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Competition and Consumer Policy  
Building, Resources and Markets  
Ministry of Business, Innovation and Employment  
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**Submission on "Ticket reselling in New Zealand" discussion document**

**1. Introduction**

Thank you for the opportunity to make a submission on the "Ticket reselling in New Zealand" discussion document. This submission is from Consumer NZ, New Zealand's leading consumer organisation. It has an acknowledged and respected reputation for independence and fairness as a provider of impartial and comprehensive consumer information and advice.

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**2. General comments**

We welcome proposals to improve consumer protection in the ticket resale market and address the negative impacts ticket reselling practices are having on consumers.

There is a legitimate reason for the resale market to exist. Consumers often buy tickets to events months in advance but can find their plans change. A well-functioning market would ensure they're able to on-sell tickets to others who want to buy them.

However, the current market is not delivering fair outcomes and is causing consumer detriment. Law changes are therefore needed.

**3. Answers to questions in discussion document**

***Question 1: How is the ticket price for an event determined? Who has input into setting these prices?***

Ticket pricing is not transparent. Several parties, including the event promoter, venue owner and ticketing agent, may influence the price. The concentrated nature of New Zealand's ticket market means there is very little competition to ensure pricing is efficient.

**Question 2: What is the average proportion of event tickets that is released for general public sale?**

Overseas research suggests the proportion of tickets released for general sale can be small (as little as 30 percent). Lack of transparency in the New Zealand ticket market means it is difficult to assess practices here.

**Question 4: Do you think 'ticket onsellors' should be treated differently to 'ticket scalpers' in any options to address ticket reselling practices?**

We consider "ticket onsellors" should be treated the same as ticket scalpers. In practice, both make use of ticket resale websites to list tickets and distinguishing between them will be difficult. Consistent rules will ensure ticket scalpers can't disguise themselves as ticket onsellors in an attempt to evade the law.

Recent complaints illustrate the problem of attempting to distinguish "onsellers" from scalpers:

- In one case, three \$37 tickets to a Wiggles concert in Auckland sold on Trade Me for nearly \$600 per ticket. The person selling the tickets claimed three family members could no longer attend.
- In another case reported in the *NZ Herald*, an auction for five tickets to the children's show had a \$1 reserve but sold for more than \$850.<sup>1</sup> Again, the seller claimed the tickets were surplus to requirements as several family members were successful in obtaining tickets that sold out within two minutes of going on sale.

**Question 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.**

We agree with the issues and objectives identified for assessing potential options to address ticket reselling concerns.

In our view, the issues are significant. Our joint research into the ticket resale market with Australian consumer organisation Choice provides evidence of the extent of the problems in the market.<sup>2</sup>

Our research found many consumers experienced multiple problems with ticket resellers. The most common problems were paying more than the face value of the ticket (75 percent), being charged extra fees (56 percent), thinking the site was an official ticket seller (48 percent) and seats or designated area not being as described (15%).

Other problems included poor customer service (13 percent), credit cards being overcharged (11 percent), tickets never arriving (11 percent), fake tickets (eight percent) and access being denied to an event (three percent).

We also receive regular complaints about ticket resellers, the majority of which relate to Viagogo.

Most complaints involve consumers inadvertently buying tickets from the site (thinking it is an official site) for prices well in excess of the face value and with significant fees added. Consumers also complain they're charged in foreign currencies and tell us that contacting Viagogo about problems gets them nowhere.

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<sup>1</sup> [https://www.nzherald.co.nz/entertainment/news/article.cfm?c\\_id=1501119&objectid=12220326](https://www.nzherald.co.nz/entertainment/news/article.cfm?c_id=1501119&objectid=12220326)

<sup>2</sup> [https://d3c7odttnp7a2d.cloudfront.net/assets/4593/Ticket\\_Resale\\_Industry\\_Report\\_2017\\_Final.pdf](https://d3c7odttnp7a2d.cloudfront.net/assets/4593/Ticket_Resale_Industry_Report_2017_Final.pdf)

One recent complaint is typical of the types of problems raised by consumers:

*"I have just had a hideous experience with Viagogo. I was purchasing presale tickets to Phil Collins and unfortunately ended up on their site. I was under the impression that I was purchasing 7 tickets for 900 odd dollars. Unfortunately this has not been the case. Once I confirmed the purchase a receipt of foreign currency was displayed. This totalled NZ\$8251.64 on my credit card... I have phoned the bank 4 times today and at one point was told I should be more careful and as I authorized the transaction they could not help... I have also been back and forth with Viagogo ... But they refuse to roll back the transaction... or refund the amount. I have questioned how their seller has been able to purchase pre-sale tickets and then sell them on Viagogo within 13 minutes ... I am unsure what to do next."*

We have also received complaints from people who have bought tickets for All Blacks games on Viagogo and been subsequently advised by New Zealand Rugby that resold tickets are invalid. When they've attempted to get a chargeback through their bank, the bank has not been forthcoming.

For example, one consumer wrote to us saying:

*"I am contacting you regarding a ticket I purchased from Viagogo for the All Blacks vs Argentina test at Nelson on 8th September which turns out to be invalid according to All Blacks officials.... I have contacted my bank ... to get a refund through the charge-back system. They initially told me I had to go to the game and be refused entry or not receive the ticket before they would look at a charge-back. Since recontacting [the bank] they have asked me to forward a copy of the personal statement from NZ Rugby explaining the ticket is invalid and correspondence with Viagogo asking for a refund, which I have done. Viagogo has replied saying the ticket is valid and I can resell it on their platform if I want to. Kiwi Bank has a copy of this correspondence, confirmed today. [The bank] told me today they are working through a number of claims and it will be about ten weeks before they process my claim, with no guarantee of an outcome. Is this the correct process or do I need to take further action?"*

In addition to the complaints about Viagogo, we receive occasional complaints about Ticketmaster Resale. These complaints are generally from consumers who have been unable to secure tickets to an event on the Ticketmaster website but have been redirected to Ticketmaster Resale where tickets are immediately available, but for highly inflated prices.

One consumer who contacted us after attempting to buy Bruno Mars tickets through Ticketmaster commented:

*"It was impossible to buy tickets, even though we were online as they went on sale. Each time we refreshed the screen they said nothing matched our criteria (our criteria being that we wanted to buy three tickets!!!) and redirected us immediately to the resale part of the site, on which tickets were already being advertised at many hundreds of dollars more than the original advertised price.*

*Someone, somehow, must be buying multiple tickets PURELY in order to resell them MINUTES LATER at a grossly inflated price. How can this be legal?*

*This is like me going to the only grocery store in town, buying all the milk at its marked price of \$3 per bottle, then standing out the front of the shop minutes later and offering it for sale at \$20 per bottle to customers who have come to the shop to buy milk!*

*I will not pay \$500 for a ticket that is worth \$99. Who can afford that? We wanted three tickets for \$300, not three tickets for \$1,500."*

The Commerce Commission has also received high numbers of complaints about online ticket reselling. In the 2017/18 financial year, the commission received 359 complaints about online ticket reselling.<sup>3</sup> Online ticket reselling was the fourth most complained about industry.

Compared with 2016/17, there was a 406 percent increase in the number of complaints made to the commission. Viagogo generated 94 percent of these complaints.<sup>4</sup>

***Question 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.***

Yes, we are concerned about the business practices and structures in the primary market.

We agree having one company operating both a primary ticketing agency and secondary ticketing platform allows it to profit from the same tickets twice, and may also incentivise withholding tickets from the primary market for the purpose of selling those tickets directly on the secondary market at a higher price.

We are also concerned about the lack of disclosure about ticket availability in the primary market. This is discussed in further detail under question 14 below.

We consider these issues should be addressed.

***Question 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?***

While we agree greater competition in the primary market would be beneficial to consumers, we do not think it would fix the problems in the secondary market.

***Question 8: How effective are the existing consumer protection laws in regards to ticket reselling practices?***

In our view, existing laws are not effective. Our research, together with the complaints we receive on a regular basis (see question 5 above), provide evidence of this.

Complaints we receive frequently involve situations where the consumer has been misled about what they are buying and has been unable to get redress under existing laws.

***Question 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?***

No, we consider the status quo is resulting in significant consumer harm. In our view there are no benefits associated with maintaining the status quo.

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<sup>3</sup> [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0017/108161/Consumer-Issues-Report-2017-18.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0017/108161/Consumer-Issues-Report-2017-18.pdf)

<sup>4</sup> Ibid.

**Question 10: If a price cap for resale tickets was introduced, which price cap option should be implemented?**

We support the introduction of a price cap.

In our view, the price of resold tickets should be capped at the original sale price – that is, the cost of the ticket and any other transaction costs paid by the original purchaser.

Any fees should be restricted to reasonable transaction costs, such as recovering a fee charged by the resale site for listing the ticket. In our view, a reasonable fee would be no more than \$10.

Setting a fee cap based on a percentage of the ticket price (such as the 10 percent figure proposed in the discussion document) would result in higher fees being charged for higher-priced tickets. This is hard to justify as there are no additional costs involved in reselling a ticket worth \$100 compared with one worth \$400.

We also consider fees should be prominently displayed, next to the ticket price, so consumers have clear pricing information upfront.

**Question 11: How should the original sale price of resale tickets be verified? Who should be responsible for this?**

We consider the seller should be responsible for providing evidence of the original sale price. Resale sites should not be allowed to list tickets unless this information is provided.

**Question 13: Who is best placed to enforce a price cap? What is the level of resource required to enforce a price cap?**

In our view, the Commerce Commission would be best placed to enforce a price cap. However, we consider the commission would need to have a better range of enforcement tools so it could issue infringement notices for breaches of the cap. The commission should also be able to make orders requiring resellers to provide refunds where consumers have been overcharged.

**Question 14: What types of ticketing information should be disclosed, and by whom? How should these disclosures be made?**

We think official ticket sellers should be required to publish information on the number of tickets available for pre-sale and general sale, the capacity of the venue, the number of tickets remaining and the number of events in a tour.

Ticket resellers should be required to disclose their name, location and contact information.

Resale websites should also have to clearly state the fact they are resellers and not the official ticketing agent. Sites should be required to disclose the original ticket price, seat and row number (or other relevant details such as standing zone), venue and any restrictions (for example, obstructed views, child's ticket etc).

As mentioned above, any fees charged by the resale site should be prominently displayed next to the ticket price.

**Question 15: How would any information disclosure requirements be enforced? Who should be responsible?**

If the relevant information is not disclosed, consumers should be able to make a complaint to the Commerce Commission, which would need an appropriate set of tools to enforce the rules.

**Question 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?**

We support a ban on ticket-buying bots. We suggest the Commerce Commission should be responsible for enforcing this ban.

Penalties for breaches should be set to the maximum allowable under the Fair Trading Act.

**Question 19: How effective are existing industry-led initiatives in combatting ticket scalping practices?**

As evidenced by complaints, existing industry-led initiatives have not been effective in combatting ticket-scalping practices.

**Question 20: Are there any other existing or future industry-led initiatives that address these concerns? Do you have any suggestions for improvements?**

Some ticketing companies are introducing "verified fan" programmes to give fans early access to tickets in an attempt to combat bots. Ticketmaster US, for example, signs up verified fans by registering their details and IP address to confirm they are not a "known" scalper.

Ticket codes are then distributed to verified fans (or by ballot if there are more fans registered than tickets available).

We consider further efforts by ticketing companies to develop solutions to distribute tickets directly to fans, instead of into the hands of professional scalpers or touts would go some way towards addressing the supply and demand problems in the primary market.

Thank you for the opportunity to make a submission. If you require any further information, please do not hesitate to contact me.

Yours sincerely



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