

## The NetChoice Coalition

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

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June 1, 2011

Honorable Paul Stam  
House Judiciary Subcommittee B  
General Assembly of North Carolina  
Legislative Building  
16 West Jones Street  
Raleigh, NC 27601

**RE: In Support of HB308, An Act to Reform the Process of Ticketing, Selling, and Reselling Tickets**

Dear Chairman Stam:

The NetChoice coalition writes to support HB 308, which would ensure that North Carolina fans and consumers continue to enjoy a safe and easy way to buy, sell, and gift sports and concert tickets. This bill would help ensure fans' and consumers' choice, convenience, and competition to the growing secondary market for event tickets. HB 308 can help ensure that North Carolina fans and consumers enjoy similar protections as New York<sup>1</sup> and Minnesota.<sup>2</sup>

NetChoice is a coalition of trade associations and e-commerce companies, plus thousands of small businesses that rely on e-commerce. We work to promote the integrity and availability of the global Internet and are significantly engaged in the states, in Washington, and in international Internet governance organizations.

NetChoice has a long history of breaking down regulatory barriers, beginning with helping travel agents, contact lens suppliers, and real estate brokers whose online innovations clashed with legacy regulations that protect traditional business models. Today, NetChoice is concerned with industry practices that have created significant new barriers to e-commerce in the primary and secondary markets for event tickets. To further this goal we recently filed an amicus brief in the suit of *City of Chicago v. StubHub*<sup>3</sup> to ensure that Chicago fans have full, unfettered, access to all their favorite sports and entertainment venues.

### ***HB 308 Maintains Fans' Consumer Choice, Convenience, and Market Competition***

HB 308 aims to maintain consumer choice, convenience, and market competition by:

- saving North Carolina residents from another TicketMaster "convenience" fee;
- without HB 308 TicketMaster could require venues only accept paperless-tickets; and
- protecting consumers' ability to freely buy and resell their tickets.

In essence, HB 308 maintains the open ticket market consumers have come to enjoy and expect. An open tickets market is an egalitarian force for consumers of sporting events, theater and concerts. On Internet ticket exchange websites fans and consumers can sell their tickets for some events sell for more than face value, while other fans can sometimes pay less than face

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<sup>1</sup> N.Y. Code Title G § 25.29.

<sup>2</sup> Minn. S.B. 425.

<sup>3</sup> *City of Chicago v. StubHub*, No. 11127 (Sup. Ct. of IL. Feb. 15, 2011).

value for other tickets. Overall, many if not most ticket prices sell below the total purchase cost, which includes the price of the ticket plus those "convenience" fees we all hate to pay.

### ***Preventing North Carolina Residents from Another TicketMaster "Convenience" Fee***

TicketMaster seeks to control the transfer of sports and concert tickets. TicketMaster's paperless-tickets bind a ticket to the person who bought it and only allows transfer after the buyer pays TicketMaster yet another "convenience fee."

Presently, TicketMaster maintains a dominating share of the ticket selling market. TicketMaster is the primary seller for 27 of 30 of NHL teams, and 28 of 30 NBA teams. TicketMaster also has dominance in 31 of the 41 regional areas, of the larger arenas, and exclusive contracts that cover 75% of the tickets sold.<sup>4</sup> They sell tickets to the Charlotte Motor Speedway and the Greensboro Coliseum Complex.

This market dominance allows TicketMaster to impose convenience fees when North Carolina residents buy tickets to see their favorite sports teams or attend their most sought after concerts. And a lack of competition means that most fans and consumers have no place else to go for a better price. Now, TicketMaster seeks to impose a new convenience fee on residents when they gift, transfer, or sell their paperless-tickets to another.

The new TicketMaster convenience fee demands legislation such as HB 308. This rapidly changing ticket buying and selling technology, along with an increasing concentrating of market power, creates an unhealthy mixture. To provide a strong regulatory environment for consumer choice, convenience, and market competition you should pass HB 308.

### ***Without HB 308, TicketMaster Could Require Venues Accept Only Paperless-Tickets***

TicketMaster's paperless-tickets require the presentation of the credit card used to purchase the ticket and the government-issued identification of the person who bought the ticket. So, if venues must use these paperless-tickets, venues could deny admission to someone who attempts to use a paper ticket or whose credentials do not match the ticket's. This means that companies and law firms who buy blocks of tickets for taking clients to events and giving out as gifts could not do so since the purchaser's name and the recipient's do not match. And this means that tickets could not be resold without paying yet another "convenience" fee to TicketMaster.

Instead, HB 308 ensures the availability of freely transferable paper tickets to consumers. So, businesses can easily gift to clients and friends their concert and sports tickets. In addition, HB 308 prohibits a venue from denying entry to someone just because they bought a resold ticket. So fans and consumers can freely sell and buy tickets as needed. HB 308 maintains consumer choice and convenience.

### ***Protecting Consumers' Ability To Freely Buy and Resell Their Tickets***

HB 308 ensures that fans can freely sell the tickets they are not going to use and lets fans freely buy tickets to games and events they want to attend. HB 308 ensures that fans can choose among competing secondary markets when they decide to buy or sell a ticket. That kind of competition, among exchanges that comply with the consumer protections in HB 308, is in the best interests of North Carolina fans and consumers.

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<sup>4</sup> *Ticketmaster Corp. v. Tickets*, 2003 U.S. Dist. LEXIS 6483 (C.D. Cal., Mar. 6, 2003).

***Now is the Time to Pass HB 308***

TicketMaster will soon institute its mandatory paperless-ticket program. This will soon limit fans and consumers choice and impose a new set of convenience fees on fans and consumers.

Now is the time to pass HB 308 and join other states like New York and Minnesota. Please add your support for HB 308 to that of North Carolina fans and consumers. North Carolina's consumers deserve to continue enjoying the choice and convenience of an open marketplace and not be subject to yet another TicketMaster convenience fee.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve DelBianco", with a long horizontal flourish extending to the right.

Steve DelBianco  
Executive Director, NetChoice  
cc: Members of the Committee

*NetChoice is a coalition of trade associations and e-Commerce businesses who share the goal of promoting convenience, choice and commerce on the Net. More information about NetChoice can be found at [www.netchoice.org](http://www.netchoice.org)*