

GAMING, SPORTS, TOURISM, AND ENTERTAINMENT (GSE)

Resolution GSE-25-09

CONSUMER PROTECTIONS IN EVENT TICKETING

WHEREAS, consumers have been negatively impacted by the lack of competition in the primary ticket industry, driving up ticket costs, and stifling innovation, and this has led to poor customer service, and inadequate technology to effectively handle high demand events;

WHEREAS, multiple ticket retailers in an open distribution model increase ticket distribution, create more choice for consumers, and create an overall better retail experience, while the use of long-term exclusive agreements between venues and primary ticket sellers is a root cause of the lack of competition in the primary ticket market;

WHEREAS, exclusive distribution agreements discourage innovation that would benefit fans, artists, teams, promoters, and venues, and restrict those same participants from working with other retailers;

WHEREAS, due to exclusive agreements, primary ticket sales for any given event in the U.S. are generally sold by one retailer, and this unique retail experience positions primary ticket sellers, many of which also operate secondary ticket marketplaces, to utilize restrictive technology or restrictive terms and conditions placed on the initial sale of the ticket to control consumer behavior, limit consumer choice, and further thwart competition in the secondary ticket market;

WHEREAS, consumers have little to no rights in the ticket purchasing process and are subject to the terms and conditions and technology unilaterally determined by the primary ticket seller and event organizers;

WHEREAS, consumers are facing the prolific use of restrictive technology that allows primary ticket providers to dictate if, or when permissible, how they may transfer or resell the tickets they have rightfully purchased, and these restrictions often require that subsequent transfers or resells occur on the secondary ticket marketplaces owned or operated by the primary ticket seller;

WHEREAS, consumers can also be subject to discrimination by venues, event organizers, or primary ticket sellers who may, at their sole discretion, deny admission or cancel tickets that are transferred or resold without giving fans any recourse;

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WHEREAS, consumers are generally not aware of how many tickets are being made available for sale, how those tickets will be priced, or the full number of events that have been scheduled when tickets go on initial sale, and this lack of information deprives consumers of the ability to make fully informed choices and is generally designed to create an artificial sense of urgency through a perceived scarcity of supply;

WHEREAS, primary ticket sellers frequently hold back large percentages of tickets from sale to the general public in order to create false scarcity, and a 2016 report by the Office of the New York Attorney General found that on average, only 46 percent of concert tickets go on sale to the public during the initial on sale, and the remaining 54 percent are held back for industry insiders, artists, fan clubs, and credit card pre-sales, and for top shows, the average number of tickets that go on sale to the public falls to 25 percent, and in the same report, an example of only 12 percent of tickets being offered to the public was cited;

WHEREAS, the ticket industry broadly utilizes drip-pricing wherein mandatory fees are not included in the ticket prices initially displayed to consumers and which can significantly increase the total cost of the ticket and inhibit price comparisons;

WHEREAS, bad actors deceptively use text, images, web designs, and internet addresses to mislead consumers into believing they are affiliated with the event, venue, or primary ticket seller when no such affiliation exists;

WHEREAS, the sale of live event tickets which are not in the actual or constructive possession of the seller, known as speculative tickets, can frustrate consumers who want to see their favorite artist or sports team; and

WHEREAS, the use of software bots to unfairly procure tickets has been illegal since the adoption of the U.S. BOTS Act of 2016 and in many individual states for years prior, but there has been little enforcement of existing laws to date, and primary ticket sellers rarely inform federal authorities of potential bot attempts.

THEREFORE, BE IT RESOLVED, that the National Black Caucus of State Legislators (NBCSL) urges legislators to consider pro-consumer ticketing legislation that empowers and protects fans by promoting a safe, transparent, and competitive marketplace;

BE IT FURTHER RESOLVED, legislation should prohibit the use of exclusive contracts and promote an open distribution model wherein multiple retailers can participate in the primary sale of tickets in a transparent marketplace free from collusion;

BE IT FURTHER RESOLVED, legislation should ensure that consumers have the right to transfer, resell, give away, or donate their tickets, at a market driven price, on the secondary resale marketplaces of their choice;

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BE IT FURTHER RESOLVED, legislation should protect consumers from retaliation, penalty, or discrimination, such as being denied admission to an event, for buying or reselling tickets on the platform of their choosing;

BE IT FURTHER RESOLVED, legislation should protect consumers from unnecessary anxiety and friction when purchasing tickets by requiring primary ticket sellers to immediately deliver electronic tickets upon purchase;

BE IT FURTHER RESOLVED, legislation should require primary ticket sellers to disclose critical information about the availability of tickets to consumers before an initial sale, including how many tickets are being made available for sale in the initial offering and whether more tickets will be made available at a later time, how those tickets will be priced, and the number of dates that will be available for sale for the event;

BE IT FURTHER RESOLVED, legislation should require ticket retailers to implement all-in pricing (AIP) to provide consumers with the total cost of a ticket from the first time a price is shown and anytime thereafter;

BE IT FURTHER RESOLVED, legislation should prohibit, hold accountable, and penalize bad actors that focus on using deceptive text, images, web designs, or internet addresses to deceive consumers into purchasing tickets they believe are affiliated with the event, venue, or primary ticket seller when no such affiliation exists;

BE IT FURTHER RESOLVED, legislation should regulate the sale of speculative tickets that are not in the actual or constructive possession of the seller to empower and protect fans during the purchasing process;

BE IT FURTHER RESOLVED, that the NBCSL believes we need to improve enforcement of existing statutes prohibiting the use of bots to unfairly procure tickets is of the utmost importance;

BE IT FURTHER RESOLVED, that the NBCSL encourages primary ticket sellers to report when their systems are breached by illegal bots to their state Attorney General, the Federal Trade Commission, or relevant state-specific enforcement entities for immediate action; and

BE IT FINALLY RESOLVED, that legislation should ensure that consumers are entitled to relief by establishing refund requirements for all ticket sellers—both primary and secondary—to ensure that consumers are guaranteed a refund if a live event is canceled and not rescheduled, the ticket sold does not grant admission, the ticket is not delivered, or if the ticket fails to conform to its description as advertised.

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Sponsored by: Rep. Harold Love (TN) and Sen. Gerald Neal (KY)

Policy Committee: Gaming, Sports, Tourism, and Entertainment (GSE)