

NetChoice *Promoting Convenience, Choice, and Commerce on The Net*
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Governor Phil Murphy
Office of Governor
Trenton, NJ 08625

January 7, 2019

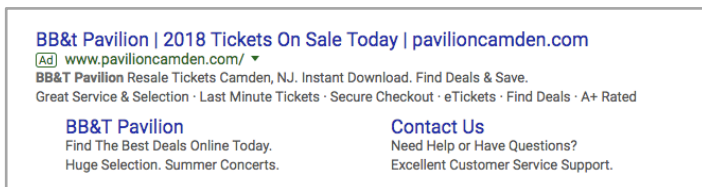
RE: Support for S 2665, Ticket website domain names

Dear Governor Murphy:

We ask that you sign S 2665 as it will help protect New Jersey residents from deceptive and misleading concert and sports ticket website domains and enjoyed overwhelming support from the legislature.

Fans across New Jersey 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 Foo Fighters in concert this weekend at the BB&T Pavilion in Camden. That fan enters “**BB&T Pavillion**” in her search engine, and here’s the top result she sees:



Despite the domain name, **PavilionCamden.com**, this site has *no affiliation* with BB&T Pavilion. In fact, this website is run by a ticket resale outfit that shows only tickets offered by brokers – at significant markups over regular seats still available at BB&T Pavilion.

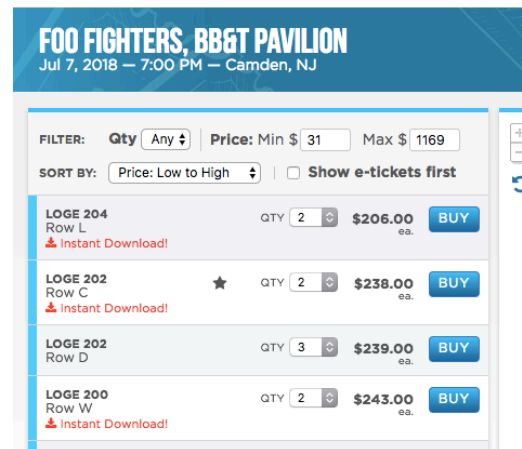
The domain name PavilionCamden.com makes it appear as if they are the official site for BB&T Pavilion with 2 seats not on the grass starting at \$206 (see image at right).



But over at BB&T’s official ticket website, **there are still dozens of unsold seats in Section 200, at the face value of \$126.**

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.

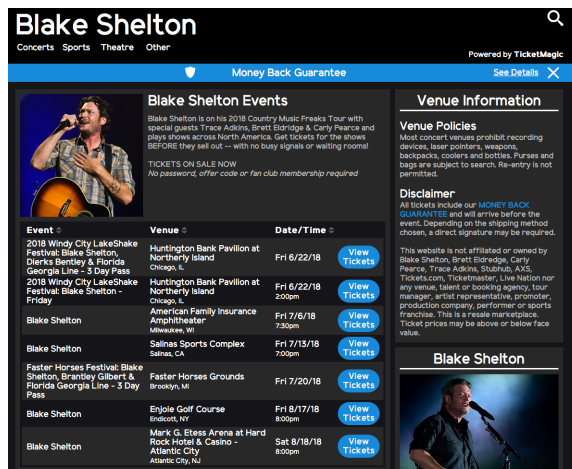
As you can see, there is little to alert New Jersey fans that this site has no affiliation with the artist, tour, or venue. These deceptive sites may have fine-print disclosures about their lack of affiliation with the artist or venue, but such disclosures are rarely noticeable to fans.



S 2665 would make this example an “unfair or deceptive trade practice” and subject the owner to enforcement and penalty provisions.

Another example of deceptive domain names that would be prohibited by S 2665 is BlakeSheltonShows.com, a website offering tickets for the Blake Shelton concert at Mark G. Etess Arena at Hard Rock Hotel & Casino - Atlantic City on August 18:

In fact, this tickets website is not for Blake Shelton or his tour, but is run by TicketMagic, a ticket-reseller with an “F” rating from the Better Business Bureau.¹



Deceptive domain names like **PavilionCamden.com** and **BlakeSheltonShows.com** are luring New Jersey 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 recently enacted a law 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.²

Also, the approach taken by S 2665 is on solid legal grounds. The US Supreme Court made clear that state can enact laws curbing this type of misleading commercial speech.³

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

New Jersey should join other states in stopping this deception. We ask that you sign into law S 2665 and empower your Attorney General with the tools to stop these bad actors and protect New Jersey 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 In addition, according to the Better Business Bureau, TicketMagic has 21 complaints filed against it. In the Bureau’s latest investigation, they “were unable to locate the identified addresses and mail sent was returned as ‘undeliverable’ or ‘address unknown’.” See Better Business Bureau available at <https://www.bbb.org/connecticut/business-reviews/event-ticket-sales/ticketmagic-com-inc-in-east-haven-ct-87124953>

² Federal Trade Commission, *TicketNetwork and Marketing Partners Ryadd and Secure Box Office Settle Charges of Deceptively Marketing Resale Tickets* (July 24, 2014)

³ 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.”