

NetChoice *Promoting Convenience, Choice, and Commerce on The Net*
Carl M. Szabo, Vice President & General Counsel
1401 K St NW, Suite 502
Washington, DC 20005
202-420-7485
www.netchoice.org



Sen. Kelly Hancock, Chair
Committee on Business & Commerce
Texas State Senate

April 4, 2019

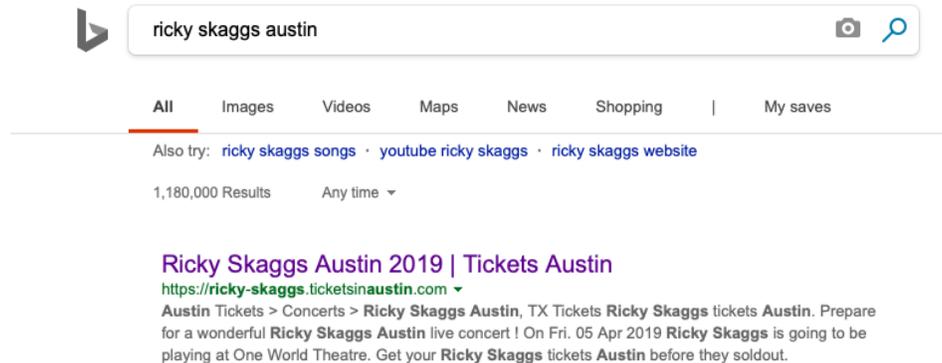
RE: Support for SB 2409, relating to the Internet domain name used to sells tickets to events

Dear Chair Hancock and members of the committee:

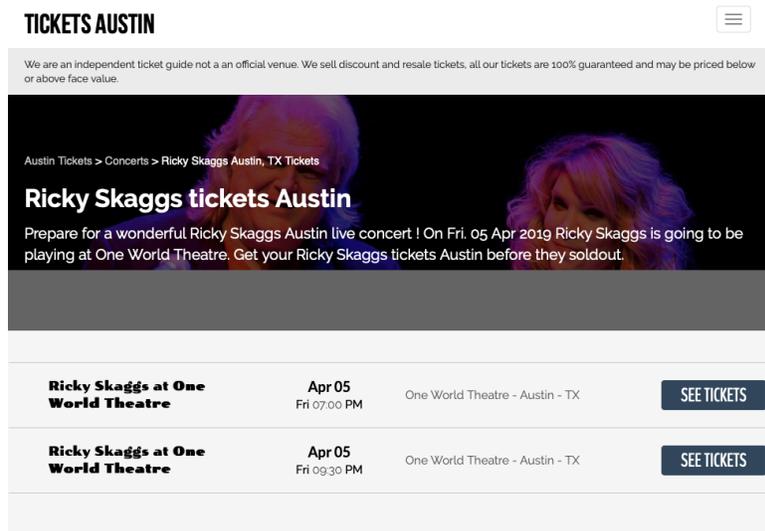
We ask that you support SB 2409 as it will help protect Texas residents from deceptive and misleading concert and sports ticket website domains and enjoyed overwhelming support from the legislature.

Fans across Texas regularly search online for tickets to their favorite concerts and shows. Unfortunately, many fans are misled by deceptive domain names in search results, which are designed to trick fans into thinking they are seeing unsold seats offered by the venue.

Take for example, a fan looking to see Ricky Skaggs concert in Austin this week. When searching on Bing for “**ricky skaggs austin**”, the very first non-paid search result uses “Ricky Skaggs” in its subdomain, which is designed to deceive a fan into thinking it is the official website showing unsold seats:



Despite the domain name, ricky-skaggs.ticketsinaustin.com, this site has *no affiliation* with Ricky Skaggs and would be a violation of SB 2409. And any Austin fan deceived by that domain name would be further deceived upon seeing the website behind that link:



When an Austin fan clicks to see tickets, they see only a handful of available seats, at prices of \$289 for the 7th row in the orchestra section.

TICKETS AUSTIN

We are an independent ticket guide not an official venue. We sell discount and resale tickets, all our tickets are 100% guaranteed and may be priced below or above face value.

Austin Tickets > Concerts > Ricky Skaggs Austin Tickets > Ricky Skaggs April 05 2019 Tickets

FRI
Apr 5
9:30PM

RICKY SKAGGS

One World Theatre, Austin, TX

Seatics map

Select by Venue Level ▾

All

<input type="checkbox"/> Orchestra Left Row K 1-6 Tickets	\$121/ea	Buy
<input type="checkbox"/> Orchestra Right Row L 2 or 4 Tickets	\$153/ea	Buy
<input type="checkbox"/> Orchestra Left Row L 1-4 or 6 Tickets	\$153/ea	Buy
<input type="checkbox"/> Orchestra Left Row L 2 Tickets	\$166/ea	Buy
<input type="checkbox"/> Orchestra Right Row K 1-10 Tickets	\$237/ea	Buy
<input type="checkbox"/> Orchestra Left Row K 1-10 Tickets	\$237/ea	Buy
<input type="checkbox"/> Orchestra Right Row G 1-10 Tickets	\$289/ea	Buy
<input type="checkbox"/> Orchestra Left Row G 1-10 Tickets	\$289/ea	Buy

Other Offers

Meanwhile, there were **over 100 unsold seats** available for that show, on the official website for the One World theater. **The venue offers 3rd row orchestra seats at \$65**, as seen below:

ORCHESTRA

SEATMAP KEY
Exit/Entry

POWERED BY SABO

SELECTED TICKETS: (1)

Clear All Seats

Your View	Your Seat	Type/Price
Section ORCH - L, Row C, Seat 11 View on Map		Reserved - NO DINNER \$65.00

Subtotal: \$65.00

This deceptive **domain ticket website is charging 4 and a half times** the face value of better seats in the same section that were readily available.

These deceptive domains add no value for consumers when unsold seats are still available at the venue/promoter website. And when a show is actually sold-out, fans can turn to trusted secondary market websites where they can see a larger selection of resale seats.

As you can see, there is little to alert Texas fans that this site has no affiliation with the artist, tour, or venue. These deceptive sites may have fine-print disclosures about their lack of affiliation with the artist or venue, but such disclosures are rarely noticeable to fans.

SB 2409 would make this example an “unfair or deceptive trade practice” and subject the owner to enforcement and penalty provisions.

Deceptive domain names are luring Texas fans into over-paying for a small selection of resale seats offered by professional ticket brokers. Those fans are not aware that unsold are actually available at the venue website. The Better Business Bureau has logged hundreds of complaints against these tactics.

A good way to stop this deception is to prohibit misuse of artist or venue names in domain names. Other states have taken action to stop these deceptive domains. Maryland and New Jersey recently enacted laws criminalizing these deceptive domain names. The Connecticut Attorney General and the Federal Trade Commission settled with two notorious deceptive domain operators, resulting in a permanent injunction and \$1.4 million in fines.¹

Also, the approach taken by SB 2409 is on solid legal grounds. The US Supreme Court made clear that state can enact laws curbing this type of misleading commercial speech.²

In the case of this bill it goes directly at commercial speech that is misleading.

Texas should join other states in stopping this deception. We ask that you support SB 2409 and empower your Attorney General with the tools to stop these bad actors and protect Texas fans from this deception.

Sincerely,

Carl M. Szabo

Vice President & General Counsel, NetChoice

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

¹ Federal Trade Commission, *TicketNetwork and Marketing Partners Ryadd and Secure Box Office Settle Charges of Deceptively Marketing Resale Tickets* (July 24, 2014)

² See, *Central Hudson Gas & Electric Corp. v. Public Service Commission* 447 U.S. 557 (1980). The US Supreme Court in an 8–1 decision, created the four-step test for when commercial speech can win on a first amendment claim: (1) the speech has to concern a lawful activity and *cannot be misleading*; (2) the asserted governmental interest is substantial, (3) the regulation “directly advance[s] the governmental interest asserted,” and (4) the regulation is “no more extensive than is necessary to serve the interest.”