bots
- Joint industry-government initiatives.

Further evidence on the likely impact of these options is required to evaluate the options and determine appropriate solutions.

MBIE invites industry participants and consumers to provide further evidence and feedback on the issues we have outlined, the objectives, and the potential options to address these issues. This will be used to inform the final recommendations to the Minister on appropriate actions to take.

# 4 Introduction and context

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## Purpose of this paper

1. MBIE has heard growing concerns about some ticket reselling practices and the negative impact these practices may be having on consumers. The Commerce Commission has received over 600 complaints since July 2016 about ticket resale website Viagogo alone.
2. This paper outlines MBIE's initial examination of the issues and potential options that have been raised in relation to ticket reselling and poses a number of questions about ticket reselling.
3. We invite consumers, industry participants and any other interested parties to provide detailed evidence or feedback on the questions under each of the sections in the paper (summarised in *Appendix 1*). Please use our detailed submission template, which can be found at [www.mbie.govt.nz/ticket-reselling](http://www.mbie.govt.nz/ticket-reselling), when making your submission.
4. Alternatively, for consumers or others who are short on time or only want to comment generally on ticket reselling issues please use our online summary submission form, which can also be found at [www.mbie.govt.nz/ticket-reselling](http://www.mbie.govt.nz/ticket-reselling).
5. This feedback will better inform our understanding of the issues and data related to ticket reselling in New Zealand, and potential options to address these issues. It will be used to inform the final recommendations to the Minister on appropriate actions to take.

## Context

6. The market for event tickets in New Zealand consists of the primary ticket market, where tickets are initially sold and purchased, and the secondary ticket market, where tickets are resold or 'scalped'.
7. In recent times, live performance events (particularly concerts for popular music artists) have been the source of most consumer complaints about ticketing.
8. We do not have any available data on the size of the ticketing industry (because live events are diverse and ticketing is not usually considered a separate industry itself), but we understand that the live music subsector produced gross output of \$90.7 million in 2016.<sup>1</sup>

## Overview of primary ticket market

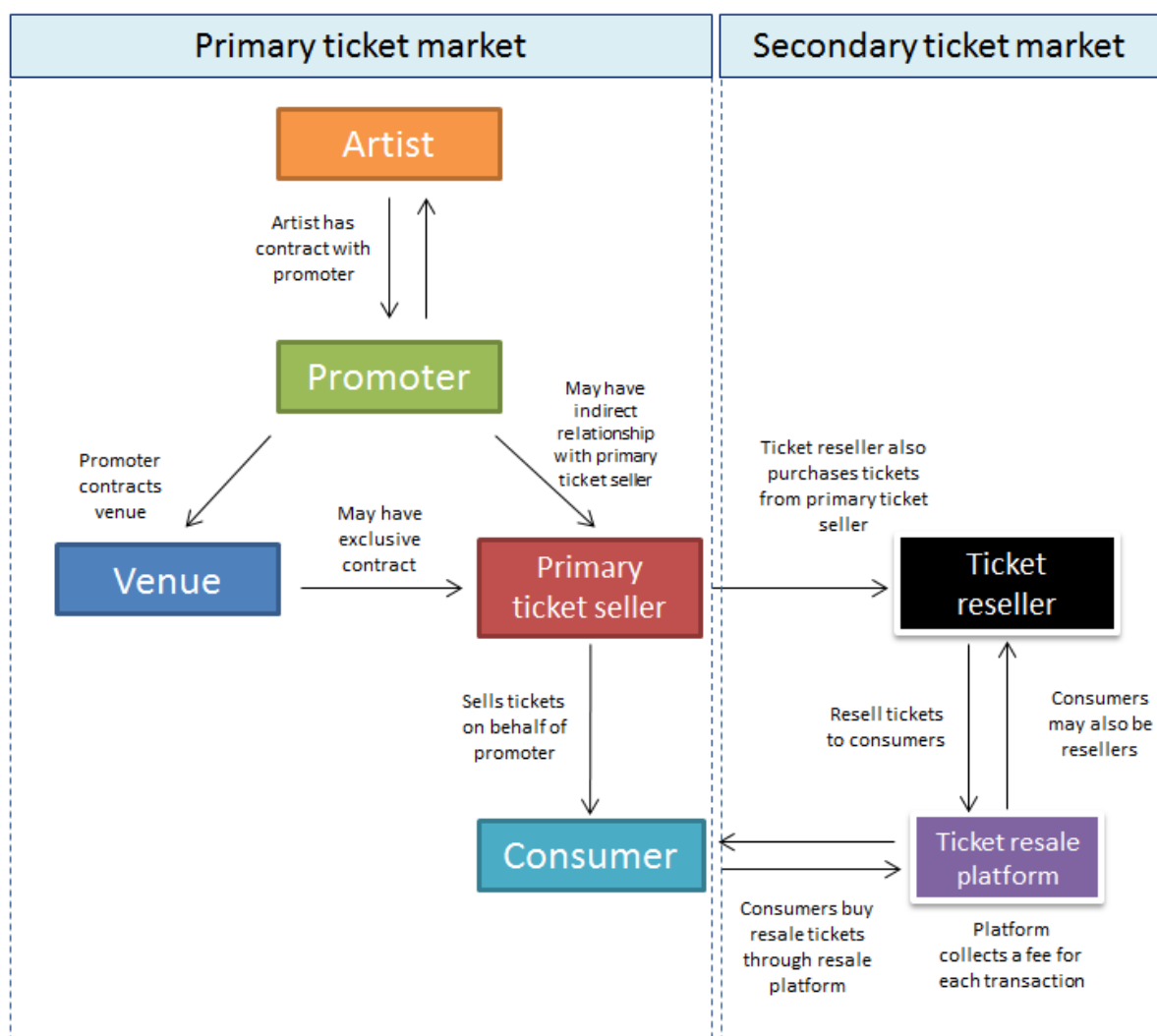
9. Tickets for events in New Zealand are most commonly purchased from a primary ticketing agent (e.g. Ticketmaster, Ticketek, and Ticket Direct). The primary ticketing agent often negotiates exclusive ticket selling rights with venues to sell tickets to events held at those venues. Most tickets are sold at a fixed '**face value**' price plus any additional fees (such as booking, delivery and credit card fees). The face value is usually displayed on the ticket to indicate its official purchase price. Often, this fixed face value is broadly segmented, with different prices for standing (General Admission) and different categories of seating.
10. In the context of music, artists are represented by their manager, with a booking agent negotiating a contract with an event promoter for the artist to perform at various venues. The event promoter is responsible for putting together the tour, including the type of venue and how many shows they intend to invest in.

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<sup>1</sup> PwC report (May 2018). *Economic contribution of the music industry in New Zealand 2016*.



11. Artists and/or event promoters determine the face value price and often the methods of ticket sale and distribution, and where the event will take place. Promoters usually set the terms and conditions of ticket sales, including how many tickets can be purchased in a transaction and restrictions on validity of tickets that are resold. The primary ticketing agent usually sets the additional ticket fees.
12. The ticketing agency sells tickets to events on behalf of the event promoter. We understand that the majority of ticketing revenue goes to the content provider (e.g. the artist and promoter), while primary ticketing agents derive their income from service and booking fees. These fees contribute towards the costs of running a ticketing operation.
13. The primary ticket market is important when considering ticket reselling issues as actions taken in the primary market will influence what happens in the secondary (resale) market. For example, decisions on pricing will affect the scope for resale, as will measures to limit the number of tickets flowing to the secondary market.



*Limited supply in the primary market and excess demand for tickets*

14. The supply of tickets for events is limited by the capacity of the venue and the number of performances that will be held. For popular artists or sports events, there are generally a limited number of venues with sufficient capacity. For some events, in the long term, more tickets can be made available by adding in more performances or temporary seating.

However, this is not an option for all events and some very popular events may continue to sell out even if additional performances are added.

15. As with any market, when people want more tickets than are available, some consumers will miss out on being able to purchase tickets. In most markets, the natural response to demand exceeding supply is for the price to increase. While some of this dynamic does occur in relation to tickets (i.e. tickets to popular acts are generally more expensive than niche acts), demand for tickets at the face value may nevertheless exceed the supply for some events.<sup>2</sup> Some consumers are willing to pay more than the face value. This provides incentives for ticket resellers to purchase tickets to resell at higher prices. As such, ticket reselling tends to occur in situations when events sell out, or are predicted to sell out.
16. Essentially, the fewer tickets there are available and the more popular an event is, the more likely it is that ticket reselling will occur at prices above the face value.

### *Distribution of tickets*

17. While many consumers assume that all tickets for an event will go on sale to the public, we understand that a certain portion of tickets are not released to the public (i.e. they are reserved for corporate sponsors, certain credit card holders, friends and family, or other exclusive groups). A common distribution method employed by event promoters is to first hold a pre-sale (e.g. to certain credit card holders or fan clubs) and then general sale to all members of the public. For some events overseas, it is estimated that between 30-50 per cent of tickets are never released to the public.<sup>3</sup>

### Questions

- |   |   |
|---|---|
| 1 | How is the ticket price for an event determined? Who has input into setting these prices?   |
| 2 | What is the average proportion of event tickets that is released for general public sale (not reserved for industry insiders or pre-sale events for non-public groups)? |

### Overview of secondary ticket market

18. Once tickets are released onto the primary market, the promoter's ability to control ticket distribution is minimal (for example, this may not be the case for vertically integrated promoters such as Live Nation, which also owns Ticketmaster). At this stage, the secondary ticket market begins.
19. The features of the primary ticket market contribute to the existence of a secondary ticket selling or resale market, because:
  - there is a finite (inelastic) supply of tickets
  - demand for tickets can exceed supply for popular events
  - some ticket resellers have early or priority access to tickets through pre-sales and similar schemes (ticket allocation and availability)
  - tickets in the primary market can be under-priced relative to some consumers' willingness to pay, which create opportunities for profits to be made by reselling tickets.

<sup>2</sup> Reasons for this include artists wanting their tickets to remain accessible to their general fan base, or difficulty in predicting demand for an event in advance of tickets going on sale.

<sup>3</sup> New York Attorney-General: Ticket Sales Report, 2016

20. Tickets obtained through the primary ticket market can be offered by sellers at any price. The most common avenue for ticket reselling is the internet, either through secondary ticket platforms such as Ticketmaster Resale, Viagogo or StubHub, general online marketplaces such as Trade Me, or social media channels such as Facebook posts or other online messaging services.

21. The secondary ticket market can be broadly categorised into two segments:

*Ticket onselling*

a. Ticket onsellers are those who purchase tickets with the original intention of attending the event, but can no longer attend. They have an opportunity in the secondary market to recover the money they spent, when they cannot access a refund from the primary ticket seller. This also provides an opportunity for another consumer to attend when they may have otherwise been unable to attend, e.g. by not being able to purchase a ticket in the initial sale or deciding they wish to attend closer to the date of the event.

*Ticket scalping*

b. Ticket scalpers purchase tickets with the explicit purpose of reselling them for a profit, with no intention to attend the event. They are sometimes professional traders based overseas, using automated software and multiple different credit cards to purchase large quantities of tickets.

22. A resale platform usually operates as an intermediary, often charging a fee as a percentage of the sale price. All of the major secondary ticket platforms have adopted a model which offers some form of guarantee for tickets sold on their platform. In comparison to other forms of resale (via social media, through peers or street sales), these platforms present themselves as being lower-risk.

23. Due to the anonymity of ticket resellers, resale sites can be a conduit for fraudulent activity. Consumers can fall prey to scams in which they pay for tickets that never appear, or which turn out to be fake, duplicated, or otherwise invalid.

24. There are also complexities in enforcing domestic laws against overseas traders, which makes access to redress difficult. For example, Viagogo, a secondary ticket site that is based in Switzerland, is being investigated for misleading practices in several jurisdictions, including by the Australian Competition and Consumer Commission, UK Competition and Markets Authority and New Zealand Commerce Commission.

25. In response to growing worldwide concerns about Viagogo, Google has introduced stricter advertising requirements for all ticket resale websites. This includes requiring all event ticket resellers to be certified before they can advertise through Google AdWords.

*Extent of the problem in New Zealand*

26. An MBIE-commissioned consumer survey in November 2018 (*Appendix 2*) was carried out to gather some initial data on the prevalence of ticket reselling and attitudes towards ticket reselling in New Zealand.

27. The survey found that 21 per cent of people had purchased resale tickets before, and the people who had purchased these tickets generally tended to be younger and male. Of those who had purchased resale tickets, TicketMaster Resale was the most popular website, followed by Facebook and Trade Me. Only 2 per cent of people surveyed had purchased tickets from Viagogo.

28. More people rated their experience purchasing resale tickets as positive (41 per cent) or average (38 per cent) than negative (20 per cent). However, negative experiences were much

more common for those using Viagogo (60 per cent), followed by Facebook (33 per cent). See *Appendix 2* for a detailed breakdown of the survey questions and results.

29. Between July 2016 and December 2018, the Commerce Commission has received over 600 complaints about Viagogo, with many individual complaints referring to multiple problems. The key problems included:
- 352 complaints about price (lack of disclosure of additional fees, charges in foreign currency and being above face value)
  - 185 complaints about guarantees (invalid tickets, wrong category tickets received, tickets not arriving, and no refunds provided)
  - 175 complaints about being unaware that Viagogo was a resale site
  - 79 complaints about invalid tickets for which valid replacements were not given.
30. On 15 August 2018, it was announced that the Commission was commencing civil proceedings in the High Court against Viagogo. The Commission is seeking declarations that Viagogo has breached the Fair Trading Act, an injunction to restrain it from further breaches, and corrective advertising orders. The initial hearing took place on 5 February 2019. The High Court dismissed the application for an interim injunction because Viagogo was not served formally in its home jurisdiction of Switzerland. The substantive hearing will take place at a later date once service has been effected (formal service can take 6 months or more due to requirements to effect service through diplomatic channels). This case highlights the difficulties of enforcing domestic consumer laws against overseas companies.

## Questions

3	<p>Is there any available data on the size of the secondary ticket market in New Zealand that you could provide? For example, the average</p> <ul style="list-style-type: none"><li>- proportion of event tickets that end up on the secondary market</li><li>- proportion of professional sellers operating on secondary markets and where they are operating from</li><li>- proportion of resale tickets that are sold above the face value</li><li>- fees charged per ticket by secondary markets for facilitating the resale transaction.</li></ul>
4	<p>Do you think 'ticket onsellors' should be treated differently to 'ticket scalpers' in any options to address ticket reselling practices?</p>

## The current regulatory environment in New Zealand

31. There is no statutory prohibition against ticket reselling in New Zealand, with the exception of internationally significant events which are declared 'major events' under the **Major Events Management Act 2007** ('MEMA'). This prohibits tickets being resold above the 'original sale price' for these major events. The MEMA only applies to major events that are of international significance, and those that attract large audiences and therefore sponsors.<sup>4</sup>

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<sup>4</sup> In order to be declared a 'major event', the event organiser needs to make an application for declaration, and the Minister needs to take into account a range of considerations about the international significance, sponsorship attraction and benefits of the event before making a recommendation to the Governor-General. The Governor-General then makes the declaration by Order in Council.

32. There are also general consumer protections that can protect buyers from unscrupulous behaviour by ticket resellers:
  - a. The **Fair Trading Act 1986** aims to protect consumers from misleading and deceptive behaviour, e.g. if an organisation misleads consumers into thinking they were purchasing tickets at the original sale price or from the original vendor, they may be breaching the Act.
  - b. The **Consumer Guarantees Act 1993** protects consumers by setting out quality guarantees any business or person in trade must provide to their customers, and providing that a business must offer repairs, replacements or refunds when goods are faulty. For example, if the tickets are not fit for purpose or do not match the description advertised, consumers can take action against the seller.
33. These consumer protections do not apply to peer-to-peer transactions (e.g. if a consumer was purchasing from another consumer who was not 'in trade').

#### *Overseas measures*

34. Overseas measures to address ticket reselling issues are outlined in *Appendix 3*. Several jurisdictions (including certain states in Australia, and some parts of the US and Canada) have imposed price caps on resale tickets in an attempt to reduce ticket scalping. However, we note that ticket scalping continues to persist despite legislative measures to limit these practices.
35. The Australian Treasury has recently completed a review at the federal level, and the UK Government has previously commissioned an independent review of the ticket resale market. Both these reviews recommended information disclosure measures and potential action to tackle ticket-buying bots.

## 5 Key issues and objectives

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36. We consider that there are a number of issues related to ticket reselling in New Zealand, including:
  - a. Consumers being misled or deceived when purchasing resale tickets
  - b. Consumer welfare being reduced by ticket reselling practices
  - c. Potential competition problems in the primary ticket market.

### Issue 1: Consumers are being misled and deceived when purchasing resale tickets

37. The Government is becoming increasingly concerned about the disproportionate harm being caused to consumers and the industry from fraudulent ticket sales. Notwithstanding these assertions, the scale of this behaviour is unclear. However, Consumer NZ undertook a survey into the ticket resale industry in 2017,<sup>5</sup> which helps to improve our understanding of the key issues.

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<sup>5</sup> Consumer NZ collaborated with consumer advocacy groups in Australia (Choice) and the UK (Which?) to produce a report on the ticket resale industry. The figures used in this section represent the proportion of New Zealand consumers who participated in the survey, rather than the overall results from consumers across Australia, the UK and New Zealand.

### **New Zealand consumers who have experienced problems purchasing resale tickets**

- 54 per cent paid more than the face value of the ticket
- 42 per cent were charged hidden fees
- 40 per cent thought the website was an official ticket seller, not a resale website.

38. Based on the Consumer NZ survey results and some initial research, we can broadly categorise these problems into two interlinked issues:
  - a. Fraudulent behaviour by ticket resellers (i.e. selling fake tickets, selling the same ticket multiple times, or not describing the seating location accurately)
  - b. Consumers lack the information they need to make informed purchasing decisions (i.e. not knowing they paid more than the face value of the ticket, and thinking the resale website was an official ticket seller).
39. With regard to fraudulent behaviour, purchasing resale tickets can expose consumers to the risk of fraud because the authenticity of the ticket cannot be guaranteed. Even if a resale ticket is authentic, it may be counterfeited and sold multiple times without the consumer's knowledge.
40. When purchasing resale tickets, the consumer is also exposed to the risk of ticket cancellation because of contraventions of original terms and conditions which may prohibit resold tickets from being used.
41. With regard to the lack of information, consumers who do not frequently purchase tickets may find it difficult to identify who the official ticket seller is for a particular event. They may also not know how to go about finding out who the official ticket seller is without the use of a search engine that can provide misleading results.
42. Furthermore, when a consumer reaches a resale website they may not be aware that they are purchasing from a secondary ticket seller because resale websites generally do not provide that information. Ticket resale websites can look and feel like official ticket websites, misleading consumers into thinking that they are buying their tickets through official channels.
43. Ticket resale websites often lack important basic information about the tickets that are being sold, such as the face value of the ticket, the location of the ticket within the venue (such as section, row, seating information) and any restrictions on the ticket (such as concessional or entry restrictions). This lack of information prevents consumers from making fully informed decisions in line with their preferences.
44. In addition, hidden fees (which are not clearly advertised at the outset of the purchase) charged by resale sites are a common problem for consumers. An investigation undertaken by Choice Australia in March 2017 found that additional, unavoidable fees of over 25 per cent were added throughout the Viagogo checkout process. Pressure buying tactics are also commonly used by these websites which lead to consumers making impulsive purchases without properly evaluating the pricing information. However, we consider these pricing practices also affect consumers in a wide range of sectors, so they will be considered as part of a broader MBIE policy review of consumer laws.
45. Consumers may find it difficult to access redress when things go wrong in the ticket reselling marketplace. This is because ticket resellers usually operate anonymously (although the platform is not), which may encourage fraudulent practices and professional resellers not to declare themselves as such. Furthermore, due to the overseas locations of some secondary ticket resellers, e.g. Viagogo which is based in Switzerland, when these resellers do breach consumer laws there are difficulties bringing enforcement action to bear on them.

## Issue 2: Consumer welfare is reduced by ticket reselling practices

46. Resale tickets to popular events are often sold at prices much greater than face value. While consumers are not being forced into purchasing tickets that they do not want, some ticket reselling practices can nevertheless result in tickets being priced well above the face value price and can erode the relative value that consumers receive from those tickets.
47. While event tickets are generally considered to be non-essential products, for some New Zealand consumers, certain events are perceived as 'once-in-a-lifetime' events. These consumers may not have much discretionary income to spend on tickets, so it may be the one event they have been saving up to attend or purchase as a gift for their family.
48. If the price being charged ('face value') is less than the price where the demand for tickets is equal to the available supply, then ticket scalping can help to allocate tickets to those who are most willing (and able) to pay. Nevertheless, ticket scalping transfers value to scalpers that could have been instead captured by either consumers or producers and can undermine the objectives of these producers (e.g. affordability). Some participants in the primary market consider that the profits from the production of a good or service should go to those who contribute to the production (i.e. the artists and the promoters who are responsible for creating the event), rather than speculators.

### *Consumers' fair access may be undermined by ticket-buying bots*

49. A ticket-buying 'bot' is a type of software that automates the process of buying a ticket from a primary ticket source, generally much faster than a human can do it. Ticket-buying bots can be employed by professional ticket resellers to purchase large quantities of tickets for the purpose of reselling them at higher prices.
50. Ticket-buying bots can cause consumer harm because they prevent fair access to the primary ticket market for consumers. They take away opportunities for the public to purchase tickets at face value, and increase the pressure for consumers to log on to ticketing websites at the time tickets first go on sale, as tickets are only available for a short time before selling out.
51. Globally, ticket-buying bots are reportedly used widely by ticket resellers. For example, in 2016 Ticketmaster alone blocked more than six billion attempts by bots to gain access to its websites globally, at a rate of 10,000 attempts per minute. We have little-to-no information about how prevalent ticket-buying bots might be in New Zealand, though it is likely they play some role in the ticket resale market here.
52. It is also possible that a significant proportion of tickets are placed on resale sites directly by artists, promoters, or primary ticketing agencies for various reasons. There is no way of knowing for certain whether ticket bots are the main cause of the lack of tickets immediately after they are released for general sale. However, greater disclosure about the availability of tickets for public sale could help us to understand why some tickets appear on the resale market immediately after they go on sale.

## Issue 3: There are potential competition issues in the primary ticket market

53. As noted earlier, some characteristics of the primary ticket market contribute to issues in the secondary market. Some of the business structures and commercial affiliations in the ticketing industry are seen to be blurring the boundaries between primary and secondary ticket

markets, as well as venue operators. These potential competition issues can exacerbate issues in the secondary ticket market.

54. Some of the issues in the secondary ticket market may be influenced by the business structures of some industry players in the primary and secondary ticket markets. For example, the largest players in the ticketing industry are vertically integrated. Live Nation Entertainment is the holding company of Ticketmaster NZ, one of the main ticketing agencies in New Zealand. Ticketmaster NZ also runs Ticketmaster Resale, an online platform for resale tickets. In addition, Live Nation Entertainment also owns a majority stake in Spark Arena.
55. Some industry participants have expressed concerns about one company owning both a primary ticketing agency and secondary ticket platform, as it allows them to profit from the same tickets twice and may even incentivise withholding tickets from the primary market for the purpose of selling those tickets directly on the secondary market for a higher price (we have no evidence that this is happening in New Zealand, but there have been confirmed cases in the UK and Italy).

#### *Exclusive venue ticketing contracts*

56. Many of the major venues in New Zealand and overseas have exclusive contracts with a ticketing agency. In order to put on a show at one of these major venues, the promoter must contract with the ticketing agency the venue is contracted to. From this point on, the ticketing agency has sole control of the ticket distribution.
57. Given that there may only be one suitable venue for many events (due to capacity or location), practically, the promoter does not have much choice about the ticketing agencies and venues they use. This means they may have little bargaining power and are subject to the terms and conditions imposed by the ticketing agency.
58. The end result from this lack of competition is higher ticketing surcharges, which can inflate the face value price of a ticket and contract terms and conditions that may negate the ability of promoters to combat ticket reselling practices.

## Overall policy objective: Promote the long-term interests of consumers

59. The overall objective of consumer policy is to promote the long-term interests of consumers, and there is growing public concern about consumer harm caused by ticket reselling practices. We consider that there may be a role for the government to address these issues.
60. In order to achieve this overall objective, we need to ensure that:
  - a. Consumers have the information they need to transact with confidence and appropriate access to redress.
  - b. Markets are well-functioning and competitive.
61. In addition, we understand there is strong public interest in reducing consumer harm from inflated prices and lack of fair access to event tickets.

### Consumers have the information they need to transact with confidence and appropriate access to redress

62. Providing consumers with the necessary information to make informed decisions is one way of advancing the long-term interests of consumers.



63. In the ticket resale market, there is often a lack of adequate and accurate information to help consumers make informed decisions, leading to a prevalence of misleading and deceptive behaviour.
64. If consumers have more accurate information available to them, they are better able to assess value for money, identify when they are being misled, and assess the risks involved in making that purchase decision.
65. While it is important to ensure consumers have the necessary information to make informed decisions, consumers also need to be supported by appropriate access to redress if things do go wrong. This not only protects consumers after a problem occurs, but can also provide incentives for businesses to comply with the relevant consumer laws and proactively meet consumers' expectations.

### Markets are well-functioning and competitive

66. Complementing the consumer policy objectives above is competition, which also works to promote the long-term interests of consumers. Ensuring markets are well-functioning and competitive will create incentives for businesses to innovate, improve efficiencies and supply information to the benefit of consumers.
67. Better understanding the primary and secondary ticket markets and identifying ways to promote competition in these markets can help to improve consumer outcomes (e.g. in the form of lower prices, and better quality goods and services).

### Reduce consumer harm from excessive prices and lack of fair access to tickets

68. In addition to the consumer and competition policy objectives above, there are growing calls for the government to step in to protect consumers from harm by addressing inflated ticket prices and the lack of fair access to tickets. In the MBIE-commissioned consumer survey (*Appendix 2*), 67 per cent of respondents indicated support for further regulation around ticket reselling, particularly those who had negative experiences purchasing resale tickets and those who had purchased resale tickets using Viagogo.
69. When consumers are paying inflated prices in the secondary market, they are losing wellbeing (i.e. extra money that could have been used to buy something else) and ticket scalpers are gaining this consumer wellbeing.
70. Inflated ticket prices and bulk-buying of tickets can also undermine the objectives of artists in setting lower primary ticket prices to, for example, ensure greater affordability and fair access to tickets for the wider public.
71. It is acknowledged that projecting the likelihood and extent of future consumer harm is difficult. For example, defining what price is 'inflated' or unfair is inherently subjective. What one consumer might consider an excessive or inflated price another might consider completely reasonable.
72. Nevertheless, increasing levels of information alone may not be sufficient to reduce consumer harm from participating in the secondary ticket market. Given the growing concerns and public interest in these issues, tackling high prices and unfair access to tickets, as well as potential competition problems in the primary market, may be an important part of this work.

## Questions

5 Do you agree with the issues and objectives we have identified for assessing potential options to address ticket reselling concerns? How significant are these issues? Please provide evidence where possible.

6 Do you have any concerns with the business practices or structures in the primary ticket market, or have these ticketing arrangements negatively impacted on you? Please provide evidence where possible.

7 Could greater competition in the primary ticket market (e.g. between ticketing agents) reduce problems in the secondary ticket market? What could be done to encourage more competition in the primary ticket market?

## 6 Potential policy options

### Option 1: Status quo

73. Under this option, the general consumer protection legislation (the Fair Trading Act and Consumer Guarantees Act) would continue to apply. The Major Events Management Act would apply where events are declared under the Act. This would mean ticket reselling could continue unrestricted. Consumers would not have any greater protections against high ticket prices on the resale market, and resellers and resale platforms would not be required to provide any additional information to consumers.
74. The Commerce Commission would continue to enforce the Fair Trading Act. The Commission decides whether to take enforcement action, and the most appropriate action and response in each case. For individual consumer issues or disputes, the Fair Trading Act or Consumer Guarantees Act would need to be enforced individually by the consumer (usually through the Disputes Tribunal). It would continue to be difficult for consumers to take individual action against overseas resellers and platforms.
75. A summary of the advantages and disadvantages of retaining the status quo are listed in the table below.

Advantages	Disadvantages
Consumers continue to be able to access the secondary market to on-sell tickets.	Consumers may still lack the information required to make informed purchasing decisions.
No additional compliance costs are incurred by primary ticket sellers, secondary ticket markets or consumers.	No obligations for industry participants to change their behaviour.
	Consumers still experience reduced wellbeing and exposure to risks in the secondary ticket market.
	There continues to be barriers for consumers' access to redress when things go wrong.

## Questions

8 How effective are the existing consumer protection laws in regards to reducing consumer harm from ticket reselling practices?

9 Are there any other advantages and disadvantages associated with the status quo?

## Option 2: Price cap on resale tickets

76. A price cap is commonly presented as an option to prohibit resale for profit.
77. The MEMA in New Zealand already prohibits tickets to events that are declared ‘major events’ from being resold above the original sale price (which is defined in the Act as including charges necessary to effect the sale of the ticket, such as booking and delivery fees). However there is no premium attached to the price cap and most events do not meet the threshold for being declared as ‘major events’.
78. Overseas, there has been strong consumer and some promoter support for price caps. Certain parts of Australia, Canada and the United States have introduced caps on the resale value of the ticket to face value plus a small margin to cover transaction costs (such as booking fees).
79. One of the key challenges of implementing this option is determining the appropriate level of a price cap and enforcing this option when the concept of a ‘face value’ can be ambiguous (as consumers often end up paying above face value once booking fees and credit card fees are added on). Examples of ticket reselling under different price cap options are explored below.

### Examples of how price cap options might work

80. The ‘**original sale price**’ can be defined as the price printed on the ticket (commonly referred to as ‘face value’) and any other transaction costs (e.g. booking fees, delivery fees, etc.) paid by the original purchaser. This would broadly align with the definition in the MEMA.
81. In general, we note that any price cap would require some mandatory information disclosure to enable both consumers and enforcers of the price cap to verify the original sale price. The more complicated the price cap, the more sophisticated the systems of information disclosure, monitoring and enforcement that would be required to make it effective.

	<i>Price cap option A</i>	<i>Price cap option B</i>	<i>Price cap option C</i>
	<p>Face value + 10% or Original sale price (whichever is the lower price)</p> <p><i>New South Wales has implemented this cap</i></p>	<p>Original sale price + 10%</p>	<p>Original sale price + resale costs</p>
Single ticket resale example	<p>The original purchaser buys a ticket, paying \$120 in total:</p> <ul style="list-style-type: none"> <li>–\$100 ‘face value’</li> <li>–\$20 transaction costs</li> </ul> <p>They later sell the ticket online. The price cap</p>	<p>The original purchaser buys a ticket, paying \$120 in total:</p> <ul style="list-style-type: none"> <li>–\$100 ‘face value’</li> <li>–\$20 transaction costs</li> </ul> <p>They later sell the ticket online. The price cap</p>	<p>The original purchaser buys a ticket, paying \$120 in total:</p> <ul style="list-style-type: none"> <li>–\$100 ‘face value’</li> <li>–\$20 transaction costs</li> </ul> <p>They later sell the ticket online. The price cap</p>

	<p>under option A is \$110.</p> <p>The resale website charges a 25% fee. It takes \$27.50 for this sale.</p> <p>The original purchaser receives \$82.50 (losing \$37.50 from the original sale price).</p>	<p>under option B is \$132.</p> <p>The resale website charges a 25% fee. It takes \$33 from this sale.</p> <p>The original purchaser receives \$99 (losing \$21 from the original sale price).</p>	<p>under option C is \$160.</p> <p>The resale website charges a 25% fee. It takes \$40 from this sale.</p> <p>The original purchaser receives \$120 (recovering the full original sale price).</p>
<b>Pros</b>	<ul style="list-style-type: none"> <li>– Would keep resale prices lower</li> <li>– Reduces incentives for ticket scalpers to operate</li> <li>– Lower price for people buying resale tickets</li> </ul>	<ul style="list-style-type: none"> <li>– Would keep resale prices lower</li> <li>– Reduces incentives for ticket scalpers to operate</li> <li>– Simpler than other options</li> </ul>	<ul style="list-style-type: none"> <li>– Would keep resale prices lower</li> <li>– Reduces incentives for ticket scalpers to operate</li> <li>– Original purchaser can recover full initial cost of ticket</li> <li>– Promotes competition between resale platforms on their fees</li> </ul>
<b>Cons</b>	<ul style="list-style-type: none"> <li>– Original purchaser would not get all their money back</li> <li>– Harder to verify the level of price cap than option B.</li> </ul>	<ul style="list-style-type: none"> <li>– Original purchaser may not get all their money back.</li> </ul>	<ul style="list-style-type: none"> <li>– Harder to verify the level of price cap than option B.</li> </ul>

82. A summary of the advantages and disadvantages of this option is set out in the table below.

Advantages	Disadvantages
Consumers can still on-sell tickets and purchase tickets on the secondary market.	Price caps have not worked well overseas. <sup>6</sup> Despite many jurisdictions imposing price caps, ticket scalping still exists and scalpers have often found a way around them.
Consumers are legally protected from inflated prices on the secondary market and consumer welfare isn't captured by scalpers.	There are significant enforcement issues with implementing a price cap. Without strict information disclosure, it is difficult to accurately identify all the resellers who may be in breach.
This may reduce prevalence of ticket scalpers to some extent, as there are fewer incentives for professional ticket resellers in New Zealand to buy up tickets on the primary market and develop 'bots'.	Price caps are likely to lead to drive scalping activity further offshore to circumvent the cap, leading consumers to use offshore sites where there is less oversight and protection from local consumer laws. Legitimate local websites <sup>7</sup> may stop offering resale tickets because the rules are too resource intensive

<sup>6</sup> Price caps were not recommended in the independent UK review commissioned by the government in 2016, nor in the Australian Treasury's Regulation Impact Statement on ticket reselling in 2018. The UK review found that the history of price caps was not effective especially where the set of sellers is not well-defined.

<sup>7</sup> For example, we understand that Trade Me does not facilitate the resale of any tickets to events that have been declared 'major events' under the MEMA, even if they are within the price cap.

to monitor and enforce.

83. See *Appendix 4* for a more detailed breakdown of potential considerations that would need to be taken into account if a price cap for resale tickets was introduced.

## Questions

10	If a price cap for resale tickets was introduced, which price cap option should be implemented?
11	How should the original sale price of resale tickets be verified? Who should be responsible for this?
12	What are the compliance costs that might be generated as a result of imposing a price cap?
13	Who is best placed to enforce a price cap? What is the level of resource required to enforce a price cap?

## Option 3: Information disclosure requirements

84. This option would require certain information to be provided and presented in order to inform consumers so that they can better transact with confidence. Information disclosure requirements could apply to the secondary ticket market and also the primary market.
85. Aspects of the primary ticket market contribute to ticket reselling issues in the secondary ticket market. There are actions that could be taken by primary ticket sellers and event organisers to minimise negative consumer experiences in the secondary market, for example being more transparent about the general availability of tickets, likelihood of additional events, and guidance about how consumers can access tickets if primary tickets are sold out.
86. Information disclosure in the secondary market could improve transparency and contribute to providing the information necessary for consumers to make informed purchasing decisions.
87. Some possible actions in both the primary and secondary markets are briefly outlined below:

### *Availability of tickets for general sale*

88. This could include information such as the capacity of the venue, the number/proportion of seats available for general sale, the number of tickets left at a particular time and the number/proportion of seats available through alternative avenues (e.g. fan clubs) and how those tickets can be accessed.

### *Status of ticket resale sites*

89. Secondary market platforms and online search engines could be required to make a prominent disclosure that they are not an official ticket site. Google has already introduced requirements which restrict resale websites from using the word 'official' in their advertisements, but this could be strengthened through statutory requirements.

### *Characteristics of tickets listed on resale sites*

90. This could include information such as the face value price, the seating location or ticket category, any contractual restrictions imposed on the ticket (e.g. whether there is a risk a consumer may be turned away at the door) and who is selling the ticket which could include contact details of the seller. Having this information readily available would be essential for any price cap to be effective.

### Upfront disclosure of ticket fees

91. Secondary market platforms and resellers could be required to either provide upfront disclosure of fees at the beginning of the ticket purchase process or to wrap fees into the listed price. These measures could also be used in the primary market, as some service and transaction charges are not displayed prominently until the last stage of the consumer's ticket purchase.
92. Some possible advantages and disadvantages of this option are listed below:

Advantages	Disadvantages
Contribute to providing the information necessary for consumers to make informed purchasing decisions.	There may be additional compliance costs associated with monitoring, verifying and enforcing any information disclosure requirements.
Reduced consumer harm resulting from consumers not being able to effectively evaluate how much they value the ticket they are purchasing.	Depending on the requirements of the information disclosure there may be commercial sensitivities and additional costs involved in artists and promoters providing this information.
Requiring secondary platforms and resellers to provide greater information can help consumers obtain evidence they may need to access redress if something goes wrong.	Depending on the requirements of the information disclosure there may be additional costs to secondary ticket sites with ensuring this information is provided by sellers on their site.

### Questions

14	What types of ticketing information should be disclosed, and by whom? How should these disclosures be made?
15	How would any information disclosure requirements be enforced? Who should be responsible?
16	What type of compliance costs will be involved in order to comply with such information disclosure requirements? Please provide evidence where possible.

### Option 4: Ban on ticket-buying bots

93. This option would see a legislative ban on the use of automated software to purchase large quantities of tickets (ticket-buying bots), with penalties imposed on persons who are found to be using ticket-buying bots.
94. Ticket-buying bots cause consumer detriment because they prevent consumers from having fair access to the primary ticket market. Research from overseas indicates that ticket-buying bots are prevalent. While precise figures for New Zealand are impossible to obtain due to the global nature of bots and the difficulty in detecting bot use, we understand that Ticketmaster deflected 6 billion bot attempts globally in 2016.
95. The main difficulty with this option would be enforcing the ban. Ticket scalpers create bots to get around the security measures primary ticket sellers put in place and are very good at designing bots to be hard to detect. It is possible that in the future better cyber-security technology will enable ticket-buying bots to be more easily caught.

96. Advantages and disadvantages of this option may include:

Advantages	Disadvantages
Those who use ticket-buying bots could be deterred from using them if a ban was put in place.	Bot use is difficult to detect, and bots are usually developed and used offshore. Enforcement would be complex and expensive with current technology.
May give consumers fairer access to tickets.	It may be difficult to define a ticket-buying bot in legislation.
Allows primary ticketing agencies to report ticket-buying bot users to a regulator.	
Puts in place necessary legislation for future enforcement measures (e.g. using better cyber-security technology).	

## Questions

17	How should a bot be defined? How can ticket-buying bot use be detected? What technologies are required to do this?
18	Who is best placed to enforce a ban on ticket-buying bots? What sort of penalties should apply for the use of ticket-buying bots?

## Option 5: Joint industry-government initiatives

97. In New Zealand, there is no industry-wide body responsible for live entertainment or sport to commit to industry measures to tackle reselling problems. More could be done by industry (including artists, ticketing, events and venue companies, for both live entertainment and sports) to inform consumers seeking tickets about how the market operates across primary and secondary sellers.
98. We consider there is a role for industry participants to take further action to address the concerns about ticket reselling, and this could be supported by government if required. For example, a stronger commitment by industry to take educational measures to inform consumers could reduce consumer harm in the secondary market. This could be done through a number of potential actions, including:

### *Consumer awareness campaigns*

99. Government and industry to conduct a joint educational campaign to warn consumers of the risks of participating in the secondary ticket market, and where they can purchase official tickets from.

### *Consumer information guide*

100. Government and industry could develop a consumer guide to participating in the resale market. There are already many fact-sheets online, but an industry approach which is endorsed by government could be desirable. This could provide information on the primary ticket market, how the refunds and exchanges process operates, outlines options for onselling tickets, and explain the secondary ticket market.

## Industry code of practice

101. Industry (with government involvement as necessary) could commit to developing a code of practice. This could include industry commitments to use technical solutions to prevent ticket scalping (e.g. confirmed identity techniques, mobile tickets, stronger enforcement of ticket limits), and provide support to consumers who have inadvertently purchased secondary tickets, for example by cancelling those tickets and offering the opportunity for those consumers to purchase new face value tickets.
102. The advantages and disadvantages of this option are broadly summarised in the table below.

Advantages	Disadvantages
Potential to have a more timely impact than other regulatory options which would require legislation.	No obligation to take a common approach within the industry to address these concerns.
Participants in the ticket industry (e.g. primary ticket sellers) have the most power to directly influence and communicate with would-be ticket purchasers.	Ticket resellers do not have incentives to make changes to the status quo.
Consumers can still access and purchase tickets on the secondary market, but could be better informed about the reselling practices and risks.	Consumers (particularly infrequent purchasers) are still exposed to risk.

## Questions

- 19 How effective are existing industry-led initiatives in combatting ticket scalping practices?
- 20 Are there any other existing or future industry-led initiatives that address these concerns? Do you have any suggestions for improvements?

# 7 Implementation and enforcement

103. If regulatory options are adopted, these will require some form of legislative amendment. This could be enacted in general consumer legislation (such as the Fair Trading Act 1986), or alternatively new legislation which solely focuses on ticketing issues.
104. We consider that the Major Events Management Act 2007 (MEMA) would not be a suitable piece of legislation for any of the regulatory options above. The main purpose of the MEMA is to protect the corporate sponsorship which is necessary to attract events of international significance to New Zealand, rather than protect consumers from particular trading practices. The process for declaring a 'major event' is resource intensive, and would not be suitable for regulating ticket sales for events such as concerts.
105. An appropriate regulatory body will need to be responsible for enforcement of any regulatory options that are adopted. Currently, the Commerce Commission is responsible for enforcing breaches of the Fair Trading Act. The Commerce Commission does not take action on behalf of individual consumers, but assesses the public interest in determining its enforcement actions. For events which have applied for 'major event' status and have been declared as such under the MEMA, enforcement officers are appointed by the chief executive of MBIE to perform the



functions of the Act, which include identifying breaches and issuing warnings. Police officers may also perform any functions of MEMA enforcement officers.

106. Any regulatory options will also need to carefully consider the practicalities of enforcement in an increasingly global and digital marketplace. While New Zealand consumer laws can and do apply to overseas-based traders who sell to New Zealand consumers, the difficulty lies in locating and getting these individual traders (and even large online platforms) to comply with domestic laws. This is exacerbated in the ticket reselling context by the large number of individual resellers, the anonymous nature of these resellers, and the online platforms which have demonstrated unwillingness to comply with other countries' consumer laws.

# Appendix 1: Summary of questions

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## Overview of primary ticket market

- 1 How is the ticket price for an event determined? Who has input into setting these prices?
- 2 What is the average proportion of event tickets that is released for general public sale (not reserved for industry insiders or pre-sale events for non-public groups)?

## Overview of secondary ticket market

- 3 Is there any available data on the size of the secondary ticket market in New Zealand that you could provide? For example, the average
  - proportion of event tickets that end up on the secondary market
  - proportion of professional sellers operating on secondary markets and where they are operating from
  - proportion of resale tickets that are sold above the face value
  - fees charged per ticket by secondary markets for facilitating the resale transaction.
- 4 Do you think 'ticket onsellors' should be treated differently to 'ticket scalpers' in any options to address ticket reselling practices?

## Key issues and policy objectives

- 5 Do you agree with the issues and objectives we have identified for assessing potential options to address ticket reselling concerns? How significant are these issues? Please provide evidence where possible.
- 6 Do you have any concerns with the business practices or structures in the primary ticket market, or have these ticketing arrangements negatively impacted on you? Please provide evidence where possible.
- 7 Could greater competition in the primary ticket market (e.g. between ticketing agents) reduce problems in the secondary ticket market? What could be done to encourage more competition in the primary ticket market?

## Option 1: Status quo

- 8 How effective are the existing consumer protection laws in regards to ticket reselling practices?
- 9 Does the status quo achieve the policy objectives of reducing consumer harm? Are there any other benefits and costs associated with the status quo?

## Option 2: Price cap on resale tickets

10	If a price cap for resale tickets was introduced, which price cap option should be implemented?
11	How should the original sale price of resale tickets be verified? Who should be responsible for this?
12	What are the compliance costs that might be generated as a result of imposing a price cap?
13	Who is best placed to enforce a price cap? What is the level of resource required to enforce a price cap?

## Option 3: Greater information disclosure requirements

14	What types of ticketing information should be disclosed, and by whom? How should these disclosures be made?
15	How would any information disclosure requirements be enforced? Who should be responsible?
16	What type of compliance costs will be involved in order to comply with such information disclosure requirements? Please provide evidence where possible.

## Option 4: Ban on ticket-buying bots

17	How should a bot be defined? How can ticket-buying bot use be detected? What technologies are required to do this?
18	Who is best placed to enforce a ban on ticket-buying bots? What sort of penalties should apply for the use of ticket-buying bots?

## Option 5: Joint industry-government initiatives

19	How effective are existing industry-led initiatives in combatting ticket scalping practices?
20	Are there any other existing or future industry-led initiatives that address these concerns? Do you have any suggestions for improvements?

# Appendix 2: MBIE-commissioned survey on ticket reselling

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MBIE commissioned market research company Colmar Brunton to gather data on the extent of ticket resales in New Zealand and attitudes towards ticket resale issues in their fortnightly omnibus survey.

The survey took place between 7 and 14 November 2018, and was asked of a representative sample of 1,000 New Zealanders aged 18 years and above.

The ticket reselling questions in the survey were:

1. Have you purchased resale tickets to a live event or concert through any of the following?
  - a. Viagogo
  - b. TicketMaster Resale
  - c. Facebook
  - d. Trade Me
  - e. Something else (please tell us)
  - f. I have not purchased resale tickets.
2. How would you rate your experience purchasing resale tickets (1 to 5 scale from Poor to Excellent)?
3. Would you support, or not, further regulation around ticket reselling (Yes; No; Don't have an opinion/Don't care; Don't know)?

## **Question 1: Have you purchased resale tickets?**

The first question was asked to understand the prevalence of ticket reselling in New Zealand.

Out of the 1000 people surveyed, 21 per cent had purchased resale tickets to a live event or concert via at least one resale avenue.

People who had purchased resale tickets:

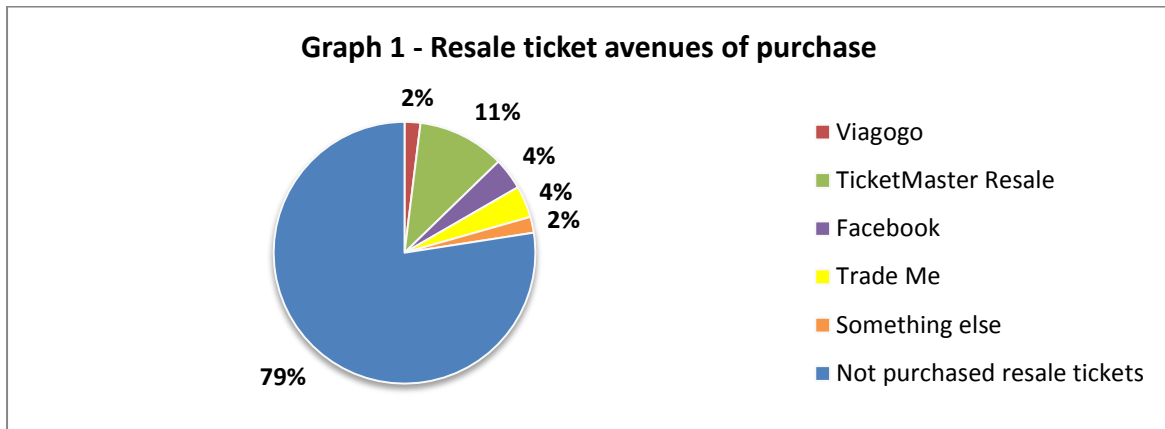
- Tended to be younger. 30 per cent of people aged between 18-29 years and 28 per cent aged between 30-39 years had purchased resale tickets. Only 8 per cent of people in the 60+ age group had purchased resale tickets.
- Were more likely to be male (25 per cent) than female (17 per cent).
- Were more likely to have a higher household income. 26 per cent had a household income of '\$100,000 or more', compared with 16 per cent with a household income of 'up to \$50,000'.

Of the 21 per cent who had purchased resale tickets, TicketMaster Resale was the most popular avenue, with Facebook and Trade Me being the next most popular avenues (Graph 1).<sup>8</sup> Only 2 per cent of people had purchased tickets using Viagogo.

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<sup>8</sup> The percentages in *Graph 1* do not add up to 100 per cent as some people have purchased tickets from more than one ticket reselling avenue.

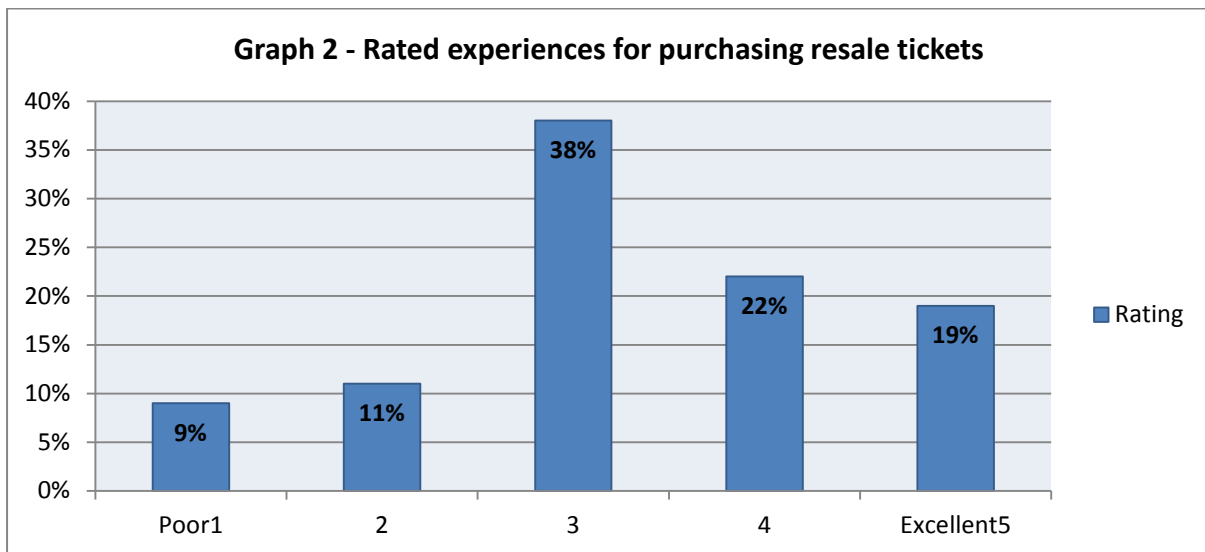
Another 2 per cent of people had purchased tickets using other resale avenues. The qualitative responses to the ‘Something else’ category identified six other resale sites that people use<sup>9</sup> as well as purchasing resale tickets directly from friends.



**Question 2: Experiences purchasing resale tickets**

The second question sought to understand the extent to which people had experienced problems with ticket reselling. The nature of the problem was not asked here as Consumer NZ had already undertaken research in 2017 into the types of ticketing problems people encounter.

Of the people who had purchased resale tickets, most had neither a poor nor excellent experience purchasing resale tickets (*Graph 2*). However, more people had a positive experience (41 per cent rated 4 or 5) than a negative experience (20 per cent rated 1 or 2).



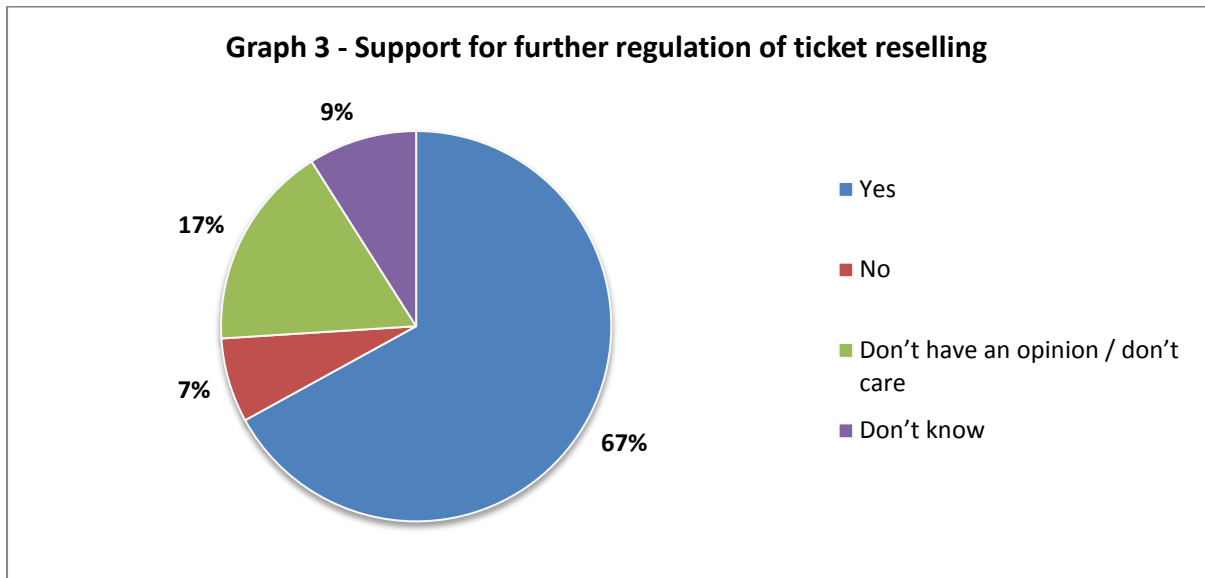
When comparing the purchase experiences against the resale avenue, negative experiences (rating of 1 or 2) were much more common for those using Viagogo (60 per cent), followed by Facebook (33 per cent), Trade Me (18 per cent) and TicketMaster Resale (13 per cent).

**Question 3: Support for further regulation of ticket reselling**

The third question aimed to gauge the attitudes that people had towards introducing stronger regulatory measures to address ticket reselling issues.

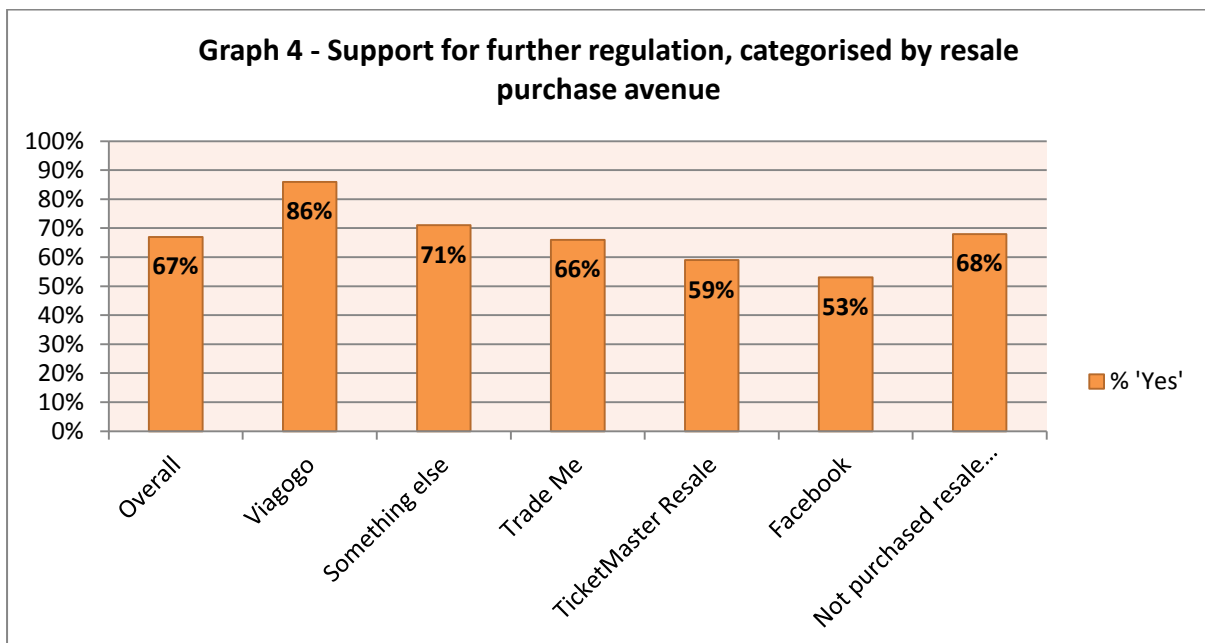
<sup>9</sup> These were ‘Universe.com’, ‘Tixel’, ‘Ticketfairy’, ‘Under the Radar’, ‘Seat geek’ and ‘Stub hub’.

Out of the 1000 people surveyed, 67 per cent would support further regulation around ticket reselling, 7 per cent would not support further regulation, 17 per cent didn't have an opinion/don't care and 9 per cent didn't know (Graph 3).



When compared against the ticketing reselling avenue used to purchase resale tickets, Graph 4 shows that more people than the average (67 per cent) were supportive of further regulation if they had purchased tickets using Viagogo (86 per cent), whereas less people were supportive of further regulation if they had purchased tickets using Facebook (53 per cent).

Slightly more people (68 per cent) than the average (67 per cent) were supportive of further regulation if they had not purchased resale tickets before.



Additionally, when compared against the rated experience of purchasing resale tickets, those who rated their experience as poor were the most supportive (95 per cent) of further regulation.

# Appendix 3: Overseas measures to address ticket reselling issues

	Australia	United Kingdom	United States
Capping of resale prices	Victoria and Queensland prohibit resale for certain major events. New South Wales and South Australia have introduced legislation to cap resale prices at 10 per cent above the face value of tickets. Western Australia is in the process of doing the same.	This was one of the options considered in the independent review of the ticket resale market carried out by Professor Waterson in 2016, but was not recommended due to the ineffectiveness of price caps in general.	Regulation varies by state. The rise of online selling has exacerbated difficulties of enforcement and some states have started to repeal these restrictions. For example, New York's anti-scalping laws were repealed in 2007 in favour of a licensing system for ticket brokers.
Mandatory information disclosure	NSW requires ticket resellers to disclose the original supply cost of the tickets (face value), as well as the seat location and admission type. Victoria requires resellers to provide names and addresses to authorised ticketing officers.	The UK Consumer Rights Act 2015 requires resellers to provide the face value of the ticket, information to identify the seat or standing area and ticket restrictions. New regulations under the Digital Economy Act 2017 require resellers to supply a unique ticket number to help buyers identify the seat or location of the ticket, and provide greater information about tickets.	New York-based resellers will need to post a 'clear and conspicuous' notice stating they are a reseller and state any fees and surcharges associated with tickets.
Banning ticket-buying bots	NSW has recently banned ticket buying bots in the Fair Trading amendments which came into force on 1 June 2018. A national ban is also among the regulatory options being considered by Australian Treasury.	Use of automated software to buy tickets is a criminal offence under the Digital Economy Act 2017.	National ban on ticket-buying bots (Better Online Ticket Sales Act) was signed into federal law in November 2016. The Act enforces penalties for parties found guilty of using bots or other technology for undermining online ticket seller systems.
Measures imposed on primary ticket sellers	In NSW, primary sellers may be ordered to disclose availability of tickets for general sale for major events, on request of the responsible Minister.	The Consumer Rights Act prohibits event organisers (i.e. promoters) from cancelling tickets, or blacklisting sellers just because that ticket is resold, unless two conditions are met: 1) it was a term of the original contract when the ticket was first sold and 2) that	Some states such as Connecticut require upfront fee disclosure to inform consumers of the total price. In New York, no legislative measures to require primary sellers or event promoters to disclose availability of tickets for public sale despite

		<p>term was not unfair. Unfair terms are not enforceable against consumers.</p>	<p>recommendations from the Attorney-General's report which found 38 per cent of tickets were allocated to presale for the most popular concerts.</p>
<p><b>Non-statutory measures</b></p>	<p>The industry body Live Performance Australia is revising the Ticketing Code of Practice and developing and implementing a consumer education campaign.</p>	<p>Industry participants have set up the Fan Fair Alliance in 2016 to combat industrial scale scalping, with actions including producing guidance and public campaigns.</p>	<p>Some primary ticket sellers offer non-transferable tickets (prohibit ticket transfer) in an attempt to stop ticket resale. Live Nation and Ticketmaster have introduced a 'Verified Fan' system to allow fans to register in advance of sales date, provide personal information that is vetted by the organisers, and then receive a code to allow them to purchase tickets when available.</p>



# Appendix 4: Considerations for designing price caps

	What this could look like	Who should be responsible
<b>Applicable events</b>	Any price cap could cover popular sporting and entertainment events that the event organisers/promoters have imposed resale restrictions on through the terms and conditions of the ticket (e.g. providing for the ticket to be cancelled if the ticket is resold under certain circumstances).	It could be up to the event organisers/promoters to determine whether an event should be subject to resale restrictions or the cap could simply apply to all resale tickets.
<b>Level of price cap</b>	Any cap on the resale price could at least cover the additional transaction costs that are reasonably incurred by resellers, e.g. booking fees.	Government will need to set the appropriate level of any price cap.
<b>Verifying original sale price</b>	Ticket resellers could be required to disclose the original sale price of the ticket, as well as seat location and admission type.	Ticket resale websites could verify the original sale price. If so, this should be supported by proactive measures (e.g. monitoring or provision of pricing information) by event organisers.
<b>Restrictions on advertising</b>	It has been suggested that making the advertisement illegal as well as the actual resale removes the need for the ticket to be sold before a breach has occurred, which enables platform operators to remove the tickets from sale to comply with the price cap.	Ticket resale websites, social media platforms, search engines.
<b>Monitoring and enforcement</b>	The onus could be on advertisers and online platforms to remove advertisements and listing to ensure they comply with the laws, but there must be a responsible regulator that is actually able to enforce the laws and seek penalties for breaches, for example the Commerce Commission.	Advertisers and online platforms could monitor compliance, with a regulator responsible for enforcement.
<b>Level of penalties</b>	<p>The penalty should be set at a level that is high enough to deter potential scalpers.</p> <p>The existing penalty in the Major Events Management Act is a fine not exceeding \$5,000. In New South Wales, penalties range from AU\$790 (individuals) – \$475,000 (corporates). Other jurisdictions have higher penalties still.</p>	<p>The government should set the maximum penalty.</p> <p>Level of penalties should differ depending on whether it is an individual or company in breach.</p>