

18 April 2019

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

By email to: consumer@mbie.govt.nz

Tēnā koutou katoa

Submission to: Ministry of Business, Innovation & Employment
Subject: Ticket Reselling in New Zealand
From: Arts Council of New Zealand Toi Aotearoa (Creative New Zealand)

1. Creative New Zealand welcomes the opportunity to make a submission on ticket reselling in New Zealand. In order for New Zealanders to have opportunities to engage with the arts, they must be able to access tickets for arts and cultural events. Arts and cultural events in turn provide wellbeing benefits: people who engage with arts and culture achieve the benefits of increased social cohesion, cultural identity, and health and wellbeing.

2. We'd be happy to discuss this submission with you further. The key contact person for matters relating to this submission is:

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Submission

1. We agree that consumers are being misled when purchasing resale tickets, and consumer welfare is being reduced by current ticket reselling practices. We support further action to address ticket reselling, particularly within the secondary (resale) ticket market.
2. Our triennial survey of New Zealanders' attitudes to the arts shows almost two-thirds of New Zealanders (62%) agree with the statement 'while some arts events interest me I still don't go

much'. When respondents were asked what would encourage them to attend the arts more often, cheaper ticket prices was the most common response.¹

3. We have a strong interest in ensuring all New Zealanders can access the arts and have the opportunity to participate in arts and culture (as outlined in our legislative mandate). We see a need for greater transparency in information supplied to the public (consumers) as well as greater leadership from government in the area of regulation.
4. We note the majority of consumer complaints about ticketing have come from live performance events, particularly popular music concerts. A gross output of \$90.7 million in 2016 from the live music sub-sector shows its impact on our economy. However, scalping has also affected access to local arts and culture events in Aotearoa (eg, tickets to the Upper Hutt Musical Theatre's production of *Blood Brothers* were originally sold for \$30, but were found advertised on Viagogo for \$135²).
5. When tickets are resold, the extra money typically goes to scalpers rather than the creators or artists themselves. However, the selling of tickets with large mark-ups can create negative public opinion towards the arts sector and artists (particularly the music industry), and affect their audience.
6. Our *New Zealanders and the arts* research shows that more than half of New Zealanders agree that the arts contribute positively to the economy (59 percent), and half feel their community would be poorer without the arts (50 percent). If ticket resale remains unregulated, it poses a major risk to the resilience of our arts and cultural sector and could negatively affect New Zealanders' attitudes to the arts.
7. We support the progression of potential policy options three (information disclosure requirements) and five (joint industry-government initiatives). The status quo approach will not address the issue, and international examples suggest a price cap on resale tickets has been ineffective in regulating resale elsewhere.
8. We note that a ban on ticket-buying bots could be an effective regulation method for the future. The cost and technology required makes this a potential long-term option, however additional policy is needed to address the issue in the immediate future. Regulation led by government will be an important part of protecting consumers from further negative experiences, such as the substantial number already reported through the Commerce Commission.
9. To ensure consumers and audience members understand where their money goes, the transparency of ticket sellers must improve. As noted in point 38, consumers are currently being exposed to fraud because ticket authenticity is not guaranteed through a number of resellers. We agree with the three key issues outlined, those being:
 - 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.
10. We support point 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

¹ [New Zealanders and the Arts: Attitudes, attendance and participation in 2017](#) (2017). Creative New Zealand.

² [New Measures to protect consumers from ticket scalpers, as Government says 'buyer beware' isn't working](#) (2019). Stuff News.

risks involved in making that purchase decision'. Information disclosure requirements (option three) could be applied to both the primary and secondary ticket market to improve transparency, ensure consumers can make informed purchasing decisions, and discourage additional surcharges.

11. We tautoko point 85, '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'. We agree with the following information disclosure suggestions:
 - a. availability of tickets for general sale (venue capacity and number of seats available)
 - b. status of ticket resale sites (required to disclose whether an official ticket site)
 - c. characteristics of tickets listed (face value price, seating location, ticket category, who is selling etc.)
 - d. upfront disclosure of ticket fees.
12. '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)'. We note here that a number of major venues have exclusive contracts with a ticketing agency, and there are often very few, or one, suitable venue for an event (point 57). Therefore, the artist or promoter has little bargaining power with ticketing agencies and venues, and is often subject to the terms and conditions imposed by a ticketing agency. We would be interested to see proposals of *how* to promote competition in these markets to benefit audiences and artists.
13. There is also an opportunity for government to lead a collective approach (joint industry-government initiatives, option 5) that involves artists, promoters, venues and ticket sellers to help consumers understand the resale market, and to protect consumers from further harm. Government and the industry working together would further legitimise action taken.
14. We are in favour of a dual approach that encompasses both education (to ensure consumers can make knowledgeable decisions about their purchases) and the introduction of greater regulation (to increase transparency and ensure the public is better informed to make purchasing decision).
15. We agree that point 70 is particularly salient, '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'. The artist and/or promoter should be able to negotiate with a primary ticket seller to ensure tickets are sold at the intended price with adequate numbers of tickets.
16. We note a number of high-profile artists have adopted new approaches to ticketing in an attempt to block scalpers. We note some of these methods are only viable for larger scale events due to the high cost of administering this regulation, however others could be scaled up or down to cater to a variety of events. Recent approaches include:
 - a. 'Paperless ticketing' that requires buyers to show their credit card and ID to get into shows has been used by Adele, Bruce Springsteen, Miley Cyrus and AC/DC
 - b. artists have cancelled orders they have found to be made by bots to make available more tickets³

³ [Artists are trying to crack down on ticket scalping, but will it change anything?](#) (2017). Noisey, Vice.

- c. some artists have put on tours where almost all tickets are sold at a single, low price. One example is Kid Rock's 'US\$20 Best Night Ever' tours, which sold tickets through supermarkets and venue box offices. The artist also performed many shows at the same venue to increase the total supply and reduce the premium placed on a ticket in the secondary ticket market.
- d. Some major events have begun printing pictures of the ticket purchaser on every ticket.⁴

Background on Creative New Zealand

17. Creative New Zealand is the arts development agency of Aotearoa, responsible for delivering government support for the arts. We're an autonomous Crown entity continued under the Arts Council of New Zealand Toi Aotearoa Act 2014. Our legislative purpose is to encourage, promote, and support the arts in New Zealand for the benefit of all New Zealanders.
18. Creative New Zealand's Statement of Intent 2016–2021 identifies the outcomes we're seeking to achieve on behalf of all New Zealanders.
 - Stronger arts communities, artists and organisations as shown by:
 - high-quality New Zealand art is developed
 - New Zealand arts gain international success
 - Greater public engagement with the arts as shown by:
 - New Zealanders participate in the arts
 - New Zealanders experience high-quality arts.
19. We contribute to achieving these outcomes by delivering programmes in the following areas:
 - funding for artists, arts practitioners and arts organisations
 - capability building for artists, arts practitioners and arts organisations
 - advocacy for the arts.
20. Creative New Zealand receives funding through Vote: Arts, Culture and Heritage and the New Zealand Lottery Grants Board. In 2017/18, we invested \$42.466 million into the New Zealand arts sector.

Thank you again for the opportunity to comment. Please feel free to contact me if you have any questions or if you wish to meet to discuss this submission further (my contact details are at the start of the submission).

Ngā mihi maioha ki a koutou katoa



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⁴ [The economics of ticket scalping](#) (2017). The Conversation.