

14 February 2020

Federal Treasury

To be uploaded via email: Consumerlaw@treasury.gov.au

Dear Treasury

RE: Ticket Resale Information Standard

The ticket resale market takes advantage of its customers. Sites like Viagogo misrepresent what they are selling and hide the actual price of tickets using complex web design to get people to spend more.

CHOICE appreciates the opportunity to comment on the *Competition and Consumer (Australian Consumer Law - Electronic Ticket Resale Service) Information Standard 2019* (the Information Standard), which sets out disclosure requirements for electronic ticket resale services.

The Information Standard will make the market fairer and easier to navigate for consumers. But, it could be stronger. CHOICE would like the Information Standard to extend to advertising and promotion of ticket resale sites. The Standard could also be strengthened by introducing price caps on ticket resale.

Ticketing Complaints

The ticket resale industry has a legitimate reason to exist – many people purchase tickets for events months in advance and there should be clear and transparent ways for them to on-sell tickets should their plans change. Other people want the convenience of purchasing resold tickets last minute, even at a premium.

However, CHOICE has received hundreds of complaints about the ticket resale industry. The top problems faced by consumers identified in these complaints are pricing, hidden fees and confusion between the primary and secondary markets. Other consumers complained about poor customer service, tickets never arriving and fraudulent tickets. We found that most people did not know they were

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purchasing their tickets on the secondary market, and were unaware that websites like Viagogo and TicketmasterResale were not selling them the original ticket.¹

The Information Standard requires a person who is supplying a relevant service to continuously display information on their electronic platforms in order to inform consumers that they are not dealing with an original ticket seller. The Information Standard will also require the disclosure of information about the price of a ticket in the primary market. Measures to improve transparency and to curb bad behaviour in online booking processes will help to clean up the secondary market and create a fairer marketplace for consumers that want to use ticket resale websites. Improved information disclosure has always been CHOICE's preferred regulatory approach. Giving consumers better information about prices and the nature of the ticket they are purchasing means fans will have the ability to make informed decisions about their purchases.

Display Requirements

CHOICE is concerned about the definition in Part 2, Clause 6, "Display requirements", which specifies that the Information Standard only applies to "an electronic platform whose sole or dominant purpose is to facilitate a secondary market in tickets for admission to events". This definition is problematic because any proposed legislation to address information disclosure should ensure that consumers are informed at every stage of purchase, not just on secondary platform websites.

CHOICE proposes the alteration of clause 6(b), or inclusion of an additional clause 6(1)(c), which specifies that the person providing the service must follow the display requirements on all of the following electronic platforms:

- on search engine advertisements;
- on Facebook or other social media event advertisements linking to the sale of tickets on the secondary market;
- on advertisements on marketplace websites like Ebay and Gumtree;
- clearly disclosed through the booking process; and

¹CHOICE (2017). "Sold Out: Consumers and the Ticket Resale Industry". August 2017. Available at: campaigns.choice.com.au/choice-ticketing/.

- disclosed in any further communications with the purchaser (for example, when the tickets are emailed or mailed to the customer).

Any legislation should consider the many online and physical channels in which a ticket reseller can market their product to consumers. When considering consumer detriment and the lack of information available to consumers in the resale market, it is important to consider the full cost paid by the consumer purchasing a resale ticket. Costs are not only confined the ticket itself but also include:

- transportation to and from the venue;
- flights or other transportation;
- venue parking; and
- accommodation.

Some consumers spend thousands of dollars on tickets, travel and accommodation – especially families purchasing multiple tickets. If these consumers are sold fraudulent tickets, are unable to gain entry to the event or do not receive tickets for the seats originally advertised during the purchase process, they experience considerable financial loss. Consumers need better information disclosure arrangements to understand and navigate the ticket resale market. Disclosure arrangements should be applied to a wide range of platforms, such as advertising, social media, search engines and to claims on resale websites. Ideally, potential disclosures should be tested with consumers to ensure they are effective.

Pricing

CHOICE is disappointed to note that the Information Standard contains no references to any form of price cap. CHOICE's ticketing campaign received many complaints from consumers about the mark-up on tickets in the secondary market. 75% of survey responses said one of their problems with the ticket resale industry was that they "paid more than the face value of the ticket" – it was the most common problem experienced by survey respondents, followed by complaints about hidden fees and charges.²

Some jurisdictions have instituted price caps on all events, or for 'major' events. South Africa, New Zealand and some states in Australia have price caps for major events (usually sporting events) where

² CHOICE (2017). "Sold Out: Consumers and the Ticket Resale Industry". August 2017. Available at: campaigns.choice.com.au/choice-ticketing/, p.7.

resold tickets cannot be resold for more than the face value of the original ticket. In 2018, New South Wales introduced legislation instituting a price cap for all events in the state.³

We would like to see an additional section in the Information Standard that addresses this issue, which will be of great benefit to consumers.

We understand that further consultation will be taking place in the week of 16th March 2020, and we will provide further feedback at that time as necessary.

Yours sincerely,

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³ *Fair Trading Amendment (Ticket Scalping and Gift Cards) Act 2017 No 52*
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