

NetChoice *Promoting Convenience, Choice, and Commerce on The Net*

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Rep. Jeff Weninger, Chair
House Commerce Committee
Arizona House of Representatives
Phoenix, Arizona

February 11, 2019

RE: Support for HB 2560, Relating to the Right to Resell Tickets

Dear Chairman Weninger:

NetChoice enthusiastically supports HB 2560 which would ensure that Arizona fans enjoy safe and easy ways to buy, sell, and give away their sports and concert tickets. This bill would help fans enjoy choice, convenience, and competition in the primary and secondary markets for event tickets.

These protections already exist for the fans of Colorado, Connecticut, New York, and Virginia. Passing HB 2560 will give Arizona fans similar protections.

HB 2560 aims to maintain consumer choice, convenience, and market competition:

- allows Arizona fans to freely give a ticket to a friend, client, or family member
- prevents denial of admission to anyone seeking to use a transferable ticket
- allows fans to sell tickets they are not going to use
- enables fans to choose among competing secondary markets to buy and sell tickets

The evolution of ticketing technologies and a growing concentration of market power is putting the squeeze on Arizona fans, and that's why HB 2560 is needed now.

3 of 4 Arizona citizens support laws like HB 2560 that give them choice of transferable tickets

Recent polling of Arizona citizens¹ found that:

- 76% support legislation like HB 2560 that guaranteed their right to give away, resell, or donate their tickets however they choose.
- 82% say the ticket purchaser should choose what to do with their tickets (resell them, give them away, donate them) rather than allowing the event organizer to prevent sharing or reselling tickets.
- 76% said that when they buy their ticket, it is their personal property and they have full control over what they can do with their ticket.

¹ Survey of 600 adults in Arizona conducted by Viga from Jan. 16 – Jan. 30, 2019

Without HB 2560, Ticketmaster can restrict fans to only get “Credit Card Entry” Tickets.

Ticketmaster’s “Credit Card Entry” tickets require a fan to present the credit card used to buy the ticket, plus a government-issued identification card for the person who bought the ticket. Venues using these restricted tickets could deny admission to fans whose credentials do not match the original ticket buyer, as seen in the attached restrictions displayed on Ticketmaster’s website.

Without HB 2560, citizens and businesses can’t even give away tickets to friends, family, or clients, because the purchaser’s name won’t match the ticketholder. Parents could be forced to accompany their teenagers to the event gate to show ID of the ticket *purchaser*, rather than allowing the teen to present their ticket to the usher.

While Ticketmaster sometimes gives the option to transfer a ticket, it requires a complex interaction with Ticketmaster and may require payment of yet another “convenience fee.”

With restricted tickets, fans who give their tickets to family or friends have to escort them to the venue doors. And a ticketholder who cannot attend cannot easily sell or even give away his tickets.

We’ve attached a page from Ticketmaster’s website that explains the inconvenient restrictions imposed on fans who must buy Credit Card Entry tickets.

A new federal law removes Ticketmaster’s main justification to impose restricted tickets.

Ticketmaster’s own website explains why it requires “Credit-Card Entry” restrictions – to stop software ‘bots’ used by unscrupulous brokers to grab hundreds of tickets in first minutes they go on sale:

Why is Credit Card Entry the only option for some events, or some sections?

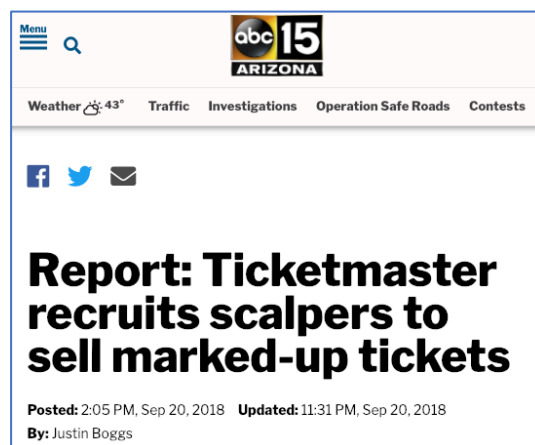
When Credit Card Entry is the only option it’s probably because the tickets are in high demand, and the artist, team, or venue wants true fans like you to get the seats you want at face value by eliminating unfair competition from professional scalpers. Without the ability to resell tickets at steep prices, scalpers have no reason to snatch them up when they go on sale using automated software, or “bots”.

But now, there’s now a new federal law making it illegal for brokers to circumvent ticket purchase limits on sites like Ticketmaster. In December 2016, Congress passed the Better Online Ticket Sales, or BOTS Act. The bill empowers the FTC and state Attorneys General to stop ticket scalpers from buying-up tickets by bypassing online controls that limit the number of tickets a person can buy.

Even Ticketmaster supported the BOTS Act, “Ticketmaster worked closely with legislators to develop the BOTS Act and we believe its passage is a critical step in raising awareness and regulating the unauthorized use of Bots.”²

With BOTS now a federal crime, there’s no justification for Ticketmaster to offer only restricted tickets.

Moreover, as Arizona’s abc15 reported: “Ticketmaster is profiting off of scalpers *who they allegedly work with to help game the system over consumers hoping to purchase tickets at face value.*”



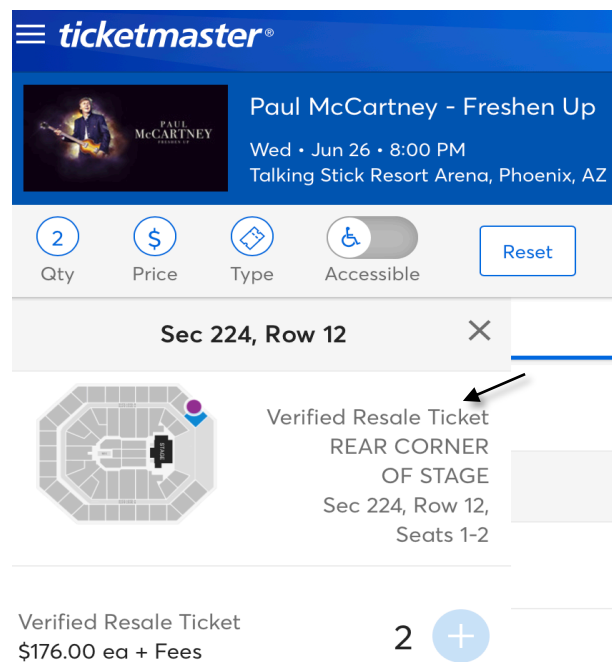
² 16-Dec-2016, “Obama signs law to combat ticket bots”, <http://ew.com/article/2016/12/16/obama-law-ticket-bots/>

“Ticketmaster is profiting off of scalpers who they allegedly work with to help game the system over consumers hoping to purchase tickets at face value.”³

Arizona can—and should—protect fan’s ability to transfer their tickets.

While private contracts are a private matter, governments step-in when contracts threaten property rights, constrain consumer choice, or force unfair agreements on consumers.

Event tickets are another situation ripe with concern for anti-competitive practices that harm not only consumers but also competitive businesses.



*Ticketmaster is already engaged in ticket resale market*⁴

Ticketmaster’s *primary* ticket sales platform has previously required customers to resell only through Ticketmaster’s own secondary market service. Failing to stick with Ticketmaster has resulted in voided tickets and threats to cancel patrons’ season tickets.⁵

Other states are protecting their fans from restricted tickets

Fans don’t suffer these restrictions when artists perform Colorado, Connecticut, New York, or Virginia. These states have laws with the similar protections as those in HB 2560.

³ Justin Boggs, *Report: Ticketmaster recruits scalpers to sell marked-up tickets*, Arizona abc15 (Sep 20, 2018)

⁴ Today the only way to buy tickets to Paul McCartney’s June 26 concert is to buy a resold ticket.

⁵ *Stubhub, Inc. v. Golden State Warriors, LLC*, No. C 15-1436 MMC, 2015 WL 6755594 (N.D. Cal. Nov. 5, 2015), *appeal dismissed* (July 22, 2016).

Recently Connecticut⁶ and Virginia⁷ enacted laws similar to those in New York⁸ and Colorado⁹. These legislators protected their state's fans' ability to freely transfer, resell, and give away their tickets.

Big-name acts regularly perform in these states, so there's simply no credibility to any claim that passing HB 2560 would discourage concerts from coming to Arizona.

Now is the Time to Enact HB 2560

Ticketmaster is aggressively expanding its Credit Card Entry ticket program. This will limit fan choice and could impose a new battery of "convenience fees" just to give a ticket to a friend.

Now is the time to pass HB 2560 and help Arizona consumers enjoy the choice and convenience of an open tickets marketplace.

Sincerely,

Carl Szabo

Vice President and General Counsel, NetChoice

NetChoice is a trade association of e-Commerce and online businesses. www.netchoice.org.

The views of NetChoice do not necessarily represent the views of its members.

⁶ CT Pub Act. 17-28 (2017). "No person shall employ an entertainment event ticketing sales system that fails to give the purchaser an option to purchase tickets that the purchaser may transfer to any party, at any price and at any time, without additional fees and without the consent of the person employing such ticketing system."

⁷ VA Stat. §§ 59.1-466.5-.7. "No person that issues tickets for admission to an event shall issue any such ticket solely through a delivery method that substantially prevents the purchaser of the ticket from lawfully reselling the ticket on the Internet ticketing platform of the ticket purchaser's choice... No person shall be discriminated against or denied admission to an event solely on the basis that the person resold a ticket, or purchased a resold ticket, on a specific Internet ticketing platform."

⁸ NY Arts & Cult Aff L § 25.30 "[I]t shall be prohibited for any operator of a place of entertainment, or operator's agent, to: (a) restrict by any means the resale of any tickets...(b) deny access to a ticket holder who possesses a resold subscription or season ticket to a performance based solely on the grounds that such ticket has been resold...(c) employ a paperless ticketing system unless the consumer is given an option to purchase paperless tickets that the consumer can transfer at any price, and at any time, and without additional fees, independent of the operator or operator's agent." (emphasis added).

⁹ Colorado Rev. Stat. § 6-1-718(3) "It is void as against public policy to apply a term or condition to the original sale to the purchaser to limit the terms or conditions of resale... A person or entity, including an operator, that regulates admission to an event shall not deny access to the event to a person in possession of a valid ticket to the event...based solely on the ground that such ticket was resold through a reseller that was not approved by the operator." (emphasis added).

From TicketMaster's Website

Q. How does it work?

A. Instead of receiving tickets ahead of the event, the credit card used to make the purchase will serve as the customer's ticket. To attend the show, the customer just presents the credit card used to purchase the ticket(s) and a valid, government issued ID (such as a driver's license, state ID or passport). The gate attendant will swipe the credit card and since all the seats are assigned to a single credit card, your entire party must enter the venue at the same time.

...

Q. What if I'm not going to the show, but I purchased the tickets?

A. If you bought the tickets for a friend or family member, you will need to take them to the entry gate and still present your credit card and government issued ID.

Q. What if I want to buy tickets for someone else in another state and can't get to the venue for the day of the event?

A. To ensure that the tickets remain in the hands of the fan, paperless ticketing requires that that cardholder who purchased the tickets presents their credit card at the door for admission. We would advise you to have the person, who will be attending the show, purchase the tickets themselves with their credit card and then you can reimburse them.

...

Q. What if I don't have or I lose my credit card before the event?

A. If you do not have a credit card with the same account number as the one used to make the purchase, you will need to go to the box office will call window on the day of the event for alternative handling of your situation. In this case, please be sure to bring a print out of your confirmation email or online order history and your government issued ID. The box office will verify that the name associated with the order matches the name on the government issued ID. If they do not match, entry will be denied. In all other cases, entry without your credit card will be at the discretion of each venue.

...

Q: What if I purchased the tickets, but my spouse is going to the event?

A: Your spouse must be an authorized user of the credit card, and must present the credit card along with their government issued ID to gain entry.¹⁰

I bought tickets for friends – can we get in separately?

If you bought for a group you gotta enter as a group, UNLESS Ticket Transfer is available for your event. To check, just click the order number under Order History in My Account and look for the Transfer Tickets button.¹¹

¹⁰ <http://www.ticketmaster.com/mileycyrus/faq.html> (emphasis added)

¹¹ <http://www.ticketmaster.com/creditcardentry> (emphasis added)

Arizona Fans Want to Control their Tickets

and Support HB 2560

I bought it, I own it



82% of those polled said it is their choice as to what they do with their tickets. Only 6% said event organizers can prevent transferring or reselling. 12% not sure or other.

Update AZ Law on Ticket Resale Prices

77% of those polled said AZ should update its laws to guarantee ticket holders' rights to give away, resell, or donate tickets if they choose. Only 9% opposed this.



77% of Arizona fans AGREE that tickets are the property of the ticket holder, not the original issuer



77% said the ticket holder who purchased the ticket should be free to determine if and how their ticket is resold. Only 9% said the original ticket issuer (e.g. sports team, or performing artist) should determine if and how the ticket is resold.