

Maryland SB 539

OPPOSITION

February 12, 2023

Maryland State Senate
Senate Finance Committee

NetChoice respectfully requests you **oppose** SB 539.

The primary ticketing market is broken. Unfortunately, SB 539 exacerbates the issue without addressing the real problem, Ticketmaster-Live Nation's stranglehold on the industry.

Harms the Privacy of Maryland Residents

SB 539 will mandate the collection and more importantly disclosure of the personal information of Maryland residents in ways that no fan could expect.

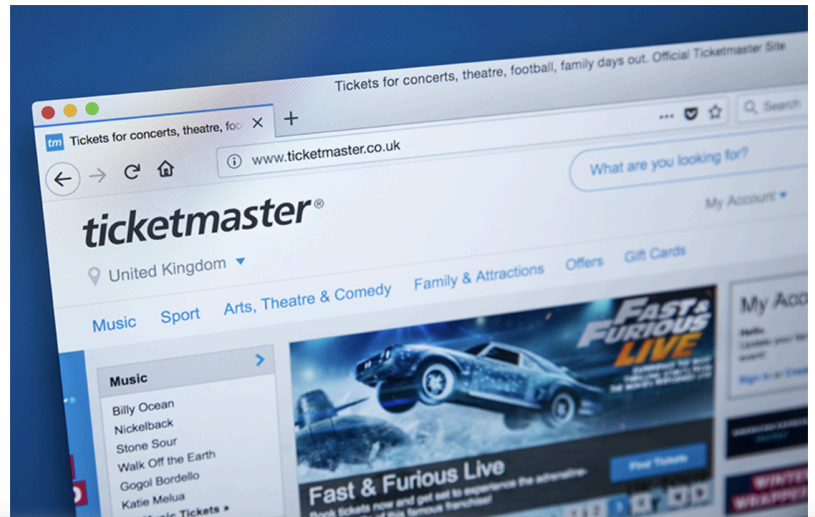
SB 539 requires turning over the personal information of Maryland residents buying tickets for resale to the venue. Many Maryland residents want to protect their privacy online and only want businesses that *they* engage with to have their personal information. But under SB 539, Maryland residents will suddenly find their personal information being disclosed to venues with whom they never engaged.

Not only would this mean more exposure of their personal information, but also less awareness of when that data is lost. Consider the massive data breach by TicketMaster. If a Maryland resident never engaged with TicketMaster, they would pay this notification no mind.

But under SB 539, suddenly thousands of Maryland residents would have their personal data shared with corporations like TicketMaster, without their expectation, and then lost in massive data breaches - leading those residents to not be aware they need to take the necessary steps to protect themselves.

Ticketmaster hacked, payment information of several customers may have been compromised

By CISOMAG - June 28, 2018



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.

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.”

Conversely, in Maryland 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 SB 539 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.

One area of possible amendment would be to amend the following section to make clear that any restrictions on transfer of tickets by the ticket issuer are void. To that end we suggest the following amendment:

~~SUBJECT TO REASONABLE RESTRICTIONS IMPOSED BY A TICKET ISSUER,~~ A PERSON MAY NOT PROHIBIT OR RESTRICT THE TRANSFER OR RESALE OF A TICKET THAT WAS MADE AVAILABLE TO THE GENERAL PUBLIC FOR PURCHASE.

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

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 SB 539**. Instead, Maryland should follow Connecticut, New York, Colorado, Virginia, and many other states to guarantee Maryland fans the right to giveaway, share, or resell their tickets how they want.

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

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

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.