

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

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Sen. Ryan Silvey, Chair
Senate Committee on Commerce, Consumer Protection, Energy & the Environment
201 W Capitol Ave, Room 331A
Jefferson City, Missouri 65101

March 29, 2016

RE: Support for SB 751 with Amendments to Guarantee Consumer Choice

Dear Chairman Silvey:

NetChoice supports the aims of the Committee substitute presented on SB 751. The language seeks to provide consumers specific protections – specifically a requirement that event ticket vendors provide consumers notice and obtain acknowledgement when tickets are sold with credit card entry restrictions.

While this legislation is a positive first step, NetChoice does not believe this legislation goes far enough. SB 751 should also ensure that Missouri fans can choose tickets that are transferable – and not limited to credit card entry or other electronic delivery restrictions.

NetChoice would strongly encourage the Committee to amend SB 751 to include language that ensures consumers can freely transfer the tickets they have purchased, such as:

2(1)(b) The option for consumers to purchase an event ticket that is transferable at any price, at any time, and without additional fees through the event ticket vendor of the consumer's choice;

(3) Not issue tickets in an electronic form that is not readily transferable at any price, at any time, and without additional fees through the event ticket vendor of the consumer's choice;

With this additional language, SB 751 helps fans enjoy choice, convenience, and competition in the primary and secondary markets for event tickets. Without this key provisions, Missouri fans get no choice as to where and how they sell or give away their tickets. And without this provision it allows businesses like TicketMaster to restrict competition and flex their monopolistic power.

Amended SB 751 aims to maintain consumer choice, convenience, and market competition by:

- Making it illegal to use technology to circumvent ticket websites access and security measures;
- Notifying consumers and obtaining express consent before they buy a restricted ticket; and
- Ensuring Missouri fans the right to buy a freely transferable ticket at no additional cost.

Further amendments to SB 751 can help ensure that Missouri fans enjoy protections similar to the ones enacted in New York.¹ In essence, these additional amendments would maintain the open ticket market consumers have come to enjoy and expect.

¹ N.Y. Code Title G § 25.29.

Amended SB 751 also preserves consumer choice among competing secondary markets to buy and sell tickets. Competition among exchanges that comply with the consumer protections in amended SB 751 is in the best interests of Missouri fans.

Protecting Competition and Innovation in Ticket Resale

TicketMaster seeks to control the transfer of sports and concert tickets. Their “Credit Card Entry” service binds a ticket to the person who bought it and typically allows transfer only through TicketMaster’s system.

TicketMaster’s “Credit Card Entry” tickets require fans to present the credit card used to purchase the ticket, plus a government-issued identification card for the person who bought the ticket. Venues using these tickets could deny admission to fans whose credentials do not match the original ticket buyer. Worse, TicketMaster doesn’t always give the option to transfer their ticket. (see additional “Credit Card Entry” restriction information in the attached exhibit)

With these restrictions, companies and clubs might not be able to give tickets to members or clients, since the purchaser’s name wouldn’t match the ticketholder. Missouri fans might not be able to do something as simple as handing over a purchased ticket to a friend or family member. And parents would be forced to accompany their teenagers to the event to show identification of the ticket purchaser, rather than allowing the teen to show their ticket to the usher.

TicketMaster’s credit card entry restrictions were used to restrict the ability of Missouri fans from transferring their Bruce Springsteen tickets.

The screenshot shows the TicketMaster website interface for the event "Bruce Springsteen and the E Street Band: The River Tour". The page includes a search bar at the top, navigation links, and a "FIND SEATS FOR ME" section with filters for quantity (2), ticket type (Reserved Seating), and price/section (Best Available). A seating chart is visible at the bottom, and a red speech bubble highlights the text "Ticket buyers may not give away or sell their tickets".

ticketmaster® Search Artist, Team, or Venue

Washington, DC and Maryland

verifiedtickets Carl+Szabo's Account Help

All Tickets > Music Tickets > Rock & Pop > Bruce Springsteen and the E Street Band > Mar 6, 2016 07:30 PM

Bruce Springsteen and the E Street Band: The River Tour
★★★★★ (6414)
Chaifetz Arena, St. Louis, MO
Sun, Mar 6, 2016 07:30 PM
Details: Bruce Springsteen and the E Street Band, Bruce Springsteen
Please Note: Some locations are CREDIT CARD ENTRY only; RESTRICTIONS APPLY: CREDIT CARD USED FOR PYMT AND ID REQ'D TO ENTER; TICKET IS NON-TRANSFERABLE. ...more
Event Info | Onsale Times | Price Range | Ticket Limits

Email Recommend 522 Tweet

FIND SEATS FOR ME

QTY: 2 | TICKET TYPE: Reserved Seating | PRICE & SECTION: Best Available | Find Tickets

0 | General Admission Floor ... | US \$150.00

REQUEST ACCESSIBLE TICKETS

Additional fees are applied at Checkout. Per order delivery and/or processing fees are added when applicable.

THE ARTIST HAS CHOSEN CREDIT CARD ENTRY

TicketMaster maintains a dominant share of the primary ticket market, and is the primary seller for the Chiefs and the Blues. TicketMaster also has dominance in 31 of 41 regional areas, of larger arenas, and exclusive contracts that cover 75% of tickets sold.²

Their market dominance allows TicketMaster to impose higher convenience fees when Missouri residents buy tickets to see their favorite sports teams or concerts. And a lack of competition means that most fans can't look elsewhere for better prices.

Now, TicketMaster seeks to impose restrictions and control over fans when they gift or sell their paperless tickets. The evolution of ticket exchange technologies and a growing concentration of market power will squeeze Missouri fans, which is why amended SB 751 is needed to preserve choice, convenience, and market competition.

SB 751 requires sellers to notify and get the buyer's consent to accept restricted tickets

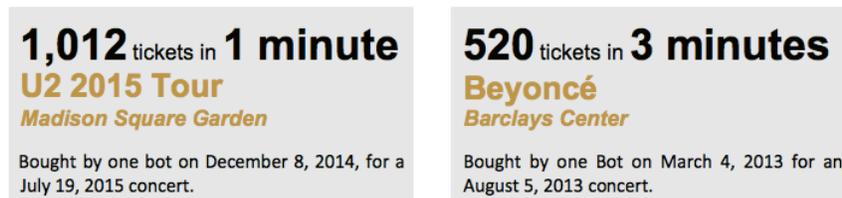
The notice to fans about the restricted ticket they are buying is often obscure, confusing, or hard to read (see above screenshot from the Bruce Springsteen concert in St. Louis on March 6, 2016).

SB 751 would require the seller to provide clear notice of these restrictions and obtain the fan's consent. Moreover, this notice and consent should be presented at the beginning of the purchase "shot clock" so that fans can truly understand how their ticket could be restricted.

However, without the option to obtain freely transferable tickets, this notice becomes a contract of adhesion where Missouri residents must surrender their right to resell if they want to get a ticket.

Making it illegal to use "Bots" for Ticket Scalping

States across the country have outlawed the use of computer software "bots" to circumvent ticket sellers' security or ticket control protections. The New York AG found that these bots allowed individuals to grab hundreds of tickets in the first few seconds after tickets go on sale, as seen below.



By making illegal these circumvention techniques, amended SB 751 helps ensure that nobody can use "bots" to grab hundreds of tickets the minute they go on sale.

Now is the time to pass SB 751, and we request that the Committee consider amendments to help Missouri consumers enjoy the choice and convenience of an open tickets marketplace.

Sincerely,

Steve DelBianco
Executive Director, NetChoice

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

² *Ticketmaster Corp. v. Tickets*, 2003 U.S. Dist. LEXIS 6483 (C.D. Cal., Mar. 6, 2003).

From TicketMaster's Website

Q. Why can't Retail Outlets sell Paperless Tickets?

A. Paperless ticketing requires the creation of a ticket account on the Ticketmaster system that includes the customer's name, phone number and credit card information. Currently Ticketmaster Retail Outlets sell "over the counter" tickets only and do not create accounts or collect consumer information.

...

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.³

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.⁴

³ <http://www.ticketmaster.com/mileycyrus/faq.html> (emphasis added)

⁴ <http://www.ticketmaster.com/creditcardentry> (emphasis added)