

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

Carl M. Szabo, Vice President and General Counsel
1401 K St NW, Suite 502
Washington, DC 20005
202-420-7485
www.netchoice.org



Rep. James A. Dunnigan, Chair
House Business and Labor Committee
Utah House of Representatives
350 North State, Suite 350
PO Box 145030
Salt Lake City, Utah 84114

February 25, 2018

RE: Support for HB 457, Relating to the Right to Resell Tickets

Dear Chairman Dunnigan:

NetChoice enthusiastically supports HB 457, which would ensure that Utah 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.

HB 457 aims to maintain consumer choice, convenience, and market competition:

- allows Utah 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 Utah fans, and that's why HB 457 is needed now.

8 of 10 Utah citizens support laws like HB 457 that give them choice of transferable tickets

Polling of Utah citizen found that:

- 79% support legislation like HB 457 that guaranteed their right to give away, resell, or donate their tickets however they choose.
- 88% 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.
- 71% 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.

Without HB 457, 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 457, 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.

Fans don't suffer these restrictions when artists perform in New York or Colorado. These states have laws with the same protections as HB 457, so New York¹ and Colorado² fans can freely transfer, resell, and give away their tickets. Big-name acts regularly perform in states with laws like HB 457, so there's simply no credibility to any claim that this law would stop concerts from coming to Utah.

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."³

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

Utah can—and should—stop the anti-consumer practice of restricted 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.

¹ 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).

² 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).

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

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

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.⁴

Now is the Time to Enact HB 457.

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 457 and help Utah 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.

⁴ 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).

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.⁵

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

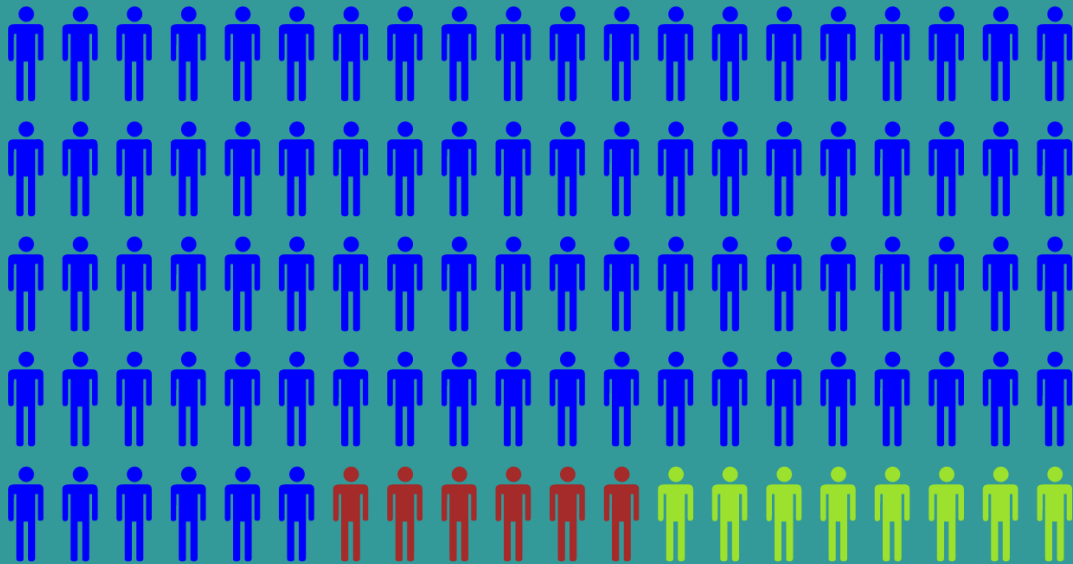
If you bought for a group you gotta enter as a group, UNLESS Ticket Transfer is available for your event. To check, just click the order number under Order History in My Account and look for the Transfer Tickets button.⁶

⁵ <http://www.ticketmaster.com/mileycyrus/faq.html> (emphasis added)

⁶ <http://www.ticketmaster.com/creditcardentry> (emphasis added)

Utah Voters Want to Control their Tickets

9 of 10 Utah residents said it is their choice as to what they do with their tickets



Polling of Utahans found that 88% support free transferability of tickets

Supporting legislation like HB 457



79% said they support legislation guaranteeing their right to transfer their tickets. Only 11% opposed. 9% unsure.

Don't turn away ticket holders

76% said venues should not be allowed to turn away ticket holders using a resold ticket.

Only 12% said the venue can bar entry.

12% were unsure.

