

17 April 2019

Hon. Kris Faafoi  
Minister of Commerce & Consumer Affairs  
Private Bag 18041  
Parliament Buildings  
WELLINGTON 6160

Dear Sir

### **TICKET RESELLING IN NEW ZEALAND**

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The following is provided in response to your letter dated 14 March to Brent Eccles inviting the New Zealand Promoters Association (“NZPA”) to submit input into the Government’s investigation into the ticket reselling marketing in New Zealand.

The eventing and ticketing industry in New Zealand is multi-layered and complicated, which doesn’t make it easy for anyone to investigate let alone single out problems to address. Even without the exacerbating factors introduced by the burgeoning secondary market, for some time event producers have had to deal with questionably unfair and anti-competitive behaviour by the primary ticket companies and venue owners who, driven by the ever increasing lucrative risk free income they can derive from events, have colluded to establish exclusive agreements that have effectively taken away any ability of the event producers to control the sale of their own ticket inventories and many other ancillary services associated with events. Producers are being levied unsubstantiated increases in the inside charges we pay the ticket companies to provide their services plus consumers are also being charged additional exorbitant transaction fees and venue levies to seriously inflate the realistic prices producers have set for their products.

Members are in no doubt that these exclusive agreements have complicated the whole ticket resale issue in that event owners have no real ability to prevent the misuse of their inventory yet are the ones the public will turn to for help, while those that have the control only see the inventory as a commodity to generate income without any apparent regard for consumers, the artists involved, or the actual risk-takers. To make matters worse, the primary ticket companies are now themselves active in the secondary market, essentially double-dipping and enabling fraudsters ostensibly on the premise of providing consumers with a safe service. The Commerce Commission did acknowledge that promoters were being unfairly hamstrung by these exclusive agreements through the course of investigating Viagogo’s activities and we would welcome a review of the whole industry and an opportunity to discuss the broader issues with a Government authority at some time. But for the present we accept that there are more pressing issues to be addressed to prevent the public from continuing to fall fowl of the rip-off’s within the secondary ticketing market.

Undoubtedly the advent of online ticketing without any legislative boundaries has made it a lot easier for the scalpers to do their worst. Sadly, it's been a case of fostering greed through legal means in the same way that tax evaders look for legal loopholes until they eventually get closed down by the authorities. Our understanding is that the Government is now considering reforming the ticket resale market to protect consumers against the profiteering, fraud and deception that is occurring without impeding the ability of genuine sellers to offload tickets they can no longer use, albeit these sales seemingly representing a relatively small percentage of the total resale activity. NZPA members feel that the "rot" in the resale market is now so far advanced that the only effective way to achieve the desired level of protection is to outlaw all scalping within this jurisdiction, particularly as any lesser measure taken will be hard to impose on offshore sellers. A complete ban is our clear preference. However, as this will also prevent any form of genuine trading, we offer below suggestions that may help to control/limit some of the undesirable activity occurring in the market and the impact to unwary consumers through disincentivising profiteering, concerted public education, and system delivery enhancements to protect the remaining unwary.

The following are some of the issues/concerns highlighted by members during various internal meetings over the past three years to demonstrate the raft of problems that need to be addressed in the secondary market. Although the issues raised predominantly involve tickets purchased or advertised through Viagogo and Ticketmaster Resale, there has been a significant increase in secondary market activity globally over this time and the problems locally are not restricted to just these parties. For example, we are aware that a considerable number of tickets are also being resold through Trade Me:

- Seriously inflated prices for the majority of resold tickets.
- Ticketmaster advertising resale tickets on its primary site.
- Concerns over "insider trading" by primary ticket companies. NZPA can provide examples where resale tickets were listed on Ticketmasters' Resale site within minutes of them becoming available indicating the possibility of an internal transfer without the producers consent.
- No apparent authentication of tickets or resellers. NZPA can provide evidence that Ticketmaster has even contravened its own terms and conditions (which state it confirms the authenticity of every ticket sold through its resale site) by advertising 12 tickets on Ticketmaster Resale for a concert that had been cancelled after selling only 2 genuine tickets that never reached the resale market because they had been returned directly by the show's producers.
- Full ticket information (i.e. seat numbers etc.) is not advertised.
- No identification of actual sellers.
- Viagogo always coming up first in all ticket searches, making misleading claims that it is the authorised seller and employing pressure sales techniques.
- NZPA members have incurred losses through the reversal of primary ticket purchases using stolen credit cards. These incidences are on the increase and the majority are being initiated from offshore. The assumption is that the fraudsters have immediately resold the purchased tickets on secondary sites.
- Approx. 800 people per night were turned away from the three Adele concerts held in March

2018 because they held bogus tickets purchased from resale sites.

- Dance promoters were turning away multiple purchasers of fraudulent online tickets all the time. In these cases local fraudsters were selling the same ticket multiple times (sometimes up to 30-40 times). Whoever arrived at the gate first with a copy of the ticket was generally allowed entry but all others were being turned away.
- Genuine full time traders emerging making a substantial income from selling legitimately purchased tickets. It is assumed that these traders are not declaring income.
- Ticket buyers not receiving tickets from resale sites.
- Ticket costs not being fully disclosed before proceeding with ticket purchases.
- No barriers for sellers entering the resale market or for setting up a resale website.
- No known penalties imposed on offenders if caught.

The following suggested remedies are proposed:

- Extending MEM legislation to cover all events and any ticket reseller.
- A resale cap of 10% above the original ticket purchase price.
- NZPA's members would prefer to ban primary ticket sellers from being resellers as is the case with Ticketmaster, particularly in light of our concerns over insider trading. However, there is a counter argument that the primary seller is the only party with the means to truly identify and authenticate tickets consequently it follows that all tickets can only be resold through the primary seller on a much simpler platform. Unfortunately, the other major ticket companies here (i.e. Ticketek, Ticket Direct, and Eventfinda) do not yet offer a resale service, but there may be scope for an independent reseller or overarching authority to be established under strict guidelines that can approach all the other primary sellers to authenticate tickets, similar to the inter-bank authentication process used for credit card transactions (or going back further, the model the bank's used channelling all transactions through Databank many years ago).
- Ideally all resellers must be registered and operate under strict controls, similar to the financial services industry. The same to apply to multiple sellers using the big resale sites (in the same way applying to multiple traders on Trade Me).
- Sellers to be paid out after completion of an event just as producers must wait for the box office proceeds to be released by the primary ticket company. This to ensure that purchasers have received a valid ticket and can confirm entry to an event.
- Tickets may not be resold within 5-7 days of the original purchase, which would allow time for reversals to occur where the original purchase was with a stolen credit card.
- Imposing a ban on ticket buying bots (although this may be very hard to control).
- A continued joint industry action to raise public awareness against buying from resale sites.
- Insisting on greater competition in the primary ticket market by allowing promoters to sell through at least two competing channels.
- Significant penalties to be introduced.

In addition, at the front end members are working with the primary ticket companies to control and/or limit the issuance of tickets for larger or at risk events, including clear purchase instructions (to only use authorised ticket agents) and disclaimers (e.g. that resold tickets may be refused entry) in event advertisements, and sadly, taking a harder line when confronted at shows by disgruntled consumers.

The above list is not exhaustive as we are sure more ideas would come from further discussion on the topic. Some suggestions may also be impractical to introduce but we hope will spark further thought. We would value the opportunity to be directly involved in your ongoing discussions and decisions. All senior members of the NZPA will make themselves available if called upon.

Yours sincerely



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