

The Culture, Media and Sport Committee

The Culture, Media and Sport Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Culture, Media and Sport and its associated public bodies.

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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 tickets 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 them 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.² 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,³ and we also heard that event tickets were sometimes available only to members of a band’s fan club.⁴

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 through 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,⁵ and that booking fees had first come in about 15 to 20 years ago, when the “credit card/debit card culture came in”.⁶ Those primary agents which gave evidence to this inquiry told us what percentages they charged, ranging between 9% and 12.5%.⁷ There were references in the evidence to some booking fees being “extortionate”,⁸ and seen as “exorbitant” by performers.⁹ 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.¹⁰ 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.¹¹

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.¹² 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.¹³ 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.¹⁴

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.¹⁵

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

¹⁰ Scarlet Mist Ev 119, Association of Secondary Ticket Agents Ev 55

¹¹ Mr Nick Blackburn, Managing Director of See, Mr Paul Williamson, European Sales Director of Ticketmaster, Q 65, Ticketmaster Ev 31

¹² Seatwave Ev 58

¹³ DCMS/DTI Ev 71

¹⁴ Jockey Club Racecourses Ev 94

¹⁵ The Secondary Market for Tickets (Music and Sport) Qualitative Research Report, Campbell Keegan Ltd, March 2007 pp 8, 21

in person, and allowed greater equality of access to tickets.¹⁶ 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.¹⁷ Ticket buyers can also secure far more information about the tickets they are buying when they use internet services.¹⁸ 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.¹⁹ Thousands of people can make purchases simultaneously, and whole arenas can sell out in a matter of minutes.²⁰ 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.²¹

10. At the same time, the rapid growth of the Internet has brought a dramatic rise in the amount of secondary selling.²² 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”.²³ 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.²⁴ However, witnesses told us that it had also allowed dubious traders to set up quickly, creating a new channel for fraud,²⁵ 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.²⁶ 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:²⁷ there have been suggestions that consumer-to-consumer sales may now account for the bulk of tickets being resold.²⁸ 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.²⁹ 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”.³⁰

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

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”.³⁹ 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.⁴⁰ 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.⁴¹

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.⁴² 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”.⁴³

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.⁴⁴

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, Ticketx 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.⁴⁵ 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.⁴⁶ 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.⁴⁷ 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.⁴⁸ 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.⁴⁹ 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).⁵⁰ 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.⁵¹ 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.⁵² Promoters told us that this pricing policy was important for the long term sustainability of the industry.⁵³

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;⁶³
- 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;⁶⁴
- 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;⁶⁵
- the secondary market invests in advertising which can be beneficial to the artists or events for which tickets are advertised;⁶⁶
- the public benefits from the extra taxation revenue from the profits generated in the secondary market;⁶⁷
- if there were no legitimate secondary operators, reselling would be driven underground and operated by criminals.⁶⁸

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;⁶⁹
- 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;⁷⁰
- selling on of tickets for free events diverts what has been given, or provided at public expense, away from those intended to benefit;⁷¹

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;⁸²

- 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;⁸³
- on-site touting makes the environment uncomfortable and unattractive for attendees;⁸⁴
- all forms of reselling adversely affect the image of the promoters (and, to overseas visitors, the image of the event, city and country);⁸⁵
- 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 fans⁸⁶
- 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.⁸⁷

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.⁸⁸ 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.⁸⁹ 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

⁸² Concert Promoters Association Ev 17, National Arenas Association Ev 21, Society of Ticket Agents and Retailers Ev 36, Mr Geoff Ellis, Chief Executive of DF Concerts Q 45, Mr Paul Williamson, European Sales Director, Ticketmaster, Q 59, Football Association Ev 3

⁸³ Concert Promoters Association Ev 17, 18, Mr Harvey Goldsmith Q 50, Society of Ticket Agents and Retailers (STAR) Ev 35, Mr Nick Blackburn, Managing Director, Seetickets Q 51, Mr Jonathan Brown, Secretary of STAR, Q 68, Office of Fair Trading Ev 68, DCMS/DTI Ev 74

⁸⁴ Jockey Club Racecourses Ev 93, All England Lawn Tennis Club Ev 8

⁸⁵ VisitBritain Ev 98, Royal Horticultural Society Ev 100, Race Course Association Ev 96, Rugby Football Union Ev 2, All England Lawn Tennis and Croquet Club Ev 8, Concert Promoters Association Ev 16, the Five Sports Ev 106, P3 Music Ev 118, Northamptonshire Cricket Club Ev 121

⁸⁶ Concert Promoters Association Ev 17, Ticketmaster Ev 29, Society of Ticket Agents and Retailers Ev 35, Mr Paul Vaughan Q 11

⁸⁷ See for instance August 2007 issue of RFU magazine *Touchline*

⁸⁸ Mr Harvey Goldsmith Q 31, Society of Ticket Agents and Retailers Ev 35, Rugby Football Union Ev 2

⁸⁹ Qq 41, 42, Concert Promoters Association Ev 19, All England Lawn Tennis Club Ev 8, 9 Ticketmaster Ev 29, Music Managers Forum Ev 103

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

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

⁹⁹ “Megastars play to empty seats after fans balk 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, 33 Ticketmaster 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.¹⁰⁶ 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,¹⁰⁷ 67% had not believed that selling tickets by online auction was acceptable,¹⁰⁸ and 70% had “voted for a complete ban on ticket touting”.¹⁰⁹ eBay told us that in 2006 it had commissioned a survey of 1000 people,¹¹⁰ 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.¹¹¹

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.¹¹² 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.¹¹³ 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.¹¹⁴ 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.¹¹⁵

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

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

¹¹⁰ Ev 45

¹¹¹ Ev 111

¹¹² Seatwave Ev 58, eBay Ev 43, ASTA Ev 55

¹¹³ eBay Ev 43, viagogo Ev 49–50, Association of Secondary Ticket Agents Ev 55, Seatwave Ev 59

¹¹⁴ eBay Ev 46, viagogo Ev 51–2, Seatwave Ev 59

¹¹⁵ 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.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”.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”.¹¹⁸ Some witnesses suggested that tickets were commodities analogous to consumer goods such as books or motor vehicles,¹¹⁹ or houses,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.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.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.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.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.

¹¹⁶ Advanced Ticket Systems Ev 89, Mr Nicholas Bitel Q 10

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

¹¹⁸ Ev 100

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

¹²⁰ Mr Dominic Titchener-Barrett on behalf of ASTA, Q 81

¹²¹ viagogo Ev 52

¹²² WeGotTickets Ev 102

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

¹²⁴ Mr Nick Bitel on behalf of the All England Lawn Tennis Club, Q10

34. Another distinguishing feature pressed by promoters was their non-commercial motivation for selling tickets below the clearing price.¹²⁵ The only response we heard to this point from the secondary market was that “people should be allowed to sell their own property”¹²⁶ and that once fans had spent “their hard-earned money” purchasing tickets, the tickets should be theirs to do with as they wish.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.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.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 2005.¹³⁰ 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.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

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

¹²⁶ eBay Ev 44

¹²⁷ viagogo Ev 51

¹²⁸ viagogo Ev 51

¹²⁹ Q 125, Q 128

¹³⁰ Q 128

¹³¹ Ev 74

the tickets for reselling,¹³² while Mr Rob Ballantine suggested that possibly 40% of concert tickets went through the hands of someone making a profit.¹³³

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 2006.¹³⁴ 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”,¹³⁵ 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.¹³⁶

38. Moreover, eBay is but one of a number of trading platforms. The Association of Secondary Ticket Agents has 58 members,¹³⁷ 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.¹³⁸

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.

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

