House of Commons

Culture, Media and Sport Committee

Ticket touting

Second Report of Session 2007–08

Report, together with formal minutes, oral and written evidence

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The Culture, Media and Sport Committee

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Summary

Ticket touting is an emotive subject on which very strong and polarised views are held, by those involved in the selling of tickets for sports fixtures, concerts and theatres, and by some of the people who go to the events. There is no consensus as to whether “touting” means all reselling of tickets, all reselling not authorised by the original issuers, or only the shady or less reputable activities. The whole secondary market in tickets for entertainment and sporting events is regarded by some as a scourge, where parasitic profiteering threatens the very future of the industries on which it feeds. Others see it as a valuable service, a godsend to fans who are desperate to obtain tickets for oversubscribed events, and to those who find themselves unable either to use their tickets or to obtain refunds for them. Even the same individual may protest about “touts” who buy up swathes of tickets to sell on for profit, while believing that he should be free to make a profit by selling on tickets himself.

The secondary market is by no means a new phenomenon, but the growth of the Internet has transformed and expanded it, so that tickets can now be bought and sold on an enormous scale in a very short time, and it is easy for individuals to trade in tickets from their own homes in their spare time. As tickets for many popular events are deliberately put on the market at prices which are lower than many consumers are willing to pay, substantial profits can be made, not only by businesses set up for that purpose but also by consumers who may buy more tickets than they need, in the hope that the profit on resale will finance their own tickets for an event. Organisers of the events see those profits going into the hands of secondary sellers who, they say, make no contribution to putting on the event, or to the industry. While the superficially obvious solution—of increasing ticket prices to whatever level the market will bear—might keep all the potential profit within the industry and effectively eliminate the secondary market, it would run counter to the industries’ pricing policies which aim to make tickets affordable by their grass roots and genuine fans upon whose continuing interest and attendance the long term wellbeing of the industries depends. We did not receive any evidence from the grass roots or fan bases complaining that they were unable to obtain or afford ticket for their chosen events. However, we believe that more information is needed on the practices of secondary ticket agents in acquiring large blocks of tickets within a very short period of their going on sale, and the effect of this on the consumer.

Many event organisers have sought to control secondary selling by imposing terms and conditions which prohibit resale (for profit) and provide for cancellation of tickets sold in breach. However, the enforcement of such conditions raises its own problems. While there is technology which makes it possible to prevent the use of resold tickets for events such as the Glastonbury Festival, this is not only expensive and unsuitable for some events, but also risks alienating consumers, because of the inconvenience it may cause them, not least where they want to buy tickets as gifts. Moreover, there is uncertainty as to the extent to which such terms and conditions are enforceable in law. In part this is because conditions will not be enforceable against consumers if they are found to be “unfair” within the Unfair Terms in Consumer Contracts Regulations 1999—as they may be if they prohibit transfer without providing some other way for consumers to get their money back on unwanted tickets. It is also unclear when a consumer who habitually resells tickets at a profit would cease to be entitled to that protection. The Society of Ticket Agents and Retailers has been
working with the Office of Fair Trading with a view to producing model terms and conditions which would be approved by the OFT. We were told by the OFT that such a model code would be published in August. We are disappointed that the OFT has still not done so, and we urge the OFT to explain the reasons for the delay. We look forward to the outcome of those discussions but, since only the courts can decide what is or is not unfair to consumers, and what distinguishes a consumer from a trader in this context, some uncertainty will inevitably remain.

While we accept that a blanket refund policy may not be a realistic option for organisers, we believe that they should provide a better service to consumers who are simply seeking to avoid making a loss on tickets which they are unable to use.

Representatives from both industries have suggested many other ways in which the flourishing secondary market may harm either the industries themselves, or their consumers, for instance by giving fraudulent operators a cloak of respectability so that consumers are misled into believing that they are dealing with legitimate outlets, by providing consumers with inadequate information and protection, and by tainting the image of the events or their organisers, particularly in the eyes of cheated consumers who had not appreciated that they were not dealing with authorised sources. The Internet has increased the scope for fraud, making it easier for dishonest traders to trick purchasers into paying for tickets which are inferior to what was offered, or may be forged, or may not even exist.

Representatives from secondary marketplaces have argued that the legitimate secondary market operates to the benefit of consumers in many ways, such as by offering the convenience of buying tickets at the time which best suits them, and the protection and security of known and trusted services rather than the underground or shady sources which would be the alternative.

Event organisers say that they have now done as much as they can to prevent unauthorised reselling, and that the time has come for the Government to step in, to ban it, or at least to cap the profits which can be made from it.

Although unauthorised reselling of tickets has been made a criminal offence in the context of tickets for football matches and for Olympic events, those offences were created as specific responses to particular circumstances, rather than to mark disapproval in principle of secondary selling (whether or not for profit). To extend the ban to other specific events would simply exacerbate the confusion inherent in the existing two-tier system and would do nothing to address the complaints of the organisers of other events. Any attempt to ban the secondary market outright would also be a very serious step in that it would criminalise what has been a perfectly lawful activity, which is evidently valued and freely made use of by many consumers, in order to support the industries’ endeavours to target particular audiences. We do not consider that it would be either practicable or right to do so.

However, we did receive evidence of unacceptable practices by some secondary sellers, such as listing of free tickets for charity events and advertising tickets which were not yet on sale and could not therefore be in their possession. We urge secondary sellers not to list tickets distributed free of charge, for example for charity events, or to particular groups, such as children, the disabled or amateur sports clubs. In the interests of consumer
confidence and safety, too, we would like to see secondary marketplaces require sellers to provide more information about ticket details including, ideally, face value, block, row and seat numbers. However, we recognise that this is only practical if the event organisers do not simply cancel all tickets advertised for sale in the secondary market.

We also believe that the existing situation whereby large profits can be made on the secondary market with no benefit to the organisers or owners of the primary rights is unfair and must be addressed. We share the view of the Government that a voluntary solution is infinitely preferable to statutory regulation and that intervention by Government should only be considered as a last resort. However, in the absence of a voluntary code, it is understandable that pressure will continue to extend special protection to the 'Crown Jewel' sporting events and many popular music events.

We welcome the initiative of the Music Managers Forum to seek agreement for a voluntary scheme under which sellers of tickets in the secondary market would pay a proportion of the profit to the original organisers to be distributed in the same way as the original amount paid. In return, the organisers would recognise the legitimacy of the secondary seller and not seek to invalidate the ticket being sold. Such a scheme would recognise the right of those in the entertainment and sports industries to a share in the profit made by others out of the events for which they are responsible in the same way that creators of artist works now benefit from sales of their works through resale royalties. We believe that a scheme of this kind offers the best chance of meeting the concerns of event organisers while still allowing the secondary market to operate unfettered and we strongly encourage all those involved to consider it seriously.
Introduction

1. In February 2007, the then Secretary of State for Culture, Media and Sport said: “Exploitation and excessive profiteering by touts puts tickets out of the reach of real fans – it is a corrosive force in entertainment. We are determined to protect consumers against this.”¹ During the last two years concern about the adverse effects of touting activities has been increasingly apparent from media coverage and from representations made, by promoters of sporting and other events, to DCMS and to this Committee. We therefore decided to hold an inquiry to examine the causes and extent of the problems caused by touting and how they might be addressed.

The course of the inquiry

2. We announced the inquiry on 1 May 2007, inviting evidence on the following issues in particular:

— The underlying causes of ticket touting, and its impact on performers, promoters and the public;

— Whether or not resale of a ticket, at face value or at a higher value, should be permitted in principle; and whether the acceptability or otherwise of resale depends on the circumstances in which tickets are offered for resale;

— The impact of the Internet upon trade in tickets;

— Whether or not tickets’ terms and conditions banning transfer and onward sale are fair or enforceable;

— The merits of new approaches by ticket agents attempting to prevent transfer of tickets, including wider use of personal ID; and

— Whether or not the existing offences of sale by an unauthorised person in a public place of a ticket for a designated football match, or for events at the London 2012 Games, should be extended to cover other sporting or cultural events.

3. We received over 40 written submissions, about one third of which came from organisers of sporting, music and other events, while another third came from bodies involved in the ticket market. In both cases there was some element of overlapping between submissions; for instance, we received a joint submission from “the Five Sports” (the England and Wales Cricket Board, Football Association, Lawn Tennis Association, Rugby Football League, and Rugby Football Union) as well as individual submissions from several of them, and submissions from the Society of Ticket Agents and Retailers and several of its member agents.

4. At our single oral evidence session held in late June, we heard evidence from promoters of live music and major sports events, from primary ticket agents and organisations

¹ The Rt Hon Tessa Jowell MP “Tougher protections for ticket buyers” DCMS press notice 022/07
involved in the secondary market, from the Department for Culture, Media and Sport (DCMS), which is responsible for promoting performance arts, entertainment and sports, the then Department of Trade and Industry (DTI), whose responsibilities included consumer protection and extending competitive markets, and from the Office of Fair Trading. We are as always grateful to those who gave evidence.

The ticket market

Primary sources

5. Most promoters of sporting fixtures and entertainment events sell at least some of their tickets direct to the public, through their own box offices, to customers calling in person or on the telephone, or sometimes on the Internet. But many tickets are now distributed in different ways, either by allocation to particular groups, or through agents. Witnesses told us that, particularly in the sporting industry, a proportion—or even all—of the tickets, are not made available to the public at large. Major sports bodies described to us how substantial proportions of their tickets were made available to parties directly involved in the sports, or for whom allocations to encourage further involvement in the sports was appropriate, such as members of sports clubs throughout the country, volunteers, schools, and foreign sports associations. The Football Association told us that being a member of “englandfans”, the official England supporters members club, was the only official way of obtaining tickets for England’s international away matches, and we also heard that event tickets were sometimes available only to members of a band’s fan club.

6. Tickets from the box office are generally sold at face value, although customers may have to pay extra for postal charges. Increasingly, promoters (usually concert promoters and theatres) sell tickets though authorised or “primary” agents, who charge booking fees. Ticketmaster, one primary agent, told us that agents have become an essential element in the distribution of tickets, since the facilities and staff levels required to provide the high level of service now demanded by the public were often too costly for entertainment producers, venues and promoters to bear without assistance from agents, and that booking fees had first come in about 15 to 20 years ago, when the “credit card/debit card culture came in”. Those primary agents which gave evidence to this inquiry told us what percentages they charged, ranging between 9% and 12.5%. There were references in the evidence to some booking fees being “extortionate”, and seen as “exorbitant” by performers. We were also told that there was often a lack of transparency, with purchase

2 All England Lawn Tennis Club Ev 8, Rugby Football Union Ev 1
3 Ev 6
4 Association of Secondary Ticket Agents Ev 55
5 Society of Ticket Agents and Retailers Ev 33
6 Mr Chris Edmonds, Managing Director of Ticketmaster, Q66
7 WeGotTickets (10%) Ev 101, Chris Edmonds, Managing Director of Ticketmaster (average between 9 and 12.5%) Q66, Mr Nick Blackburn, Managing Director of Seetickets (average 12%) Q65
8 Mr Ian Davies Ev 87
9 WeGotTickets Ev 102
prices paid being made up from the ticket price plus charges for booking, handling and delivery, which made the face value price obscure and was confusing for customers. Primary agents also told us that a reason why postal charges were high, far exceeding the cost of a first class stamp, was that many of the tickets were sent by recorded delivery, and that although primary agents normally sell tickets at face value plus whatever fees they charge, some tickets for high-profile, high demand events are now sold by auction.

The secondary market

7. There is a diverse secondary market in which tickets are sold, frequently without the authority of the promoters, and often also in breach of terms and conditions prohibiting resale and in the face of the efforts of promoters and primary agents to prevent reselling. The market is currently estimated to be worth around £1 billion in the UK. There are secondary ticket agencies which resell tickets, usually at a price above face value, but sometimes at lower prices, operating from offices or booths, often near to the relevant venues, and/or on the internet. Other secondary sales take place through online marketplaces such as viagogo, Ticketnova, MyTicketMarket, GET ME IN, Gumtree, Seatwave and Scarlet Mist, through online auctions such as eBay, and using search engines such as Tickex. Prices paid may be at, above or below face value, unless they are through websites such as Scarlet Mist and StopTout, which are free services allowing resale only at face value. Some websites take a percentage in fees for providing the platform. Ticket touts also sell tickets at or near the venues, where they may be selling tickets which they have bought beforehand, or acquired from ticketholders who had surplus tickets with them at the venue. Again, prices will often exceed face value, but may sometimes be lower, for instance when touts hold tickets for events which have not sold out, or are about to begin.

8. Qualitative research carried out on behalf of DCMS in March 2007 found that the difference between primary and secondary market places was not clearly understood by consumers, who tended to distinguish instead between “honest, real, official” transactions, and “dodgy, fake, invalid” transactions, with only the box office tantamount to certainty where ticket validity was concerned.

The application of new technology

9. Witnesses told us that new technology had revolutionised the way tickets are sold, in a number of different ways. We heard how, in little over 20 years, computerisation of box offices, and telephone and internet bookings, had overtaken postal bookings and bookings
in person, and allowed greater equality of access to tickets. Buying tickets on the Internet is much easier and quicker than buying through traditional methods, which can involve long queues at times which may be inconvenient or impossible for many people. Ticket buyers can also secure far more information about the tickets they are buying when they use internet services. Witnesses told us that the Internet has significantly enhanced the business of primary ticketing agents, that it has caused ticket sales to boom and that it has been partly responsible for unparalleled growth in the industry for live music events over the last 5 years. Thousands of people can make purchases simultaneously, and whole arenas can sell out in a matter of minutes. Nevertheless, eBay said that tickets were often sold in bulk at times which were inconvenient to “ordinary fans”, decreasing their likelihood of being able to get hold of a ticket in the primary market.

10. At the same time, the rapid growth of the Internet has brought a dramatic rise in the amount of secondary selling. Seatwave said that the Internet had disrupted traditional business models, released the “stranglehold” which event organisers previously held over the supply of tickets, and “democratised access for consumers”. The Office of Fair Trading said that the Internet had provided the means for many secondary agents to operate on a national and international scale, hugely opening up their customer base and increasing the scope for competition between agents. However, witnesses told us that it had also allowed dubious traders to set up quickly, creating a new channel for fraud, and that two secondary agents, tickettout.com and getmetickets.com, had collapsed during the last year, leaving thousands of customers without tickets, and out of pocket. The emergence of new business models such as online marketplaces and auction sites has also caused the secondary market to evolve, with consumers selling to each other, whether or not for profit, and some consumers have become informal traders (“bedroom touts”) who routinely buy and sell tickets through internet websites and auction sites: there have been suggestions that consumer-to-consumer sales may now account for the bulk of tickets being resold. We heard that one of the consequences of this development was that the reach of consumer protection measures (which apply to sales by traders) had become uncertain because the distinction between consumers and traders had become blurred. The Government said that the Internet had “unbalanced the arrangements around ticket

16 Society of Ticket Agents and Retailers Ev 33
17 Mr Chris Edmonds, Managing Director of Ticketmaster, Q66, Ticketmaster Ev 29
18 Concert Promoters Association Ev 18
19 ScarletMist Ev 119, DCMS/DTI Ev 74, WeGotTickets Ev 101
20 Scarlet Mist Ev 119, Ticketmaster Ev 29
21 eBay Ev 47
22 Society of Ticket Agents and Retailers Ev 35
23 Ev 58
24 OFT Ev 69
25 Tickex Ev 122
26 Ticketmaster Ev 29, Concert Promoters Association Ev 17
27 DCMS/DTI Ev 71
28 DCMS/DTI Ev 73
29 Mr John Fingleton, Chief Executive of the OFT, Q 150
sales because the technology allows people to purchase a ticket at face value as soon as tickets are released to then resell for a mark up back to fellow consumers minutes later”.

**The meaning of “touting”**

11. The term “touting” is sometimes used to refer to all secondary selling, especially in statements made by those involved in the primary market, although primary agents told us that the industry did not view not-for-profit resale among friends and colleagues (as authorised by the terms and conditions of the Society of Ticket Agents and Retailers (STAR)) as “touting”.\(^{31}\) STAR said that the term was “generically applied to the resale of tickets in a manner which is inconsistent with the standards set by the primary market”, while primary agent Ticketmaster suggested that touting was secondary selling in breach of the terms and conditions of the ticket.\(^{32}\) Some research has shown that consumers generally do not regard themselves as touts when they resell or dispose of spare tickets for profit, nor do they describe internet-based ticket sellers as “touts”.\(^{33}\) VisitBritain said that ticket “touting” was a problem specific to high demand, low supply events and performances where significant profits can be made from inflated resale.\(^{34}\)

12. The term “touting” is also sometimes used more narrowly, with pejorative connotations, to describe the activities of disreputable, unscrupulous or dishonest operators, “shady characters” in a “murky market”, who may mislead consumers, deliver counterfeit tickets or fail to deliver any tickets at all.\(^{35}\) Witnesses from the secondary market suggested that it was important to distinguish between “secondary ticketing/resale” and “touting”, which was “the unacceptable face of the secondary market”.\(^{36}\) Seatwave said that the term “tout” refers to someone who buys tickets to an event in order to resell them at a profit, and emphasized to us that Seatwave was a marketplace, it did not buy or sell tickets and was “not a tout”.\(^{37}\) In other contexts, the term is applied to refer to the activities of traditional ticket touts at the venue.\(^{38}\) In Australia and America “ticket touting” is referred to as “ticket scalping”.

13. It is important to bear in mind that the term “touting” has very different meanings to different people, when considering claims that “touting” causes problems and that there is a need for intervention to control it. It is clear, however, that the rise of the internet has increased the opportunity for secondary sales of tickets—by individuals, organised rings and IT experts—beyond the sometimes offensive antics of “touts” immediately outside stadiums. The question for legislators and policymakers, however, is to define the extent to which this has become a “problem”, why it is so—generally or on a case by case basis—and whether

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\(^{30}\) Ev 72  
\(^{31}\) Ticketmaster Ev 29, Society of Ticket Agents and Retailers Ev 35  
\(^{32}\) Ev 35, Ev 29  
\(^{33}\) DCMS/DTI Ev 71  
\(^{34}\) Ev 99  
\(^{35}\) viagogo Ev 50  
\(^{36}\) Ticketnova Ev 88, Mr Dominic Titchener-Barrett, on behalf of the Association of Secondary Ticket Agents Q 79  
\(^{37}\) Ev 58  
\(^{38}\) OFT Ev 67
legislation is a proportionate response. They must bear in mind, too, the extent to which legislation will be enforceable, and at what cost, and whether it may have unintended consequences.

**Why there is a secondary market**

14. Throughout the evidence, we found a general acceptance that a major reason for the existence of the secondary market is that the demand for tickets for many events exceeds the supply, and the face value of tickets is less than the market value or “clearing price, which is the price at which the demand for a good exactly equals the supply”. For many events there is a significant demand for tickets which may cost substantially more than face value, both for last minute purchases and from people booking in advance. So for popular events which are likely to sell out, the gaps between face values and clearing prices provide opportunities for making substantial profits. It was suggested in some of the evidence that if ticket prices were increased to a true market value then there would be no scope for touts as there would no longer be any incentive to buy tickets for popular events for the purpose of reselling them at a profit.

15. However, witnesses were generally agreed that another factor driving the secondary market was the absence, in much of the primary market, of effective returns mechanisms for unwanted tickets. We were told that primary sources rarely offer a guaranteed refund to ticketholders who find themselves unable to attend events or otherwise holding unwanted tickets, so they will lose money unless they are able to resell those tickets, either by selling them back to the issuer or in a secondary market. The Society of Ticket Agents and Retailers (STAR) referred to concern in the ticket industry that strict and long-standing rules on returns and exchanges facilitated the secondary market because, where customers cannot return or exchange tickets, their only choice is to offer them for resale in the secondary market. viagogo’s view was that “until 100% refunds are available, right up until the day of the event, consumers will recoup their money through re-sale of their unusable tickets”.

16. We heard from racecourse proprietors of yet another facet of the secondary market, which involves touts at the events acquiring spare or unwanted tickets at “knockdown” prices and selling on, quite often below face value but nevertheless at a profit.

**Why tickets are issued at prices below the clearing rate**

17. Promoters of major sports fixtures, and of popular concerts and other events, acknowledged that their tickets were priced below the clearing rate, and stressed that this was deliberate policy. Representatives from the sports and live music industries told us that

39 DCMS Ev 73, Concert Promoters Association Ev 16, Football Association Ev 3, All England Tennis Club Ev 8, Society of Ticket Agents and Retailers Ev 35, Seatwave Ev 57, OFT Ev 68, Scarlet Mist Ev 118, Tickex Ev 122

40 Association of Secondary Ticket Agents Ev 54, Scarlet Mist Ev 118

41 Scarlet Mist Ev 118, Airtrack Football Ev 131

42 Ev 34

43 viagogo Ev 50

44 Jockey Club Racecourses Ev 93
their prices were not set to maximise revenue, and the reasons they gave—while slightly different—in both cases related to the long-term well-being of their industries. In the case of sports, the given reason was that a substantial proportion of the tickets were made available to encourage “genuine fans”, long-term grass-roots supporters, volunteers, participants and schoolchildren, to further their involvement in the sports, at prices which those groups could afford. The All England Lawn Tennis and Croquet Club said that the face value of Wimbledon tickets was deliberately kept at a level which enabled the championships to be widely affordable by the public, with separate allocations for wheelchair users and schoolchildren. We heard that the opportunity cost, that is the difference between the prices set by the organisers and those charged by touts, was substantial, amounting to many millions of pounds a year. One of the differences between many sports and the live music industry is that sports tournaments, by their nature, cannot expand supply by adding more games, as promoters can with music events.

18. The Concert Promoters Association (which told us that its members were responsible for promoting at least 90% of contemporary music events in the UK), said that its members priced their tickets below clearing rate to make them affordable to the general public, and that this was something they were proud of. Mr Rob Ballantine, the Association’s Chairman, said that the industry was not a “supply and demand” industry. He used as an illustration the “spectacular” entertainment being planned for when Liverpool is the European Capital of Culture in 2008, where it would be possible and profitable to sell all 25,000 tickets for £500 each, but they would be offered at the “affordable” price of £50, despite resigned expectation that 10,000 of them would be for sale on eBay the next day. The Music Managers Forum (whose members manage over 6,000 featured performers in the UK) said that it would not be “preferable” for artists to have higher initial ticket prices (to restrict demand) or to add more performances (to increase supply). Witnesses from the live music industry explained that ticket pricing involved a very careful balance, so that tickets were affordable for fans, generating full houses, with a small demand left over. Witnesses told us that although well-known bands, such as the Arctic Monkeys, could charge considerably more than they do, lower ticket prices are seen as a reward for fans who support them, following them and buying their recordings, and as encouragement to enable the fans to attend more concerts (including those of new talent) at reasonable prices instead of being limited to a few at inflated prices. Promoters told us that this pricing policy was important for the long term sustainability of the industry.

45 Mr Paul Vaughan, Operations Director, Rugby Football Union, Q 1
46 Ev 8
47 Five Sports Ev 107
48 Ev 16
49 Q 47
50 Ev 103
51 Mr Rob Ballantine, Chairman, Concert Promoters Association, Q 33, Mr Harvey Goldsmith, Q 37
52 Mr Ballantine Q 31,39
53 Concert Promoters Association Ev 16, Mr Rob Ballantine Chairman of the CPA, Q 39, Mr Geoff Ellis, Chief Executive of DF Concerts, Qq 39, 42, Mr Geoff Huckstep, Chairman of the National Arenas Association, Q 39
19. DCMS suggested that other reasons for pricing below the potential clearing price could be to mitigate against risk and to secure a guaranteed income stream: in some cases there would be uncertainty and fluctuation in the clearing price, for example where it would be affected by the weather forecast for an outdoor event or the success of a sports team in a tournament.\(^{54}\) The OFT said that promoters and producers might set the face value at a lower level where there was uncertainty about the popularity of the event, to ensure a good attendance or to retain the loyalty of fans.\(^{55}\)

**What benefits the secondary market may provide**

20. In January 2005, the Office of Fair Trading published a study about ticket agents in the UK, concluding that secondary agents “could provide a useful function for consumers who need tickets for events and are willing and able to pay premium prices”.\(^{56}\) In evidence to this inquiry, a number of ways in which an open secondary market may benefit consumers were suggested. These included that:

— a secondary market enables consumers to buy tickets at a late stage, albeit at a premium, when the primary agent has ceased selling;\(^{57}\)

— competition (in the secondary market) can lead to lower prices for consumers;\(^{58}\)

— the services provided in the secondary market may be more convenient, operating online, 24 hours a day, when primary sources may provide only a more limited service and their systems may not cope well at times of high demand;\(^{59}\)

— the secondary market enables ticketholders to dispose of unwanted tickets so that they are not left out of pocket when, as is often the case, promoters and primary agents offer no refund or resale facilities;\(^{60}\)

— some consumers enjoy the process of tracking down tickets which are difficult to find;\(^{61}\)

— the existence of a legitimate secondary market allows reputable operators to provide safe and secure services with consumer protection, and make it unnecessary for consumers to use shady sources.\(^{62}\)

21. Other suggested ways in which the secondary market could be beneficial included that:

\(^{54}\) Ev 73  
\(^{55}\) Ticket agents in the UK, OFT, January 2005, para 7.23  
\(^{56}\) *ibid* para 7.42  
\(^{57}\) DCMS/DTI Ev 73, Office of Fair Trading Ev 68, Scarlet Mist Ev 118  
\(^{58}\) eBay Ev 45, viagogo Ev 50-52, Mr Aftab Khan Ev 132  
\(^{59}\) Seatwave Ev 58, Advanced Ticket Systems Ev 90, Office of Fair Trading Ev 68, TickEx Ev 122  
\(^{60}\) viagogo Ev 49, Society of Ticket Agents and Retailers Ev 34, 35, eBay Ev 43,46, Seatwave Ev 58, Mr Ian Davies Ev 87, Scarlet Mist Ev 118  
\(^{61}\) The Secondary Market for Tickets (Music and Sport) Qualitative Research Report, March 2007, Campbell Keegan Ltd pp 3, 17  
\(^{62}\) Seatwave Ev 58, viagogo Ev 49, 50, Mr Eric Baker, Chief Executive of viagogo, Q 79
— the existence of the secondary market sustains the demand for advance purchase which could fall away if consumers knew that they must either occupy seats or leave them empty;  

— the secondary market helps to increase the concession and merchandising revenues which promoters and artists can generate at events, by filling seats which would otherwise be left empty;  

— the secondary market helps to increase ticket revenues for promoters and artists when it buys (and makes losses on) tickets for events where supply exceeds demand;  

— the secondary market invests in advertising which can be beneficial to the artists or events for which tickets are advertised;  

— the public benefits from the extra taxation revenue from the profits generated in the secondary market;  

— if there were no legitimate secondary operators, reselling would be driven underground and operated by criminals.

**What adverse effects the secondary market may have**

22. Other evidence suggested as many ways in which the secondary market, or particular elements of it, may operate to the detriment of consumers or of the industries, including that:

— buying tickets for the purpose of resale often deprives others of the opportunity to buy those tickets at face value, and “drains tickets away from the primary market”, with the result that “genuine” or “real” fans cannot buy tickets for popular events at face value;  

— resale of tickets at inflated prices puts them beyond the reach of the audiences for whom they were intended, such as supporters involved in a sport, or fans who follow particular artists;  

— selling on of tickets for free events diverts what has been given, or provided at public expense, away from those intended to benefit.

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63 eBay Ev 44, Mr John Fingleton, Chief Executive of the OFT, Q 151  
64 eBay Ev 44, viagogo Ev 50  
65 Association of Secondary Ticket Agents Ev 54, eBay Ev 44  
66 Association of Secondary Ticket Agents Ev 54  
67 Association of Secondary Ticket Agents Ev 55  
68 viagogo Ev 52, DCMS/DTI Ev 74, Advanced Ticket Systems Ltd Ev 88  
69 Football Association Ev 3, Concert Promoters Association Ev 16, National Arenas Association Ev 22, Ticketmaster Ev 29  
70 Five Sports Ev 105, Concert Promoters Association Ev 16, Mr Harvey Goldsmith Q31, Mr Rob Ballantine Q 39  
71 Mr Shaun Woodward Q 142, Concert Promoters Association Ev 19
— the tolerated proliferation of unofficial sources blurs the distinction between official and unofficial sources and gives apparent legitimacy to fraudulent operators, who may sell forged tickets or fail to provide tickets which have been paid for; operators in the secondary ticket market are often part of wider criminal operations; 72

— consumers and overseas visitors may not realise that they are buying tickets on a secondary market as opposed to “official” sources where tickets may be available at face value and with better consumer protection: 73 Mr Paul Williamson, European Sales Director of Ticketmaster told us that while tickets for a series of Prince shows at the O2 were still available at the face value of £31, tickets were also being sold on eBay for £140, 74 and Tickex told us that its research indicated that some 20% of tickets purchased in the secondary market were still available to be purchased at face value in the primary market, because primary channels provided poor information for consumers leading to wrong assumptions about the availability of tickets. 75

— touting may affect the country’s ability to continue to attract world class events for instance the Rugby World Cup in 2015 and Football World Cup in 2018, for which bids are being prepared (and there is an increasing trend by international governing bodies of sports to write into bid requests that host nations must control ticketing in similar terms to those that exist for the Olympic Games); 76

— profits taken by the secondary market have direct and indirect effects on revenue for promoters and performers, e.g. promoters may be deprived of revenue when, for instance, tickets sold at a discount are sold on at face value or above; 77 performers lose out because their fees are based on face value ticket sales; 78 resale of tickets at inflated prices reduces the amount consumers are willing to spend at events or on tickets for other events; 79 resources (both financial and administrative) have to be diverted to anti-touting measures including the cost of police and extra stewards; 80

— many secondary sellers do not account for VAT on inflated ticket prices or for tax on their profits; 81

— staff at the venues have to deal with the consequences of secondary “sales” which have left disappointed (and perhaps aggressive) consumers with forged tickets, cancelled

72 Society of Ticket Agents and Retailers Ev 37, Concert Promoters Association Ev 18, Mr Geoff Ellis Q 45, Five Sports Ev 107
73 Mr Nick Blackburn, Managing Director, Seetickets, Q 56
74 Q 54
75 Ev 122
76 DCMS/DTI Ev 73, Mr Nicholas Bitel, Solicitor representing the All England Lawn and Tennis Club, Q 28; see also England & Wales Cricket Board Ev 115
77 Society of Ticket Agents and Retailers Ev 36, Jockey Club Racecourses Ev 93, the Racecourse Association Ltd Ev 96
78 WeGotTickets Ev 102, National Arenas Association Ev 22, Society of Ticket Agents and Retailers Ev 36
79 Royal Horticultural Society Ev 100, WeGotTickets Ev 102
80 Rugby Football Union Ev 1, The Football Association and Wembley National Stadium Ltd Ev 3, Five Sports Ev 107
81 National Arenas Association Ev 22, the Five Sports Ev 108, Mr Nick Blackburn, Managing Director of See Tickets, Q 59, Concert Promoters Association Ev 17, Mean Fiddler Music Group Ev 116
tickets, inferior tickets or no tickets at all, and sometimes “unable to see the divide” between the tout and the venue, which they try to hold responsible.

— consumers lack protection, e.g. they may have inadequate or misleading information about the location in the venue and face value of the ticket (if it exists at all), and what terms and conditions apply to it (including conditions restricting transfer and allowing cancellation of tickets transferred in breach), and they may be unable to obtain refunds when events are cancelled;

— on-site touting makes the environment uncomfortable and unattractive for attenders;

— all forms of reselling adversely affect the image of the promoters (and, to overseas visitors, the image of the event, city and country);

— some secondary sellers purport to be selling tickets (known as “futures”) which they cannot possibly own, because no tickets for the event have yet been put on the market, and sometimes for non-existent events which promoters have no intention of putting on, resulting in non-delivery of tickets, and disappointed fans

— individuals and clubs given preferential access to or allocations of tickets are given an incentive to “cheat” by selling these on, often involving personal not club gain and potentially endangering such preferential arrangements for the benefit of others.

Attitudes to secondary selling

23. The clear message from the promoters who gave evidence to the inquiry was that, while there was no objection to face value resale of tickets for most events, reselling for profit amounted to “parasitic opportunism” by “unscrupulous” third parties. They said that it was wrong in principle for those who had put nothing into the organisation of sport and entertainment events to take profits from them and that, in doing so, they undermined the ticketing policies of the organisers. The Society of Ticket Agents and Retailers said that although much is made of the point that the secondary market is important in making tickets available to those who missed out when an event went on sale, that overlooked the
fact that many of the tickets had been bought with the sole purpose of feeding them to the secondary market: it does not sell more tickets, it simply sells the same tickets twice with no additional return for the event organiser or those directly involved.90 The Music Managers Forum told us that if the current situation continued unabated, the Forum would continue to investigate ways for its performers to participate in “this additional revenue stream”:91 we refer later in this Report to the progress which the Forum has been making.92 Ticketmaster said that if the activities of the unauthorised market continued unchecked, it could only be a matter of time before its clients want to capture the value of the secondary market and channel it back to their industry; managers might therefore seek to maximise profits during the “shelf life” of a particular band, but the model was not sustainable for the industry in the long term.93 Mr Rob Ballantine (Chairman of the Concert Promoters’ Association) anticipated that this might lead to an “economic explosion” to the detriment of the public if entrepreneurs lost patience with profits being taken by a secondary market and responded by choosing to maximise their own profits.94

24. Witnesses from both the primary and secondary markets described ways in which primary sources were now moving in that direction, with auction selling in the primary market already rife in the American music industry (in response to vast increases in the amount being paid for tickets as a result of higher booking fees as well as the rise in secondary selling),95 and showing signs of growth in the UK. Ticketmaster told us that a “small percentage of tickets” were being sold in this way, while eBay said that there were “numerous examples” of event promoters in the primary market auctioning off tickets, sometimes eight to ten rows at a time.96 viagogo suggested that performers and promoters had “embraced the re-sale market and its positive impact by launching and endorsing resale services of their own”, referring to a number of performers, and sports and music venues who had signed up to resale services provided by Ticketmaster in the US.97 Ticketmaster told us that, to date, its UK clients who had adopted its TicketExchange resale service had opted for the model which allowed only face value resales. Mr Ballantine told us that rising ticket prices had led to a decline in the American live concert market, which indirectly affected the British live music scene because both American artistes and the companies involved in the American secondary market were looking to make up the resulting loss of profitability out of events in this country.98 Only two days after we took oral evidence, the *Times* newspaper reported that some of the most enduring names in popular music were suffering a backlash elsewhere in Europe from fans refusing to pay

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90 Ev 36
91 Ev 104
92 See para 82
93 Ticketmaster Ev 31, Mr Ballantine Qq 41, 42
94 Q 37
95 Mr Rob Ballantine Q 41
96 Ev 44
97 Ev 50
98 Ev 127
inflated prices for live concerts, with artistes such as the Rolling Stones and Barbra Streisand playing before “tracts of empty seats” in European venues.99

25. Consumer attitudes are less clear cut. Indeed, the evidence showed that the public seemed to have an ambivalent and contradictory view of touting.100 The Government said that, based on the research available, consumers' views seemed to point in two directions, in that consumers did want a legitimate and unregulated secondary market where they were able to buy and sell to one another but, at the same time, some consumers did not want the markets to be exploited by touts, and considered that legislation was needed to prevent resale of tickets for profit. The Rt. Hon. Shaun Woodward, then Minister for Creative Industries and Tourism at DCMS, told us that consumers saw nothing wrong in selling their tickets above face value, but that they thought that an organised, unauthorised secondary market was unfair.101 He also commented that he had “not yet seen any evidence from consumers”, who were, after all, he said, the group which should be protected.102 We too found that very few individual consumers submitted evidence to this inquiry, and the attitudes of those who did ranged between enthusiastic participation and hearty disapproval.103

26. Although sports bodies told us that the secondary market was preventing genuine fans from attending fixtures, it did not provide the evidence on which that statement was based. While witnesses said that a proportion of tickets was made available to target groups, it was not explained how those allocations found their way onto the secondary market. If it is correct that a significant proportion of those allocations is diverted, that suggests that the allocation procedures are not working properly or that many members of the target groups are choosing to make a profit on their tickets rather than attend events.

27. Much stress was laid in the organisers' evidence on the apparent plight of “genuine” or “real” fans being unable to attend events because the only tickets available were those on the secondary market at inflated prices, with an implication that there was something insincere or artificial about the fans who were able to attend because their pockets were deep enough.104 Indeed, the media have reported that the organiser of the Glastonbury Festival intends to relax the strict anti-touting measures put in place for 2007 because the audience had been “too middle-aged”, with fewer teenagers, “the kids who make it work”, attending.105

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99 “Megastars play to empty seats after fans baulk at ticket prices”, 28 June 2007, Timesonline
100 Scarlet Mist Ev 119
101 Q 148
102 Q 126
103 Ms Emma Blackwell Ev 86, Mr Simon Broadley Ev 86, Mr Ian Davies Ev 87, Mr Charlie Welch Ev 109, Mr James Comboni Ev 126, Lord Tom Pendry Ev 120, Mr Aftab Khan Ev 132
104 Mr Paul Vaughan, Operations Director, Rugby Football Union, Q 1, Football Association Ev 3, Concert Promoters Association Ev 16, Mr Alex Horne, Managing Director, Wembley National Stadium Ltd and Director of Finance, Football Association, Q 23, Mr Rob Ballantine, Chairman, Concert Promoters Association, Qq 31, 33Ticketmaster Ev 29, DCMS/DTI Ev 74, Five Sports Ev 105, Mean Fiddler Music Group Ev 115, P3 Music Ev 118, Northants Cricket Club Ev 121
105 “Middle-class, middle-aged Glastonbury plans new system to woo younger fans” 13 July 2007, The Guardian
28. A number of opinion polls have been conducted, in addition to the study carried out by the OFT and the qualitative research commissioned by DCMS. These do not present a coherent picture. We were referred to polls conducted by the New Musical Express at various times, where 84% of readers had said that tickets were just like any other property which they should be able to sell, 67% had not believed that selling tickets by online auction was acceptable, and 70% had “voted for a complete ban on ticket touting”. eBay told us that in 2006 it had commissioned a survey of 1000 people, of whom 87% believed that they should be allowed to resell tickets they could no longer use, 66% believed that individuals selling spare tickets was “not the same as ticket touting” and 54% believed that the price of a ticket should be determined by what people were willing to pay for it—which would seem to imply that nearly half thought otherwise. Polls conducted by viagogo have reported that 70% of people agree that “it’s their right to pay whatever they consider is an appropriate price for a ticket, even if it’s above face value”, and 67% say that “that they want to make a profit if they re-sell tickets”. The results of a survey of 2,352 individuals representative of the UK adult population, conducted in March 2007 by YouGov for the England & Wales Cricket Board showed that 58% viewed ticket touts and internet auctions unfavourably, 6% favourably, and that 76% agreed there should be greater regulation to tackle ticket touting, with 13% neutral and 7% disagreeing.

29. The view from providers of trading platforms allowing sale of tickets at a profit on the secondary market was that the market was a legitimate and lawful industry which operated on free market principles to the benefit of consumers, and was valued by them. There was recognition that “bad apples” operating fraudulent practices had tainted the image of the market, but witnesses maintained that reselling, or facilitating the resale of tickets, at whatever price they would fetch, was legitimate and desirable even if unauthorised and in breach of terms and conditions restricting transfer. They regarded attempts to restrict transfer or resale of tickets—whether by the imposition of terms and conditions or by regulation—as unwarranted interference with a fundamental right to buy and sell commodities in an open marketplace. Their view was that the primary market stakeholders’ demands for regulation were largely driven by attempts of events organisers and ticket agents to protect their own commercial interests, not by any concern for the interests of the consumer.

30. The surveys of consumer opinion which have so far been carried out do little more than confirm that consumer attitudes are mixed. One element which is missing

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106 The Secondary Market for Tickets (Music and Sport) Qualitative Research Report, Campbell Keegan Ltd, March 2007, Ticket agents in the UK, OFT, January 2005
107 viagogo Ev 50, New Musical Express February 2007
108 New Musical Express 22 July 2006
109 New Musical Express June 2006
109 Ev 45
110 Ev 111
111 Seatwave Ev 58, eBay Ev 43, ASTA Ev 55
112 eBay Ev 43, viagogo Ev 49–50, Association of Secondary Ticket Agents Ev 55, Seatwave Ev 59
113 eBay Ev 46, viagogo Ev 51–2, Seatwave Ev 59
114 Seatwave Ev 60, Mr Ian Davies Ev 87
is whether consumers would give the same answers if they had been informed of the concerns expressed by organisers about the possible long term effects of touting on the industry. Further research would be helpful.

31. We accept that the organisers’ desire for the secondary market to be curbed is largely motivated by concern for the long term well-being of the industries in which they operate, and that this is something beyond merely protecting their own commercial interests which, in the short term, they could do simply by raising their prices, so that there was no profit to be made by touting.

**Whether tickets should be regarded as commodities**

32. Whether tickets are commodities like other goods or services is an issue on which stakeholders took diametrically opposing views and which goes to the heart of the current debate.\textsuperscript{116}

33. Research undertaken by Campbell Keegan Ltd for DCMS found that tickets “feel like property” to the vast majority of consumers, and that they are not viewed as “contracts” or “licences” but as real, owned, and as such “transferable”.\textsuperscript{117} The Royal Horticultural Society referred to “a difference of opinion on what a ticket is; is it an item of property and therefore the ‘owner’ has the right to sell the item at whatever cost, or is it a contract to attend an event”.\textsuperscript{118} Some witnesses suggested that tickets were commodities analogous to consumer goods such as books or motor vehicles,\textsuperscript{119} or houses,\textsuperscript{120} where the seller does not “retain a degree of ownership” and it would be inappropriate for the seller to impose conditions dictating what the buyer could do with his property after the sale.\textsuperscript{121} The other view was that a ticket had no intrinsic value in itself, and was merely a representation of the contract between the event organiser and the customer, granting the customer entry to the event, subject to its terms and conditions.\textsuperscript{122} Several witnesses said that event organisers were issuing licences to enter private land and that it was appropriate for them to regulate who should enter.\textsuperscript{123} Mr Nicholas Bitel, a solicitor representing the All England Lawn Tennis Club, offered the example of tickets issued to wheelchair users being touted to the general market, as being an inappropriate use of the free market.\textsuperscript{124} He also, when asked to identify existing examples of secondary market regulation, referred to regulation of London Underground tickets that it was a criminal offence to sell on.

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\textsuperscript{116} Advanced Ticket Systems Ev 89, Mr Nicholas Bitel Q 10

\textsuperscript{117} The Secondary Market for Tickets (Music and Sport) Qualitative Research Report, Campbell Keegan Ltd, March 2007

\textsuperscript{118} Ev 100

\textsuperscript{119} Mr Eric Baker, Chief Executive of viagogo, Q 120, Association of Secondary Ticket Agents Ev 55

\textsuperscript{120} Mr Dominic Titchener-Barrett on behalf of ASTA, Q 81

\textsuperscript{121} viagogo Ev 52

\textsuperscript{122} WeGotTickets Ev 102

\textsuperscript{123} Mr Nick Bitel on behalf of the All England Lawn Tennis Club, Q 10, All England Lawn Tennis Club Ev 9, Concert Promoters Association Ev 18

\textsuperscript{124} Mr Nick Bitel on behalf of the All England Lawn Tennis Club, Q 10
34. Another distinguishing feature pressed by promoters was their non-commercial motivation for selling tickets below the clearing price.\textsuperscript{125} The only response we heard to this point from the secondary market was that “people should be allowed to sell their own property”\textsuperscript{126} and that once fans had spent “their hard-earned money” purchasing tickets, the tickets should be theirs to do with as they wish.\textsuperscript{127} Some, but not all, providers regarded free events as exceptional, since ticketholders had paid nothing for their tickets, so the “principle of property ownership does not apply” and the event organiser should be able to limit resale.\textsuperscript{128}

35. As mentioned, there has been particular public criticism of the selling of tickets which were issued free, for charitable events; and we have no hesitation in condemning this practice. However, in principle, we see no difference between the selling on of tickets which have been provided free (whether to a wholly free event or as a complimentary ticket) and the selling on for profit of tickets which have been priced low to enable particular groups to attend, or which have been allocated to particular groups such as wheelchair users. In both cases the resale undermines the objectives of the organisers who, in both cases, have intentionally supplied the consumer with something worth more than any money which has been paid. However, the onus is on promoters to ensure that such tickets can be distinguished so that sellers, buyers and exchangers are aware of the basis on which they were originally available.

The scale of the secondary market

36. Although a great deal of the evidence to the inquiry emphasized that secondary selling now took place on a scale such as to cause real problems for promoters, there was no consensus, and no research statistics to show what proportion of tickets passed through the secondary market, either overall or for particular categories of event. The Rt Hon Shaun Woodward, who was the DCMS Minister with responsibility for creative industries and tourism, wanted to put on record that, for 90% of people trying to get tickets, the market worked very well.\textsuperscript{129} He thought that there was no epidemic in relation to the sale of tickets, although the perception of the scale of it was greater than it had been when the Office of Fair Trading had reported in 2005.\textsuperscript{130} The Government told us that there had been an estimate of up to 15% of tickets being removed from primary distribution to resell with a price mark up.\textsuperscript{131} Mr Nick Blackburn, managing director of See Tickets, estimated that 30–35% of tickets went to people who had no intention of attending events but bought

\textsuperscript{125} Paul Vaughan, Operations Director, Rugby Football Union, Q 11, Football Association Ev 3, All England Tennis Club Ev 9–10, Concert Promoters Association Ev 16

\textsuperscript{126} eBay Ev 44

\textsuperscript{127} viagogo Ev 51

\textsuperscript{128} viagogo Ev 51

\textsuperscript{129} Q 125, Q 128

\textsuperscript{130} Q 128

\textsuperscript{131} Ev 74
the tickets for reselling, while Mr Rob Ballantine suggested that possibly 40% of concert tickets went through the hands of someone making a profit.

37. eBay gave us some examples to show that sales of tickets through eBay for particular sporting events represented a very small proportion of the overall allocations, such as 0.5% for the 2007 Six Nations Rugby Championship, 0.8% for the 2006–07 Ashes series and 0.2% for Wimbledon 2006. eBay also referred to its own research which suggested that the vast majority of people listing tickets on eBay were individuals selling spare tickets. Nine out of 10 people on eBay over the course of a year sold five tickets or fewer, and 60% sold just one. But the Rugby Football Union said that thousands of tickets appeared for sale on eBay and that a large number of sellers “would collect large numbers of tickets together until they had a reasonable stock to sell”, and other research, from the Concert Promoters Association, identified a number of eBay sellers as having monthly touting turnovers in four, or even five figure sums.

38. Moreover, eBay is but one of a number of trading platforms. The Association of Secondary Ticket Agents has 58 members, and eBay itself said that there was an almost unlimited number of alternative channels, with both individuals and businesses selling tickets through online and offline classified advertisements, individual websites, other online marketplaces, and paid online searches.

39. More work needs to be done on quantifying the core problem. In particular more reliable estimates are needed of the proportion of tickets passing through the secondary market:

— overall;
— for different kinds of events;
— at, above or below face value;
— via organised operations or incidental sales; and
— through auction sites, trading platforms, secondary agents or other routes.

We would encourage secondary ticket sellers and marketplaces to co-operate fully in making this data available.

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132 Q 70
133 Q 31
134 Ev 43
135 Ev 2
136 Ev 19
137 Mr Graham Burns, Q 58
138 Ev 45
Legislation relevant to secondary selling

**UK Legislation**

40. Under section 166 of the Criminal Justice and Public Order Act 1994 (as amended) it is a criminal offence for an unauthorised person to sell or otherwise dispose of a ticket for a designated football match, which covers the vast majority of professional football matches played in England and Wales or featuring professional English and Welsh clubs and national representative teams playing abroad. The legislation was introduced following the Hillsborough disaster as a public order and safety measure, to ensure that fans of different teams are segregated. There is power to extend this offence by Statutory Instrument to any sporting events for which more than 6,000 tickets are issued for sale. Under section 31 of the London Olympic Games and Paralympic Games Act 2006 it will be an offence to sell an Olympic ticket (without authorisation from the London Organising Committee of the Olympic and Paralympic Games) in a public place or in the course of a business: this will cover acts such as offering or advertising for sale where the person makes or aims to make a profit. DCMS said that it had been a formal requirement for the Government to accept restrictions on secondary sales of tickets for profit when it elected to bid for the Games.139

41. In oral evidence the Rt Hon Shaun Woodward, who was then the DCMS Minister with responsibility for creative industries and tourism, told us that the requirement was there because there would be a huge demand for tickets for Olympic events, which would be ripe for gross exploitation by the secondary market, and that careful control of tickets was therefore needed to ensure fair access.140 This argument can, of course, be made for most popular events and certainly all the top sports tournaments.

42. Street trading without a licence is an offence and trading standards may take action against those who buy and sell tickets outside venues. In Scotland, touting in a public place is an offence under section 55 of the Civic Government (Scotland) Act 1982, but this offence requires an element of giving reasonable cause for annoyance. The Glasgow Commonwealth Games Bill, which was introduced into the Scottish Parliament on 9 November 2007, and which is required to support the delivery of the 2014 Games, would prohibit unauthorised sale of Games tickets in excess of face value. The Explanatory Memorandum states that, although the Bill cannot make touting activity an offence in other jurisdictions, it would make touting of tickets for the Games outside Scotland an offence under Scots law. We note that the UK Government has agreed in principle to extend to England and Wales a ban on unauthorised resale of tickets for the Games.141 The pre-regulatory impact assessment states: “Fairness and equity are seen as the first principle of any ticketing strategy, as outlined in the ‘Commonwealth Games Manual: Ticketing’. Any ticket touting would undermine that principle, reduce equity of access and erode public confidence in the Games.” The manual also states that ”Appropriate regulations should be put in place to prevent ticket scalping”.

139 Ev 76
140 Q 160
141 HC Deb, 10 December 2007, col. 103W
43. The Football Association told us that the 1994 Act had been “somewhat successful in marginalising the ‘street touts’ around football matches, helping to alleviate the public order problems caused by touting”, but that the 130 convictions since 2001 represented the tip of an iceberg, and more needed to be done to enforce the legislation.\textsuperscript{142} The Association added that the Act had greatly assisted and enabled the law enforcement agencies and the football authorities to work together to crack down on touting, and that because unauthorised reselling was an offence, it was easier to persuade courts to grant injunctions restraining touting, and to persuade virtual auction sites to take down offers of football tickets.

44. The Price Indications (Resale of Tickets) Regulations 1994 require traders reselling tickets in the course of a business to provide buyers with all relevant information including face value of the ticket, location of the seat and any restrictions which may apply, but these regulations do not apply to consumer-to-consumer transactions. Accordingly they do not apply to sales between consumers on internet auction sites, although we were told that some internet sites do now require sellers to show the face value and more information about the general location of the ticket and whether there would be a restricted view.\textsuperscript{143}

**Overseas legislation**

45. The secondary ticket market is not unique to the UK, and the evidence to the inquiry included references to problems experienced, and statutory solutions attempted, in Australia and in the United States, where touting is known as “scalping”. Witnesses told us that long-standing anti-scalping laws were being relaxed in some American states, such as New York,\textsuperscript{144} while in Queensland new legislation has been passed making it an offence to resell or buy a ticket for an event at a major sports facility at a price greater than 10% above the original ticket price.\textsuperscript{145} The Rt. Hon. Shaun Woodward, then Minister for Creative Industries and Tourism at DCMS, commented that it was apparent from these different trends that there was no clear consensus on how to act and he emphasized that he did not think that there was any simple resolution.\textsuperscript{146} He also said that the reason why anti-scalping legislation had been repealed in New York was that the New York Yankees baseball team wanted to take more control over their own tickets.\textsuperscript{147} Advanced Ticket Services told us that many American states had recently passed bills to eliminate or ease prevailing restrictions on the secondary ticket market, and that the resale restrictions had all been lifted in the face of “overwhelming resistance from leading sports bodies, music artists and theatre promoters.”\textsuperscript{148}

46. While we consider that it would be unwise to assume that problems caused by ticket touting are necessarily the same worldwide, or that measures used to

\textsuperscript{142} Ev 4–6

\textsuperscript{143} All England Law Tennis Club Ev 10, Mr Alastair McGowan, Head of Public Affairs, eBay UK Ltd, Q 106

\textsuperscript{144} eBay Ev 42, viagogo Ev 52, ASTA Ev 54, DCMS/DTI Ev 76, Advanced Ticket Systems Ev 89, Mr Woodward, Qq 125, 144

\textsuperscript{145} DCMS Ev 76, Concert Promoters Association Ev 16

\textsuperscript{146} Q 128

\textsuperscript{147} Q 144

\textsuperscript{148} Advanced Ticket Systems Ev 89
ameliorate the problems in one country would necessarily be effective in another, there may be lessons to be learned. The different trends now observed in different parts of the United States and Australia strongly suggest that legislatures there are seeking to contend with problems whose nature depends on how touting and national attitudes to it have developed over the years in those countries. We recommend that DCMS, with the assistance of the industry, should undertake a comparative analysis of what problems have arisen in other countries, including other European countries, what measures (if any) have been introduced to deal with them, and whether such measures have been regarded as successful in tackling the problems they were intended to address.

What the industries have done to tackle touting

47. In evidence to this inquiry, promoters and primary agents described a number of measures which they had introduced, and which were designed either to reduce the demand for unauthorised selling by improving their own services, or otherwise to prevent tickets going on to the secondary market. These included:

— keeping some tickets back, for sale closer to the day of the event;\(^\text{149}\)

— distributing tickets as close to the event as possible to reduce the opportunity for fraudulent tickets to enter the market;\(^\text{150}\)

— adding extra days (or events) to satisfy increased demand for tickets;\(^\text{151}\)

— limiting the number of tickets sold to each purchaser or credit card or address;\(^\text{152}\)

— blocking multiple applications and automated bookings;\(^\text{153}\)

— blocking sales to known touts;\(^\text{154}\)

— making tickets available only to club members;\(^\text{155}\)

— improving the resale and exchange services available to consumers unable to attend events for which they have bought tickets;\(^\text{156}\)

— “shop-a-tout” hotlines and ticket tout complaint lines;\(^\text{157}\)

\(^{149}\) All England Lawn Tennis Club Ev 8, Mr Geoff Ellis, Chief Executive of DF Concerts, Q 30

\(^{150}\) Ticketmaster Ev 31

\(^{151}\) Jockey Club Racecourses Ev 93

\(^{152}\) Football Association, normally four tickets for England matches, Ev 6, Mr Geoff Ellis, DF Concerts, two per person, Q 45, Ticketmaster, one credit card per address, Ev 31, Society of Ticket Agents and Retailers Ev 36

\(^{153}\) Ticketmaster Ev 31, Mr Nick Blackburn, Managing Director of See Tickets Q 54, Five Sports Ev 108

\(^{154}\) Society of Ticket Agents and Retailers Ev 37

\(^{155}\) Football Association Ev 5

\(^{156}\) Ticketmaster Ev 31, Society of Ticket Agents and Retailers Ev 34
— selling tickets subject to terms and conditions restricting transferability, often backed by provisions for cancellation of tickets in the event of breach; 158

— working up model terms and conditions of sale to be adopted throughout the primary market; 159

— enforcing terms and conditions by various means which include turnstile checks, monitoring internet auction sites, tracking down and cancelling touted tickets, refusing entry to holders of cancelled tickets or ejecting them from venues, and injunctions; 160

— using advanced technology for enforcement, including electronic ‘smart cards’ which act as season tickets, e-tickets which have to be redeemed at the entry point for the event with ID checks and booking references, issuing tickets with the holder’s photograph, and bar-coding tickets. 161

48. Promoters told us that these measures, and keeping one step ahead, took up a huge amount of resources, as well as raising concern that the measures designed to combat touting could also inconvenience and even alienate customers. 162 For example, Mr Geoff Ellis the Chief Executive of DF Concerts, which promotes Scotland’s “T in the Park” music festival, told us that the policy of limiting tickets to two per person led to complaints from families because the limitation would prevent them from attending, but that increasing the limit to four would play into the hands of touts. 163 Moreover, some witnesses told us that introducing checks using barcodes and ID, as for the BBC’s Big Weekend, would make it increasingly difficult to purchase tickets for friends and family as presents, 164 and had even encouraged touts to offer what Mr Woodward euphemistically described as “alternative ID” so that the BBC had had to abandon its security checks. 165

49. It is an inherent feature of many of these measures that they will inconvenience one sector of the public, namely those to whom tickets have been resold before being cancelled, so that they will be refused entry and may have no redress, even though they may have bought the tickets in good faith. The Football Association told us that there had been criticism that measures such as cancelling tickets amounted to targeting innocent victims, but that enforcing the conditions was an important part of the fight to stamp out the black market, so that people would learn not to buy from touts and thereby cut off the demand for touts’ services. 166

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157 Five Sports Ev 108
158 Ticketmaster Ev 30
159 Society of Ticket Agents and Retailers Ev 32
160 Rugby Football Union Ev 2, Football Association Ev 5, Ticketmaster Ev 31, STAR Ev 37, VisitBritain Ev 99, Five Sports Ev 108, Mr Nick Bitel, Q21, Mr Geoff Ellis, Q 45
161 Mr Geoff Ellis, Q 45, Ticketmaster Ev 31, Football Association Ev 6, WeGotTickets Ev 103, Concert Promoters Association Ev 19, STAR Ev 37
162 Concert Promoters Association Ev 19, Society of Ticket Agents and Retailers Ev 37, See also Mean Fiddler Music Group Ev 115
163 Q 45
164 STAR Ev 37, Mean Fiddler Music Group Ev 114
165 Mr Woodward Q 148, Concert Promoters Association Ev 19
166 FA Ev 6
50. We held our single oral evidence session just after the end of the 2007 Glastonbury festival, for which a new application procedure had been introduced, requiring applicants to pre-register in order to purchase tickets, and to upload photographs of themselves which were then printed on their tickets.\(^{167}\) We heard that the procedure appeared to have been successful and been welcomed by members of the public, although the media have reported that the organiser intends to reserve 40% of next year’s tickets for telephone sales because this year’s system had favoured older people, with the money for fast internet connections, and the numbers of teenagers had been down.\(^{168}\) There was recognition that the range of events for which such measures could be appropriate was limited, not least because of the time taken to set it up.\(^{169}\) We also heard that there was some doubt as to whether the prohibition on resale of Glastonbury tickets contravened existing consumer protection law.\(^{170}\)

**Terms and conditions of sale**

51. It is apparent that many of the measures likely to be the most effective in preventing unauthorised secondary sales build upon terms and conditions restricting the transferability of tickets, so that much of the promoters’ strategy hinges on the enforceability of those restrictions. This raises two important issues, firstly whether those terms and conditions are enforceable as a matter of law, and secondly the extent to which they are enforceable in practice, given the changed face of the secondary market, with many consumers selling tickets to each other via the Internet.

**The legal position**

52. For the purposes of the Unfair Terms in Consumer Contracts Regulations 1999 (UTCCRs), a contractual term is unfair (and unenforceable) if “contrary to the requirement of good faith it causes a significant imbalance in the parties’ rights and obligations under the contract, to the detriment of consumers.” The OFT has said that it is possible to argue under the UTTCRs that it is unfair to restrict consumers from reselling tickets for profit unless fair mechanisms are provided where consumers can dispose of a ticket they can no longer use, although it is for a court to decide and ultimately determine what terms and conditions are fair or unfair.\(^{171}\)

53. The Society of Ticket Agents and Retailers (STAR) told us that in January 2005 the OFT had invited STAR to draw up model terms and conditions for use by its members, and that work with interested bodies has been proceeding with a view to seeking approval under the OFT’s Consumer Code Approval Scheme, but that one outstanding issue concerned the draft condition precluding ticket holders from reselling tickets without the authority of the event organiser. Mr John Fingleton, Chief Executive of the OFT, told us

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\(^{167}\) STAR Ev 37

\(^{168}\) “Middle-class, middle-aged Glastonbury plans new system to woo younger fans” 13 July 2007, The Guardian

\(^{169}\) Society of Ticket Agents and Retailers Ev 37, Mr Nick Blackburn, Managing Director of See, Q 58, DCMS/DTI Ev 76

\(^{170}\) Mr Nicholas Bitel, solicitor representative of the All England Lawn Tennis Club, Q 15, Mr John Fingleton, Chief Executive of the Office of Fair Trading, Q 150

\(^{171}\) DCMS/DTI Ev 75
that agreement with STAR was expected soon, and that although he could not give advance details of the agreement, the primary focus would be around what restrictions could be put on the resale by consumers of tickets and linking that to whether refunds were available.\textsuperscript{172} He said that venues such as the Barbican offered vouchers to customers who handed back tickets up to three days before an event, but that the courts had never pronounced on whether that would be regarded as equivalent to allowing resale. He also indicated that individuals who bought tickets with the intention of profiting by resale might not qualify for consumer protection, and that drawing the fine line between “consumers acting as consumers” and “consumers becoming secondary agents” would be a challenge if the cases ever got to court.\textsuperscript{173}

54. The Government told us that “some agents do not provide refunds once the ticket is sold in the same way as goods can be returned to a shop”.\textsuperscript{174} Although witnesses from the entertainment sector told us that they were generally happy for people who could not attend events to sell on their tickets at face value, and that they were endeavouring to provide improved resale and exchange facilities for those consumers, they were adamant that they could not offer a blanket refund policy at present.\textsuperscript{175} In this context it is necessary to distinguish between the different kinds of services offered for customers’ returns. The Wimbledon Championships (for which demand far exceeds supply) are a rare example of the organisers guaranteeing a full refund, up to the eve of the day to which the ticket applies,\textsuperscript{176} but more commonly organisers will refund the price paid only after they have resold a returned ticket. The Society of Ticket Agents and Retailers told us that many venues and event organisers claimed that they already offered to help customers who found themselves in a real predicament but that they were concerned about publicising the service.\textsuperscript{177} Mr Rob Ballantine of the Concert Promoters Association said that, although it was not openly said, traditionally refunds had been given to fans who returned their tickets “for genuine reasons”, especially if the event was a sell out so that the tickets could be resold straight away.\textsuperscript{178}

55. The Association and the Society of Ticket Agents and Retailers, among others, gave reasons why blanket refund policies would not be possible. One was that such a policy would underline the secondary market, resulting in touts purchasing as many tickets as they could, knowing that any they could not sell could be returned to the promoter for a refund.\textsuperscript{179} Another was that events were built on ticket sales, with unacceptable risks of financial collapse in the event of tickets flooding back at the last minute from consumers who had changed their minds after seeing bad reviews or discouraging weather forecasts.\textsuperscript{180} They said that they were, however, committed to the further introduction of

\textsuperscript{172} Q 137. At the time that this Report was finalised, agreement had not been reached
\textsuperscript{173} Q 150
\textsuperscript{174} Ev 75
\textsuperscript{175} Concert Promoters Association Ev 18
\textsuperscript{176} All England Lawn Tennis Club Ev 8
\textsuperscript{177} STAR Ev 34
\textsuperscript{178} Q 39
\textsuperscript{179} Concert Promoters Association Ev 18, Mr Ballantine Q 29
\textsuperscript{180} STAR Ev 34, Mr Ballantine Q 34
ticket resale mechanisms where fans could sell tickets at the price they originally paid, but that the service could only be extended once legislation was introduced to ensure that it was not abused by touts.

56. The ticket resale mechanisms which were described to us allowed resale at face value,¹⁸¹ and appeared to be available only once all tickets for an event have been sold.¹⁸² WeGotTickets told us that no organiser was going to be happy for customers to return unwanted tickets for events which were still on sale.¹⁸³ eBay commented that such a service was a long way short of a guaranteed refund and that, even if the ticket was sold, the consumer would not recover the full outlay as there would be a 10% charge for the service.¹⁸⁴

57. Unsurprisingly, witnesses involved in the secondary market took the view that terms and conditions restricting resale of tickets were indeed unfair to consumers and therefore unenforceable.¹⁸⁵ The Government drew our attention to a recent test case instigated by eBay under Australian legislation, where a condition on an event ticket provided that, should it be re-sold for profit, it would be cancelled and the holder would be refused entry. The court held that the condition conveyed a message that the promoter was legally entitled to and would detect and cancel any ticket resold for profit, but as it was impossible for the promoter to detect, cancel and refuse entry for every ticket resold for a profit, this made the condition misleading.¹⁸⁶ Mr Alasdair McGowan, Head of Public Affairs at eBay UK, told us that, in that instance, eBay had wanted to “stand up for the consumer”, and “vigorously defended the rights of people to resell their tickets” because it believed in the secondary market.¹⁸⁷

58. We accept that a blanket refund policy may not be a realistic option for organisers. Apart from the likelihood that it would encourage touts to buy up swathes of tickets safe in the knowledge that they could get their money back on any not sold for profit, it would carry an unacceptable commercial risk: in this context, tickets are not like durable goods which can be returned unused to a shop for resale, not least because they become valueless once the event has taken place.

59. Quite apart from any question of whether promoters’ returns mechanisms are adequate to balance and make conditions restricting resale fair and enforceable, it seems to us highly improbable that consumers who are simply seeking to avoid making a loss on tickets which they are unable to use would find the returns services on offer from the primary market to be a satisfactory alternative to what the secondary market offers. Services offering less than full reimbursement and then, only for sold out events—so that the primary market can only profit and never lose by providing the service—would be less attractive, and of little real benefit to those consumers. The primary market must do more to help the “genuine” supporters who

¹⁸¹ Ticketmaster Ev 31, WeGotTickets Ev 102
¹⁸² Mr Rob Ballantine, Chairman of the Concert Promoters Association, Qq 35, 36
¹⁸³ Ev 102
¹⁸⁴ eBay Ev 46
¹⁸⁵ eBay Ev 46, viagogo Ev 52, Association of Secondary Ticket Agents Ev 56, Seatwave Ev 59
¹⁸⁶ Ev 75
¹⁸⁷ Qq 118, 119
cannot attend for “genuine reasons” to mitigate their losses. As well as providing more authorised resale mechanisms, refunds should be more openly available to those supporters, who should not be penalised by a blanket refusal to give refunds put in place to protect the market for touting. More widespread use of schemes offering vouchers could offer a constructive way forward, with the potential to give full satisfaction to the consumer with less encouragement for tout abuse than cash refunds.

60. We look forward to learning the outcome of the negotiations between the Office of Fair Trading and the Society of Ticket Agents and Retailers (STAR) on model terms and conditions for use by STAR members. We are disappointed that they have still not been announced and we urge the OFT to explain the reasons for the delay. However, it seems to us wholly unsatisfactory that there should continue to be uncertainty as to whether standard terms and conditions restricting resale, which underpin organisers’ strategies against touting, would be enforceable against consumers who sell in breach of them. We observe that eBay, which says that it should not be asked to take sides in contractual disputes about terms and conditions between organisers and consumers, nevertheless saw fit to launch a test case to “stand up for the consumer” in Australia. We find it surprising that none of the stakeholders has apparently been motivated to test standard terms and conditions in this country and we recommend that they should consider the option of litigating so that the uncertainty may be resolved. We note in this respect that, shortly after giving evidence to the Committee, the Office of Fair Trading launched a court case to test the legality of bank overdraft charges. We would encourage it to make it clear that, failing voluntary agreement within the industry, it is prepared to do so over terms and conditions of secondary ticket sales and to set a clear deadline in public by which it is prepared to do so.

Enforceability of terms and conditions in practice

61. Whether or not such conditions are legally enforceable, the evidence indicated that sales were booming on the secondary market often on the assumption that they are not enforceable, not justifiable, and are even irrelevant. VisitBritain said that where resale or transference was explicitly prohibited, “consumers should respect that”, but it is patent that they do not. Providers of on-line market-places took the view that the terms were unenforceable because they were unfair but that, in any event, resolution of disputes relating to contractual terms was not their responsibility, although eBay told us that it did draw its users’ attention to the fact that terms and conditions are often applied to event tickets.

62. Promoters told us that practical difficulties in the way of enforcement included that auction sites and ticketing shops allowed people to “hide the ticket details”, and “turn a blind eye to sales being in contravention of tickets’ terms and conditions”. This was a fundamental issue dividing the stakeholders. If the ticket details are disclosed, then the issuer can enforce the condition prohibiting unauthorised resale simply by cancelling the

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188 Ev 99
189 eBay Ev 46, viagogo Ev 51, Seatwave Ev 59, Mr Eric Baker, Chief Executive of viagogo, Q 81, Mr Joe Cohen, Chief Executive of Seatwave, Q 83
190 Concert Promoters Association Ev 19
ticket without giving a refund, and can sell again to another consumer.\textsuperscript{191} While traders are statutorily obliged to inform buyers of the location of the seat, consumers selling tickets on are not.\textsuperscript{192} The Concert Promoters Association told us that eBay had declined its request to provide, on their site listings, all ticketing details including block, row and seat number and the terms and conditions that “make it an offence for the ticket to be transferred”, which demonstrated that eBay was “deliberately and knowingly in alliance with the touts”\textsuperscript{193} Mr McGowan, Head of Public Affairs at eBay, said that cancelling tickets in this way would undermine the whole notion of the secondary market\textsuperscript{194}.

63. We have made recommendations about possible litigation above. We accept that, in the absence of refunds or authorised resale mechanisms, secondary sellers may provide—for better, or worse—the only avenue by which people may sell unwanted tickets, for whatever reason. During the course of our inquiry, however, we have found evidence of distasteful practice by secondary sellers, some of which runs counter to the evidence which they have given. Among the examples are the initial refusal by eBay to remove from sale tickets from the recent Concert for Diana, for which tickets were allocated free of charge and for charitable purposes.\textsuperscript{195} Subsequent to our evidence session, music promoter Harvey Goldsmith also provided evidence that eBay had also refused to remove offers of tickets for a charitable concert featuring Led Zeppelin, which he alleged were “false and misleading”.\textsuperscript{196} This hardly suggests that eBay is just “standing up” for the consumer; an alternative interpretation is that eBay is not just a “market place” but a frontline player concerned, for example with the litigation in Australia, with protecting its commercial interests.

64. In the sporting arena, we have also seen evidence that secondary agents such as Seatwave and viagogo have advertised tickets that were not yet on sale—so-called “futures tickets”. In June this year, for instance, Seatwave and viagogo advertised tickets for the Rugby Union 2008 Six Nations Championship which had not yet been designed or printed, let alone released for sale, according to internet “screen grabs” shown to us by Ticketmaster.\textsuperscript{197} This advertising of so-called “futures tickets” was contrary to the evidence Mr Cohen, certainly, of Seatwave, gave to the Committee, that they were not selling “futures tickets” which had not yet gone on sale.\textsuperscript{198} In oral evidence, Mr Burns, the chairman of ASTA, referred to another secondary internet ticket agent, Get Me In, its listing of tickets for the Concert for Diana and its commitment to donate all proceeds from those ticket sales to charity.\textsuperscript{199} In June 2007, however, just as tickets were advertised for sale officially for the Rugby Union Heineken Cup Final in May 2008, Get Me In was showing

\textsuperscript{191} Mr Ellis Q 45, Ticketmaster Ev 31, Mr McGowan Q 106, VisitBritain Ev 99, Five Sports Ev 108, England and Wales Cricket Board Ev 117
\textsuperscript{192} Price Indications (Resale of Tickets) Regulations 1994
\textsuperscript{193} Ev 20
\textsuperscript{194} Q 106
\textsuperscript{195} Ev 113; see also Ev 71
\textsuperscript{196} Ev 136
\textsuperscript{197} See for instance Q 11
\textsuperscript{198} Q 86
\textsuperscript{199} Q 88
these tickets for sale on the wrong day and at the wrong stadium (Saturday 24th May at Twickenham)—and for the right day at the wrong stadium (Sunday 25th May at Twickenham again, rather than correctly at the Millennium Stadium in Cardiff).

65. One of the issues with which the Committee was concerned in conducting this inquiry now was the extent to which the expansion of internet use enabled sophisticated applicants to gather tickets—and the offer them for resale at much higher prices immediately—on a greater, more systematic scale than the traditional activities of touts outside stadiums. In the evidence we have seen, there is clearly no reliable publicly available data on this. Mr Nick Blackburn, Managing Director of Seetickets, believed that 30–35% of tickets are snapped up by people who simply want to re-sell them and the rise of the internet has spurred on what are “clearly colloquially known as bedroom touts”. Mr Paul Vaughan, Operations Director at the Rugby Football Union, estimated that “about 60%-odd” of resellers offered only one or two tickets and “30–40%” offered “multiple tickets”.

66. Clearly, in an unregulated free market, we appreciate the difficulty of gaining reliable statistics. When asked by the Concert Promoters Association to open its books, for instance, to show whether it was collaborating with known ticket touts, we were told that eBay had refused, citing data protection legislation and its own privacy policy and privacy agreements with users. In oral evidence, when pressed, both Seatwave and viagogo denied “collaborating” with organised touts or re-sellers, stating that—like eBay—they were marketplaces only. We heard, however, that a feature of the industry was so-called “limited user agreements”, by which everyone who sells via the sites had to provide them with a guarantee that they will deliver. It is through this mechanism, clearly, that they are then able to offer buyers using their own guarantees in respect of refunds.

67. In the absence of clarity over the legality of restrictive terms and conditions of re-sale, and widespread availability of guaranteed refunds or official exchange mechanisms by promoters and primary sellers, we commend sites such as Seatwave and viagogo on their development of mechanisms to protect purchasers using their own sites. We believe clearly, however, that it is in their own commercial interests to do so. From the evidence we have seen, including the availability of “futures tickets” (advertising their own ability to lay hands on tickets), we can only conclude that such sites do collaborate with sophisticated buying operations. Despite subsequent denials, indeed, when pressed on this issue Mr Cohen of Seatwave remarked: “I do not know how you would describe ‘collaborating’. If the marketplace works well and people want to sell tickets, I guess you could accuse us of that.” As long as secondary sellers continue to indulge in dubious or suspect practices, there will inevitably be calls for legislation and we would encourage them to clean up their act by, at the very least, not advertising tickets which cannot possibly be in their or their customers’ possession at the time.

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200 Q 70
201 Q 20
202 Q 106
203 QQ 113 and 114
204 See QQ 85 and 86
205 Q 112
68. We would also welcome an across the board commitment not to list tickets distributed free of charge, for example for charity events, to particular attendees, such as children or the disabled. In the interests of consumer confidence and safety, too, we would like to see secondary marketplaces require sellers to provide more information about ticket details including, ideally, face value, block, row and seat numbers. However, we recognise that this is only practical if the event organisers do not simply cancel all tickets advertised for sale in the secondary market.

The call for regulation

69. DCMS told us that it had held four high level meetings, “the ticket touting summits”, working with stakeholders across the markets to understand the issues arising from the growth in the ticket resale market, and identify whether industry-led solutions could be delivered, or whether Government intervention was required.206 “Summit principles” were agreed by summit members in April 2006 to underpin the way in which the sector would operate, and we heard how some practical changes were being made, by both primary and secondary operators, to improve the market place. One of the principles was that the ticket distribution industry should “establish a minimum industry standard where all relevant distributors are working to a common set of principles and standards to ensure best practice and consumer care”: an action plan announced by Mr Woodward in July 2006 included a pledge to continue working with the industry and OFT to draw up an overarching code of practice for both primary and secondary ticket sellers.207 However, we heard that eBay had been the only regular attendee of the summits from the secondary market,208 and it appears that, such were the differences of opinion, it was not felt constructive to issue further invitations to the Association of Secondary Ticket Agents (ASTA) following the first of these sessions, which was held in November 2005.209

70. DCMS told us that it had hoped that the market place could find solutions but that market-based voluntary agreements to deal with the concerns did not appear to be working well enough, citing the example of eBay’s refusal to prevent listing of tickets for the BBC’s free Big Weekend road show.210

71. The Department told us that its present position was that it did not propose to legislate to ban secondary sales in general, but was concerned that the secondary market as it operates could undermine sporting and entertainment events, consumer confidence and the country’s ability to continue to attract world class events: it was now considering whether ticketing for particular events (akin to the “Crown Jewel” events, for which live broadcast coverage must first be offered to generally available free-to-air channels)211

206 Ev 71
207 “Industry put on notice to sort out the touts” DCMS press release 100/06
208 DCMS Ev 71
209 QQ 128–9
210 DCMS/DTI Ev 72, 76
211 Ev 72 and Q 154. See also memorandum by DCMS to the Committee’s inquiry into Broadcasting Rights for Cricket: HC 720, Session 2005-06, Ev 49. This definition applies to Group A listed sporting events. A further category – group B events – may have live coverage on pay-TV provided that secondary or “highlights” coverage is offered to free-to-air broadcasters.
should be protected, either through voluntary or regulatory means, with non-regulatory measures such as voluntary agreements between Government and internet-based sites being investigated first, and regulatory intervention remaining an option, but only as “a very, very last resort”.  

72. Some of the written evidence submitted to the inquiry suggested that promoters had been under the impression that DCMS ministers had already concluded that a statutory approach was necessary. Promoters’ own conclusions were that they, themselves, had done as much as was within their power to protect events and consumers from ticket touting, that self-regulation had reached its peak in the industries and primary markets, and that the impossibility of achieving voluntary regulation in the secondary market was already evident, so that statutory regulation of ticket resale was now needed.

73. Organisers maintained that the legislation criminalising unauthorised resale of football and Olympic tickets should be extended to all events, that that legislation amounted to recognition that touting was “wrong”, and that it was inconsistent to protect some events, but not others, in this way. The Football Association and Wembley Stadium said that the stadium hosted various different events with different regulatory structures, which led to confusion and disaffection among fans. Similar points were made about touting being an offence at Wimbledon and at Lord’s only when they hosted 2012 Olympics events. The Concert Promoters Association suggested that another option would be to adopt the Queensland model, which makes it an offence to resell at more than 10% above face value. Although the main sporting associations were in favour of legislation extending anti-touting protection to designated nationally important sporting events such as the existing “Crown Jewels”, concert promoters were understandably not enthusiastic about simply singling out sports events for special protection. Clearly, they said, it was not possible to set out a “Crown Jewels” of music.

74. Evidence from the organisers showed that they did not anticipate that extending the criminal offences would cause increased demands on police resources for enforcement. They expressed some confidence that self-policing would be easier and more efficient, opportunist individuals would refrain from selling which was illegal, and that the trading platforms would no longer be able to allow such sales.

75. DCMS acknowledged that there were concerns about the anomalies created by a two-tier approach, but said that the existing legislation had been introduced for reasons other  

212 DCMS/DTI Ev 72, Mr Woodward Q 125
213 Five Sports Ev 104, Sports Rights Owners Coalition Ev 91
214 Concert Promoters Association Ev 20
216 Ev 7
217 All England Lawn Tennis Club Ev 10, Five Sports Ev 109
218 Ev 21
219 Ev 109
220 Mr Goldsmith, Q 48; see also Mr Ellis, Q 49
221 All England Lawn Tennis Club Ev 11, Five Sports Ev 109, Mr Rob Ballantine Q 32
than to prevent profiteering on reselling and any extension needed justification in its own right. While the legislation regulating sale of football tickets was justified by issues of public order and safety, Mr Woodward told us that the Olympics legislation was required because there would be huge demand for Olympic tickets, including international demand, and scope for gross exploitation by a secondary market on a massive scale as well as exploitation of the brand, which could bring the Olympics themselves into major disrepute. He, and Mr Fingleton, the Chief Executive of the OFT, also said that 90% of the market worked very well, and that trying to regulate for the other 10% without damaging the part which was working well would be extremely difficult.

76. We do not underestimate the difficulty of eradicating abuses of the market without imposing unnecessary fetters on areas of the market which cause no problems. As we have observed, there is no consensus as to what proportion of the market is problematic: the case for intervention would be strengthened if it were demonstrated that there were real problems affecting more than a small minority of events.

77. We also believe that more can be, and should be done, to seek a voluntary solution. Since it is the secondary market which gives rise to the industries’ concerns, and regulation of that market (voluntary or otherwise) which is sought, it is not realistic to expect to find solutions in a forum where that market is virtually unrepresented. So long as one contingent seeks the effective abolition of the other, which is therefore fighting for its very survival, hopes of agreement must be forlorn.

78. We agree with DCMS that regulatory intervention should be considered only as a very last resort. While intervention was justified on grounds of public order and safety at and around football matches, and may be an international requirement for hosting some major sporting events, we have reservations about the criminal law being used as a way of supporting organisers’ efforts to select the audiences for their events, essentially as an aid to their self-policing of touting. We are also concerned by the real risk that a convenient market, which some consumers have grown accustomed to use and trust, would be driven underground, to the detriment of consumers and stakeholders. We appreciate, however, that international pressures may make it necessary for existing legislation to be extended as a condition of the UK being eligible to host major international sporting events, but we are not persuaded that it would be right to legislate more widely at this stage.

79. While we appreciate that the concept of “Crown Jewel” events is viewed as a possible interim measure, rather than as a long term solution, we are not optimistic that this approach would do more than exacerbate the confusion inherent in the existing two-tier system. In the absence of a voluntary code, it is understandable that pressure will continue to extend special protection to the 'Crown Jewel' sporting events and many popular music events. We urge eBay and other operators in the secondary market to follow the lead of those marketplaces which already refuse to list tickets for free events or tickets which have been allocated for specific groups, such as children, the disabled or amateur sports clubs. There is no arguable justification for profiteering from these.

222 Ev 72, Ev 76
223 Q 160
224 Qq 125, 128, 151
A middle way?

80. Shortly after we took oral evidence, we heard that the Music Managers’ Forum had joined with TixDaq, a data and intelligence supplier to the live entertainment sector, to devise a “middle way”. The kernel of what was proposed was that entertainment industry stakeholders should endorse secondary ticket exchanges which complied with an agreed code of conduct, and agreed to pay over part of the profit (to be shared between the artistes and organisers of the event). In this way some part of the extra value would go back into the creative industries. The proposal would give the creators rights akin to the “droit de suite” or resale royalties which entitle authors of original works of art (such as paintings, engravings, sculpture and ceramics) to a royalty each time one of their works is resold in a sale involving an art market professional. That intellectual property right was created to implement an EU Directive and the provisions came into force in the United Kingdom in February 2006. The royalty is subject to compulsory collective management so artists cannot claim their royalty independently but must receive it through a collecting society.

We note that the initiative by the Music Managers’ Forum has recently led to the formation of the Resale Rights Society, which will have two main aims: to introduce a kitemark scheme for ticketing sites, and to ensure that artists and the live music industry share in the proceeds of resold tickets. The Society aims to finalise agreements with online ticketing exchanges by the end of March 2008.

81. It is encouraging to see a move towards constructive dialogue between creators and secondary marketeers and we urge all the interested parties to join in this debate. It could provide the seed for the co-operation which has so far been lacking between the stakeholders. As presented, the proposal may be no more than a different machinery whereby those responsible for providing events would be able to share in profits which can now be made in the secondary market. But it does introduce new potential for a recognition of the legitimacy of the secondary market by the entertainment and sports industries, alongside an acknowledgment of their moral right to share in profits made by others out of the events for which they are responsible and in which they have invested talent, funding and organisation. At the same time it provides scope for the acknowledged benefits of the secondary market to the consumer to be preserved and developed, with added protection for consumers and a real incentive for effective self-regulation throughout the ticketing industry. For example, tickets could be sold subject to terms and conditions which provided that resale through an approved secondary marketplace was permitted (with an agreed levy passing back to the industry through a collecting agency), so that consumers could be given more information about the tickets being offered for sale, without any risk of finding that tickets have been cancelled because they have been sold on. Approval would be dependent on an agreed code of practice covering consumer protection measures as well as arrangements for collecting levies. A great deal of work needs to be done on the detail of how such a scheme might operate but, at the least, this initiative could lead to joint engagement towards a solution in which the convenience of the secondary market could continue while at the same time supporting the industries on which it relies. We commend it and strongly encourage all those involved to consider it seriously.

225 Ev 128
226 The Artist’s Resale Right Regulations 2006 (SI 2006 No 346)
227 Resale Rights Society press release 4 December 2007
Conclusions and recommendations

1. It is important to bear in mind that the term “touting” has very different meanings to different people, when considering claims that “touting” causes problems and that there is a need for intervention to control it. (Paragraph 13)

2. It is clear, however, that the rise of the internet has increased the opportunity for secondary sales of tickets—by individuals, organised rings and IT experts—beyond the sometimes offensive antics of “touts” immediately outside stadiums. The question for legislators and policymakers, however, is to define the extent to which this has become a “problem”, why it is so—generally or on a case by case basis—and whether legislation is a proportionate response. They must bear in mind, too, the extent to which legislation will be enforceable, and at what cost, and whether it may have unintended consequences. (Paragraph 13)

3. The surveys of consumer opinion which have so far been carried out do little more than confirm that consumer attitudes are mixed. One element which is missing is whether consumers would give the same answers if they had been informed of the concerns expressed by organisers about the possible long term effects of touting on the industry. Further research would be helpful. (Paragraph 30)

4. We accept that the organisers’ desire for the secondary market to be curbed is largely motivated by concern for the long term well-being of the industries in which they operate, and that this is something beyond merely protecting their own commercial interests which, in the short term, they could do simply by raising their prices, so that there was no profit to be made by touting. (Paragraph 31)

5. As mentioned, there has been particular public criticism of the selling of tickets which were issued free, for charitable events; and we have no hesitation in condemning this practice. However, in principle, we see no difference between the selling on of tickets which have been provided free (whether to a wholly free event or as a complimentary ticket) and the selling on for profit of tickets which have been priced low to enable particular groups to attend, or which have been allocated to particular groups such as wheelchair users. In both cases the resale undermines the objectives of the organisers who, in both cases, have intentionally supplied the consumer with something worth more than any money which has been paid. However, the onus is on promoters to ensure that such tickets can be distinguished so that sellers, buyers and exchanges are aware of the basis on which they were originally available. (Paragraph 35)

6. More work needs to be done on quantifying the core problem. In particular more reliable estimates are needed of the proportion of tickets passing through the secondary market: overall; for different kinds of events; at, above or below face value; via organised operations or incidental sales; through auction sites, trading platforms, secondary agents or other routes. We would encourage secondary ticket sellers and marketplaces to co-operate fully in making this data available. (Paragraph 39)
While we consider that it would be unwise to assume that problems caused by ticket touting are necessarily the same worldwide, or that measures used to ameliorate the problems in one country would necessarily be effective in another, there may be lessons to be learned. The different trends now observed in different parts of the United States and Australia strongly suggest that legislatures there are seeking to contend with problems whose nature depends on how touting and national attitudes to it have developed over the years in those countries. We recommend that DCMS, with the assistance of the industry, should undertake a comparative analysis of what problems have arisen in other countries, including other European countries, what measures (if any) have been introduced to deal with them, and whether such measures have been regarded as successful in tackling the problems they were intended to address. (Paragraph 46)

We accept that a blanket refund policy may not be a realistic option for organisers. Apart from the likelihood that it would encourage touts to buy up swathes of tickets safe in the knowledge that they could get their money back on any not sold for profit, it would carry an unacceptable commercial risk: in this context, tickets are not like durable goods which can be returned unused to a shop for resale, not least because they become valueless once the event has taken place. (Paragraph 58)

Quite apart from any question of whether promoters’ returns mechanisms are adequate to balance and make conditions restricting resale fair and enforceable, it seems to us highly improbable that consumers who are simply seeking to avoid making a loss on tickets which they are unable to use would find the returns services on offer from the primary market to be a satisfactory alternative to what the secondary market offers. Services offering less than full reimbursement and then, only for sold out events—so that the primary market can only profit and never lose by providing the service—would be less attractive, and of little real benefit to those consumers. The primary market must do more to help the “genuine” supporters who cannot attend for “genuine reasons” to mitigate their losses. As well as providing more authorised resale mechanisms, refunds should be more openly available to those supporters, who should not be penalised by a blanket refusal to give refunds put in place to protect the market for touting. More widespread use of schemes offering vouchers could offer a constructive way forward, with the potential to give full satisfaction to the consumer with less encouragement for tout abuse than cash refunds. (Paragraph 59)

We look forward to learning the outcome of the negotiations between the Office of Fair Trading and the Society of Ticket Agents and Retailers (STAR) on model terms and conditions for use by STAR members. We are disappointed that they have still not been announced and we urge the OFT to explain the reasons for the delay. However, it seems to us wholly unsatisfactory that there should continue to be uncertainty as to whether standard terms and conditions restricting resale, which underpin organisers’ strategies against touting, would be enforceable against consumers who sell in breach of them. We observe that eBay, which says that it should not be asked to take sides in contractual disputes about terms and conditions between organisers and consumers, nevertheless saw fit to launch a test case to “stand up for the consumer” in Australia. We find it surprising that none of the stakeholders has apparently been motivated to test standard terms and conditions in
this country and we recommend that they should consider the option of litigating so that the uncertainty may be resolved. We note in this respect that, shortly after giving evidence to the Committee, the Office of Fair Trading launched a court case to test the legality of bank overdraft charges. We would encourage it to make it clear that, failing voluntary agreement within the industry, it is prepared to do so over terms and conditions of secondary ticket sales and to set a clear deadline in public by which it is prepared to do so. (Paragraph 60)

11. As long as secondary sellers continue to indulge in dubious or suspect practices, there will inevitably be calls for legislation and we would encourage them to clean up their act by, at the very least, not advertising tickets which cannot possibly be in their or their customers’ possession at the time. (Paragraph 67)

12. We would also welcome an across the board commitment not to list tickets distributed free of charge, for example for charity events, to particular attendees, such as children or the disabled. In the interests of consumer confidence and safety, too, we would like to see secondary marketplaces require sellers to provide more information about ticket details including, ideally, face value, block, row and seat numbers. However, we recognise that this is only practical if the event organisers do not simply cancel all tickets advertised for sale in the secondary market. (Paragraph 68)

13. We do not underestimate the difficulty of eradicating abuses of the market without imposing unnecessary fetters on areas of the market which cause no problems. As we have observed, there is no consensus as to what proportion of the market is problematic: the case for intervention would be strengthened if it were demonstrated that there were real problems affecting more than a small minority of events. (Paragraph 76)

14. We also believe that more can be, and should be done, to seek a voluntary solution. Since it is the secondary market which gives rise to the industries’ concerns, and regulation of that market (voluntary or otherwise) which is sought, it is not realistic to expect to find solutions in a forum where that market is virtually unrepresented. So long as one contingent seeks the effective abolition of the other, which is therefore fighting for its very survival, hopes of agreement must be forlorn. (Paragraph 77)

15. We agree with DCMS that regulatory intervention should be considered only as a very last resort. While intervention was justified on grounds of public order and safety at and around football matches, and may be an international requirement for hosting some major sporting events, we have reservations about the criminal law being used as a way of supporting organisers’ efforts to select the audiences for their events, essentially as an aid to their self-policing of touting. We are also concerned by the real risk that a convenient market, which some consumers have grown accustomed to use and trust, would be driven underground, to the detriment of consumers and stakeholders. We appreciate, however, that international pressures may make it necessary for existing legislation to be extended as a condition of the UK being eligible to host major international sporting events, but we are not persuaded that it would be right to legislate more widely at this stage. (Paragraph 78)
16. While we appreciate that the concept of “Crown Jewel” events is viewed as a possible interim measure, rather than as a long term solution, we are not optimistic that this approach would do more than exacerbate the confusion inherent in the existing two-tier system. In the absence of a voluntary code, it is understandable that pressure will continue to extend special protection to the 'Crown Jewel' sporting events and many popular music events. We urge eBay and other operators in the secondary market to follow the lead of those marketplaces which already refuse to list tickets for free events or tickets which have been allocated for specific groups, such as children, the disabled or amateur sports clubs. There is no arguable justification for profiteering from these. (Paragraph 79)

17. It is encouraging to see a move towards constructive dialogue between creators and secondary marketeers and we urge all the interested parties to join in this debate. It could provide the seed for the co-operation which has so far been lacking between the stakeholders. As presented, the proposal may be no more than a different machinery whereby those responsible for providing events would be able to share in profits which can now be made in the secondary market. But it does introduce new potential for a recognition of the legitimacy of the secondary market by the entertainment and sports industries, alongside an acknowledgment of their moral right to share in profits made by others out of the events for which they are responsible and in which they have invested talent, funding and organisation. At the same time it provides scope for the acknowledged benefits of the secondary market to the consumer to be preserved and developed, with added protection for consumers and a real incentive for effective self-regulation throughout the ticketing industry. For example, tickets could be sold subject to terms and conditions which provided that resale through an approved secondary marketplace was permitted (with an agreed levy passing back to the industry through a collecting agency), so that consumers could be given more information about the tickets being offered for sale, without any risk of finding that tickets have been cancelled because they have been sold on. Approval would be dependent on an agreed code of practice covering consumer protection measures as well as arrangements for collecting levies. A great deal of work needs to be done on the detail of how such a scheme might operate but, at the least, this initiative could lead to joint engagement towards a solution in which the convenience of the secondary market could continue while at the same time supporting the industries on which it relies. We commend it and strongly encourage all those involved to consider it seriously. (Paragraph 81)
Formal minutes

Tuesday 18 December 2007

Members present:

Mr John Whittingdale, in the Chair

Janet Anderson  Alan Keen
Philip Davies  Adam Price
Nigel Evans  Mr Adrian Sanders
Paul Farrelly

[The following declarations of interest relating to the inquiry were made during the course of the inquiry:

26 June 2007—Paul Farrelly declared an interest as Secretary of the All Party Parliamentary Rugby Union Group.]

Draft Report (Ticket touting), proposed by the Chairman, brought up and read.

Ordered, That the Chairman’s draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 29 read and agreed to.

Paragraph 30 read.

Question put, That the paragraph stand part of the Report.

The Committee divided.

Ayes, 6  Noes, 1

Janet Anderson  Philip Davies
Nigel Evans
Paul Farrelly
Alan Keen
Adam Price
Mr Adrian Sanders

Paragraph agreed to.

Paragraphs 31 to 34 agreed to.

Paragraph 35 read, as follows:
“We believe that, whether or not it is right to describe event tickets as “commodities”, they fall into a special category which differs from goods and most services in several different ways. It is misconceived to equate organisers’ sales of event tickets with the sale of goods such as books and motor vehicles, where the seller will normally have no further part to play once the sale is completed. Unlike those who sell tickets on, event organisers have an ongoing responsibility to put on the event for which the tickets have been sold. Tickets for public transport facilities provide a closer (though not exact) parallel, as they entitle the holder to make use of a service provided by the issuer, to whom the identity of the holder may be relevant and whose charges to different classes of consumer may vary. ”

Question put, That the paragraph stand part of the Report.

The Committee divided.

Ayes, 3 Noes, 4

Janet Anderson Philip Davies
Paul Farrelly Nigel Evans
Alan Keen Adam Price

Mr Adrian Sanders

Paragraph disagreed to.

Paragraph 36 (now paragraph 35) read and agreed to.

Paragraph 37 read, as follows:

“We therefore reject the notions that event tickets should be regarded as commodities in which free market trading is a right, and that it is inappropriate for the organisers to restrict the transferability of the tickets which they sell. ”

Question put, That the paragraph stand part of the Report.

The Committee divided.

Ayes, 3 Noes, 4

Janet Anderson Philip Davies
Paul Farrelly Nigel Evans
Alan Keen Adam Price

Mr Adrian Sanders

Paragraph disagreed to.

Paragraphs 38 to 61 (now paragraphs 36 to 59) read and agreed to.

Paragraph 62 (now paragraph 60) read.

Question put, That the paragraph stand part of the Report.
The Committee divided.

Ayes, 6  Noes, 1

Janet Anderson  Philip Davies
Nigel Evans
Paul Farrelly
Alan Keen
Adam Price
Mr Adrian Sanders

Paragraph agreed to.

Paragraphs 63 to 77 (now paragraphs 61 to 75) read and agreed to.

Paragraph 78 (now paragraph 76) read.

Question put, That the paragraph stand part of the Report.

The Committee divided.

Ayes, 6  Noes, 1

Janet Anderson  Philip Davies
Nigel Evans
Paul Farrelly
Alan Keen
Adam Price
Mr Adrian Sanders

Paragraph agreed to.

Paragraphs 79 to 83 (now paragraphs 77 to 81) read and agreed to.

Summary brought up and read.

Amendment proposed, in tenth paragraph of the Summary, to leave out “We also believe that the existing situation whereby large profits can be made on the secondary market with no benefit to the organisers or owners of the primary rights is unfair and must be addressed”.—(Philip Davies).

Question put, That the Amendment be made.

The Committee divided.
Summary agreed to.

Resolved, That the Report, as amended, be the Second Report of the Committee to the House.

Ordered, That the Chairman make the report to the House.

Written evidence was ordered to be reported to the House for printing with the Report.

Written evidence was ordered to be reported to the House for placing in the Library and Parliamentary Archives.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.
Witnesses

Tuesday 26 June 2007

Mr Paul Vaughan, Operations Director, Rugby Football Union, Mr Alex Horne, Managing Director, Wembley National Stadium Ltd and Director of Finance, Football Association and Mr Nicholas Bitel, Solicitor Representative of the All England Lawn Tennis and Croquet Club.

Mr Harvey Goldsmith CBE, Mr Rob Ballantine, Chairman, Concert Promoters Association, Mr Geoff Ellis, Chief Executive, DF Concerts and Mr Geoff Huckstep, Chief Executive, Nottingham Arena and National Ice Centre.

Mr Nick Blackburn, Managing Director, Seetickets, Mr Jonathan Brown, Secretary, Society of Ticket Agents and Retailers, Mr Tom Wright, Chairman, Society of Ticket Agents and Retailers, Mr Chris Edmonds, Managing Director, Ticketmaster UK and Mr Paul Williamson, European Sales Director, Ticketmaster UK.

Mr Joe Cohen, Co-founder and CEO, Seatwave, Mr Graham Burns, Chairman, Association of Secondary Ticket Agents, Mr Dominic Titchener-Barrett, Association of Secondary Ticket Agents, Mr Eric Baker, Founder and Chief Executive, viagogo, Mr Paul Drake, Head of Contracts and Commercial, eBay UK Ltd and Mr Alasdair McGowan, Head of Public Affairs, eBay UK Ltd.

Mr Shaun Woodward MP, Parliamentary Under-Secretary of State, Department for Culture, Media and Sport, Margaret Hodge MBE MP, Minister of State for Industry and the Regions, Department of Trade and Industry and Mr John Fingleton, Chief Executive, the Office of Fair Trading.
List of written evidence

1. The Rugby Football Union Ev 1
2. The Football Association and Wembley National Stadium Ltd Ev 3
3. The All England Lawn Tennis & Croquet Club Ev 7
4. The Concert Promoters Association Limited Ev 15, Ev 127
5. National Arenas Association and Nottingham Arena Ev 21
6. Ticketmaster UK Ev 28
7. Society of Ticket Agents and Retailers (STAR) Ev 32
8. eBay UK Ltd Ev 42, 134 Ev 48
9. viagogo Limited Ev 48
10. Association of Secondary Ticket Agents (ASTA) Ev 54, 134
11. Seatwave Ev 57, 135
12. Office of Fair Trading (OFT) Ev 67
13. The Department for Culture, Media and Sport and the Department of Trade and Industry Ev 70
14. Emma Blackwell Ev 86
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16. Ian Davies Ev 87
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18. Advanced Ticket Systems Limited Ev 88
19. Sports Rights Owners Coalition (SROC) Ev 91
20. Jockey Club Racecourses Ev 92
21. Iridium Consultancy Ev 95
22. Racecourse Association Limited (RCA) Ev 96
23. VisitBritain Ev 97
24. Royal Horticultural Society Ev 99
25. WeGotTickets Ev 101
26. Music Managers Forum (MMF) Ev 103
27. Five Sports (ECB, The FA, LTA, RFL, RFU) Ev 104
28. Mr Charlie Welch Ev 109
29. All Party Parliamentary Music Group Ev 110
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31. Letter from The England and Wales Cricket Board (ECB) to the Chairman Ev 116
32. Letter from Doug McCallum, Managing Director, eBay UK to the Committee Ev 117
33. Letter from P3 Music Limited to the Committee Ev 117
34. Scarlet Mist Ev 118
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List of unprinted evidence

The following memoranda have been reported to the House, but to save printing costs they have not been printed and copies have been placed in the House of Commons Library, where they may be inspected by Members. Other copies are in the Parliamentary Archives, and are available to the public for inspection. Requests for inspection should be addressed to The Parliamentary Archives, Houses of Parliament, London SW1A 0PW (tel. 020 7219 3074). Opening hours are from 9.30 am to 5.00 pm on Mondays to Fridays.

Metropolis Music
Alan Wainwright
Julian Wing
Get Me In
Neil Hagley
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Oral evidence

Taken before the Culture, Media and Sport Committee

on Tuesday 26 June 2007

Members present:

Mr John Whittingdale, in the Chair
Philip Davies  Adam Price
Paul Farrelly  Mr Adrian Sanders
Alan Keen  Helen Southworth
Rosemary McKenna

Memorandum submitted by The Rugby Football Union

There are a number of compelling reasons to minimise the black market in Twickenham Stadium international tickets, the most important relating to the recruitment and retention of rugby players and volunteers.

The RFU’s invest considerable time and money in an effort to reduce the black market, but there is unfortunately little help within the existing legal framework. We very much welcome the recent statements by DCMS that they are minded to introduce protection for major sporting events. We hope the Committee will support this position and recommend further protection in the form of legislation that prevents all ticket touting.

While there are willing sellers with an eye to a profit, we will not eliminate this market entirely. But we could and should minimise sales in breach of the ticket terms and make it more difficult for unscrupulous buyers and sellers to operate.

The RFU distributes the bulk of its tickets through its member clubs for the benefit of club members with tickets for major international matches an important way of encouraging players to play and volunteers to give up their time.

For a relatively small investment the Government could provide a framework of support allowing all sports, including rugby union, to reduce the black market and encourage participation.

A risky business

An estimated 4,000–5,000 tickets are available on the black market for every major England international at Twickenham. This is a substantial number when we have already taken out of the market some 40,000 tickets to create an official licensed operators scheme.

Clubs, of course, want to raise funds. The problem arises when rather than finding genuine sponsors they are taken in by spurious buyers operating under the guise of sponsors. These are often fly-by-night hospitality operators packaging up tickets which they sell on for something between £450 and £750, depending on demand.

Black market tickets change hands either through the traditional means of street selling, primarily a ticket only sale, or through the Internet. There has been a major explosion in the number of providers selling tickets or hospitality through online auctions and this is a risky business for the consumer.

Unofficial purchases offer absolutely no consumer protection for either an individual or a company. The packages or tickets simply may not exist. The RFU frequently receives telephone calls and emails from buyers who have parted with their cash only to be let down. They insist that this is either the RFU’s fault or that the RFU should do something about it. If the tickets have come from an unofficial source there is absolutely nothing the RFU can do to help them.

RFU Investment

The RFU spends £50,000 per year on policing the black market through advertising in the national press (appendix 1) and mystery shopping whereby the RFU buys sample hospitality packages and tickets only and on legal fees.1 We also commit approximately 80% of the time of one in-house lawyer to following up on sellers and the sources of tickets.

1 Not printed.
In addition, we have a number of people within the RFU involved in policing and protecting the RFU against the black market by: continually updating our ticket terms and conditions; ensuring that full sets of ticket terms and conditions are sent out with tickets and that recipients sign and agree to these; investigating and dealing with those who breach the ticket terms and conditions. Collectively, this probably equates to two full time people.

The disciplinary officer of the RFU, HHJ Geoff Blackett, a volunteer, also deals with approximately 20 appeals a year from clubs and individuals who have been disciplined by losing their ticket application.

In 2006 the RFU took legal proceedings against a company called Westminster Hospitality and Events Ltd, who were enticing people to breach the RFU’s ticket terms and conditions in order to run an unlicensed hospitality scheme.

Westminster was owned by an American parent company called Razorgator, with whom we had many meetings during some very lengthy legal proceedings. As we edged towards concluding an out of court settlement, Razorgator took Westminster into voluntary liquidation and the case ended with legal costs for the RFU in excess of £500,000.

Black is Black

The black market is an emotive subject. Those who can’t buy a ticket always want to be able to obtain one, while often being outraged by the price they have to pay. The cost to the consumer usually delivers the middle man a substantial profit, which is why they are in business.

The RFU has not lost any direct revenue because it has sold the ticket to the primary purchaser at face value. But many people within the sport find it difficult to obtain a ticket and every ticket sold on is potentially a player or volunteer lost. Tickets are priced by the RFU at a level which enables genuine groups to go to Twickenham. Tickets are not priced to maximise revenue in economic terms.

The secondary market only exists because of unscrupulous third parties who spot the opportunity to make a margin. If the RFU priced its tickets according to this economic environment there would be no secondary market. That is the simple law of supply and demand.

The RFU created an official hospitality licensed scheme to: give some leeway to clubs who genuinely needed to raise additional revenue and in order to ensure that the operators pay a royalty fee for every package sold, which the RFU re-invests in the game in the form of player insurance.

Damaging our Reputation

The reputation of the RFU is often brought into disrepute by touts or unauthorised hospitality operators as often consumers believe that they are dealing with official ticket sources. Anyone knows a traditional street tout harassing the public is not an official source of tickets. However, online operators are often given credibilty by the quality of the online web design.

eBay is a genuinely good business model providing a great market place for people to buy and sell but the bedroom tout, funding his or her own tickets through the sale of others, has spotted an opportunity here. Thousands of tickets appear for sale on eBay with probably 50–60% of them selling in small numbers and for the “first time”. There are however a large number of sellers who will collect a large number of tickets together until they have a reasonable stock to sell. Newer online auction seats such as Seatwave and viagogo are specialist, hard to get ticket suppliers.

The RFU works closely with the police on match day in order to monitor ticket touting on the street and I attach in appendix 2 a police report from the England v New Zealand match from November 2006.2

What does the RFU want The Government to do?

In an ideal world, The RFU would welcome blanket legislative protection as it has given to The Olympics which will be held in London in 2012.

Realistically if broad legislation is not possible, we would like to have the support from Government that will:

1. Assist the Police in preventing street touting.
2. Prevent online ticket sellers selling tickets that do not provide the ticket seat, row and block numbers to buyers.
3. Prevent any online market places that induce any contravention of Twickenhams ticket terms and conditions from trading.
4. Insist on any market place to provide seat, row and block numbers before any 3rd party can advertise a ticket.

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2 Not printed.
June 2007

Memorandum submitted by The Football Association and Wembley National Stadium Ltd

1. Wembley Stadium and The FA wholeheartedly support existing legislation to restrict ticket touting in football, which we believe is vital for the ongoing success and development of the game. We also believe that there is a sound moral, economic and practical case for extending existing regulations to cover all major sports and other ticketed events. We therefore very much welcome the opportunity to respond to this inquiry.

2. The FA is also a signatory to the submissions to this inquiry being made by the “Five Sports” (ECB, FA, LTA, RFL, RFU) and the Sports Rights Owners Coalition. In addition, given football’s unique perspective as the only existing activity governed by legislation in this area, and Wembley Stadium’s perspective as a major event host, we believe that the Committee will be interested to hear our specific views on this issue. We would also be very grateful for the opportunity to follow up this response with oral evidence to the Committee.

BACKGROUND ON THE FA AND WEMBLEY STADIUM

3. The Football Association is the governing body for football in England. The FA takes the lead in providing a structure for football, and is responsible for regulating, promoting and developing the game at every level, both on and off the field.

4. Specific activities include running international teams, organising cup competitions for clubs (notably The FA Cup), youth development, refereeing, coaching, medical matters and representing the English game internationally. The FA also establishes the regulatory framework for the game as a whole, ensuring that the Laws of the Game, agreed internationally, are followed at every level, and operates a set of rules and regulations for the governing of the game domestically.

5. Wembley National Stadium Limited (WNSL) is a wholly owned subsidiary of The FA, responsible for the operation of the national stadium. It stages major football matches, many of which are named above, and other major sporting events, such as the Rugby League Challenge Cup Final, an NFL American Football game, and The Race of Champions. This summer Wembley Stadium is also hosting music events such as the “Live Earth” concert, the “Concert for Diana”, and other high-profile artists such as George Michael and Muse.

6. The FA is responsible for ticketing arrangements for all FA run matches at senior level: the matches that we host are England Senior Internationals, The FA Community Shield, The FA Cup Semi Finals and Final.

7. Demand for tickets for these matches is huge. However, The FA does not price its tickets at market value, but instead aims to strike a balance between accruing the revenue necessary to continue our investment in developing the grassroots of the game, and ensuring the greatest attendance and access to match tickets for those who follow and play the game. This policy is in the long term interest of the sport and the grassroots development of the national game.

8. Ticket touting—the unauthorised secondary market in tickets to football matches—is completely contrary to that policy. By various tactics, touts grab tickets priced for ordinary fans, and then sell them on in the black market. These tickets are often packaged with other expensive add-ons at extortionate prices thereby exploiting the genuine fans’ love of their sport, and/or putting tickets out of their reach.

9. In other words, where The FA has chosen to forego a commercial opportunity in order to make the sport accessible to fans, ticket touts misappropriate that opportunity and abuse it to their own advantage. Moreover the tales of touts flouting consumer protection laws and regulations and disappointing customers at home and from overseas are numerous. It is The FA that bears the brunt of the ensuing criticism and complaints.

10. All of this is before taking into account the very careful segregation and vetting arrangements that the football authorities and the law enforcement authorities put in place in respect of sale of football tickets in order to safeguard public order and safety, all of which is completely circumvented and jeopardised by the black market sale of football tickets.

11. WNSL and The FA commit significant resources to fighting ticket touting in football, and wholeheartedly support existing legislation to restrict ticket touting in football. We believe the legislation is vital for the ongoing success and development of the game; and we believe that there is a moral, economic and practical case for extending existing regulations to cover all major sports and other ticketed events. As such, we very much welcome the opportunity to respond to this inquiry.
WHY TICKET TOUTING LEGISLATION IS IMPORTANT FOR FOOTBALL

12. Section 166 of the Criminal Justice and Public Order Act 1994 makes it a criminal offence for an unauthorised person to “sell a ticket for a designated football match, or [. . .] otherwise to dispose of such a ticket to another person.” Designated football matches for these purposes covers the vast majority of professional football matches played in England and Wales or featuring professional English and Welsh clubs and national representative teams playing abroad. Recognising the growth of the Internet in fuelling touting for tickets to football matches, the Government extended these provisions to cover online touting through the Violent Crime Reduction Act (VCRA) 2006. This is explained further later in this document.

13. The VCRA legislation has helped football in the following ways:

Public order

14. The original legislation was instituted in the aftermath of the 1989 Hillsborough disaster and against a backdrop of hooliganism. It was widely believed that touting circumvented the necessary segregation of fans of different teams, leading to disorder in football grounds. The 1994 Act was somewhat successful in marginalising the “street touts” around football matches, helping to alleviate the public order problems caused by touting. In tandem with concerted actions by the football authorities to tackle public order issues in the game, the legislation was very helpful in this regard.

Protection for fans

15. Legislation to restrict touting in football has had a beneficial effect on the fans of the game. With fewer tickets to matches being hijacked by touting operations, there is more opportunity for fans to access tickets at face value prices. Furthermore, the match day experience for fans has improved markedly with the reduction in disturbance and intimidation that follows from the reduction in the number of touts around stadia. This has helped football move into the 21st century as a family-friendly activity, a shift encouraged and further developed by other measures from the football authorities.

Protection of events and reputation

16. By improving public order and aiding fans, and protecting fans as consumers from abuse by touts, the 1994 legislation helped to protect the reputation of The FA and the game of football itself. This aided in the escalation of football from simply a game to a significant and very high-profile industry, reaching all sections of society. Numbers of both participants and spectators in football have grown significantly in recent years.

Revenue retention

17. Legislation restricting the activities of touts ensures that fans’ and consumers’ money generally does not leave the game of football for the black market. The opportunity cost to football of the black market in tickets was severe, and had implications for the investment in and development of the game prior to legislation. These are implications which other sports continue to face (please see the submission from the “Five Sports”).

Developing the legislation to address new challenges

Originally the 1994 Act made it an offence for an unauthorised person to “sell, or offer or expose for sale, a ticket [. . .] in any public place or place to which the public has access or, in the course of trade or business, in any other place.” There was uncertainty as to whether this covered unauthorised internet trading in football tickets.

In response to representations from football authorities, supporters’ groups and others, the Government amended the 1994 Act through provisions in the Violent Crime Reduction Act 2006. The 2006 Act ensures that the touting offence covers not just selling, offering for sale and exposing for sale but also making a ticket available for sale by another, advertising that a ticket is available for purchase, offering a ticket to a person who agrees to pay for some other goods or services, or otherwise disposing of a ticket. This legislation (appended in full to this submission) is intended to include internet and other modern touting operations within the scope of the original regulations.

Initial findings have been that most major sites which previously allowed online football ticket sales, including eBay, now respond by removing relevant listings when informed of their presence by the football authorities. Several secondary agents, however, continue to flout this law, and The FA and other football authorities are working with the law enforcement agencies to fight this scourge.
HOW FOOTBALL WORKS TO PREVENT TOUTING

18. While many believe that the police and courts could and should be taking greater action to enforce the legislation and so to prevent touting, it is clear that the 1994 and 2006 Acts have greatly assisted and enabled the law enforcement agencies and the football authorities to work together to crack down on touting. In particular:

— The football authorities and law enforcement agencies have had substantial dialogue, assisted by the Home Office, to develop mutually beneficial strategies for fighting touting, dovetailing criminal investigations and prosecutions under the CJPOA 1994 with civil enforcement proceedings in the English High Courts.

— Whereas touts can seek to cloud civil enforcement efforts by arguing about the source of their tickets and/or whether or not the precise ticket terms and conditions have been breached by their activities and/or are enforceable against them, the terms of the legislation are clear and can not be disputed by the touts. Therefore, in demanding undertakings from touts, or (if no undertakings are provided) in seeking injunctions from the civil courts restraining touting activity, the football authorities are able to point out that the activity in question is not only an infringement of civil rights but also a stand-alone criminal offence. This has been of great assistance in persuading the civil courts to grant injunctions restraining touting, which is particularly important in protecting public order and safety at or around major matches and events.

— Similarly, while eBay and others may wish to resist football authorities’ efforts to invoke the contractual restrictions on resale of tickets to stop the touting of football tickets on virtual auction sites, eBay in particular has recognised it cannot be a party to a criminal act and therefore has put in place measures for the identification and takedown of any auction item involving sale or other disposal of a football ticket.

— For the same reasons, others who become tangentially involved in the wrongdoing of the touts—such as travel operators and hospitality providers—can be more easily persuaded to desist because of the criminalisation of touting in the CJPOA 1994.

— Because the requirements of the criminal and civil law coincide, the football authorities have been able to work together with the police, trading standards and other agencies to the mutual benefit of all sides. In particular, the legislation has provided the foundation for the sharing of information about touting activities as well as for the commitment of resources to fund and support antitouting initiatives.

— Recently released Home Office figures show that there were 130 convictions from 2001–06 under section 166 of the Criminal Justice and Public Order Act 1994.

19. In addition to exercising their legal rights and remedies, The FA and WNSL have a number of other mechanisms in place for combating touting:

Internet monitoring and enforcement

20. The FA actively monitors several internet auction sites for sales of tickets to FA controlled events. If any FA ticket auctions are listed, a representative of The FA will contact the auction site and request that the auction be removed. Over the past few years The FA has developed a good relationship with the major auction sites and usually the auction is removed within hours of The FA’s request.

21. If the auction includes details of the seat number, these details are noted and the purchaser is blacklisted from being able to purchase tickets from The FA in the future. If the auction includes the details of the seats and the tickets have not yet been sent out, then the ticket order is cancelled and no refund is made. If the tickets have been sent out, then action can be taken at the venue, either by preventing entry for those ticket-holders at the gate or by ejecting them once they have taken their seats.

22. We also actively monitor the Internet and the print media for the sale of both unauthorised corporate hospitality packages and ticket sales. If The FA discovers an organisation offering tickets to FA matches, either alone or as part of a hospitality package, then we contact the organisation and bring the terms and conditions of the tickets to their attention and request that they immediately desist from selling any hospitality packages or tickets.

23. If the organisation is advertising via a website and does not remove an advert which includes the sale of a ticket, then we will contact the website host and inform the host that its client is committing a criminal offence which may affect the host’s liability because it is facilitating the offence. Having drawn this to the host’s attention, The FA will request that the relevant website is removed. The website host will then have to act to avoid any liability under the CJPOA 1994, and it will have reserved the right to take such action in the website host agreements, which will impose an obligation on the website owners not to commit any illegal act.
“englandfans”

24. “englandfans” is the official England supporters members club and being a member is the only official way to obtain tickets to away internationals. All prospective members must have their police records checked when applying to join “englandfans”. Anyone who has previously committed a relevant offence, such as football disorder related one, or is the subject of a Football Banning Order, is not admitted to membership.

25. In the past, a small number of members have tried to sell their tickets to away matches and home matches through internet auction sites, and relevant sanctions have been taken. This circumvention of the vetting procedure means there is a risk of banned individuals obtaining tickets. Therefore any member that sells, or attempts to sell, the tickets that he/she has obtained through being a member will be expelled from the club.

26. “englandfans” members have also been encouraged to contact The FA with details of organisations or individuals which they notice are selling tickets without permission. The FA has expelled approximately 15 members for unauthorised activity.

Other mechanisms to restrict touting

27. Ticket sales for England games are restricted to prevent anyone purchasing more than four tickets, with the exception of the family enclosure, where five tickets can be purchased together.

28. Wembley Stadium is continuing to work with event promoters and primary ticket agents to ensure that touting is minimised at events held at Wembley. The exchange and returns policy for the tickets themselves will be for the event organiser to decide, but where the tickets are part of the “Club Wembley” package, there are further restrictions, such as the ability only to resell an unwanted ticket through WNSL itself.

29. We are keen to ensure that all unauthorised ticket sales for our events are dealt with appropriately. The FA recently set up a confidential tout line to which fans who are aware of touting activity can report the activity after the match. We are hopeful that this will allow us to take action against touts, and those supplying touts, to prevent these individuals re-offending.

30. More widely, football is also working with new technologies to make touting more difficult. A number of Premier League clubs now have electronic “smart cards” which act as tickets for the whole season (rather than individual paper tickets for specific matches). It is difficult to tout these smart cards as the ticket buyer would have to return the smart card to the tout after each match. Many football clubs are also taking the lead in cancelling tickets, refusing entry and ejecting people who are known to have bought their tickets from touts. This draws criticism from people claiming we are targeting innocent victims, but we believe this is an important part of the fight to stamp out the black market—only if the ticket conditions are enforced and people denied entry will they learn not to buy from touts, and will they warn others not to do so, thereby cutting off the demand for the touts’ services.

The Need for Greater Enforcement

31. However, despite existing legislation and the work being undertaken by the football authorities to ensure the aims of the legislation are upheld, we strongly believe that more needs to be done to enforce the legislation.

32. Our work in the area of civil enforcement demonstrates that many organisations continue to flout the law, and we have a number of concerns with the enforcement of the law in its current form. In particular, it is widely believed within the football community (and, we believe, within the law enforcement community) that the level 5 fine of up to £5,000 assigned in the Criminal Justice and Public Order Act is not enough of a deterrent to prevent organised operations from touting with impunity. Furthermore, enforcement of this legislation is very poor, due to its low priority among police authorities, particularly in locations where there are large football grounds, frequently inner cities or areas of deprivation with other policing priorities. We believe that the 130 convictions since 2001, while a good start, represent just the tip of the iceberg in this area, and we believe that greater enforcement would enable far more prosecutions of this sort.

33. The FA would like to see ticket touting at football matches made a recordable offence and we are in dialogue with the Home Office about this. We are also encouraged that the Home Office plans to issue new guidance on ticket touting which will remind magistrates of the need to impose banning orders on touts.

34. We would therefore urge the Committee to recommend to Government that greater action is taken and greater resources are allocated, in order to enforce existing legislation banning ticket touting at football matches.
The Need to Extend Ticket Touting Legislation

35. The FA and Wembley Stadium believe that the legislation which currently applies to football, and to the London 2012 Olympics through Section 31 of the London Olympic Games and Paralympic Games Act 2006, should be extended to outlaw touting at all sporting and other relevant events.

36. In part, this is a matter of consistency. While football welcomes the legislation focused on our own sport, we believe that it is perverse—given the hugely detrimental effects on touting upon other sports and events—that others do not have the same protection which we are granted. This anomaly should be rectified.

37. This inconsistency also has a practical effect—as a host of various different events, Wembley Stadium is faced with a confusing and regulatory framework governing the particular sports and events to which we provide tickets. The burden of managing different regulatory structures across our events is significant, and (more importantly) leads to confusion and consequent disaffection among fans and consumers.

38. The FA also believes that the principle of equality and fairness in access to tickets for all fans should be extended to other events. We would argue that any regulatory regime which allows touts to access tickets in large numbers for any event, to the detriment of genuine supporters, is wrong and unjust. Wembley Stadium works with a number of other event organisers, such as the Rugby Football League and concert promoters, who deserve the same level of protection that football currently has.

39. Pragmatically, prohibiting touting in other events will help tackle those who continue to tout football tickets. The current ability of the touts to carry out sales of a range of other events without criminal sanction confuses the public and lends an air of legitimacy to the touts’ activities that is wholly unwarranted and exacerbates the size and scale of the exploitative and harmful black market. None of this assists football in its fight against touting. Many touts who operate across a number of events in the touting black market would rightly be restricted by wider legislation, and this will undoubtedly ensure that fewer tickets for football matches are touted.

40. For all these reasons, we would suggest to the Committee that it recommends to Government that the current legislation governing touting at football matches and the London 2012 Olympics is extended to cover all events for which tickets are sold in the UK.

June 2007

Memorandum submitted by The All England Lawn Tennis & Croquet Club

All England Lawn Tennis Club (“the Club”), as principal organiser of The Wimbledon Championships, strongly supports the introduction of legislation to counter ticket touting at major sporting events.

We believe, in our case, that ticket touting:

— undermines our policy of making show court tickets available, at fair prices and through a fair process, to the general public;
— diverts significant resources and funds which would otherwise be spent on development of tennis (and particularly “grass roots” development);
— wrongly puts profits in the hands of “touts” with none of the profit going to the benefit of the game; and
— damages the reputation of a world-class sporting event.

We believe stronger legislative regulation would greatly assist enforcement of measures to counter “touting” and would be in the public interest.

Wimbledon Championships: Ticket Background

The Wimbledon Championships (“The Championships”) are one of the great sporting events of the world. The two-week championships, at the end of June and the beginning of July each year, are one of the four “grand slam” tournaments of international tennis. They are attended annually by over 400,000 spectators. They are viewed, internationally, by millions on television.

The history of The Championships is a long and proud one. They have retained a unique and characteristic flavour—not only because of the quality of the tennis played by competitors but also by the special atmosphere created by the Club and the spectators.

The Club is a private members’ club. It organises The Championships through a Committee of Management on which the Lawn Tennis Association (“the LTA”) is represented. The financial surplus generated by The Championships, after the expenses of maintaining the Club grounds and premises, is used by the LTA for the general benefit of British tennis. The Club is responsible for issuing all tickets for The Championships.
The Club has never run The Championships with profit as the foremost motive or purely as a commercial venture. For that reason, the tickets available to the public at large have always been kept reasonably priced. The Club set up the public ballot system in 1922 to ensure, as between members of the public, an equal opportunity to obtain tickets. Other tickets are distributed to members, officials and via the LTA to affiliated members, including local tennis clubs and foreign tennis associations.

There are two principal “show courts”, Centre Court and Court No. 1, holding approximately 14,000 and 11,500 spectators respectively. Tickets for Court No. 2 (holding 2,000 spectators) are also sold in advance. Entrance to The Championships is by ticket only. Tickets for these show courts are all sold in advance—except that 500 tickets for each of Centre Court and Court 2 are available for purchase “on the day” for the first nine days (subject to weather conditions) and 500 tickets for Court 1 on each day for the whole of The Championships. In addition, there are approximately 6,000 ground passes a day sold on the gates (subject to weather conditions and ground capacity). Significant queues build up for these tickets sold on the day and, indeed, queuing has become a popular event in itself.

Tickets for Wimbledon are in huge demand. Demand far exceeds supply. The Management Committee of The Championships believes that tickets should be made available, fairly, to a wide section of the public and in accordance with a structured ticketing policy. The distribution arrangements reflect this policy.

- Tickets are not sold for maximum profit at the highest prices the “market” will bear. The “face value” of tickets is deliberately kept at a level which enables The Championships to be widely affordable by the public. (Prices for Centre Court for 2007 range through the fortnight from £36 on the first day to £87 on men’s finals day. There is evidence that the full “market” price would be substantially in excess of these figures—prices advertised over the Internet by some “sellers” for men’s finals day currently reach in excess of £3,000 per pair.)

- A substantial proportion of show court tickets are made available in advance to the general public through an annual “public ballot”. The public ballot is always substantially over-subscribed. There is a separate ballot for wheelchair users.

- A substantial proportion of tickets are made available (principally through the LTA) to parties involved directly in tennis or for whom an allocation to encourage further involvement in tennis is appropriate: members of tennis clubs throughout the country; schools; volunteers; limited numbers for foreign tennis associations etc.

- The number of tickets allocated for corporate hospitality or tour packages, or otherwise sold at a “premium” to face value, is deliberately kept at a low proportion. As a general policy, these constitute less than 10% of the tickets on Centre Court and a lower percentage on Court 1.

- All tickets are non-transferable (except Debenture tickets—see below). Any sale to a third party renders the ticket “invalid”.

- If a purchaser of a ticket cannot attend, we operate a full refund policy up to the eve of the day to which the ticket applies. (Although our conditions allow us to make an administration charge, we do not currently do so, although the LTA may make a small administration charge with its refunds.)

- The one exception to the non-transferability rule is that tickets issued to holders of Debentures are freely transferable. Debentures are securities issued for an initial capital sum, entitling the holder to tickets for a defined period, usually five years. The proceeds of issue contribute substantially to the capital funds required to carry out continuous ground improvements to ensure that Wimbledon’s facilities remain at the top of those appropriate for a major sporting event. Debenture tickets are re-saleable. Those willing to pay “high” prices can purchase tickets held by Debentureholders to the extent that these are available on the market.

Against this background, we submit our views and evidence in the context of The Wimbledon Championships on the particular issues raised by your inquiry.

1. IMPACT OF TOUTING ON PERFORMERS, PROMOTERS AND THE PUBLIC

The cause of ticket touting, in the case of a major sporting event such as Wimbledon where ticket demand exceeds supply, is simply the opportunity which touts see to make a substantial profit by acquiring and on-selling tickets to customers willing, and able, to pay high prices. Some of these customers are organisations attempting to put together “unofficial” corporate or similar hospitality packages. Other customers are individual fans who have not acquired tickets through the “official” ticket distribution arrangements for the Championships.

If unchecked, we believe that activities of ticket touts can adversely affect the character of the crowd at sporting events. More immediately, the growth of ticket touting over the years has itself resulted in other unpleasant and damaging consequences, reflecting badly on the Club and The Championships and causing inconvenience to their organisation and visitors.

As the demand for black market tickets grew, so touts became more aggressive in seeking to obtain them from members of the public who held tickets. The Club was and remains very concerned about the problems for its nearby residents caused by unauthorised ticket trading. The Club receives the blame for such
problems and the activities of touts damage the Club's and The Championships' reputation, are seriously disruptive and erode the traditional enjoyment of this major sporting occasion. Strenuous efforts are therefore taken to counter the activities of touts.

Important:

— None of the profit made by touts goes into the development of the game.

— None of the profit made by touts is received by the promoters (ourselves/the LTA) or the performers (the players).

— Every ticket which is touted is one which could (and should) have been available, by fair process and at a fair price, to a member of the public who has been unlucky when applying through the proper and open channels of the public ballot or our other distribution arrangements.

— We have seen many examples of touts selling, at substantial mark-ups, tickets that had been intended for special groups such as school children and even persons with disabilities.

— Our experience indicates that secondary agents currently engage in practices (eg use of multiple identities and/or multiple applications) designed to abuse the process of obtaining tickets through our public ballot.

— Touting involves us in significant costs and resources (financial, legal and administrative—including police and security) which would be better spent on the development of the game. We estimate that our financial costs alone (excluding administrative time and expense) for “anti-touting” measures are in excess of £150,000 per annum. Profits from our event go entirely to the development of the game through the LTA. Every pound spent on measures to deal with touting is a pound which could have been available for the development of the game and grass-roots tennis.

— We are also concerned that touting of tickets to unknown third parties has material security implications. Recipients of tickets issued by us through the public ballot, or by the LTA through their distribution arrangements, can be individually recorded and traced. Purchasers of tickets through touts cannot.

In summary, we believe ticket touting has a significant and negative consequence for “ordinary” fans, the organisation of The Championships and the development of the game.

2. Re-sale of Tickets

We introduced ticket conditions in 1991 which provide that only the person to whom the ticket is issued can use it. Except for Debenture tickets, the re-sale of a ticket is prohibited—and transfer renders it invalid. We believe strongly that it is right that our tickets should not be transferable. There should, in our opinion, be no “in principle” or automatic right to re-sell. As a private members’ club we clearly have the legal right to determine who should be allowed to enter the premises. In the same way as a club membership cannot be transferred, so our principle is that a ticket should not be permitted to be sold unless the Club consents. We firmly believe this is fair and in the interests of the public:

— The “no transferability” condition is essential to our policy of ensuring that tickets are used only by the intended categories of persons to whom they are issued: the public applying properly through the ballot; schools; wheelchair users; members of tennis clubs; other contributors to the game etc.

— Re-sale simply fuels the business of the touts—with the negative consequences previously set out.

— It is certainly wrong that any re-sale should take place above face value. This simply undermines our ticketing policy and provides a “business” for touts. Where the initial issue of a ticket has been made at less than full market price, in order to encourage access to a wide group of the public through a controlled distribution process, it is wrong in principle that a recipient should gain a profit on re-sale—none of which profit goes back into the game. All this does is deprive someone of the opportunity to acquire tickets at a reasonable price.

— A re-sale at face value should still, in our view, be prohibited in the circumstances of the Wimbledon Championships. In principle, any such sale diverts the ticket away from the intended group—for instance, the sale of a ticket that was meant to be used by a school child which is sold to someone other than this is still diverting the ticket from the proper channel. Whilst we would use our discretion in a purely harmless case, the risk of abuse is high unless prohibited as a general principle. We believe we are right to prohibit all transferability—except for Debenture tickets.
3. IMPACT OF THE INTERNET

The Internet has had a major impact on trade in tickets for Wimbledon—particularly the growth of “auction” sites such as eBay or “re-seller” sites such as viagogo. Checks carried out in 2006 showed that more than 1800 tickets were offered for auction on eBay alone for the 2006 Wimbledon Championships.

Most of these sales did not state the face value of the ticket and did not draw attention to non-transferability conditions. They rarely satisfy the requirements of consumer protection legislation. Even though eBay now requires sellers to state the face value of a ticket, there is usually nothing to indicate the seating position of the ticket.

A major problem with the growth of such sites is the way it creates so-called “bedroom touts”—any one with a computer can now be a tout. We believe that firm legislation, clearly outlawing internet touting in relation to major events such as Wimbledon, is necessary in order to prevent the further growth of internet activity damaging the fair process of ticket distribution to the public for our event.

4. TERMS PROHIBITING TRANSFER: FAIRNESS

We believe, certainly in the context of tickets for the Wimbledon Championships, that the terms and conditions of our tickets prohibiting transfer and onward sale are fair.

— Tickets are issued at a price which, knowingly, is less than a full market price.
— The non-transferability condition is clearly drawn to the attention of any applicant in the public ballot or other purchaser.
— Adequate arrangements exist for a full refund of the ticket price (up to the eve of the day in question) if the individual is unable to attend.
— Our ticket terms and conditions have been reviewed and approved by Trading Standards and our ticket distribution policy and allied terms and conditions have been cleared by the OFT of allegations of anti-competitive behaviour.
— In addition to police measures to enforce street trading and public nuisance laws in and around Wimbledon, we take extensive legal and administrative measures to ensure that (as far as possible) these ticket conditions are enforced—particularly against suspected “professional touts”. We do not, of course, catch all examples of touting—but we are successful in catching significant numbers. We have sued and obtained judgments against over 75 ticket touts in the last three years alone. In 2006, nearly 700 people found to have been trying to sell their tickets were stopped as a result of action by the Club.
— If touting were made a criminal offence, we believe enforcement would be even more successful. Self-policing would be easier and more efficient. Importantly, we believe that internet auction sites would stop allowing the unauthorised re-sale of tickets and/or action by us to prevent such sales for profit would be more readily available.

5. NEW APPROACHES

The Club appreciates that in the last 12 months the Secretary of State for Culture, Media and Sport has held a series of “summits” which she hoped would lead to a voluntary code to regulate the activities of ticket touts. However, despite some minor concessions from eBay (for instance, over stating the face value of tickets), it seems to us that the voluntary route has not succeeded. Indeed, since the process commenced, our experience in relation to Wimbledon is that more touts have set up websites and the pace of sales on internet sites such as eBay has increased.

We, ourselves, do not believe that the voluntary approach will or can work. We firmly believe that further legislation is required.

6. LEGISLATION

Section 144 Criminal Justice and Public Order Act 1994 (as amended) made ticket touting for football unlawful. However, we are advised that the Act also provides that the Home Secretary can extend this to any event for which more than 6,000 tickets are sold.

Despite the Labour Manifesto in 1997 containing a pledge to extend the Act to outlaw all ticket touting, the only extension that has taken place is that touting for the 2012 Olympic Games has been made unlawful. However, this in our view is not sufficient—and indeed exposes clear and unfair anomalies! It is clearly inappropriate that the unauthorised sale of tickets for the tennis event at the Olympics in 2012, to be held at Wimbledon, should be a criminal offence—but that it should not be an offence to “tout” tickets for the principal Wimbledon Championships held at the same venue less than a month previously!

We believe there is a strong case for extending (or adapting) the current law to cover other major designated sporting events.
Good morning, everybody. In the last Chairman:
evidence.

Paul Farrelly: to make a public statement.

Before we start, Paul Farrelly I believe would like representing the Lawn Tennis & Croquet Club.

Horne representing the FA and Nicholas Bitel sporting bodies: Paul Vaughan of the RFU, Alex like to begin by welcoming representatives of the evidence from all those with an interest. I would one-o

reason that the Committee has decided to hold a public interest around this topic. It is for this of ticket touting. The DCMS has also been holding music and entertainment industries on the subject from a number of sporting bodies and from the few months the Committee has had representations

Solicitor Representative of The All England Lawn Tennis and Croquet Club, gave Nicholas Bitel Greene, will be available.

We strongly encourage the Government to adopt similar legislation for major sporting events designated by the Secretary of State. We would, of course, expect and advocate that the Wimbledon Championships should be such a designated event.

This submission is made on behalf of the All England Lawn Tennis Club. It has the full support of the Lawn Tennis Association. Since your Committee’s hearing will be held during The Championships, no member of the Club’s Committee will be available to attend—although the Club’s lawyer, Nick Bitel of Max Bitel Greene, will be available.

Further information on Wimbledon’s ticketing policies may be found on www.wimbledon.org.uk.

June 2007

Witnesses: Mr Paul Vaughan, Operations Director, Rugby Football Union, Mr Alex Horne, Managing Director, Wembley National Stadium Ltd and Director of Finance, Football Association, and Mr Nicholas Bitel, Solicitor Representative of The All England Lawn Tennis and Croquet Club, gave evidence.

Chairman: Good morning, everybody. In the last few months the Committee has had representations from a number of sporting bodies and from the music and entertainment industries on the subject of ticket touting. The DCMS has also been holding a series of summits and there is clearly a lot of public interest around this topic. It is for this reason that the Committee has decided to hold a one-off hearing this morning in order to take evidence from all those with an interest. I would like to begin by welcoming representatives of the sporting bodies: Paul Vaughan of the RFU, Alex Horne representing the FA and Nicholas Bitel representing the Lawn Tennis & Croquet Club. Before we start, Paul Farrelly I believe would like to make a public statement.

Paul Farrelly: I would like to declare my interests as I am the Secretary of the All Party Parliamentary Rugby Union Group and of the Commons and Lords Rugby Union Football Club. Chairman, we have received allocations of tickets from the RFU but we have never ever sold them on to anyone at below face value or above face value!

Q1 Mr Sanders: You represent the Five Sports, being the England and Wales Cricket Board, the Football Association, Lawn Tennis Association, Rugby Football League and Rugby Football Union; and the Five Sports list four concerns associated with ticket touting: pricing genuine fans out of the market; diversion of resources from the sport; the undermining of consumer protection; and public order issues. Which do you consider to be the most serious of those?

Mr Vaughan: If I may start, it is probably worthwhile just touching on why we see touting as a problem generally, and how we allocate our tickets so the Committee can understand how things work. Generally the RFU, and many of the other sporting bodies as well, make most of their tickets available for their membership. This is primarily to encourage either players to play, or volunteers to continue within the sport after they have stopped playing, and it is a reward system in order to make it work. They are not priced in an economic fashion; they are not priced in a true free trade sense of, “We’ll maximise the amount of cash coming in”. Basically we want to price our ticketing so that they are affordable for our supporters, who tend to be the players and the volunteers within the game, and we want to give them first stab at it but we want to make them affordable. I think in the same way that London 2012 sees the assurance of tickets reaching real fans rather than those with the deepest pockets, and the sporting legacy to the Olympics, all sports probably see this being an ongoing situation on an annual basis for our own sports. I think the secondary market exists on the basis that there is a margin to be made by people who are able to obtain tickets. What we are trying to do is ensure that the person who comes to Twickenham, for sure, and Wembley and the All England Tennis Club is very much the genuine fan we want to see in the crowd, rather than the person with just the deepest pockets.

Q2 Mr Sanders: Can you define what a genuine fan is?

Mr Bitel: From our point of view the makeup of the crowd is probably the most important element. Some of you may recall some years ago a Man Utd player complaining about the prawn sandwich brigade watching Man Utd and sucking out the atmosphere of football matches. The atmosphere is very important to us. We try and tailor who gets the tickets.
Q3 Mr Sanders: What is a genuine fan? From what you have said, it sounds like somebody who makes a lot of noise in a stadium?
Mr Bitel: No, not at all. For instance, we allocate to tennis clubs up and down the country because these are people who are supporting tennis at the grassroots year in and year out, and that is a very important part of the element of our makeup. We are allocating tickets to schools because, again, the aim is to interest schoolchildren in tennis and allow them to come and experience what is one of the premier sporting events in the calendar. Those types of people are the ones we wish to protect.

Q4 Mr Sanders: That is not a definition of a genuine fan; that is just how you distribute tickets.
Mr Bitel: There is no reason why somebody who pays a lot of money is not a genuine fan—I accept that entirely; but the problem is that if you put tickets to the free market and they are only available to those with deep pockets it prices out the rest of the market.

Q5 Mr Sanders: Is it not the genuine fan who is likely to pay more money for a ticket?
Mr Bitel: I do not think a genuine fan could afford, for instance, Wimbledon finals tickets. If you tried to buy them from the touts at the moment a pair of Wimbledon finals tickets will cost you £3,000, whereas we are selling them for £87. I do not think there are many ordinary people who can afford £3,000 for finals tickets and yet we are putting them in at £87. Those are the people we are trying to protect.

Mr Horne: If I answer the original question, Adrian, if that is okay: I am primarily representing Wembley Stadium today and, therefore, both football, rugby and concert events; and my major concern with touting, covering the four things represented in the Five Sports submission, would be around public order issues, as well as consumer protection. The issues of managing forged tickets, illegal tickets and duplicate tickets that most naturally find their way into the marketplace as a result of this secondary ticket touting route cause huge problems for us at turnstiles, and huge disappointment for fans who feel they have obtained a piece of paper, if you like, but represented on a website as being from a Wembley source and is not at all. We are dealing with huge issues in a very short space of time on a public order basis, and defending our own reputation against consumers who feel let down because they have come into possession of an illegal and unlawful product and they are trying to access our stadium.

Q6 Philip Davies: I think the prawn sandwich brigade was a reference to all the tickets you people sell to the corporate clients, rather than the tickets that touts sell on to a handful of people at events, so I am not sure the prawn sandwich brigade is a good argument for you if you really want genuine fans there. Perhaps you should not give so many tickets to your corporate clients. That hardly seems a way of getting genuine fans in. What I want to ask is: can you give us any examples of where the Government regulates the secondary market of anything; where the Government regulates the price and the sale of the secondary market in anything?
Mr Bitel: In tickets, yes.
Q7 Philip Davies: Can you give me one industry where the Government regulates the price or the secondary market of anything? No. I cannot either.
Mr Vaughan: There are probably a number of markets where the primary market is actually regulated rather than the secondary, because there is no secondary market for it.

Q8 Philip Davies: The Government does not regulate the secondary market, so when people sell art and think, “I can get £90 for this art”, and somebody thinks, “Great I’ll pay £95 for that and I can sell that on for £200”, the Government does not regulate that because that is the way the world goes round.
Mr Bitel: The Government does regulate it.

Q9 Philip Davies: The whole world goes round on people buying things and selling them on.
Mr Bitel: It is a criminal offence to sell on your ticket for London Underground, for instance.

Q10 Philip Davies: Why are tickets any different from anything else that people buy and think, “Actually I could sell this at a profit”? Why should tickets be different from anything else?
Mr Bitel: Tickets are not a commodity. I think that is the basic flaw in that particular analysis. Just in the same way as the Government regulates the laws into who comes into private land, we are private land and we regulate who comes into our grounds or stadia; and in the same way we are issuing a licence in the same way as a landlord issues a lease. If you are a landlord you can refuse to sell the lease onto whoever you wish to. We are issuing a licence to enter into our land to particular people, named individuals; and very often they are named individuals for a particular reason. For instance, we have issued tickets to wheelchair users because we want to have a certain number of tickets available to wheelchair users, and we are seeing those tickets being touted to the general market, to non-wheelchair users. We think that is an inappropriate use of the free market.

Q11 Philip Davies: Who loses out on ticket touting; who are the losers?
Mr Vaughan: If I could just answer that. It is the opportunity cost to the sport potentially. We are trying to reward players, volunteers and schoolchildren, people we want to encourage to stay within the game. At the end of the day the sport loses because if we do not enable them to keep on getting their tickets they will not belong to clubs and the sport will shrink. I believe if you spoke to your own club within this august body here, they do not sell the tickets on because they
Mr Vaughan: is happy to sell it; who is losing?

Mr Horne: have been able to go.

Q12 Philip Davies: Who is losing out because somebody is selling it on for £500? You have got bums on your seats; you have sold the ticket at the price you wanted to; the person who has paid £500 is happy to pay £500; the person who is selling it is happy to sell it; who is losing?

Mr Vaughan: Are you suggesting that the sport should actually charge £500 to start with?

Q13 Philip Davies: No, I am just asking: who is losing out?

Mr Horne: The example that Paul is highlighting here, it could be the end user who may be happy to pay £500 for a ticket, but that ticket does not exist yet; it is not in the hands of viagogo and they have no right to enter into that transaction. Whoever has used that portal to set up half of a transaction does not have the other half of a transaction to fulfil. From a consumer perspective the RFU are somehow being linked with a transaction they have no control over.

Mr Bitel: For example, yesterday we put tickets on sale via Ticketmaster; these are last minute tickets that became available; someone bought one of those tickets at the proper price and two minutes later put it on sale on eBay. So they never had any intention of coming along, but they just decided to buy it and resell it. The people who lost were the next people in the queue who wanted to buy that ticket and lost the opportunity of buying the ticket at the regular price. In another case, we have seen tickets which we have issued for schools, intended for schoolchildren, being touted via eBay in that particular case. Who have lost out: the schoolchildren who cannot come to the event. There are a number of people who lose out from ticket touting.

Q14 Philip Davies: With a limited number of tickets only so many people can go, so the person who won out was the person who paid the tout for the ticket. If they had not had them they would have lost out. A punter somewhere would have lost out one way or another, whether you had ticket touting or not, would they not? One of them would not have been able to go.

Mr Horne: To use the children analogy, it is unreasonable to allow an open market to have adult access into an area that has been specifically designed to be sold for children. A similar analogy you could use for football.

Q15 Mr Sanders: If you are under 16 you go through a different turnstile at a football ground. Why can you not issue a ticket that is under 16 only with some form of ID? Therefore, somebody who is over 16 turning up, or looks over 16, will not be allowed in. It will be obvious that they fraudulently purchased a ticket. Actually is not the answer in your own hands?

Mr Bitel: If you cannot stop someone from selling a ticket then why should that be? If you see the evidence from the DTI who have complained that Glastonbury put photos on people’s tickets to prevent them being sold on, it is not just a question of the answer in our hands. We have got the DTI saying to us on occasions, “It is unreasonable for you to put a ticket condition which prevents it being sold on”. In those cases of the schoolchildren it would be unreasonable apparently, according to the DTI, for us to prevent them being sold on from schoolchildren.

Q16 Philip Davies: If I buy a ticket for a sports event and I cannot go, why should I not be able to sell that on to a friend, or give it on to a friend; or why should I not be able to pass it onto a family body else? Why should I have to hand it back to you?

Mr Bitel: If you cannot go you can get a refund from us; or, if you want to pass it onto a family member, usually under most circumstances we will say, yes.

Q17 Philip Davies: So you have not got a problem with people selling on tickets, or anything like that?

Mr Bitel: Selling on, yes.

Q18 Chairman: It is fair to say that you are extremely unusual in offering that refund policy. I know Wimbledon does but a lot of others do not. The RFU, and I believe a number of other sports, are now using viagogo for an arrangement as a secondary ticket market?

Mr Vaughan: Certainly not the RFU.

Q19 Chairman: Certainly two of your clubs?

Mr Vaughan: Two of our clubs which are independent businesses—and they drive their ticket sales in the best way can—do have an arrangement with Viagogo. I do not personally have a problem with these marketplaces, because that is what they are; they are allowing an opportunity for people to exchange tickets. It is whether or not you as the owner of the seat want to actually have your ticket traded in that way. We have had a discussion with viagogo, and a very positive discussion, because we are looking at ways in which we can enhance the exchange system. We have also done that with Ticketmaster, because we want the ability for people who cannot go to be able to get their ticket back to us so that we cannot actually send it on, as Nick said earlier, to the person who is next on the list who we recognise to be somebody who
Mr Vaughan: They are genuine marketplaces. eBay is a very good example and is a very good marketplace. In terms of its ticketing, it is able to control the types of tickets that go on there. For things like charitable concerts in Hyde Park, for instance, it is very easy to take them down; whereas in other things it seems to be extremely difficult for them to control. They will give you the numbers later probably, but about 60%-odd of people will only sell one or two tickets; but that also does not talk about the other 30-40% that sell multiple tickets. Whether it be rugby, concert, tennis or whatever, there are people on viagogo, certainly today, offering 18 tickets which do not exist yet. We are flabbergasted as to how that works. There must be a connection into some way of saying, “It’s an easy route through”; newspapers used to be the route years ago; this is just the electronic version of it.

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Mr Farrelly: The question was about the specialist, not eBay which sells tickets as well as unwanted Christmas presents. Do you have any evidence, being able to establish themselves, that these secondary sellers are more than just exchanges; that they actually are complicit and collaborate with organised touting operations with sophisticated application strategies?

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Mr Vaughan: First of all, some of the internet sales operations that you are seeing are purely touts in another form. We at Wimbledon have obtained injunctions against a number of ticket touts; it used to be street touts. We now know that they are running ticket sites on the Internet. They are not the exchange mechanisms; they are not the viagogos of this world; but for the punter they cannot see the difference between a “Sold Out Events”; if that is the name of the company, or “London Ticket Brokers” or “viagogo”. They do not see the difference when they are the customer. Secondly, some of the exchange companies are offering a facility which says that if you do not get your tickets we guarantee that you get the ticket. How do you do that in a marketplace where there are no legitimate tickets for you to access?

Mr Horne: The impact of prices in terms of the secondary market?

Mr Farrelly: Just the impact on pricing.

Mr Horne: In terms of the football fraternity we work very hard to maintain a reasonable level of ticket prices for tickets available (and I hate to use the word again because I know Adrian will pick up on it) to the genuine fans and genuine supporters. I know this is something keen to Alan’s heart. At both the Football Association or the premier league clubs, we work incredibly hard to keep ticket prices at a very reasonable level. We know, as Nick has highlighted already, that Cup Final tickets, for example that were a maximum price of £95, more widely available at £60 and £80, were trading hands for thousands and thousands of pounds. That is the only evidence I have specifically in relation to this.

Mr Bitel: We acted for UEFA and when the law was extended to cover England matches abroad we did not see much effect upon the ticket prices in the secondary market. It used to be illegal only to sell tickets for England matches at home and now it is for abroad. Certainly for the European matches we have not seen much difference.

Mr Farrelly: The introduction of controls in football following Hillsborough you would not say has produced any unintended and adverse consequences that affected fans?

Mr Bitel: I certainly would not.

Mr Horne: I do not think so, no. It is beneficial benefits of what have followed the introduction of legislation in football. We all know it came about because of segregation issues in the Taylor Report, and the idea that you want traceable tickets into fans; you know who is sitting there; and you have segregation at football.

Mr Keen: I will come back to Alex and Wembley. Philip raised the point about the prawn sandwich brigade. It is true, it is not, Alex, that the FA were reluctant to have to sell as many debentures as they have but that was essential, was it not, because of the financing of Wembley Stadium itself? Is it not true that fans whose team maybe gets to Wembley for the first time ever will pay almost anything to be there? Those fans who never complain about managers’ and players’
salaries, because they think they deserve it, they do object to having to pay over the odds for tickets where that money goes out of the game. Is that not really the main complaint that fans have?

Mr Horne: I think that is right. It is worth just reflecting on the ownership structure of Wembley Stadium. It is owned 100% by the Football Association and the profits generated ultimately by Wembley will be reinvested back into football, which is the argument drawn up in the Five Sports paper. Yes, we have sold 17,000 seats on a ten-year licence basis to finance the world’s largest and greatest stadium. To pick up on your other point, not only do fans probably object to being forced to pay substantial amounts of money for tickets, but fans would also object to having to buy tickets through routes, as I mentioned before, that are not safe for the consumer. They are not guaranteeing access to a stadium by having to resort to picking up tickets from internet sites; or indeed trying to get them on the street on the way into Wembley; and they cannot guarantee the atmosphere around them if they do not know whether they are going to be in with their own supporters. With a public order and protection hat on, as I mentioned in my opening statement, it is a very important aspect of the legislation for us because it enables us to track supporters of different teams into the appropriate ends of the stadium.

Q26 Adam Price: Shaun Woodward, the Minister who is appearing before us later, has said he thinks the majority of ticket buyers are relaxed about ticket resale. You have just said that the majority of fans object. Do you have any evidence of this? What is the view on this?

Mr Vaughan: If you want to buy a ticket you will never be upset by people selling you a ticket.

Q27 Adam Price: That seems a fair point! I know—I have been there myself.

Mr Vaughan: If you are trying to actually encourage kids to play the sport and keep the sport going for a longer time, it is the sport that loses out.

Mr Bitel: I think we all have had complaints from customers saying, “Why is it that your tickets are being sold at inflated prices”, and it turns out when we investigate that it is not us who is selling them. We have all experienced that and our ticket office this particular week with Wimbledon is full of complaints of that nature.

Q28 Paul Farrelly: We have got the Rugby World Cup coming up as the next major tournament in September, what is so special about the Olympics where the Government has accepted anti-touting restrictions and put in place legislation that should not apply to events like the Rugby World Cup, some of whose games are being played in Wales and Scotland?

Mr Vaughan: All major events have something about them which needs to be ensured, that if you are bidding for something as a country—and what has actually happened is that London, having won the Olympic bid, the Government has signed up to protection of ticket touting, that that should be extended through to big events like the Rugby World Cup who do want protection if they are going to move into new markets, or indeed come back to old markets. The Rugby World Cup has only been going since 1987, so when it wants to come back here we are going to have to be able to say to them, “We’ll protect your tickets”, because that is their key source of income, and they are not cheap tickets I have to say.

Mr Bitel: I am Chairman of the Major Events Panel of UK Sport and we are seeing more and more major events saying to us, “If you wish to bid you have to protect the tickets”. We are seeing that. The Rugby World Cup is one example. I know Scotland have a desire to bid against England maybe and others. Scotland maybe together with Wales, and maybe Ireland. Almost certainly the IRU is going to say, “You have to have this type of legislation in place”. The Cricket World Cup is another example. The Caribbean Islands—nine different sovereign nations introduced laws to outlaw ticket touting for the Cricket World Cup as part of a prerequisite of obtaining that event. I think if Britain wishes to attract more major events in the future we are certainly going to have to see that type of protection being extended. I think extending it to 2012 gave a legitimate expectation to a number of these major international sporting organisations that Britain will do likewise for their events as well.

Chairman: We need to move on. Thank you very much.

Memorandum submitted by The Concert Promoters Association Limited

I. EXECUTIVE SUMMARY AND INTRODUCTION TO THE CPA

1. The Concert Promoters Association (CPA) was formed in 1986. It now has 37 members (listed in full at Appendix 1) who are responsible for promoting at least 90% of contemporary music events in the UK ranging from club performances, theatre events, arena shows through to large summer festivals.³ The UK has one of the most vibrant and diverse live music scenes in the world. Its economic contribution in 2005 was more than 23 million concert goers contributing to a sector worth £500 million.

³ Not printed.
2. The CPA represents and promotes the interests of its members on a range of issues including work permit procedures, health and safety, licensing, insurance, security and policing. One of the main issues the CPA is currently engaged with is the detrimental impact ticket touting is having across our sector.

3. Touting is leading to fans being ripped off, priced out of events and denied standard consumer protections; artists and events losing fans’ goodwill and facing reputational damage; money being diverted away from the music sector—especially the smaller artists and events; increasing organisational costs incurred due to increased anti-touting arrangements, security and policing arrangements.

4. The Internet has fuelled a huge growth in touting by secondary ticket sellers which has brought an avalanche of problems for CPA members that are expanded upon in this submission.

5. The CPA were one of the organisations involved in the establishment of the DCMS Ticket Touting Summit. We have worked closely with the Government to see how the actions of touts can be addressed. We have also committed our own resources to tackling the problem. But as this submission will show, it is not a fight the CPA can win alone. We need the support of Government.

6. We very much welcome the Select Committee’s decision to inquire into this issue. We believe that the evidence you will see from us, and from others in the cultural and sporting sector, will lead the Committee to conclude that statutory regulation of the resale of tickets is now needed.

7. There are two legislative models we would urge you to look at. Our preferred option would be to build on the template that already exists in the UK—the ticket touting legislation that has been introduced for the 2012 Olympics (Appendix 5). This is fit for purpose, covers internet sales, and is the right model to be applied to the wider sporting and cultural sector. Most importantly, Parliament has already agreed this approach. What a wonderful legacy for the cultural and sporting sectors if the Olympics were to stimulate protection for all events.

8. Another model was recently introduced in Australia, where new legislation has been introduced that limits the resale of a ticket at anything over 10% of the face value (Appendix 6).

9. We have structured the submission that follows in line with the questions posed by the Committee’s terms of reference.

II. THE UNDERLYING CAUSES OF TICKET TOUTING, AND ITS IMPACT ON PERFORMERS, PROMOTERS AND THE PUBLIC

10. In pure economic terms, touting occurs because tickets are priced below the “market clearing” rate. This is not something we apologise for. In fact it is something CPA members are proud of. Tickets are priced at a rate that is sustainable for the long-term health of the industry.

11. CPA members often organise concerts where we could charge substantially more than the prices we do. Both CPA members and the artists we work for choose not to do this as this is not how they wish to treat their core fan base, nor would it be to the long-term benefit of themselves or the music sector.

12. The excitement generated at live concerts derives from full houses and the audience inside knowing there are others outside who would love to trade places. Full houses generate atmosphere and add to the demand for more live music that starts with those who missed tickets for the initial concert. Live music is best when it is enjoyed by real fans and those with the greatest appreciation of each artiste’s musical offerings; it is not the exclusive right of those with the deepest pockets.

13. To this end, tickets are priced to be affordable for the general public to the extent that the concert will reach sell out leaving a small excess in demand from fans without tickets. Those without still crave the live music experience and either go to that artistes’ next show or another similar artistes’ gigs.

14. Touting is the deliberate exploitation of fans by people who seek to make a profit out of the difference between the ticket price and what the market will bear. The CPA wholeheartedly endorses the comments of Tessa Jowell, the Secretary of State for Culture, Media and Sport:

“Pop concerts, sporting events and music festivals risk becoming the preserve of people with bulging wallets [... ] the innocent victim of ticket touting is the fan who has to pay through the nose for a vastly overpriced ticket to see their sporting, stage, or musical hero. These are the people we must protect”.

15. Touting has a detrimental effect on all of those involved in live music performances.

16. It prices real music fans out of being able to attend their favourite performances. The additional money spent by fans on touts is money that is “lost” from the music sector. It is likely to mean that less overall money will be spent on the music sector as fans will see their disposable income fall. This will particularly hurt smaller performers and venues but will also have a detrimental knock-on effect as spending decreases on related sectors such as the artistes’ recorded music.

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4 Not printed.
5 Not printed.
17. Money is also lost from the Treasury as many touts do not pay VAT on their sales or income tax on their profits.

18. Touting undermines consumer protection. All of the standard consumer protection mechanisms are rendered redundant when a ticket is transferred. This means that should someone buy a ticket for an event that is cancelled, say due to illness as occurred recently with some Kylie Minogue concerts, or due to adverse weather such as the forced cancellation of the 2006–07 New Years Eve Celebrations, the ticket holder has no right to a refund from the secondary reseller.

19. The recent collapse of TicketTout.com, a secondary touting business, who went into administration with debts of more than £1.5 million letting down thousands of fans who received no refunds for tickets they had paid many times above face value for, demonstrates the scale of the problem.

20. Lane Bednash, the official receiver into the collapse of TicketTout.com commented on this case: 

“|I was only appointed as administrator a week ago, but even in that short time I’d have to say that I’ve never seen a business in so much need of regulation. |

Ticket Touting case studies

Recent TV consumer programmes such as the BBC’s Watchdog and also the BBC’s Inside Out have followed the consumers experiences at the hands of touts. A couple of female teenagers were left alone hundreds of miles from home outside the T In The Park Festival, Scotland when the tout who had their tickets failed to show up for 30 hours.

Cliff Richard appeared on Watchdog in response to touts selling “Front Row Seats” to his longtime devoted fanbase prior to any of his tickets being released thus demonstrating all these “Official Secondary Agents” were trading fraudulently. Four students in Nottingham paid £883 on an internet site for 4 tickets to see the Killers (face value £26.50 each). The tickets never materialized and no refund was forthcoming.

Inside Out filmed scores of touts queuing for Take That tickets the day they went on sale and buying up hundreds of tickets quite legitimately but clearly for immediate resale for profit. The same programme captured footage of Coldplay fans in tears let down by touts who had charged extortionate rates for “best seats” only to turn up (after the band had taken to the stage) with scraps of some of the worst seats they had bought from other customers on the way in who had “spare” tickets. These incidents were all filmed by the BBC. Every night of every week the CPA members are having to deal with similar scenarios the length and breadth of the country.

“Future” Sales

21. Touts often offer tickets for sale for concerts that do not exist, or before the tickets have actually been sold and distributed.

22. The problem with these “future” sales is that it encourages a demand that the agencies then have to supply. There are only two outcomes to such a scenario:

(i) touts secure advance funds with which they enter the market place seeking to purchase tickets using any means available, or

(ii) the fans who think they have bought tickets are subsequently disappointed when the touting operation cannot supply them, or the tickets that are supplied are subsequently declared invalid.

Ticket Touting case study

Prior to the announcement of the last Robbie Williams UK Tour, internet touts were offering tickets for sale at the City of Manchester Stadium and Cardiff Millennium Stadium. Robbie was actually only ever going to be playing in Leeds and London. When the official dates were announced thousands of fans held off as they believed new dates would be added in Manchester and Cardiff. When the CPA member press released the gigs were sold out and no further dates to be added the Manchester Evening News responded with the headline “Robbie Snubs Manchester” and carried the story of all the fans disappointed he wasn’t coming “as advertised” by what turned out to be fraudsters.

Those who had “bought” for Manchester and Cardiff were told there was no refund and instead they had to travel the hundreds of miles to the different venues which also happened to be two months after the speculators had sold tickets for.

To compound these problems, as it transpires Wembley Stadium did not get built in time to host Robbie’s concerts, five sold out nights at Wembley on 65,000 capacity per night had to be relocated to Milton Keynes. Naturally the promoter offered a refund to any ticket holder who did not want to attend the rescheduled shows at Milton Keynes instead of Wembley. Over 50,000 people asked for a refund as (a) there are no seats at Milton Keynes, (b) they didn’t want to travel to Milton Keynes and (c) the reason they bought in the first

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III. WHETHER OR NOT THE RESALE OF A TICKET, AT FACE VALUE OR AT A HIGHER VALUE, SHOULD BE PERMITTED IN PRINCIPLE; AND WHETHER THE ACCEPTABILITY OR OTHERWISE OF RESALE DEPENDS ON THE CIRCUMSTANCES IN WHICH TICKETS ARE OFFERED FOR RESALE

23. As a matter of principle, the CPA believes that tickets should not be resold for commercial gain. The CPA is not opposed to fans buying tickets for friends and family or transferring tickets at face value. CPA members are also committed to the further introduction of ticket resale mechanisms where fans can sell tickets at the price they originally paid—but we can only extend this service once legislation is introduced to ensure it is not abused by touts.

24. The resale of tickets should be in accordance with the terms and conditions under which they are sold. This creates clarity for the consumer and ensures the protection of the artiste, promoter and event organiser who are selling a licence to enter their performance on private property.

25. CPA members restrict the commercial sale (and resale) of their tickets to authorised people and agents. This allows for the promoter to ensure that tickets are sold within appropriate guidelines at reasonable prices, and through distribution methods that ensure access for fan club members and the general public.

26. The terms and conditions on tickets make it clear that if the ticket is sold without authorisation then it is void. The subsequent purchaser is liable to be prevented from entering the event.

27. Members of the CPA also apply a Term and Condition similar to the following to their tickets:

“Tickets are strictly non-transferable for profit or commercial gain and must not be sold for profit or commercial gain, or advertised for sale anywhere for profit or commercial gain”.

28. Importantly, this term allows for the resale of the ticket; but not for commercial gain. There is nothing wrong with a person buying a ticket for a family member or friends. Neither is someone who decides not to attend an event (for whatever reason) prohibited from reselling the ticket for the price they paid.

29. The CPA also works closely with the Society of Ticket Agents and Retailers (STAR). STAR was formed by the entertainment ticketing industry in November 1997 to provide self-regulation within the industry, promote high standards of service to consumers and enhance and promote the public perception of the primary ticket market.

30. STAR members operate within a strict, customer focused, Code of Practice and the Society operates an independent mechanism to help customers in the event of unresolved complaints against members.

31. The consumer should also have the right to see the exact location (block, row and seat number) of the ticket they are buying and proof that the seller is in possession of that ticket. The Internet allows fraudsters to hide behind official looking websites and offer tickets for sale they do not possess as well as offer the very best seats in the house which they do not possess.

32. The CPA currently cannot offer a blanket refund policy whilst touting is so openly accepted. To do so would further encourage touting as touts would simply use promoters as a clearing house—purchasing as many tickets as they can knowing that any they could not sell would be returned to the promoter for a refund.

33. The CPA have committed that as soon as the Government is able to assist with protecting the terms and conditions applied to concert tickets by legislating against the secondary resale for commercial gain, that all CPA members will only sell tickets through STAR ticket agents and that all of them will offer customers a resale mechanism should they no longer be able to attend the concert.

34. The customer therefore simply has to contact the original point of purchase, that initial ticket will be cancelled and offered for resale at face value. Once the new transaction is complete, the original purchaser will be refunded their monies.

IV. THE IMPACT OF THE INTERNET UPON THE TRADE IN TICKETS

35. The Internet has had a huge impact on the prevalence of ticket touting. It is a perfect forum for putting a buyer and seller in touch.

36. The Internet has revolutionised the way in which tickets are sold. On the whole this has been a positive force as it has allowed people to buy tickets without having to visit a box office or make a lengthy telephone call. Ticket buyers can also use internet services to secure far more information about the tickets they are buying.
37. Unfortunately these on-line processes are easily exploited by touts who now systematically infiltrate booking systems and sales mechanisms. The Internet also allows touts to find a market for their ticket, using internet auction sites, message boards and authorised ticketing agents.

38. On Monday 4 June a search on Google using the words “Concert tickets” produces a plethora of on-line secondary ticket agents all of whom are selling tickets for this summer’s major concerts at greatly inflated prices. Attached as Appendix 2 to this submission are more illustrations at the scale of touting on the Internet.8

39. On 4 June 2007, the CPA searched for tickets on eBay, and found 12,697 tickets for sale. Almost all of them are concert and sports events for which the ticket terms and conditions are being breached by their sale on eBay.

40. Such is the amount of business that eBay now generates through secondary ticket sales that a search on Google for almost any artiste name followed by the word ticket will generate a paid for advert by eBay to drive would be customers to their site of unauthorized sales. eBay, however, refuse to take commercial paid for adverts from legitimate concert promoters who could advertise forthcoming shows and the availability of tickets. Clearly they see their position in the marketplace as being more lucrative working against concert promoters rather than with them.

41. Investigations undertaken by the CPA last year of ticket sellers on eBay found that many people are using eBay as a platform to operate as ticket touts. These results are set out in Appendix 3.9

42. The Committee will see sellers such as “polatic–asthmatic” who had a monthly touting turnover of £6,356 in July 2006, “soldouteventz” who was selling £11,240 of touted tickets for Guns N Roses that month.

V. WHETHER OR NOT TICKETS’ TERMS AND CONDITIONS BANNING TRANSFER AND ONWARD SALE ARE FAIR OR ENFORCEABLE

43. The CPA believes that conditions prohibiting transfer are fair. As we have already set out, these conditions are not intended to prevent transfer between friends and families or even non-commercial transfer. But we do believe it is fair to try and protect fans and consumers from people who simply act to remove value from the market.

44. We are also not opposed to transfer when someone cannot attend. CPA members are happy for people to sell on their tickets at face value, or return them to us to be put up for sale again. Indeed we are committed to introduce a resale mechanism for every concert in the UK as soon as anti touting measures are introduced by the Government.

45. It is currently difficult to enforce the anti touting terms we apply to tickets. This is partly because the auction sites and ticketing shops deliberately allow people to hide the ticket’s details and turn a blind eye to tickets being sold that are contravening their terms and conditions.

46. Government regulation is now needed to enable us to enforce ticketing terms and conditions.

VI. THE MERITS OF NEW APPROACHES BY TICKET AGENTS ATTEMPTING TO PREVENT TRANSFER OF TICKETS, INCLUDING WIDER USE OF PERSONAL ID

47. Concert promoters are constantly reviewing the mechanisms available to us to prevent ticket touting. We are spending more and more time and resources on tackling the problem. Just this week T-in-the Park made another 1,000 tickets available as a result of action to cancel tickets that had been sold by touts.

48. But there is only so much that concert promoters can do alone. The CPA do not believe it is practical to inconvenience 99% of the concert going public by asking them to provide ID at every concert they attend. Where does it stop? At the theatre? Cinema?

49. Glastonbury Festival saw its applications for Festival tickets drop dramatically due to the complex nature of the application procedure where genuine fans were asked to upload a photograph of themselves to be printed on the Festival ticket.

Ticket Touting case study

BBC Radio 1 have an annual “Big Weekend” which is a free Weekend Festival broadcast live on Radio 1 and BBC TV. This year 500,000 people applied for just 35,000 tickets. The ticket ballot separated every applicant by postcode and name and credit card to ensure no one person was able to win more than one pair of tickets. The tickets were bar coded to prevent forgery and the winners’ details were printed on the tickets. The tickets were not sent out until 48 hours before the event.

8 Not printed.
9 Not printed.
However despite all these efforts these tickets that the BBC gave away totally free were up on sale for hundreds of pounds on eBay within hours of their release. Sellers were offering fake ID to go with the tickets. As there is so much demand for the event inevitably there was a huge demand from people wishing to purchase them. DCMS Minister Shaun Woodward wrote to eBay asking them to take down sales for this event. eBay refused despite their having signed up to a voluntary code applied by the DCMS to act against ticket touting.

Ticket Touting case study

The Arctic Monkeys, one of the most sought after tickets in the UK have issued tickets for their forthcoming shows at Lancashire Cricket Club, their biggest concerts to date, as “Print At Home” tickets, similar to Easy Jet etc. Therefore the valid portion of the ticket is the barcode. This is designed to limit touting. The barcode will only gain entrance to the venue once and thereby invalidate all other copies with the same barcode. Yet there is also a danger that people will sell on barcodes that do not work. Despite the obvious high risk therefore of buying in the secondary market the demand for tickets is from commercially naïve but hugely enthusiastic young fans who are blind to the dangers of fraud due to their desire to be amongst the audience, that to them will be such an historic occasion.

50. The CPA has sought to persuade secondary agents to work with us to prevent touting. Last year we wrote to eBay asking them to help uphold the Statement of Principles agreed by all parties who attend the DCMS Ticket Touting Summit under Tessa Jowell’s leadership. A copy of this letter is attached as Appendix 4.10

51. In summary we asked eBay to:

— Provide all key ticketing details on listings on their site. This includes block, row and seat number and the terms and conditions that make it an offence for the ticket to be transferred.
— Provide the CPA with the details of known touts operating on their site so that we can block their access to tickets.
— Allow primary agents to advertise on eBay so that we can help divert fans away from the rip-off merchants.
— Enter into a memorandum of understanding between eBay and Concert promoters to restrict the sale of tickets for high profile events attracting a lot of touting activity.
— Introduce official “buy-it-now” selling at which tickets could be resold at the original face value price.

52. eBay declined all of these opportunities. This demonstrates to the CPA that they are deliberately and knowingly in alliance with the touts.

53. The failure of the DCMS Summits to secure a voluntary self-regulation demonstrate that the regulation of this sector is now needed.

VII. WHETHER OR NOT THE EXISTING OFFENCES OF SALE BY AN UNAUTHORISED PERSON IN A PUBLIC PLACE OF A TICKET FOR A DESIGNATED FOOTBALL MATCH, OR FOR EVENTS AT THE LONDON 2012 GAMES, SHOULD BE EXTENDED TO COVER OTHER SPORTING OR CULTURAL EVENTS

54. There are two legislative models we would urge you the Committee to consider.

55. The first, and by far our preferred option, would be to build on the legislative framework that already exists in the UK in the form of the ticket touting legislation that has been introduced for the 2012 Olympics. (Also see Appendix 5):11

31 Sale of tickets

(1) A person commits an offence if he sells an Olympic ticket—

(a) in a public place or in the course of a business, and
(b) otherwise than in accordance with a written authorisation issued by the London Organising Committee.

(2) For the purposes of subsection (1)—

(a) “Olympic ticket” means anything which is or purports to be a ticket for one or more London Olympic events,
(b) a reference to selling a ticket includes a reference to:
   (i) offering to sell a ticket,
   (ii) exposing a ticket for sale,
   (iii) advertising that a ticket is available for purchase, and
   (iv) giving, or offering to give, a ticket to a person who pays or agrees to pay for some other
   goods or services, and

(c) a person shall (without prejudice to the generality of subsection (1)(a)) be treated as acting in
   the course of a business if he does anything as a result of which he makes a profit or aims to
   make a profit.

56. Section 31 of the London Olympics and Paralympics Act 2006 is proven as fit for purpose, covers
internet sales, and is the right model to be applied to the wider sporting and cultural sector.

57. The CPA supports the protection given to the Olympics. But we do not see why the rest of the sector
has to be second class citizens.

58. Another option the Committee might consider comes from Australia, where new legislation has been
introduced that limits the resale of a ticket at anything over 10% of the face value. See Appendix 6 for a copy
of this legislation.¹²

59. The Queensland Parliament has issued explanatory notes to explain the legislation, they state:
   “These laws have been passed laws to make ticket scalping an offence. They are designed to allow
genuine fans a fair and equitable opportunity to purchase tickets to events. These laws will protect
genuine fans, supporters, promoters, sporting bodies and sponsors alike by making it an offence
to purchase a ticket simply for the purpose of profiteering.

The Act does not aim to restrict people’s ability to resell tickets where they have a genuine need
to do so and where the transfer of the ticket is allowable under the ticketing conditions.
The 10% margin enables people who are unable to attend an event to recoup the ticket price and
any costs associated with the ticket resale. In addition, an exemption is provided to allow for the
lawful resale of tickets above the 10% margin by non-profit organisations for fundraising
purposes.”

The CPA urges the Select Committee to protect fans of music, artistes, and event organisers by
recommending to government that it brings in regulations to prevent the touting of tickets

June 2007

Memorandum submitted by National Arenas Association and Nottingham Arena

I write to you in your capacity as Inquiry Manager—DCMS Select Committee into ticket touting in a dual
capacity as Chair of the National Arenas Association (NAA) and as Chief Executive, Nottingham Arena.

The NAA is the trade representative body incorporating 15 of the major Arena venues in the UK. To
qualify for membership each arena has to have an audience capacity of at least 5,000 people.

The NAA member venues play a significant part in the live music industry catering for in excess of eight
million customers per year across the entire range of music genre!

Needless to say it is the venue managers and support staff that have to deal with the myriad of problems
experienced on the night by members of the public that have been “ripped off” by unauthorised and totally
unscrupulous ticket touts such as:

— The ticket tout (having extracted the money via a website credit card transaction) doesn’t turn up
to hand over the tickets.

— The “front row seat ticket” purchased in good faith by the member of the public at a premium rate
is located at the rear of the arena or has a restricted view.

— Tickets have been sold on the basis that certain performers are playing [. . .] when in fact they
are not.

— Tickets have appeared on eBay and other sites for shows that haven’t actually gone on sale and
couldn’t possibly be in the ownership of the seller.

— Tickets for seating reserved for disabled people sold at premium rates.

— Forged tickets.

¹² Not printed.
These are just some examples of the type of issue all the NAA venue managers have had to deal with more and more frequently and it is no different at the Nottingham Arena in my capacity of Chief Executive.

I can assure the Select Committee that when members of the public are turned away from a show they have been looking forward to often for several months, or they haven’t got seats in the correct location it is a very traumatic experience for these customers especially when the person realises they may have just lost several hundred pounds on top of the cost of travelling to the venue and, in some cases, overnight accommodation.

Whilst there have been no recorded instances of public order problems to date, heated exchanges have taken place at NAA venues between dissatisfied customers and ticket touts requiring intervention by the venue security teams.

I also have other concerns regarding the ticket touting issue including the loss of VAT on the inflated ticket price to the Treasury, and the fact that the originator of the music played at the event is being cheated of revenue that is rightly theirs as royalty payments via the Performing Rights Society (PRS) are calculated on the gross ticket sales at face value.

There is also no doubt in my mind that the future wellbeing of the live music industry could be put into jeopardy if tickets continue to be available at grossly inflated prices only for those that can afford to pay the extortionate prices. This practice, even when it involves only a couple of extra tickets purchased by a “bedroom” tout, for example, a student who is lucky enough to access tickets when they go on sale who buys four tickets keeps two and sells the remaining pair of tickets on the Internet at an inflated price is still preventing young people in particular from attending live shows. In other words, the touts are pricing tickets out of the reach of the future supporters of our industry.

The NAA is committed to helping the DCMS in finding a solution to ticket touting having been an active member of the Summit Meetings convened by Tessa Jowell, Secretary of State for Culture, Media and Sport over the past eighteen months or so.

The commitment in attending the Summit Meetings, and the actions already taken by the stakeholders in the live music industry and those involved in the staging of major sporting events clearly demonstrates the importance of this issue, and I would urge the Select Committee to take the appropriate action to stamp out this unfair, illegal and unscrupulous practice.

June 2007

Witnesses: Mr Harvey Goldsmith CBE, Mr Rob Ballantine, Chairman, Concert Promoters Association, Mr Geoff Ellis, Chief Executive, DF Concerts and Mr Geoff Huckstep, Chief Executive, Nottingham Arena and National Ice Centre, gave evidence.

Chairman: For our next session can I welcome Harvey Goldsmith, Rob Ballantine, Chairman of Concert Promoters Association, Geoff Ellis the Chief Executive of DF Concerts and Geoff Huckstep, Chairman of the National Arenas Association.

Q29 Philip Davies: If I was a promoter and determined to stop ticket touts from selling tickets to my events there are a number of things I would do. I would make sure that everybody was entitled to a refund, which does not always happen with every event; I would make sure that my tickets were available to be purchased in an evening and at unsocial hours, rather than at a time when people are at work to give people a proper chance of getting a ticket, rather than not; and I would make sure that if I sold my tickets in blocks so I kept some tickets still for sale right up to the final week of the event. If you are so bothered about ticket touting, why is it that many of you do not do any of those things, because it strikes me that you really cannot take it that seriously in that case?

Mr Ballantine: We could not be taking it more seriously, it is our living; it is how we make money. We are risk-takers; we guarantee income to artists; we guarantee income to venues; and we have to put money on the table to market and advertise the events. We want to sell as many tickets as we can, as broadly as we can; so tickets are on sale 24 hours around the clock. We would love to offer refunds. What we have guaranteed to do is, as soon as you give us some help against touting, we will issue a resale policy, whereby if you cannot attend the gig you take it back to the point of purchase and we will put it back on sale once the primary tickets are sold out so that the customers can come along to a one-stop-shop to buy the next tickets. Unfortunately what we will refuse to do at the moment is be a clearing house for touts because, using your analogy, if I was a tout and refunds were offered I would simply buy as many tickets as I could to as many concerts, try and flog them for as great a profit as I could, and any unsold I would go back to the box office the day before and say, “Sorry, I can’t attend for these 120 tickets I’ve got, give me my money back”.

Q30 Philip Davies: The other thing you can do is restrict the number of tickets you sell to one person. Mr Ballantine: We do that. For example, the Take That tour that caused so much press is very much about groups of females going out from offices, schools or wherever in their groups for a night out and you need to be able to offer them six seats together; and even then we had complaints that it was not enough. As the BBC TV showed when they were filming the queues, there were just queues and
queues of young teenage boys who were clearly taking the day off school, bunking off work and buying up as many tickets as they could to go straight onto the secondary market. It is very, very difficult to penalise the public and prevent the public going to concerts in the way they want to go to concerts for the prevention of those few percentage who go with the intention of touting tickets.

**Mr Ellis:** On blocks of sale it is quite common for outdoor shows to go on sale with the initial allocation of tickets and then, once the final capacity is agreed, more tickets are released closer to the event. With festivals quite often we have put tickets on sale early opportunity this ye ya actually if I do not buy a ticket because I am a genuine fan but I might be at work and I do not really know that I can go so I hold off buying a ticket, when I decide I can go to this performance, under your regime I would be scuppered because all the tickets would have been sold. In fact touting gives me the only opportunity I have got to go to that event, because I can look up and find that somebody is actually selling me a ticket; and I can make a decision whether or not I want to go to that event. I can make that choice. If I do not want to pay the price they are asking that is my choice. Actually touting gives me the only opportunity I have got to go to your event, because otherwise it all would have been cleaned out by genuine fans?

**Mr Goldsmith:** The great opportunity you and the rest of this Committee have is to stop this, because only you people can stop these touts getting hold of the tickets in the first place. We have already seen the statistics that 60% of people selling on eBay sell one or two tickets and that is it. What is a ticket tout? A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportunist. A ticket tout is an opportun

Q32 Philip Davies: Finally, what evidence have you got to eliminate ticket touting? What evidence have you got that any government legislation or any ban would eliminate ticket touting? If we stopped people on eBay selling tickets are you really naïve enough to think that would be the end of ticket touting, and it would not just be driven underground? Who is going to police this? Are you really asking that my local police force that are stretched for resources, and people who ring up with burglaries and cannot get somebody to come, you are saying that my punters should expect the police to scrap all their burglaries and their shoplifting and come and rescue you from the situation you have got yourselves into?

**Mr Goldsmith:** The police are there anyway. I went to Wembley Stadium two Saturdays ago and from coming out of the station—because it was the first time I had been there and wanted to experience it as
if I were regular customer—I counted 23 policemen with their flak jackets ready for World War Three, machine guns and God knows what else—Wembley Station. Walking down the steps, more policemen. I counted about 12 or 14 Wembley stewards also patrolling up and down. Then I was confronted, at my count, with 43 ticket touts who were harassing people coming through trying to buy, trying to sell; trying to do some deal; pushing people, “Can you buy this one”. The 23 policemen were there whether the touts were there or not. All they had to do was look one stage further and protect the public who genuinely wanted to go to Wembley Stadium to see a show, who were not there for a riot and do not want to be harassed by these people.

**Mr Ballantine:** Actually we were paying for that police service to be there. No, we are not asking for the police to police anti-touting. We have said all along we will do this ourselves within the industry. If you say to the industry, “Okay touting is now illegal”—as the IOC demanded that you have done for the Olympics, which is a fantastic step and should be taken forward with every major event in this country—if you say that, well, straightaway we are able to police all these bedroom touts on eBay and the majority of them will stop because they are not lawbreakers, they are opportunists. If it is against the law they will stop straightaway. Look at how many tickets will be touted for the Olympics—hardly any. No, it is not going to go away completely, we are realists. We know there is going to be some underground stuff, but at least if you are buying a ticket from a tout on the street you can see he has got it; not these fraudsters who advertise tickets, none of which exist but they are asking for your money.

**Q33 Mr Sanders:** That is a criminal offence already. If you put on an act in the Wembley Arena that could have filled the Wembley Stadium you are going to get touts; but if you put an act on in Wembley Stadium that could only fill the Wembley Arena you are not going to get touts, so it is actually about supply and demand.

**Mr Ballantine:** Yes, it is but we are not a supply and demand industry. What we are trying to do is fill every venue and leave a small demand left over and hope that we can entice those people either to the next concert we are promoting, or the next tour that that band are doing. You would not enjoy a concert if you went along to Wembley Stadium and there were 10,000 people there because there is no atmosphere. You have to generate full houses and get the atmosphere going. It is a very, very careful balance that we do; and we keep those ticket prices low and affordable to ensure that those venues are full and full of fans who want to spend their money on concerts; want to go to ten concerts a year and the majority of them will stop straightaway. Look at how many tickets will be touted for the Olympics—hardly any. No, it is not going to go away completely, we are realists. We know there is going to be some underground stuff, but at least if you are buying a ticket from a tout on the street you can see he has got it; not these fraudsters who advertise tickets, none of which exist but they are asking for your money.

**Q34 Helen Southworth:** In those terms then what would you recommend in terms of the code of conduct for resales?

**Mr Ballantine:** For a resale what we are planning to do, what we cannot do is offer complete refunds. For example, Glastonbury last weekend, a £20 million outlay to build a site, pay the artists, get everything ready, torrential rain the week before; ten thousand people probably would claim they had a relative die or something meant they could not attend and they would ask for a refund; that would make the Glastonbury organisation go bust. That is £1.5 million they need to refund and people do not make those sorts of profits. That festival would end overnight. We therefore cannot issue complete refunds for people who simply change their minds because we build the event depending on the ticket sales. Once a promoter guarantees the artist and the venue the money, then the artist goes and designs that tour, the expenses are taken on and that money is on the table. If then the customers come up and ask for a refund two days before and you have not got a chance to resell them that is where promoters would be going bankrupt left, right and centre. What we will offer though is a resale policy if you cannot attend the event for whatever reason, as soon as there is any sort of legislation to help out because otherwise we are simply going to be acting as a clearing house for touts.

**Q35 Helen Southworth:** Just give us the detail of what this policy would contain at some point in the future then?

**Mr Ballantine:** The customer goes back to the point of purchase where they bought their ticket from and says, “I can’t attend the gig. There’s my ticket back”. You should get the full face value back because the ticket will be offered for resale; so as and when tickets are sold out all your tickets go on sale. Consumers who have not got tickets then only have to check with the primary ticket agent—usually the venue box office so they do not have to go through viagogo and Seatwave and eBay, and all these people making an extra layer of margin out of it. They go back to the primary point of sale always and they can ask exactly where the ticket is located.
Q36 Helen Southworth: But you would only do that when all your other tickets had been sold?  
Mr Ballantine: Of course, that is the only model we can support, otherwise the touts are just going along and they will buy a load of tickets and when they do not sell them they will take them all back to us. We cannot finance that. It is bad enough having to cope with touts in the market now, let alone us being the clearing house for them and financially supporting them.

Q37 Helen Southworth: Is that an industry agreement?  
Mr Ballantine: Yes, absolutely everybody. You have seen the letter we put in, I hope. I have never seen so many signatories come from so many competing parties, all united. The strength of feeling of this is incredible out there. It is absolutely unbelievable. The industry feels that this is a real turning point for us, and we are desperately trying to hold on to our members. We do not operate like the RFU or Wimbledon, who commendably look after the schools. The CPA are a bunch of individual entrepreneurs and we are trying to hold everybody together until we get through this process before our members say, "I'm sorry, but I've had enough of everybody else making profits on the secondary market. We are now going to auction percentages of our tickets". Those promoters will just explode onto the market and replace the touts that are selling on the secondary market, and the public is going to lose out hugely. That is why we have come here today to say, “Please protect the public from what is an inevitable economic explosion”.

Mr Goldsmith: In essence, I guess I am stating the obvious, but we are the people who are investing in our industry. We are nurturing the talent right the way through to hopeful success where there is that kind of demand. Equally, we have to have a balance. All alongside our industry, as I said before all the people employed alongside it, we also nurture and develop. We do consider ourselves to be a professional body and we are genuinely trying to deal with this. Not only is it affecting the genuine music and sports fans but, as you well know, in the West End with theatre tickets, people are coming in from all over the world and part of their experience is to go to the West End and go to events, even to go to the very popular art exhibitions, and what they are faced with is this whole secondary touting market. It is doing all of us a disservice.

Q38 Helen Southworth: At the moment people could say that your market is what is creating the markets for touts?  
Mr Ballantine: Yes, because we have priced realistically.

Q39 Helen Southworth: Your market is currently creating that market. Why should not fans who cannot use tickets currently be offered a resale just because touts might be interested?  
Mr Ballantine: They are. Traditionally over the years we have always given refunds to fans. We cannot openly say it but when people come back for genuine reasons, do we give refunds? Yes; especially on sold out shows because we know we can get rid of the tickets straight away. There are ticket exchange mechanisms out there: there are ticket refund mechanisms out there; what we are saying is, “Let’s end all this confusion. We are going to go with one resale policy that every single member will sign up to”. It is going to be out there and published that every ticket will be sold with a stamp from the Society of Ticket Agents and Retailers (STAR); so we are hoping that STAR will become as well known as ABTA amongst consumers, and consumers will know to only go to a STAR agent. Where you say that we are creating that market, I do not know how many of you have heard of The Fratellis, how many of you have heard of Muse, how many of you have heard of The View; however, you have all heard of the Arctic Monkeys. This is a band that has got this huge media hype going on around it: does that give us the right, therefore, to charge £60 for the Arctic Monkeys’ tickets because everybody knows about them and there is this huge media hype? We are promoting them outdoors in a couple of weeks time: £28.50 for a ticket. That is not market value but the band have only just released their second album; they know they have got to reward those fans who have been following them around the clubs paying £7.50 and £12.50 building them up to the place where they have one of the biggest selling albums of last year in the country. Those fans need to come along and feel that they have had genuine value for money. They are getting five bands for £28.50 and probably one of the greatest concerts this summer. We know we could have charged three figures for that, but those fans would then not necessarily come back. They will say, “Well, it was alright but it wasn’t worth a hundred quid”, and the damage is done.

Mr Ellis: Sustainability is very important for our business because we are developing new talent as well as the Arctic Monkeys. We are bringing along the next Arctic Monkeys. We need music fans to have enough money to go and see the club show that might only be £5, £6 or £7 and is not sold out. We need money out there in the marketplace to support that, as do the sporting bodies. The economic impact is also greater; if somebody can attend six concerts at £30 rather than one concert at £180 a go, they are going out more often and therefore they are spending more money, and therefore there is the drip-feed factor throughout the tourism industry as well.

Mr Huckstep: Can I just endorse what Geoff has said there. It costs a fantastic amount of money to build these things, we have seen it with the Wembley Stadium. The Nottingham Arena was £43 million of local investment, city council investment and Sport England investment. That has got to be sustained. We rely on the concert promoters to bring us regular business. If the fans were priced out of the market then the future for Nottingham Arena and other arenas is very much in doubt.

Q40 Helen Southworth: Can I just clarify that at the moment the majority of sales on eBay are private sales. Are you requesting that those be outlawed totally, or is it touts?
Mr Goldsmith: We want to outlaw the whole secondary market. A ticket is currency. I am not aware there is a secondary market in pound notes that you as MPs endorse. We consider our ticket to be currency, and it is important. We want eBay to take the “ticket” off their inventory because they do not need it. We want to have some help in order for us to help give the genuine word to public that support us, and we in turn support them by giving them the talent and the artists they want to see by having a concise, understandable marketplace that is genuine.

Q41 Adam Price: You mentioned some promoters being tempted down the route of auctioning as a response to what has happened. Has that already begun to happen?  
Mr Ballantine: Yes, it is absolutely rife in America. The American live music industry is very interesting, where scalping took on a whole new head of steam there with the introduction of Seatwave, viagogo, eBay et cetera et cetera. Booking fees went through the roof, so you would pay 25% booking fees on average there instead of the 10-15% you pay over here. The amount of money over and above the face value of a ticket you pay there is absolutely enormous. Agents and managers in America are seeing that the secondary market is taking money out of the industry and, therefore, they are thinking, “We could do this ourselves. We’ll auction best seats. We’ll auction front row tickets. We’ll wrap around a package where you get VIP hospitality beforehand”, and their price is going up and up and the live market attendances are going down and down because people simply do not have the money to sustain that. If you are the manager of a band and you think that band has a 15-year shelf life and if you think “I’ll just make as much as I can for that and then I’m out”, then you are going to grab as much as you can. I think I speak for all of us when I say we are here long-term and we are looking for a long-term to protect what is one of the world’s greatest industries based here in the UK.

Mr Ballantine: We individuals here have never run any auctions or anything. What I am saying here though is we are not a regulatory body like, say, the FA.

Q43 Adam Price: How do you respond to be NME poll, which showed that 84% of their readers said that tickets were just like any other property that you should be able to sell?  
Mr Ballantine: That is a select part of the NME poll that has come out. It also reveals “Which of the following, if any, do you think should be made illegal: ticket touting, online auction?” 59% agreed to that. “Do you think selling tickets by auction is acceptable?” No, 67%. I am not doing the NME down but it was a quick straw poll and the secondary market have hung on to this one question like it is the greatest poll that was ever written. That one answer is not reflective of what the fans say in this poll.

Q44 Chairman: I have a cutting from the NME which says “70% of NME readers voted for a complete ban on ticket touting.” It depends which question you ask, as with most polls.

Mr Ellis: Can I add that the Sun did a poll as well and 76% of Sun readers want legislation and only 7% do not agree with legislation. That was in the Sun a few weeks ago.

Chairman: We all have experience of misleading polls.

Q45 Rosemary McKenna: Briefly—and I do know who the Fratellis are—particularly to you, Geoff. T in the Park has been incredibly successful and has grown and grown over the years, but there is a real concern now about young people being ripped off, people buying tickets simply to sell them on eBay. There was a case of a young man who bought a ticket from a fraudulent site. What are you doing to try to address that? 

Mr Ellis: We are working with Ticketmaster, who have a system called Access Manager which means all tickets are bar-coded, which means if we find tickets are being sold on the secondary market, we can cancel them, providing the ticket numbers are placed on the website. Unfortunately, a lot of people cover up the numbers. We have examples of people putting tape over the tickets when they put them up. We are able to cancel tickets with our Access Manager system. That helps us. We do limit them to two per person this year. I have had letters of complaint from families saying, “We can’t go now” but if we make it four per person, we play into the hands of touts, so it is difficult. We do what we can. We feel we price the event fairly but we are up against it without legislation. Philip says it is a different issue to the one of fraudulent sales, but it actually is not, because the fraudsters hide behind the ticket touts. We have had lots of examples of scores of people outside T in the Park who have travelled long distances, their tickets never arrived, they were never delivered, so they could not get into the event, which gives us a welfare issue as well, because we have people who have travelled long distances, were planning to stay there for the
weekend and we have to try and get them home. We are having to bus people back, put them in taxis and so on at our expense. You could say that was not ticket touting, it was fraud but that fraud takes place on eBay as well. I had an e-mail from somebody yesterday who spent £1,200 on six tickets from eBay and their tickets have never shown up. The fraudulent activity is going on because of a lack of legislation.

**Q46 Rosemary McKenna:** If there were legislation, it would stop that as well?

**Mr Ellis:** It would.

**Q47 Rosemary McKenna:** I just wonder how we would do it. For example, currently on eBay you have this great thing, the high-street stores, the Kate Moss dress, people go in and buy half a dozen and within minutes they are on eBay, and that kind of thing. How would a law change that?

**Mr Ellis:** I am sure eBay will answer this themselves but if ticket touting were illegal, eBay would not allow tickets to be sold. That in itself stops it.

**Mr Ballantine:** This is the Department of Culture, Media and Sport. Whilst we are talking about Fratellis and T in the Park and Arctic Monkeys, we at SJM Concerts have been appointed to do the entertainment for the European Capital of Culture in Liverpool in 2008. That is something that DCMS bodies must be hugely proud of, that that is coming to the UK, and very excited about what is going to happen there. We are aiming exceedingly high, as is everybody in Liverpool, and what is being lined up will be absolutely spectacular and a complete one-off, with some true Liverpool legends doing some different from T in the Park?

**Mr Goldsmith:** It is the same for the Olympics because for 2012 in London for the first time ever the areas of culture and the cultural side of the Olympics are pretty important to all Olympic Games today and the Director of Ceremonies, the opening, closing and all the other ceremonies are now under one group. So here you have this group where you are quite happy, you will pass the legislation, which you have done, to prevent ticket touting or secondary market of tickets to see the games and the opening and closing ceremonies, yet the very same people are encouraging and putting on a whole raft of cultural events where the public can be absolutely ripped off, taken to the cleaners, no guarantee, no safety of their tickets, in the same thing. How does that work? Where is the equality in that? It does not make any sense.

**Q48 Paul Farrelly:** The Department of Culture, Media and Sport has had a number of ticket touting summits. I think the Association of Secondary Ticket Agents has been chucked out of at least one of them because of a failure to see eye to eye over fundamental practices. One of the things that has come out of that is this middle way of the Crown Jewels, the Crown Jewels of sport. If we had a Crown Jewels of music, we would have a lot of fun because the Stones would be up there, Springsteen certainly would. Would Rod Stewart be a Crown Jewel?

**Mr Goldsmith:** You cannot have a Crown Jewels of music.

**Q49 Paul Farrelly:** Do you think the white smoke emanating from the Department in terms of the Crown Jewels is too sport-biased?

**Mr Ellis:** It is. You can make T in the Park and Glastonbury and annual events Crown Jewels fairly easily. That would be easy to do and would protect those events. But the next article or event. The arrangements could be maybe a month before it goes on sale and there is not enough time to allocate it as a Crown Jewels event. The public maybe feel that the Killers should be a Crown Jewels event but it is not. You might think Rod Stewart should be but there is not the demand to see it. It would be impractical to do and it would just be rearranging the deckchairs on the Titanic.

**Q50 Paul Farrelly:** We have a very fair returns policy in the ticket exchange here in the Commons. Tomorrow is Tony Blair’s last performance and the tickets would sell like hot cakes but, of course, we are not allowed to sell them. I do not have an allocation. I have to queue up for returns. I suspect some of my free-market colleagues on the Committee, if I had some and decided to auction them, they would have the Speaker lynching me. Do you think what is right and proper for the Commons should be extended outside to the ordinary music-buying public?

**Mr Goldsmith:** We have returns, we absolutely have returns, and quite often, when we have artists that are in huge demand, we will hold some tickets back for the night or for the week of in order to try and destroy this ongoing market. If a show is sold out very quickly, as is Wimbledon and so on and so
forth, of course there is a returns policy but what Rob was trying to explain to you and what we feel very strongly about is that what we do not want is to be a carrier bag for every ticket tout and every secondary market player without the help of some directorate of legislation that we can genuinely tell the public at large where to go so that they know that their ticket is safe. Please remember, when you buy from the secondary market, one, none of them will give you a guarantee and two, in many instances a number of them are not even there if something goes wrong. If a concert is cancelled, either due to inclement weather, which is rare because we live with it, if an artist is ill, if you go back to what we consider to be the official agencies, particularly through STAR and ourselves, you will get a refund. If you go back to the secondary market, there is absolutely no chance of getting a refund, if you can find them. That just does not happen.

Chairman: We are going to have to stop it there. Thank you very much.

Memorandum submitted by Ticketmaster UK

EXECUTIVE SUMMARY

Ticketmaster is the largest primary agent in the UK ticketing market. As such, we are well placed to analyse and comment on the growing problem of ticket touting.

Touting has a damaging effect on the events and industries for which we sell tickets, as well as on consumers, fans and the economy as a whole. The growth of the Internet, and in particular auction sites, has led to an explosion in the unauthorised sale of tickets for events.

Ticketmaster UK has in place a number of mechanisms to prevent the touting of our tickets, and we are utilising newly-available technologies to ensure that as many protections as possible are in place for the tickets that we sell. However, while ticket touting remains permitted by law, we are unable to do more than scratch the surface of the problem. For example, 7,000 tickets for the 15 recent Prince concerts in London were on sale on the Internet shortly after the shows selling out.

The scale of touting, and the problems which it creates, has reached the stage where government action is required to tackle the issue. The principle is already in place in UK law for football matches and the 2012 Olympics, and we strongly argue for similar legislation outlawing the unauthorised resale of tickets for all events.

INTRODUCTION TO TICKETMASTER UK

1. Ticketmaster UK, the British arm of the global Ticketmaster company, has been established for 25 years, and employs over 700 personnel in four sites across the UK. We provide ticket sales and distribution through channels such as www.ticketmaster.co.uk. Ticketmaster also provides box office, access control and technology products and services to a broad range of venues across the UK including theatres, leading arenas, stadiums and festivals, aimed at maximising consumer experience.

2. The Ticketmaster Group is the exclusive supplier of ticketing services for the 2008 Beijing Olympics, Rugby World Cup 2007 and Euro 2008, and also previously ticketed the Athens 2004 Olympic Games and Paralympic Games. Ticketmaster UK sells for over 60,000 events a year across all areas of the UK entertainment sector, including theatre and arts, music and sporting events.

3. Our primary objective is to offer our clients ticketing services and marketing support to enable them to sell as many tickets as possible for their events, with fair and equitable distribution. Our ticketing services are tailored to respond to each of our client’s specific business requirements and we believe that this is reflected in our response to the unauthorised secondary ticketing market.

4. We believe that our clients, who have invested in the event, should be able to control where and how their tickets are sold, and at what price, not the unauthorised secondary market. Ticket touting is bad for our business, but it is also bad for consumers, fans, tourists, and UK plc as a whole. We fully accept our responsibility to self-regulate our business and to achieve fair distribution of tickets on behalf of our clients to the benefit of their consumers. However we firmly believe that the scale of the emerging unauthorised secondary market requires urgent legislation to support the entertainment sector if we are to be successful in responding to this issue.

5. As such, we are working closely with the Department of Culture, Media and Sport and our clients across the entertainment sector to push for greater restrictions on touting, and we very much welcome the Committee’s interest in this area. We also actively participated in and welcomed the OFT’s 2004 market inquiry into ticket agents. We are also responding to this inquiry through our membership of the Society of Ticket Agents and Retailers, and as part of the industry-wide coalition on touting. However, as the largest
primary ticket agency operating in the UK market, we believe that our own detailed submission to this inquiry would be helpful to the Committee. Ticketmaster would also very much welcome the chance to follow up this submission at an oral evidence session.

INTRODUCTION TO THE TICKETING INDUSTRY

6. The ticketing industry in the UK provides a service to both event promoters and consumers, by providing an effective and efficient means of distributing tickets. Event promoters may benefit from the specialist service a ticketing agent can offer them, including increased tickets sales, technology and incremental marketing support. Consumers benefit from easier and more convenient access to tickets due to the enhanced infrastructure ticket agents can offer, which is not always financially viable for promoters and venues to provide.

7. There are two broad categories of ticket agent, those that operate in the primary market, and those that operate in the secondary market. Primary agents, such as Ticketmaster have agreements with event promoters and venues to sell tickets for entertainment and other events. Most primary ticket agents are members of STAR (Society of Ticket Agents and Retailers), a self-regulatory body whose members agreed to comply with a code of practice. Ticketmaster was a founding member of STAR.

8. Secondary agents obtain tickets from a range of sources for resale to the public. Prices are not regulated by the event promoter and ticket prices can be substantially higher than the face value of the ticket. A secondary agent re-selling a ticket without the authorisation of the event owner or primary agent breaks the terms and conditions of the ticket and as such is engaging in ticket touting.

9. The current STAR terms and conditions authorise resale of tickets at face value (for example to a friend or colleague if a person can no longer attend an event). Ticketmaster, and the industry, do not view this as touting as this not-for-profit resale is authorised by the terms and conditions. We view this as a common sense approach, and would caution against the imposition of any regulations, which cover “friend-to-friend” face value resale of tickets.

TICKET TOUTING: WRONG IN PRINCIPLE

10. The unauthorised resale of tickets for profit does not promote fair and equitable distribution of tickets, and drains tickets away from the primary market, thus restricting the opportunity for genuine fans to purchase them legitimately.

11. Event promoters and stakeholders make enormous investments in producing their event, and the unauthorised market benefits from that and the popularity of the event, despite having made no investment themselves. The opportunity cost of touting is also great, as the touts are receiving income that could otherwise have gone to the entertainment or sports industries. The damage this does to event owners’ reputations with consumers and fans, as well as the tourism industry and the economy as a whole, has been well documented in the broader submissions, which the Committee will be receiving.

12. The rapid growth of the Internet has affected the market in two ways. It has expedited the purchase of tickets, and the efficient service Ticketmaster offers means that whole arenas can sell out in a matter of minutes. This is of great advantage to the consumer who benefits from such efficient, fast and effective systems. It also allows greater equality of access to tickets for those in society who may not have the physical capacity or lifestyle to access tickets through traditional methods, such as queuing for a long time on a working day.

13. However, this equality of access does also allow for organised and sustained abuse of the system, and the Internet has greatly exacerbated the rise of ticket touting. This occurs both through individuals (selling on auction sites such as eBay) and unauthorised secondary agents such as ticketout.com and getmetickets.com. The dangers of purchasing tickets from sites such as these was clearly shown by the demise of both companies, which left thousands of their customers with no tickets and substantially out of pocket.

14. Increasingly individuals either buy more tickets than they need as they know they can re-sell the extras for profit on internet sites, or purchase them with no intent of attending the event in the first place. In some cases, this involves highly organised touting operations, which utilise sophisticated computer technology or “call centres” to bombard ticketing websites and phone lines to buy up a large proportion of tickets as soon as they are on sale. We constantly review our technology and upgrade our website to deter these activities. For example, every customer is now required to enter a unique verification code as part of the purchase process, which is designed to prevent multiple automated bookings.

15. Some of the secondary agents who are positioning themselves to the public and indeed to the DCMS as consumer orientated and legitimate resellers are now also dealing in “futures” for many events (ie selling tickets or allowing them to be sold through their site, when in fact they or their seller do not have the tickets). We consider that this is another example of the consumer being potentially placed at financial risk through these unauthorised sites.
16. eBay publicly argues that they and other unauthorised ticket resale sites offer consumers an effective means to resell their tickets, if they can no longer attend an event due to a change in their personal circumstances. We believe that, as the majority of tickets are offered for sale within 24 hours of the ticket purchase, most tickets are sold are for personal gain, with profits unfairly going to the individual instead of the event stakeholders who have made substantial financial investment.

**The Scale of the Problem**

17. Our customers are becoming increasingly frustrated that they are unable to buy tickets through Ticketmaster as they are sold out and then find within minutes that they are being offered for resale on unauthorised resale sites. The scale of the problem is growing fast, and is demonstrated by, but not limited to, these examples:

18. Ticketmaster helped one of its clients sell out for 15 shows for Prince at The O2, London on Friday 11 May. From the 14–17 May, we analysed just four of the main unauthorised secondary ticket sites to establish the level of tickets offered for resale. We identified that over 7,000 tickets with a total face value of £223,000 were offered for resale above face value for a total posting value of £983,000.

19. Within hours of the highly anticipated National Football League (NFL) game between the Miami Dolphins and the New York Giants at Wembley Stadium, over 50 postings selling tickets were found on eBay alone.

20. A search for tickets for gigs and concerts and festivals available for sale on eBay in the United Kingdom on a single day (30 May) found over 13,000 postings listed. With an average of at least two tickets being available for sale on each posting, this equates to a conservative estimate of 26,000 tickets available for sale on just one unauthorised auction site.

21. These figures clearly display the potential size of the unauthorised market, and the potentially significant level of revenue being unfairly directed away from the music industry and its future development. The below correspondence—a brief sample of emails and letters we have received on this issue—offers qualitative evidence of how the unauthorised market affects our customers:

“I would like to make a formal complaint about the distribution of the Pearl Jam tickets for the Wembley Arena gig (18 June 2007). The morning that the tickets were put on sale they sold out within 30 minutes, although I understand that this is not your fault I was very annoyed to find that the majority of the tickets had actually gone to touts [. . .]. I am sure that you have some responsibility in ensuring that the tickets do not get sold to touts [. . .]. I decided to buy two tickets from Ticket tout.com as there seemed to be no other way I would be able to get hold of any tickets.

I have today received notification of the above company going into administration, which means that not only will I not receive the tickets I ordered but also I will not get any form of refund. Having booked these tickets so far in advance I have also arranged accommodation and transport, which have also been paid for to the amount of £100. Unfortunately the accommodation and transport cannot be cancelled [. . .].

I would have much rather bought my tickets from your company, however this choice was taken away as the majority of the tickets were sold to touts [. . .]. I also wish to know what kind of action you will be taking against these companies to ensure this doesn’t happen again.”

“I successfully managed to purchase tickets through Ticketmaster for The Police (in Manchester) when they went on sale on Friday 9 February. The event was sold out within 30 minutes. Imagine my disgust when I went on the eBay website later that morning—it was full of people selling their tickets at hugely inflated prices. There are many genuine fans out there that can now only see the concert by feeding these unscrupulous sellers. It was exactly the same situation after the Take That tickets sold out [. . .].

Now I realise that you are not the only firm selling tickets but eBay have basically informed me that as an individual they will ignore my plea to stop allowing the sale of tickets on their site [. . .]. May I ask you to at least look into this legalised touting and prevent further abuse of your company. After all—these people are offering to sell items that they don’t (yet) possess.”

22. Currently we have no powers to protect consumers from our tickets being re-sold as unauthorised auction sites are not legally bound to display seat and booking details. The above examples represent a small fraction of the daily instances and contacts we receive from our customers, who are understandably concerned about the level of tickets being resold through the unauthorised secondary market.

**New Approaches to Tackling Touting**

23. Ticketmaster is developing a number of responses to prevent the unauthorised resale of tickets, which are designed to offer our clients choice, depending on their specific requirements.

24. Firstly, all tickets sold by Ticketmaster UK are sold subject to our Purchase Policy, which represents that tickets are for personal use only, and that tickets should not be purchased as part of any form of business or commercial activity, and in particular may not be offered for resale or resold unless it is expressly authorised by the Event Partner.
For some events Ticketmaster has worked pro-actively with our clients to cancel tickets offered on unauthorised resale sites where the booking can be traced through the information supplied at the time of resale. Ticketmaster does not independently make the decision to cancel tickets, although we frequently encourage our clients to do so. At the direction of our clients, if resale violates our client’s terms of use, we will assist them in cancellations to uphold their terms of use.

We also have procedures in place to endeavour to prevent multiple applications for tickets, and our team is able to identify any suspect applications and cancel the tickets where appropriate. We also work with our clients to set ticket limits for their events, so it is not possible for individuals to bulk buy tickets, and whenever possible we restrict purchases for events to one credit card per address. We distribute tickets as close to the event as possible to prevent the opportunity for fraudulent tickets to enter the market.

In response to the burgeoning activities of the unauthorised secondary market, Ticketmaster is committed to developing a range of innovative products for our clients that will help them combat ticket touting. For example, Ticketmaster has been recommending the implementation of a TicketExchange mechanism to our key venue and event organiser clients, as we do appreciate that there is a need for a safe and secure mechanism for genuine fans to exchange tickets, when they legitimately cannot attend an event.

TicketExchange offers our clients and customers a legitimate alternative to the unauthorised secondary ticketing market. Using TicketExchange at Ticketmaster.co.uk, buyers simply select the ticket(s) they want based on price and seat location. The sale is completed through the trusted Ticketmaster system with no risk to the buyer. Only tickets originally purchased through the Ticketmaster system are eligible for resale and those tickets may only be resold at face value.

The key difference between TicketExchange and other re-sale sites is that TicketExchange is the only event-authorised resale site. This means that all tickets resold on TicketExchange are processed through Ticketmaster’s authentic booking process, with the full consent and knowledge of either the venue or the event organiser.

TicketExchange works hand in hand with our access control systems, AccessManager and eEntry. These systems scan bar-coded tickets in real time and authenticate event admission. The system denies access to fraudulent tickets and those tickets where it has been possible to invalidate them if they have been resold against the terms and conditions of sale.

Our TicketExchange mechanism offers our clients the opportunity to allow their customers to resell their tickets at face value or at above face-value. To date, our clients that have adopted TicketExchange in the UK have opted for the “face value” model. However, if the activities of the unauthorised market continue un-checked, it can only be a matter of time before our clients want to capture the value of the secondary market and channel it back to their industry.

**AUTHORISED TICKET AUCTIONS**

Ticketmaster also auctions tickets for certain high profile, high-demand events. There are a number of fundamental differences between our auctions and the activities of the unauthorised secondary market. Firstly, Ticketmaster cannot imitate its own auctions and any such activity is undertaken upon instruction from the event organiser. Ticketmaster creates an opportunity where fans have the ability to get tickets to the shows they want in a safe, open and transparent environment in the primary market.

Ticketmaster Auctions represent a guaranteed transaction for the consumer. The consumer buys their ticket from Ticketmaster, the reliable source, and has the security of knowing the ticket will arrive, the exact location of the seat, and be genuine. The fundamental differences to auctions held on sites such as eBay are that Ticketmaster Auctions are authorised by the event holder, are legitimate and the consumer is protected. Auctions can be scheduled by the client to coincide with the greatest demand, such as when the event goes on general sale. We believe this works to undermine the activities of the unauthorised secondary market by providing a legitimate alternative in the primary market.

Another key differential from the unauthorised market is that the money goes back to the promoters, who have invested their time and money in staging the event, which ultimately is a much fairer proposition for all parties involved.

A small percentage of tickets are sold in this way, and our clients determine the pricing of any tickets that are offered for sale. Additionally there is often a value-added element, such as guaranteed front row seats, or proceeds to go to the promoter’s or band’s charity of choice. Ticketmaster is also working with our own nominated charity, Nordoff-Robbins Music Therapy, to hold auctions on their behalf with proceeds going back to them.

The unauthorised secondary market is burgeoning, but not in a way that offers protection to the consumer or fair recourse to the event stakeholders. Our services are intended to offer a legitimate alternative to the unregulated world of online ticket resale. TicketExchange guarantees the seller is paid and the buyer gets valid tickets. Our Auctions ensure, unlike some other unauthorised auction sites, that the buyers are not purchasing a worthless ticket that may not exist or be valid when they arrive at the event.
The Need for Legislation

33. As set out above, Ticketmaster is working hard with our clients to provide legitimate and safe alternatives for our customers. However, given the scale of the problem there is only so much that we and our clients can do to tackle touting without appropriate government intervention.

34. We see this taking the form of legislation, extending the current regulations already in place for the UK football market (which appears to work effectively as a deterrent) and the 2012 Olympics. We see no reason why DCMS’ decision to enforce the IOC contract for the London Games, by making ticket touting illegal on the face of the London Olympic Games and Paralympic Games Act 2006, cannot be extended to all events for which tickets are sold. Indeed, the drafting of Section 31 of the Act, which prohibits touting, would be an excellent template for future legislation in the wider ticketing area.

35. We believe that legislation must prohibit the unauthorised resale of tickets for all events, not just for “crown jewel” events, and provide the framework and opportunity to legally enforce our terms and conditions for sale. With appropriate legislation, the consumer will be offered enhanced protection and greater legitimate choice.

36. We would therefore urge the Committee to recommend strongly that the Government act to make the unauthorised resale of all event tickets, at higher than face value, a criminal offence through primary legislation.

June 2007

Memorandum submitted by the Society of Ticket Agents and Retailers (STAR)

1. STAR—the Society of Ticket Agents and Retailers

1.1 STAR, the Society of Ticket Agents and Retailers, is the self-regulatory body for the entertainment ticket industry formed by companies and organisations within the ticketing industry. STAR promotes high standards of service to consumers and seeks to enhance public perception of the ticket agents’ industry.

1.2 During the 1980’s and early 1990’s a number of hugely successful West End Musicals drove rising ticket tout activity. Unauthorised dealers frequently employed misleading or fraudulent methods to extract sums vastly in excess of the face value of the tickets from members of the public. Visitors to Britain were very often the primary target: their lack of knowledge of the prevailing commercial environment, possible language difficulties, and the fact that in most cases they would not be in London long enough to attempt to seek redress, made them particularly vulnerable.

1.3 In response to this unauthorised trade in theatre tickets, and its damaging malpractice, certain reputable firms within the ticket agent sector decided to distinguish themselves from the touts with self-regulation to promote high standards of service from ticket agents to the ticket-buying public. STAR was therefore created.

1.4 The membership of STAR is drawn from the ticketing industry including event promoters and producers, venues, ticket agents and tour operators who supply theatre breaks.

1.5 STAR is funded solely by annual contributions from its membership.

1.6 In January 2005 STAR was invited by the Office of Fair Trading to draw up Model Terms and Conditions of Sale for use by its members. STAR took up this challenge and for the past two years has worked with representatives from the entertainment industry to draft terms which could be embraced by the whole industry, not just members of STAR. We have consulted other bodies such as the Concert Promoters Association, The Society of London Theatre, The Theatrical Management Association and the National Arenas Association.

1.7 STAR is keen to apply for approval of its Code of Practice, which will embrace the model terms, under the OFT’s Consumer Code Approval Scheme. STAR needs to grow further—possibly through the industry adoption of the model terms—and increase turnover to make progress on a Code Approval application and ensure STAR is able to meet the exacting standards of the OFT.

2. Diversity of the Ticket Industry

2.1 The ticket industry serves various sectors of the sports and entertainment industries. Crucially, each of these operates in different ways. We hope that the Committee will be mindful that not all sectors are uniform or face the same problems or needs.

2.2 For example, West End Theatre is dependent on a complex mix of complimentary sales channels in order to ensure its commercial viability, six days a week, year round, without the large financial contributions from corporate sponsorship or the sale of Television Rights enjoyed, for instance, by some areas of the Sports Sector. With its greater dependence on ticket revenue, and the need to derive that revenue from a diverse range of key markets, that alternate throughout the year, it is imperative for the health of
the West End that any intervention introduced to ameliorate the problems caused by ticket-touting is specifically framed with a view to ensuring the continued and hugely successful distribution of product through legitimate channels.

2.3 As an indicator of the level and importance of countering the touts, sales of West End Theatre tickets through the primary market contributed £400,800,000 (ticket receipts for Society of London Theatre’s members) directly to the London economy in 2006, and related income from tourism will have produced benefits for London and the UK as a whole far in excess of £1.5bn (Economic Impact Study of UK Theatre, Arts Council England, April 2004).

2.4 STAR’s members predominantly sell tickets for entertainment, rather than sporting venues in the calendar year 2006 events, with the vast majority of members primarily engaged in the sale of theatre tickets. We will therefore defer to the specialist knowledge of the sports industries with regard to the way that ticketing is operated for their industries and the particular problems they experience as a result of the secondary ticket market and touting. Given our own expertise in the entertainment industry, the majority of our comments in this paper refer to that sector.

3. TICKET AGENTS AND BOOKING TICKETS

3.1 A Ticket Agent operates to provide customers with tickets for a wide range of events. The types of customer served by Ticket Agents are many and varied: eg businesses seeking to provide tickets for their own clients or staff; group organisers putting together large parties for theatre or other entertainment events; or individuals wishing to buy tickets for particular events which are for sale through the agent.

3.2 There has been a revolution in the way that tickets are made available to the public. In little over 20 years we have seen computerisation of box offices and telephone and internet bookings have overtaken postal bookings and bookings in person.

3.3 Customer expectations are high: distribution of tickets must take these expectations into consideration. Ticket buyers want the same facilities and levels of service that are available in other sectors, making tickets available through a number of different media and often at all times of the day and night. In addition, measures must be taken to ensure that customers benefit from systems that allow them to buy tickets with ease.

3.4 The facilities and staff levels required to meet these levels of service are often too great and too costly for entertainment producers, venues and promoters to bear without the help of a number of ticket agents. Ticket agents are therefore an essential element in the distribution of tickets and ensure that consumers are able to purchase their tickets with as little difficulty as possible, in the most economic way for the venue and at the most reasonable price for the consumer.

3.5 Just as there are many types of customer, there are many types of agent. Specialists operate in group sales, hotel and inbound tourist sales, corporate business, discounts and special offers, 24 hour call centres and internet sales. Some agents specialise in specific activity sectors of the entertainment industry—in sport, theatre or music.

3.6 STAR members only sell tickets with the explicit authority of the event owner.

4. STAR MODEL TERMS AND CONDITIONS

4.1 As mentioned above, STAR has drafted model terms as invited by the OFT. This came as a result of the OFT’s revised guidance on unfair terms in consumer entertainment contracts in 2003 and their market study of Ticket Agents published early in 2005 which found that some ticket agents were operating terms which might be considered unfair under the regulations.

4.2 The majority of STAR’s draft terms have now been accepted by the OFT as being fair although there are currently two matters causing contention:

Consequential Loss

It has been agreed that where an event is cancelled and there is legal “frustration” of the contract, claims for consequential loss would not flow. However, if an event is cancelled for reasons other than frustration, the OFT maintain that customers may be able to claim for consequential loss. They therefore accept that the customer cannot claim against the agent for his hotel, travel etc when an artist cancels because of, say, illness but (s)he can claim when a concert is cancelled because the promoter becomes insolvent. We do not believe there is a logical distinction between these scenarios as the Agent has no way of controlling either situation. In addition, the OFT has previously supported one particular ticket agent’s terms and conditions of sale which allow the company to retain booking fees if an event is cancelled on the basis that the cancellation is not the fault of the ticket agent. Their approach on consequential loss is therefore inconsistent.
Assignment or Resale

The OFT have previously suggested support for STAR’s draft term which precludes a ticket holder from reselling tickets without the authority of the event organiser. This position has since changed. It is agreed that the clause may stand in respect of business to business transactions but the OFT is questioning whether or not a ticket seller can remove the right of individual consumers to resell tickets. The OFT have asked STAR to specify events for which resale could be prevented for “special reasons” and have not accepted our argument that this is unduly burdensome. In addition, this term has the potential to allow event organisers and the primary market to take action to help police the unauthorised resales market and to send a clear message to the marketplace.

4.3 Customers should not be forced to accept less favourable terms as a result of a resale transaction (eg forfeiting the right to a full refund for cancelled events). The original terms and conditions should be made known to the new customer if a ticket is resold and should still be applicable.

4.4 The Concert Promoters Association has indicated that once STAR’s model terms are agreed with the OFT then its members will also embrace them and will only make tickets for their events available through STAR members. This move would not only give stronger promotion to STAR, it would enable ticket buyers to be afforded the protection of our Code of Practice and an independent means of redress in the event of any problems with their bookings.

4.5 STAR is hopeful that other bodies in the entertainment industry will wish to embrace the model terms for their events thus creating a degree of uniformity across the various sectors and strengthening the function of STAR.

4.6 The draft terms deal with far more than the right of resale and also cover customers rights in the event of cancelled performances, health and safety issues, age limitations, the reprinting of lost tickets, delivery of tickets, changes in scheduled performances, conditions of admission etc.

5. RETURN, EXCHANGE AND RESALE OF TICKETS

5.1 An already precarious industry would be made even more vulnerable by any requirement for customers to be able to return unwanted tickets and obtain a refund. This would leave event owners open to burdensome financial risk which would be susceptible to public fashion and opinion. For instance, should the latest West End show get bad reviews, a stream of ticket cancellations would hasten the closure of the production and could result in business failure and, consequentially, the usual chain of financial problems caused by insolvency including unpaid suppliers, unemployment etc. Likewise a change in musical tastes could render today’s top bands unpopular by the time of their next concert; resulting cancelled tickets would cause similar problems in the music industry.

5.2 A blanket returns policy would underwrite the secondary market if it enabled unsold tickets to be returned to the original point of purchase.

5.3 STAR cannot support any suggestion that customers should be able to return tickets and obtain refunds if they are unable to attend or change their mind about attending the event. We do, however, believe that the entertainment industry needs to re-examine how it deals with customers who cannot attend for genuine reasons in order to provide a better level of customer service. Many venues and event organisers claim that they already offer to help customers who find themselves in a real predicament but that they are concerned about publicising this service.

5.4 Custom and practice has been for ticket sellers to impose a term such as “once purchased tickets cannot be refunded or exchanged”. STAR’s draft model terms and conditions reiterate this but also state that the ticket seller may offer resale and/or exchange facilities.

5.5 There is some concern in the ticket industry that strict and long-standing rules on returns and exchanges facilitate the secondary market, ie because customers cannot return or exchange tickets their only choice is to offer them for resale in the secondary market. There is consequently an interest in improving resale and exchange services where possible. This will require a considerable shift in the attitude of not only the venues but also producers and promoters who also have a say in whether such flexibility can be offered to customers for their performances. STAR is therefore working to highlight these issues and to try and change practices in the industry to help improve the service to consumers. As a first step, STAR has recently researched the refund and exchange policies of around 250 venues, both their publicly declared policy and the actual policy they operate when approached by customers who need assistance.

5.6 STAR believes that in most instances a customer who has paid for tickets from a seller authorised by the event owner should have the right to resell them for up to the same price as he paid for them (including any booking charges) in order to mitigate his losses.

5.7 It is STAR’s view that it is in the customer’s interest for resale transactions only to be carried out through a route that is authorised by the event organiser who should also be able to decide how resales can be conducted for his events and whether this can be for an inflated price or not. This is allowed for in the draft STAR Model Terms and Conditions.
5.8 In a resale transaction the ticket buyer should be provided with certain information which enables him to gauge the quality of the seat (block, row and seat number where applicable), the price (face value of the ticket and the price being charged).

5.9 It is reasonable for the authorised reseller to take a fee or commission as part of the sale for processing the transaction.

5.10 A system of authorised resales would:

- enable the growth of the authorised resales market;
- enable a line to be drawn between what is right and what is wrong in ticketing which is currently a confusion for the ticket-buying public and to make that distinction better known;
- enable customers to dispose safely of tickets they are unable to use for a price up to the amount they spent on the tickets;
- ensure that all applicable terms and conditions are made known to the ticket buyer;
- ensure that the change of ticket holder is known to the original seller and or event organiser. For cancelled events, for instance, this would enable the new purchaser to be able to claim any refund directly rather than having to return to the reseller;
- ensure that event organisers are able to control whether or not resales are permitted for particular events; and
- ensure that there is less benefit to the black economy.

6. Ticket Touting and the Secondary Ticket Market

6.1 Underlying Causes

- There is a widespread view that tickets can be purchased for an event that is sold out—it’s just a matter of finding the right person and paying the right price. The excitement of an event and the chance of attending something which may have a value for its scarcity drives “fans” to do anything to purchase a ticket, even to pay considerably over the face value ticket price without thinking twice or considering the potential risks.

- In response to this culture of expectation, many ticket sellers (both companies and individuals) have seen the considerable profits that can be made in ensuring that it is a market that continues to be fed. The rise in the number of secondary sellers has been dramatic, particularly as individuals have harnessed the power of the Internet and exploited online auction sites. This in turn has seen a rise in demand on release of tickets to high-selling events with the sole intention of reselling them for profit.

- It is reasonable to argue that some reselling is prompted by promoters and ticket agents not offering refunds or exchanges and customers seeking to ensure that that they do not lose out as a result. This does not, however, account for them selling tickets for a price higher than they paid for them.

6.2 The term “touting” is generically applied to the resale of tickets in a manner which is inconsistent with the standards set by the primary market. There is usually, but not always, a level of consumer detriment associated with this type of sale. This might include, amongst other problems:

- The tickets being sold have been bought with the sole purpose of reselling them for profit resulting in genuine customers being unable to buy tickets through the primary market at the prices set by the event owner or their authorised ticket agents.

- Customers may be misled on price or there will be a lack of clear pricing information, flouting the relevant Price Indication Regulations.

- Tickets may be of a quality inferior to the indication given to the customer.

- Customers may suffer deterioration in their rights (for instance not having the right to a full refund, including booking fees, if the event is cancelled).

- Customers may not be informed of all relevant terms and conditions in respect of the event. These terms may cover important aspects such as age limitations on attendance or health and safety. The resale transaction may be contrary to the original terms and conditions of sale and may render a ticket void.

- The tickets supplied may be counterfeit.

- Events may not actually yet be on sale (“futures selling”) or the reseller may not actually have any supply of tickets available for sale but may (or may not) try to source tickets once an order has been placed. This often results in the non-delivery of tickets to customers.

6.3 This burgeoning secondary market is populated with both businesses and individuals, the latter including a growing number of youngsters who have latched onto the parasitic opportunism that sites such as eBay and Gumtree can offer.
6.4 Securing tickets for the secondary market often involves joining the queue when tickets go on sale and then purchasing, often using elaborate networks, quantities of tickets for high-profile events without alerting the primary ticket seller. Very often the numbers of tickets that can be purchased in one transaction are limited and the touts will therefore use friends, colleagues and a variety of payment cards and addresses in order to obtain more tickets. There are also accounts of the use of electronic repeat dialling equipment to help beat the phone queues and computer programmes to speed up internet purchases. (Most major agents now have systems in place to combat this sort of online activity.) As a consequence events sell out rapidly with many tickets passing into the secondary market simply to be resold to customers who were too far back in the queue.

6.5 Stealing a march on the genuine ticket-purchaser isn’t confined to the phones or internet purchases as purchases are also made in person direct from the venue, often paying a number of people to make the purchase and then collecting the tickets from them later.

6.6 Touts and the impact of Touting:

6.6.1 It is important to note that there are different types of touting:

— The Individual Internet Tout—opportunistically buys tickets for resale online, eg through an auction site.

— The Gig Tout—solicits “spares” from audiences attending events for resale to the ticketless.

— The Corporate Internet Tout—sells overpriced tickets that he may or may not actually have. Faceless, often unaccountable and untraceable.

— The Shop Front Tout—Often operating from shops and booths in the West End of London, sometimes close to outlets of ticket agents authorised to sell tickets for West End shows by the producers and venues. These sellers suggest that they have tickets available for shows but usually just take orders from customers, predominantly tourists, charging considerably over face value for tickets and then go to buy the tickets from the theatre or other agents. Where possible they will buy the lowest price seats and mislead customers into believing they are better than they are. They might also ask the customer to unwittingly sign a receipt which indicates that they provided the correct information in respect of the Price Indication (Resale of Tickets) Regulations 1994, irrespective of whether the customer has understood that information or the requirements of the regulations. For high-selling shows, these outlets will sometimes buy large volumes of tickets, usually at the lowest prices and using a network of buyers to avoid the notice of the primary market. This might also include the purchase of tickets taking advantage of group discounts but then reselling the tickets individually to customers.

6.6.2 Sometimes the law is broken by touts through breaches of regulations but policing is limited and evidence is costly to gather in order for enforcement agencies to take actions.

6.6.3 When knowingly buying from a “tout” customers are probably aware of the risks they might be entering into and have a sense that they are doing something a bit “under the counter”.

6.6.4 When customers buy through the secondary market without knowing they are dealing with “touts” they buy in the belief that what they are doing is perfectly above board and that they are dealing with a reputable company. This is particularly true online where it is easy to create a sophisticated virtual shopfront which engenders a mistaken level of confidence.

6.6.5 Much is made of the point that the secondary market is important in making tickets available to customers who missed out when an event first went on sale. What is ignored is that many if not most of the tickets circulating in the secondary market were purchased when the event went on sale, solely with the purpose of feeding those tickets into the secondary market. Not only does displace genuine customers in the queue of those buying tickets when the event is put on sale, it also serves the secondary market by reducing the number of tickets available from primary sources, skewing the market and increasing the value of their stock. This is done on the back of an event in which the secondary seller suffers none of the risk.

6.6.6 The promoter or producer makes the event possible in the first place and takes most of the financial risk in so doing. Contributors to the event (writers, directors, actors, composers etc) are often paid on the basis of receiving a percentage of the ticket revenue. Sales made in the secondary market, where that ticket could have sold fairly directly to a customer wishing to attend, make no financial contribution to the event and the additional revenue that can be achieved by reselling tickets for profit cannot be included in the payment of royalties to artists and creatives. There are also questions to be raised about the contribution that secondary selling makes to the “black economy”.

6.6.7 The secondary market contributes very little, if anything, to the entertainment industry, only to the individuals or companies concerned. On the whole it does not sell more tickets, it simply sells the same tickets twice with no additional return for the event organiser or those directly involved.

6.6.8 Venues often have to deal with irate customers who have arrived to pick up tickets from a tout. It is not unusual for the tout not to make an appearance and for customers to go without tickets and without seeing the event. The customers do not always see the divide between venue and tout and may try to hold the venue responsible. There are occasions when this has led to aggressive behaviour.
6.6.9 Customers who do not receive tickets they have purchased through the secondary market may be able to reclaim their outlay if they have paid by credit card but payment by other means can often lead to them losing their money altogether.

6.6.10 Customers may not be eligible to reclaim refunds on tickets for cancelled events as the original ticket seller will usually only refund to the customer with whom they contracted in the first place.

7. Preventing the Touting of Tickets

7.1 A number of preventive measures are already undertaken by many STAR members:

— Monitoring of purchases, bulk ticket buying etc.
— Strict rules on delivery.
— Limiting the number of tickets for sale in a single transaction and/or to a postal address.
— Blocking known touts from being able to make purchases (names, addresses, credit card numbers)
— Terms and conditions preventing resale.

7.2 There has been considerable interest in the measures taken to prevent touting by Glastonbury Festival which, in 2007, include the necessity of pre-registering to be able to purchase tickets and the printing of each customer’s photograph on the ticket. Whilst this is an admirable solution for Glastonbury and may work for other large scale events it is impractical for the vast majority of performances:

— It is a costly procedure which would have to be allowed for in the price of tickets.
— Many customers buy tickets for entertainment events as presents for others.
— It requires all tickets to be sold in advance. It does not allow for last minute purchases.
— It would be unpleasant and unreasonable to require customers to go through both the booking and checking procedure when, say, wanting to make a spontaneous visit to the theatre.

7.3 If the principle is accepted that an event organiser should have the right to dictate that tickets that are resold will be void then there are likely to be easier ways of policing this than customers having to provide ID.

7.4 Although STAR welcomes the Government’s desire to protect certain high-profile events from touting (“crown jewel” events) we are concerned that action here will not stem the wider problems of touting.

8. Summary

8.1 There is an indistinct line for customers between the high standards of ticketing offered in the primary market and the risks present in the secondary market. Very often it is hard for them to tell the difference without having a greater understanding of the complexities of the industry. This blurring offers opportunities to touts aiming to receive the greatest possible personal or corporate financial benefit with the least possible return to the entertainment industry. The line needs to be more clearly defined.

8.2 There is no doubt that if unauthorised ticket reselling was banned then the majority of problems suffered by consumers in that market would be removed.

8.3 An unregulated secondary market causes considerable problems for the industry and for consumers. STAR believes that government intervention to protect consumers is essential and we therefore support the call for legislation which is being sounded from all corners of the sports, entertainment and tourism industries.

8.4 The incorporation of anti-touting legislation for the 2012 Olympics is a clear indication that touting is wrong. The wording used to prohibit touting in the London Olympics Bill succinctly summarises the position we would like to see the Government take in respect of all cultural and sporting events, giving ultimate authority for managing the ticket sales chain to the event organiser.

8.5 Any intervention should be specifically framed to recognise the unique distribution needs of each sector rather than “a one size fits all” approach that may damage legitimate sales channels, and, by restricting supply, actually improve the commercial environment of the ticket touts.

8.6 We know that customers need a way of being able to dispose of unwanted tickets and we are seeking to improve levels of service within the industry, particularly in respect of exchange and authorised resale policies and mechanisms.

8.7 STAR has already undertaken considerable work to improve self-regulation and standards in the primary ticket market including the drafting of model terms and conditions of sale. We need and would very much welcome further help from Government to help sharpen our “teeth”, strengthen and promote our work, support our model terms and conditions and increase the protection of the ticket-buying public.

June 2007
Witnesses: Mr Nick Blackburn, Managing Director, SeeTickets, Mr Jonathan Brown, Secretary, Society of Ticket Agents and Retailers, Mr Tom Wright, Chairman, Society of Ticket Agents and Retailers, Mr Chris Edmonds, Managing Director, Ticketmaster UK, and Mr Paul Williamson, European Sales Director, Ticketmaster UK, gave evidence.

Chairman: We now move on to the primary ticket agencies and can I welcome Paul Williamson and Chris Edmonds, representing Ticketmaster UK, and Tom Wright, who is here for the Society of Ticket Agents and Retailers with Jonathan Brown, and Nick Blackburn, Managing Director of SeeTickets.

Q51 Rosemary McKenna: Good morning, gentlemen. Can you persuade us that your service is the best one?

Mr Wright: Absolutely, is the answer. We have 32 million visitors to this country. We have a huge £85 billion visitor economy and the events industry is a huge part of that. We need to give confidence to people all over the world and domestically that they can buy tickets with confidence. They can come to STAR members and have absolute confidence about the tickets they are buying, that we refund if there are any issues of cancellation. They know where they are going to sit, all those fine details which are critically important. We are about tickets for confidence and the consumer deserves that from the ticket industry. That is what STAR and its members deliver.

Mr Williamson: The key thing which we bring is that we are selling authorised tickets on behalf of the event owner or the artist. We are selling them directly to the public, we are selling them with reasonable booking fees based on our costs of doing business, not based upon the perception of how hot that show is or how hot that act is. We are selling 365, we are selling 24/7 and we are investing millions and millions of pounds to enable us to sell online, have phone rooms through the night, so that we can offer customer service to all the customers out there for a wide range of events.

Mr Blackburn: The other thing as well is we protect the customer’s money. We have had events which have been cancelled and we have refunded the money straight away, which, as Harvey Goldsmith said in the previous meeting, would not happen with the upper circle is. These are the last two rows in the theatre. £352.88 for four tickets, service charge from Seatwave of £52.88, processing fee for the tickets £75 each. It is not right.

Q52 Mr Sanders: Do these tickets not have “not for resale” on them?

Mr Blackburn: Yes.

Q53 Mr Sanders: Why do you not take them off?

Mr Blackburn: Because they do not put up the seat numbers. We cannot trace them back. We have asked eBay to do this. We have asked them all to do this so we can see where the seat numbers are. When we have been able to do it, we have done it. We did it for Kylie Minogue. We managed to trace quite a lot of the seat numbers but, if they are hidden, as they are here, and there are no details of the seat numbers, there are about 30 seats of this type, and these are only four out of that 30 so we cannot identify which seats they are.

Q54 Rosemary McKenna: Tickets coming from you then people will know are genuine. But what is to stop a tout going out and selling those?

Mr Blackburn: That is what we are asking to be stopped. We do put on “These tickets are not for resale”. The problem is, whatever we do, both us and Ticketmaster have loads of checks to try and stop touts. We look at multiple bookings, same street addresses, multiple use of credit cards, all the things you can do with a ticketing system to find out whether touts are attacking it to buy tickets. This question of refunds is a red herring, because the bulk of the tickets that are put on eBay are put on six months in advance of the event happening. Nobody knows six months before whether they can attend an event or not. We sell tickets for the Killers; within two minutes the tickets are up on eBay. These are not people who cannot go to the event. These are people taking tickets away from genuine fans paying the face value. We estimate that 25–30% of tickets are taken out in this way, and it is wrong. As the previous panel said, ticket prices are set at a fair rate for the audience of that act. 30% go out, 30% of the fans who want to see it cannot buy those tickets at the right price because people are using the opportunities given to them by eBay and viagogo to make a quick profit.

Mr Williamson: We are seeing this all the time. We put on sale last week the Heineken European cup final of rugby for 2008 at the Millennium Stadium. Within 24 hours those tickets were appearing on eBay. There are thousands of tickets still available from the stadium. We are representing the stadium but people are trying to make a fast buck now with no intention of ever going to the event. Likewise with Prince at the new O2. Prince has put on 21 nights of shows with all the tickets at £31 deliberately to try
and maximise the audience, the Prince fans out there, and those seats are appearing online for £120 a ticket, £140 a ticket.

Q55 Chairman: Are all 21 nights sold out?
Mr Williamson: Not yet, no.

Q56 Chairman: Who is going to pay £120 for a ticket online if they can go to the O2 and get one for £31?
Mr Williamson: We hope they will do so.
Mr Blackburn: I was at a Rod Stewart concert at Earls Court. I was watching the fans come in and people were complaining about buying tickets at excessive prices, when the show was not even sold out. One customer said, “I paid £400 for my two tickets.” I said, “Why did you do that? You could have bought the tickets at face value through us.” He said, “Because I saw an ad in the Daily Mail. I thought the Daily Mail was a respectable paper. This is what I thought the fair price was.” That is why they bought the tickets. Not all of the public are as bright as maybe they should be in buying tickets.

Q57 Rosemary McKenna: I am convinced by the argument that we need to do something to protect young people, particularly those who want to go to concerts, but what you really need to do is persuade us what the best way is to actually do that. What legislation would you want the Government to bring in?
Mr Williamson: I think we are in agreement with previous speakers. We would like to see the legislation which is there for football and for the Olympics being extended. I think it has worked very well in football. I think it has removed a lot of ticket touting and a lot of the issues around football because it is seen as illegal to resell those tickets and it has certainly been made much more difficult. We would like to see that extended into other events, into other sports and music events, because we think that is fair and safer in the end for the customer.
Mr Wright: We would also like to see greater self-regulation. STAR is the self-regulation body for much of the industry. We have nearly 100 members. You heard from Rob Ballantine the commitment of his members as well to tie up with STAR. We have spent the last few years developing standard terms and conditions that would give reassurance to all potential purchasers here and overseas that they are going to get a good deal, all those services that have been touched on this morning. We want to extend that self-regulation. We have been in discussion with the OFT to get those terms and conditions approved. We think it is a key step that if the industry all move to the same terms and conditions, we can then have a kitemark to say to people “Beware. This is the primary market where you know that they have the tickets, you know where you are going to be sitting, you know if the event is cancelled not only do you get a refund but you get a refund of the booking fee if they are a STAR member as well, but if you go out of that accredited environment, then buyer beware.” That is something we can do quite quickly by having the terms and conditions recognised and accepted and supported by the Government and industry.

Q58 Chairman: How is the OFT reacting?
Mr Brown: On the whole, we have come to an agreement. The terms are drafted but at the heart of the issue is the ability to enforce the transferability clause, which is going back to the question you had about whether we can prevent the resale of tickets in the terms and conditions. It is certainly true in terms of business to business or business to customer transactions, but not between customers. I think it is worth just getting rid of a misunderstanding there, if there is one. I do not think, certainly in terms of entertainment tickets, there is any concern about customers being able to pass tickets on to their friends, to sell them and mitigate their losses, as it were, by selling the tickets for the price they paid for them. The issue comes when they start selling them commercially, selling them for a profit, whether that is friend to friend or through mechanisms such as online auctions.

Mr Blackburn: I think the difficulty as well is the Crown Jewels issue. There are events like Glastonbury Festival, which we handled this year with pictures on the tickets. We have had a lot of the public saying to us “What a great way of doing tickets.” Fortunately, we had a lot of time to set that up and do it. A lot of events come round more quickly. I did an interview with Sky where they asked me why could Liverpool not have done that for the European cup final but you do not have the time to do it. I think the public really appreciated that. Two years ago when we did Glastonbury they asked me “Why did these tickets appear on eBay?” and so on. Nothing this year. It was appreciated by the public. Events change. Rod Stewart might have been hot—we keep bringing him up—five years ago, the Sound of Music was hot; for the first six months it was one of the hottest tickets you could get.

Q59 Paul Farrelly: One of the ways that an industry is regulated or self-regulated, if you take the travel industry, ABTA, every operator is bonded so the consumer knows where they are. If a firm fails, they get their money back. It is not just dodgy secondary sellers that go bust like ticket touts. Keith Prowse went belly-up years ago, as I remember. Is that an approach that the industry might consider?
Mr Edmonds: We have tried ticket insurance-type initiatives, whereby when the consumer has bought their ticket, they will be able to pay a couple more pounds per ticket to cover themselves for any eventuality—travel problems, family problems—but we found the uptake of that was not very significant. I am interested to see that Seatwave, who you are talking to later, are doing a similar type of scheme. We have found there has not been a huge level of uptake on that. We think they are actually
trying to get the balance right in terms of ticket exchange mechanisms, like we are doing with Geoff Ellis for T in the Park. It is a very strong approach and it protects the consumer. To go back to the earlier point, you cannot under-estimate how much the consumer needs protecting here. You had the recent example of tickettout.com, which went into receivership; over 7,000 customers lost their money there. You have to question how confused the consumer is if they are actually going to a website called “tickettout.com” and purchasing their tickets through them.

**Mr Williamson:** We end up picking up the pieces. These customers turn up at the George Michael concert at Wembley or the Heineken cup final at Twickenham saying, “Here is my booking sheet, here is my reference number. Can I have my tickets please?” and our staff have to explain to them that it is complete fiction. “Someone has run off with your money. That is the end of it. You have been defrauded.”

**Mr Wright:** We are all talking about individual examples. Let us not forget that Westminster Trading, for example, received hundreds of complaints over the last few years, many from overseas visitors who had arranged their flights and their travel, had booked their Genesis tickets or their Guys and Dolls tickets, they come to this country and those tickets do not exist, or they are standing tickets at the back which they have paid £250 for. Is this the reputation we want to present to our overseas visitors?

**Mr Blackburn:** The other thing is Mr Davies asked who lost out? The Government lose out as well because do you think these people pay VAT and tax? I very much doubt it.

**Q60 Paul Farrelly:** We got rid of resale price maintenance a few years ago. In July independent booksellers will be screaming blue murder about the latest Harry Potter novel. Clearly, manufacturers quite often want to influence the price so they put a recommended retail price on their product. If I go into a newsagent’s and try and buy a can of Coke that has been marked up twice from that price, I can see it; I can make a comparison and say, “Yes” or “No, it’s a rip-off.” You have prices on your tickets. Should at the very least resellers have to advertise the price at which the tickets were issued, and, for security and public protection, also the seat numbers?

**Mr Brown:** Legally, if they are reselling a ticket, they have to declare the face value.

**Q61 Paul Farrelly:** Have to declare the face value.

**Mr Brown:** Yes.

**Q62 Paul Farrelly:** Should they?

**Mr Brown:** Yes.

**Q63 Paul Farrelly:** Under the code of practice, if not legislation?

**Mr Brown:** The majority of our members or agents are actually outside the scope of those regulations because they are acting on behalf of the event organiser. The STAR code actually bring them back into that and insists that they do display the face value and obviously the booking fee that they charge.

**Q64 Paul Farrelly:** Do you think that should be extended to all agents?

**Mr Brown:** Absolutely.

**Q65 Philip Davies:** This is a bit rich, is it not? We are expected to believe that Ticketmaster and friends are the champions of the consumer, the champions of the customer, standing up for the customer’s best interests, despite all the articles we have seen. There have been articles in the past about how Ticketmaster rip off their customers. Let us just find out what a big champion of customer rights you are. You are a group of people who charge customers handling fees, processing fees, you charge people for postage and packing about £3 when it costs 26p for a stamp. Why should we believe that you lot are the champions of the consumer? All you want to do is make sure that you can rip off the customers rather than the ticket touts ripping off the customers.

**Mr Blackburn:** That is absolute rubbish. Our average mark-up is 12%, and that is not profiteering, by any business. We provide a very good 24-hour service. We provide all the checks you look for. It is absolutely wrong to say that. When you talk about the postage charges, what people forget is we have to send out a lot of tickets by Recorded Delivery and the cost of that is a lot higher, when the Government takes most of that in VAT or the Post Office takes it. We do have to say that a lot of our tickets go out by Special Delivery. That is why the postage charge is so high. The average mark-up we operate on is around 12% and you cannot say that is profiteering by comparison with any other business.

**Mr Williamson:** The way our business works is we charge a booking fee on tickets we sell. Out of that booking fee we are paying the credit card charges, we are paying the VAT on the booking fee, we are paying for 24/7 phone rooms, we are paying for internet sites that do not fall down when people try and book on them, we are then paying for dispatch to the customer. With the Millennium Stadium, for example, we now have to send all tickets by Recorded Delivery, which costs more money, because they have had problems with tickets disappearing in the post and refusing to issue duplicate tickets for security reasons. We are having to pass those charges on. Nevertheless, our charges, we think, are reasonable and we do not get any payment at all if we do not sell a ticket.

**Q66 Philip Davies:** So you do not make any mark-up on postage and packaging?

**Mr Edmonds:** No, absolutely. There has to be a margin there to support our business. Ticketmaster as a company employs over 700 people in the UK and we are selling a lot of tickets. What those fees
cover is also the cost of processing, but it also covers the cost of investment in new technologies. If you look back to when booking fees first came into the UK, it was when the credit card/debit card culture came in. Before, 15 or 20 years ago, if you wanted to go to a big event, you would have to take a day off work and queue for 24 hours plus to get hold of your tickets. What happened with the credit card culture here is that phone rooms were set up and we now have internet sites. Those take a significant amount of investment in terms of new technologies.

**Mr Blackburn:** I think also the customer always has the chance to go to the box office and buy tickets without paying a booking fee. In all the theatres within our group they can do that. They have that choice. People choose not to because of convenience, and we provide 24-hour convenience at a reasonable price. Whether it is the combination of booking fee and transaction fee, as I have said, we feel the mark-up is fair to cover all our costs and the services we provide. We always make sure tickets are available at face value.

**Mr Edmonds:** You also have to look at the fact that everyone knows what the fees are when they are purchasing a ticket. They have that choice to make and there is a degree of choice across the marketplace. The other issue is we do not increase our fees if we could say more. For example, our average booking fee is between 9–12.5%. If we think we have a venue where we know the demand for tickets will far outstrip supply, we do not increase our fees to 25% to profit on that. They are proportionate to the ticket price. They are open and they are agreed with our promoters on every single event.

**Q67 Philip Davies:** Basically, your position is that you are quite happy for punters to pay over the ticket price to buy something from eBay from a tout. That is, in a nutshell, your position is that the difference between the ticket price and the booking fee is the amount you profit on. That is, you are quite happy for punters to pay over the ticket price to pay your profits, but you do not want to increase your fees if you could say more. For example, our average booking fee is between 9–12.5%. If we think we have a venue where we know the demand for tickets will far outstrip supply, we do not increase our fees to 25% to profit on that. They are proportionate to the ticket price. They are open and they are agreed with our promoters on every single event.

**Q69 Philip Davies:** It is a cartel really, is it not?

**Mr Williamson:** Actually, the OFT inquiry two years ago found precisely the opposite, that it was a very fiercely competitive industry.

**Q70 Chairman:** Can I just try and establish something? There are two pictures being painted. One is of a mechanism to allow consumers who purchase tickets and then for some reason find that they are unable to go to have a means of selling their ticket, which most people would accept is perfectly reasonable. The other picture, which is the one which you paint and some of the previous witnesses painted, is of gangs of essentially organised criminals who buy up vast quantities of tickets within the first five minutes of their going on sale in order purely to exploit their dominant position in the market to obtain massive profits. Which is true? Obviously, both go on but when we are looking at the secondary market, how much do you believe is genuine consumers just trying to sell tickets they are not able to use?

**Mr Blackburn:** We think about 30–35% of the tickets go out to people who want to resell them and do not go to the concert. Equally, when a ticket limit is six, you might get people who want two but they will buy six and get rid of the other four to cover the cost of the two they have bought as well. What is occurring is what is clearly colloquially known as bedroom touts. There are a lot of people who sit out there and trade on eBay and they see tickets as a commodity they can trade in fairly easily. That has really grown with the growth of the Internet and people like eBay and viagogo and so on. It has given them an opportunity to trade in tickets very easily.

**Mr Williamson:** I think it depends entirely on the type of event because there are hot music events, hot sports events, where people are trying to over-buy and then sell on, and there are lots of day-to-day events going on week in, week out, where ticket touting is far less of an issue.

**Q71 Chairman:** Tom, your effort to establish a refund scheme: in your evidence you say STAR cannot support any suggestion that customers should be able to return tickets and obtain refunds if they are unable to attend or change their mind. But you then go on to talk about how you are working to establish a system of authorised resales but that will not therefore comprise an automatic refund scheme.
Mr Brown: For the very reasons that Rob Ballantine outlined before, there are distinct commercial reasons why it would be very difficult to offer returns in that way but resale mechanisms and being able to exchange tickets within the terms and conditions of sale, provision can be made for that.

Q72 Chairman: So your message essentially to the consumer who buys a ticket which he then finds he cannot use because his aunt has died, is that unless the event has sold out and therefore an authorised resale scheme is in place, he should not be allowed to sell his ticket?

Mr Brown: No. We are saying as far as entertainment tickets are concerned—and I think there is a distinction between the concerns of sport and entertainment—they should be able to sell that to a friend for the amount they paid for it.

Q73 Chairman: To a friend?

Mr Brown: Perhaps to anybody.

Q74 Chairman: How do they find the other person who wants to buy it if you have outlawed the secondary market?

Mr Brown: If you have an authorised secondary market therefore you have a means by which people can offer tickets for resale.

Q75 Chairman: But you are not proposing to put in place an authorised secondary market unless certain conditions are fulfilled.

Mr Brown: I think there is scope for an authorised secondary market.

Mr Williamson: We are introducing with a number of our clients exchange and resale policies and practices. Geoff Ellis talked about it for T in the Park. We are doing the same with the Brighton Centre. We have done it for events at Wembley Arena, at the theatres, and I think, very interestingly, we are introducing it with Arsenal football club this summer for season ticket holders and for members so that they can resell tickets for matches they cannot go to. We are trying to play our part. We are trying to move that exchange and resale forward as well.

Mr Wright: Just to be clear, the draft terms and conditions absolutely allow customers to resell their tickets provided they are not doing so for profit. So it fully recognises that need and over 65% of all the venues we have polled in terms of STAR membership already offer some mechanisms for customers to dispose of unwanted tickets through the venue. As the earlier commentators said, as we all move forward, we will strengthen and expand that exchange mechanism.

Q76 Chairman: So you have no objection to websites in the secondary market which do not impose vast mark-ups? Essentially, if it is only a small margin over the face value you would be content with that?

Mr Brown: Certainly there are sites which exist for fans to exchange tickets at face value.

Q77 Chairman: And you have no difficulty with that?

Mr Brown: No.

Chairman: Thank you.

Memorandum submitted by eBay UK Ltd

SUMMARY

Both the Government and the OFT have recognised that the secondary market is legitimate. For many fans, the secondary market is the only way they can get hold of a ticket to a sporting or cultural event—or in the absence of refunds or returns, sell spare tickets they may have.

We are happy to engage in constructive dialogue with the Government about options for self-regulation. However, we believe it is wrong in principle to ban the secondary market—people should in general be allowed to resell tickets, just like any other property. Consumer research produced both by the Government and eBay supports this position.

Similarly, we believe that what should determine the price of a ticket is what someone is prepared to pay for it. Regulation of prices in a competitive market would be a deeply retrograde step, especially when no similar regulation is being proposed in the primary market where prices are increasing. If anything, the trend in the US is towards deregulation with New York only this week joining a host of other US states in repealing its anti-ticket “scalping” (touting) laws.

Research has shown that restrictions in the secondary market would also be counter-productive—both in terms of consumer protection and the effect on prices. Buns on resale or resale above face value—whether voluntary or legislative—will either be ineffective or simply drive the secondary market on to the streets, where consumer protection is non-existent. And by restricting supply in the secondary market without impacting on demand, regulation in this area will actually drive up prices. This is supported by evidence from the US.
Further regulation in this area would also be disproportionate. Our own research suggests that the vast majority of people listing these items on eBay are individuals selling spare tickets. Nine out of 10 people on eBay over the course of a year sold five tickets or less, 60% sold just one. We believe it would be wrong to criminalize individuals who simply want to resell spare tickets.

The focus should instead be on measures in the primary market to make it easier for fans to get hold of tickets in the first place (e.g., by reducing corporate allocations and improving the current primary distribution systems) and on enhanced consumer protection in the secondary market. We believe that the consumer will best be served by an open, transparent and competitive secondary market, rather than further government regulation or licensing regimes.

Introduction

eBay is the world’s largest online marketplace with over 233 million users worldwide. eBay does not sell tickets. Nor is it a ticket agent or ticket broker. Instead, it provides a venue where people can buy and sell tickets either at a fixed price or a price set by competitive bidding. Moreover, as evidenced below, eBay is just one of many channels—both offline and online—for people to buy and sell tickets.

Generally, the resale of tickets is legal in the UK. Where, as in the case of football tickets, the resale of tickets is prohibited, our policies reflect this and we regularly remove such tickets on both a proactive and reactive basis. Further details of our policies can be found at: http://pages.ebay.co.uk

The underlying causes of ticket touting, and its impact on performers, promoters and the public

We note that the Government has accepted on numerous occasions that the secondary ticket market is a legitimate one. Moreover, the OFT in its 2005 report on ticket agents found that the secondary market provided benefits to consumers.13

For many ordinary fans, the only way they can get a ticket to an event is by buying a ticket in the secondary market. This is because many events are typically over-subscribed with demand exceeding supply. Both eBay’s and the Government’s consumer research shows that fans struggle to source tickets through the primary distribution mechanisms. The experience is often a frustrating one with phone lines constantly engaged and websites crashing due to excessive demand. As a result, fans are often forced to make multiple applications for tickets on behalf of others and are left with spare tickets when they discover that their friends and relatives cannot attend. With restrictions placed on refunds, returns and transfers by event organisers, the only way they can sell spare tickets is through online marketplaces like eBay.

It is also often asserted that ticket sales in the secondary market are limiting public access to sporting events because of the premium attached to such tickets. However, by enabling consumers to get hold of scarce tickets, the secondary market provides a valuable service to many consumers. Moreover, such sales represent a very small proportion of overall ticket allocations. For example:

- Ticket sales on ebay.co.uk for the 2007 Six Nations Rugby Championship represented approximately 0.5% of all ticket sales for this event.
- The Ryder Cup 2006 saw a similar pattern.
- Ticket sales for the 2006–07 Ashes represented approximately 0.8% of all ticket sales.
- Ticket sales for Wimbledon 2006 represented a mere 0.2% of all ticket sales.

This suggests that public access to sporting and cultural events is not being adversely affected by the secondary market on eBay.

The overwhelming majority of sellers on eBay are individuals with spare tickets. Our own research shows that over a one year period, 9 out of 10 users had sold 5 tickets or less. 60% had sold just one. Given the restrictive policies of the event organisers in relation to refunds and returns, we believe that it is entirely right that individuals should be allowed to resell tickets. It is also worth noting that, as in any free market, such tickets may not always be sold at a profit. They are often sold at a loss to the individual.

Online marketplaces provide a service to consumers who otherwise would not be able to obtain tickets to events. It is not unreasonable for those providing such a service to make a profit—just as the event promoter profits from staging a concert, and primary agents such as Ticketmaster make a profit by charging processing and handling fees on top of the ticket face value which can account for anywhere between 20 and 50%, depending on the event.14 The issue then from a public policy standpoint is whether it is appropriate to regulate the level of profit (or ban it altogether) in a competitive marketplace. We believe that such an approach is wrong in principle.

We do, however, believe that the market should be subject to essential consumer protection laws. There have been isolated cases of clear abuses in the secondary tickets market—for example, ticket agents such as “getmetickets.com” or “tickettout.com” selling tickets they do not have and could not deliver—and eBay...
strongly supports efforts by the Government and law enforcement to deal with this problem. However, we note and welcome the recent Statement of Principles agreed with the Government which states clearly that the secondary ticket market is legitimate.

On eBay, consumers can see the feedback or virtual reputation of the person they are buying from and in the small number of cases where something goes wrong, they may be eligible for our Buyer Protection Programme. We believe it is better that people should be able to buy tickets in an environment which is open, safe, transparent and subject to consumer redress than be forced to purchase a ticket from a tout on the street with no consumer protection.

It is often asserted that performers or promoters lose out as a result of the secondary market because they do not see the benefit of the full market value of the ticket. Yet ultimately both retain the right to charge in the primary market whatever price they wish for events. Indeed, the trend in the music industry has been one of increasing ticket prices as revenues from record sales decline (see below).

Moreover, where an individual has a spare ticket and is unable to attend, it is better that this ticket is re-allocated rather than have the seat remain empty because the buyer cannot get a refund from the event organiser. Not only does someone else get to go to an event of their choice—the event promoter also benefits from increased spend at the concert eg on merchandise, refreshments and other revenues.

From the promoter’s perspective, if a consumer believed that when they bought a ticket they would have to occupy the seat or let it go empty, it would dramatically reduce the advance demand for events, particularly for season tickets or knock-out sporting events where tickets for future rounds are sold in advance.

Whether or not resale of a ticket, at face value or at a higher value, should be permitted in principle; and whether the acceptability or otherwise of resale depends on the circumstances in which tickets are offered for resale

eBay believes that people should be allowed to resell tickets whether at face value or a price above face value. Ultimately, people should be entitled to sell their own property. And we believe that what should determine the price of a ticket is what someone is prepared to pay for it.

We believe it would be a retrograde step for the Government to go down the path of regulating prices in a competitive market. In particular, we would also question why prices should be regulated in the secondary market but not in the primary market.

For example, price regulation pre-supposes that there is such a thing as an acceptable price to pay for an event ticket. But what is this level? It is entirely inconsistent to cap the resale price of one concert ticket at face value in the secondary market, but leave event promoters in the primary market free to charge £160 face value (plus a £13 booking fee) for a Madonna ticket or £500 face value for a Barbra Streisand ticket.

Increasingly, as revenue from record sales decreases, we are seeing a clear trend whereby artists are beginning to charge more and more for concerts, yet no one is seriously suggesting that prices in the primary market are regulated.

Indeed, we would draw the Committee’s attention to numerous examples of event promoters in the primary market auctioning off tickets themselves eg:

— Beyonce at the MEN Arena in Manchester; also tickets for Wembley and Nottingham;
— Justin Timberlake at the O2 arena in Greenwich;
— Genesis concerts at Old Trafford (with starting prices for these tickets beginning at £440)
— The Guinness Premiership Rugby Final
— The Police at Twickenham
— Barbara Streisand at the O2 arena
— Isle of Wight Festival tickets
— Bon Jovi tickets

It is worth noting here that with some of these auctions 8–10 rows at a time are being auctioned off with auctions now an increasing trend for event promoters. For example, Chris Edmonds, Managing Director of Ticketmaster UK, told the Sunday Herald last July: “Ticket auctions will increasingly become part of our selling structure in the next few years.” “Dynamic pricing” is therefore becoming increasingly commonplace in the primary marketplace. Just as with an airline seat, the person sitting next to you at a concert or sporting event may have paid much more or much less for his or her seat than you did, even though you both bought the ticket from the original promoter in the primary market.

Finally, no one appears to be seriously suggesting that prices for tickets for the authorized corporate hospitality market should be restricted, even though corporate allocations appear to be increasing in a number of sporting events, thereby reducing allocations for the ordinary fan. At the last World Cup, for example, the allocations to corporate sponsors, suppliers and the hospitality market accounted for almost 30% of all tickets.
While the issue of ticket prices is one which arouses strong views, it is far from clear that the public is crying out for further regulation in this area. For example, an ICM survey of over 1,000 people conducted for eBay in 2006 found that:

- 76% believe it shouldn’t be against the law for people to resell tickets they no longer want or can’t use.
- 87% of those surveyed believe they should be allowed to resell tickets they can no longer use to sporting events, concerts or other events.
- 84% believe tickets are just like any other private property that they should be able to sell.
- Half of those surveyed (49%) that have tried to secure refunds on tickets have not been able to do so.
- 60% have been unable to attend events because tickets have sold out before they could get hold of them.
- 50% have found events sold out before they even knew they were available.
- 61% believe the sale of second-hand tickets enables real fans to get hold of tickets they would otherwise have missed out on.
- 54% believe the price of a ticket should be determined by what people are willing to pay for it.
- 78% believe anyone buying a second-hand ticket from someone else should make it their responsibility to ensure both the seller and the ticket are legitimate.
- 66% believe individuals selling spare tickets is not the same as ticket touting.

These conclusions are supported by consumer research commissioned by DCMS which found *inter alia*:

- “[. . .] little or no spontaneous complaint about pricing levels or availability of tickets.”
- “[. . .] the vast majority of this sample, typically, felt that the marketplace operated competitively and fairly.”
- “Many believe there is no role for further regulation and are particularly cynical about governmental intervention in this marketplace. Widely, people believe that the Government is, itself, ‘on the make’ in the sense that its only concern would be to raise revenue and/or ‘hector’ a beleaguered population in a ‘nannyish’ fashion.”
- “[. . .] consumers are inclined to view tickets as acceptably transferable (at least not something you would get into trouble about), that (re) selling at a profit is also acceptable so long as it is done in a small-scale fashion and by ‘individuals.’”
- “As most consider the right to transfer and/or sell on (small scale) as totally reasonable and a practice many either do, or would be happy to do, it is suggested that this should be more actively ‘permitted’.”
- “The ticket marketplace is not seen, as those in the industry construe it, as ‘primary’ or ‘secondary’ based on authorization/regulation by promoters, but rather, more simplistically as ‘honest, real, official’ versus ‘dodgy, fake, invalid.’ Touts, agents, other individuals or classifieds can be the source of either category of ticket, in consumer understanding and experience.”

The impact of the Internet upon trade in tickets

It is often asserted that the Internet or online marketplaces like eBay have either created or exacerbated the “problem” of touting.

The reality, however, is that the secondary market existed long before the Internet. What the Internet has done is make an existing market (a) more visible (b) more transparent and (c) more competitive. As a result, consumers are far more aware of the going rate in the secondary market; competition and supply has been increased; and this in turn has driven down prices on the street and throughout the secondary market.

While eBay has been the focus of much attention in this debate, it is worth noting that there are an almost limitless number of alternative channels for people to buy and sell tickets. Individuals and businesses alike are able to sell tickets in classifieds (online and offline), individual websites, other online marketplaces, and are now able to drive traffic to such listings using paid search through, for example, Google Adwords or Adsense. It is therefore wrong to focus on a few websites.

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Whether or not tickets’ terms and conditions banning transfer and onward sale are fair or enforceable

We believe such terms of adhesion are an unwarranted restraint on trade and are detrimental to consumers.

Here is a typical example of terms and conditions applied by seeickets.com, the largest UK owned online ticket agency which is associated with the Society of Ticket Agents and Retailers:

“Once purchased, tickets cannot be transferred, exchanged, refunded or returned unless the event is cancelled, moved to another date, or if details of the event are significantly changed after an order is placed (significant changes being a change of headline act (concerts only), venue or show time).”

They go on to say:

“[. . .] all tickets are for personal use only and cannot be resold under any circumstances. Resale or attempted resale is grounds for seizure or cancellation without refund or other compensation.”

So if a consumer has a spare ticket, their policy is no refund, no exchange and no resale under any circumstances; and if the consumer tries to resell it, they will cancel the ticket without compensation. This is clearly and demonstrably unfair to consumers.

Similarly, the Ticketmaster Purchase Policy says:

“Policies set forth by our clients, such as venues, teams and theatres, prohibit us from issuing exchanges or refunds after a purchase has been made or lost, stolen, damaged or destroyed tickets the ticket may not be resold or offered for resale by anyone whether at a premium or otherwise [. . .]”

We note that Ticketmaster now have a Ticket Exchange where fans can sell spare tickets. However, firstly, this does not apply to all events. Secondly, Ticketmaster charge a seller fee. And of course, it is a long way short of a guaranteed refund. A consumer only gets his money back if he sells it himself and Ticketmaster get to take a cut. Ticketmaster therefore profit twice: firstly, by charging both the Service Charge Booking Fee and the Order Processing Delivery Fee on top of the face value of the ticket on the original sale; and then they take a further 10% on the posting price which may either be set by the seller or the venue/event promoter.

Where an event organizer alleges that the terms and conditions of sale have been breached, this is a contractual matter between them and the individual selling the ticket.

eBay already draws attention to the fact that terms and conditions are often applied to event tickets through its Contracts and Tickets Policy which is published on our website. This says:

“Before listing an item on eBay, you should carefully read any contracts that you have entered into that may limit your right to sell your item on eBay. Some items, such as event tickets, have terms printed on the item that may limit your ability to sell that item [. . .] eBay does not search for items in violation of your contractual obligations could put you at risk with third parties. eBay therefore urges that you not list any item until you have reviewed any relevant contracts or agreements, and are confident you can legally sell it on eBay [. . .]. If you have any questions regarding your rights under a contract or agreement, we strongly recommend that you contact the company with whom you entered into the contract and/or consult with a solicitor.”

We have recently drawn attention to this policy with an announcement to all eBay users about our tickets policies. However, to boost transparency further, when a seller lists a ticket in the Tickets category on ebay.co.uk, we recently added a clear warning which appears up front as part of the listing process, alerting them to the Contracts and Tickets Policy and the other Tickets policies. Sellers can then click on a link which provides further details. A similar message is also included for buyers in the bidding flow.

Ultimately, terms and conditions can only be properly enforced in a court of law. And where presented with a Court Order which finds in favour of a particular party, we naturally respect the terms of such an Order. But we believe strongly that eBay should not be asked to enforce contractual terms or take sides in contractual disputes—whether they apply to tickets or any other of the 50,000 categories of item that are bought and sold on eBay.

Finally, leaving aside the issue of enforceability, there is a broader issue at stake here—namely whether a retailer should be allowed to restrict the onward resale of any item (or alternatively, cap the price of its onward resale) simply by attaching terms and conditions to its sale. This is a principle which, if applied more broadly, has the potential to generate widespread restriction of trade as retailers seek to preserve exclusive or selective distribution channels. This is a hugely important policy consideration with wide-ranging implications.
The merits of new approaches by ticket agents attempting to prevent transfer of tickets, including wider use of personal ID

We note that some event organisers now use personal ID to prevent the transfer of tickets.

When combined with a policy of no exchanges, returns or refunds, this limits the ability of a person to resell the ticket in circumstances where they have paid for the ticket but may be unable to attend the event. Moreover, it restricts a consumer from giving away spare tickets to friends or relatives. This is clearly unfair.

If the aim is to maximize public access to sporting and cultural events, the answer should not be further government regulation but to explore market-based solutions to make it easier for real fans to get hold of tickets in the primary market.

For example, tickets are often sold in bulk at times which are inconvenient to ordinary fans. This decreases their likelihood of being able to get hold of a ticket in the primary market. Alternatively, tickets could be made available in successive tranches.

We believe event organizer should do more to examine the balance of corporate allocations for major events, thereby increasing the number of tickets available in both the primary and the secondary markets. This need not impact on revenues if event promoters simply charge more for fewer corporate tickets.

Whether or not the existing offences of sale by an unauthorised person in a public place of a ticket for a designated football match, or for events at the London 2012 Games, should be extended to cover other sporting or cultural events

The Department of Culture, Media and Sport have asked the industry to consider the case for a list of protected cultural and sporting events as part of their ongoing discussions about the secondary market.

eBay decided recently with Live Earth to use our eBay for Charity and Giving Works programmes to raise more money for good causes, particularly those environmental charities most closely associated with the event, namely the Alliance for Climate Protection and Stop Climate Chaos. Moreover, our decision to ban the resale of Concert for Diana tickets demonstrates that we are sensitive to the issues which surround certain types of events.

We are therefore happy to engage in a constructive dialogue with the Government about further options for self-regulation. But we are also clear that decisions of this nature need to be based on clear and agreed principles rather than the demands of event organisers. Leaving aside the question of their validity, it is worth noting the justifications which have been offered for existing restrictions. Firstly, the existing football tickets legislation was introduced to deal with problems of hooliganism by maintaining strict fan segregation. In the case of the Olympics, it was an IOC condition that the Government introduce such legislation. Neither justification can plausibly be offered in respect of other sporting or cultural events. Until we are clearer about both the rationale for (and the events which would be covered by) such a list, we will obviously wish to reserve our position.

Finally, if any additional legislation were considered in this area, it should draw a clear distinction between unauthorised sales on the streets, where the consumer is completely unprotected from fraud or unfair practices, and such sales in well-organized secondary marketplaces where transactions are transparent and consumer protections are available.

LEGISLATION

We believe that legislation to further ban ticket resale or resale above face value would be a retrograde step. Legislation banning the secondary market will not end ticket resale—it will just push it on to the streets where there is no enforcement and no consumer protection when things go wrong. For example, there have been laws against street touting for many years. But this has done nothing to stop the practice.

All experience to date suggests that any legislation is unlikely to be enforced. Given the constraints on police time and resources, we believe the Committee should seriously question whether law enforcement should be devoting resources to apprehending and prosecuting people for selling tickets.

Current legislation prohibiting the resale of football tickets is another example of ineffective legislation, with the Champions League Final serving as a case in point. Despite the fact that eBay removed several hundred such listings in accordance with our Football Tickets Policy, these tickets were widely available both in Athens and through other online ticket agencies.

Moreover, the football tickets legislation applies only to unauthorised sellers. Authorised sellers are still able to sell such tickets through the Internet, often with no reliable means of maintaining fan segregation, particularly when tickets are sold to the general public. This completely defeats the purpose of the legislation and clearly calls into question its utility.

Nor does legislation dampen prices. In the case of Champions League final tickets, there were widespread reports in the media of tickets changing hands on the street for over 2000 Euros.
Experience from the US is also instructive, with various academic studies finding that anti-scalping laws have actually led to increased prices in the secondary market:

“By focusing on penalties for those who engage in prohibited transactions, anti-ticket scalping regulations seem to lead to higher prices in the resale market. In states with resale regulations, competition in the resale market is reduced and is pushed towards out-of-state buyers whose costs of ticket acquisition are likely to be higher and are passed on to consumers in the resale market. The end result of this reduction in supply is higher ticket prices in the secondary market.”16

A study from the University of Texas found that anti-scalping laws increased prices in the primary market as well:

“Empirical analysis suggests that in cities with anti-scalping laws average per-game season ticket prices are approximately $2 greater in baseball and $10 greater in football. Anti-scalping laws actually increase team revenues, as the laws have no adverse effect on attendance. Thus event promoters might have sufficient pecuniary incentive to tacitly or explicitly support anti-scalping legislation.”17

Other academic studies have also heavily called into question the wisdom of anti-ticket scalping laws in the US.18

In the US, the trend is now towards deregulation with Minnesota, Florida, Louisiana, South Carolina, NY and Illinois opening up their ticket markets in recent years. Only seven states continue to regulate resale prices.

Restrictions in the secondary market will do nothing to control demand. Nor will they alter the number of tickets available in the primary market. Ultimately, this can only be controlled at the level of the primary distributor. Instead, regulation constrains the number of suppliers in the secondary market, thereby driving up prices. Banning resale or resale above face value may reduce the visibility of the secondary market, but it will not end it.

The issue is not whether the secondary market should exist but about what kind of secondary market we want. We can have a secondary market which is open, competitive and subject to consumer redress; or one controlled by event organisers who decide which sellers get the right to resell a ticket (and by authorising resellers, take a percentage of the resale fee). While the latter approach may best serve the commercial interests of a few entities the primary market, we believe that the consumer interest will ultimately be best served by open competition rather than by restricting the secondary market to a few authorised resellers.

June 2007

Memorandum submitted by viagogo Limited

I am the Founder and CEO of viagogo, Europe’s leading online secondary ticketing exchange. Prior to launching viagogo, I was the Co-founder and President of StubHub, the company that revolutionised secondary ticketing in the United States.

Before addressing some of the Committee’s specific queries, I’d like to take the opportunity to give you some more context about my experiences in the secondary ticketing market at both StubHub and viagogo.

Fans have been buying and selling live event tickets for as long as there have been live events. Be it for gladiator fights in Rome or sold out Shakespeare productions,19 there has always been a secondary market. At the same time, this has traditionally been a murky market, with fans having the frustrating experience of having to deal with unscrupulous touts.

As a long-time event fan and season ticket holder myself, I shared this common frustration with the traditional ways of buying and selling tickets. As a season ticket holder, if I couldn’t attend a fixture, I had no way to get money back for my unused ticket unless I was willing to stand outside the arena to sell it. And as a fan who wanted to get in to a sold out gig or event, I had no way to get a ticket other then call a broker or deal with a street tout.

To solve this problem, I launched StubHub in late 2000. The Internet-based service allowed fans to resell tickets directly to other fans in safe and secure fashion. Prices were transparent, buyers could compare listings, and there was no need to deal with strangers on street corners. StubHub guaranteed all payment and delivery, effectively guaranteeing trades.

Six years later, fans traded almost half a billion dollars worth of tickets on StubHub in 2006 alone—all safe, secure and fraud free. StubHub had achieved what legislation and other prior well-meaning initiatives had failed to do—protect consumers while fostering competition that resulted in lower prices and extended greater access to live events.

In 2005, I realised that fans in Europe were facing the same frustrations. Consumers wanted to trade tickets but were frustrated by the inefficiencies of a murky market dominated by unscrupulous touts. Many touts would fail to deliver tickets, deliver different tickets, and/or simply disappear with the money. I believed that the answer was to provide fans with a safe, secure, alternative that would bring fairness and transparency to the market and I launched viagogo in 2006 to do just that. It is important to clarify that viagogo does not sell tickets. However, by handling all payment processing, logistics, and customer service, viagogo is able to protect both buyers and sellers.

The service has proven to be a popular with sports teams, music companies, and most importantly fans. viagogo is now the official secondary ticketing solution for numerous sports teams, including Chelsea FC, Manchester United, Everton FC, and the London Wasps and Leicester Tigers rugby clubs. viagogo has also signed deals to market its secondary ticketing services through such partners as Warner Music Group and lastminute.com. And most importantly, tens of thousands of fans have happily bought and sold tickets on viagogo, sending the company off to a much quicker start than even StubHub. Since viagogo launched, a great many customers have sent in unsolicited praise for our service.

Having now provided some context on my experiences and expertise in the secondary ticketing market, I will now move on to address some of the Committee’s specific queries. The Committee expressed an interest in the following areas and I have addressed my remarks accordingly to these issues.

1. **The Underlying Causes of Ticket Touting, and Its Impact on Performers, Promoters and the Public**

   **The underlying causes of ticket re-sale**

   As mentioned, secondary ticketing has existed as long as there have been live events. It is not new, but rather a basic behaviour rooted in a number of fundamental factors. The main underlying causes include:

   **Supply and Demand**

   For many live events there is simply an imbalance of supply and demand. For example when a popular artist like Justin Timberlake plays a concert at The O2 Arena, there are only 20,000 seats available but multiples of that number who would like to attend. Hence, it is not surprising that there is an aftermarket, where fans seek to purchase the tickets that other fans can’t use or ultimately desire to sell.

   **Subscriptions and Season Tickets**

   Most professional sports teams sell tickets for the entire year to season ticket holders who buy subscription packages. For example, season ticket holders for many leading football clubs must purchase tickets for 19 home fixtures plus Cup matches. It is not reasonable to expect such season ticket holders to attend every fixture. Yet, with long waiting lists for season tickets, season ticket holders are understandably reluctant to give up their season ticket packages and rather seek to sell tickets for games they cannot attend to recoup costs.

   This subscription dynamic also holds for multi-day events such as Wimbledon and even for multi-purpose stadia such as Wembley Stadium, where 15,000 seat licenses have been sold, compelling the holders to buy tickets for all events.

   **Timing of ticket sales relative to event dates**

   In particular in the case of concerts, many tickets are released for sale months in advance of the event itself. Fans purchase tickets as soon as they go on sale in order not to miss out, which leads to a high numbers of ticket holders who find they are unable to attend as the event gets closer. Many other fans are unable to commit to purchasing tickets many months in advance of an event or are unavailable to purchase tickets at the precise moment they go on sale, but decide they would like to attend nearer the time. This creates demand for re-sold tickets as the event approaches.
Inability to return or refund tickets

Inability to return or refund tickets means that consumers are guaranteed to lose their money if something unexpected prevents them from attending. Re-sale is the only option to prevent them from being out of pocket. It is no wonder that 91% of the public believe that if a concert promoter prevents them from re-selling their ticket, then they should be provided with the option to get a full refund. Until 100% refunds are available, right up until the day of the event, consumers will recoup their money through re-sale of their un-usable tickets.

The impact of ticket touting on performers, promoters and the public

Before delving into this question, it is important that we distinguish between “touting” and “secondary ticketing/re-sale”.

“Touting” is a charged term that has come to mean not simply ticket re-sale, but rather to denote the unscrupulous, shady characters who hassle fans outside arenas or run fraudulent websites on the Internet. They often traffic in fraudulent tickets or run scams to trick consumers out of their money. Further, touts are typically paid in cash, are seldom registered businesses and are unlikely to pay VAT or income tax on their ticket profits.

Thus, “ticket touting” does not represent the secondary/re-sale market, but rather represents a group of bad apples who do not follow the basic rules of honest commerce. These people and their practices obviously play no productive role, causing only trouble for performers, promoters, and the public. The public is left angry and short-changed, and the performers and promoters are often left dealing with the fallout of disappointed fans at the venue with fraudulent tickets.

Such negative effects of ticket touting stand in stark contrast to the positive impact of a safe, secure, and transparent re-sale market. A safe re-sale market eliminates touts and fraudsters and provides benefits to the public, performers, and promoters alike.

Through viagogo, the public can now buy and sell tickets in a safe, secure way. Fans who cannot use their tickets can recoup their investment, and fans who need to get tickets to an event can now attend it. Fair competition and transparent pricing bring down prices. And all of this can be done from the convenience of one’s home, without any need to meet a dubious character at a random pub.

Performers and promoters also benefit. The tickets that are exchanged by people on viagogo have already been sold by the promoter, venue or artist at the price they have previously set and agreed, so they have received their expected revenue before people trade tickets though viagogo. We provide people with a way to buy and sell their tickets in a safe and guaranteed way and we take a commission from them for this service. Our business does not take any revenue away from promoters or artists. In fact the existence of safe and secure ticket re-sale marketplaces like viagogo makes it more attractive for fans to buy the tickets in the first place, as they know that they will have an opportunity to recoup their costs if they are unable to attend.

Further to this, we also ensure that seats do not go empty when original purchasers can no longer attend, thereby leading to greater concession and merchandise sales at the event. By doing so we are helping to increase revenue for promoters and artists. As every transaction is guaranteed on viagogo, we can be confident that tickets sold through our website are genuine, so by working with us the sports teams, theatres, record companies, concert promoters and artists can minimise the problem of consumers arriving at an event with invalid tickets and can protect their fans from disappointment.

It is therefore understandable that the secondary market has been embraced by the public, performers, and promoters alike.

Polls have consistently reported that the public endorses the right to buy and sell tickets in the aftermarket and that they are opposed to any attempt to take away this right. For example, in a recent poll by NME magazine 84% of gig-goers agreed that tickets were personal property and therefore they should be allowed to be bought and sold. And ten of thousands of fans have embraced viagogo since its launch, happily buying and selling tickets.

Performers and promoters have embraced the re-sale market and its positive impact by launching and endorsing re-sale services of their own. Performers including The Police, Manic Street Preachers, Jimmy Carr, Girls Aloud, Ray LaMontagne, and Nine Inch Nails have all given permission for secondary ticket exchanges in their name where fans can re-sell tickets at any price. Primary ticket agent Ticketmaster runs these exchange platforms on behalf of the artists, branded “ticketexchange” in the US (http://www.ticketmaster.com/ticketexchangehome) and recently launched it in the UK (http://www.ticketmaster.co.uk/ticketexchangehome). Between February and May 2007, over 115 sports and music venues in the US signed up to this service. Indeed, Ticketmaster CEO Sean Moriarty stated that it “adds greater value to the original ticket purchase when the buyer knows he or she may re-sell the ticket if unable to attend.” Even Wembley Stadium has launched an exchange for its 15,000 club seats.

20 13 September 2006. viagogo poll of 1,000 adults aged 18 +.
Finally, in addition to its arrangements with sports teams such as Manchester United and Chelsea FC, viagogo has also forged relationships with record companies such as Warner Music and artists such as Linkin Park.

2. WHETHER OR NOT RE-SALE OF A TICKET, AT FACE VALUE OR AT A HIGHER VALUE, SHOULD BE PERMITTED IN PRINCIPLE; AND WHETHER THE ACCEPTABILITY OR OTHERWISE OF RE-SALE DEPENDS ON THE CIRCUMSTANCES IN WHICH TICKETS ARE OFFERED FOR RE-SALE

As we have outlined above, we believe that the re-sale of tickets has a positive impact on the public, sports entities, artists, and promoters. Thus, from a utilitarian perspective the re-sale market is a good thing.

Beyond this, we also believe that the re-sale of tickets should be permitted as a matter of principle. Fans spend their hard-earned money purchasing tickets. Once they have bought a ticket it should rightly be theirs to do with as they wish. Just as you can re-sell your car or any other item that you have purchased, so too should you be allowed to re-sell a ticket that you can no longer use. It is this principle that accounts for why over 80% of the public in the NME poll agree that once they have bought a ticket they should have the right to re-sell it.23 Customers justly believe that once they have bought something they should retain full ownership and therefore determination rights over their property.

viagogo does not sell tickets, we facilitate the exchange of tickets in a safe and guaranteed way. We believe that ticket holders should be free to trade their tickets with other people that want to buy them. In fact it is individual users of our site who choose to sell their tickets; the sellers set the prices and it is up to individual buyers to decide if their prices are acceptable. Again, this free market sentiment is overwhelmingly supported by the public. For example, polls conducted by viagogo have reported that 70% of people agree that “it’s their right to pay whatever they consider is an appropriate price for a ticket, even if it’s above face value”,24 and 67% say that “that they want to make a profit if they re-sell tickets”.25

However, all of the above being said, no principle is absolute. Thus, viagogo does believe that in certain circumstances exceptions must be made:

- Safety and security considerations: In the cases where there are legitimate security reasons to limit and track re-sale, viagogo supports measures to control the re-sale market. For example, given the hooligan problems in football, viagogo agrees the re-sale of football tickets necessitates a strict registration system. That is why viagogo has worked with clubs such as Manchester United, Chelsea FC, and Everton FC to set up a safe and secure re-sale service for season ticket holders.

- Free events: In the case of free events, ticketholders have not paid anything for their tickets. Thus, the principle of property ownership does not apply, and therefore, it is reasonable for the event organiser to put restrictions on ticket re-sale. viagogo agrees that in the case of such “free” events the event organiser should be able to limit re-sale.

3. THE IMPACT OF THE INTERNET UPON TRADE IN TICKETS

There are countless examples of how the Internet has improved the lives of consumers, making markets more efficient and adding convenience and security. The Internet has also positively affected the secondary ticketing market, where companies such as StubHub and viagogo have been able to bring security, fairness, transparency, and efficiency.

Creating a fairer market

The Internet has increased competition in the secondary ticket market by allowing consumers to check and compare prices freely online before buying, which has driven down prices. Arizona State University economist Stephen Happel says that “What a competitive market does is drive tickets down to face value—and in some cases below”, and that “the majority of tickets on the secondary market sell around face value or below”.26 Jack Christin Jr, senior regulatory counsel at eBay, has said that “4.8 million tickets were sold on eBay in 2006, half of which sold for less than face value”.27 Incidence of tickets selling on the secondary market for less that the face value can easily be found in the UK: the Daily Mail reported in August 2006 that Rolling Stones tickets were available on eBay for just 1p;28 tickets originally costing £60 for Elton John’s concert in Carlisle in June 2007 were selling on eBay for between £20 and £40 at the end of May.

Another benefit of the Internet has been to improve market access, particularly with rising levels of broadband penetration in the UK. The Internet has provided the consumer with the ability to purchase tickets when the primary market is unavailable to them.

24 7–10 September 2006. viagogo poll of 1,000 adults aged 18+.
25 7–10 September 2006. viagogo poll of 1,000 adults aged 18+.
Improving security

Whilst the barrier to entry for the online ticketing market is low, superior technology systems and operational processes are a significant barrier to success. viagogo uses cutting edge technology to improve the experience for both ticket buyers and sellers through allowing full transaction tracking and providing greater security. Visitors to the site register as a user with their credit card details. Once a buyer has found a seller with the tickets they want, a transaction is confirmed and we arrange for delivery of the tickets and payment to the seller. We take a commission of a percentage of the agreed price following a successful transaction. Some websites where ticket trading occurs have varying degrees of security, and many people have complained that they have not received tickets that they have paid for. Our security measures are superior and by managing payment and delivery we guarantee that buyers will receive their tickets and sellers will receive payment. Through proper use of technology, Internet-based platforms that facilitate ticket re-sale can help eliminate fraudulent and criminal activity. Good examples of this are viagogo’s partnerships with football clubs that have helped these clubs deal with the issue of black market ticket sales.

4. WHETHER OR NOT TICKETS’ TERMS AND CONDITIONS BANNING TRANSFER AND ONWARD SALE ARE FAIR OR ENFORCEABLE

As previously described, we believe that once a consumer has bought a ticket, that ticket is the consumer’s to do with as he or she wishes. Thus, we feel that any terms and conditions barring transfer or re-sale are unfair. Once purchased the ticket is the consumer’s property; as with other consumer goods, the vendor does not retain a degree of ownership to the extent where they can dictate the product’s eventual use. This is demonstrated by the fact that 61% of people in an ICM survey for viagogo did not believe that a promoter should be able to cancel a concert ticket once it has been purchased. Many hold this view for the reasons mentioned above, that they want to be able to pass or sell the ticket on if they can’t attend, or buy a second hand ticket if they have missed the opportunity first time round. viagogo believes that efforts to cancel tickets would violate the rights of fans and would be of dubious legality.

Not only are such terms and conditions unfair, they are virtually unenforceable as a practical matter. Fans often buy tickets without knowing which family members or friends they are going to take to the event. Pragmatically and practically tickets always need to be transferable to accommodate this. Attempts to make tickets non-transferable have proven to be not only inconvenient and unpopular, but failures in practice. In the case of the 2006 World Cup, organisers announced that tickets would be non-transferable, requiring each ticket holder to have identification matching their name on the ticket. This proved to be impractical: the time and effort to check each person’s identification would have led to endless queues, and many fans and sponsors were sharing tickets with friends and colleagues. Thus, less then a week into the tournament FIFA announced that the policy was cancelled and no more tickets would be ID checked in this way.30

These same principled objections and practical failures of more restrictive measures have also resulted in the state of New York recently passing a law allowing ticket re-sales at any price and expressly prohibiting sellers will receive payment. Through proper use of technology, Internet-based platforms that facilitate ticket re-sale can help eliminate fraudulent and criminal activity. Good examples of this are viagogo’s partnerships with football clubs that have helped these clubs deal with the issue of black market ticket sales.

These same principled objections and practical failures of more restrictive measures have also resulted in the state of New York recently passing a law allowing ticket re-sales at any price and expressly prohibiting transactions take place in a secure way and the process is guaranteed and transparent. Approaches to prevent the transfer of tickets inevitably lead to significant inconvenience for consumers.

We do not believe that promoters and management of events can effectively or legally refuse entry to holders of genuine tickets, or that they have the right to do so because there are no statutory restrictions on the distribution of tickets to any events other than football matches.

29 ICM survey for viagogo, October 2006.
6. **Whether or not the Existing Offences of Sale by an Unauthorised Person in a Public Place of a Ticket for a Designated Football Match, or for Events at the London 2012 Games, Should be Extended to Cover Other Sporting or Cultural Events**

We believe that fans should be able to trade tickets for live events. The only exceptions would be in cases of security concerns (eg, football) or where an event is free (eg, BBC concert).

The motivation behind these measures relating to football tickets is to prevent crimes associated with football hooliganism. We feel that this is an issue specific to football and appreciate that restrictions are required in the interests of personal safety. We do not however see any reason for these laws to be extended to other sports or to music and theatre events on these grounds.

Provided that the secondary ticket market operates according to existing regulation, and in a secure, fair, and transparent manner, there is no threat of criminal behaviour or risk to consumers. We therefore do not agree that such offences should be extended unilaterally to cover other sporting and cultural events. Any future regulations aimed at enhancing consumer welfare should focus on promoting competition in the resale market and limiting nuisance behaviour on the part of re-sellers. This is supported by research from the US on the effect of anti-scalping (touting) laws online.32

A recent Department of Culture Media and Sport-commissioned consumer survey found that people who go to sporting and music events do not want the re-sale of tickets to be banned. They feel that this is not an issue that requires legislation. The study produced by the University of Bath, School of Management, Centre for the study of Regulated Industries (CRI) also ruled out the need for legislation, as it identified that the majority of consumers are neutral to the secondary ticket market and see it as a service that offers late availability. Their research indicated that if consumers felt strongly enough about the situation, they would inform the Government and push for intervention.

**Annex**

**THE TICKET MARKET AND SECONDARY TICKETING: FACTS AND FIGURES**

**Consumers Want the Right to Buy Tickets on Secondary Ticketing Exchanges**

— 85% of readers have bought tickets from secondary sources such as eBay (NME Touts Summit survey, February 2007).

— 72% of people agreed that if they want to buy a concert ticket, it is up to the individual to decide how much they are willing to pay (ICM survey for viagogo, October 2006).

— Over half (54%) of consumers agreed that tickets should be worth what someone is willing to pay for them (NME Touts Summit survey, February 2007).

— 79% of Internet users would consider using an online ticket exchange where the sale, payment and delivery of tickets is guaranteed (ICM survey for viagogo, September 2006).

**Consumers Want the Right to be able to Re-sell Their Tickets**

— 84% of gig-goers agreed that tickets were personal property and therefore they should be allowed to be bought and sold (NME Touts Summit survey, February 2007).

— 76% of NME readers said they would sell a ticket on eBay (NME Touts Summit survey, February 2007).

— 61% of people did not believe that a promoter should be able to cancel a concert ticket once it has been purchased (ICM survey for viagogo, October 2006).

“Greg Bettinelli, director of the event tickets division at eBay, said a majority of the tickets sold on his site eventually go for equal to or less than face value, which he said was evidence that most sellers are regular fans, not professional scalpers”.


SECONDARY TICKETING REDUCES TICKET PRICES

“The Internet has finally proven as fact what many free marketeers have argued for years: that anti-scalping laws don’t work, and that by eliminating them consumers will benefit.

Originally, scalping laws were intended to protect consumers, on the belief that allowing the re-selling of tickets would limit access to events only to the super wealthy. Much of the economics literature over the years has described the folly of anti-scalping laws. A study last year by Craig Depken, an economist at the University of Texas at Arlington, found that such laws actually result in higher prices at the box office—an average of $2 extra for a baseball ticket and $10 extra for a football ticket.

Of course not everyone gets it. Some liberal interest groups, such as the Public Interest Research Group in New York, have opposed a free market for tickets. And some teams, like the Yankees and the New England Patriots, the only team to file a lawsuit against StubHub, are against the idea of a robust secondary market.

StubHub’s impressive growth illustrates that fans get it. And the good news is that now it looks like lawmakers do too.”


“Indeed, Prof. Dan Elfenbein of the University of California at Berkeley has shown in academic work that laws prohibiting “scalping” actually reduce supply and drive up prices. It is easy to see why. If you re-sell your ticket on eBay, StubHub or Craigslist, you know that you are competing against many other sellers—prices are posted. If you get greedy, you won’t make the sale. Each seller knows that its competition is just one click away. And if a ticket seller attempts to commit fraud, StubHub and other re-sellers have legal recourse (and sometimes credit-card information) to make amends. The back-alley scalper, in contrast, faces limited competition on his own turf and cannot be easily held accountable.”


June 2007

Memorandum submitted by the Association of Secondary Ticket Agents (ASTA)

Mr Graham Burns is the elected chairman of the Association of Secondary Ticket Agents. The Association was formed in order to create a set of working guidelines within the secondary markets that there be greater transparency within these markets and the public’s interests be better served. At the moment if there are any grievances to be resolved the ASTA is the only generally available point of contact for any member of the general public to make a complaint when all else fails.

The ASTA have organised an advertising campaign over recent months in national newspapers inviting the general public to comment on their experiences with concert and event tickets. The response was surprising and voluminous, this material would be made available to the Committee should they so wish.

The association has existed for some eighteen months now and our intentions of staying are clear for all to see. The sale of tickets in the Secondary Market in New York is now legal and New York Governor Eliot Spitzer has signed into law there a bill which removes all caps on what can be charged within this free market. Interestingly it also prohibits New York sports event organisers from cancelling the season tickets of those fans who sell their tickets on.

Further, Governor Spitzer identified the one area which is of great contention and we believe pivotal to the whole concept of secondary selling in that the Government has no hand whatsoever in the regulating of the Primary sellers but seeks to impose limits on the Secondary Market and indeed has already legislated.

1. THE UNDERLYING CAUSES OF TICKET TOUTING, AND ITS IMPACT ON PERFORMERS, PROMOTERS AND THE PUBLIC

The fundamental cause in the growth of the secondary market appears to be that demand far outstrips supply of those tickets available to the popular or “in vogue” events.

The secondary market impacts performers and promoters in a very negative way if the examples of secondary trading by the likes of “getmetickets.com” and “tickettout.net” are observed. The proprietor of the former Mr. Michael Rangos, left many thousands of people without tickets outside of venues on the night of the events these people had gone to see, travelling on the promise of a ticket from “someone outside” the venue.

On the other hand the secondary market invests substantial amounts of money in promoting the sales of their tickets and quite often the wave of advertising can be quite beneficial to that event or artiste being promoted. This is particularly noticeable in the medium of the Internet where an event or Artiste can have the search results buoyed by the influx of advertising money to the search engines in promoting ticket sales.
The general public, using the above examples of negative impact, can find themselves travelling hundreds if not thousands of miles in order to attend an event where they are “going to meet somebody outside”. This is an odious practice and there are many, many documented cases of people not receiving their tickets at all. This practice is not condoned by ASTA and must be stopped. However, if there were no secondary market there would be many members of the general public who would not get to see an event/concert/artiste/show that they would very much have liked to see but did not have a ticket. The reasons could be many and varied but it is without doubt that without a source of tickets “at the last minute” many people would forgo an evening out with friends and colleagues on many occasions.

2. WHETHER OR NOT RESALE OF A TICKET, AT FACE VALUE OR AT A HIGHER VALUE, SHOULD BE PERMITTED IN PRINCIPLE; AND WHETHER THE ACCEPTABILITY OR OTHERWISE OF RESALE DEPENDS ON THE CIRCUMSTANCES IN WHICH TICKETS ARE OFFERED FOR RESALE

The United Kingdom and Western Europe operate within a Capitalist Economy. The fundamental principles are those of a free market. Why should tickets differ from say, Motor Vehicles? Are we to be sold motor cars that can only be driven by the purchaser through pre-defined routes to pre-defined destinations? And then only be allowed to return this vehicle to the person from whom it was purchased at our cost to be paid an amount, if at all, that is not negotiable?

The whole structure of ticket sales needs to be revisited and reviewed. How do you explain to a member of the general public that although the face value of £55 is printed on the front of a Rolling Stones concert ticket, it is quite likely that the ticket in question actually cost £115 to obtain from the primary source. The purchaser had to first join the fan club or “inner circle” at a cost of $100 (£50) and the handling charge of £10 then brought the cost up to the figure of £115.00. Yet the face value of £55.00 is the one that the secondary purchaser sees and assumes it has cost that amount to obtain! There needs to be more transparency in this particular area.

One area that appears to be overlooked here is the fact that on occasion, the secondary market sells tickets below the face value. It is assumed that there is always a higher value charged and this is not always the case. It does happen on occasion that the secondary market is flooded with tickets for events that are extremely unpopular and these tickets are then sold for a sum substantially less than the sum paid. In this instance the promoter has been paid the full amount and it is the secondary market that bears the loss. Little, if anything, is made of these occasions. Very recently, for example, on the “double8tickets” website tickets for George Michael concerts were available for £30.00 each yet these tickets had a £50.00 face value.

Allowing all of the sales of a ticket to an event to be exclusively controlled by one organisation is restrictive in the extreme and strangles the free market, a market in which the United Kingdom is a world leader. People do have the right to work within the structure of this economy and to restrict or withdraw this right is clearly against all the principles on which this economy is based.

3. THE IMPACT OF THE INTERNET UPON TRADE IN TICKETS

There are areas within the resale of tickets, especially by the primary agencies which have grown quite rapidly since the advent of Internet Marketing. Packages compiled by the primary agencies are better described in the medium of the World Wide Web and a wider audience has been reached. This has created some confusion however as the choice of package to see the same event has grown. Wimbledon as an instance is quite impossible to understand. for example there is such a price difference between an official hospitality package on sale by appointed agents for the first Monday at Wimbledon (£865) and the last day being Sunday (£2850)? I imagine the strawberries and champagne would be the same price on a rainy Monday as they are on a rainy Sunday, the same goes with the roast beef and Yorkshire pud. We do not suppose that the wages of the staff at Wimbledon change much on a day to day basis at this venue and stay very much the same for the fortnight. The facility is the same for the whole fortnight and in fact you will see less tennis on the last day than you would on the opening day. So why the big price difference? It is not just the nightly news that builds the hype but the Internet is able to build the picture into one that makes the hype seem so tangible. It was on the Internet so it must be true! Therefore it follows that most will believe the hefty price tag is justifiable.

The revenue of course is quite phenomenal and the benefits to the chancellor of this increased revenue from the secondary market are not to be lightly dismissed. Although there is no figure the sums concerned are not insubstantial and millions of pounds are involved.

4. WHETHER OR NOT TICKETS’ TERMS AND CONDITIONS BANNING TRANSFER AND ONWARD SALE ARE FAIR OR ENFORCEABLE

I refer the reader in the first instance to the reply following question two. Tickets have been and continue to be sold in Leicester Square for many events both inside and outside of the Capital. These tickets are sold by so called “official” and “unofficial” vendors alike. The practice has continued for so long we would question whether or not it would be practical to close down these vendors. Any such action (the closing down
of these booths) would surely be met with fierce resistance we are sure. Printed on the reverse of each and every ticket however are terms and conditions which imply the resale or transfer of that ticket is in breach of the terms of sale. We question whether or not this would hold up in a court of law.

One point of note here and one of great concern is the lack of a refund policy. The Primary Market have no mechanism whatsoever of processing a refund in the case of a genuine request for such a refund. The Secondary market however has such a policy and it is a prerequisite to membership of the ASTA that you have such a policy and a mechanism in place to fulfil this.

5. The Merits of New Approaches by Ticket Agents Attempting to Prevent Transfer of Tickets, Including Wider Use of Personal ID

This is clearly perpetuating the abuse of trade from a dominant position within the marketplace. It would be hard to stretch the imagination to see why one would need a piece of identification to enter a concert or West End theatre! This is clearly restrictive trading and monopolistic.

6. Whether or not the Existing Offences of Sale by an Unauthorised Person in a Public Place of a Ticket for a Designated Football Match, or for Events at the London 2012 Games, Should be Extended to Cover Other Sporting or Cultural Events

This existing legislation should be dismantled. The original report by His Honour Lord Justice Taylor subsequent to the Hillsborough disaster identified Football Hooliganism as one of the main contributory factors. For example if the tout, either on the street on match day or in a well run professional office was allowed to sell 50 tickets to for example to a legendary Cardiff City Hooligan Firm in the Arsenal supporters home section at an FA Cup tie on Saturday afternoon there would most probably be hell to pay.

So he (His Honour Lord Justice Taylor) advised the FA and the Premier League to make all Stadiums in the Premier League all seated Stadiums, the clubs could then distribute tickets more securely ie the away fans will be sitting with away fans and the home with the home rather than anybody going to the box office and getting in the queue on the day that tickets go on sale as was in the old days and be able to buy where you wanted, home or away. It is illegal for the Clubs in The Premier League to sell tickets for a match on match days, this is obviously to stop rival away supporters being able to purchase tickets for the home supporters section and cause mayhem. So why do tickets still go on open sale to supporters at some matches in the Premier League on match days? This happened this year at Arsenal’s home match v Manchester City on a Tuesday night in April. It also happened at an actual FA Cup 3rd round Tie two years ago at Highbury, Arsenal v Cardiff City. Cardiff City are well know to be high up the Hooligan League and to much amazement the tickets were on open sale to anybody who was asking for them in a polite manner.

This is illegal and if caught in the act a ticket tout would at best end up with a criminal record and could be banned from football matches for up to six years, and they have to go to a designated police station on match days not only for the club matches that they were arrested at but all England matches over land and sea, which means his family holiday is corrupted because every two years England are qualifying for either the Euro Championships or the World Cup in June and July, notwithstanding the immediate fine one would receive from the magistrate once convicted. So, should Arsenal not be banned forthwith from Europe for 6 years? Clearly this needs revision.

Why was the Football bill regarding ticket touts enacted in the first place? Was it because it was a vehicle for the hooligans to buy tickets in the rival fans area so they can have a good old punch up? Or was it because clever speculators were gambling their own money by buying what could be described as stock at one price and selling it at another to make a profit and the FA or Premier League or relevant clubs (bearing in mind the clubs had already made a profit from the speculator) were not getting a slice out of it?

If the answer is Hooliganism, it has failed miserably because the modern day organized Hooligan simply does not buy a ticket to see the match. They organise meets via modern technology and smash designated meeting points to pieces up and down the country every weekend because live matches are shown the length and breadth of the country in Public Houses and it happens in towns every weekend bar none.

We thank you for taking the time to read our submission and we hope we are given further opportunities to make positive contributions to these proceedings.

June 2007
Memorandum submitted by Seatwave

1. **HOW DOES SEATWAVE WORK?**

   1.1 Seatwave does not buy or sell tickets. We exist purely as a marketplace where people can find the tickets they are looking for or sell tickets they no longer need.

   1.2 Our business model provides an important opportunity to break up the ticket selling cartels currently in operation and democratise markets by putting control in the hands of fans.

2. **ABOUT SEATWAVE**

   2.1 Based in London, Seatwave is an online marketplace where people can buy and sell tickets for concerts, theatre, sports and other live events. Providing a safe and secure environment for fans, Seatwave was launched in February 2007 and already as more than 400,000 tickets on sale, 20 times as many as are available on eBay.

   2.2 According to Hitwise’s April 2007 statistics, Seatwave is already in the top 15 of all websites selling entertainment tickets and leads all other online exchanges. We are passionate about building a strong marketplace for tickets, offering our customers the safest as well as the most competitive environment for them to buy tickets for all kinds of events. We aim to normalise and legitimise the secondary ticket market in the UK and Europe.

   2.3 Seatwave is in the business of getting passionate fans to the events they love by making it easier and safer for people to buy and sell tickets. Our goal is to build the biggest, most trusted and most inspiring marketplace for event tickets.

3. **HOW DOES SEATWAVE MAKE MONEY?**

   3.1 We charge premium fees for Seatwave’s services. Our commissions and fees are fairly similar to some of the other less consumer-friendly ticketing services but with good reason. We believe that Seatwave’s offering is, and will continue to be, superior to any other ticketing exchanges. To offer better quality service than our competitors, we need to attract great people to work for us and in higher numbers than other operators. If we are unable to offer a service that is better than others, we would have no right to charge premium fees.

   3.2 Seatwave makes the same amount of money whether tickets are sold or bought at face value or double face value. We encourage sellers to list their tickets at prices that reflect previous and current demand—we do this by providing up-to-date information from our site—but ultimately Seatwave has no control over the price the seller settles upon. We charge sellers only when a ticket is sold—there is no charge for listing a ticket on the site.

   3.3 Consumers do incur a cost when using Seatwave but there is a reason for this—and we are totally transparent about it. If Seatwave customers are not happy with our service, we will go out of our way to address the problem and, where appropriate, we will pay the event goer the full price of the ticket plus half of what they originally paid for the tickets.

4. **WHAT ARE THE UNDERLYING CAUSES OF TICKET TOUTING?**

   4.1 The secondary market is a result of the failure of the primary market—restricted supply and the resulting excess demand is largely caused by primary suppliers (eg event promoters). Sporting events such as Wimbledon and the Six Nations lead to massive demand but much of the supply has historically been limited to privileged “inner circles” in the respective sport and many tickets are sold via corporate hospitality deals. Similarly mismanaged distribution techniques deployed by event organisers such as poorly managed phone lines and websites lead to fans being unable to access tickets when they are first released.

   4.2 The “face value” of tickets when they are first released to the public by promoters often does not reflect the market value which tickets would ultimately achieve on the open market. Promoters make an increasing percentage of their profits through the sale of merchandise and ancillary goods. So when underpriced tickets are resold they sell above face value—which actually reflects something closer to their true value.

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33 Dow Jones—Sport Industry Report.
5. The Characteristics of the Secondary Market

5.1 The secondary ticket market in the UK is primarily an informal market involving both individuals and businesses, selling both off and on-line. It is currently estimated to be worth around £1 billion in the UK alone and £3.5–5 billion Europe-wide (source Dow Jones News).35

5.2 Ticket resale is a legitimate and lawful industry in the UK, barring two important exceptions sales of football and 2012 Olympics tickets. Whilst a signifies the proportion of sales are by “businesses” it is important to recognise that many sales are made by individuals who simply wish to resell tickets they no longer need for which they are unable to get a refund—many of these sales simply recoup the face value of the ticket originally sold or are even made at below face value.

6. What is a Tout?

6.1 The term “tout” refers to someone who buys tickets to an event in order to resell them at a profit. “Tout” may also refer to individuals and businesses that mislead consumers by offering to sell tickets which they do not actually have. The former activity is a perfectly legitimate one, even if the term “tout” has negative connotations for some. The latter activity is fraudulent as such and should be dealt with by law enforcement.

6.2 Seatwave is not a “tout”. Seatwave provides a venue to individuals and businesses who wish to resell tickets. It also provides a venue for individuals to resell tickets which they are unable to obtain a refund for because of the restrictive terms and conditions imposed by event organisers.

6.3 Seatwave facilitates the resale process in the clearest, most intuitive way possible by providing a safe, secure and trusted environment for sellers and buyers alike—far from the stereotype “tout” imagery deployed by those who would seek to end the secondary market.

7. The Impact of the Internet upon Trade in Tickets

7.1 Similar to many industries, the Internet has transformed the resale market for event tickets and disrupted traditional business models—all to the benefit of consumers. This disruption has relinquished the stranglehold event organisers previously held over the supply of tickets and democratised access for consumers. In any industry, disruption on this scale will always lead to calls for regulation by those whose interests are most threatened—in this case the event organisers—these calls on this occasion are misguided.

7.2 Consumers have benefited enormously from the introduction of the Internet—both in terms of accessibility and transparency.

7.3 At one time the only option for consumers who “missed out” on the initial supply of tickets, in many cases a less than 15 minute minute window on a weekend morning, was to seek out the traditional ticket tout at the venue. This would be done in the hope they could purchase a legitimate ticket at a reasonable price—an often naive aspiration. The advent of the Internet has shed light on the resale process—consumers can no make decisions on whom to purchase from and at what price from the comfort of their own sitting room. Sites like Seatwave can remove the element of risk from the process by providing market information and providing financial guarantees through schemes like TicketIntegrity™.

7.4 The Internet has, for ticket resale and many others, put control exactly where it belongs—with the consumer. It has allowed for an increase in transparency in the market. Transparent markets are more efficient and can help, ultimately, to reduce prices.

8. Sales of Tickets above Face Value

8.1 The high prices achieved by some tickets for “must have” events have generated headlines in the press and calls for government intervention from many parties. However, according to the Department of Culture, Media and Sport’s own research,36 “consumers are inclined to view tickets as acceptably transferable […] and that (re)selling at a profit is also acceptable so long as it is done in a small-scale fashion and by ‘individuals’”.

8.2 “Face Value” is an important piece of information for consumers to have (and Seatwave requires that all its sellers list this information in accordance with the Price Indications (Resale of Tickets) Regulations 1994) but many consumers who were unable to purchase a ticket when it was first released are happy to pay above this face value to secure the ticket they want—particularly as the date of the event approaches. The

35 Hitwise Monthly Top 100 Report, May 2007, Hitwise Ltd.
price a ticket is finally sold is therefore a result of its scarcity and desirability. As long as consumers make the decision to purchase at above face value in possession of the appropriate information about the ticket there is nothing “wrong”. Tickets are, after all, like any commodity in a free market and will sell at level determined by the market.

8.3 Some event organisers are now selling many of their best tickets well above face value within “VIP Packages”, these often include perks such as a chance to see sound checks or to go backstage. In reality, although these perks have notional value, the package deal obscures the true price paid for the ticket at the heart of the package.

9. **Seatwave’s Commitment to a Fairer Deal for Consumers and Fans**

9.1 Seatwave is on the side of the fans and our activities are determined by this. There have been and continue to be, inappropriate activities, in the industry. The industry and the Government have the responsibility to protect consumers.

9.2 Seatwave is committed to working with the Department for Culture, Media and Sport to both increase protection for ticket buyers and protect the interests of ticket resellers. We have participated in the DCMS’s series of “Ticketing Summits” aimed specifically at protecting fans from dishonest ticket touts and have signed up to the DCMS’ “Statement of Collective Agreement”, in fact our actions have gone beyond what is required of us by the Collective Agreement.

9.3 For its part, Seatwave guarantees that buyers will receive the tickets they ordered and in good time for the event. All tickets bought on Seatwave are covered by TicketCoverTM and are guaranteed through our TicketIntegrityTM system.

9.4 Through TicketIntegrityTM, we guarantee that our tickets come only from legitimate sources and that we will represent them accurately and honestly. We guarantee that the consumer will receive the same tickets ordered (or better) and that they will arrive in time for the event. If we are unable to keep this commitment, Seatwave will pay the event goer the full price of the ticket plus half of what they originally paid for the tickets.

10. **Terms and Conditions—An Unfair Deal for Consumers**

10.1 The terms and conditions imposed by event organiser restricting transfers, resale and refunds of tickets they have bought in good faith result in consumer detriment. By refusing to allow refunds of tickets, event organisers leave consumers with limited options. In order to recoup their costs consumers will use services like Seatwave to dispose of tickets they no longer need—on what grounds should this be unacceptable? Similarly if a group of friends buy tickets for an event but one finds they can no longer attend why should that ticket not be transferred to someone else?

10.2 Consumers, according to the DCMS survey of February 2007, support this view and are inclined to view tickets as “acceptably transferable”.

10.3 The terms and conditions restricting transfers, resale and refunds of tickets may be legally challenged as unfair under the Unfair Contract Terms Act 1977 and the Unfair Terms in Consumer Contract Regulations 1999. The Regulations state that “A standard term is unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the parties rights and obligations arising under the contract, to the detriment of the consumer”.38

10.4 In essence these require terms in consumer contracts to be reasonable. A restriction on transferability is arguably not reasonable. Under English law any exclusion or restrictions such as on transferability have to meet the test of reasonableness.

10.5 It is a matter of English contractual law that for a restriction on transferability to be enforceable it must be bought to the purchasers’ attention before the contract for the sale of tickets is entered into. Therefore just including on the back of the ticket a restriction on transferability or in the small print of ticketing terms may not be sufficient. People often buy more than one theatre ticket at a time for friends and family and transfer those tickets to others. Accordingly, any attempt by a theatre/venue/promoter to prohibit the transferring of a ticket from one person to another would be unenforceable as a breach of standard custom and practice implied in the contract for the sale of the tickets.


11. THE MERITS OF NEW APPROACHES BY TICKET AGENTS ATTEMPTING TO PREVENT THE TRANSFER OF TICKETS, INCLUDING WIDER USE OF PERSONAL ID

11.1 Seatwave is opposed to any attempt to prevent the transfer or resale of tickets. Such moves serve only to protect the interests of ticket agents and event organisers—leaving fans with restricted access to tickets in the long-term. A number of ticket agents have attempted to link ticket sale to personal ID, as is the case with this year’s Glastonbury Festival. This represents a deliberate attempt to prevent the possibility of resale and hence maintain tight control over the market. It is also difficult to enforce, requiring additional checks upon entry—leading to long queues and public order issues—in reality these checks are rarely sufficient.

11.2 There have been a number of high-profile cases of promoters and ticket agents cancelling tickets that have been offered for sale on eBay and other sites. This is a practice that should be outlawed because there is no reasonable need to do so.

12. RESTRICTED SALES OF TICKETS FOR CERTAIN CLASSES OF EVENT

12.1 At present there are specific restrictions on sales of certain types of ticket. Two examples have been identified by the Committee; designated football matches and events at the London 2012 games. In the case of football matches there is a historical, and sound, reason—the prevention of hooliganism. In the case of the London 2012 games the restriction is the result of a specific prohibition imposed by the International Olympic Committee. The imposition of further restrictions is, in Seatwave’s opinion, unnecessary. If further restrictions were to imposed this should be done on a case-by-case basis, the presumption should always be that resale of tickets is a consumer right.

13. SHOULD RESALE OF TICKETS FOR EVENTS OF NATIONAL IMPORTANCE BE BARRED?

13.1 Seatwave is opposed to any attempt to prevent the transfer or resale of tickets. For events of “national importance” the protection of the consumer right of resale is, perhaps even more important than for other types of event. When an event such as a FA Cup Final or a charity concert captures the public imagination demand will always exceed supply. Therefore, opportunities for the public to access the tickets they want must be maintained rather than restricted.

14. CONCLUSIONS

14.1 Seatwave calls on the Committee to recognise that demands to impose statutory regulation are largely driven by attempts of events organisers and ticket agents to protect their own commercial interests, not by any concern for the interests of the consumer. The Committee should be mindful of the consumer interest and should base any recommendations it makes on ensuring that consumer rights to both buy and sell tickets are protected and promoted—not restricted.

14.2 The worst resale practices, those which are fraudulent and illegal, must not be tolerated and appropriate action needs to be taken by law enforcement authorities to stamp them out.

14.3 The overriding objective of any interventions recommended by the Committee should be to support and promote a transparent and fair resale market.

June 2007

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39 BBC News website article on injunctions taken out to prevent resale of Wimbledon tickets—19 June 2005—http://news.bbc.co.uk
Witnesses: Mr Joe Cohen, Co-founder and CEO, Seatwave, Mr Graham Burns, Chairman, Association of Secondary Ticket Agents, Mr Dominic Titchener-Barrett, Association of Secondary Ticket Agents, Mr Eric Baker, Founder and Chief Executive, viagogo, Mr Paul Drake, Head of Contracts and Commercial, eBay UK Ltd and Mr Alasdair McGowan, Head of Public Affairs, eBay UK Ltd, gave evidence.

Chairman: We now turn to the secondary market and can I welcome Alasdair McGowan and Paul Drake of eBay, Eric Baker of viagogo, Dominic Titchener-Barrett of the Association of Secondary Ticket Agents and Joe Cohen of Seatwave.

Q78 Alan Keen: Good morning. I had a discussion with some sports fans in my constituency recently when I knew we were going to do this inquiry. They talk mainly about the people selling tickets outside sports grounds, saying, “Got any tickets, got any tickets, does anybody want a ticket?” They regarded them as scum. Do you think that is a fair description?

Mr Titchener-Barrett: I think that is an ignorant position to take, naïve in the extreme. I would draw a very clear distinction between selling in the secondary ticket market and ticket touting. There is a clear distinction and today all we have heard is emotional arguments based on the very worst aspects of ticket touting. We have not actually heard the other side of the story about the movements we have taken in-house to try and regulate and improve our image. I do not think that is a fair assumption. That is a very one-sided, one-eyed view of the industry.

Q79 Alan Keen: I was talking about the people outside football grounds selling tickets.

Mr Titchener-Barrett: Again, I would draw a very clear distinction between the individuals that we have here and the people that my organisation represents and those that represent those kinds of persons. My personal opinion is that is the unacceptable face of the secondary ticket market. In fact, I would call it a tertiary market; I would not actually include them as part of the secondary market. I would say it is a tertiary market operating under their own remit.

Mr Baker: I think what you are hearing from your constituents highlights a lot of what we have heard here today, which is that where fans are unhappy it is because you deal with people who give you fraudulent tickets. It is not safe and secure, it is not guaranteed and they do not know who they are dealing with. Whether you are buying a ticket, a car, a piece of art or any goods, if you are dealing with someone like that, you probably would call someone like that “scum”. What we have tried to do at viagogo is create a safe, secure, guaranteed online mechanism so the fans that we work with, be it at Manchester United, Everton or Chelsea, are very happy that they do not have to deal with these characters outside the stadium, and when you give consumers a safe, secure alternative, you can eliminate the type of shenanigans that go on outside a stadium.

Mr Cohen: I would like to add to that, I think it probably helps the Committee if we explain how Seatwave works as well. Seatwave is a marketplace where people can buy and sell tickets and we provide a guarantee that we call a “ticket integrity”, which means that you will receive exactly the ticket that you purchased on the site in good time for the event and, if you do not, we will give you a 150% refund on your money. The other thing we provide is something called “ticket cover”, which is an insurance product that we have underwritten, which means—and actually, Mr Goldsmith was wrong about this—that if there are traffic delays on the way to an event, if there is rail disruption, if you are injured, if you have illness or death in the family, you will get a 100% refund for your ticket. If the event is cancelled and rescheduled at a time that you cannot attend or it is not rescheduled at all, you will get a 100% refund not only on the price of the ticket but on any mark-up that was involved and any booking fees involved, and that is at no additional cost to consumers; we underwrite and pay for that entire cost. There is no-one in this room who can say that they do the same thing to protect consumers in the way that Seatwave does.

Mr Burns: With respect to my colleague Mr Cohen, ASTA was formed, as many people are aware, to really create an aura of confidence within the secondary market and these guidelines that Mr Cohen talks about are exactly the guidelines that we adopted as an association off the back of the guidelines used by the National Association of Ticket Brokers in America, with whom we are associated.

Q80 Alan Keen: At least some of you sell tickets above their face value, which is against the terms and conditions of those tickets. How do you justify that? Are you happy about breaking those terms and conditions?

Mr Titchener-Barrett: I think we in Britain live in a western pluralist liberal democracy where the free market reins. We live in a laissez-faire world of economics.

Q81 Mr Sanders: So does the rule of law.

Mr Titchener-Barrett: What difference does it make if one in five houses in London are now owned by property investors? In my opinion, it is a free-market investment. Why should people not be able to buy and sell? To enforce it would be extremely difficult.

Mr Baker: I think, again, it is important to realise that people should be free to buy and sell and, of course, we do live in a rule of law country, which we all obey. Our point of view on it is that consumer protection is very important in this country and there are very strong consumer protection laws that protect the consumer and mean that only certain terms and conditions are enforceable and fair, and simply because someone puts a term or condition on, if it violates a consumer’s right, for example, that they have purchased something and they have the right to sell it on, we do not think that would be enforceable but certainly people have the remedy of the courts if they would wish to test that and they believe their terms and conditions are enforceable. We believe the proper forum would be the court.
Q82 Mr Sanders: What bit of “not for resale” do you not understand?  
Mr Baker: Again, it is our respectful position that if someone has purchased a ticket, they have the right to sell their ticket on, in the same way that if I purchased a book, I have the right to sell the book on, regardless of whether or not the publisher says that they want the terms and conditions to say you cannot resell that book. We believe that is an example of a term and condition which would not be fair to the consumer.

Q83 Mr Sanders: You make the law.  
Mr Baker: No, sir. The Government makes the rules and obviously we would interpret the rules but we feel that the consumer has a right to sell it on. If there is a problem with a consumer breaking a term and condition, then we believe it would be between that body and the consumer and they certainly should take up that issue.

Mr Cohen: I would add to that that the Unfair Contract Terms Act 1977 suggests that a standard term is unfair if it is contrary to the requirement of good faith and causes a significant imbalance in the parties’ rights and obligations arising out of the contract to the detriment of the consumer. There is also a suggestion that terms need to be reasonable, or an exception to a term needs to be reasonable, and we do not believe there is a sense of reasonableness that something should not be sold above face value.

Mr McGowan: It is also interesting that the OFT in their evidence to the Committee have suggested that the terms and conditions which are attached to some of these tickets are potentially unfair. So if the OFT have doubts themselves, I think we are perfectly entitled to allow the resale of these tickets.

Q84 Alan Keen: Many ASTA members and some of you here today are already selling tickets for the rugby next year. Do you not think that is wrong? You heard the rugby people mention that earlier this morning. If tickets have not gone on sale yet and you are selling them, do you think that is acceptable? How do you justify it?

Mr Cohen: Again, I would take the view that we have terms and conditions and a limited user agreement within our service, and part of that limited user agreement says that if you sign up to this service, you have to abide by these rules, and one of the rules is if you list a ticket for sale and it sells, you then have to deliver that ticket. So long as that person is abiding by those rules, no, it is not wrong.

Q85 Alan Keen: What if you cannot deliver the ticket? What do you do in those cases?

Mr Cohen: We take a guarantee from all of our sellers, so everyone who lists a ticket for sale on our site provides us with a debit card or credit card and in the terms and conditions it says if they do not deliver the tickets, we have the right to purchase alternative tickets and charge their debit or credit card for them. Everyone who sells tickets through Seatwave—and I believe viagogo is the same—has to enter into that limited user agreement and stand by it. In that way we are able to provide a guarantee.

Q86 Chairman: So are you selling futures on Seatwave, like the example that Alan gave of tickets that are not yet on sale?

Mr Cohen: No. In our limited user agreement, again, we say you have to own and possess the tickets that you sell.

Q87 Chairman: So there are no Rugby World Cup tickets on sale on Seatwave?

Mr Cohen: There are Rugby World Cup tickets for sale, but those have been for sale already. Those have gone on sale.

Q88 Alan Keen: Are there no limits to what you would do? Take Live Earth, for instance, Live 8. That is a charity. Do you not feel that was at least something you should have refused to put on your site? I think you have all got them.

Mr McGowan: With Live Earth in the US we did a deal whereby 20% of any of the resale value then went back to the charities concerned. It is important to stress that when a charity sells a ticket, they obviously get the money from the primary sale. What we have done with eBay and the deal with Live Earth is given them an opportunity to raise more money for good causes also from resale. We think that makes sense. It means that the consumers can still resell their tickets and the charity also benefits from it.

Mr Drake: eBay has a mechanism to raise huge amounts of money for charity in this way and this is something that we are looking at. For example, in the US, the equivalent programme in the US, they have raised over $100 million since the start of the programme. There is huge scope there for fund raising that we as eBay are interested in pursuing.

Mr Burns: I would like to interject because the charitable tickets, I think, need to be taken on a case-by-case basis. One of our members, Get Me In, who operate an organisation on a very similar model to Seatwave and viagogo, are listing tickets for the Diana concert this coming weekend. Those tickets have actually been put on there by one of the charities, so I think it would be wrong to say, “Look, you are selling charity tickets here.” Those tickets have been put on there by one of the charities to raise money for that charity, and I know that the CEO of that organisation has donated all the proceeds from that sale to that charity also. I think we need to be very careful with charitable tickets but it is a well-made point.

Q89 Paul Farrelly: Can I just interject? Get Me In, one of your members, as you mentioned, are advertising tickets for the 2008 Heineken Cup Final which are not on sale yet, and they are advertising them at Twickenham Stadium, London where the final will not take place.

Mr Burns: I am sorry. I cannot comment on that but I am grateful to you for bringing it to my attention.
Q90 Paul Farrelly: That is one of your members.  
Mr Burns: I am grateful to you for bringing that to my attention but I cannot comment on that because I am unaware of the item being offered there, but I will now enquire as to why that is and the circumstances surrounding that.

Q91 Paul Farrelly: I do not think, Chairman, we have a list of ASTA members. Could you send us one, please?  
Mr Burns: I certainly will, yes.¹

Q92 Paul Farrelly: So we can do a bit more research that you have not done on some of the practices of your members.  
Mr Burns: Yes.  
Mr McGowan: In response to your question, one of the things we have done as a result of the Ticket Touting Summits with the DCMS is that we have acted in response to a request from event organisers to take down tickets for events where, for example, the date has not yet been announced or tickets had not gone on sale to the public, either through fan clubs or debentures or any other means. And where they have spoken to us and said, “Will you take down these tickets because there is no possible way that this person who is claiming to sell a ticket could have it,” we take it down those listings. So as far as we are concerned, we would not condone future selling of that sort.

Q93 Helen Southworth: How many complaints have each of you had from consumers about either fraudulent or unfair sales? We have the example of Seatwave where a ticket was right at the back, with poor visibility and nobody knew so until they had paid all the money out for the ticket.  
Mr Cohen: Can I comment on that? I think it is a great example of the value of Seatwave. Nick came up and showed some tickets for sale that were obviously very bad seats and very high priced and, you know what? They are still for sale. No-one has bought them, because you have complete visibility into all of the tickets that are available in the marketplace and you can see exactly where those seats are.

Q94 Helen Southworth: How many complaints have you had from consumers who have not been satisfied with their purchases, either because they were fraudulent or unfair?  
Mr Cohen: An exact number of complaints? I could not tell you. I could write to you later and tell you exactly how many we have had and how we deal with them.²  
Mr Baker: I would like to give you a very direct answer to your question. We have not had any complaints from consumers about fraudulent tickets or unfair practices. In fact, it underscores what we are trying to do. We really do work for the fan, because that is our customer—not the venue, not the league, but the fan and the consumer, the hard-working person who bought a ticket, wants to sell it or wants to buy it. But the quick answer to your question, as a matter of fact, is that we have not had any complaints about fraud and about inefficiencies.

Q95 Helen Southworth: Or unfairness?  
Mr Baker: Or unfairness. We have heard many complaints from people who do not like the current system and have told us that the reason they used our site is because they have had complaints about unfairness and a difficult process dealing with someone out on the street or dealing with rogue websites. That is what we exist to deal with.

Q96 Helen Southworth: What about eBay?  
Mr McGowan: I cannot give you a specific number in relation to tickets, but in relation to our general fraud statistics, they are very good by industry standards. I think it is something like 0.06% of what we call our Gross Merchandise Volume. That is the total value of the goods that are bought and sold on the site.

Q97 Helen Southworth: It is tickets that we are particularly looking at at the moment. If you could give us that information, that would be very useful.  
Mr McGowan: I do not have those figures available with me just now but I am very happy to.

Q98 Helen Southworth: You have not done a check on the situation?  
Mr Drake: We would not necessarily have access to that. We are not involved in the transactions, so, if there is a complaint, the buyer might go back to the original seller and complain outside of the eBay website, so we would not necessarily know.

Q99 Helen Southworth: You do not have a mechanism set up to deal with complaints?  
Mr Drake: We have a feedback mechanism on eBay and there are thousands and thousands of positive feedbacks left by happy buyers when they have received their item. That is one indication as to the general high level of consumer satisfaction.

Q100 Helen Southworth: But you will be able to give us the information about the complaints?  
Mr McGowan: We are very happy to go and see what we have available.³

Q101 Helen Southworth: How many complaints have you had of either fraud or unfairness?  
Mr Burns: I ran a very interesting series of advertisements in the Sunday Mirror and Daily Telegraph newspapers and it unearthed a plethora of complaints, because I had asked for a general “Has anybody had any bad experiences?” and I found that by far the largest volume of complaints—and I am happy to provide these to the Committee—were about primary sellers. That is not without surprise because they sell the greatest volume of tickets but

¹ Not printed.  
² Ev.  
³ Ev 133
one of the biggest complaints was the lack of ability to contact the primary seller in case anything went wrong. That would be Ticketmaster, Seatickets. I will happily forward these to you. One of the objectives of ASTA is to be a point of contact for the general public. Our telephones are always open; there is always somebody at the end of the telephone and you can contact us. Putting that aside, I did do quite a lot of research into the reasons for complaints, and they are wide and varied.

Q102 Helen Southworth: Can I also ask about selling on of free tickets? Do people believe that it is fair to provide a platform for selling on free tickets? Quite often they have been provided at public expense for the public.

Mr Baker: I can certainly answer: viagogo’s point of view we put in our written submission. As I said, we believe that if someone has paid their hard-earned money for a ticket, it is theirs, they own it and it is their right to sell it on. However, in the instance that you highlight, if it is a free event, they have not paid their hard-earned money and this is a different type of example. We believe that, if you look at specific circumstances, for free events we think it is reasonable to have a restriction of not allowing people to sell on because they have not purchased something. We also think, in the interests of public safety, as it is with football. Those would be the two exceptions we see.

Q103 Helen Southworth: So you do not carry them?

Mr Baker: We do not carry tickets for free events either.

Mr Cohen: We do not carry tickets for free events.

Mr McGowan: This is one of the issues that the Government asked us to look at. This is something we are actively looking at but we cannot give you a detailed answer at this stage because we have to consult internally with our colleagues but it is something we are actively looking at and something where there is a genuine debate to be had.

Q104 Helen Southworth: When will we be able to get the response?

Mr McGowan: We will give it to you as soon as possible. Obviously, we have to consult with colleagues in other marketplaces and also elsewhere in the company, but I am very happy to come back to the Committee in due course, when we have a definitive answer.

Q105 Chairman: If you accept that if a promoter decides to give away free tickets then it is wrong for you to sell them, surely, a promoter is also entitled to decide to give away or to sell tickets at a low price, and, on the same logic, it is wrong for you to charge a huge mark-up on them, or for you to allow others to sell them at a vastly inflated price?

Mr Baker: Respectfully, our position at viagogo is that once you have sold something to someone at any price, someone has purchased something with their hard-earned money, and whether it is £50, £5 or £100, that can be a lot of money to people. It was their money and they have decided to purchase something. If the promoters decided that they wanted to give the tickets to charity for free or to give them to certain people in a fan club and those tickets are free because they want that group of fans to be there, we think you have not taken any money and therein, in our opinion, lies the distinction.

Q106 Chairman: Can I ask eBay specifically: you attended the DCMS summits, where I understand a statement of principles was agreed, but you were then asked by the Concert Promoters Association if you would do a number of things such as insisting that details of seat positions, of block numbers, rows, should be displayed, that you would supply details of known touts, and you refused to accept any of the requests put you, I understand.

Mr McGowan: In respect of the two issues you raise there—firstly, in respect of details of our users, as we said at the time and have said to DCMS on numerous occasions, we cannot provide details of our users where that is in breach of our privacy policy and in breach of our Data Protection Act obligations, particularly when no-one has actually done anything to break the law. We take privacy very seriously. We cannot start breaching our privacy policy. In respect of seat numbers, our general position would be that we would love to have as much information and transparency available to consumers as is possible and as is commensurate with the effective operation of a secondary market. The difficulty with seat numbers is that then people use those seat numbers to void the tickets. To take a step back from all this, we would argue that someone has to have the right to be able to resell a ticket if they have bought it, particularly when they do not have the right to a refund. Therefore, if they have the right to resell it and people are cancelling those tickets on the basis of those seat numbers, that completely undermines the whole notion of a secondary market.

If you accept that there should be a secondary market, that is the sort of thing we should be going against. What we do however provide is a lot of information on the site—for example, the face value. We have also changed to item specifics recently in response to the Ticket Touting Summit so that there is more information about the general section of the venue and also there is more information about whether there is a restricted view or not. So the short answer is we would love to have as much information as possible but if that information is then used to end the secondary market, that is where I think we have a problem.

Q107 Chairman: Why do you not allow primary agents to advertise?

Mr McGowan: Can I just deal with this? This was actually a very specific issue about banner advertising. We have absolutely no problem with primary agents selling and listing tickets on eBay. If they want to do that, we would welcome it; the more competition, the merrier. What they want to do is effectively put a banner up on the site which will drive traffic away from our site onto their site. It is
like Tesco saying to Sainsbury’s “We would really like to put a big banner right outside your shop which says ‘Come and shop at Tesco’s.’” I think Sainsbury in that instance is entitled to say “Thanks but no thanks.”

Q108 Paul Farrelly: Just a very quick-fire round here. Firstly, to Mr Burns. Thank you very much for agreeing to send us a list of your members. How many members do you have?

Mr Burns: Fifty-eight.

Q109 Paul Farrelly: We have heard—and this is a question to your colleague Mr Titchener-Barrett, who, if I am not mistaken, called my colleague Alan Keen ignorant and one-eyed earlier—we have heard that the Secretary of State has expelled the Association of Secondary Ticket Agents from attendance at the second summit. Why do you think that was?

Mr Burns: I am sorry. I am oblivious to that event.

Q110 Paul Farrelly: Did you attend it?

Mr Burns: I did not, no. I was one of the founder members of the Association in December 2005. I left the Association early last year and I have been brought back in again just recently.

Mr Titchener-Barrett: I joined ASTA two months ago in its format as public relations so I was not privy to that.

Q111 Paul Farrelly: We have had heard that evidence. If you wish in the follow-up to give us your version of events, that would be welcome.

Mr Burns: I would be very grateful for that opportunity, yes. Thank you very much.

Q112 Paul Farrelly: To Mr Cohen and Mr Baker, I am very interested in how you set your sites up. We have heard of some sharp practices whereby people use very sophisticated methodology to extract the maximum number of tickets using the internet calling system. Do you collaborate in any way in setting yourselves up or in ongoing operations with that sort of activity?

Mr Cohen: I do not how you would describe “collaborating”. If the marketplace works well and people want to sell tickets, I guess you could accuse us of that, but our service is available to consumers who want to come in and sell tickets and abide by a code of conduct of how those tickets are listed and how they are sold and how they are delivered. It is very straightforward, I do not know of sophisticated systems and other conspiracy theories that people have. I have not seen any evidence of that and I am not aware of it.

Q113 Paul Farrelly: You can understand “collaborate” in whichever way you like. It is plain English really: court, encourage, collude with?

Mr Baker: I can only speak for viagogo. The quick answer is no. We are a marketplace. We do not take any inventory of these tickets, we do not concern ourselves with whatever mechanisms they may be, and we are not a member of an Association of Secondary Ticket Sellers because we are not a ticket reseller. We are simply a marketplace where all we are looking to do is make sure people in our marketplace play by the rules in a safe and secure fashion, so the short answer to your questions is no, we do not.

Q114 Paul Farrelly: Mr Cohen, I understand the answer to my question is “Perhaps, maybe and yes, it is legitimate”?

Mr Cohen: It is no, we do not collaborate. We are a marketplace.

Q115 Paul Farrelly: So if you were to open up your history and books to anyone who wants to come and examine your operations, how you had established yourselves, they would find you squeaky clean and they would say it was tickets by accident?

Mr Cohen: I think so, absolutely.

Q116 Paul Farrelly: And you again, Mr Baker?

Mr Baker: I know so.

Q117 Paul Farrelly: A final question to eBay, you say in your evidence that you are just an exchange as well and actually when it comes to rights of resale or not that should be for the parties themselves to thrash out, but that is complete rubbish, is it not, because in Australia you sued a promoter who reserved the right to bar people who had re-sold their tickets from coming to events? The reality is that, unlike our Office of Fair Trading which is timid, you are aggressive in protecting your ability to trade, are you not?

Mr McGowan: Firstly, in respect to your question about the marketplace: with our marketplace, and if you look at the stats our research shows that nine out of ten people had sold over the course of a year five tickets or less and 60% had sold just one, so that suggests to us that the sort of people who are selling tickets on eBay are individuals with spare tickets. To deal with the Australian question, there the issue is that you have an event promoter saying, “We are not allowing resale, we are not allowing refunds, and we are going to cancel the ticket as well.” We have a similar practice here in the UK. Seetickets.com have pretty much the same policy, which is they do not allow refunds, they do not allow resale and then they say if you try to resell it they will cancel without compensation. That does not seem to be very fair to the consumer.

Q118 Paul Farrelly: If you are an exchange why did you sue, why did you not let the parties sort it out?

Mr McGowan: Because in this particular instance we wanted to stand up for the consumer.

Mr Drake: And we were successful.

Mr McGowan: And a court of law found in our favour.
Q119 Paul Farrelly: So you are player not an exchange?
Mr McGowan: We vigorously defend the rights of people to be able to resell their tickets because we believe in the secondary market. Just as other individuals here are vigorously in the game of trying to close up the secondary market, we are obviously vigorously defending the right of people to be able to resell tickets, and why should they not?

Q120 Mr Sanders: Why do you not—this is to each of you in turn—require sellers to place the ticket serial number when they are advertising? What are you afraid of if you are so legit?
Mr Baker: If you are selling used books you do not have to put the ID of the actual book, the SKU number or whatnot. We are simply a marketplace. What we know for sure is that if someone buys a ticket from our marketplace they are going to get the ticket, it is going to be a good ticket guaranteed—

Q121 Mr Sanders: You do not buy a book to go into a concert, do you, buy a ticket, we are talking about tickets not books, and tickets have serial numbers that could be very useful for public safety at a football match for ensuring that fans are segregated, serial numbers could be very important for ensuring there are not fraudulent tickets out there that go beyond capacity and therefore endanger people’s lives; why do you not put the serial number up?
Mr Baker: Obviously I share your passion for safety and security and for the guarantees and that is why—

Q122 Mr Sanders: You do not, in my opinion!
Mr Baker: I understand. We work with Manchester United, we work with Chelsea, we work with Everton, we work with a number of football clubs. In fact, I believe we are the only people in this room who operate legally an exchange with football tickets. What they have found, at least in the opinion of those clubs, is that everything has been safe, secure and guaranteed and it has been a step in the right direction of safety because the key to the entire network is that it is auditable and trackable who is selling the ticket and we know who is registered as the seller. Anyone could enter any other type of information they want but the key thing here is that we have an auditable, trackable network, and for example if you wanted to know exactly who was selling X, Y, Z tickets and you had a legal explanation, which of course as my good friends from eBay say would trump any privacy protection, we would be able to provide it, in contrast to the Wild West out there where with people on a street corner you have no idea who you are dealing with and there is no way to track it. Registration is the means to secure and protect rather than an ID number on a ticket, respectfully.

Q123 Helen Southworth: If you want to protect your consumers, and I am particularly thinking of the evidence that has just been given by eBay, what code of conduct would you wish to see across the industry?
Mr Burns: If I may answer this question. We are actually working with the Office of Fair Trading along the same lines as STAR, and my colleague Jonathan Brown has his set of ethics or terms under which his members operate, and we are working with the Office of Fair Trading to ratify a code of ethics or a standard of trading for the members of ASTA. We believe that a course of self-regulation is the best course of action.

Q124 Helen Southworth: I accept that but what would it contain; we have not got a lot of time?
Mr Burns: It contains very similar sorts of guarantees that both Seatwave and viagogo have, frankly, adopted from the ASTA code of ethics, so a guarantee that you will get a 150% refund if the man does not provide the ticket, you will get a refund if the event is cancelled. We are working towards, although it has not been widely received, a code of bonding very much along the same lines as ABTA. We have employed independent arbitrators to step in if there should be a dispute between a buyer and a seller. It is a long process and we are well down the road.
Mr Cohen: Can I add to that that we have actually met with and written to Jonathan Brown of STAR on several occasions and suggested that the secondary marketplace and secondary agents work with STAR and the industry as a whole to come up with a code of conduct/voluntary regulation that works for all of us. On two or three separate occasions we have been rebuffed by STAR and I think it is what lies at the heart of the industry’s complaints that this is really about commercial competition as opposed to what is best for consumers, and we would like to engage with the wider industry and make sure that we have a voluntary code of conduct that protect consumers.
Mr Burns: I have here a note from the Department of Culture, Media and Sport indicating that the primary market should work with the secondary markets’ representative ASTA to come up with some sort of code of conduct, and despite my various emails and telephone calls, I have yet to receive a response from the primary market?
Mr Baker: Again answering your question very directly on what I believe you asked, we believe that the key issue is to protect consumers by having this safe, secure, guaranteed system registering buyers and sellers and making sure a buyer knows they are going to get the ticket and they are going to get it on time for the event. We think if you do that you protect consumers’ rights and you will be in a position where you know that you will not have complaints from fans and consumers about any unfair practices or tickets and that is why we are very proud of what we have done and why we have not had complaints.
Mr McGowan: We would also argue that there ought to be at the heart of this a requirement for a consumer redress system to be in place for where
things go wrong in a particular marketplace, and that seems to be eminently sensible. There are other things which we do in relation to face value which I think I would like to see replicated across the industry. The other way we would want to see is the marketplace kept as open and as competitive as possible because I think what this debate is really about is not whether you should have a secondary market, because we think the case for a secondary market is pretty obvious, and that you should have the right to be able to resell your ticket, particularly when you do not get a refund. The issue is what sort of secondary market do you want. On the one hand, you have event organisers who would love to have a resale market which is determined by them, where they get to say who has the right to resell a ticket and who does not and by doing so they then get a share of the profits. We think it is much better to have a much more open and competitive resale opportunity. For example, there was much discussion earlier on about Ticket Exchange that Ticketmaster operate—there Ticketmaster still take 10% of the final sale value. Why should people not have the opportunity to go to eBay where the fees are considerably less? Surely competition will protect the consumer far better than trying to close up the market and saying that only certain people are authorised to resell and others are not.

Chairman: We are going to have to stop it there. Thank you very much.

Memorandum submitted by the Office of Fair Trading (OFT)

INTRODUCTION

1. This memorandum is submitted in advance of OFT’s appearance in June 2007 before the Culture, Media and Sport Select Committee’s inquiry into the touting of tickets for cultural and sporting events.

2. The memorandum describes the role of the OFT, and in brief, the outcome of its market study into ticket agents in the UK and the OFT’s responses to the specific questions raised by the Committee.

THE OFFICE OF FAIR TRADING (OFT)

3. The OFT is an independent competition and consumer protection authority. The Enterprise Act established the OFT as a statutory corporation on 1 April 2003. It is led by a Board consisting of a chairman, an executive director and five non-executive members.

4. The OFT’s mission is to make markets work well for consumers by:
   — encouraging businesses to comply with competition and consumer law and to improve their trading practices through self-regulation;
   — acting decisively to stop hardcore or flagrant offenders;
   — studying markets and recommending action where required; and
   — empowering consumers with the knowledge and skills to make informed choices and get the best value from markets, and helping them resolve problems with suppliers through Consumer Direct.

THE OFT’S MARKET STUDY

5. In 2005 the OFT published the results of its study into ticket agents in the UK Ticket Agents in the UK (OFT 762)—January 2005. In part, this examined the role of secondary ticket agents. A secondary ticket agent is a person or company who re-sells tickets usually at a premium, for a concert, theatrical or other event. The term “touts” is sometimes applied to those secondary agents that sell outside venues rather than through the Internet or booths.

6. The study found three main types of sellers in the secondary market: professional, (those that re sell tickets as a business); corporate, (who offer hospitality packages and include tickets); and non professional, (normally individual consumers who have bought tickets for events but find they are no longer required).
RESPONSES TO ISSUES RAISED BY THE COMMITTEE

7. Our responses refer generally to secondary agents.

Underlying causes of ticket touting, its impact on performers, promoters and the public

Causes

8. The demand for many events outstrips supply. The OFT study found that consumers who cannot get tickets are often willing to pay premium prices (para 7.21 of OFT study).40

9. The promoter may set the face value of the ticket at a lower level than the market will bear to ensure good attendance or retain fan loyalty (para 7.21 of OFT study).41

10. Limited price range for seats in most venues. The OFT study also found that some consumers may place a higher value on tickets for certain seats than is reflected in their face value (7.22 of OFT study).42

Impact

11. Some secondary agents provide a useful function where consumers do not wish to make an immediate decision to purchase the ticket but prefer to wait until a later date. At this point, although the primary agent has ceased selling tickets, the consumer still has the option to buy the ticket (albeit usually at a higher price).

12. Where the consumer cannot go in person to the box office or phone the box office during opening hours, and this is the only means to buy from a primary agent, many secondary agents perform a useful function by enabling consumers to purchase tickets on the Internet 24 hours a day, seven days a week.43

13. The OFT’s study found that consumers do not shop around. Competition in the ticket market primarily takes place with respect to competition between primary agents for preferential allocation contracts with promoters and venues. Consumers may suffer detriment from secondary agents if secondary agents are not complying with competition legislation, for example, if the price of resold tickets was fixed between different ticket agents. Outside of that, resellers are free to set the price they believe the market will bear for the tickets and consumers must decide what they are willing to pay for the ticket in question. The OFT has not seen evidence of any infringement of competition law.

14. However, consumers may also suffer detriment as a result of buying from a secondary agent who does not comply with consumer protection legislation. This can result in a consumer not being aware of, or being deliberately misled, about the face value of ticket until after they have bought it, and thereby the size of the premium they are paying, and finding out only after they have made the purchase; being misled about seat location; and not receiving tickets for which they have paid.

15. A promoter/event organiser who has prohibited a ticket from re-sale for commercial gain (ie it cannot be resold in the course of a business) could seek to void the ticket if it has found it has been sold in this way. This may result in a third party who was not the original contracting party holding a worthless ticket without knowing this until they come to use the ticket.

16. It is thought complaints may be under reported since it is tourists who are most frequently targeted by disreputable secondary agents.

17. The OFT believes that existing competition and consumer legislation protects consumers from potential detriment caused by secondary agents.

Should resale of a ticket, at face value or higher, be permitted? Does the acceptability depend on the circumstances in which the ticket is offered for resale?

18. The OFT study found that secondary agents can provide a useful function and benefit to consumers. See paragraph 11 and 12 of this response.44 Although it was found that the activities of secondary agents generate three times more complaints to the OFT than those of primary agents, complaints regarding ticket agents overall are relatively low compared to complaints about other sectors received by the OFT and Trading Standards Services. Many of the issues consumers complain about such as pricing information and non delivery of pre paid tickets are common to both the primary and secondary agents. The study also found that the legislation currently in place is sufficient to address the problems we identified in the secondary

40 Not printed.
41 Not printed.
42 Not printed.
43 In OFT market study (Jan 2005) 44% of respondents in consumer survey listed “convenience” as the reason for choosing a ticket agent (both primary and secondary) to buy their ticket over a box office.
44 Not printed.
market. The OFT does not consider that an outright ban on the re selling of tickets would be beneficial to consumers. To justify an intervention in the market that removed secondary agents would require evidence of substantial detriment to outweigh the potential cost to those business involved.

19. See also paragraphs 22 and 23 below.

Impact of Internet on trade in tickets

20. Where the consumer cannot go in person to the box office or phone the box office during opening hours, and this is the only means to buy from a primary agent, many secondary agents perform a useful function by enabling consumers to purchase tickets on the Internet 24 hours a day, seven days a week.

21. The Internet has provided the means for many secondary agents to operate on a national and international scale, hugely opening up their potential customer base and increasing the scope for competition between agents.

Are tickets’ terms and conditions banning transfer and onward sale, fair or enforceable?

22. Particular sport and entertainment sectors have statutory restrictions on the resale of tickets (eg football tickets). In the OFT’s view a contractual term seeking to exclude a consumer’s right to assign a ticket that they have purchased in all cases, for example where this is not for profit and is between family members, could be considered unfair under the Unfair Terms in Consumer Contracts Regulations 1999 (UTCCRs). However, contract terms need to be viewed in context and it therefore may be acceptable, in certain circumstances, to restrict reassignment (eg where tickets are provided to a particular group such as schoolchildren). In these circumstances we would expect any potential unfairness arising from this restriction to be mitigated by a refund provision that allows the original purchaser to get their money back if they can no longer attend. The UTCCRs would also require any restriction to be made very clear and prominent, including on the ticket itself.

23. The OFT believes that there is scope under the UTCCRs for a term prohibiting consumers from reselling tickets for profit as being considered unfair. However, only a court can decide if a term is unfair. It may be sufficient for the consumer to be returned to their original position.

The merits of new approaches by ticket agents attempting to prevent transfer of tickets, including wider use of personal ID

24. As noted above the OFT does not see that banning the re sale of tickets would be beneficial for consumers. Where it is thought appropriate in specific circumstances to ban re sale then a consumer who cannot use the ticket should be entitled to a refund. The element of the contract that precluded that could be unfair under the UTCCRs, see paragraphs 22 and 23.

Should the existing offences of sale by an unauthorised person in a public place of a ticket for designated football matches or London 2012 Games, be extended to cover other sporting or cultural events?

25. Event holders and promoters may seek to incorporate terms that prohibit the sale of tickets by businesses for commercial gain in their terms and conditions and to seek enforcement through the courts. If collective consumer detriment arises as a result of the re-sale by an unauthorised person, and depending on the circumstances, it is likely that those designated as enforcers under the Enterprise Act 02 (local authority Trading Standards Services and OFT amongst others) would be able to take action against the business re selling the tickets under consumer protection legislation (listed below).

26. As stated at paragraph 22 and 23 the OFT takes the view that to prohibit consumers from re selling a ticket could be an unfair term under the UTCCRs. The introduction of legislation that would ultimately make it an offence for a consumer to re sell a ticket is unlikely to provide the consumer with additional protection but in some cases will leave the consumer worse off as they may be left with a ticket they cannot use and cannot return.

June 2007
Memorandum submitted by the Department for Culture, Media and Sport (DCMS) and the Department of Trade and Industry (DTI)

INTRODUCTION

1. This memorandum sets out the position of DCMS and the DTI on the subject of ticket touting. It provides further consideration of the questions the Select Committee has asked in Annex A.

2. The Department for Culture, Media and Sport (DCMS) is responsible for supporting and promoting the activities that enhance the quality of life for all: the arts; sport; the National Lottery; tourism; libraries; museums and galleries; broadcasting; the creative industries including film, architecture, and advertising; press freedom and regulation; licensing; gambling; the historic environment; the listing of historic buildings and scheduling of ancient monuments; the export licensing of cultural goods; and the management of the Government Art Collection and the Royal Parks. In addition, DCMS is the lead Government Department for the preparations for the 2012 London Olympic Games.

3. DCMS’s interest in ticket touting stems from its potential impact on the performance arts, entertainment and sports sectors which primarily stage events and which attract the greatest degree of touting for tickets. This has a consequent impact on audiences and delivery of the Department’s PSA target on increasing participation.45

4. DCMS works in partnership with the Department of Trade and Industry (DTI) in respect of policies relating to ticket touting and consumer protection. Relevant DTI responsibilities include consumer protection and extending competitive markets. The DTI’s interest in the ticket touting agenda largely relates to fairness of consumer contracts, competition and transparency as to what is offered at what price.

5. The DTI has a close working relationship with the Office of Fair Trading (OFT), which is a non-ministerial Government Department established by statute in 1973. The OFT’s mission is to make markets work well for consumers. It achieves this by promoting and protecting consumer interests throughout the UK, while ensuring that businesses are fair and competitive.

6. Britain hosts many world class events and enjoys a rich mix of art and sports events that have a global reputation. By the OFT’s estimates, turnover on ticket sales grew by approximately 150% in real terms between 1999 and 2003. In 2003, the OFT estimated the total value of advance ticket sales in the UK at approximately £1.4 billion.

7. This growth in demand, combined with the accessibility of the Internet, has led to the growth of a ticket resale market. Different events or series of events have different degrees of regularity, popularity and touting issues.

8. “Ticket touting” can mean different activities including: bulk buying of tickets by individuals or organised groups of people anticipating demand to resell for a premium (above face value); buying unwanted tickets (potentially lower than face value) to resell; and individuals selling unwanted ticket(s) for profit or at face value.

9. It should be recognised that a secondary market in tickets (tickets sold by persons other than the event promoter or authorised agents) is perfectly legitimate if the promoter’s conditions of sale permit resale.46 Secondary markets are a normal feature of an open market economy, and in general have a useful role to play. The term ticket touting (or “scalping” as it is known in the US and Australia) is sometimes used to apply to all secondary sales but is more commonly attached to the unauthorised resale of tickets, meaning those reselling tickets acquired from the primary market without approval to sell these tickets onwards where this is pursued by a business. Unauthorised resale of tickets also takes place on the secondary market by consumers selling to other consumers.

10. Illegal activities which involve fraud and forgery of tickets are already subject to criminal law and dealt with by the respective enforcement authorities.

11. The Government has been interested in:

(a) whether there are benefits to the consumer through ticket resale activities; and

(b) the resulting impact on events (both sporting and cultural) such as whether financial harm is being caused or fans are being affected in any way.

12. There are arguments about the principle of whether ticket resale for profit is right or wrong, fair or unfair and whether economic interests are being harmed in any way. These are complex issues which are explored in more detail in Annex A.

45 To increase the take-up of cultural and sporting opportunities by those of 16 years of age and above from priority groups by 2008.

46 Secondary agents are defined by the OFT as those who obtain tickets from a range of sources for resale to the public at a price the market will bear. This price can be substantially higher than the ticket’s face value. The secondary market is a generic term that does not necessarily confer authorisation from event owners or promoters for the resale of tickets. Consumers and others buy and sell to each other in this market through private businesses that facilitate this resale for a fee.
13. Ticket touting carries with it moral and emotional weight for fans and for those running events. It has always been open to primary agents to take action against secondary agents if these businesses resell tickets in breach of contract with the primary agent. But the Internet has facilitated a wider secondary market, both through companies which sell tickets directly to buyers and through companies which offer web-based facilities for ordinary consumers to sell to and buy from each other. The Internet contains a number of new websites that provide a trading platform where one person can resell a ticket to another at a specified cost. These websites take a percentage in fees for providing the platform. There are other websites, for example Scarlet Mist, which enables fans to resell tickets for music events at face value only. A major difference between traditional forms of reselling—such as newspaper classified advertisements—and sales on the web is that transactions are extremely large in number and potentially short in duration. eBay for example is of the view that it is not practical physically to review items for sale. They will, however, remove items that are shown to be in breach of any legal requirement.

**EVIDENCE GATHERING**

14. Through a series of high level meetings over the past 18 months (known as the ticket touting summits) DCMS has been working with stakeholders across the markets to understand these issues and to identify whether industry-led solutions to the concerns can be delivered or whether government intervention is required. Balancing the consumer interest with the health of the sporting and cultural sectors in this country has been DCMS’s guiding principle.

15. Through the representations that DCMS has received, what became apparent is that the secondary market has altered in recent years with the advent of the Internet. The secondary market has evolved, and is one where consumers now resell tickets to each other (for profit or otherwise), and where there are an increasing number of businesses facilitating this trade.

16. eBay has been the only regular attendee throughout the summit process from the secondary market. eBay generates the most criticism from those in the primary market due to the quantity of tickets that are resold on its website. eBay argue that consumers have the right to buy and sell tickets to each other on its website, and this trade does not contravene its policies of offensive articles. It has removed listings for tickets for Live8 and the Concert for Diana previously for reasons of uniqueness.

17. In accordance with the summit principles agreed by summit members in April 2006, DCMS encouraged ticket agents and event owners to find solutions and provide mechanisms to improve the market place for consumers to mitigate the effects of ticket touting. This included returns/refund mechanisms; reviewing ticket distribution arrangements (ie timings and release of tickets, number of tickets any one individual can purchase) and measures to prevent attempts by individuals or groups to remove tickets from the primary market in bulk for profiteering purposes.

**CONSUMER INTEREST**

18. At the third summit, Ministers asked for a view from consumers on ticketing and the secondary market in particular. DCMS commissioned a study (based on focus group research) which was presented to the fourth summit in February 2007. The headline findings were that consumers found a secondary market acceptable; that consumers needed more information about purchasing tickets including clarity about what their rights are; but the perception was that while touting, misrepresenting or selling tickets not yet released was potentially immoral and consumers do not describe internet-based ticket sellers as touts.

19. There have been other surveys in this area including ones by eBay, the New Musical Express (NME), BBC Online and a recent YouGov survey commissioned by the England and Wales Cricket Board (ECB). Based on the research available, consumers’ views seem to point in two directions:

(a) consumers want a legitimate secondary market where they are able to buy and sell to one another and feel that this market should not be regulated; and

(b) at the same time, some consumers do not want the markets to be exploited by touts and consider legislation is needed to prevent resale of tickets for profit. Consumers generally do not regard themselves as touts when they resell or dispose of spare tickets for profit.

**DEPARTMENTS’ CURRENT POSITION**

20. While the Government recognises that there has been a significant redirection in the way the secondary market works, it is not proposing to legislate to ban secondary sales in general. But the Government does have concerns about whether the secondary market in tickets is affecting consumer confidence and the impact on the sport and entertainment sectors by those who exploit normal ticket supply...
distribution systems to remove tickets released at face value for private gain. For instance the recent consumer survey conducted by YouGov showed that a majority viewed “ticket touts” and internet auction sites equally unfavourably. Through the summits, DCMS has facilitated dialogue and attempted to push industry stakeholders to find solutions. The Departments continue to encourage improvements in both primary and secondary markets. But it would appear that market-based voluntary agreements to deal with these concerns are not working well enough, for example, in the case of the recent BBC Radio 1 Big Weekend event (see paragraph 58). The Internet has unbalanced the arrangements around ticket sales because the technology allows people to purchase a ticket at face value as soon as tickets are released to then resell for a mark up back to fellow consumers minutes later and until new arrangements are put in place, these issues will remain.

21. DCMS and the DTI consider that legislation is a last resort and would prefer effective self-regulation to strike a sensible working balance. Legislation does exist for the 2012 Olympic Games and football for reasons other than to simply prevent profiteering through ticket resale. DCMS acknowledges that there are concerns about the existence of anomalies created by a two tier approach to protecting events, but extended regulation of tickets must be justified in its own right (this is covered in more detail in Annex A). The legislation that exists for the Olympic Games provides protection for tickets for Olympic events only. However, other sports events being held at the same venue a week later for example will not be protected under this legislation.

CROWN JEWEL EVENTS

22. DCMS considers that a case can be made where there are some events of particular importance or significance to the nation that warrant protection from private profiteering. DCMS recently consulted experts behind events in the UK (known as the Major Events Group) on what might constitute an event of national significance. A starting point for these discussions was the list that exists for television rights.50

23. The criterion that guides the listing of an event in this respect relates to whether the event has special national resonance, not simply significance to those who follow it and is likely to command a large television audience. A possible second area includes events that are promoted for charity and not for personal gain; free and publicly funded; and tickets deliberately priced below market value for a public interest reason (for example, to encourage families to attend so that children are encouraged to participate in sport or so that committed members of grassroots sports clubs can attend).

24. This will be consulted on and options for the protections of ticketing arrangements for such events from touts will be considered. Voluntary agreement with the secondary market for suitably designated events would be preferable, but the Government will consider the scope, implications and effectiveness of any regulation needed to protect these events if voluntary measures prove ineffective.

SUMMARY

25. The rationale for any regulatory intervention in this market must be based on a clear understanding of the harm being caused and what needs to be controlled or prevented. Financial harm is not immediately obvious. Those in the primary market staging events receive revenue from ticket sales regardless of what happens to the ticket once it has been purchased. Fees attached to tickets are allocated between agent, promoter and venue depending on the event and on the arrangements that exist between event promoters and venues on the one hand and between larger ticket agents on the other.51 There is a need for the primary ticket market to be as responsive and transparent as possible to fans/consumers and as effective as possible in controlling access to high demand events.

26. But there is a wider argument from the primary market operators about whether it is right that others (both consumers and business) should profit from the popularity of particular artists, sports teams or the success of the events’ sectors. There are complexities within this and a sophisticated market is in operation that has established itself on the Internet. The way tickets are released and distributed can cause consumer frustration when tickets are sold out in minutes, and then reappear on the secondary market moments later. But the secondary market has quickly become a one where consumers buy and sell to each other, and consumers generally have a right to do this.

50 Under Part IV of the Broadcasting Act 1996, the Secretary of State has the power to draw up and publish a list of protected events that must be made available to free to air television on fair and reasonable terms. This list is to make sure that key sporting events are available to all television viewers. The list currently contains the following: Group A (Full Live Coverage): The Olympic Games; The FIFA World Cup Finals Tournament; The European Football Championship Finals Tournament; The FA Cup Final; The Scottish FA Cup Final (in Scotland); The Grand National; The Derby; The Wimbledon Tennis Finals; The Rugby League Challenge Cup Final; The Rugby World Cup Final; Group B—Delayed or highlights covered: Cricket Test Matches played in England; Non-Finals play in the Wimbledon Tournament; all other matches in the Rugby World Cup Finals Tournament; Six Nations Rugby Tournament Matches Involving Home Countries; The Commonwealth Games; The World Athletics Championship; The Cricket World Cup—the Final, Semi-finals and Matches Involving Home Nations” Teams; The Ryder Cup; The Open Golf Championship.

27. There are many consumers who use the secondary market to pass on tickets without wishing to make a profit. In general a secondary market can be beneficial and provide fans with the ability to acquire tickets for particular events if they were unable to purchase a ticket when initially released. It also allows consumers to dispose of tickets that they otherwise would not have used. The Government supports the work the OFT is doing with the Society of Ticket Agents and Retailers (STAR) on model contract terms which could be used by all their members.

28. While some consumers want a liquid and effective secondary market and feel regulation is unnecessary in this area, others feel that exploitation in this market should be dealt with where tickets are being sold on at massively inflated prices.

29. Where primary market ticket distribution systems are being infiltrated by organised individuals or groups of individuals to remove tickets for the sole purpose of resale on the secondary market, DCMS has taken a view that primary agents must continue to implement controls to prevent this. But with the increase in consumer-to-consumer resale websites, it is this kind of activity that is arguably creating the bulk of tickets being resold.

30. At present, Government does not see a case for any new regulation or restriction of secondary ticket sales in general. DCMS is nonetheless concerned that the secondary market as it operates could undermine sporting and entertainment events, consumer confidence and the country’s ability to continue to attract world class events—meaning that international sports bodies could prevent international fixtures taking place in the UK because of an absence of ticketing controls—but this does not necessarily mean statutory controls. Sports bodies and their ticketing agencies continue to have a responsibility in this respect. In sport, there is an increasing trend by international governing bodies to write into bid requests that host nations must control ticketing in similar terms to those that exist for the Olympic Games. A recent example of this is the International Cricket Council’s (ICC) requirement for the UK hosting the ICC Twenty20 World Cup Championships in 2009. This is of national significance if the UK misses out on hosting such events because ticket controls are not in place.

31. In parallel, with a continuing broad interest in all measures to improve ticket markets, both primary and secondary, DCMS has responsibility for promoting its sectors and in terms of sport, its objectives are aimed at ensuring accessibility and encouraging wider participation, helping to create a more active nation and improve performance. It is particularly important to protect sporting events in the run-up to 2012 where the Government is committed to using the Olympic Games to inspire more people to get involved in sport.

32. DCMS is therefore considering whether ticketing for particular events (“crown jewel” events) should be protected either through voluntary or regulatory means. This is where an event clearly has “national resonance”. While new legislation remains an option, non-regulatory measures such as voluntary agreements between Government and internet-based sites will continue to be investigated first before new regulatory burdens are proposed.

33. Ultimately, the Government must act in the public interest, and welcomes the views of the Committee as part of this debate, to ensure that the UK continues to maintain the high standards which make it an excellent place to host the world’s greatest sporting and other events.

Annex A

1. The Underlying Causes and its Impact on Performers, Promoters and the Public

34. As for all commodities, tickets have a clearing price, which is the price at which the demand for a good exactly equals the supply. The fact that tickets can sell for more than their face value on the secondary market demonstrates that for some events, event owners and promoters charge a price that is below the clearing price. There are a number of reasons why primary sellers may choose to do this. Some in the industry say that it ensures attendance, builds and retains a fan base and maintains a reputation of accessibility. Another may be that pricing at a level below the potential clearing price mitigates against risk and secures a guaranteed income stream. Primary sellers may not charge the clearing price because it is uncertain what it is for certain ticketed events which may fluctuate over time. For example, due to the weather forecast for an outdoor event or the success of a sports team in a tournament and current selling uncertainty what it is for certain ticketed events which may fluctuate over time. For example, due to the

35. Evidence indicates that demand is growing and some people are willing to go to great lengths and expense to attend their chosen event. Many more people are interested in live sport and music and are willing and able to travel further to see their favourite teams or bands and choose to buy tickets at their convenience. There is evidence that consumers are becoming time-poor but cash-rich and some rely on the secondary market to source tickets, albeit for a premium price.52

36. Some representing the primary market consider that the sheer number of these consumers, each selling small amounts of tickets, now make up the bulk of the secondary market and have become “ticket touts”.

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37. Ticket resale is caused by two main factors:

(a) the ability of organised individuals, groups or fans themselves to acquire a volume of tickets creating a bulk for onward sale; and

(b) prices being set lower than the market will bear.

38. In some cases the absence of an effective returns mechanism for unwanted tickets may also be a factor. Accordingly, the system of distributing tickets from the primary market either from event organisers themselves or authorised ticket agencies means that the primary market’s control over what happens to tickets is diminished soon after tickets are released onto the market.

39. Tickets for certain events are sold well in advance of the actual date. For example, tickets for Take That went on sale in March 2007 but the concerts will not take place until December 2007. In May 2007, it was reported that the O2 (the Dome) had sold one million advance tickets for events over the coming year, but the first concert to be held there will not happen until June 2007. The primary market can influence consumer buying habits, requiring them to plan ahead which can arguably have the effect of encouraging ticket touting, as some consumers are not prepared to purchase tickets so far in advance but are prepared to pay a premium for a ticket at their convenience or nearer the time of the event.

40. The impact is unclear in the absence of a study on this market and whether harm is being caused to the consumer or the events, but ongoing concerns continue to be put forward by the sport and entertainment sectors. Those primarily affected by ticket touting are: the consumer; the entertainment industry (music, dance, theatre); performers and artists; sports bodies and sports men and women; and authorised ticket agencies, venues and distributors that have contractual agreements with the event.

41. Concerns that have been presented to DCMS by sport and music representatives include:

(a) those who engage in ticket resale for profit including ordinary fans prevent genuine fans from buying tickets at face value by removing tickets (estimated at up to 15%) from primary distribution channels to resell with a price mark up;

(b) touting diverts resources (financial and administrative) from sports’ governing bodies which could be spent on the development of grass roots sport;

(c) touts create public nuisance problems, providing a black market and undermining security arrangements. Consumers do not receive the normal consumer protections when purchasing from a tout instead of an event organiser or authorised ticket agent, as the main consumer protection legislation applies to those selling to consumers in the course of a business; and

(d) online sites knowingly facilitate breaches in terms and conditions attached to tickets when tickets are resold.

42. But there are other points worth considering:

(a) primary stakeholders may want to protect the market in order to maximise their profits;

(b) legal restrictions on or prohibitions in respect of the secondary market might not necessarily end touting, but could drive it into the hands of organised criminals;

(c) the primary market has failed in part to address touting through the absence of key mechanisms, and tickets not released to the general public still find their way onto the secondary market;

(d) consumers value the secondary market but object to the illegal activities of touts involving fraud and forgery; and

(e) some internet facilitators in the secondary market have taken steps to protect consumers. For example, by guaranteeing ticket delivery and refunds.

2. The Impact of the Internet upon Trade in Tickets

43. The Internet has enabled unparalleled growth for live events and ticket agents by reaching a broader market through technology that makes it far easier and more efficient for consumers to purchase tickets. The way businesses and consumers use the Internet has changed the way tickets are bought and sold. The Internet has made it possible for anyone to trade electronically from home, and some of these informal traders are routinely buying and selling tickets through internet websites and auction sites.

44. In some cases there is evidence that consumers may be unsure which agents are actually the authorised suppliers of tickets and which are not. In some circumstances, consumers may not even know that they are buying a ticket from a fellow consumer. The OFT and Consumer Direct already provide information for consumers about buying tickets.

53 For example, the Rugby Football Union put £50,000 into a ticket touting “fighting fund” and continues to impose sanctions on clubs and others who contravene ticket terms and conditions.

45. Consumer protection legislation applies to the Internet as it would any other market place—in particular, to require traders to provide clear price indications and to prohibit misleading commercial practices. But while websites which facilitate consumer-to-consumer resale provide consumers with an efficient mechanism to resell tickets to each other, in these transactions, the rules which apply to business to consumer transactions do not apply. What makes auction sites and other internet sites unique is that the “churn” of tickets is much greater and quicker. The equivalent in the physical marketplace could be a newspaper classifieds section.

46. Through the summit process, eBay agreed to improve the information displayed around ticket resale in accordance with the 1994 price indication regulations, and has made its terms and conditions relating to ticket sales more transparent.

3. Whether or not resale of a ticket, at face value or at a higher value should be permitted in principle; and whether the acceptability or otherwise of resale depends on the circumstances in which tickets are offered for resale

47. Live ticketed events are a commodity which some event owners have argued are different to other products or services. A ticket provides the access to that commodity but has become a commodity in its own right which can be bought and sold conferring the right to enter a venue to watch an event. Event owners and promoters have contested that unauthorised resale does not confer that right and terms and conditions seek to prevent tickets from being sold on. When approached by event owners and promoters about preventing tickets being resold on its website, eBay have stated on previous occasions that this is a contractual matter between the promoters of an event and the owner of the ticket and eBay does not take sides in private contract disputes.

48. Some ticket agents do not provide refunds once the ticket is sold in the same way that goods can be returned to a shop. These types of terms and conditions have been the subject of consideration by the OFT as part of its work with STAR.

49. Consumers appear to want and value a secondary market in tickets. What they are opposed to is abuses within this market including the wholesale removal of large amounts of tickets for particular events from normal primary ticketing distribution channels to resell for vastly inflated prices.

50. To prohibit consumers from reselling tickets for profit could potentially be unfair but the OFT considers that it may be possible to argue that in specific circumstances such prevention could be permitted, for example where tickets are meant for concessionaires (eg wheelchair users).

4 Whether or not tickets terms and conditions banning transfer and onward sale are fair or enforceable

51. The Unfair Terms in Consumer Contract Regulations 1999 (UTTCRs) require businesses not to use unfair terms in their standard contracts. A recommendation arising from the OFT’s 2005 report on ticket agents, was that the Society of Ticket Agents and Retailers (STAR) should work with the OFT to establish model terms and conditions that could be applied fairly across its members. These terms and conditions are still being discussed between STAR and the OFT. The Government expects that once these model terms and conditions meet the OFT’s concerns on fairness, then these should be standardised across the ticketing sectors as far as possible. Terms and conditions should be clearly displayed to consumers buying tickets, and those attempting to purchase tickets on the secondary market should also be made aware of terms and conditions before they buy.

52. Most tickets carry the event owners’ or promoters’ terms and conditions but consumers seem rarely to refer to them and regard tickets as their own property once paid for.

53. The OFT has said that it is possible to argue under the UTTCRs that it is unfair to restrict consumers from reselling tickets for profit unless fair mechanisms are provided where consumers can dispose of a ticket they can no longer use. However, the OFT advises that this is for a court to decide and ultimately determine what terms and conditions are fair or unfair. The Government is keen to see finalised terms and conditions to understand what is fair and how this will work in practice.

54. The Unfair Commercial Practices Directive (UCPD) is currently being transposed into UK law by the DTI. The UCPD will ban unfair trading practices and will cover traders selling tickets to consumers. It will require all traders selling tickets to provide consumers with all necessary information they need to make an informed choice. If a ticket is legally non-transferable and a consumer might not be able to use it, this is information traders would have give consumers under UCPD.

55. A recent case worth noting was reported by Live Performance Australia (LPA) at the end of 2006: “the Federal Court of Australia handed down its decision in the case between the promoter of the Big Day Out festival, Creative Festival Entertainment, and eBay International. eBay sued the Big Day Out for misleading and deceptive conduct, in contravention of the Trade Practices Act, pointing to a condition on

55 For example, Ticketmaster’s purchasing policy says, “Policies set forth by our clients, such as venues, teams and theatres, prohibit us from issuing exchanges or refunds after a purchase has been made or for lost, stolen, damaged or destroyed tickets.”
the back of Big Day Out tickets which read: should this ticket be re-sold for profit it will be cancelled and the holder will be refused entry. This condition specifically prohibits ticket re-sale through online market or auction sites. The court held that this condition conveys a misleading message that the Big Day Out is legally entitled to and would detect and cancel any ticket which is resold for profit, and the holder of the ticket would be refused entry. The court found that as it was impossible for the Big Day Out to detect, cancel and refuse entry for every ticket resold for a profit, this made the condition misleading.”

56. As a result of this, the LPA is now working with the industry to develop standard terms and conditions and ticketing distribution practices which reflect this case.

5 The merits of new approaches by ticket agents attempting to prevent transfer of tickets including wider use of personal ID

57. There have been recent examples of where the use of personal ID has been implemented. The Glastonbury Festival has for several years been trying to prevent tickets for its event being resold for profit. This year it appears to have managed to prevent this through the combination of photo ID requirements and strict security arrangements at the venue. However, this type of approach is not suitable for all events.

58. Recently, BBC Radio 1 held its annual Big Weekend road show in Preston. This event had well publicised terms and conditions, ID checks and barcode scanning. The event was free; artists performed for free; and it was funded by the BBC licence fee. The BBC and DCMS Ministers called on eBay as the principal online site facilitating consumer ticket resale for this event to prevent the listings on these grounds. eBay refused, saying that this was not an event that breached its policies for delisting items.

59. DCMS hoped that the marketplace could find solutions to these issues. Although the quantity of tickets being resold for the Radio 1 event was only around 1%, but as seen in this case, market-based solutions did not meet the event’s objectives.

6 Whether or not the existing offences of sale by an unauthorised person in a public place of a ticket for a designated football match, or for events at the London 2012 games, should be extended to cover other sporting or cultural events

60. The Government has not accepted that the restrictions on sales of tickets for profit in respect of the 2012 Olympic Games and Paralympic Games represent either a justification or precedent for further regulatory intervention. It was a formal requirement for the Government to accept such a restriction when it elected to bid for the Games. Similarly, it does not regard the existing restrictions on sales of tickets for football matches to be a precedent.56 These restrictions exist for public order reasons, which do not necessarily apply to other sports or other events. DCMS acknowledges that there are concerns about the existence of anomalies created by a two-tier approach to protecting events, but further intervention in this area must be justified in its own right which is why DCMS is considering further the case for “crown jewel events”.

61. In terms of existing legislation, the Price Indications (Resale of Tickets) Regulations 1994 require that agents must provide buyers with all relevant information including face value of ticket, location of seat and any restrictions which may apply. New regulations will be implemented by April 2008 (under the Unfair Commercial Practices Directive) and will more generally prohibit unfair trading practices providing equivalent protection to that existing under the 1994 Regulations. Both the 1994 Regulations and the Directive apply to business and not to consumer-to-consumer transactions. OFT has also recommended that ASA guidance for non-broadcast advertising and which applies to the ticketing market should also require fuller disclosure of charges. Street trading without a licence is an offence and trading standards may take action against those who buy and sell tickets outside venues.

LEGISLATION ELSEWHERE

62. Legislation in Queensland, Australia brought into force under the Major Facilities Act 2001 was intended to allow genuine fans a fair and equitable opportunity to purchase tickets to events at state-owned venues. It makes it an offence to purchase a ticket for the sole purpose of profiteering (and above a 10% margin). The legislation is not aimed at restricting resale where there is genuine need and where this is allowed under the ticketing conditions. The legislation only applies to resale of tickets before an event (the purchase of used tickets for memorabilia is not illegal) and applies to any event held in the Major Sports Facility Authority (MSFA) venues, regardless of where or from whom the ticket is purchased. Sellers can face a maximum fine of 20 penalty units or AS$1,500.

63. In the USA, the New York State, Arts and Cultural Affairs Law (ACAL)—Article 25 deals with the resale of tickets. It provides the statutory framework governing the resale of tickets and the resellers of tickets, as opposed to the original sale of tickets and original sellers of tickets. It requires: ticket resellers to be licensed with the Commissioner of Licenses of the political subdivision in which such business is conducted (eg the Department of Consumer Affairs in New York City); places of entertainment to print the

established price on the face of each ticket; and to prohibit the resale of tickets for over the “maximum premium price,” currently defined as five US dollars or 10% of the established price, whichever is greater; and licensees to keep records of the names and addresses of all persons from whom tickets were purchased and to whom they were sold, and the price at which such transactions occurred. These records must be made available to the Attorney General upon request.

64. A recent paper produced by Live Performance Australia (LPA) concluded that “scalping [touting] is clearly a problem affecting all aspects of the industry from organisers’ revenue to customer satisfaction.”

Solutions to this problem should therefore focus on consumer perception and satisfaction, as well as directing profits from ticket sales into the deserving hands of organisers and artists. A legislative approach that criminalises scalping, while providing strong disincentives, only adds to the administrative and compliance burdens of the industry. While it may be an appropriate step for some sporting events, the experiences of other countries suggest that criminalisation is largely ineffective in preventing scalping for live performance events. Legislation designed to enforce standardised conditions of sale, however, is more likely to be effective in managing the issue. A co-operative and creative approach by the industry to the problem of ticket scalping is more likely to achieve the desired solutions. Research suggests that anti-scalping legislation has since been relaxed and that mark ups of 45% above face value may now be allowed in the US, as it has been felt that the legislation has not been effective in controlling ticket scalping.

June 2007

Witnesses: Mr Shaun Woodward MP, Parliamentary Under-Secretary of State, Department for Culture, Media and Sport; Margaret Hodge MBE MP, Minister State for Industry and the Regions, Department of Trade and Industry; and Mr John Fingleton, Chief Executive, the Office of Fair Trading, gave evidence.

Q125 Chairman: Can I finally welcome to the last part of this morning’s hearings the Minister of State for Industry and the Regions, Margaret Hodge; the Permanent Under-Secretary of State, Department of Trade and Industry, Shaun Woodward; and John Fingleton, the Chief Executive of the Office of Fair Trading. Can I first ask Shaun, you have held a number of summits at the DCMS to look at this question of ticket touting and I understand that you have reached a conclusion that there needs to be a statutory approach of some kind. Can you just tell us what the present thinking in the DCMS is as to what needs to be done.

Mr Woodward: First of all, good morning and thank you for asking us to be here this morning. We have held four summits at the DCMS over the last 12–18 months to look at this issue, specifically with a recognition that at the DCMS, unlike the DTI, our remit is to promote the health of the sport and the creative industries sectors. The DTI obviously has responsibility for consumer protection with the OFT in relation to this. We held the summits originally so that we could learn more from those putting on events—music or sporting events for example—but also from those who are involved in selling tickets for these events so that we could try and get some sense of the scale of the problem. I think it is important to put that on record first of all that for 90% of people trying to get tickets to a sporting or music event there is not a problem, and the market works very well. That does not mean to say that we take a view that there is not a problem, but it is extremely important at the start, I think, to make sure everybody understands that we have not got some epidemic in relation to the sale of tickets to these events. But for a small minority there is a significant problem, and therefore in trying to get a grip on the problem through the summits, what we were anxious to do was to find a proportionate way through, which at the end of the day, might alleviate the problem for the minority (which is a considerable problem) but would not damage 90% of the market where it works effectively. We reached a view that we needed to improve the terms and conditions and try and produce clarity for the consumer in relation, for example, to the sale price of a ticket, the position of a ticket, and we needed to deal with the problem of the Internet, for example, in relation to futures selling. What we wanted to do most of all was achieve this through self-regulation because we continue to believe that self-regulation within the industry and of these events remains the best way forward. Where we are now is a position where we believe the market has got better but it is certainly not cured of some extreme excesses that continue to take place. So the current stage Chairman, is wrestling with the small proportion where there is still a problem. It is a serious problem for those who are actually adversely affected by it. It is a slightly different problem for sporting events than it is for creative industry events and therefore a range of options continue to sit before us. We continue to want to work with industry to improve self-regulation. We certainly believe that better information for the consumer is a desirable goal that we should all work towards and we would still like to see where the excesses take place a resolution by the industry, both those who put on the events and the primary and secondary markets. We still maintain that as a very, very last resort (and we are not at that point yet) we might have to consider regulation, but again we should be very cautious in

thinking that regulation is a simple solution; it is not, and there is plenty of evidence around the world. Look for example at New York this year where they are bringing legislation in to revoke previous legislation which prevented a secondary market from operating. It is an easy solution to jump to if you think you are in an in extremis position but in practice it may not actually do that much to help the minority that is affected at the moment, and it does run the risk of damaging the 90% of the market which at the moment works well.

Q126 Chairman: I entirely share your desire to achieve self-regulation if it can be achieved. I think our experience of the last two hours is that we are some way away from a meeting of minds of the various players in this particular business and I would not be optimistic that self-regulation can be achieved. If that is the case and you have no alternative, what kind of regulation would it be? Would you go so far as accepting the argument being made by the entertainment industry and the sports bodies that we should ban the secondary market?

Mr Woodward: I do not believe that a ban of the secondary market is either in the interests of the industries that will be affected or indeed the consumer. Indeed, I have not yet seen any evidence from the consumer, who after all is the group that we particularly want to protect and it is the group that particularly brought us the problem, that it would help them because, by and large, I think we have to make a distinction in the secondary market between one consumer who wishes to sell—for perfectly legitimate reasons, maybe they are ill, maybe they cannot go—his or her ticket to somebody else maybe at the face value, maybe at less than that face value, maybe at a little bit more, from unauthorised exploitation by, effectively, an industry that is growing up particularly through the Internet which may be producing excessive profits. Having said that again, the consumer is very clear about this; the consumer wants a secondary market, the secondary market being one whereby they can resell their ticket. What the consumer is also, by and large, very clear about is that it does not want to see ticket touting on the Internet or anywhere else taking place whereby unauthorised selling takes place solely for the purpose of exploiting considerable demand for an event which outgrows supply and people making huge amounts of profits which prevents people having fair access to sporting events, an extremely important Government goal, but also for example to major concerts that take place, those sorts of things, and one step that we are in the process of looking at there, which I think still is an interim measure here, is the concept of “Crown Jewels” protection which may be one way forward that we certainly would want to consider, flesh out and probably bring forward before again we consider the legislative option.

Q127 Chairman: And is the DTI at one with the DCMS on this?

Margaret Hodge: Our interest comes from trying to ensure proper competition and protection of the consumers and transparency. Whilst Shaun has been deeply involved with thesummits and with representations he has received in a much more detailed way than I have on this issue, I think we would take an enormous amount of convincing to think that at this point we would want to contemplate legislation which would put a ban on secondary ticketing. I think there is quite a lot of work that we still need to do to get those minds to meet a little better, which I think will improve the transparency and enhance competition.

Q128 Paul Farrelly: I wanted to address some questions to Mr Fingleton but just before I do there has been some controversy about whether or not the Secondary Ticket Association was expelled from the second of your four summits, Shaun. The English Cricket Board has told us that they were, because of disagreement about the basic practices, but from the previous session there was a shrug of the shoulders which said, “What us, gov?” Can you clear that up for us?

Mr Woodward: They were not expelled, they just did not come to the next summit. First of all, I am trying to answer on behalf of my predecessor but I will actually be able to do quite fairly. The purpose of the summit originally was to bring those who thought there was a problem together. In fact, what we felt, I believe, after the first summit, and as I say I only came in for the third and four summits 14 months ago, was that the problems we were trying to address were not being assisted by their continued presence at those summits. That being said, let us be clear about this because it is possible to create an atmosphere of mischief where there is not one, it was not the intention at the end of the day to achieve a resolution that one party could not sign up to. The purpose of this was to understand the problem and try and grapple with the problem and it is perfectly clear, as you have suggested, from this morning that there is a huge divergence of views about how to go forward on all of this. What we were trying to do at the summit was to actually glean what the real problem was for the consumer, bearing in mind that our job at DCMS is to preserve the health of our sectors, the access to sporting events, the access to major creative industry events, and in order to understand that problem that is what we believe should be done. I think there are two more things worth
saying here. I think this is a bigger problem now in terms of its perception than it was when the OFT did their report in 2005. I do not think that those members of the fourth estate here this morning were writing about it in the same kind of repetitive front page way (and that is not a criticism, it is a just an observation) that they now are. I think it is a bigger problem, although not necessarily in terms of the scale being one that is greater but the perception of it is greater, and the resolution of this remains as important as it did when we started. However, I emphasise to you this, Paul, I do not think there is a simple resolution to this. If you look at what is happening in America where they are repealing the legislation, if you look at what is happening in Australia where one part of Australia is repealing it and another part of Australia, Queensland, is bringing forward legislation, there is clearly no clear consensus on how to act. The one thing that remains in our minds throughout all of this is that whatever we do must a) be proportionate and b) it must not damage the 90% of this that currently works very well.

Q129 Paul Farrelly: So with respect to our friends in the secondary market, is the accurate position that they were not being helpful at the first summit, presumably because they did not think there was a problem, so therefore they were not invited to the second and possibly subsequent summits?

Mr Woodward: You will probably find there were other organisations that would like to have taken a larger part in the second, third and fourth summit. That has not meant to say that we are not prepared to meet them or that we do not take seriously what they have to contribute because the solution to this will be, particularly if it is by self-regulation, by everybody playing a role.

Q130 Paul Farrelly: Okay, so we have sort of cleared it up.

Mr Woodward: I have tried.

Q131 Paul Farrelly: Mr Fingleton, I have followed the affairs of the OFT for about 20 years now and when I read your evidence, or whoever drafted it, I found it very thin and not terribly satisfactory, which was not a surprise to me. One of the holes in your evidence is that you do not make any comment on the legislation with respect to football tickets or the Olympic legislation, in particular whether you think those bits of legislation will contravene the terms of the Unfair Consumer Contracts Regulations. You do not address that issue at all.

Mr Fingleton: I think with the Olympics obviously that legislation is intended legislation. I think that there may be an issue there for the Department to look at whether it contravenes European competition law, which is a different matter, and I do not know if any assessment has been done on that. If primary legislation restricts secondary sales by individual consumers and European or UK consumer law gives people that right, ultimately it is going to be a matter for the courts to determine, and until there has been a case that determines that I do not think we would be trying to set out a definitive view on a question like that.

Q132 Paul Farrelly: We are getting into another realm where I find the evidence unsatisfactory because you do make plain that only courts can decide, but if we were to take the issue of banks and credit card companies you have made that point there as well (and you have reviewed one and you are doing the banks at the moment) and the industry is crying out for a test case, while county courts are groaning under the weight of people reclaiming what they see as unfair penalty charges, but you are not helping to sponsor a case to resolve the conflict.

Mr Fingleton: And that is consistent with our legal powers to take cases because we are not able to take individual cases on behalf of consumers, that is not in our statutory mandate.

Q133 Paul Farrelly: Do you not think you should be more proactive in this arena as well as other arenas?

Mr Fingleton: I think our role is very much in this area. We have been proactive in looking at this issue. We reported on it two years ago including the effect of the Internet in looking at that and trying to deal with what we saw as a widespread public concern. So I think the OFT has been very proactive in looking at this issue well ahead of time. As a result of that there is a good deal of evidence available to this Committee and to others on the basis of what we have done and I think our view on that evidence is that we do not think a ban on the secondary sale of tickets would be in the consumers’ interests as a whole. I think that is our position. We have tried to set that out very simply and I am sorry if it appears thin but it is a very simple proposition.

Q134 Paul Farrelly: Some people in the audience or in the Committee reading your evidence might actually conclude that if this is the OFT’s position then why is the DTI and DCMS bothering holding these sessions at all? How are you now actively trying to promote a middle way if not through legislation then through a code of conduct? What is now holding up an agreement with the Society of Ticket Agents and Retailers?

Mr Fingleton: We look before we intervene in the market at ensuring that the changes in the market do not harm consumers overall and, as with any change like this, the effects are complex and we try to trace them through before we intervene, I think voluntary agreement around this would be much faster than litigation so we have been working with the Society of Ticket Agents and Retailers on model terms. Some of those changes have already been agreed and we expect to have agreed final terms with them in August of this year. We have worked separately with the Committee on Advertising Practice to get guidance out on the face value of tickets and this is something that we have already indicated in a different context, that of
airline pricing, that we are prepared to litigate on in order to establish the principle that consumers should be shown the upfront price/final price that they are going to pay. I think our selection of the airline sector as a case in which to bring that forward is to establish that principle in law in court and to find the right market and the right case to do it, and bringing a case in one sector would have application across a range sectors, so I think we are doing a number of different things in terms of consumer protection in this area. We are also working with the Trading Standards Service. The most complaints that we get about secondary tickets are not actually about prices. We do not see much evidence of consumer complaints about prices. It is mostly about things that are already covered by consumer protection law. Those include things like being told this is a good seat and it turns out it is at the back, or it has an unrestricted view and it has a restricted view, and this is already covered by consumer protection legislation. We are working with Trading Standards to try and ensure that the law in this area is enforced. Trading Standards, as you may know, have over 60 priorities. The Rogers Report looked at trying to whittle them down and certainly secondary ticket priorities. The Rogers Report looked at trying to whittle them down and certainly secondary ticket priorities. The Rogers Report looked at trying to whittle them down and certainly secondary ticket priorities. The Rogers Report looked at trying to whittle them down and certainly secondary ticket priorities. The Rogers Report looked at trying to whittle them down and certainly secondary ticket priorities.

Q135 Paul Farrelly: If we can come back to this, you are going to have an agreement in August?
Mr Fingleton: Yes.

Q136 Paul Farrelly: What are the main headline terms of that?
Mr Fingleton: I am not going to say what the details of that are until we announce it. I think that the primary gist of that is to ensure that the arrangements the industry are coming up with are a) compliant with competition laws, there is no sense of them restricting competition and b) at the same time increasing consumer protection.

Q137 Paul Farrelly: Under the agreement that you are going to announce in August, if I go on to a ticket site and pay my money over for a ticket, am I going to at least know they have the ticket, where I am going to be sitting, and other things that are of interest to me as a buyer? Is that going to be part of the agreement?
Mr Fingleton: I cannot say that at this stage. What I can say is that the primary focus there will be around what restrictions they can put on the resale by consumers of tickets and linking that to whether refunds are available.

Q138 Paul Farrelly: Was that a yes or a no, just the basic terms of why I buy a ticket to give consumer protection?
Mr Fingleton: Yes I think at that level of specificity I cannot say yes to every individual item but that is what we are working towards.

Q139 Paul Farrelly: It is not very specific, it is actually what people are concerned about. Can you give us some comfort on that?
Mr Fingleton: I think we will give comfort in August on that when we have concluded those arrangements.

Q140 Paul Farrelly: You will be giving comfort in August on that point?
Mr Fingleton: Yes. I think we will be setting out very clearly in August what has been agreed.

Q141 Paul Farrelly: So I will find out in August?
Mr Fingleton: Yes.

Margaret Hodge: Chairman, can I just come in because as the sponsor department for the OFT I would say two things to Paul. One is that the Consumer Protection from Unfair Trading Regulations, when they come in, will ensure that there is appropriate information. They are pretty wide-ranging both in their scope and their definition and they will ensure that the information that the consumer requires in the secondary ticketing market is available. That is the first thing to say. The second thing to say to him is that we as the sponsor department will be vigilant in this area, so we will see what evidence emerges and whether consumer concerns grow and whether the Internet actually really genuinely has become more of a problem in the market rather than facilitating consumers in having greater choice, and we will accordingly seek advice from OFT so there is a double lock on trying to protect the consumer. The OFT do it directly and we as their sponsor department will also keep an eye on it.

Q142 Paul Farrelly: And music fans can expect the same protection as sports fans?
Margaret Hodge: They will both be protected by the consumer protection legislation, yes. The Crown Jewels approach might lead to a difference in approach to those two events you mention.
Mr Woodward: All of this being said, my view after 14 months in this job is that what we need slightly more of is goodwill. It is no secret that I was exasperated by the conduct of eBay over BBC Radio 1’s Big Weekend recently. That was an opportunity for the industry, notwithstanding the caveats that they may well have shared with you, to have responded in a slightly better way to what actually took place on the Internet. Again let us bear in mind that it was only a small number of tickets we are talking about, but there is no question that when that weekend was organised it was principally meant to be for people who lived locally to Preston. When the tickets had been paid for by licence fee payers, in other words they were free but the BBC’s costs in relation to this were
coming out of the licence fee, when it was made absolutely clear that they were meant to be for people locally, when the artists had given their time for free, when those tickets found their way via consumers onto eBay. I think it would have been better if eBay had shown an act of faith and actually said, “We will suspend the listings to these events”. That would have shown a willingness for self-regulation to be able to work. And I do think that there is an issue that those involved in the secondary market have to wrestle with here, because it is important they understand that the Government does not want to step into this with regulation, because it may not work; it is easy to announce but to actually enforce it and make it work is very hard. The model terms and conditions undoubtedly will help but for this really to work well, whether it is with regulation or without regulation, we need the industry to understand that fairness and fair access really matters and when the BBC puts on an event paid for by licence fee payers that is free and those tickets end up going on the Internet and eBay is making money out of the listings for that, there is a problem, and I think it is very important that industry recognises that some of the solution to this problem rests in the hands of the secondary ticket market, and it would be a real shame if the Government finds itself pushed into a position where it might be forced ultimately to consider regulation when the industry has it in its own hands to resolve this.

Q143 Paul Farrelly: I share your exasperation with that example and I am sure, Shaun, you can understand the exasperation here where the Ministries and the Office of Fair Trading cannot come to this Committee and tell us the main terms of the agreement because it is going to be announced in August in all its fine detail. Mr Woodward: To be fair on that, that is a point of process and to be really honest that would be a bit like saying you have got a select committee report coming out next Tuesday and we want you to tell us what is in it today. To be fair to the OFT here, if they have a reason to withhold confidences until August I think we had better respect that. What I think is quite legitimate though to ask about is whether or not there is a desire by the OFT to want to address that. Again, one of the things I think concerns me, and I think it is an issue we would all share around this table, is that it is interesting that newspapers like the Sun or Mail or Telegraph or Times, or whatever, are picking up large volumes of complaints but at the same time they are not coming to the OFT. I think again it is perfectly legitimate for the OFT to say that of its mailbag of two million complaints a year it hardly gets any in relation to the specific area of exploitation of unauthorised sales but it may be of course that the consumer does not think of going to the OFT to register their concerns, and so it may be helpful if your Committee is able to direct the public a bit their way because I think it is in good faith by John that he is saying what he is saying but, equally, if the volume of complaints coming to the OFT were like complaints about banks and bank charges then I think it might find itself in a different position.

Q144 Adam Price: I was wondering if you think it is permissible or acceptable for promoters to insist on no resale and then introduce measures, like Glastonbury for example, with personal identification? You would not have been very happy for instance if Paul Farrelly had paid his £25 for a special conference at the weekend and then I had turned up instead because I had bought it off him. I have got better things to do at the weekend, but is it permissible for promoters to insist on no resale and then introduce measures like that and also to insist on traceability then if tickets are put up on the Internet? Mr Woodward: Adam, I think again we have to be careful before we give a knee-jerk response to that. By instinct I cannot see any sensible reason for there not being a legitimate market for resale and it is interesting again to note in the legislation that is taking place in New York at the moment by Governor Spitzer (and that comes out of the New York Yankees case) they are repealing the legislation which outlawed the secondary market but that was because the New York Yankees wanted to be able to take more control over their own tickets. However, it is an important feature of the New York legislation that there is a market for reselling. Margaret Hodge: I think I would put it in a slightly different way. There may well be a public interest in ensuring that there is not a transfer or resale of tickets vis-à-vis football games and there is a public order purpose in that. If there is a public order purpose you would take a different view and use that legislation. The real question for this Committee and the question that we are trying to address is should we use regulation around primary and secondary ticket agents to control or free up a secondary market. There may be occasions when you want to prevent the resale but you should use appropriate legislation and be clear about your purpose in so doing otherwise you want consumer choice.

Q145 Adam Price: Okay, I can understand the specific public order issue in relation to football which is about physical sale outside a ground but have you not extended that to on-line as well? Is it illegal now to sell ---? Margaret Hodge: Consumer protection is as much on-line as elsewhere.

Q146 Adam Price: Yes, but it is illegal to resell football tickets for a profit on-line? Margaret Hodge: Yes.

Q147 Adam Price: But there is not the same public order issue in that case so you are saying there is a legitimate case for banning the resale of tickets? Margaret Hodge: Where it is a situation where you want to control who goes to your football game because you are concerned about a public order
implication however you sell that ticket, whether it is a primary agent, a secondary agent, on-line, customer face-to-face, it would be illegal. The consumer protection legislation does not alter because the transaction takes place on-line.

Q148 Philip Davies: Rosemary, who is not here now, made a very good point earlier which is that people go and buy exclusive fancy handbags in shops and then within ten minutes flat have them up on eBay selling them at a profit. Presumably the Government and OFT do not intend to get stuck into that kind of situation so it is difficult for me to understand why tickets should be any different in terms of if somebody has bought something and they feel they can sell it on at a profit, even though they are making a fast buck, it would be any different. Would you think that by getting involved in the way that tickets you are opening up a can of worms for all kinds of other things that may legitimately follow on or would that be a deterrent for you to get involved?

Margaret Hodge: We have slightly different purposes as Departments and our approach to it is we are coming at it in a slightly different way, but I have got a lot of sympathy with that view, and again I think one would have to justify the intervention either because there is a consumer detriment, which is why I have always looked to see what we can do around transparency and openness so the consumer knows what they are getting and can make that informed judgment, or I would look at things like is there a public order or international obligation, which takes you to the Olympics issue or is it a unique event, which was the view taken about the Princess Diana concert for example, and whether or not resale was legitimate.

So it is those sorts of issues, but I share a lot of your concern that if we start intervening we would be distorting the market and actually then impeding consumer freedoms and it is information that matters, it is informed choice, it is getting that transparency that is vital.

Mr Woodward: Again, Philip, there is an important distinction to be made, is there not, between you, Mr Woodward:

Q149 Chairman: Surely the OFT are suggesting that the attempts by promoters to prevent tickets being sold to other people may be in breach of the current regulations?

Mr Fingleton: Our view is that a pure restriction on the consumer’s right to resell would contravene existing consumer protection law. However, that needs to be looked at in the context of a) how it is communicated to consumers so is it spelt out very clearly that there is no reselling and b) is there a right of refund, so if the consumer can get a refund.

That makes a big difference because it is about where the risk is borne. Risk cannot be a one-way street for the consumer, so if you are going to say you cannot resell in the event that you cannot go to the event and you cannot get a refund either, that is putting too much risk on the consumer and therefore is incorrect, and we also look at the actual scope of the prohibition and how wide it was.

Q150 Chairman: So was Glastonbury in breach of regulations?

Mr Fingleton: I am not going to pronounce on the specific legality but I think Glastonbury did have a refund up until a period before and I think the court will take account of those factors and might very well find that Glastonbury was not in breach but if it had not had a refund might find that it would have been in breach. I think the refund is a critical part of that. What has never been tested is whether—and other places like the Barbican do this as well that if you hand your tickets in up to three
days beforehand you get a voucher—courts have never pronounced on whether that is an equivalent treatment of the customers to allowing them to resell. Of course the problem then becomes at what stage the final consumer becomes a business, because if you as a final consumer purchase the ticket with the genuine intention of going to the event and then find out that you cannot, of course you should either have a refund or be able to resell. If, on the other hand, you purchase with the full intention of saying, “I am going to get in there fast and make a profit,” you look a little bit more like a business, and if you do that for quite a lot of tickets and you are making quite a lot of money out of it you look much more like a business. How you draw the fine line between consumers acting as consumers and consumers becoming secondary agents will be a challenge if these cases ever get to court.

Q151 Philip Davies: I know Shaun does not always appreciate me giving my experience from Asda, but when I worked for Asda we challenged something called the Net Book Agreement where publishers insisted that books could only be resold on at a particular price, and we challenged that in the courts and won, and the Net Book Agreement collapsed, and now people can sell books at any price they want to sell them, and that seems to have given a whole lot of benefit to customers and more access to more people as far as I can see. Would it not be quite extraordinary if following many years on from the Net Book Agreement decision which prevented conditions like that being imposed that we actually went back to a system where we were allowing ticket sellers to make such restrictions on what price they could be sold on in future or anything like that, would that not be seen as a retrograde step?

Mr Fingleton: On the Net Book Agreement the evidence is that the number of titles went up and prices went down when that particular regulation was ruled against so it was a regulation that was stifling the market. I think banning secondary sales in the market generally would harm the market because it would mean that demand and supply did not match as well as they might. It would mean I think that consumers would be less willing to pay upfront for events in uncertain circumstances and consequently it might dampen demand for the industry, and so it is our very clear view that this type of regulation, and I think it has been put very nicely that 90% of the market works very well and trying to regulate any for the other 10% would be extremely difficult. There are a lot of practical difficulties with enforcement, with compliance, with European competition law, because there is a question mark over whether that would be the case, and I think also with the evidence we get from consumers that the primary issue they are interested in is enforcement of existing law vis-à-vis secondary agents who are misleading consumers when they sell tickets on. That would be our primary focus going forward. One other point I should have mentioned earlier, anticipating the Unfair Commercial Practices Directive which comes into force next April, anticipating that and the work that we are doing with the industry and making sure that the industry will be future-compliant as well as past-compliant.

Q152 Mr Sanders: Why is an Olympics athletics fan deserving of more protection than a Charlton Athletic fan?

Margaret Hodge: It is an international obligation.

Q153 Mr Sanders: Why?

Mr Woodward: If we want to hold the Olympics we actually have to agree to do it, so maybe we do not want to hold the Olympics but I think it is a good idea to hold them. The other thing you have got to bear in mind, Adrian, here is putting on these events costs quite a lot of money and again—

Q154 Mr Sanders: But surely that is true for everybody?

Mr Woodward: Forgive me, I am trying to answer your question. Let me answer the first question. We are looking at the Crown Jewels events and what we are looking at is a recognition that we do not think the Government should be trying to control these events. What we are trying to prevent are incidents taking place which abuse the market. It is terribly important to be proportionate about this. 90% of it works well. There is no huge consumer demand for outlawing a secondary market; in fact quite the contrary. What there is is very strong consumer demand to stop those who are making excessive amounts of money out of unauthorised sales in the secondary market, and I think to start regulating every single sporting event that took place along these lines would be an example, I am afraid, of over-regulation. Certainly this Labour Government, and I think the Conservative Party too, share this view; we want less bureaucracy and less regulation not more. I do not believe that stepping in and over-regulating and producing a whole bureaucracy which would have to be administered is the way forward. Maybe you have in mind, Adrian, a programme for how you would administer this without effectively passing on huge extra costs to the clubs which, after all, are not always finding it particularly easy. It may be that you can tell me that the two clubs that you have just cited are demanding that we do this but we are not picking up a demand that we do it. There are certain Crown Jewels events of national significance where access is a key issue where there undoubtedly is concern by the consumer that we should move on this front, so keeping it proportionate, trying to get self-regulation to work where we can has to remain, I think, the sensible way forward. Further bureaucracy and regulation is not desirable. However, in extremis if these excesses continue of course ultimately it will have to be one way that we consider moving forward.
Q155 Mr Sanders: So what are the fears about the Olympics Games that it requires this added protection?

Margaret Hodge: I am a little bit puzzled by where you are coming from. Are you suggesting that the state should regulate the sale of tickets?

Q156 Mr Sanders: I am suggesting why is it that there is this extra protection for the sale of tickets for people to go to the Olympic Games that does not exist for a consumer of another type of ticket to a concert or another sporting event?

Margaret Hodge: Let me ask you the question—

Q157 Mr Sanders: You are here to answer the questions, not me.

Margaret Hodge: The question, with the greatest respect to you, is a bit of an odd question. I do not know whether you are suggesting one of two things, either Lib Dem big state—

Q158 Mr Sanders: Do not make it party political, we are here talking about consumers.

Margaret Hodge: I am wondering whether the Liberal Democratic Party is now promoting the idea of big state intervention to protect the individual. The second thing I was going to ask you was whether you were suggesting that on the grounds of this specific condition that was laid down by the Olympic authorities that we should have said no to hosting the Olympic Games here in Great Britain?

Q159 Mr Sanders: There must have been a good reason for that specific condition; it was to protect consumers, so why do you not extend that protection to consumers for other events?

Margaret Hodge: Because we think it is much better for consumers to have choice in the market and that is why I am somewhat astounded by the direction of your questioning. And what we need to do is ensure that they get the appropriate and full information and transparency so that they can make an informed choice and that should not be a mechanism imposed by the state which would restrict their choice on the basis of a false definition of consumer protection.

Chairman: A final question from Paul Farrelly.

Q160 Paul Farrelly: It is a question to Mr Fingleton again. I take it from Margaret’s and Shaun’s answers that the answer to the previous question is that the protection for the Olympics is a bit over the top and not necessarily that worthwhile but we had to go along with it?

Mr Woodward: No it is not, and that is absolute nonsense, Paul, and it would be a travesty to suggest that is what I thought. The whole debate about the Olympics and access to the Olympics was actually had when we were pushing the legislation through, if you remember, and it also brought up the question of why that should not be extended to other sporting events. The fact of the matter is that demand for tickets for Olympic events is going to be absolutely huge. One of the reasons the Olympic Committee have it there as something that if you want to hold the Olympics you have to do is that it is absolutely ripe for gross exploitation by a secondary market, and therefore to ensure fair access both to the Member State that may be holding the event but also to the international stage and people who will want to come to come to it, you do need very, very careful control of the tickets. It also relates to the control of the brand as well. That does not, by and large, apply to most sporting football matches. There is not demand of that kind of order. It is a perfectly legitimate debate to have but to confuse a Premier League football match, say, with the Olympics for 2012 and the opportunities for organised, unauthorised selling on a massive scale and exploitation of the brand which could well bring the Olympics themselves into major disrepute has to be understood as being quite different.

Q161 Paul Farrelly: Just as a final comment, I am not confusing anything at all. I look forward to the Rugby World Cup, some of the matches of which will be played in Wales or Scotland for which there will be a great demand because it is a prestige event.

Mr Woodward: There will be but I think it is important to understand that the Olympic brand and the Olympics themselves, when you have got six years for organised, unauthorised selling to take place on an absolutely major international scale, I think the Olympic Committee is absolutely right to impose those conditions. I do not think it necessarily follows that because it is done for the Olympics that it ought to be done for all major sporting fixtures as well because ironically we could end up in a position which does not actually help the 90% of consumers of football or rugby matches for whom there is no evidence there is a problem, and we could seriously damage that market, and I do not think anybody in this Committee or indeed in Government or any political party wants to do that. We are all trying to improve the situation.

Q162 Paul Farrelly: Okay, Shaun, you have had the last word on that. Mr Fingleton, can you understand dissatisfaction in the industry and here, just picking up on your previous answer to me, because in some instances you make great play that you will pick out cases and litigate for consumer protection but in certain circumstances where there is a lack of clarity you say “Let the courts decide” and do not actually get involved be it in this industry or with the example that I used previously in the banking industry where judges are screaming for a test case to be heard and taken up?

Mr Fingleton: Is this a question about banking or about this?

Q163 Paul Farrelly: It is about your prevarication.
Mr Fingleton: I do not think we are prevaricating. We bring court cases in many instances. We work in other cases to get the voluntary agreement of the industry and we use other instruments like market studies where we believe they best serve the consumers’ interests. Overall the OFT represents consumer interests based on the evidence that we have before us to the best of our ability and we have to prioritise the enforcement actions we bring in that context.

Q164 Paul Farrelly: Its record in my experience over many years has not been effective and that is shared outside.

Mr Fingleton: I beg to differ. I think we produce really excellent results for consumers across a whole range of areas.

Chairman: This has gone on slightly longer than we intended but it has been very helpful. Thank you very much.
Written evidence

Memorandum submitted by Emma Blackwell

I understand that you are looking further into the matter of ticket touts. As a person who works in and likes to go to music events I can only say it’s not happening soon enough. When you regularly see tickets sold out and being resold for over £100 you have to question why there are not procedures.

I’m writing this really to put forward a simple suggestion. If there is a clause that the ticket purchaser must be present and bring proof of ID if bought in person or debit card for telephone bookings Glastenbury have implemented similar procedures for the exact same reason—and I can’t understand why normal music/football events cannot.

This is something that I feel very passionate about as I work with bands and musicians and as well as it being very unfair on the consumer, it is very unfair on the artist.

May 2007

Memorandum submitted by Simon Broadley

I write in a personal capacity regarding your inquiry into Ticket Touting [. . .]

I would encourage the Secretary of State to resist the cosy embrace of the ticket agencies when seeking to resolve this issue. They are, to my mind, as culpable as the touts themselves in exploiting the public. Long before the public are ripped off by any tout they have been fleeced good and proper by these agencies; the face value of the ticket hiked with a series of greedy, unjustifiable, unavoidable “booking fees”, “service charges”, “transaction fees” etc. At least the touts are prepared to stand in the rain and into the night outside venues across the country to “earn” their margin.

A couple of random real-life examples from four major online ticket agencies:

— Ticketmaster: Pet Shop Boys, Hammersmith Apollo, 6 June 2007,
  Face Value Ticket: £29.50,
  Service Charge: £4.25,
  Standard Postage: £2.75 (yes, that’s a first class stamp),
  Total Charge: £36.50.
  Ticketmaster Margin: £7.00,
— Seetickets: Keane at O2 Arena, London 21 July 2007,
  Face Value Ticket: £25.00,
  Booking Fee: £3.25,
  Transaction Fee: £4.80,
  Total Charge: £33.05,
  Seetickets Margin: £8.05.
— Ticketline: The Police at Cardiff International Arena, 5 September 2007,
  Face Value Ticket: £65.00,
  Booking Fee: £6.50,
  Standard Postage: £1.85,
  Total Charge: £73.35,
  Ticketline Margin: £8.35.
— Gigs and Tours: McFly at Hull Arena, 28 November 2007,
  Face Value Ticket: £23.50,
  Booking Fee: £2.95,
  Transaction Fee: £4.80,
  Total Charge: £31.25,
  Gigs and Tours Margin: £7.75.

So who’s the tout?

Certainly, the issue of touting needs addressing, but they are not the only ones exploiting the public’s simple desire to see their favourite artists perform live.

May 2007
Memorandum submitted by Ian Davies

If “the Market” is a good thing with respect to essential services such as the NHS, public transport, and so on, then surely it must be a “good thing” when applied to luxury commodities such as tickets to entertainment events.

If anything needs investigating in ticket sales, it’s the cartel of official sales agents. For instance, if you attempt to purchase a ticket for a gig at a Mean Fiddler venue, with a face value of £12.50 via their website, there is a 20% booking fee (£2.60) and a £2 postage charge (postage at that level can’t be any more than first class post costing, what?, 30p plus a 5p envelope). There is no alternative to this way of purchasing tickets, thus making the booking fee a compulsory tax, and a distortion of prices. This is across the board of ticket agents. Ticketmaster now offer downloadable tickets for some events, yet charge a convenience fee on top of the booking fee. What’s that all about?

I note from your website that there was a ticket touting summit, the attendance of which reads like a who’s who of this cartel. Where was the representation of the consumer in this? Nowhere, nor was there any representative of the entirely legal ticket touting industry, although I appreciate you might find it hard to get them. If you want a representative of the former group, I would be happy to help—I shall make my credentials as a gig-goer available if you need them.

Further, the rampant inflation in concert ticket prices is again operating against the consumer. When I first started going 15 years ago, £5–6 was the norm. Have you seen the price of tickets to Madonna or Barbara Streisand? 15 years ago, £60 would buy me a weekend ticket to the Reading Festival. Now it will buy me a single day. In 1990, I saw a concert at Milton Keynes Bowl. It cost me £15. Bon Jovi charged £50 last summer.

While there may be security concerns in separating attendees at football matches, this doesn’t apply to concerts.

What if I am unable to buy tickets for something I wish to attend, and they sell out before I can? How does it benefit me to be prohibited from purchasing a ticket?

What happens if I can’t attend, due to a change in my circumstances? Despite the extortionate booking fees, a “no refunds” policy is almost universal in the ticket agencies. Why should I be prohibited from selling, or for that matter, giving away, something which I can no longer use?

Ticketmaster also offer some tickets for some concerts in an auction process. It seems that ticket agents objections to this method of sale is only held if they’re not doing it.

There is no harm to promoters or performers in the sale of tickets—if anything, there is a benefit. If the touts buy all the tickets quickly, then the promoter and performer gets their projected income, and the risk of sale is transferred to touts, who have no opportunity to return the tickets for refunds.

In conclusion, then, I am completely against the prohibition of free market trade in tickets or other goods, and I believe that the concern shown over this by the cartel of ticket agents is entirely based on self-interest. 

May 2007

Memorandum submitted by Ticketnova

I write as the founder and owner of Ticketnova.com. My company in effect operates an online stockmarket for secondary event tickets (Music, Sport etc). We operate a completely secure environment whereby consumers can buy and sell tickets for events without any personal risk. As you likely already know there are many unscrupulous and untrustworthy individuals operating in the secondary ticket market.

By providing an online stockmarket for tickets we provide a 100% guaranteed way for tickets to be bought and sold at prevailing market price at the time of sale.

This can result in tickets being sold at above the original face value and also below face value.

It is my strong belief that we live in a capitalist market driven society where consumers and businesses can trade freely in the open marketplace. In this respect people who have purchased tickets are rightly allowed to sell them to another interested party and strike a market price to which both parties agree. It is simply not possible to use legislation to keep the price of a ticket stuck at face value when consumers in the market place are so desperate to go to a sold out event that they have decided they will pay three times this amount. This simply represents supply and demand and to try and legislate against it is impossible. After all you would not expect someone who has purchased a property in Jan 06, then realises the property has gone up by 10% and decides to sell in Sep 06 to give away the property at the same price they paid in Jan 06, you would not do this, you would sell at the prevailing market price in Sep 06.

As you already know there is a ban on the resale of football tickets in the UK, I would contend that this ban has been completely unenforceable. With the advent of the Internet consumers can log on to web sites across the world and purchase tickets for football matches here in the UK and nothing in practical terms can be done about it.
By forcing reputable companies such as ourselves from not selling football tickets it has resulted in consumers having to deal with back street traders criminals who will often take their money and then not supply the tickets or will supply them with forged tickets.

In the United States most states allow ticket reselling, in fact there is currently a trend among individual state law makers to relax the law governing ticket reselling as it is generally accepted that trying to artificially govern the price for which tickets are sold is ultimately bad for the consumer. The most recent example of this is New York State which has now adjusted its law to allow ticket reselling.

In short I feel that companies such as Ticketnova.com are helping to self-regulate the secondary ticket market, and eliminate the unscrupulous touts who do not deliver tickets or sell fake tickets. We offer a 100% guaranteed service with safe guard in place to protect the consumer, this cannot be said of eBay who offer little or no protection to consumers.

June 2006

Memorandum submitted by Advanced Ticket Systems Ltd

Ticket Touting

I am the chief executive of Advanced Ticket Systems Limited, a limited liability company registered in England and Wales in existence since 2003 (Company number 4906819).

I am an American expatriate who moved to the United Kingdom three years ago. As a huge sport enthusiast, I wanted to attend an English Premier League football match and was surprised to find the only alternatives available for me to buy tickets were through street ticket touts. I had no idea what a “fair” market price for these tickets was and I had no way of knowing if tickets were counterfeit. Worse yet, if anything did go wrong, I would have no recourse. When I found out that the practice of selling football tickets was a criminal offence, I decided that attending a match was simply not going to happen. I thought there must be a better way to serve consumers, which is when I began researching the secondary ticket market (as to which see below at 3).

I am mandated by my company to provide evidence relating to Ticket Touting as follows:

1. What we do

   1.1 We operate an open marketplace dedicated to tickets under the brand names of “MyTicketMarket” and “Get Me In!”.

   1.2 Buyers and sellers are able to avail themselves of our internet-based services to “meet on our marketplace” to trade their tickets in a safe and trusted environment.

   1.3 We have successfully facilitated over 30,000 ticket purchases since we launched our service offering, providing access to tickets for live events to many thousands of happy customers. We are based in London and employ a permanent staff of 27.

   1.4 Like most successful marketplaces, prices for tickets bought or sold through our platform are set by the normal market forces of supply and demand: they are usually above face value, sometimes at face value, but often below face value as well.

2. How do we protect buyers of tickets

   2.1 Though the transactions generated on our website based platform technically take place between third party buyers and sellers, Advanced Ticket Systems does guarantee that each buyer will actually receive the tickets they purchased or they will be entitled to a refund and compensation equalling 150% of the money they spent.

   2.2 Further, our business processes, whereby we carefully vet each and every seller and withhold payment from sellers until buyers have received tickets, allow us to confidently provide this guarantee on all purchases we facilitate.

3. The secondary ticket market

   3.1 The secondary market for tickets—like the secondary market for any other goods and/or services in any free economic society—exists because supply and demand demands that it exist. Consumers that want to attend an event hard enough will always seek out alternative purchase options that may be available to them, even if those options exist within and lead to an establishment of a “grey” or “black” market. Similarly, ticket holders will also consciously seek out the options available to them to sell surplus tickets, just as they would with any other goods that they owned.

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1 Atkinson, James; The University of Notre Dame, Economics of Ticket Scalping: “While some may claim that ticket scalping is unethical and immoral, even illegal in certain states and municipalities, it is simply a free-market transaction. Most economists avidly oppose laws that make ticket scalping illegal.”
3.2 Historically, however, the options available to buyers—and sellers—in the secondary ticket market have been inadequate and the prevailing circumstances seem to put the interests of performing artists and sports rights holders well ahead of fan and consumer interests.

3.3 Attempts to regulate and even eliminate the secondary ticket market (most especially as a result of Section 166 of the CJPOA in relation to football) have come at a price by eliminating price transparency for consumers, and have forced out many of the law-abiding consumer-focused companies from participating in the secondary ticket market. This has sent much of the secondary market underground and resulted in a high frequency of fraud, a poor consumer experience, less access to tickets and even higher ticket prices.\(^2\)

3.4 We believe that the Internet provides a perfect opportunity to correct the inefficiencies of the secondary ticket market—just as it has for so many other markets—and to greatly ameliorate the consumer experience and reduce fraud while increasing access for consumers. That is why our business exists and why we expect to grow very quickly to keep pace with demand for our services.

4. Should resale be permitted?

4.1 Aside from the obvious economic fact that a right to resell a ticket, by definition, enhances the overall utility of both sides of the transaction (otherwise the transaction would simply not occur), we believe it is a fundamental consumer right to have the ability to buy and sell tickets in an open marketplace. In fact, restrictions on ticket resale have been proven historically to hurt consumers, and have been gradually and continually removed from statute books in many jurisdictions, not least the US.

4.2 In the past few years, the legislatures in New York, Minnesota, Florida, Missouri, and Illinois, have passed bills to eliminate or ease prevailing restrictions on the secondary ticket market, with Massachusetts and Connecticut set to follow suit soon. During that time, not a single United States jurisdiction has passed or approved any law which extends or implements resale restrictions. Importantly, resale restrictions were all lifted in the face of overwhelming resistance from leading sports bodies, music artists and theatre promoters.

4.3 You may ask why resale restrictions are crumbling in the United States, despite the objections of the powerful primary industry lobby? These laws appear to be being revoked not only because they are antiquated and encourage the existence of a black market for tickets, but also because they infringe significantly on a consumer’s right to deal in their private property. Furthermore, the laws were found to result in higher prices for consumers. In fact, the only parties that benefit from ticket resale regulations are the original ticket issuers themselves, who may leverage such legislation to extend their monopoly primary market position into a monopoly secondary market position.

4.4 As an example, just last week the assembly of New York state passed a new law which not only protects the consumer’s right to resell tickets but also explicitly bars promoters and producers from infringing on this right.\(^3\)

5. Competition

5.1 What is clear throughout economic history is that competitive free markets ultimately benefit consumers. As is illustrated by our own experience working with thousands of customers, consumers like and value the choice that the secondary ticket market affords them and they also value the option to be able to sell-on tickets if they choose to. We regularly run customer feedback surveys and find that over 90% of our customers are either extremely satisfied or very satisfied with our services.

5.2 As more and more legitimate players like ourselves enter the secondary ticket market, consumers will be presented with even more options. Eventually, consumers will gravitate to the best service providers. To be sure, price will always be a significant factor in vendor selection, but consumers will also demand a high level of customer service, a wide range of inventory selection and a sensible way to address consumer complaints when they do occur. Without competition, consumers would be denied these benefits.

5.3 We have sought outline legal advice in relation to the restrictions on transferability often imposed on buyers of tickets and our conclusions suggest that current restrictions likely infringe competition laws; being restrictions that affect trade within the UK (and EU) and have as their object or effect the prevention, restriction or distortion of competition.\(^4\) I understand that they would only be lawful if they satisfied the criteria for exemption set out in s9 Competition Act [Article 81(3)]. On the facts, that seems unlikely.

5.4 Further, you will, of course, be aware that regulation must be framed to ensure compatibility with competition laws (it is an EC Treaty obligation on Member States) and that the Office of Fair Trading is currently investigating the effects of anti-competitive regulation.

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\(^2\) Elfenbeim, Dan; University of California, Berkeley; Do Anti-Ticket Scalping Laws Make A Difference?; “Stricter regulations were associated with fewer online transactions, a greater frequency of transactions that crossed state borders, and higher prices and markups.”

\(^3\) New York State Assembly, Bill 7526-A: “This legislation would prohibit the venues from revoking season tickets [. . .] when such revocation is based solely on the basis of resale.”

\(^4\) s2 Competition Act 1998 and/or Article 81(1) EC Treaty.
6. **Should regulation be extended?**

6.1 Aside from the anti-competition and consumer protection issues which cry out for an open secondary ticket market policy, further regulation of ticket resale makes no sense from a practical perspective. To understand this, consider the case of football, where there already exists extremely stringent criminal regulation preventing the resale of tickets for designated football matches.

This criminal legislation, referred to in 3.3 above, prohibiting unofficial resale of football tickets, did not stop thousands of fans from buying tickets for the Champions League Final between Liverpool and AC Milan, presumably from less than reputable sources. It also did not stop thousands more fans from flying to Athens in the hope of obtaining tickets from someone on the street. In fact, the very existence of the law, which prohibited a competitive, market-driven resale system in the United Kingdom, drove many supporters to try all means available to obtain tickets and ultimately led to a public safety issue at the match itself where discontented supporters showed up without tickets. What the law did accomplish was to keep legitimate secondary ticket market players like ourselves out of the transactions, which creates zero opportunity for consumer redress and much less control over potential football flashpoints. The very existence of the law, no doubt aimed to protect consumers, ultimately puts them at a disadvantage and in extreme cases compromises their safety.

6.3 If the ultimate issue that needs to be addressed is general consumer access to events, than government should define that priority and seek ways to provide access to consumers, which begin with allocation and pricing in the primary market. The New York bill explicitly points out the folly of attempting to regulate the pricing of tickets by focusing on the secondary market. As Elliott Spitzer, the Governor of the state of New York said best in a recent interview regarding the secondary ticket market: “It’s the only product I know where we are regulating the secondary market but we don’t set a price for the primary market. It makes no sense.”

7. **Executive Summary**

In order to focus on the particular issues raised in the evidence request:

7.1 The underlying causes of ticket touting, and its impact on performers, promoters and the public.

7.1.1 There is no doubt that a major underlying cause of ticket touting is the existence of a legitimate healthy demand for tickets often at prices above face value. In addition, the very nature of live events, where tickets are sold many months in advance and the value of attending will necessarily fluctuate in price as the event nears, fuels a need for a secondary ticket market. Finally, the inadequacy of primary distribution channels and the existence of thousands of consumers who will pay more for convenience and superior customer service necessitate a secondary ticket market.

7.1.2 We believe the effect on performers and promoters is minimal as they act in concert and are the initial controllers of price and distribution and thus they are free to charge what they like, allocate tickets how they choose, and distribute tickets accordingly. Performers and promoters enjoy a monopoly position in the primary market; to a small extent ticket touting opens up these promoters, performers and primary ticketing companies to competition.

7.1.3 The effect on the public of an open secondary ticket market are increased access to tickets, increased utility through transferability of tickets, and increased levels of customer service through legitimate competition. Harmful consumer practices such as fraud and the public nuisance of street touts exists because the secondary ticket market is inefficient and legitimate players are discouraged from participating.

7.2 Whether or not resale of a ticket, at face value or at a higher value, should be permitted in principle; and whether the acceptability or otherwise of resale depends on the circumstances in which tickets are offered for resale.

7.2.1 We firmly believe resale should be allowed within demand-driven self-regulated circumstances or environments we and others like us offer.

7.3 The impact of the Internet upon trade in tickets.

7.3.1 The Internet has made trade in tickets more visible, efficient and competitive, just as it has for trade in many other chattels or goods. Further, the Internet has also afforded improved secondary ticket market business models, such as our own, for consumers. The Internet provides an alternative that alleviates the public nuisance of street ticket touting and provides a safe environment to trade with recourse for fraud.

7.4 Whether or not tickets’ terms and conditions banning transfer and onward sale are fair or enforceable.

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5 Summary of New York Bill 7562-A: “Controlling the price of tickets on the secondary market has been cited as a method of consumer protection. However, the primary sale price of tickets has increased to a point that many tickets are already unaffordable for consumers. Therefore, controlling the prices on the secondary market is not an effective consumer protection.”

7.4.1 For both antitrust and practical reasons the reduction of consumer choice should not be enforceable and is not fair in accordance with the guiding principles of the European Union.

7.5 The merits of new approaches by ticket agents attempting to prevent transfer of tickets, including wider use of personal ID.

7.5.1 The wider use of ID to prevent transfer has little merit except to delay entrance to venues, complicate the primary purchase of tickets (which will discourage the consumer from doing it) and unfairly limit a consumer’s rights.

7.6 Whether or not the existing offences of sale by an unauthorised person in a public place of a ticket for a designated football match, or for events at the London 2012 Games, should be extended to cover other sporting or cultural events.

7.6.1 We have no issue with the attempts to stop ticket resale at the gates of the venue, however further restricting safe and trusted resale serves no legitimate public need and harms consumers.

7.6.2 Existing legislation related to football exists solely for public order reasons associated with fan segregation and would be completely illogical to extend to cover other sporting or cultural events.

7.6.3 Extending regulation would serve no practical purpose other than to force legitimate players out of the market, require a large amount of enforcement resources, and exacerbate consumer protection problems.

June 2007

Memorandum submitted by the Sports Rights Owners Coalition (SROC)

As you may remember when we wrote to you in April 2006 on the Inquiry into New Media and Creative Industries, The Sports Rights Owners Coalition (SROC) represents a large number of international and national sports bodies with a particular focus on rights issues. Please find enclosed with this letter an updated one page document that sets out our aims and objectives, and a list of our members.

One of SROC’s main objectives is for National Governments to outlaw ambush marketing and ticket touting/scalping. We therefore very much welcome your Inquiry and hope that the Committee will support our call for action.

Ticket Touting is a growing problem, and one that affects all of our events to varying degrees. In the UK, the Department for Culture, Media and Sport has held several Touting Summits that have provided a platform to illustrate the cost touting is placing on organisers of sporting events, and the detrimental effect it has on supporters.

We welcome the policy decision made by the Secretary of State, Rt Hon Tessa Jowell MP, and the Minister for Sport, Rt Hon Richard Caborn MP, to bring forward statutory protection for national events, including major sporting events.

Your Committee will receive detailed evidence from sports bodies located in the UK. However, as organisations who operate on the international stage, we recognise and acknowledge that the UK is host to many of the world’s great sporting events. The British Government has set a lead for other countries to follow, through its introduction of legislation to protect the London 2012 Olympics from touting.

SROC is urging the UK to rapidly build on this and introduce further measures to protect the rest of the sporting community.

A strong lead from the UK Government in tackling ticket touting not only enhances the attractiveness of the UK as a destination where international sporting bodies would look to host their events, but it sends a positive message to other countries that co-ordinated action and measures are now needed.

SROC MEMBERS

1. 6 Nations Rugby
2. All England Lawn Tennis and Croquet Club
3. Amateur Swimming Association
4. Australian Football League
5. Australian Rugby
6. British Horseracing Authority
7. British Olympic Authority
8. Bundesliga
9. Cricket Australia
10. England and Wales Cricket Board
11. European Professional Football Leagues
12. European Tour
13. Federation Francaise de Tennis
Memorandum submitted by the Jockey Club Racecourses

INTRODUCTION

1. Through a subsidiary company called Jockey Club Racecourses, the Jockey Club operates a diverse portfolio of 14 racecourses in the UK.

2. The company was formed in 1964 with the objective of securing the future of racecourses for horseracing. Cheltenham Racecourse was the first venue acquired by the group.

3. The Jockey Club’s trustee ownership of the group ensures that there is no distribution of profits to shareholders. Instead, profits are re-invested into racing via investment in racecourse facilities and prize money.

4. Jockey Club Racecourses is the sport’s largest racecourse group, hosting 80% of Grade 1 Jump races and staging many of the country’s most iconic races and events, including the Cheltenham Festival, the Grand National and the Derby.

5. By 2010, Jockey Club Racecourses will have completed a £95 million five-year investment programme. Already completed is the installation of a floodlit all-weather track at Kempton Park, together with substantial projects at Aintree and Newmarket’s July course which were opened in 2007, while at Epsom Downs a new grandstand is due to be completed in time for the 2009 Derby.

EXECUTIVE SUMMARY

6. Ticket touts are a prominent feature at several race meetings held by Jockey Club Racecourses. Their presence undermines the legitimate sale of tickets to visitors as they either sell tickets for sold out events with a substantial mark up, putting them out of reach of many punters, or sell them last minute at a discount which is unfair to those who have bought genuine tickets through an approved system. There is also increasing evidence of touts selling forged tickets. Much of their activity takes place on private property and the presence of the touts creates an uncomfortable and unattractive environment for those attending the meetings. Jockey Club Racecourses would support legislation to outlaw ticket touting and which would enable their security staff to remove touts from private property and significantly reduce opportunities for the selling of forged tickets.
The background of ticket touting in horseracing and its impact on promoters and the public: The experiences of Cheltenham, Epsom Downs and Newmarket Racecourses

7. Cheltenham hosts “The Festival”, a four-day midweek meeting held in the third week of March each year. This meeting is the most eagerly awaited fixture of the Jump racing season and attracts people from across the country and beyond.

8. The Festival attracts a total attendance of around 230,000 racegoers. The busiest day of the meeting is the Friday, which features the “totesport Cheltenham Gold Cup” and drew a crowd of 70,000 in 2007.

9. Ticket prices for The Festival in 2007, which took place from Tuesday 13 to Friday 16 March, were as follows:

<table>
<thead>
<tr>
<th>Tuesday to Thursday</th>
<th>Friday</th>
</tr>
</thead>
<tbody>
<tr>
<td>Club Enclosure</td>
<td>£65</td>
</tr>
<tr>
<td>Tattersalls Enclosure</td>
<td>£35</td>
</tr>
<tr>
<td>Best Mate Enclosure</td>
<td>£20</td>
</tr>
</tbody>
</table>

10. The Festival is renowned as a top class sporting event at a top class venue, but there are a high number of complaints (both verbal and written) each year about the poor first impression that the touts leave on racegoers.

11. For the last 10 years or so, Gold Cup day (Friday) has sold out well in advance in all three enclosures. Before the extension of the meeting to four days, the other days of the Festival also historically sold out in advance. The extension to four days was largely to satisfy the increasing demand for tickets without the need to increase prices or capacity. As the new format has continued to grow in popularity, it is highly likely that Champion Hurdle day (Tuesday) will once again sell out in advance in 2008 and beyond.

12. Newmarket Racecourse is also part of the Jockey Club Racecourses group. The course stages nearly 40 days racing a year between April and the start of November, including not only prestigious Flat racing but also many evening fixtures with concerts included as part of the entertainment.

13. Ticket touts are to be found operating on most days at Newmarket racecourse. The number operating varies from two on quiet days to in excess of twenty on busy days such as the Guineas meeting and Evening Events.

14. Many of the touts are regulars and are known to the security staff, but at recent Newmarket meetings there have been some touts attending who are strangers to the security staff. These touts are inclined to be more aggressive towards racegoers and security staff.

15. Epsom Downs stages the Derby Festival in June of each year. Derby Day itself attracts over 100,000 people, including around 50,000 paying customers and the rest with free access to “common ground” on “the hill”.

16. Tickets for this year’s Derby Day sold out weeks in advance, however, hundreds of people were left disappointed and out of pocket on the day having been sold forged tickets by a team of touts operating on the perimeter of the course.

17. While the practice of selling forged tickets is an offence, the absence of legislation relating to ticket touting makes it almost impossible to effectively police on a raceday.

Negative impact on the public and the racecourse

18. At each of the mentioned venues the methods and presence of ticket touts are a major source of complaint for the following reasons:

(a) In the roads and driveways leading to the course and then in the racecourse car parks, touts are beside cars as they pull up and often get into coaches to offer their services. In their effort to be the first to approach customers, touts stop cars even before they have parked. Not only is this a health and safety concern but it also impacts upon and disrupts the work of the car-parking stewards.

(b) It is common practice for touts to harass people as they walk to the entrance gates of the racecourse, such areas, like the car parks, are racecourse property.

(c) Even on days that do not sell out in advance, the touts continue to cause issues. They buy unused tickets from members of the public, sometimes for well below face value and (in addition to those tickets they may have bought in advance at a discount) then sell them on to racegoers at face value, thereby depriving the racecourse of legitimate revenue.
(d) As the time of the first race gets closer on these days, the prices tend to drop to below face value which leads to disgruntled customers who have bought their tickets in advance becoming aware that tickets are available from touts at a much reduced price. It also often results in ticket touts standing next to sales windows, aggressively attempting to sell tickets to people in the queue at a lower price.

(e) It is estimated that in excess of 10,000 tickets change hands via touts during the four days of The Cheltenham Festival, a significant number of which would otherwise have resulted in bona fide purchases from the racecourse.

(f) At Newmarket, among others, touts sell tickets to people who do not comply with the dress code, thus causing conflict with gate staff and customers when the customer tries to gain entry.

(g) Being harassed by a ticket tout as soon as a person arrives at the venue has a negative impact on the customers of Jockey Club Racecourse and can affect their decision as to whether they return or not. At peak periods for "touting", racegoers feel pestered and pressurised, especially as the time of the first race approaches and the need to offload tickets becomes critical for touts.

(h) Tickets obtained by fraud often result in confrontation or embarrassment for people in possession of them when challenged.

(i) Furthermore, in addition to the damage done to the racegoer’s experience, as a consequence of their actions every ticket sold by a tout results in the profit going to the tout and not to the racecourse. Even though their activities take place on racecourse owned property, neither the security staff nor the police are able to prevent ticket touting taking place.

**HOW TOUTS OBTAIN THEIR TICKETS**

19. Touts appear to obtain tickets in several ways. At Cheltenham, there are discounts for tickets purchased before the beginning of December and for group bookings of 15 or more tickets. These discounts amount to £5 each day for the Club Enclosure, £5 for Tuesday to Thursday only in the Tattersalls Enclosure and £2 for Tuesday to Thursday only in the Best Mate Enclosure.

20. Touts often purchase tickets at a knockdown rate from coach parties who have tickets spare. They also join race clubs that offer large discounts to members, order as many tickets as possible and sell them at the course. They also take advantage of special offers (some offer two for the price of one). Others have purchased tickets with cloned or stolen credit cards. Touts at Newmarket have been found in possession of owner’s complimentary and hospitality badges.

21. Cheltenham, and other courses, have a policy of selling advance tickets at a discounted rate which rewards loyal and regular customers, although large orders are questioned.

**CONCLUSIONS AND POINTS RAISED BY THE SELECT COMMITTEE**

22. Due to the absence of legislation, a culture of ticket touting has been allowed to grow in this country to the extent that it is now an accepted, if unattractive, part of popular events.

23. Jockey Club Racecourses primary concern relates to the physical presence and overt activity of ticket touts on racedays and the impact this has on its customers, in addition to the negative effect to its own business.

24. Jockey Club Racecourses would differentiate between the selling of tickets by unauthorised individuals outside of venues and the practice of acquiring tickets on the Internet. However, measures which had the net effect of encouraging all tickets to be bought through “official” retailers would be welcome.

25. As a group, Jockey Club Racecourses would not be in favour of going down the route of personalising every ticket, not only due to the significant amount of extra work and expense that this would incur, but also it is not considered that such a course of action is appropriate for tickets that are providing general admission to the racecourse rather than a reserved seat in a stadium, as is the case with football matches or other events.

26. Possible solutions to the problem are the enacting of new legislation making the touting of tickets at all sporting events unlawful and Jockey Club Racecourses would support the suggestion that existing offences of sale by an unauthorised person in a public place of a ticket for a designated football match, or for events at the London 2012 Games, should be extended to cover other sporting or cultural events.

*June 2007*
Memorandum submitted by the Iridium Consultancy

SUMMARY

There are two separate and distinct groups involved in ticket touting.

The first group refer to themselves as “spivs” and tend to restrict their activities to buying tickets for as little as possible and selling in excess of the face value of the ticket at live music events. This group tends to comprise anywhere between 30 and 40% of the ticket touts active at events.

The second distinct group refer to themselves as “grafters”. This group are involved in various activities from the reselling legitimate tickets to selling counterfeit tickets and wristbands through to vehicle crime, drugs, and counterfeit music orientated clothing outside live music events. This group tends to be subdivided into separate and distinct gangs, each with its own leader.

Unfortunately, the old fashioned “spiv” style ticket touts are on the decline, and, in the last 10 years, the latter group, the “grafters” are on the increase.

I have observed both groups over the last 10 years first hand as they ply their trade outside of live music events.

In effect, ticket touting is increasingly being taken over and controlled by professional criminal gangs.

PERSONAL HISTORY

For the last 23 years I have been involved in a variety of security roles within the live music and entertainment industry.

For the last 10 years I have been responsible for developing and implementing intellectual property protection strategies for the music industry within the UK and Europe.

I have been responsible for anti counterfeiting operations at Live 8, The Reading and Leeds Festivals, T in the Park and European tours for the Rolling Stones, Queen, Foo Fighters, Greenday and Razorlight.

I am currently responsible for the development and implementation of anti-ticket tout and anti-counterfeiting operations at The O2 Arena, Greenwich.

I am regularly consulted by various Police Forces and Trading Standards in relation to both ticket touts and counterfeiting activities.

Over the last 10 years, I have obtained reliable sources of information within the various groups of touts around the UK.

I believe the first hand experience and observations I have had offer a unique insight into the activities of touts at live music events.

FACTUAL INFORMATION

Ticket touting is increasingly being taken over by organised professional criminal gangs around the UK.

Ticket touts are increasingly involved in criminal offences such as counterfeiting.

The resale of tickets is already illegal in the City of Westminster under the an amendment to the City of Westminster Act but is rarely, if ever, enforced.

A no trading footprint placed around Newcastle Arena and regularly enforced by Police not only stopped ticket touting and counterfeiting but also reduced other forms of crime around the venue.

An Anti Social Dispersal Order around Nottingham Arena and enforced by Police all but eradicated ticket touting and counterfeiting activity.

Ticket scanners and bar codes in use at certain venues have stopped counterfeit tickets being sold by touts.

RECOMMENDATIONS

— Promoters should provide a ticket resale service at venues.
— Ticket resale should be regulated and licensed by legislation.
— The resale of tickets for charity events such as Live 8 should be made unlawful.
— Existing legislation such as the Pedlars Act 1871, as well as existing street trading laws should be applied to ticket touts and enforced.
— Existing legislation in respect of sporting events should be more rigorously enforced.
— Better education and awareness for Police officers at live music events. It is not uncommon to see offences being committed in front of Police Officers who are unaware an offence is actually taking place.
— A financial provision for Local Authority Licensing teams to undertake out of hours operations to enforce existing legislation in respect of ticket touts.
— During the weekend of 8–10 June 2007 ticket touts were responsible again for selling hundreds of counterfeit wristbands for entry into the Isle of Wight Festival.

June 2007

Memorandum submitted by the Racecourse Association Limited

I am writing on behalf of the Racecourse Association Ltd (RCA), the trade association for 59 racecourses throughout Great Britain, in response to your inquiry into the touting of tickets for sporting and cultural events. The RCA membership includes venues for numerous major events including The Derby at Epsom Downs Racecourse and the Grand National at Aintree Racecourse, both of which are listed events.

We would like to note that in addition to the issue of ticket touting, which we address below, there is also much concern regarding the sale of forged tickets, which should be further investigated.

The RCA is pleased to be involved in this inquiry on behalf of our members. Please find below responses to the issues which you raised

1. THE UNDERLYING CAUSES OF TICKET TOUTING, AND ITS IMPACT ON PERFORMERS, PROMOTERS AND THE PUBLIC

1.1 The RCA is of the view that there are a number of causes of ticket touting, and a number of methods via which touts are able to obtain tickets for onward sale. Many racecourses offer group discounts to their customers, and touts can take advantage of this in order to obtain tickets for resale below face value, whilst still making a profit. The price can then be further increased at sell-out events.

1.2 In addition, racecourses give complimentary tickets to sponsors, racehorse owners, racehorse trainers, stable staff and many others. These tickets are sometimes sold or passed on to touts for resale.

1.3 The RCA is of the view that ticket touting can have many negative consequences on both racecourses and their customers, with whom the racecourses value a good relationship, which can be tarnished by the activities of ticket touts.

1.4 The most readily identifiable problem is that touts hound and/or intimidate racecourse customers outside the turnstiles (although sometimes on racecourse property) in an effort to make a sale. This is not the image which racecourses are trying to convey as a first impression, and can create health and safety difficulties, particularly in car park areas where they disrupt the work of car park attendants.

1.5 The RCA has been informed by our members of incidents where members of racecourse staff have been the victims of verbal abuse, and threatened with physical harm by ticket touts when attempting to encourage them to desist in their activities for the benefit of the racecourse customers.

1.6 Ticket touts may often sell incorrect or incomplete products, leading to difficulties for the customers when trying to gain entry to the course. They may also falsely state what the holder of ticket would be entitled to.

1.7 In addition, touts may sell tickets which have been obtained from the racecourse fraudulently, eg via cloned credit cards, or forged tickets and this may cause embarrassment to the customer in possession of the ticket when it is presented.

1.8 It is not uncommon for ticket touts to provide tickets to customers who do not comply with the dress code for certain enclosures, which can cause conflict between the racecourse staff and customers when they are prohibited from accessing certain areas.

1.9 Finally, as well as selling tickets for sold-out events, tickets touts may also sell tickets for less busy days, at less than face value, thereby depriving the racecourse of additional revenue which could have been gained through last minute ticket sales.

2. WHETHER OR NOT RESALE OF A TICKET, AT FACE VALUE OR AT A HIGHER VALUE, SHOULD BE PERMITTED IN PRINCIPLE; AND WHETHER THE ACCEPTABILITY OR OTHERWISE OF RESALE DEPENDS ON THE CIRCUMSTANCES IN WHICH TICKETS ARE OFFERED FOR RESALE

2.1 The RCA is of the view that the resale of tickets, at any value, should only be permitted with the express permission of the relevant racecourse in order to guarantee the product description and integrity of the event.
3. **The Impact of the Internet upon Trade in Tickets**

3.1 The RCA feels that the facility to trade tickets via the internet, particularly through websites like “e-Bay” creates the opportunity for ticket touts to sell tickets without providing full or correct details to the customer. In these instances there is no recourse for the customer in the event of an unsuitable transaction.

3.2 It has also been brought to our attention that a number of internet trading sites such as “MyTicketMarket.com” operate from addresses outside Great Britain, and are therefore subject to different legislation, which can cause difficulty for racecourses or government organisations in taking action against them.

4. **Whether or not Tickets’ Terms and Conditions Banning Transfer and Onward Sale are Fair or Enforceable**

4.1 We do believe that racecourses and the Department of Trade and Industry should work closely together to clarify guidelines regarding ticket touting in order to assist with achievable enforcement. It is the view of the RCA and our members that the resale of tickets should only be permitted with the express written permission of the relevant racecourse, and this should be at their discretion.

5. **The Merits of New Approaches by Ticket Agents Attempting to Prevent Transfer of Tickets, Including Wider Use of Personal ID**

5.1 As an initial view, the RCA and believes that to require the use of personal identification in order to make use of tickets would not be practical, enforceable or cost effective for many of our members. To employ this facility would incur a large amount of work and expense for the racecourse, and would not be appropriate for admission tickets for horseracing, where the crowd in transitory rather than occupying reserved seats in a stadium as at football and other sporting events.

5.2 However, we would be interested in receiving further information on this proposal, should it be progressed, as it may be of interest to some larger racecourses.

6. **Whether or Not the Existing Offences of Sale by an Unauthorised Person in a Public Place of a Ticket for a Designated Football Match, or for Events at the London 2012 Games, Should be Extended to Cover Other Sporting or Cultural Events**

6.1 The RCA holds the view that the existing offences of sale by an unauthorised person should be extended to cover all sporting events, and that the sale of tickets by a third party should only be permitted if expressly authorised in writing by the event organiser.

6.2 As an alternative to this, it has been proposed that racecourses, and other sports venues as necessary, explore the desirability of designation under Section 166 of the Criminal Justice and Public Order Act.

6.3 In the event that either of these options is introduced, it would be essential to ensure that the regulations include for the arrest of anyone found to be touting tickets.

*June 2007*

**Memorandum submitted by VisitBritain**

**About VisitBritain**

As the national tourism agency, VisitBritain is responsible for marketing Britain worldwide and for developing England’s visitor economy. Our mission is to build the value of tourism by creating world class destination brands and marketing campaigns and also build partnerships with—and provide insights to—other organisations which have a stake in British tourism. Although we are sponsored by the Department for Culture, Media and Sport, the Chief Executive of VisitBritain also chairs the Foreign and Commonwealth Office “Public Diplomacy Partners Group” and the “Welcome to Britain” group.

VisitBritain promotes Britain internationally and England domestically to the British. England is also marketed in 4 European countries (Germany, France, the Netherlands and Eire) where England is a particularly strong brand. We are responsible for both the visitbritain.com and enjoyengland.com visitor-oriented websites and jointly fund the Britain and London Visitor Centre (BLVC) in Lower Regent Street, London.

There are an estimated 1.4 million jobs in tourism in the UK as a whole, some 5% of all people in employment. Tourism is one of the largest industries in the UK, worth approximately £85 billion.
VisitBritain is grateful for the opportunity to contribute to this important consultation. There are key issues in the visitor economy that VisitBritain would wish to be borne in mind.

VisitBritain declares that its Chief Executive, Mr Tom Wright, is also Chairman of STAR, the Society of Ticket Agents and Retailers. VisitBritain is aware that STAR has also submitted evidence to this Committee. VisitBritain have always had a particular concern for the over 32 million visitors to Britain who have often been a target for ticket touts due to their lack of knowledge of the local commercial environment, possible language difficulties, and that they will often not be in Britain long enough to seek redress. This makes them particularly vulnerable and thus VisitBritain’s long term support for the work of STAR and efforts to improve customer service and industry-wide co-operation through a Code of Practice is to be encouraged.

1. Underlying causes and impact of ticket touting

The cause of ticket-touting is simple: excess demand and finite supply. As with all markets, the danger of excess demand is complacency in customer service (e.g. poor telephone manner, surly staff, endless or inadequate complaints procedures) on the part of legitimate suppliers and the emergence of disreputable suppliers or false-suppliers (i.e. those with faked goods). VisitBritain therefore welcomes the co-operation and co-ordination of the legitimate ticket industry and backs the Office for Fair Trading-led initiative for Model Terms and Conditions. We welcome the commitment of STAR, the Concert Promoters Association, The Society of London Theatre, The Theatrical Management Association and the National Arenas Association to ever-improving customer service. However, concern must be expressed about unscrupulous traders.

VisitBritain has a “100% Commitment to Quality”—quality service and quality products within the tourism sector. In order to encourage visitors from abroad, or indeed within the country, value for money must be offered. This does not mean being “cheap”. Indeed, it can mean being opulent, luxurious and expensive (e.g. a box at a premier theatre with champagne, for example, to watch a Hollywood icon perform on a British stage). But always it must mean delivering what is offered and expected for the financial outlay of the consumer. Misrepresentation, mis-selling and fraud undermine the market and, in turn, undermine the image of Britain’s visitor economy. Any negative images that unfortunately do exist of “rip-off” Britain are re-enforced by such touts at a time when the tourism industry is working hard to counteract existing (often undeserved) negative perceptions.

2. Terms and Conditions, Quality Assurance

A truly free market can only exist in circumstances of perfect knowledge i.e. customer knowledge is vital to the efficient functioning of any market. The information provided to consumers must therefore be accurate. “Caveat emptor” might well mean customers being expected to read terms and conditions on the sale of tickets, e.g. on refund policy, but it is not licence for suppliers to fail explicitly to publish such terms and conditions. Nor is it licence for consumers to be refused options for redress when mis-selling, misrepresentation or fraud occurs. Clearly those traders who operate outside of the law must be pursued by the law enforcement agencies.

A customer information campaign backing agreed terms and conditions and possibly a new recognisable Quality Assurance mark for ticket retailers would be appropriate. VisitBritain runs Quality schemes for accommodation and visitor attractions, backed by the Quality Rose. This increases consumer awareness of assured standards in much the same way as the British Standards Institute Kite Mark or CORGI registration for plumbers. VisitBritain is currently running a media campaign to heighten awareness of the Quality Rose and the dangers of booking accommodation from suppliers that do not reach Quality standards. This could be a model for the ticketing industry.

VisitBritain also runs a Quality Assured Visitor Attraction service. Our ambition is to attract ever more accommodation and visitor attractions into our schemes. Clearly some attractions assessed by VisitBritain operate with pre-sold tickets (e.g. the London Eye or Tower of London) that are transferable. Those attractions do not have a ticket-touting problem, but we recognise that they may have concerns that they may be affected by any new legislation and additional bureaucracy to prevent ticket resale or ticket transference.

3. Resale of Tickets

VisitBritain recognises and respects that current Government policy is that whether or not ticket transfer is banned is ultimately a judgement for the ticket supplier to make in their terms and conditions unless security/public order implications require a ban to be in place (as with London 2012 and some football matches).

Equally, VisitBritain recognises from a marketing point of view the desirability of bolstering the Britain “brand” by countering the problem of unscrupulous touts in the West End or at major sports events. Of course, we would not support all-encompassing statutory frameworks for ticket-retail (or resale/transference) that have unintended detrimental consequences for ticketed visitor attractions within our Quality Assessment schemes. It will be for the entertainment/sport/theatre/music ticketing industry to show...
that such a balance can be struck, and we are very encouraged by the co-operation between legitimate retailers in seeking solutions. Sector-specific legislation may be an option to explore—the Committee has already noted, for example, that specific rules currently exist for both designated football matches and London 2012. It is only where a problem exists, or is anticipated, that a solution is necessary.

The terms and conditions of sale must apply both to the supplier and the consumer. Where resale or transference is explicitly prohibited, consumers should respect that. Equally, where resale or transference is not prohibited, suppliers of particularly popular events must think very carefully about the consequences. Various methods of prohibiting and preventing resale are available (Glastonbury is the oft-quoted example of best practice) to those willing and able to invest in the technology or monitoring. VisitBritain notes, for example, that Wimbledon and Twickenham routinely cancel tickets that appear for resale on popular internet auction sites.

Both Wimbledon and Twickenham have also taken steps to address supply-side issues with extra seating capacity. Of course, listed theatres will not always have that option. Buy-back schemes (where the theatre refunds a non-transferable ticket and resells to another consumer) might therefore be worth exploring. To draw a parallel with the accommodation industry, terms and conditions will usually state a cancellation policy requiring a certain period of notice for consumers to receive a refund. If the booking is cancelled in good time the consumer pays nothing (or little) and the provider is able to seek a different customer.

4. Conclusion

Ticket-touting is a problem specific to high demand, low supply events and performances where significant profits can be made from inflated resale. At its worst it threatens the image of Britain abroad and the image of the live entertainment industry within Britain.

VisitBritain is very keen to see the approval of STAR’s Code of Practice on Terms and Conditions, under the OFT’s Consumer Code Approval Scheme. This will increase reliability and set benchmarks for consumers trading with the legitimate retailers. This will also allow STAR to increase its industry reach and VisitBritain can then increase its marketing of STAR around the world to better inform visitors on how to buy tickets with confidence.

An advertising campaign, possibly marketing a recognisable consumer awareness marque, could increase knowledge in the marketplace. Similar marques, such as the BSI Kite Mark, the Europe-wide CE standard, or the VisitBritain Quality Rose, provide consumers with assurances about the products and services they buy. Crucially, a system for complaint and redress would be required of providers, as with those within our own Quality Schemes.

June 2007

Memorandum submitted by the Royal Horticultural Society (RHS)

1. ROYAL HORTICULTURAL SOCIETY

1.1 The Royal Horticultural Society (RHS) is the UK’s leading gardening charity with a membership of around 370,000. The Society’s mission is “to be the leading organisation demonstrating excellence in horticulture and promoting gardening”. One of the ways we fulfill our mission is by running flower shows; our three largest and most well know events are the RHS Chelsea Flower Show, Hampton Court Palace Flower Show and the RHS Flower Show at Tatton Park. The flower shows help to raise funds for the RHS and assist in raising the profile and awareness of the Society’s charitable work.

1.2 The average visitor numbers for the three main RHS shows are:

<table>
<thead>
<tr>
<th>Show</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>RHS Chelsea Flower Show</td>
<td>157,000</td>
</tr>
<tr>
<td>Hampton Court Palace Flower Show</td>
<td>180,000</td>
</tr>
<tr>
<td>RHS Flower Show at Tatton Park</td>
<td>105,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>442,000</strong></td>
</tr>
</tbody>
</table>

1.3. The face value ticket price for the above events in 2007 ranges from £12.50 to £44. The overall value of ticket sales in 2007 will be circa £9 million.
2. The Underlying Causes of Ticket Touting, and its Impact on Performers, Promoters and the Public

2.1 The unauthorised resale of RHS flower show tickets affects both the RHS Chelsea Flower Show and the Hampton Court Palace Flower Show. Tickets are sold by street touts, online by unauthorised secondary ticket agencies, and by individuals on sites like eBay.

2.2 As the resold tickets are sold at a higher value, the main impact is felt by the purchaser. Anecdotally it is felt that customers set a limit on expenditure for their visit. Therefore the visitor is likely to spend less once at the event, which impacts on the trading conditions of exhibitors who support the show and catering etc.

2.3 The resale of tickets also affects the image of the RHS; we receive complaints from RHS members and members of the public asking why we allow our tickets to be touted.

2.4 One in five visitors to the RHS Chelsea Flower Show is from overseas. As a charity we do not market our events overseas, which means many tourists are unaware of the RHS Chelsea Flower Show being sold out. This results in the high demand for tickets and therefore many of them buying tickets at inflated price. The tourists are often left with negative, lasting impressions of the event, city and country.

3. Whether or Not Resale of a Ticket, at Face Value or at a Higher Value, Should be Permitted in Principle, and Whether the Acceptability or Otherwise of Resale Depends on the Circumstances in Which Tickets are Offered for Resale

3.1 The RHS is aware that one of the main causes of tickets being resold is our ticket terms and conditions, which do not offer a resale facility. We have asked our ticket agency to investigate the implementation of a returns facility, in the hope of removing at least some of the tickets currently available to touts.

3.2 The RHS would like to be able to give a customer the opportunity to resell their ticket at face value if they are no longer able to attend the event. We would ideally want this to be an online automated process so that the costs of this are reduced. We are in discussions with the appointed ticket agency which sells tickets for our flower shows, and they are investigating this on our behalf.

3.3 We have also found that coach companies have sold any tickets they were unable to sell to “ticket touts” when arriving at the event. The RHS has put together a short “Approved Agent Agreement” which group bookers are asked to sign before tickets are dispatched to them. This prohibits them selling on their tickets to “touts”. We believe this has helped to reduce the problem but we do see evidence of this activity still happening at Chelsea.

4. The Impact of Internet Upon Trade in Tickets

4.1 Tickets to the RHS Chelsea Flower Show are sold on several unauthorised internet sites. Many of these sites are similar to eBay and will not remove the tickets or give details of the sellers as they are just a “market place” for individuals to sell items.

4.2 The purchaser of tickets from an unauthorised source will almost always buy the tickets at inflated prices and have no way of knowing whether the tickets will arrive or be genuine. On arrival at the gate we do have to turn anyone without a genuine ticket away, which affects the image of the RHS.

4.3 The person/site selling the tickets tends not to pass on vital information about terms and conditions or event restrictions to the purchaser about the event. This impacts on the staff at the show who deal with complaints about this information not being given to them at the time of purchase. The customers are often unaware they bought tickets from an unofficial site.

5. Whether or Not Tickets’ Terms and Conditions Banning Transfer and Onward Sale are Fair or Enforceable

5.1 There is a difference of opinion on what a ticket is; is it an item of property and therefore the “owner” has the right to sell the item at whatever cost, or is it a contract to attend an event. In the RHS terms and conditions we state that “Tickets merely give the right to enter upon the stated terms. Tickets themselves shall remain the property of RHS at all times”. Many event organisers deem tickets as a contract and prohibit resale in their terms and conditions. However, the cost of pursuing someone for breach of contract is high and not necessarily the best use of a charity’s funds.

6. The Merits of New Approaches by Ticket Agents Attempting to Prevent Transfer of Tickets, Including Wider Use of Personal ID

6.1 We don’t and do not wish to check tickets against ID, as many of our tickets are bought as gifts. This would also have a material effect on queuing times and crowding. We only wish to know that the ticket is genuine and bought from an authorised source.
7. Whether or Not the Existing Offences of Sale by an Unauthorized Person in a Public Place of a Ticket for a Designated Football Match, or for Events at the London 2012 Games, Should be Extended to Cover Other Sporting or Cultural Events

7.1 Yes, this would help with consumer confidence and help to prevent fraudulent transactions. Many of our show visitors believe we allow the touting; however, without legislation it is almost impossible for the problem to be controlled.

7.2 At the RHS Chelsea Flower Show a team from Royal Borough of Kensington and Chelsea Trading Standards was accompanied by plain clothes police officers and spent some time dealing with “touts” and, where possible, pursuing them for trading without a license.

7.3 One of the areas that is very difficult and seems to be growing rapidly is the number of unofficial websites created to sell tickets. Some of these sites book tickets and then resell them, and some sell tickets without having any to supply to the customers. In most cases the website looks extremely professional.

7.4 The “touting” of tickets damages the reputation and confidence of the event and with one in five of the visitors to the RHS Chelsea Flower Show being from overseas, touting has a damaging effect on the reputation of the country and it’s capital.

June 2007

Memorandum submitted by WeGotTickets

Introduction

www.WeGotTickets.com is a primary ticketing agent established in 2002 which currently sells tickets for over 1,000 promoters, venues and festivals in the UK. All tickets are exclusively sold online and are delivered digitally to the customer in the form of a booking reference number which is used in conjunction with ID to gain admission to the event.

Last year www.WeGotTickets.com sold 500,000 tickets primarily at the grass-roots level of the live music market; consisting of small-to-medium sized venues and promoters. WeGotTickets’ market-leading 10% booking fee makes events with ticket prices as low as £5 attractive to customers wishing to purchase advance tickets.

Two directors have spent the last 11 years running the Oxford Zodiac live music venue (capacity 750) until its recent sale to the Academy Music Group. Another director has been running an independent record label (Shifty Disco) since 1997 and has music industry experience stretching back to 1986 as a journalist, promoter and artist manager. The fourth director set-up and runs the www.OxfordMusic.Net online merchandise store and IT business.

www.WeGotTickets.com employs a further four members of staff in marketing, sales and both client and customer support roles.

1. The impact of the internet upon the trade in tickets

(i) The internet has had a fantastic effect on the trade in tickets both for primary and secondary ticketing agents. As an exclusively-online primary ticketing agent serving an area of the market that previously had no advance-ticketing—events that were solely “cash-on-the-door”—WeGotTickets would not exist without the internet.

(ii) The internet has significantly enhanced the business of all primary ticketing agents and has been partly responsible for the boom in the live music industry over the last five years.

(iii) However, the ubiquity of the internet coupled with this boom period has also facilitated an exponential growth in secondary ticketing agents; including the ticket touts.

2. Who are the touts, how do they operate and what is their impact on the entertainment industry?

(i) From WeGotTickets’ experience as an exclusively-online primary ticket seller over the past five years, it’s clear that the ticket touts fall squarely into two categories.

(ii) Firstly there are the “professional touts” who are looking to make easy cash income by exploiting the fans’ desperation to experience the “moment”: whether it be a live music show, a sporting occasion or a stage-show. The respective areas of the entertainment industry are partly culpable as they create the hype and excessive demand in the first place which ups the level of desperation amongst the fans to procure tickets.
(iii) The professional tout has been around since the year dot but the internet has expanded their reach and has shifted their business from the pavements outside the venues to smart-looking websites such as TicketTout.com. Moreover, many of these professional touts often pursue other criminal activities and touting has long been used as a way to circulate unregulated income around the criminal world. Introducing legislation to counteract the professional tout will have a far-reaching effect into other areas of illegal activity.

(iv) And secondly there are the “incidental touts”. They are a relatively new phenomenon mobilised by the availability, anonymity and ease-of-use of internet auction sites. Often genuine event-attending customers will find themselves with spare tickets through either ordering more tickets than they can use or by not being able to attend the event through unforeseen circumstances. Their first thought now is to offer them for resale online through an auction site.

(v) The professional tout will always be with us in some shape or form and legislation, combined with active measures from the entertainment industry itself, should be introduced to help keep their activity suppressed.

(vi) The incidental tout is the one that can be dealt with more effectively through a process of education, deterrent and facilities to enable them to return any unwanted tickets for sold-out events.

(vii) Currently, touting is a hot media topic and therefore the window is open to a joint approach from all areas of the entertainment industry and the government to educate the potential incidental touts. In the recorded music industry this window of opportunity was missed five years ago when the fight to counteract free downloading sites was largely lost. The live music industry is going through a boom time at the moment and collectively the entertainment industry should use this commercial momentum coupled with appropriate and enforceable legislation to ensure that all the touting issues are thoroughly dealt with.

(viii) Performers in the live music industry are usually paid on a percentage of the total ticket revenue after production costs have been deducted. It’s very pertinent to their income exactly what revenue is generated by the ticket sales for their performances. Aside from touting, this has been an issue in the music industry for a while because the extensive booking fees that are charged by the various primary ticketing companies are seen as exorbitant by many performers who wonder why they’re only being paid on the basis of, say, a £15 ticket when their fan has actually shelled out £19–£20 to secure access to the show. This performer’s frustration is compounded further when they realise that tickets for their shows are being sold at many times their face-value online with nothing more than the original face-value making it back into the calculation for their performance fee. You might think that this is not necessarily of any concern to the performer as they’re going to get their performance money anyway but the knock-on effect is very real. Many performers rely on merchandise sales at their shows (CDs, T-shirts etc.) to supplement their tour income as often the income from the performance fee doesn’t cover the full production costs of putting on the show. If a fan has spent an extra £50, say, to get the ticket for the show then they’re much less likely to be able to spend any more money on merchandise at the show.

3. Got any spare tickets?

(i) There is no reason why tickets should be sold or resold at anything more than their face-value plus an acceptable charge for facilitating the sale (the booking fee). However it is important that customers who do find that they have spare tickets for sell-out shows have the facility to return those tickets and have the face-value refunded to them provided the original ticket agent can resell those tickets to a new customer (at face-value plus booking fee, of course). This will give the incidental tout an option other than to resell their spare tickets through auction sites.

(ii) Such a resale facility is currently being beta-tested on the WeGotTickets site and will be live early in the autumn. This facility will be available only for sell-out events as no event organiser is going to be happy for customers to return unwanted tickets for events that are still on-sale as they would insist on the remaining available tickets being sold first: otherwise the ticket purchase is effectively just a reservation that could be cancelled at any time. However this wouldn’t present much of a problem with regards to touting as any events that have yet to sell out are unlikely to stimulate any reselling activity.

4. Conditions of resale

(i) A ticket has no intrinsic value in itself; it is merely a representation of the contract between the customer and the event organiser with the sale facilitated often by a third party (the ticket agent). The ticket contract grants the customer entry to the specified event, subject to the event’s terms and conditions (which often also encompass the venue’s terms and conditions).
(ii) The customer’s right to transfer this contract to someone else is governed by the terms and conditions of the contract itself. The event organiser might wish to allow transfer of the ticket under certain conditions, for example the customer may have bought the ticket as a gift, but the event organiser must retain the right not to allow the transfer of the ticket if it is to be resold by the customer at a price above its face-value.

(iii) When buying the original ticket the customer has agreed to the terms and conditions of its sale. When this ticket is resold it will then be in the possession of someone who has not directly agreed to the terms and conditions stipulated by the event organiser (and the venue) in the original sale.

(iv) It would be far safer if all transfer and resale of tickets is done within a controlled legal environment whereby each transferee is bound by the same terms and conditions as the original sale.

5. Who are you?

By removing the paper ticket from the equation we have made the resale of tickets much more difficult. Our e-tickets are redeemed at the entry point for the event through a combination of a booking reference number and an ID check. It is the responsibility of the customer to prove their identity and the irrefutable right of the event organiser to refuse entry if the customer is unable to do so. With this rigidity in place it is a much riskier business buying touted tickets as the chance of being refused entry to the event is considerably higher than it is with paper tickets.

June 2007

Memorandum submitted by the Music Managers Forum (MMF)

In response to the Government’s request for submissions in relation to the ongoing problem of ticket touting, and especially online ticket touting, the Music Managers Forum (MMF) would like to make the following comments and proposals.

The MMF, as the group that represents the collective interests of the UK’s Artist Management community, believes that the Artist must be at the forefront of any decisions that are made within this sector.

It is, after all, the Artist that has both the primary relationship with the consumer/fan and is the creator of each original and unique performance. When addressing issues such as ticket touting, it is the Artists who are most concerned with the ways in which the secondary market operates and how it impacts the unique relationship they have with their fans and the public.

Consumers, supported by the emergence of numerous ticket touting sites, have already created an online marketplace for the re-sale of tickets to live music events estimated to be worth over £250 million in annual revenues in the UK alone. In light of this, a “head in the sand” approach by the industry is no longer viable or appropriate.

The MMF considers that the majority of Artists would prefer that the ticket touting market did not exist. The MMF, however, also recognises that the current processes in place for selling tickets does not fairly reflect either the economic or technological realities brought about by the emergence new technologies such as the Internet and mobile platforms.

There are particular pricing problems whenever there is a fixed capacity and an unpredictable demand for a live event. Where demand exceeds the available supply there will inevitably be upward pressure on price. This could perhaps be dealt with by having higher initial ticket prices (to restrict demand) or by adding more performances (to increase supply). Neither of these solutions is preferable for our Artists, most of whom are unhappy with a situation in which their fans may end up paying relatively high ticket prices, but themselves have limited time, resource and capacity for adding more and more performances. The secondary ticket market resolves the problem in theory, but in practice does so in a way which is currently chaotic, does not benefit the stakeholders, and leads to dissatisfaction for both Artists and fans alike.

In today’s world, in which consumers have the freedom to express their views openly via the Internet, there is a growing desire for the accessibility of tickets to be democratised and for the price to be determined by the market. For example, it is possible that the adoption of dynamic ticket pricing, as utilized in the commercial airline industry, and adapted to the live music industry, might provide a potential acceptable market and technology-based solution; this is one of many future scenarios which the MMF would like to prepare for by preventing “over-legislation” at this point.
As a result of addressing this changing landscape, it is necessary that the MMF (and other stakeholders in the creation of live music events) becomes actively involved in re-formulating terms and conditions for the sale and re-sale of tickets. Our intentions are to eliminate the ticket touts, stimulate fair competition, satisfy the needs of the consumer and deliver value back to the creators of live music events in order to secure their future health, financial and cultural value. We recognise that there may be a need for legislation to support any resulting solutions proposed in light of the legal uncertainties surrounding the re-sale of tickets.

The MMF proposes to host a series of meetings where stakeholders in the live music event industry can construct appropriate measures to address all of the concerns arising from the above; most importantly, fan and consumer concerns over ticket authenticity in the secondary marketplace, and industry concerns over the lack of stakeholder engagement from the current secondary ticketing platforms. In the event that the current situation continues unabated, we will continue to investigate ways for our Artists/Performers to participate in this additional revenue stream.

June 2007

Memorandum submitted by the Five Sports (ECB, The FA, LTA, RFL, RFU)

EXECUTIVE SUMMARY

1. The Five Sports (England and Wales Cricket Board, the Football Association, Lawn Tennis Association, Rugby Football League, Rugby Football Union) work together on issues that affect all our sports. Ticket Touting is now a major problem that affects all major sporting events.

The internet has significantly increased the amount and extent of the touting problem.

TOUTING

— prices real sports’ fans out of their favourite events;
— diverts precious resources from sports’ grass roots;
— undermines consumer protection; and
— creates public order issues at major events.

2. This submission demonstrates that the problem has now reached levels that sports bodies are unable to address on their own. We are therefore looking for the Government to work with us to address the detrimental impact touting has.

3. The Five Sports hope the Select Committee will support sport and sports fans by recommending to Government that legislation on touting is introduced similar to that in the London Olympic Games and Paralympic Games Act 2006 which makes it an offence to tout tickets for the 2012 Olympics.

CONTENTS

— The impact of the internet.
— The negative impact of ticket touting.
— The need for statutory regulation.

INTRODUCTION: THE FIVE SPORTS AND TOUTING

4. The England and Wales Cricket Board (ECB), The Football Association (The FA), The Lawn Tennis Association (LTA), the Rugby Football League (RFL) and the Rugby Football Union (RFU), together comprising “the Five Sports”, represent five of the largest governing bodies for sport in the UK.

5. The Five Sports work together on issues that affect all our sports. The problems posed by ticket touting are a significant barrier to developing our sports and looking after the interest of sports fans.

6. We welcome the Committee’s inquiry. By putting this issue in the public and media spotlight, we hope that the Committee will raise awareness of the problem and be part of the process of securing solutions.

7. The Five Sports have been in discussions with the Department for Culture, Media and Sport (DCMS) on ticket touting issues and welcome the interest that Tessa Jowell, Shaun Woodward and Richard Caborn have taken in this issue through their Ticket Touting Summits.

8. On Wednesday 16 May 2007, the Five Sports met with Tessa Jowell and Richard Caborn to discuss touting at major sporting events. We were greatly encouraged that they stated that the problem now needed a statutory approach. We welcome this and will work closely with them to take this forward.
9. Touting sees sports fans priced out of events. The time and effort we are now devoting to tackling touting are diverting precious resources away from sport. We urge the Committee to support our calls for there to be specific legislation making it an offence to tout tickets for major sporting events.

10. The Five Sports are also members of the Sports Rights Owners Coalition (SROC) which focuses on commercial and regulatory issues. We have contributed to, and support, the submission made by SROC.

THE IMPACT OF THE INTERNET

11. The internet has clearly had a considerable impact upon the trade in tickets. While the traditional ticket tout on the street still persists, so much so that it often causes major highway and public order nuisance within the vicinity of the event, it is now only a small component part of the problem of ticket touting.

12. This touting “industry” has been fuelled by the growth of the internet, and in particular the on-line auction sites and ‘ticketing shops’ that offer an easily available method of buying and selling tickets.

13. A quick review of the internet shows that a huge number of tickets are being offered at greatly inflated prices across all major UK sporting events:

Wimbledon Final tickets

14. Tickets to this year’s Wimbledon Men’s Final are being advertised on the secondary market for up to £3,000.

Cricket at Lords

15. Tickets for upcoming England internationals against India are advertised at up to £150. A search on eBay on Monday 1 June 2007 found 65 cricket tickets listed.

The “Futures” market

16. Tickets are now frequently on sale before they have even been printed or distributed, in effect creating a “futures market”. It is possible to “buy” tickets for next year’s Six Nations Rugby tournament between England and Ireland at Twickenham for up to £734. Tickets for the competition have not even been printed, yet alone distributed.

17. The problem with these “future” sales is that it encourages a demand that the agencies then have to supply. There are only two outcomes to such a scenario:

(i) touts secure advance funds with which they enter the market place seeking to purchase tickets using any means available, or

(ii) the fans who think they have bought tickets are subsequently disappointed when the touting operation cannot supply them, or the tickets that are supplied are subsequently declared invalid.

THE NEGATIVE IMPACT OF TICKET TOUTING

18. Ticket touting is sometimes portrayed as a harmless activity that meets a consumer demand. This is a falsehood.

19. Touting has a negative impact on sports fans who find themselves priced out of events. Additionally, fans who do buy tickets from touts receive none of the usual consumer protections that apply when they buy a ticket directly from an event organiser.

20. Touting diverts precious resources (both financial and administrative) from Governing bodies and sporting organisations that would be better spent on the development of their sports.

21. Touting creates a range of public order and public nuisance concerns, from allowing the black market economy to flourish, to undermining policing and security arrangements.

More details on each of these concerns are set out below.

THE IMPACT ON SPORTS FANS

22. Touting prices real fans out of being able to attend major sporting events. The majority of tickets are made available to encourage genuine fans, volunteers and participants to further their involvement in the sport. Tickets prices are set to enable these groups to afford them. They are not set to maximise revenue.

23. Contrary to the idea that ticket touting allows increased access to events for real fans (the lifeblood of sports), touting operations make big profits by buying up as many tickets as possible and then ruthlessly taking advantage of the passion people have for sport by reselling them at greatly inflated prices.
24. Evidence suggests that secondary agents engage in a number of practices which decrease the chances of fans securing tickets direct from the event owner at their face value:

- High-speed dialling equipment to increase the chances of tickets for high demand events.
- Using numerous credit cards in different names, and multiple identities, to secure large numbers of tickets.
- Joining clubs solely to ensure preferential mail order tickets.
- Buying tickets from individual consumers who are no longer able to attend the event.
- Trading with other secondary agents.

25. The UK is renowned worldwide for staging some of the world’s greatest sporting events. These events attract a large number of overseas visitors, creating benefits for the event and also the wider UK economy.

26. The reputation of our events and the UK as a tourist destination is not enhanced when these visitors are hassled or ripped off by touts when approaching the venue, or are even denied entry because they have bought a forged, out of date, or touted tickets (whose terms do not allow it to be sold on). For the 1998 World Cup, the Mall Corporate Hospitality Company took over £2.5 million in customers’ money for tickets. They went bust and delivered no tickets at all.

27. A study conducted by the Office of Fair Trading (OFT) into the ticket market found that the activities of secondary agents (touts) result in three times as many complaints as those of primary agents. Notably, Trading Standards Departments feel that complaints are under-reported, as touts often target tourists, who are not familiar with the law and are therefore unlikely to complain.7

28. The OFT identified the following mis-leading practices that fans who buy tickets from touts suffer from:

- The face value of the ticket is often not disclosed, and so the fan is unaware of the premium being paid.
- Seat locations may be poor or have restricted viewing—as the correct information is not given at the time of sale.
- Pre-paid tickets may not even arrive. This also gives an opportunity for touts to supply forged tickets.8

29. Such practices mean touts often fail to comply with consumer protection legislation, including the Distance Selling Regulations and the Unfair Terms in Consumer Contracts Regulations.

THE IMPACT ON GOVERNING BODIES AND SPORTS EVENT ORGANISERS

30. Governing bodies have as their prime objectives the promotion and development of their respective sports. In relation to large scale events, they aim to further these objectives in three ways:

- Protecting the integrity and reputation of their sports and its leading events.
- Utilising any income by re-investing in the development of the sport at the grass roots.
- Ensuring that supporters and their sport’s members have access to tickets at a fair price.

31. The actions of touting businesses are direct impediments to achieving these objectives.

PROTECTING THE INTEGRITY AND REPUTATION OF SPORT AND ITS LEADING EVENTS

32. Governing bodies and event organisers often receive blame for the actions and consequences of unauthorised ticket sellers. The disappointed fan who is sold a ticket that does not materialise, or is prevented from using a ticket because it has been sold on or is a fraud or duplicate, will naturally vent their frustration at the governing body.

33. Many supporters assume (wrongly) that the secondary agents are authorised by the sporting authorities. They are informed of this by the touts who describe themselves as officials suppliers. To aid this deception, they steal the sports’ Intellectual Property (logos, etc) to make the sites look authentic.

34. The reputation of events is damaged when spectators are confronted by a huge number of touts when trying to make their way to the venue. The Governing bodies take this issue seriously and all take very strict action against their own members who sadly are tempted to sell their tickets on to touts. The RFU alone has suspended over 30 clubs, schools and individuals as a result of their tickets ending up on the black market.

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7 Ticket agents in the UK, Office of Fair Trading, page 68.
8 Ticket agents in the UK, Office of Fair Trading, page 69.
PROTECTING THE REVENUE STREAMS AND RESOURCES OF SPORT

35. Touting diverts precious resources (both financial and administrative) from governing bodies and sporting organisations that would be best spent on the development of their sport.

36. One impact is the direct loss of potential revenue to Governing bodies, for example arising from the sale of unofficial hospitality packages that compete with the official offering.

37. The second and most significant problem is the loss of time, and resources, that are now devoted by sports event organisers in trying to limit the damage caused by touting.

The following illustrates this

38. All sports governing bodies and event organisers now spend a great deal of time and money following up on tickets that regrettably have made their way onto the black market so that they can take action against the person, club, official or even player who has sold them on.

39. The RFU allocates £50,000 to a ‘fighting fund’ to deal with touting. This includes consumer advertising, an in-house lawyer who commits around 80% of their time, and a disciplinary officer who deals with around 20 appeals per year. There are also considerable indirect costs incurred by RFU executives as they deal with action against touting and its knock-on effects such as complaints from fans who have been mis-sold tickets.

40. A proportion of all police bills paid by event organisers are an indirect result of the problems caused by touting.

41. The internet sites and auction sites that sell tickets frequently steal the copyright of the Governing bodies to give the impression that the tickets are official. The MCC reports numerous instances of photos and pictures to which they own the copyright being used in this way.

42. The All England Lawn Tennis and Croquet Club imposed new conditions to gain entry to Wimbledon in 1991, which ensured that only the person to whom the ticket was issued can use it. Transferring a ticket renders it void. However in order to prevent tickets being transferred, and in taking action against those that are, the Club has to undertake extensive legal, policy and administrative action. The Club has also taken numerous legal actions against touts, as well as employing a large team of people during the Wimbledon championships to prevent touts from operating outside the event. This is a costly measure which ultimately diverts funding away from grass-roots tennis, by reducing the ‘Championship surplus’ that is used by the LTA to develop British Tennis.

43. Additional stewards are needed at sports event to deal with the knock-on consequences of touts, and to advise the public not to buy tickets from touts outside the venues.

OPPORTUNITY COSTS

44. Sporting bodies make the majority of their tickets available to those within their game in order to encourage players to play and volunteers to volunteer. The secondary market exists because unscrupulous 3rd parties spot an opportunity to make a margin. The profit taken by a tout, whether on line or on the street, is money that could have stayed in the sport had the relevant sport chosen to maximise its revenue. Sports choose not to do this in case it prices genuine players and volunteers out of events. A ticket sold on is potentially a volunteer or a player lost. The opportunity cost (the difference between the prices we set and those the tout create) is many millions of pounds a year.

PUBLIC AUTHORITIES: POLICING, SECURITY, FRAUD, BLACK-MARKET AND ANTI-SOCIAL BEHAVIOUR

45. Most worryingly, touting is an activity that frequently operates outside the law, contravening rules and regulations set down by public authorities. Consumer protection regulations are ignored; tickets are stolen, forged and mis-sold; no VAT or corporation tax is paid; and public order offences are regularly committed outside venues.

The following sets out some of the concerns

46. The National Criminal Intelligence Service has evidence that operators in the secondary ticket market are often part of wider criminal operations.

47. Ticket touts outside grounds are often seen as threatening, and indicative of anti-social behaviour. This leads to an increased need for policing at grounds. The RFU reports that its box office staff have witnessed overseas visitors being hassled by touts after collecting tickets from the box office.
48. The All England Club states “As the demand for black market tickets grew so touts became more aggressive in seeking to obtain them from members of the public who held tickets. The Club was and remains very concerned about the problems for its nearby residents caused by unauthorised ticket trading. The Club receives the blame for such problems and the activities of touts damage the Club’s and The Championships’ reputation, are seriously disruptive and erode the traditional enjoyment of this major sporting occasion.”

49. Touts create an environment in which forged and stolen tickets can be distributed. Often tickets are reported missing in the post. Frequently it is found that these tickets are not “missing”, but have been stolen and rapidly reappear within touting operations. On one occasion, tickets were stolen from a BBC office in Shepherds Bush and were being sold by touts on the streets of Wimbledon less than one hour later. In 2003, two postmen were found to have been selling tickets on the streets of Wimbledon that they had stolen on their rounds. They were prosecuted for theft. The fact that tickets could be legally sold made them an attractive target.

50. Since secondary agents operate on the black market, there are issues surrounding unpaid tax and VAT, and loss of revenue, for the Government. The Inland Revenue has investigated touts at Wimbledon and found they are frequently also claiming benefits to which they are not entitled.

51. In a climate of increased security threats, the ease with which tickets can be purchased on the secondary market does not mirror Government’s increased vigilance in other areas of society, and the need for effective ticketing measures to be in place to aid anti-terror measures.

**Actions to Prevent Touting**

52. The Committee asked about the actions sports take to tackle touting and prevent the unauthorised transfer of tickets.

53. In addition to the measures outlined above, all of our tickets come with clear terms and conditions that make the tickets void if they are transferred for commercial gain. The Five Sports, and in the case of Wimbledon, the All England Lawn Tennis Club, undertake a huge range of activities to uphold these conditions, including:

- Establishment of legal fighting funds;
- Paying for police and enforcement agencies to tackle touts;
- Using investigators to tackle touting;
- Newspapers advertisements warning consumers not to buy touted tickets;
- Tracing and cancelling tickets that we identify as having been touted;
- Contacting ASTA, eBay and others and asking them to block touts (responses to date suggest a lack of commitment from some organisations to take voluntary measures to stop touting);
- "Shop-a-tout" hotlines and ticket tout complaint lines;
- Updating consumer understanding of ticketing terms and conditions to prevent commercial resale of tickets;
- Media coverage/public warnings on dangers of touts;
- Turnstile checks;
- Working to cut off merchant services (Visa/MasterCard) to touts;
- Establishing and reviewing the introduction of ticket exchange mechanisms;
- Industry best practice meetings;
- Optical barrier technology to stop multiple purchasing; and
- Cancelling multiple applications for tickets.

54. These activities are taking up a huge amount of resources. We are also faced with an online sales industry that frequently appears to thwart our attempts to stop touting. For instance eBay allows sellers to list tickets in a way that prevents us from identifying the original purchaser. The provision of this information would enable us to cancel the ticket and sell it again at face value to a fan.

55. In summary, sport does all it can to address ticketing. However, it is no longer an issue we can manage on our own and we now believe there is a proven need for statutory regulation.

**The Need for Statutory Regulation**

56. As explained above, the Five Sports believe the current environment of ticket touting clearly undermines the development of our sports. Sport needs Government support to tackle this issue through the introduction of specific regulation of ticket touting.
57. The advantages of introducing new legislation are that it could be framed to deal with:
   — The fact that companies and criminal gangs now operate in touting. The measures and penalties to
     address touting need to reflect this, such as imposing heavy fines and the sequestration of assets.
   — The internet age, including on-line auction sites and the websites that circumvent IP laws and allow
     the advertising of ticketing services that are breaking the law (in the case of football).

58. One of the very compelling advantages of specific touting legislation is that it allows for better self-
policing of the problem.

59. Event organisers would then be able to print on the ticket, and communicate widely, that it is an
offence to re-sell a ticket.

60. Internet auction sites would no longer be able to allow sales and non-official secondary agents would
be made illegal.

61. Legislation on touting is already in place through the Criminal Justice and Public Order Act 1994
   (section 166) for designated football matches and the London Olympic Games and Paralympic Games
   Act 2006.9

62. This is a very effective piece of legislation that covers all forms of touting, both in the streets and on
   the internet. It also covers the advertising of tickets.

63. In our view, it is a serious anomaly that the Olympic tennis tournament to be held at Wimbledon, or
   the archery competition at Lord’s, will be protected from touts, yet the usual major events at these venues
   will not be.

64. The legislation in place for the 2012 Olympics needs to be extended for major sporting events. The
   legislation also needs to take into account the largely corporate nature of the crime and the huge profits that
   can be secured. This means ensuring that suitable deterrent punishments are in place (particularly seizure of
   company assets, disqualification of directors etc). Studies have shown that almost all the complaints received
   concern those businesses operating professionally.10

65. Other existing associated legislation, for example the Price Indications (The Resale of Tickets)
   Regulations 1994, which require that the face value of the ticket and the seat’s location must be made clear
   to the consumer at the point of sale, are not enforced. Other regulations are also ignored, although it must
   be noted that these are all ‘indirect’ ways of dealing with a very specific problem. We are therefore clear that
   these measures alone are insufficient to tackle the problem of touting; rather that additional legislation is
   required.

66. The Five Sports are encouraged by the recent statements from Tessa Jowell and Richard Caborn that
   they recognise the need to protect major sporting events from ticket touting.

67. The Five Sports urge the Committee to recommend to Government that measures similar to those in
   the London Olympic Games and Paralympic Games Act 2006 Act are extended to all other major
   sporting events.

June 2007

Memoranda submitted by Mr Charlie Welch

Ticket Touting, particularly on internet sites (principally eBay) does not generally work in favour of the
consumer in that:

1. IT DISTORTS MARKETS IN THAT

   (a) Demand is artificially increased both by the number of tickets being purchased for resale, and the hype
       that this creates (the rush for tickets), particularly amongst the more vulnerable younger consumers (who
       “must” by a ticket to a particular event). The fact that resale will be happening within hours, even though
       tickets have generally not been sent out.

   (b) Consumers do not display the rationality that “text-book” free market economists believe they should
       (in that one cannot substitute one concert/festival for another, in the same way that one cannot substitute
       one football team for another).

   (c) That unscrupulous promoters11 can drive prices up beyond the market rate in the knowledge that
       touts will drive the demand up and where the promoters give poor advance notice of terms and conditions.

   (d) That through various devices enabling touts to get priority on telephone and internet ticketing queues
       places them at an unfair advantage.

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10 Ticket agents in the UK, Office of Fair Trading, page 71.
11 Personal experience; Morrissey concerts at the London Palladium Spring 2006. Ticket sales were through a number of phone
    lines and a web site. No information was given in advance on prices, services charges, call charges etc. Tickets went on sale
    from all sources at the same time. In my opinion this further distorted the market consumers not being able to compare prices.
2. **IT DOES NOT PROMOTE UK PRODUCTIVITY**
   (a) Touting can lead to excess profitability—£100s of pounds for minutes of work with very low overheads.\(^{12}\)
   (b) The artificially increased demand, leads to panic amongst consumer leading to millions of hours of unproductive time trying to get through to box offices.\(^{13}\)

3. **MOST TICKET TOUTS ARE NOT PAYING TAXES ON PROFITS DEFRAUDING THE NATION**
   The new breed of bedroom ticket touts is not unlikely to be declaring their profits to HMRC, nor is it likely to be easy for HMRC to recover this.

4. **TICKET TOUTING HAS ENCOURAGED A WHOLE GENERATION TO BECOME ACTIVE IN RESELLING AND BELIEVING THAT THIS IS APPROPRIATE BEHAVIOUR**
   (a) On discussion with younger friends and colleagues (under 30) most believe that there is nothing immoral about making huge profits reselling tickets, often to an event that they themselves will be attending. Many will purchase additional tickets for exactly this purpose depriving others of purchasing at face value. There e
   (b) Many of those advertising on e-bay promote their product as being available due to unforeseen circumstances. From their selling history and the design of their advert, they are clearly regular touters. There already exists ethical websites for resale of unneeded tickets at face value.

*June*

**Memorandum submitted by All Party Parliamentary Music Group (APMG)**

**INTRODUCTION TO APMG**

The All Party Parliamentary Music Group (APMG) is a cross party group of 100 MPs and Peers who come together in a forum to learn about and discuss key issues and challenges facing the music industry. The APMG discuss a wide range of issues affecting musicians, concert promoters, music fans and other agencies. The issue of ticket touting was raised recently due to many high profile artists and bands reforming after many years break and going on tour. Music fans and constituents raised their concerns and disappointment with concert promoters, agencies and even MPs, that tickets were impossible to get hold of due to ticket touts buying up and re-selling at increased prices for huge profits.

That is why the APMG welcomes the inquiry into ticket touting. It is a serious problem which affects a large majority of the population whether it is concert tickets, sports matches or other cultural events.

Ticket touting is not a new phenomenon which has appeared as a result of the creation of the World Wide Web. In fact it has been going on for years, whether it is street corners, back hand deals or online sites, it happens.

The UK hosts some of the best sporting and cultural events in all the major cities across the country and ticket touting is rife at all events. It has grown rapidly through the growth of online purchasing. At the click of a button people can purchase tickets for any concert at any venue worldwide.

**ONLINE PURCHASING**

Websites such as www.ebay.com, www.frontrowtickets.com and www.viagogo.co.uk all offer easy method of buying and selling tickets at grossly over inflated prices with no laws imposed deeming this illegal. Many Take That fans recently had first hand experiences of ticket touting when the band announced their recent reunion tour “Beautiful World”. Phone lines and online ticket agencies opened their doors at 9.00 am and at 9.02 am tickets were on sale on websites such as eBay for no less than three times the original price. A search on eBay on 26 March 2007 found a return of 617 tickets for Take That available to buy or bid for, the lowest selling at £200 a pair. This is more than double with the originals priced at £45. A recent eBay search found two A2 row 2 tickets for Bon Jovi in London on sale for £3,000.

The All Party Parliamentary Music Group believes that if online sites are going to sell tickets then they should be at face value only.

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\(^{12}\) Tickets for the Cambridge Folk Festival were on sale on eBay within hours, peaking at around £600 for a family ticket at half the value—these were purchased by people who themselves had tried to get tickets from the box office. Tickets for the Killers concert at Brixton Academy at earlier in the year stayed at around four times face value on eBay.

\(^{13}\) Personal experience, 10 hours on phoning for Cambridge Folk Festival tickets, x say 10,000 purchasers = 100,000 hours of unproductive time, for just one event. Compared to three years ago—one postage application = 10 minutes.
SPORTING EVENTS

Some of the major sporting events have been threatened by the increase in ticket touts putting many dedicated sports fans off buying tickets because of the over inflated prices. An eBay search on 6 June 2005 found 137 tickets for Men’s Wimbledon Final with one of the items reaching £1,650 per pair. The site was even hosting two wheelchair access tickets at double the price.

Ticket touts have been a major problem for the Rugby Football Union (RFU) in areas such as Richmond and Twickenham. The offence, street trading without a licence, causes more problems than just buying up large quantities of tickets for the games. Touts “hunt” in packs so they can fulfill orders, by purchasing as many tickets as possible for the corporate market and later dump tickets. This can potentially change the dynamics of the crowd stopping true fans from seeing their sporting heroes in action. Touts also arrange to meet their customers outside the venues which often cause obstructions to the grounds entrance.

The RFU have also had to deal with anxious disappointed fans that have been promised excellent seating for the game but upon receiving their tickets they find out the seats in no way resembled what had been offered to them on the internet sites.

A recent survey was conducted by YouGov for the England & Wales Cricket Board online (27–29 March 2007). YouGov interviewed a sample of 2,352 individuals, representative of the GB Adult population. The results were as follows:

- 58% view ticket touts and internet auctions unfavourably; 6% view them favourably.
- 7% of respondents have used a tout to purchase major sport tickets (this falls to 4% for those aged 55+ and rises to 15% for the 18–24 category). Similarly, 16% of those “very interested” in cricket have used a tout; more than double the national average.
- 76% agree there should be greater regulation to tackle ticket touting, with 13% neutral and 7% disagreeing.

When asked about their level of interest in cricket, the 2,352 respondents replied as follows:

<table>
<thead>
<tr>
<th>How interested are you in cricket?</th>
<th>All GB Adults (2,352)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very interested</td>
<td>8%</td>
</tr>
<tr>
<td>Quite interested</td>
<td>18%</td>
</tr>
<tr>
<td>Not that interested</td>
<td>22%</td>
</tr>
<tr>
<td>Not at all interested</td>
<td>52%</td>
</tr>
<tr>
<td>Don’t know</td>
<td>0%</td>
</tr>
</tbody>
</table>

More than half (52%) say they have no interest in cricket but a quarter is either “very” or “quite” interested in the game. As one might expect, there is a clear gender split of cricket interest. Two-thirds of women (36% of men) have no interest in cricket and 16% of women are either “very” or “quite” interested (compared to 37% of men).

The respondents were asked for their view on ticket touts and internet auction sites for buying tickets for major sporting events. The response was very anti-touting:

<table>
<thead>
<tr>
<th>Thinking about ticket touts and internet auction sites where you can buy tickets for major sporting events do you view these favourably or unfavourably?</th>
<th>All GB Adults (2,352)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very favourably</td>
<td>1%</td>
</tr>
<tr>
<td>Quite favourably</td>
<td>5%</td>
</tr>
<tr>
<td>Neutral</td>
<td>26%</td>
</tr>
<tr>
<td>Quite unfavourably</td>
<td>18%</td>
</tr>
<tr>
<td>Very unfavourably</td>
<td>40%</td>
</tr>
<tr>
<td>Don’t know</td>
<td>10%</td>
</tr>
</tbody>
</table>

Only 6% view ticket touts/auction sites favourably compared to 58% unfavourably. Just over a quarter (26%) remains neutral. One-tenth said they didn’t know.

The sample is very sceptical about buying from a tout.

<table>
<thead>
<tr>
<th>Have you ever bought tickets for sporting events through a ticket tout?</th>
<th>All GB Adults (2,352)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, frequently</td>
<td>0%</td>
</tr>
<tr>
<td>Yes, once or twice</td>
<td>7%</td>
</tr>
<tr>
<td>No, never</td>
<td>92%</td>
</tr>
<tr>
<td>Prefer not to answer</td>
<td>1%</td>
</tr>
</tbody>
</table>
An overwhelming 92% of the sample said they had never bought tickets for a sporting event from a tout. This does increase slightly with age as 15% of 18–24 year-olds have used a tout to get sporting tickets compared to a mere 4% for those aged 55+.

Respondents were then asked whether respondents agreed or disagreed with the following statement:

<table>
<thead>
<tr>
<th>There should be regulation or government legislation of ticket sales to sporting events to prevent touts selling them at greater than face value</th>
<th>All GB Adults (2,352)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree strongly</td>
<td>48%</td>
</tr>
<tr>
<td>Agree</td>
<td>28%</td>
</tr>
<tr>
<td>Neither agree nor disagree</td>
<td>13%</td>
</tr>
<tr>
<td>Disagree</td>
<td>5%</td>
</tr>
<tr>
<td>Disagree strongly</td>
<td>2%</td>
</tr>
<tr>
<td>Don’t know</td>
<td>4%</td>
</tr>
</tbody>
</table>

The results show that people are largely in favour of measures to prevent selling tickets at greater than face value. More than three-quarters (76%) agreed with the statement. And of this figure, almost half (48%) agreed strongly. Just 7% disagreed with the statement.

The All Party Parliamentary Music Group believe these figures contradict the quote from the Minister of State for Creative Industries on BBC Breakfast, 24 March 2007 that only 5% of the population believe ticket touting to be a major problem.

**Society of Ticket Agents and Retailers (STAR)**

The Government held Summits with the sporting and music industry in November 2005 and February 2007. As a result the concert industry agreed to unite under the body of STAR so all tickets would be sold exclusively by STAR member agencies. STAR will agree to a clear refund policy for those who cannot use the ticket for the event and the total cost of the ticket plus booking fee would be refunded to the customer. The Office of Fair Trading’s report into ticket touting is now reaching three years when it first announced it would work with STAR to agree Terms and Conditions. This process has still not finished and the terms and conditions are still to be agreed.

The industry has been encouraged to tackle touting without Government intervention however there has been no voluntary movement from secondary markets to sign up to a code of conduct for touting making it increasingly more difficult for concert promoters and managers. They are the people left with distraught fans who cannot get tickets to see their favourite band or team. Many of the concert promoters are also blamed when the ticket the fan has been given is not actually front row seating but in fact somewhere near the back of the hall or stadium. The RFU spends on average £50,000 a year fighting touts. Touts also often use logos belonging to bands, artists, concert promoters and sports associations to advertise the tickets and make them look official. This is in fact a clear example of intellectual property theft as the logo is used without permission of the owner.

Chair of the APMG has written to the Minister for Creative Industries about the delay in the agreement of terms and conditions by the OFT. He will also write to the OFT. The APMG recommends the Culture, Media and Sport Select Committee to urge the Government to act on this issue as soon as possible.

**Outdoor Touting**

Many touts often arrange to meet potential customers near the venues of concerts or sporting events but away from the entrance to avoid being caught by police. This is particularly worrying for young people who, so desperate to have tickets to see their favourite pop act, will spend time hanging around waiting for the touts. Outdoor touting can often lead to violence as touts dupe customers into believing they have great seats and customers get angry. This results in concert stewards, who are seen as ushers in the arenas having to double up as police officers to patrol the external grounds.

The APMG is concerned for the safety of fans who agree to meet touts at venues in order to get tickets. The APMG is also concerned that stewards spend more time and effort policing internal and external areas looking out for touts instead of stewarding fans and acting as first-aiders. Making this practice illegal will allow police to take action on touts.

**Current Legislation**

London won the Olympic bid in 2005 to host the Games in 2012 with the help of the Government’s anti-touting legislation. This was a condition that had to be met before the city was considered as possible hosts. This was easily amended into current legislation and as a result helped the UK secure the bid for the Games. The Australian Government has recently amended the Major Sport Facilities Act 2001 to make scalping (touting) illegal. This again was easily done and resulted in the prosecution of three women who attempted
to sell their tickets to the Red Hot Chilli Peppers gig in April 2007 for more the face value. The introduction of anti-touting legislation to all sporting, music and cultural events would help the UK uphold the reputation of hosting some of the major cultural and sporting events worldwide. The Glasgow Commonwealth Games 2014 bid is a prime example. Anti-touting legislation would give Glasgow a stronger chance in winning the bid to host the Games.

The Australian Government has introduced legislation which deems it illegal to buy or re-sell tickets for more than 10% above face value. Consumers face a maximum penalty of five points for buying tickets from touts and 20 points for re-selling a ticket.

The APMG believes this amendment to the Major Sporting Facilities Act 2001 was easily implemented and could easily be enforced in the UK.

eBay

eBay advertise thousands of tickets for all types of events with no maximum price on the sale of tickets. A search of eBay on 6 June 2007 found 12,048 items available to bid for, none of which were selling at face value. Often touts will have call centre operations running from the minute the tickets go on sale. This prevents real fans from purchasing tickets at the original price. eBay have also sold tickets to events such as the Diana Memorial Concert and Steve Irwin Memorial Concert. These tickets were free but have since appeared on eBay at over inflated prices. It was only after huge public backlash did eBay remove these tickets. The most recent example of this is the Live Earth Concert. Live Earth tickets, the concert to raise awareness of Climate Change and Global Warming, have a face value of £55. As at 4 June 2007 they are currently bidding at £385 a pair. This is £275 more than the original price. eBay announced that anyone selling these tickets for more than the face value will have to pay 20% of the total raised to charity.

The APMG believe this is a case of people still making money from what is a highly sensitive global problem. This is a case of eBay encouraging the sale of tickets at grossly over inflated prices and using charity as a cover up.

Ticketmaster

Ticketmaster, a primary market for the sale of concert, theatre and sporting events have recently introduced a ticket auction on their site with permission from a number of concert promoters. An original Genesis on Tour ticket has a face value of £55. The bidding on the official ticket auction site begins at £80 and rose to £440 for one ticket. This is still an unacceptable practice.

Ticketmaster have recently introduced a Ticket Exchange mechanism on their site to allow consumers, who genuinely cannot make the event due to a clash of commitments or a change of plan, to sell back their ticket to Ticketmaster and receive a full refund of their purchase. This is a great system because it allows the ticket to be sold again through Ticketmaster but only at face value. The concern however is because of the lack of legislation deeming the resale of tickets for extortionate profits there is no way of ensuring the ticket does not fall into the hands of touts second time round who then sell it on eBay at three times the price.

The APMG believe this to be no more credible than the auctions on eBay. Genuine sport and music fans are still being conned into purchasing over-priced tickets with huge profits going to touts.

The APMG believes that the Ticket Exchange mechanism could work for all major ticket retailers if touting was illegal as it would stop them from reselling for profit.

Viagogo

www.viagogo.co.uk was created by the owner of the online ticket purchasing site, stubhub.com, recently bought over by eBay. Viagogo is a site which allows fans to buy and sell tickets to sports matches and music concerts online without limits on maximum charges for tickets. Tickets to the current West End theatre show Dirty Dancing has an original price of £25 for the stalls and £55 for the Dress Circle. On Viagogo the price of an individual ticket is shown at £119.

Viagogo looks like a genuine website which cheats many consumers into believing they are not being overcharged. It has teamed up with Manchester United and Chelsea football clubs to allow them to genuinely sell tickets for their matches on the site. This is how they get around the legislation on anti-touting measures for football matches. Both clubs have received payment for their authorisation deeming it similar to that of sponsorship.

Viagogo does not, however, have permission from all concert promoters for the tickets they sell on their site for profit. Despite there being 100% guarantees that the tickets are where they say they will be seated and gives fans an outlet where they can sell their unwanted tickets there are still huge profits being made.

The APMG believes that Viagogo is exploiting genuine music and sporting fans and making huge profits at their expense. The APMG believes further investigation of this company is necessary.
RECOMMENDATIONS

The All Party Parliamentary Music Group believes a full public consultation should be carried out, with evidence from all involved. From concert promoters to eBay and other online ticket sellers to individual members of the public who are music and/or sporting fans, everyone should have a say. Self regulation has reached its peak amongst the industry and primary markets and it is time for Government intervention. The Group is willing to help in any way it can to tackle this problem.

The Artic Monkeys recently introduced a PIN system for the allocation of their most recent tour. Only if the PIN and personal details match will the consumers be allowed to take part in the ballot for tickets.

O2, the mobile operator recently held an event where the barcode on a mobile phone was the ticket entry. If the barcode matched that of the mobile phone then the guest could enter the concert. Similar bar-coding could be introduced on tickets allowing those legitimate fans the tickets they deserve.

A telephone helpline for individuals who spot touting on sites such as eBay should be setup to report anything that resembles touting.

Legislation will not affect consumers who genuinely cannot attend the event and instead pass the ticket to a friend or relative. They should be able to get their money back from a retailer who will then re-sell the ticket at face value. Instead legislation will tackle those who purposely buy up the tickets and sell them on for grossly inflated prices. These are the touts that advertise tickets before they have officially gone on sale—future sales.

The APMG backs recommendations from the Concert Promoters Association (CPA) to eBay on how they can work together to beat touting. Making it a mandatory requirement for all ticket resellers to provide the face value of the ticket, the exact location of the seat and the terms and conditions of the resale is a step forward to tackling touting.

The APMG acknowledges the Secretary of State for Culture, Media and Sport’s request that the industry creates a blacklist of touts to cut off the black market. eBay should work with the industry to provide a list of their most frequent resellers to allow the industry to facilitate this list.

The APMG believes it is the duty of Members of Parliament and Members of the House of Lords to protect constituents from touts. It is the most vulnerable people who suffer at the hands of touts and without Government legislation it is impossible to stop this unholy practice. The music industry is and will suffer greatly at the hands of touts and genuine fans will continue to be exploited. The APMG believes that these recommendations should be considered as part of the inquiry into touting and believes they will make the necessary recommendations to the Department for Culture, Media and Sport and other Governmental departments.

June 2007

Memorandum submitted by the Mean Fiddler Music Group

THE UNDERLYING CAUSE OF TICKET TOUTING AND ITS IMPACT ON PERFORMERS, PROMOTERS AND THE PUBLIC

Without profit there would be no touting. There are very few other sales made on any secondary market with such low risk for high profit. Apart from an initial relatively small outlay, the touts input nothing to the industry itself but reap financial gain regardless of the service provided by them. They hold no responsibility for the safety of either the customer or the event. The lack of regulation has implications in a number of areas. For example, the public, performers and promoters are liable, whether due to financial loss to events, misrepresentation of the quality of seats, failure to produce a valid ticket. Further infringement of intellectual property rights by failure to make concertgoers aware of the full Terms and Conditions of entry with regard to recording/copyright has additional impact (such as safety as covered in venue Terms and Conditions).

There is a myth that tickets touts are latter day Robin Hoods with the promoters being shown as the profiteers, however it is an unfortunate fact that ticket touting and crime are closely linked. Quite apart from failure to disclose profits (tax evasion) that is happening on a huge scale, there are very common occurrences of forgeries or, increasingly frequently, tickets failing to appear at all.

Situations where public money is used to fund free events should be looked at; for example BBC events which are effectively funded by licence payers. The tickets are usually allocated by a ballot system at no charge, and are then sold for profit. The seller on this occasion is making profit for no outlay at the public’s expense.

In instances where aggrieved members of the public turn up at a venue, there are very serious and real implications for the safety of the venue staff. Incidents where staff face angry customers who wish to vent their frustration at being left ticketless or with a forged ticket are common. The increase in internet sites offering virtually anonymous sales means buyers have no chance of tracking back and reclaiming money. This frustration is vented on venue staff sometimes with serious consequences. For larger events the problem
is amplified by groups of people arriving at the same time and despite the best efforts of organisers may have the potential for public disorder. We only have to look back as far as the 2007 European Cup Final for an example of how ticketing can impact on an event at the point of entry.

There may be an argument that most sellers on sites such as eBay are genuine but there really is no way for the customer to know this until the ticket does or does not appear. It is very difficult to protect the customer in these circumstances. The government wishes to introduce compulsory ID yet is quite happy to allow anonymous sales via the internet where people are handing over cash with no guarantees and no idea who they are dealing with. There has never been an adequate response from sites such as eBay as to why they need to protect the anonymity of sellers. Would any other outlet be allowed to trade without disclosing company details? Why should Auction sites be any different?

THE IMPACT OF THE INTERNET UPON TRADE IN TICKETS

The Internet has made it possible for anyone to tout tickets. We now see many cases of events selling out simply because customers are purchasing more tickets than they need in order to sell on the spares to cover the costs of their own ticket. This in turn prevents other genuine fans from purchasing and they direct their frustration at the event organisers for allowing the practice. The events industry is consumer led therefore it is not in its interest to upset its customer base. The industry as a whole, in wishing to combat touting, is responding to the wishes of its customers.

A far worse effect of the internet is the rise in fraud. An official looking website or auction forum gives the sale an air of respectability and responsibility. The reality is that it has allowed illegal activity to flourish relatively undetected.

Initially we have seen a huge rise in the number of internet sales, indeed it has become the most common form of outlet for ticket purchases. However the rise of internet fraud, identity theft and so on may well prove to have a negative long term affect on the industry if left unchecked. Public confidence has to remain if this method of genuine sale is to continue. Unregulated sites taking advantage of the internet’s anonymity are all too common and have a very real impact on the public’s confidence and perception of the industry as a whole.

WHETHER OR NOT TICKETS’ TERMS AND CONDITIONS BANNING TRANSFER AND ONWARD SALE ARE FAIR OR ENFORCEABLE

The motivation behind the use of Terms and Conditions to prevent re-sale is to be able to enforce those terms and conditions effectively. T & C’s are in place to protect and inform the purchaser as well as the venue/promoter. Failure to disclose the T & C’s could at best fail to protect the consumer financially and at worst have health and safety implications. A purchaser from the secondary market could in theory argue against refusal of entry for displaying anti-social behaviour on the grounds that he was never shown T & C’s relating to this prior to purchase or with regard to age restrictions not being explained resulting in under age purchasers being turned away. A venue/promoter may also be held liable for instances where a member of the public suffers due to strobe lighting or similar if they had secondary purchased and not been made aware of the possible use of such equipment. The transfer of T & C’s would therefore appear reasonable in order to ensure protection. Whether it’s enforceable would depend on the strength of legislation imposed as support.

THE MERITS OF NEW APPROACHES BY TICKET AGENTS ATTEMPTING TO PREVENT TRANSFER OF TICKETS, INCLUDING WIDER USE OF PERSONAL ID

Technology with regard to the wider use of security involving SMS, ID and other methods is moving forwards rapidly however as we’ve seen with Chip and Pin such technology is only effective until security is breached. It has to keep evolving to stay one step ahead. The government’s own policy of pushing toward National ID Cards would suggest that perhaps this is a way forward but this has to be balanced against the merits of the industry as a whole in providing a service for leisure and pleasure. It would become increasingly difficult to purchase tickets for friends and family as presents. Consumers may begin to question whether obtaining tickets to attend events has become too much of a chore for the average person. This could have an impact on the live event industry’s long term survival.

It would appear that the government’s reluctance to introduce legislation to reduce secondary selling is in fact a failure to offer consumers the protection that they enjoy in other markets. This however has to be balanced by what is or isn’t enforceable. At present there are a large number of internet sites offering tickets that clearly break Trading Standards and other guidelines however very few are successfully prosecuted or prevented simply because of the lack of recourses allocated to tackle the problem.
Whether the Existing Offences of Sale by an Unauthorised Person in a Public Place of a Ticket for a Designated Football Match, or for Events at the London 2012 Games Should Extend to Cover Other Sporting or Cultural Events

The answer is quite simply yes. it should be extended. The question should perhaps be how far should it be extended in order to protect consumers, venues and promoters.

We have already discussed T & C's in relation to safety and consumer satisfaction. There is also the issue of lost revenue to the government (and therefore the public) through untaxed income. While the problem of football hooliganism may have given rise to legislation regarding the unauthorised sale of football tickets, no such problems as yet have been shown at an Olympic event. Is it fair to pick and choose what events and what consumers to protect? Surely as a matter of principle all events should be offered the same protection regardless of the nature of the event or the type of audience that is likely to attend.

June 2007

Letter from The England and Wales Cricket Board (ECB) to the Chairman

The England and Wales Cricket Board (ECB) welcomes the decision of the Culture, Media and Sport Select Committee to call an inquiry into ticket touting.

The ECB is the governing body for cricket in England and Wales. Our remit is to develop the game from Playground to Test Arena.

By far our biggest concern with the impact of touting is that it reduces the opportunities for genuine cricket fans and families to attend matches.

The ECB, like most other sports, prices our tickets not at the economic maximum level, but at a price which we feel reflects our position as a national sport seeking to encourage those who follow and play the game to attend major matches. This policy is gradually being eroded by touts who are ever more sophisticated in the way they secure tickets.

The ECB has contributed to submissions made to your inquiry by the Five Sports (ECB, The FA, LTA, RFL and RFU) and by the Sports Rights Owners Coalition (SROC). We fully support the call for Government legislation to protect sport from touting.

In addition to these submissions, the ECB thought the following evidence would be helpful to the Committee's inquiry:

1. A recent independent survey the ECB commissioned that demonstrates that 76% of people believe that regulations against ticket touting are needed.

2. Details of correspondence that the ECB entered into with eBay ahead of the last Ashes series asking them to work with us, on a voluntary basis, to stop known touting. This request was refused which leads us to conclude that a statutory approach is required.

3. The requirement of the International Cricket Council (ICC) that action is taken to prevent ticket touting at the major Championships that have been awarded to the UK in 2009 and 2019.

76% of people agree (or strongly agree) that regulations against touting are needed

The ECB recently commissioned Independent polling on ticket touting. We wanted to secure objective confirmation of our view that this was an issue on which there was widespread support for action. We subsequently forwarded this evidence to the DCMS Ticket Touting Summit and attach a copy of the evidence with this submission.

The Committee will see that only 6% of the public are favourable to the actions of ticket touts and internet auction sites. 76% of people agree (or strongly agree) with the statement 'there should be regulation or government legislation of ticket sales to sporting events to prevent touts selling them at greater than face value'. Just 7% disagree.

Voluntary action has not worked

The ECB has been one of the representatives at the DCMS Ticket Touting summits. We welcomed the decision of the Secretary of State to establish these. It has been a very useful forum to discuss touting.

Initially it was hoped that voluntary action could address this issue. A Statement of Principles was drawn up by the Secretary of State to which all sides were asked to abide. Unfortunately this has not been a success. Ahead of the second summit, the Secretary of State expelled the Association of Secondary Ticket Agents from attendance due to the fact that their members were refusing to comply with even the most basic of requirements.
At one of the Summits I raised with eBay the touting of tickets that was occurring for the last Ashes series held in Australia and asked for their help, within the spirit of the statement of principles, to address this problem. Cricket Australia had put in place stringent measures to prevent ticket touting, including terms and conditions that made a ticket void if it were sold on and other methods of ticket identification. More than 3,000 tickets were cancelled in this way.

Despite this approach and the accompanying warnings by Cricket Australia, tickets to the value of approximately £10,000 were being traded each day in the weeks leading up to the Ashes. In some cases, as in England in 2005, some of these tickets did not actually exist leading to supporters spending thousands of pounds to travel to Australia only to be disappointed on arrival.

I attach for the Committee’s information a copy of this letter. Unfortunately I received no response and eBay continued to allow tickets to be sold. Our conclusion is that only statutory measures will be sufficient to protect sport and our fans.

Meeting the International Cricket Council’s requirements for major events to be staged in the UK

Last year the ECB was delighted to have been awarded the rights to stage the ICC Twenty20 World Championship 2009 and the ICC Cricket World Cup 2019. These events will give a great boost to cricket, helping us attract more people to the game. They will also attract fans from all over the world.

The ECB bid was successful because we had wholehearted support from the Government, and from across all political parties, to work with us stage a successful tournament. At the time of bidding, we communicated to DCMS Ministers and officials that one of the ICC’s requirements was for their to be effective protection against ticket touting at these tournaments.

Richard Caborn made the following statement at the time of the announcement:

“I congratulate the ECB for winning the right to host the ICC Twenty20 World Championship 2009 and the ICC Cricket World Cup 2019. The ECB have put together a bid that will ensure not just wonderful tournaments but also a lasting sporting legacy, and involvement of cricket supporters from all over the world. We will now work with both the ECB and ICC, giving all support possible, to making these tournaments a success”.

Since then the ECB, and the ICC Chief Executive, have met with Richard Caborn to discuss this issue. We have also raised it at the Ticket Touting Summits. We are very encouraged that at a recent meeting the Secretary of State acknowledged that this was an important issue and had asked her officials to draw up measures for protecting major sporting events.

June 2007

Letter from The England and Wales Cricket Board (ECB) to eBay UK Ltd

At the last DCMS Summit we specifically discussed the ticket touting problem this year’s Ashes series was experiencing on eBay sites in both the UK and Australia.

It is encouraging that eBay has said that it is committed to the Secretary of State’s wish to see the industry work together to squeeze out touts. I therefore made a specific request in the meeting, to Alasdair, asking that eBay work with the ECB (and the Australian Cricket Board) to tackle the touting that is taking place on the forthcoming Ashes series in Australia.

Our respective organisations would be happy to work closely with you to do all we can to prevent this touting. This would include sharing with you the terms and conditions that are attached to every ticket preventing resale. This would reassure you that the action we would take was fair and proportionate.

You can also be reassured that tickets removed from eBay are made available to cricket fans.

Please could you let me know as soon as possible whether you would be committed to establishing a joint-working group with us.

Memorandum submitted by P3 Music Ltd

I am writing on behalf of P3 Music Ltd, which manages the careers of pop group Deacon Blue and jazz guitarist Martin Taylor, to welcome the Committee’s inquiry into ticket touting.

Britain has one of the most vibrant musical sectors in the world. There is an extensive and diverse choice of live music, theatre, arts, and concert events across the country.

This musical sector attracts millions of domestic and international visitors each year bringing excitement, enjoyment and a huge economic and social contribution.
Yet sadly these events are increasingly plagued by ticket touting. A problem that is becoming endemic. Touting creates many problems:

- Fans, supporters and the general public are being ripped off and priced out of their favourite events.
- Tickets are being sold by unauthorised secondary agents and touts that have none of the standard consumer protections that should apply.
- Resources (both financial and administrative) spent addressing touting are diverted away from re-investment in our sectors.
- The reputation of events is brought into disrepute.
- Public order and policy concerns including a flourishing of the black market and the undermining of security and policing arrangements.

Domestically the people most at risk are young, enthusiastic music lovers who’s first experience of the live music industry is now increasingly a bad experience of being ripped off and sending money to internet touts for tickets that simply never materialise. Touts also traditionally prey on overseas visitors, who may find themselves hassled, ripped off or sold a fraudulent ticket. It also hurts the tourism industry, the wider UK economy, and the reputation of the country as a whole.

The problem of ticket touting has been fuelled in recent years by the growth of the internet and the unwillingness of internet companies and auction sites to prevent touting on their sites. They continue to allow tickets to be sold despite knowing that these tickets carry terms and conditions that prohibit their resale, rendering them void.

Evidence demonstrates that secondary agents (touts) are increasingly engaging in a number of sophisticated purchasing practices which decrease the chances of genuine fans securing tickets at face value from the event owner.

All of our industries do as much as we can to tackle touting. A range of measures are in place and an increasing use of technology and ticketing ID is being pioneered. But there is only so much that artistes can do alone.

The industry needs the direct intervention of Government to support its efforts to protect our events and our customers. Existing consumer protection laws are ill-defined to address ticket touting.

Ticket touting is a socially and economically harmful activity which marginalises fans, rips off consumers, and damages every industry in the Culture, Media and Sport sector.

It has no place in a modern society and we would urge the Committee to come down hard on the touts and recommend Government legislation to outlaw ticket touting.

May 2007

Memorandum submitted by Scarlet Mist

I am the founder and CEO of Scarlet Mist, a free face-value ticket exchange service. The service was set up in 2003, with the specific intention of getting a Glastonbury ticket for a friend, and has been expanded to cover other festivals. It is designed to cut touts out of the loop by providing a facility for customers with tickets they can no longer use to find a buyer.

There are a number of reasons why ticket touts exist.

1. At an economical and philosophical level, touts exist because the face value of tickets is lower than the “market” value. If ticket prices were increased to a true market value then there would be no scope for touts. However, this situation is unlikely ever to occur, since most artists do not want to be seen as selling out or profiteering, and they deliberately hold down prices to ensure that their core fans can attend their gigs. The same considerations apply to sport. This puts performers in a difficult position. Many performers are actively opposed to touts, and yet are not prepared to see prices rise.

2. Touts also exist because of the “convenience” factor for some customers. Concert-goers often leave it until the last minute to decide whether or not to attend an event, by which time it may have sold out. They may be quite happy to pay a premium price for the convenience.

3. Promoters and venues do not typically offer a refund or exchange policy. Customers finding themselves with a ticket they can no longer use have a series of possible choices. If they attend the event, and try and sell their ticket to another customer, they may be accosted by the police, or by a ticket tout. Neither of these are pleasant thoughts. Scarlet Mist came into being specifically to address this need.

4. Ticket touts may deliberately cash in on an event which they know will be oversubscribed. They have the time and expertise to buy multiple tickets (often with collaborators).
5. The actual face-value purchase price of tickets is very obscure. It is hard to see the “on-the-road” price. The purchase price is made up from the ticket price, booking charge, handling charge, delivery charge etc. Advertisements often show prices that are lower than can actually be realized. This makes it confusing for customers, and allows touting to flourish.

6. Ticket touts, unlike genuine traders, pay no taxes. They work entirely in the black market. I would like to see this addressed. In particular, I would like to see eBay and similar sites be compelled to provide details of high-earning touts on to the Inland Revenue.

My impression is that the public have an ambivalent and contradictory view. Surveys have shown that the public feels a distaste for touting, but there are many calls to keep it legal.

There are specific risks that customers take when buying from touts, including forgeries, fraud, cancellation of the event and general consumer rights.

**WHETHER OR NOT RESALE OF A TICKET, AT FACE VALUE OR AT A HIGHER VALUE, SHOULD BE PERMITTED IN PRINCIPLE; AND WHETHER THE ACCEPTABILITY OR OTHERWISE OF RESALE DEPENDS ON THE CIRCUMSTANCES IN WHICH TICKETS ARE OFFERED FOR RESALE**

1. While tickets are non-refundable and non-exchangeable, customers should have the right, under general consumer law, to be able to resell their tickets. Promoters should not forbid this, unless they themselves are prepared to handle refunds.

2. In principle, customers should not be permitted to resell them for a higher value. In practice, unfortunately, this is extremely difficult to enforce, for the following reasons:

   (a) The “face value” of tickets is often unclear.

   (b) Tickets can be sold or resold as part of a “package”, which may include hospitality, beverages, transport etc. This makes it difficult to determine the separate price of the ticket.

   (c) In any event, this would be time-consuming and hard to police.

3. The resale of tickets is more acceptable in cases where there is a genuine need to sell unusable tickets, rather than when there is blatant or deliberate profiteering. The difficulty arises in distinguishing these two scenarios.

**THE IMPACT OF THE INTERNET UPON TRADE IN TICKETS**

The internet has allowed ticket sales to boom. It permits thousands of people to make purchases simultaneously, allowing popular events to sell out within minutes. It also allows casual users, who would not have been prepared to travel to the box office, to buy tickets. It greatly facilitates all sorts of touting, especially the “bedroom tout”. The internet has also lowered the cost for promoters of ticketing.

**WHETHER OR NOT TICKETS’ TERMS AND CONDITIONS BANNING TRANSFER AND ONWARD SALE ARE FAIR OR ENFORCEABLE**

In my view, these terms are unfair, unless the promoters themselves are prepared to offer refunds.

Whether or not they are enforceable is up for debate. Glastonbury has pioneered the use of personalised tickets, and there are other technological methods to enforce non-interchangeability. All of these are expensive; they cause delays at the turnstiles, and do not address the fundamental unfairness of non-interchangeable tickets.

**WHETHER OR NOT THE EXISTING OFFENCES OF SALE BY AN UNAUTHORIZED PERSON IN A PUBLIC PLACE OF A TICKET FOR A DESIGNATED FOOTBALL MATCH, OR FOR EVENTS AT THE LONDON 2012 GAMES, SHOULD BE EXTENDED TO COVER OTHER SPORTING OR CULTURAL EVENTS**

There are specific public order issues relating to football, which do not apply to most other events.

I would like to see Street Traders of tickets treated in the same way as Street Traders of all other products.

*June 2007*
Memorandum submitted by Lord Tom Pendry

1. Touting creates a range of public order and public nuisance concerns, from allowing the black market economy to flourish, to undermining policing and security arrangements. Lord Justice Taylor, in his final report following the Hillsborough tragedy, said that, “whatever the policy merits of freedom to trade and market forces, they must surely yield to the maintenance of safety and prevention of disorder. Touts and football matches put both at risk”.

2. After prompting from myself and others, the then Conservative government finally introduced a measure to make touting at football matches illegal through the Criminal Justice and Public Order Act 1994. At that time I would have preferred measures to be taken further to embrace other sports, as they also face issues of public order associated with touting. In 1994 the Labour Party put forward proposed legislation to make touting at all major sporting events illegal.

3. Following that line of reasoning, there was a subsequent Labour Party manifesto commitment in the Labour’s Sporting Nation of 1997, written by myself in my capacity of Shadow Minister of Sport stating “Labour would legislate against ticket touting in all sports”.

4. I would expect the Government to live up to that commitment in the near future and would hope the Committee would recommend the same. The legislation on football ticket touting had an impact initially, but touting tickets at football matches still exists. The problem has evolved with criminals bypassing the original terms of the offence largely due to the advent of the internet, which was of course not considered when the legislation was introduced.

5. I commend the Government for taking on board the views of the Football Association, the Premier League, UEFA, FIFA, the police and other stakeholders, who have years of experience of dealing with this legislation but are now looking to the Government to strengthen its provisions.

6. Ticket touting should be seen as a public order issue across all ticketed events, especially sports, but not just in relation to football, which is already covered by legislation.

7. A clause was drafted into the Criminal Justice and Public Order Bill to account for the recommendations of the Taylor report following the Hillsborough disaster but this should be looked at again, as it was intended to cover all sporting events, not just football.

8. An amendment was accepted at the time which provides the Secretary of State with the powers to extend the provision by statutory instrument (section 166) to cover other sporting events with a capacity over 600, and this should be brought into effect as there should be no distinction between the public order nuisances touting at football matches and those that do so at Wimbledon, Twickenham and Lords.

9. Legislation on football ticket touting initially prohibited touting of tickets only for domestic football matches and overseas club or international matches in which the England or Wales national team is playing. With the World Cup last year, new measures were introduced by the Home Office extending the prohibition of touting to include all tournaments and competitions organised by FIFA or UEFA in which the English and Welsh national teams or senior club sides are eligible to participate. I commend the closing of this loophole but would ask the Committee why such legislation cannot be extended to cover all sports.

10. Some of the more obvious problems around ticket touting include the diversion of resources away from governing bodies, the pricing out of fans from events and the obvious public order and public nuisance issues.

11. The issue of secondary agents, or touts as they are more widely known, is also something that should be addressed, particularly from a consumer view point. A recent OFT study showed that activities of secondary agents resulted in 3 times as many complaints from consumers as from primary agents.

12. There is also the damage that touting does to the UK reputation for staging major events, sporting and otherwise. As the nation looks forward to the London 2012 Olympic and Paralympic Games, the question should be asked as to whether the UK would have won the right to host the 2012 Games had the issue of touting not been addressed in legislation.

13. The Department for Culture, Media and Sport has recognised that touting is a problem but more must be, and can be, done to combat it. The internet market place Ebay, where many tickets are currently sold, has already stated that it would renew its ticket re-sale policy to comply with new regulations.

14. There is currently a petition on the Downing Street site asking for the re-sale of concert/gig/theatre/sport/events tickets to be outlawed at the signatories currently stands at well over two thousand. http://petitions.pm.gov.uk/tickettouts/

15. Obviously such petitions are only a straw poll but it does highlight the interest in the topic and the support for making the resale of tickets illegal to stop people buying extra tickets and selling on the internet at increased prices. It also suggests that venues should be required to try and re-sell a ticket at face value if the owner cannot attend.

16. The support for outlawing all ticket touting is there, the legislation is there, now is the time to strengthen current powers and stamp out this illegal trade once and for all.

June 2007
Memorandum submitted by Northamptonshire Cricket Club

We are writing as people and organisations in the entertainment, sport, theatre, music, concert and tourism sectors to welcome the Committee’s inquiry into ticket touting.

Britain has one of the most vibrant cultural sectors in the world. We host many of the world’s leading sporting events. The festival scene is booming. There is an extensive and diverse choice of live music, theatre, arts, and concert events across the country.

This cultural and sporting sector attracts millions of domestic and international visitors each year bringing excitement, enjoyment and a huge economic and social contribution.

Yet sadly these events are increasingly plagued by ticket touting. A problem that is becoming endemic. Touting creates many problems:

— Fans, supporters and the general public are being ripped off and priced out of their favourite events
— Tickets are being sold by unauthorised secondary agents and touts that have none of the standard consumer protections that should apply
— Resources (both financial and administrative) spent addressing touting are diverted away from re-investment in our sectors
— The reputation of events is brought into disrepute
— Public order and policy concerns including a flourishing of the black market and the undermining of security and policing arrangements

Touts traditionally prey on overseas visitors, who may find themselves hassled, ripped off or sold a fraudulent ticket. It also hurts the tourism industry, the wider UK economy, and the reputation of the country as a whole.

The problem of ticket touting has been fuelled in recent years by the growth of the internet and the unwillingness of internet companies and auction sites to prevent touting on their sites. They continue to allow tickets to be sold despite knowing that these tickets carry terms and conditions that prohibit their resale, rendering them void.

Evidence demonstrates that secondary agents (touts) are increasingly engaging in a number of sophisticated purchasing practices which decrease the chances of genuine fans securing tickets at face value from the event owner.

All of our industries do as much as we can to tackle touting. A range of measures are in place and an increasing use of technology and ticketing id is being pioneered. But there is only so much that event organisers can do alone.

The industry needs the direct intervention of Government to support its efforts to protect our events and our customers. Existing consumer protection laws are ill-defined to address ticket touting.

Ticket touting is a socially and economically harmful activity which marginalises fans, rips off consumers, and damages every industry in the Culture, Media and Sport sector.

It has no place in a modern society and we would urge the Committee to come down hard on the touts and recommend Government legislation to outlaw ticket touting.

June 2007

Memorandum submitted by Tickex.com

TickEx is a search engine for tickets to live events—concert, theatre and sports. In one simple search, TickEx gives people seeking tickets free access to the largest selection of tickets in the UK, from all the major primary and secondary brokers. This means consumers can see availability and pricing for events they want to go to in one easy to use website. (1)

At TickEx we really aim to provide the consumer with the tools to get the best deal possible on a ticket, no matter when they decide to buy in the sales cycle. Our search engine keeps a close eye on changing availability from the main primary sellers (TicketMaster, See Tickets etc), so consumers can be sure they are not missing out on lower cost tickets when they decide to buy. (2)

We set up Tickex so that fans can get access to all the information they need to get the best possible deal on a ticket, whenever they decide to buy. We also only try to include sites in our listing that are legitimate enterprises, with at least a minimum standard of T’s&C’s. (3)

(1) THE UNDERLYING CAUSES OF TICKET TOUTING, AND ITS IMPACT ON PERFORMERS, PROMOTERS AND THE PUBLIC

— It is important to identify there is a clear difference between outright deception/fraud practiced by individuals selling fake tickets, and the re-sale for profit of genuine tickets. (4)
— We believe the underlying causes of ticket prices rising above face value are:
  
  — **Poor information for consumers.** Our research indicates that some 20% of tickets purchased in the secondary market were still available to be purchased at face value in the primary market. This is because primary channels provide poor information for consumers, leading to assumption on the availability of tickets. This was a key factor that brought to attention the public need for a ticket search engine. (5)
  
  — **Natural market forces of supply/demand.** Tickets are often put on sale at one time, at a flat price. The promoters do this as they are in a business with cash flow challenges e.g. they need to start paying for the venue, advertising etc several months before cash for tickets flow in. This will inevitably lead to an after-market for tickets. This should be contrasted to the more sophisticated demand based pricing models used by airlines. (6)
  
  — **Consumer experience.** The consumer experience (particularly internet) of buying tickets through primary channels is so poor that individuals with less spare time/higher income are willing to pay a price to avoid this. They would, in essence, prefer not spending time on jammed websites and phone lines but rather pay the premium to purchase at leisure on the secondary market. (7)
  
— There appears to be no significant negative impact on artists or promoters of the secondary market. The fraud/deception is clearly a problem for the consumer (public). (8)

(2) **Whether or Not Resale of a Ticket, at Face Value or at a Higher Value, Should be Permitted in Principle; and Whether the Acceptability or Otherwise of Resale Depends on the Circumstances in which Tickets are Offered for Resale**

— We believe this is really a consumer issue, and our research indicates that consumers overwhelmingly want the rights to transfer ownership of tickets that they buy. We do not see a good reason for the government to stand in the way of the transfer of private property between individuals, unless there is a serious health or criminal issue associated with the property. It would seem heavy handed to say the least to make selling a ticket “illegal” unless it is done through one of the current large primary agencies. (9)

The ticket market is fundamentally no different to that for other consumer purchases, and therefore conditions should be allowed where tickets can be transacted at their fair market value. Whether this is above (or below—something that happens frequently but does not receive much attention) face value should be a matter for market forces. (9a)

Banning the transfer or onward sale of tickets appears to us to be a significant step toward a “planned” economy. We would be interested to see how this might extend to (say) the housing and car markets. We believe that the market should be allowed to find a cure for this problem by providing a solution to consumers that is so good that they no longer need to access traditional “outing” channels. (10)

— We also believe any intervention in this area will only support anti-competitive practices by current major incumbent ticketing companies. It is clear that certain primary sellers are attempting to control the secondary market for their own gain by government lobby on this subject. (11)

(3) **The Impact of the Internet upon Trade in Tickets**

— We believe the internet can serve as a great leveller, for both the consumer (pricing) and the venues/artists (reduces power of entrenched ticketing companies). At the moment this is not working as well as it could. (12)

— The internet has also, however, allowed dubious traders to set up quickly, and offshore. This is a new channel for fraud in this category. (13)

— We believe new services, like our search engine for tickets, will help solve the current problems with market information for consumers, thereby helping them get the best price possible, whenever they decide to buy. (14)

(4) **Whether or Not Tickets’ Terms and Conditions Banning Transfer and Onward Sale are Fair or Enforceable**

— The T’s & C’s for banning transfer and onward sale appear neither fair nor enforceable. We reference our point in paragraph (11), that this would only support anti-competitive behaviour. (15)
(5) The merits of new approaches by ticket agents attempting to prevent transfer of tickets, including wider use of personal ID; and

— See (4)

(6) Whether or Not the Existing Offences of Sale by an Unauthorised Person in a Public Place of a Ticket for a Designated Football Match, or for Events at the London 2012 Games, should be Extended to Cover Other Sporting or Cultural Events

— See (4)

June 2007

Memorandum submitted by Ticket Touting Campaign

We are writing as individuals and organisations involved in the entertainment, sport, theatre, music, concert and tourism sectors to welcome the Committee’s inquiry into ticket touting.

Britain has a vibrant cultural and music sector. We host many of the world’s leading sporting events. There is an extensive and diverse choice of live music, sport, festivals, theatre, arts, and concert events across the country.

Our sectors attract millions of domestic and international visitors each year bringing excitement, enjoyment and a huge economic and social contribution.

Yet sadly these events are increasingly plagued by ticket touting, a problem that is becoming endemic. Touting creates many problems:

— Fans, supporters and the general public are being ripped off and priced out of their favourite events.
— Tickets are being sold by unauthorised secondary agents and touts that are unable to deliver any of the standard consumer protections that should apply.
— Resources (both financial and administrative) spent addressing touting are diverted away from re-investment in our sectors

Touting puts the reputation of events into disrepute. It brings public order nuisances and policy concerns including a flourishing of the black market and the undermining of security and policing arrangements.

The people most at risk are young, enthusiastic sport and music lovers. For too many, their first experience of attending a live event is one of being ripped off or even sending money to internet touts for tickets that never materialize.

Touts prey on overseas visitors, who may find themselves hassled, ripped off or sold a fraudulent ticket. This hurts the tourism industry, the wider UK economy, and the reputation of the country as a whole.

The problem of ticket touting has been fuelled in recent years by the growth of the internet and the unwillingness of internet companies and auction sites to prevent touting on their sites. They continue to allow tickets to be sold despite knowing that these tickets carry terms and conditions that prohibit their resale, rendering them void.

Evidence demonstrates that secondary agents (touts) are increasingly engaging in a number of sophisticated purchasing practices which decrease the chances of genuine fans securing tickets at face value from the event owner.

All of our industries do as much as we can to tackle touting. A range of measures are in place and an increasing use of technology and ticketing ID is being pioneered. But there is only so much that promoters, artists and sports can do alone.

The industry needs the direct intervention of Government to support its efforts to protect our events and our customers. Existing consumer protection laws are ill-defined to address ticket touting.

Ticket touting is a socially and economically harmful activity which marginalises fans, rips off customers, and damages every industry in the Culture, Media and Sport sector.

It has no place in a modern society and we would urge the committee to came down hard on the touts and recommend Government legislation to outlaw ticket touting.

10 Management
3a Entertainments Ltd (Promoters for Kylie Minogue, Paul Weller)
3D Management (Managers of Scissor Sisters and Coldplay)
Abbey Box Office
Aberdeen Exhibition & Conference Centre
Academy Music Group Ltd Venues including Brixton Academy, Shepherds Bush Empire, and The Academy in Glasgow, Birmingham, Newcastle, Liverpool, Bristol, Oxford & Brighton
Act Productions
AEG Live (Promoters of Justin Timberlake, Beyonce, Prince)
Alexandra Theatre, Birmingham
Almeida Theatre
Ambassador Theatre Group
Andrew Fell Limited
Apollo Theatre, London
Arctic Monkeys
Beck Theatre, Hayes
Birmingham City Council—International Sports Unit
Bournemounth International Centre
Brighton Centre
Bristol Hippodrome
Bush Theatre
Cameron Mackintosh Limited
Capital Systems Ltd
Cardiff International Arena
Carling Academy Glasgow
Central Council for Physical Recreation (CCPR)
CMP Entertainment promoters of The Liverpool Pops
Coldplay
Colin Ingram Ltd
Combined Theatrical Charities
Cosmic Rough Riders
CPL Entertainment Group Limited
Deacon Blue
Delfont Mackintosh Theatres Ltd
DF Concerts, (promoters of Franz Ferdinand and Deacon Blue, Robbie Wiliams, Snow Patrol, Killers, Arctic Monkeys, Eagles, Red Hot Chili Peppers)
Dominion Theatre, London
Earls Court Exhibition Centre
Edinburgh Playhouse
Empire Theatre, Liverpool
England and Wales Cricket Board
European Arenas Association
Flying Music
Franz Ferdinand
Gareth Johnson Ltd
Glasgow Barrowland,
GR Management
Grand Opera House,
Grimsby Auditorium
Group Line/lovetheatre.com
Jeff Hanlon Management
Hammersmith Apollo
Handshake Ltd
Harvey Goldsmith (promoter of Live 8, Bruce Springsteen, Pavarotti, Cirque du Soleil)
International Cricket Council
International Talent Booking
James Tod Productions Limited
Kennedy Street Enterprises Ltd (promoters of Cream, Al Green, Van Morrisson)
Kenneth H Wax Ltd
Lancashire County Cricket Club
Lawn Tennis Association
Leas Cliff Hall, Folkestone
Live Nation (promoters of U2, Aerosmith, Genesis, The Police)
Liverpool Arena and Convention Centre
London Marathon
Lyceum Theatre, London
Lyric Hammersmith
Manchester Apollo
Mark Rubinstein Ltd
Marshall Arts (promoters for George Michael, Sir Paul McCartney and Elton John)
MCD Productions
Mean Fiddler, promoters of Glastonbury
MEN Manchester Arena
Metropolis Music, (promoters for Robbie Williams, Snow Patrol, Amy Winehouse)
Michael Codron Plays Ltd
Muse
National Theatre
National Union of Students
Neal St Productions
NEC Group
New Theatre, Oxford
Nimax Theatres Limited
No Half Measures Ltd
Nottingham Arena
Opera House, Manchester
P3 MUSIC LTD
Palace Theatre, Manchester
Phil McIntyre Entertainment (promoters for Peter Kaye, Queen, Ben Elton)
Primal Scream
Racecourse Association
Raymond Gubbay Ltd
Regular Music
Richard Porter Ltd
Rival Organisation
Royal National Theatre
Royal Horticultural Society (including Chelsea and Hampton Court Flower Shows)
Royal Shakespeare Company
Rugby Football League
Rugby Football Union
Scissor Sisters
Scorpio Entertainment
Scottish Exhibition Centre Ltd
See Tickets
Serious Ltd Sheffield Arena
Six Nations
SJM Concerts, promoters of (Oasis, Radiohead, The Killers, Keane, Take That)
Society of London Theatre
Solo, (promoters of Madonna, Rolling Stones, David Bowie)
Somerset County Cricket Club Southampton Guildhall Southport Theatre and Floral Hall
Sports Rights Owners Coalition (SROC)
Square Deal Productions
STAR (Society of Ticket Agents and Retailers)
Stereophonics
Network Management
Sunderland Empire
Visit British
Wimbledon Championships (All England Lawn Tennis Club)
Superbreak
Take That
Texas
The Hedrons
The New Shakespeare Company Ltd
The Really Useful Theatre Company Ltd
Theatre Royal Haymarket
Ticketmachine Limited
Ticketmaster
T-in-the Park
T-on-the Fringe
Unique Events
V Festival (Chelmsford and Staffordshire)
Victoria Palace Theatre
Visit London
Wembley (London) Ltd
Wembley National Stadium Limited
White Rock, Hastings
Wolverhampton Civic and Wulfrun Halls
X-ray Touring (Agents for Green Day, Eminem, Gorillaz)

June 2007
Memorandum by James Comboni

A not so brief summary of my points follows, I apologise if the logic seems overly analytical, at least A levels taught me to moan about something in a reasonably intelligent fashion.

(1) Tickets for popular events sell out

(2) Not everyone who “wants” a ticket is able to purchase one

(3) This leads to an economic efficiency in that the promoter is not charging the “correct market price” for the ticket in question [. . .] supply is being overwhelmed by demand. The accurate price as determined by the market is in fact higher as we see on ebay etcetera, because people are prepared to pay a higher price for the same product when it is unavailable at the cheaper rate.

(4) Thus not only are the promoters and artists not generating the maximum amount of revenue (and whatever price they set is indeed their choice to make), but people who are willing to pay MORE than others for a ticket would become unable to purchase a ticket because of regulations against touting.

(5) For the moral issues involved, we must look at the nature of concert tickets

(6) Concert tickets are an entirely frivolous expense. No one needs to see their favourite band in order to have a better quality of life. The only thing that can be used as a selector of who receives the tickets is unfortunately how much each person is willing to pay. Price is allowed to be a factor in almost all other exchanges we allow in England, apart from the obvious and well-deserved exceptions of medical equipment, charity supplies, etc etc.

(7) The only people who complain about the high price of tickets from touts are realistically people who would like to have got the tickets at the cheaper price but were too slow on the day of sale to book them. They then decide that the concert is not really “worth” the “inflated” (but now accurate) price. They are then removing themselves from the pool of buyers, and should no longer be a part of the debate on the topic. This means that other people “cared more” about getting the ticket, as they devoted time, money and planning to get it, and thus they should be allowed to have it and do whatever they like with it, whether that is to go to the concert or to make a small profit by reselling

(8) It is nice that we live in a time where we are able to complain about how high the price of concert tickets is, rather than having to work the land in order to survive. I am of the opinion that some members of the British public will whinge incessantly no matter what the circumstances, and should be ignored in the most cold fashion.

(i) Apologies if that was long/rambling, I am far better at making cases in person and would love the chance to actually have a say in this matter that is very important to me and many other students finding new ways to actually financially survive. I attended UCL reading ChemEng this year before being forced to withdraw after a case of carbon monoxide poisoning in a council flat, and given that I have to consider not only my living expenses but also my pending “student debt from hell” after another three years, it frustrates me when people are what I term “ignorantly moral” about what is essentially an economic question.

(ii) Another point to consider [. . .] people who I sell tickets to are grateful for the chance to go to the concert at all, there is never any discussion or negotiation over pricing, I sell at the current ebay price minus £10 or £15.

(iii) One last thing [. . .] there is a world of difference between my activities: which are limited by how many tickets I can buy on my debit card (maximum 6–8 normally) and the actions of bigger agencies with more capital. I do not directly affect the market price by removing a vast stock of tickets from the available pool. As I understand it before ticket agencies were regulated in any way, thousands of tickets (a measurable fraction of total stock) were prebooked for selling by whomever, which raises the price a little too artificially for my liking. Some authorised sites sell tickets for FAR higher prices than available on ebay, for instance I am sure you read about the ludicrous figures asked for (and paid merrily) for this years FA cup final.

(iv) Having many small ticket resellers is a beautiful and efficient part of the capitalist system which we allegedly operate under. It allows people to target inefficiencies in the market and correct them, leading to higher economic activity overall. If one day I were to form a business around this I would be happy to pay the appropriate level of tax on my profits, however at the moment I can assure you that my income from this is not stocked and saved (nor does it begin to approach the untaxed income), it is spent on being a student living in London. I have no idea how much I spend week to week on various items in and around our lovely capital, but I assure you it is a lot higher than if I were to not sometimes sell tickets.

Thank you for reading to the end of what is essentially a stubborn idealistic students rant, I look forward to any communications we may enter into.

June 2007
Supplementary memorandum submitted by the Concert Promoters Association

In America over the years one Ticket Agency has dominated the market—Ticketmaster. With no competition this has allowed booking fees to increase to around 25% of the ticket face value (in UK we operate at around 10–12% and 15% is probably the maximum). This booking fee continues to rise in the US as artistes see that customers are prepared to pay a premium in the secondary market so this is the primary market trying to get its slice of the premium. The secondary market has been flooded with Seatwave, viagogo, Tixdaq, eBay etc all of whom can only operate by putting a margin on top of the ticket face value, thereby forcing the price to the customer to keep increasing. This has led to a decline over the last few years of the live concert market as customers are being priced out of attending shows. This is turn hits the secondary market first as there is not the extra margins to be made so hey presto the companies all turn to the (thriving) British Live Music scene. The decline in live music in the US is a subject I believe the Music Exports Group, set up by the DCMS. They are looking into to ways they can assist the UK artistes and reverse the trend of a declining market share in the US of UK artistes.

As American artistes have enjoyed short term gains in the US by increasing booking fees and taking cuts of margins on the secondary market tickets, so they are looking to do the same in the UK if the Select Committee effectively ratifies this market with their findings. We are aware the Music Managers Forum are courting support from Artist Managers to do a deal with Tixdaq to endorse secondary sales for which the artiste will get a cut.

July 2007

Further supplementary memorandum submitted by the Concert Promoters Association

We have been contacted by several managers who are asking what the implications are for the proposed MMF/Tixdaq deal. We have explained that it achieves nothing other than an increase in the ticket price to the consumer with the margin being split between the contracting parties (typically artiste and Tixdaq). We have pointed out to managers if they want an increase in ticket price they can do this in the primary market without “hiding” behind Tixdaq. Views are generally divided between managers looking for long term sustainability and those after a quick buck.

Live Nation as you are aware are one of the largest promoters in the world, American owned with operations in most European countries. Their Netherlands office have this week gone public to announce they have done a commercial deal with viagogo to operate in the secondary market. The press interviews indicate this will be rolled out in other European countries in due course.

We at SJM have recently fought to keep the Spice Girls tickets out of the secondary market and in two weeks will face the same challenge with Paul McCartney’s celebration concert at Anfield for Liverpool Capital of Culture; Harvey Goldsmith is going to extraordinary lengths to protect tickets for Led Zeppelin’s tribute concert for Atlantic records late founder Ahmet Ertegun. The battle continues on a nightly basis at venues across the country and tomorrow we have Trevor McDonald filming outside the opening night of the Take That tour in Belfast where we can guarantee numerous fans will be caught out by non existent internet suppliers.

The CPA have agreed to wait to hear the deliberations of the Select Committee before making any further recommendations to members. However as is clear each promoter is getting impatient and if there is no outlawing of the Secondary Market then they will all do their own deals and put measures in place in order that promoters and artistes can benefit from the inflated prices being paid, rather than touts benefitting.

We also await the ruling from the OFT on our proposed Terms and Conditions for tickets which in their evidence to you was promised for August.

October 2007

Memorandum submitted by Tixdaq

THE SECONDARY TICKETING CONUNDRUM: IN SEARCH OF A “MIDDLE WAY”

TixDaq attended the Culture, Media and Sport Committee’s oral evidence session on ticket touting Tuesday 26 June 2006.

We sympathise with the Government’s difficult position in working towards a satisfactory solution to this thorny set of issues, not least because the various camps in the debate appear so opposed to compromise when there is clearly middle ground to explore. We left the session feeling frustrated at this apparent lack of co-operation between the parties.

For each case that was put, no set of arguments, in our opinion, provided a sufficiently persuasive body of evidence for their champions. For example, and in summary:
— The desire of the sports federations and the concert promoters to see the secondary ticketing market illegalised does not seem proportionate to or justified by their concerns about consumer protection and the long term success of their live events.

— The primary ticketing players’ position can be seen as overly self-serving in attempting to eradicate competition from the ticket market as a whole but especially in the secondary market where their traditional strengths hold little sway with consumers.

— The secondary ticketing players appear—in some cases—to be taking overly aggressive positions in ignoring many of the concerns of the existing stakeholders in the industry (though we were encouraged that some are now focusing more heavily on addressing certain key issues, such as consumer protection).

Focusing on music in particular, problems do exist, such as consumers being defrauded by unscrupulous individuals, but only in a minority of cases and at the margins of the secondary ticketing market. In order to have the best chance of resolving these problems, what is required, in our belief, is a secondary market that both consumers and industry stakeholders can understand, monitor and participate in with confidence. To legislate the secondary ticketing market out of existence would be a case of “throwing the baby out with the bath water” and, arguably, only serve to drive the problem deeper underground where the industry stakeholders have even less of a chance of controlling it.

We agree with the view put forward by the DTI and DCMS that some kind of “middle way”, involving self-regulation, is both preferable and achievable. We also think that this middle way, when fully understood by all the industry stakeholders, will provide a better way for them to achieve their objectives.

TixDaq’s vision is of a “middle way” where industry stakeholders (including the talent, eg music artists, as well as the organisations that manage and promote it) come together to co-operate with and help shape the secondary ticketing market in such a way that marginal concerns and aberrations can be controlled and their effects minimised. There is also, clearly, the opportunity for the industry stakeholders to participate commercially in this naturally growing, consumer-endorsed marketplace, thus returning extra value back to our creative industries and those who invest in sustaining their excellence.

One way of achieving this could be for the industry stakeholders to officially endorse and promote a number of secondary ticket exchanges, in return for the establishment of an agreed code of conduct and a share of market value (much like a rights licensing arrangement). TixDaq has been advising the Music Managers’ Forum (MMF) on the implications and requirements of an approach that would drive forward the search for stakeholder consensus, and would welcome the opportunity to extend this discussion in conjunction with the MMF.

About TixDaq

TixDaq is a data and intelligence provider to the live entertainment sector. Our aim is to work with industry stakeholders and consumers to provide better information on the secondary ticketing market to drive better value for consumers and industry stakeholders alike.

July 2007

Supplementary memorandum submitted by TixDaq and the Music Managers Forum

The purpose of this submission is to bring the Select Committee up to speed with the progress we have made on our initiative to generate a fair, transparent and industry-based solution to the problems associated with the secondary ticketing market.

We are in the process of constituting the Resale Rights Society (RRS) to provide a legal and commercial framework for an industry based, self-regulatory solution.

RRS has already received signed Letters of Intent to support its formation from 140 artist management organisations representing over 300 performing artists, including Robbie Williams, The Verve, James Blunt, Arctic Monkeys, Franz Ferdinand, KT Tunstall, Kaiser Chiefs, Girls Aloud and Bryan Adams.

RRS has now extended its sign-up process to include promoters (including the CPA), agents and songwriters/PRS.

Initial meetings with leading UK promoters, leading global agencies and the Performing Rights Society (PRS) to seek collaboration on RRS have been well received and we are expect to gain more formal support from these groups over the coming days and weeks.
RIGHTS

Given the significant risk and investment undertaken by stakeholders, including songwriters, artists, promoters and others, in order to deliver a vibrant live music industry within the UK, there is clearly a need to foster and protect these stakeholders’ returns in order that ongoing investment is made sustainable.

It is, we believe, a reasonable assertion that these industry stakeholders have certain rights in the value that they create. Whilst these rights are not, at present, enshrined in law, they are a commercial “fact of life”.

To date, the industry’s stakeholders—for a variety of reasons—have been unable to harness this position and participate in the value created by the secondary ticketing market. The MMF and TixDaq have, therefore, established the Resale Rights Society to act as a collective administrator of these rights.

CONSUMER PROTECTION ISSUES

There are a number of serious and widespread consumer protection issues that the Resale Rights Society will seek to address. For example, it is currently common practice for online ticket resellers to acquire inventory through any possible means with the express purpose of choking demand in order to artificially inflate price. RRS will seek to restrain all sites involved in this activity.

There are also softer, but equally important consumer protection issues that RRS will seek to regulate. For example, currently only a few reseller sites offer guarantees on the validity of the tickets resold on their sites, and/or guarantees over the timeliness of the delivery of tickets. RRS will require its “licensees” to offer acceptable levels of guarantees.

RESALE RIGHTS SOCIETY—OVERVIEW

Mission Statement and Progress to Date

“Tackling the touts by controlling online sales channels and opening up the market to industry stakeholders.”

The Resale Rights Society (RRS) is currently being constituted by the Music Managers Forum (MMF), which represents the artist management community, and TixDaq, a live entertainment intelligence company, in order to aggregate the assertion of rights that performing artists, promoters, agents and songwriters have in the resale of tickets to live music events in the UK.

Successfully aggregating these rights (and acting collectively in the interests of the various stakeholders) will enable RRS to protect fans against fraudulent behaviour by online ticket resellers, to ensure that these ticket resellers do not artificially inflate price and to guarantee that a proportion of the income generated from the online secondary market is returned to the investors in this creative industry.

RRS has already received signed Letters of Intent to support its formation from 140 artist management organisations representing over 300 performing artists, including Robbie Williams, Verve, James Blunt, Arctic Monkeys, Franz Ferdinand, KT Tunstall, Kaiser Chiefs, Girls Aloud and Bryan Adams.

RRS has now extended its sign-up process to include promoters (including the CPA), agents and songwriters/PRS.

Initial meetings with leading UK promoters, leading global agencies and the Performing Rights Society (PRS) to seek collaboration on RRS have been well received and we are close to gaining more formal support from these market segments.

Constituting the Resale Rights Society

The Resale Right Society’s Articles of Association and Ordinary Membership Agreement have been drafted by Russells Solicitors and are under review by the MMF’s Sub-Committee for Secondary Ticketing. Russells are also in the process of drafting Licensing Agreements that will outline the codes of conduct that RRS will require from online resellers to adhere to in order to gain a reseller licence.

RRS Corporate Members

It is intended that the Corporate Members of RRS will be made up from the Music Managers Forum, the Concert Promoters Association, the Performing Rights Society, the Agents Association and TixDaq. The Corporate Members will be entitled to a maximum of 6 seats on the RRS board.
**RRS Ordinary Members**

As the right to any performance always originate with the artist, RRS’s Ordinary Members will be the artists themselves.

**A CASE FOR LEGISLATION?**

Despite terms and conditions laid down by promoters forbidding the resale of tickets, the secondary market has flourished for a number of reasons.

1. The ubiquitous nature of the Internet has vastly improved “consumer to consumer” transactions. Buyers can easily find sellers and vice versa.
2. Online ticket exchanges are exploiting a legal grey area that makes it hard for the exchange itself to be found complicit in the breach of contract between the original ticket purchaser and the promoter when the original owner resells that ticket.
3. The live music industry is rightly wary of the effectiveness and morals of initiating proceedings against individual fans.
4. There is a growing need from fans to have greater freedom of what they are permitted to do with a ticket after they have purchased it.

We do not believe that the Government will make the resale of tickets illegal, that there are clear benefits for the consumer and the economy in having an efficient online secondary ticketing market, as has been clearly shown in the evidence to date.

We do, however, believe that the Government should look to support, through “light-touch” legislation or otherwise, an industry backed, self-regulated solution. This may include the recommendation of a regime akin to the Artist Resale Right which exists in the art world, whereby the creator of an original work has the right to a percentage of value realised by the resale of that work.

**NEXT STEPS**

While RRS continues to build momentum at pace, we feel it would be appropriate to brief you more fully and explore solutions in tandem with your thinking. We would suggest a meeting with designated members of the Select Committee at your earliest convenience.

*October 2007*

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**Memorandum submitted by Airtrack Services Limited**

Airtrack Services Ltd is a licensed and bonded sports tour operator. The company has been in existence for 25 years.

Our primary source of income is generated from selling our own travel and entertaining programmes to the sporting venue. A necessary part of the package we sell is event tickets. We normally sell tickets on at whatever price we buy them for with a £30 handling fee.

We do not use tickets as a source of income—we are not a ticket tout.

**MARKET FORCES AND RESTRICTIVE PRACTICES**

Ticket touts make money from buying tickets at the lowest price and selling them on at the highest price. All industry works on the same basis. Some industries are more obvious in their practices than others. An example of this is the airlines—one airline seat costs the same to a particular destination as the one adjacent to it given the same conditions of sale. However, one seat could be sold at 10 times the one next to it with the same conditions—the difference is that the market has changed. The market could have changed for a variety of reasons including time before the flight departure; the number of seats remaining on the flight and the announcement of increased business from the production of a special event at the destination. Of course another example of being able to tell how much extra the seller is earning from the sale of the product or service as a result of market forces is ticket touting. Most tickets have their value printed on them and the tout is usually selling them at a higher price. The reason why the tout can ply his trade is exactly the same for the airline.

To restrict the secondary market in ticketing would arbitrarily restrict one form of commercial activity whilst allowing another.
Football

The commonly accepted reason for restricting the sale of secondary market football tickets to facilitate crowd control is based on an incorrect assumption.

Anyone who has been to a large international football match will know that the crowd control starts off with gathering all the fans from one side into an area regardless of ticket seating. Of course this crowd will have a mixture of good tickets in the correct area; tickets in the opposing end (wrong area) and forged tickets. At the appropriate time this group of people are allowed into the stadium. The entry is mostly unrestricted—a few tickets are checked but only a sample number. The result is a totally overcrowded section of the stadium with often empty seats in the other section. The intention of the stadium was to segregate the fans—this was achieved but with a monumental risk of injury and death if there was any form of fire or requirement for evacuation.

Should we stop the sale of tout tickets—the answer is no because it restricts everyone’s freedom to do business.

The answer is to regulate the ticket sources.

The normal practice for a Champions League match is for the away team and the home team to have an allocation. All UK teams run a fans travel section which produces an income for the club. The club very rarely supplies tickets to any other tour operator. Of course they consider it bad commercial practice to allow independent tour operators to compete with their own travel programme. If the team do not sell all of their tickets which is often the case they will still not sell these tickets to the independent tour operator.

What the team does with these spare tickets needs regulating. We would suggest the tickets should be distributed via an independent agent, selling them on a first come first served basis.

I would suggest these tickets find their way into the ticket touting system either at home or in the away team country.

The Market

Football tickets normally have a face value of £20–£80—a top quality tout ticket will sell for £350–£800 each. This margin does not all go to the tout. There would be several “agents” in the chain before it reaches the end user.

Another way of controlling the system is to make the initial face value more realistic—ie £150–£300. The resulting much reduced margin would dissuade most touts from risking their money. The argument of why should the “real” fan be punished by having to pay higher prices is false. Football fans pay vast amounts of money to see their teams play. The extra money generated should be filtered back into the sport and provide extra facilities for the fan. This could be achieved by the governing body taxing the team on this type of championship.

At present the UK team has a monopoly on providing fans travel to overseas matches—this again is against the spirit of free enterprise. Allowing independent tour operators to compete with the team’s travel programme will reduce the cost to the fan. We have never challenged this state of affairs but in many industries this could be described as restrictive practices.

Olympics

For this event not only is there “restrictive practices” for the ticketing but also for the travel and accommodation.

The British Olympic Association have chosen one operator to handle all the tickets. This operator happens to also be a tour operator who sells travel and accommodation. I have been told that this operator has to contribute large sums of money to the BOA to help and encourage the sport.

To quote from a BOA correspondence to ourselves:

“Any travel agent is of course entitled to advertise tours to China and Beijing. They may not however be promoted as tours to the Olympic Games and nor should Beijing be promoted with undue emphasis on it being host to Olympic Games.”

There will of course be tout ticketing for the Olympic Games because the average ticket cost is around £30. For the big track events these will be on sale for several hundreds of pounds.
Motor Sport

The cost of tickets in this sport is very much higher than most other sports. Ticket touting does still exist but not to the level of football or many other sports.

The Ticket Tout

I have suggested that the ticket tout is performing a normal commercial activity, similar in concept to a no frills airline. The difference between the practices of a ticket tout compared to an airline is not providing security. When the public purchase a service in advance they are risking their money by pre-paying for the service. In the travel and airline business the public is protected by a bond which secures their money in the event of the company defaulting. It does not matter if the ticket tout is a large company or the “scum” as suggested by one of your committee members—neither provide any security to the public. Promising 150% back if they do not perform is a marketing gimmick. Security is the only protection.

On the point of selling a ticket that does not exist—this is not unusual. We as a tour operator sell airline tickets, hotel vouchers etc all the time—there is no proof that we will provide them—we do however stake our existence on providing them by having in place a bond.

I think you will find that if all ticket touts were forced to secure their transactions with a bond their numbers would rapidly fall and their control would be far easier.

August 2007

Memorandum submitted by Aftab Khan

I consider myself to be fan of music and consider going to live gigs to be an essential part of my lifestyle. I recently saw a committee on the BBC with regards to the secondary ticket market in the UK.

During the Committee I saw various promoters arguing how they would like control of the secondary market. Their argument was to bring into some sort of ruling which would prevent others from reselling tickets. This in effect would give full control to the promoters and the ticket agencies they use in relation to any secondary market.

In my opinion this would make life extremely difficult for myself. Firstly, I remember last year I had purchased tickets for the O2 Wireless festival because I had wanted to see James Blunt. However, due to family commitments I found out I would not be able to go. I went back to the ticket agency (Ticketmaster) and asked if I could have refund. Please note this was still three months before the actual festival. I was advised that this was not possible.

Thanks to e-Bay I was able to sell my tickets. Now if the promoters have their way it is only concerts which sell out where refunds would be applicable. This would mean that in the future if a similar incident happened I would be left with tickets to a festival I had no way of attending.

I also laughed when the promoters were adamant that they want to do best by the fans. If that is the case why are the best seats for the vast majority of concerts reserved for corporate sponsors and celebrities?

The fact of the matter is that so called ticket touts are out to make a quick profit. The only reason I have no problem with them is because ticket promoters and agencies do exactly the same. I refer you to the ridiculous booking fees that fans have to pay. I have still to meet someone who can justify why they are so high. The booking process is exactly the same for most gigs so why is it that their booking fees are not fixed. When I saw Travis recently the ticket was priced around about £25 and the booking fee was about £4 (which I feel is very excessive) yet when I attempted to book tickets for the same agency to see the Police at Wembley the booking fee was over £12. The process for booking Travis and The Police is exactly the same yet the mark up for The Police was excessively high.

The Promoters argument is that the booking fee is determined by the face value of the tickets. Therefore because the face value of Travis was £25 (the booking fee was £4) and the face value of The Police was £95 they could charge a £12 booking fee. Yet the process and effort the ticket agency use to book the tickets is exactly the same for both concerts.

This is just one example of how promoters and booking agencies such as Ticketmaster and Seetickets look to make quick profit at the fans expense. This is why to me they are just like the so-called ticket touts. The promoters and ticket agencies want a total monopoly which in the long-term will hurt fans.

In fact it is using sites such as e-Bay and Seatwave where I have got the best deals due to touts who sell tickets at low prices before gigs (something which would never happen if the monopoly is allowed to take effect). Over the past year some of the deals I have got are as follows:

- The Police at NIA—paid £40 for two tickets on e-Bay—would have paid £190 if purchased via the promoters/ticket agency.
- Nelly Futardo at NEC (2nd row tickets)—paid £10 for two tickets on e-Bay—would have paid about £65 if purchased via the promoters/ticket agency.
— Justin Timberlake at MEN Arena—paid £20 for two tickets on e-Bay—would have paid £100 if purchased via the promoters/ticket agency.

— LL Cool J at the Hammersmith—paid £12 for four tickets on e-Bay—would have paid £160 if purchased via the promoters/ticket agency.

— Red Hot Chilli Peppers at Earls Court—paid £20 for two tickets on Seatwave—would have paid £80 if purchased via the promoters/ticket agency.

— Madonna at Cardiff—paid £70 for four tickets on e-Bay—would have paid £600 if purchased via the promoters/ticket agency.

As you can read I have got some excellent bargains as have other fans. If the monopoly is able to take effect these bargains will never happen and market forces would be eliminated.

Also, I know touts charge over the odds for some tickets but this has benefitted me. For example my younger brother had done very well in his SATS. I wanted to get him a gift as he worked so hard. I then realised WWE wrestling was to come to the Birmingham NEC but because tickets went on sale three months before the event it was sold out. I know promoters say this is only because of touts but because it is fans who buy off the touts I think if no touts had purchased any tickets this event would have sold out regardless.

However someone on e-Bay was selling two front row tickets for £270. This was a lot of money considering the face value was about £130 for both. However, I did not hesitate and my brother had the time of his life. I have no regrets and think it was totally worth it.

I see no difference between this and when promoters give the best tickets to sponsors. The promoter gives the best tickets to someone who gives them over the odds and the tout does the same, the only difference is that the ticket touts do not tend to exclusively deal with corporations and celebrities. If you allow the monopoly the promoters would have no competition and will continue to rip off the fans unchecked.

Also if you research into the best seats available via the secondary market you will notice that the best seats are regularly given to certain individuals. The only reason the get their hands on these seats is because they have contacts within the ticket agencies (such as Ticketmaster) as well as promoters which means they get access to the best tickets. Now I do not want to accuse anyone of acting immorally but it is well known amongst fans that attend live music events that certain promoters/ticket agencies give access to the best tickets to certain individuals (who sell on the tickets) rather than the fans.

Now, how can the promoters then claim that they are looking out for the fans if access to the best tickets is not made available to the fans? The question to ask is quite simply, for all the best shows how many of the best tickets are made available to the fans?

Another point is that many promoters/acts encourage ticket touts. I point to an example involving one of my favourite bands “Kaiser Chiefs”. Recently, they did a small tour (not their current arena tour but before that). Now they had a pre-sale for just their fans. If they had only wanted their fans to access this they would have just sent out e-mails to their fans informing them of the pre-sale (99% of fans who attend live music events have e-mail accounts). However, instead they advertised in various newspapers as well as informing well known music websites such as the NME website. The end result was that many touts purchased tickets.

The Kaiser Chiefs knew this would happen but they still did this because this would ensure that their shows could be billed as “sold out”. It is not just the Kaiser Chiefs that have done this; many other acts such as The Killers and Keane have done the same. They know that if they are struggling to get their shows “sold out” it would affect their reputation.

With the Kaiser Chiefs example their shows were sold out but the actual demand for their show was low and tickets were being sold by touts for less than 50% face value. This illustrates that the artist (or be it their management teams) also do not really look out for fans. In fact they rely on the secondary market to create a hype that may not necessary exist, which allows them to increase up the price of a ticket for the same band at a later tour.

As I said earlier I consider myself to be a strong fan of music and love attending live gigs. The current system is excellent because there are so many outlets of purchasing tickets in the secondary market. This allows for fans to get cheap tickets and also get tickets to events, which have been sold out. To change this and allow promoters and outlets such as Ticketmaster to have complete control will have a detrimental effect on live music.

We live in a society that encourages free trade and this is a fundamental part of our ethics. We as a society do not like or encourage monopolies. Allowing promoters and agencies to have an effective monopoly will be going against the values of our own beliefs. Also it will reduce the competitiveness of the market. Secondary sellers such as Seatwave encourage competition amongst each other as tickets values are decided by fans and demand.

September 2007
Supplementary memorandum from e-Bay

We promised to follow up with the Committee on customer complaint figures. As we mentioned in our original testimony to the Committee, because we are not involved in the actual transaction between buyer and seller and are just a marketplace, we have only limited visibility of customer complaints. However, as Paul Drake noted, a good indication of customer satisfaction is the percentage of positive, negative and neutral feedback left by buyers for sellers in the Tickets category. So far in 2007, the (rounded) figures are 98.26% positive, with 0.76% neutral feedback and 0.99% negative. This suggests a high degree of customer satisfaction.

July 2007

Supplementary memorandum submitted by the Association of Secondary Ticket Agents (ASTA)

I have been asked to provide a brief explanation as to why the Association of Secondary Ticket Agents were absent from the final series of DCMS summit meetings during the latter part of 2006.

Although I was involved in the initial establishment of the Association in December 2005 and I was consulted on the direction the Association should follow, towards the end of May 2006 the running of the organisation was in the hands of a consultancy.

Towards the latter part of 2006 it was felt that the interests of the Association were perhaps not being best served by the regime in place and a new committee was elected and it was decided that the position of Chairman be a full time elected appointment. I now fill that role (of Chairman) and the new committee members have the sense of purpose and direction as envisaged by the founding members.

We hope that our continued presence is satisfactory evidence of our high level of commitment.

July 2007

Further supplementary memorandum submitted by the Association of Secondary Ticket Agents (ASTA)

Thank you for the time you set aside for us in June. My appointment as Administrator to ASTA commenced from the end of August, so my role in the organisation has had little impact on the day to day affairs thus far but I am engaged as the Administrator of the Association of Secondary Ticket Agents Code of Practice to have a far reaching and hopefully, long lasting impact.

My initial observation, and some practical sampling, gives first impressions of:

1. a desire not to be referred to as “touts”;
2. no apparent “regulated standards of trade”;
3. little or no public awareness about what is a major consumer industry;
4. a lack of transparency in trading; and
5. an uncomfortable relationship between the official Primary and Secondary ticket markets.

Points 2, 3 and 4 are in the process of being resolved. Rather regrettably, the anachronym “tout” is taken as a term of endearment! But it is clearly up to us, as we go forward, that consumer awareness, presenting fair and transparent standards of trade in the Secondary market, are central issues to which we have a responsibility to tell our consumers.

The OFT is the pillar of consumer approval, and we have applied for Consumer Codes Approval to:

- the ASTA Code of Practice;
- Membership Benefits of trade;
- Terms and Conditions of trade;
- Mission Statement; and
- Prospectus.

Taken together, a successful outcome will give us a first base for “self regulation”, and initial steps toward an approved and professional work ethic.

Our Code of Practice provides member guidance, and contains new and important disciplines as to how we will in future deal with all consumers.

Point 5 gives me the newcomer some cause for concern. Clearly there is some failure between Primary and Secondary markets to always act with the consumers’ best interests at heart. We have on a number of quite recent occasions picked up consumer discontent with tickets purchased from Primary suppliers, and been left to resolve the problem with a degree of customer satisfaction. From my perspective, this tells me that we as Secondary suppliers must be “aiming in the right direction”.

There is enough room in this huge industry and quite sufficient business to satisfy more than one “approved” player. Moving forward we hope for a better relationship from the Primary supplier and the OFT approved and regulated Secondary supplier.

Again, my own view would be to consider between Primary and Secondary suppliers, what can we do together to address the actions of countless other ticket agents, who are the “touts” and not a term of endearment! obtaining tickets to sell.

We are well down the track of broadening the “base of the Secondary market” developing for ourselves, not a new, but additional approach to ticket sales. For the present time this development remains confidential. If it is successful, as is anticipated the long term interest of consumers will be much enhanced.

I am pleased to Report that membership is ASTA continues to grow, and it is hoped that if we can become a Consumer Approved supplier our voice might be heard on a much broader foot.

November 2007

Supplementary memorandum from Seatwave

You raised two questions following the oral evidence session on 26 June:

1. How many complaints have you had from consumers who have not been satisfied with their purchases, either because they were fraudulent or unfair?

   We’ve reviewed all contact from our customers and have not had any customers complain specifically about fraudulent tickets and/or unfair business practices. In fact, we’ve had several emails complimenting our business practices as far superior to the rest of the ticketing industry.

2. How do you explain the apparent availability on Seatwave of (face value) £30 tickets for Grease beyond the period for which tickets are on sale at the box office?

   There were several listings for performances of Grease beyond the current selling window that were on our website due to a programmatic software bug that has now been corrected. Once we were notified of this error, we manually removed the postings within minutes. We’ve now taken further steps to prevent this in the future, and I might add, no tickets beyond the current sales window were ever “sold” to consumers. There is no inconsistency. Seatwave does not allow the sale of futures on our exchange—without exception.

July 2007

Further supplementary memorandum submitted by Seatwave

The following is an additional memorandum to Seatwave’s written and oral evidence to the Committee’s inquiry into ticket touting.

In this memorandum Seatwave would like to propose a potential model of investment from the profits of the secondary ticket market into the development of music, sporting and acting talent.

INVESTING IN TALENT, HELPING THE PRIMARY MARKET

The model would see secondary market businesses, such as Seatwave, raise money through ticket sales for a “Foundation” which would invest in organisations supporting grassroots talent development.

Sellers of tickets will have the option of a donating a percentage donating from the proceeds of their sale to the “Foundation”.

The donation would be calculated from the price achieved over the original face value of a ticket. For instance, if the face value of a ticket was £100 and it was sold at £200, and the seller elected to donate 5%, the seller would contribute £5 to the Foundation (5% of £100 over face value). This would apply to all categories of ticket resold in the secondary market.

Seatwave would provide the technical solution which would ensure the money was transferred to the Foundation as soon as payment was received.

Seatwave would encourage sellers to make the donation through messaging on the Seatwave site which would indicate the money would be used to nourish the grassroots of sport and culture.
THE “FOUNDATION”

The “Foundation” would be established as an independent grant making charity. Seatwave are keen to ensure full participation from the industry, and would invite and encourage other secondary ticket market businesses to commit to the same contribution. As a charitable foundation corporate donations made would attract tax relief, increasing the ultimate benefit to the ultimate recipients of grants.

The “Foundation” would be administered by a board of trustees drawn from stakeholders from both the primary and secondary ticket industries, and from the live events and entertainment industries. The trustees would be responsible for grant making decisions.

Grants would be made on the basis of applications, with money received by the “Foundation” apportioned to different live event sectors (sports, music, theatre etc) on the basis of amount of ticket resale for each sector.

Potential recipients of funding from the endowment could include organisations such as:

**Sporting Bodies** such as the English Sports Council; the Football Association; the Lawn Tennis Association; the Rugby Football Union; the England and Wales Cricket Board.

**Music bodies** such as the Paul McCartney School of Music.

**Acting bodies** such as the Birmingham School of Acting.

**WHY A “FOUNDATION” IS PREFERABLE TO A FUTURES MODEL**

It is Seatwave’s belief that the objective of revenue redistribution from the secondary market should be the nurturing of future “talent” for the live events and associated industries, as opposed to simply creating an extra revenue stream for the primary ticket market.

A “Foundation” model is therefore preferable to a “futures” model of revenue redistribution, as currently exists for the art resale market.

The artist resale rights model repatriates resale profits directly to the artist and therefore acts as a financial incentive for art creation as the artist continues to benefit financially from their work every time it changes hands.

A resale model for the ticket market would not repatriate resale revenue directly to the artist or sportsman, nor would it have the same incentive effect as with the art resale model. Revenue would be simply be redistributed from the secondary to the primary ticket market, with no guarantee of investment in the development of talent.

It is our belief a “Foundation” is a more efficient and effective way of investing and nurturing talent to help ensure the UK continues to have a thriving live events and entertainment industry.

The “Foundation” model is a manifestation of the increasingly mainstream business practise of considering the wider economic and social impacts of business activity—the movement commonly known as “Corporate Social Responsibility”. Seatwave would be happy to work alongside organisations such as Business in the Community (BiTC) and the Departments for Business, Enterprise and Regulatory Reform (DBERR) and Culture, Media and Sport (DCMS) respectively to discuss the proposal in more detail.

**November 2007**

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**Letter on behalf of Harvey Goldsmith to eBay**

**TRIBUTE TO AHMET ERTEGUN, LED ZEPPELIN CONCERT ON 26 NOVEMBER 2007 (“THE EVENT”)**

We act for the Ahmet Ertegun Fund a promoter of the Event. We have seen your recent e-mail correspondence with Harvey Goldsmith regarding the sale of exclusive pass codes or tickets to the Event on ebay.co.uk.

There has been a huge demand for tickets to the Event. In order to prevent ticket touts exploiting the Event, our clients set up a free ballot for tickets, which required individuals to register on a designated website (www.ahmettribute.com) to enter into a ballot for the limited number of tickets. Over one million people registered and the successful registrants (“winners”) were informed by e-mail on 1 October 2007.

Each winner was issued with an individual pass code in the mailshot, personal to them, and setting out the terms by which they, and they alone, could purchase tickets to the Event (limited to two per winner). The mailshot specified that the tickets were non-transferable and tickets subject to resale would be cancelled.

To purchase tickets, winners were told to click on a link in the mailshot to the www.ticketmaster.co.uk and were then directed to enter their personal pass code. Purchase of tickets was also subject to Ticket Master’s own terms and conditions, which expressly stated that in the event of resale, the tickets would be cancelled and entry to the Event denied (see enclosed terms and conditions).
A confirmatory notice was emailed to all winners on 3 October 2007 to confirm that the pass codes and/or tickets were non-transferable, and warning that tickets would be cancelled in the event that the name of the purchaser did not match the name of the winner.

There are also a number of corporate tickets which have been issued for the Event. All corporate tickets specify that they are non-transferable and are therefore personal to the recipient. In the event of resale, they will be void.

Mr Goldsmith notified you on 2 October 2007 that any Event tickets that were resold would be cancelled and/or the purchaser would be denied entry to the Event. You stated to Mr Goldsmith that you were not bound to check each individual posting on your site and that it is not eBay’s policy to take sides in private disputes.

All users of eBay are subject to the terms of your “user agreement”. Under this agreement:

(a) Under the heading “Using eBay”—the user agrees not to:
   — Fail to deliver items purchased from the user;
   — Post, list or upload false, inaccurate, misleading or defamatory content (including information).

(b) Under the heading “Abusing eBay”, you reserve the right to cancel bids and remove listings and other hosted content if you believe that the user is creating problems or exposing other eBay users to financial loss or legal liability.

(c) Under the “rules for sellers”, you specify that violation of any of eBay’s policies may result in a range of actions, including listing cancellation. Under the document headed “Why eBay may remove your listing” you specify that some listings may be removed where the language used in the item, title or description breaches eBay policy. The use of inaccurate and misleading content is in clear breach of eBay policy, under the terms of the user agreement.

We have noted that there are still a number of current listings selling Event tickets on ebay.co.uk. One example can be seen via this link: http://cgi.ebay.co.uk/ws/eBayISAPI.dll?ViewItem&item=290171043294&ssPage).

For the reasons explained above, Event tickets are non-transferable and will either be cancelled or entry refused on resale, whether or not they are ballot or corporate tickets. The listings as they stand contain false and misleading information and expose users to financial loss in the event of resale. Please confirm by return that you will either cancel all remaining listings relating to the Event or in the alternative that you will contact all bidders in relation to the listings to warn them that the Event tickets will be cancelled in the event of resale.

October 2007