

Submission template

Ticket reselling in New Zealand

Instructions

This is the detailed submission template for the discussion document, *Ticket reselling in New Zealand*.

The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the issues raised in the discussion document by 5pm on **18 April 2019**. Please make your submission as follows:

1. Fill out your name, organisation and submitter category in the table, “Your name, organisation and submitter category”.
2. Fill out your responses to the consultation document questions in the table, “Responses to discussion document questions”. Your submission may respond to any or all of the questions in the discussion document. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.
3. We also encourage your input on any other relevant issues in the “Other comments” section below the table.
4. MBIE intends to upload PDF copies of submissions received to MBIE’s website at 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.
5. When sending your submission:
 - a. Delete these first two pages of instructions.
 - b. Include your e-mail address and telephone number in the e-mail or cover letter accompanying your submission – we may contact submitters directly if we require clarification of any matters in submissions.
 - c. If your submission contains any confidential information:
 - i. Please state this in the cover letter or e-mail accompanying your submission, and set out clearly which parts you consider should be withheld, together with the reasons for withholding the information. MBIE will take such objections into account and will consult with submitters when responding to any requests under the Official Information Act 1982.
 - ii. Indicate this on the front of your submission (e.g. the first page header may state “In Confidence”). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).
 - iii. Please provide a separate version of your submission excluding the relevant information for publication on our website (unless you wish your submission to

remain unpublished). If you do not wish your submission to be published, please clearly indicate this in the cover letter or e-mail accompanying your submission.

Please note that submissions are subject to the Official Information Act 1982.

6. Send your submission:

- as a Microsoft Word document to consumer@mbie.govt.nz (preferred), or
- 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

Submission on discussion document: Ticket Reselling in New Zealand

Your name, organisation and submitter category

Name	Richard Sutherland
Organisation	H3 – a unit of Hamilton City Council
Submitter category	<p>Please circle/highlight one category:</p> <p>Individual consumer Consumer Group/Advocate Business</p> <p>Industry Group Researcher/Academic</p> <p>Other (please describe): Entertainment venues operator</p>

Responses to discussion document questions

Overview of primary ticket market

1	<p>How is the ticket price for an event determined? Who has input into setting these prices?</p> <p><i>The face value of tickets is set by the promoter, although sometimes advice is sought from a venue for local input as to suitability to the local market.</i></p>
2	<p>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)?</p> <p><i>In our experience for events in our venues the % varies between events, however on average the general public market sees 70 – 80% of venue capacity.</i></p>

Overview of secondary ticket market

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"> - 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
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	<ul style="list-style-type: none"> - fees charged per ticket by secondary markets for facilitating the resale transaction.
4	<p><i>We have no specific data on the quantity of the secondary ticket market. Anecdotal evidence suggests the bulk of secondary sales are through Viagogo and the price is always greater than face value</i></p>
	<p>Do you think ‘ticket onsellors’ should be treated differently to ‘ticket scalpers’ in any options to address ticket reselling practices?</p>
	<p><i>Yes, there is a need for those who for whatever genuine reason cannot subsequently attend an event to be able to pass those tickets on to someone who can and recoup some degree of their loss. This is an extremely small proportion of overall sales, less than 1%. Promoters attempts to invalidate on-sold tickets is not in reaction to this segment. The primary seller market is reluctant to deal with refunding where a ticket is purchased and the owner can no longer use it, even with promoter permission to refund.</i></p> <p><i>Scalping is purely a speculative commercial opportunity to earn a return based on demand for a product at the public/fans expense. Scalper purchasing, particularly using automated bots contributes to the demand and limits access to high demand event tickets.</i></p>

Key issues and policy objectives

5	<p>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.</p>
	<p><i>The issues you have identified are correct; we have noted specifically on Viagogo the following aspects are often incorrect, or missing</i></p> <p><i>the venue layout and/or seating maps,</i></p> <p><i>the information about ticket availability,</i></p> <p><i>price types are not shown available or explained</i></p> <p><i>ticket seat details (section names/locations etc.)</i></p>
6	<p>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.</p>
	<p><i>There are valid reasons for a venue to choose an exclusive ticketing arrangement, irrespective of any financial arrangement. From a venue perspective it is crucial they have some say over the ticket purchase process, customer service level and consistency, response for their clients the event promoter/owner, these all reflect on the venue. The relationship between the venue and ticketer is not secret, it is proudly displayed and marketed. Consumers need to know where tickets to events are available on the primary market for a particular venue, changing this too often or not having consistency will likely result in greater use of secondary markets</i></p>

	<p>by consumers.</p> <p><i>There is a trend for shorter term exclusive contract periods that allows the venue to re-examine the options in an increasingly competitive market.</i></p> <p><i>Venues make the choice of a ticketing partner based on the ticketer's ability to service their, in most cases, wide range of clients and their needs. The exclusive ticketer can be seen as a barrier to some event organisers, so flexibility and willingness to help the venue-client relationship is key.</i></p> <p><i>The Live Nation/ TicketMaster/TicketMaster Resale connection is a concern within the venue industry.</i></p>
7	<p>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?</p> <p><i>Essentially there are only 3 traditional primary Ticket sellers (TicketMaster, Ticketek and Ticket Direct) that are contracted to the majority of commercial event venues, the stadiums, arenas and theatres in NZ. Increasingly the other ticketing players in the market are knocking on the door of these spaces and making inroads (e.g. Eventfinda Stadium). A number of significant events in non-contracted spaces e.g. public parks or privately-owned spaces often use their own ticketing solution. (examples Greenstone Entertainment Summer concert tour, Rhythm and Vines, Bay Dreams and One Love festivals).</i></p> <p><i>The secondary market exists because there is an opportunity to exploit the public demand for event tickets and in some cases dupe the purchaser into thinking they are buying from the primary source. There are no restrictions on prices above face value in the secondary market.</i></p>

Option 1: Status quo

8	<p>How effective are the existing consumer protection laws in regards to ticket reselling practices?</p> <p><i>There is no protection from scalping or profiteering from the secondary market. While the Commerce Commission may enforce the Fair Trading Act, recent evidence suggests this is a very long-winded process, and not easy to enforce on a global business operating from a foreign country. This means it's virtually impossible for an individual. There is no legislation ensuring a reseller is clearly identified in the market, or that they have the right to re-sell or act on behalf of the actual owner who is often not identified on the resale site.</i></p>
9	<p>Does the status quo achieve the policy objectives of reducing consumer harm? Are there any other benefits and costs associated with the status quo?</p> <p><i>We don't believe the status quo is sufficient in protecting consumer rights or reducing harm.</i></p>

Option 2: Price cap on resale tickets

10	<p>If a price cap for resale tickets was introduced, which price cap option should be implemented?</p>
	<p><i>The choice of the options depends on whether we are trying to protect the purchaser of the secondary market ticket or the seller. Identifying the “transaction costs” could be problematic, not all booking, service or delivery fees are “per ticket” values.</i></p> <p><i>If the objective is to protect consumers from harm by addressing inflated ticket prices and the lack of fair access to tickets, and we believe it should be, then a secondary market restricted to the face value + 10% is fairest. However the resale market website charges should also be restricted to not more than 10% of the face value of the original ticket. This reduces both the independent scalper/speculator from profiting and the disincentivises the resale website from participating in the business of purchasing for resale.</i></p>
11	<p>How should the original sale price of resale tickets be verified? Who should be responsible for this?</p>
	<p><i>The tickets can be shown, photo up-loaded, made visible on the reselling site. The seller must be able to show what they are selling. The delayed release by the primary seller of physical tickets, e tickets or mobile tickets until closer to the event date will restrict opportunities for resellers to speculate and increases their risk.</i></p>
12	<p>What are the compliance costs that might be generated as a result of imposing a price cap?</p>
	<p><i>[Insert response here]</i></p>
13	<p>Who is best placed to enforce a price cap? What is the level of resource required to enforce a price cap?</p>
	<p><i>[Insert response here]</i></p>

Option 3: Greater information disclosure requirements

14	<p>What types of ticketing information should be disclosed, and by whom? How should these disclosures be made?</p>
	<p><i>From a venue perspective it can be difficult to accurately identify the capacity available for every event. Sometimes events go on sale in a certain configuration and capacity but demand for tickets requires re-configuration, additional seating added, sections opened that weren’t originally envisaged.</i></p> <p><i>In terms of presale opportunities these are often either to the promoters/artists database, the ticketers membership database or the venue database and are restricted to a time period before advertised public sale. In our experience this presale period may account for only 20 – 30% of all sales on average.</i></p>

As you can imagine promoter marketing tends to drive demand to purchase early, (inducing FOMO). Like any sales process it targets an emotional response, not a calculated response. Any messaging around the potential to add seats or shows slows that demand and would be counterproductive. It may also be incorrect as demand is not known until sales start and thus decisions to add seats or shows doesn't happen until the demand is clear. Where there is no possibility of additional shows this is declared.

Non-primary ticket websites should have to clearly state they are secondary market or resellers up front and the seller putting tickets on the site declare who the primary seller of the original tickets is/was. They should also have to declare all their fees in advance of the sale completion.

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How would any information disclosure requirements be enforced? Who should be responsible?

[Insert response here]

16

What type of compliance costs will be involved in order to comply with such information disclosure requirements? Please provide evidence where possible.

[Insert response here]

Option 4: Ban on ticket-buying bots

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How should a bot be defined? How can ticket-buying bot use be detected? What technologies are required to do this?

Any non-human interaction with a primary seller for the purpose of purchasing tickets.

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?

[Insert response here]

Option 5: Joint industry-government initiatives

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How effective are existing industry-led initiatives in combatting ticket scalping practices?

Some ticketers, promoters and venues have continued to clearly state who the primary ticketer is for their events and that consumers should not seek tickets on the secondary reseller sites. In some cases, they state tickets may be invalidated if resold. However, this has not prevented the publicised cases of overpriced scams reported.

Example – extract from Claudelands website

Important notice: The authorised ticket seller for this event is Ticketek. When purchasing tickets please ensure you are doing so via Ticketek only. Claudelands has no obligation to honour tickets purchased via unauthorised re-sellers. For more information on ticket resale sites and the impact on consumers, view the Consumer NZ Report [here](#).

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Are there any other existing or future industry-led initiatives that address these concerns? Do you have any suggestions for improvements?

[Insert response here]

Any other comments

We welcome any other comments that you may have.

The promoter industry sector through NZPA in New Zealand has been very vocal in the press and venue industry forums as well as responding to us as a venue condemning ticket resale sites and the anonymous resellers duping the ticket buying public into paying over the top costs. TicketMaster is specifically mentioned for the failure to provide information at the request of NZPA.