

Texas HB 4084

OPPOSITION

May 15, 2023

Texas State Legislature
Senate Business & Commerce Committee

NetChoice respectfully requests you **oppose** HB 4084.

The primary ticketing market is broken. Unfortunately, HB 4084 exacerbates the issue without addressing the real problem, Ticketmaster-Live Nation's stranglehold on the industry.

Creating confusion among Texas fans.

While all-in pricing is a good idea, it must be done on a nationwide scale to avoid confusion.

Consider for example a fan in Texas is buying a ticket for Shania Twain in the Woodlands. Under HB 4084, they would see much higher prices for the Woodlands show than the same show being performed in New Orleans. This is because HB 4084 mandates showing these higher prices.

It makes it seem like a better bargain for fans to travel out of Texas for concerts and makes it less likely that fans will travel to Texas for a show.

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This makes it harder for fans to understand when fees are included and when they aren't. At the same time it will make it harder for Texas venues to get fans to show up for events.

A better approach on addressing the problems in the ticketing market—ensuring ticket transferability

Connecticut,¹ New York,² Colorado,³ Utah,⁴ and Virginia⁵ enacted similar laws to guarantee the rights of fans to transfer their tickets. These legislators protected their state’s fans’ ability to freely transfer, resell, and give away their tickets.

Conversely, in Texas where such rights do not exist for fans, Ticketmaster can deny citizens and businesses the ability to give away tickets to friends, family, or clients, because the purchaser’s name won’t match the ticketholder’s name. Rather than move forward with HB 4084 the state should instead ensure that consumers are empowered in the ticket purchase transaction by allowing them the choice to purchase tickets without transferability restrictions at the original point of sale. Such an action puts consumers in control, not ticket issuers.

Now is the Time to Enact Ticket Transferability Protections

The primary event ticket marketplace is broken.

Ticketmaster controls more than 70% of the market for ticketing and live events. Ticketmaster controls more than 80% of live concerts.⁶ This is evidence of monopolistic market power.

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- Ticketmaster **controls more than 80% of live concerts**

The “service fees” that Ticketmaster charges continue to increase while quality falls. Evidence of consumer harm.

¹ 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.”

² 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).

³ 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).

⁴ UT Code §§ 13-54-102 (2019). “(1) Except as provided in Subsection (2), each ticket issued for an event shall be a transferrable ticket.”

⁵ 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.”

⁶ Florian Ederer, *Did Ticketmaster’s Market Dominance Fuel the Chaos for Swifties?*, Yale Insights (Nov. 23, 2022).

The hearings before the US Senate Judiciary Committee showed how Ticketmaster and its parent company Live Nation used their market power to force venues to only sell through Ticketmaster.⁷ This is evidence of abuse of market power.

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Because it creates more problems in the ticketing space, we ask that you **not advance HB 4084**. Instead, Texas should follow Utah, Virginia, and many other states to guarantee Texas fans the right to giveaway, share, or resell their tickets how they want.

As ever, we offer ourselves as a resource to discuss any of these issues with you in further detail, and we appreciate the opportunity to provide the committee with our thoughts on this important matter.

Sincerely,

Carl Szabo
Vice President & General Counsel
NetChoice

NetChoice is a trade association that works to make the internet safe for free enterprise and free expression.

⁷ See, That's the Ticket: Promoting Competition and Protecting Consumers in Live Entertainment, US Sen. Jud. Cmtee. (Jan. 24, 2023)