

The NetChoice Coalition

Promoting Convenience, Choice, and Commerce on The Net

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March 27, 2012

Senator Jack Johnson

Chairman, Senate Commerce, Labor & Agriculture Committee

Tennessee General Assembly

32 Legislative Plaza

Nashville, TN 37243

Subject: Amendment to SB 3441, *Limiting Consumer Choice and Opportunity for Event Tickets*

Dear Chairman Johnson:

The NetChoice coalition opposes the amendment to SB 3441, which is an 11th hour substitution for an otherwise simple bill. Substantively, the amendment should be defeated because it allows entertainment venues to prevent ticket resale and gifting, and because it makes a crime of automated addressing that occurs today on search engines and websites.

A Late Amendment that Deserves Public Scrutiny

The proposed amendment—which was not available to the public as of late yesterday—takes a *single-paragraph* bill criminalizing misrepresentation as a licensed ticket broker, and replaces it with a *10-page* bill that strays far from the original intent.

Last-minute substitute amendments are sometimes used to hide unworthy legislation that would otherwise be unable to withstand public scrutiny. I believe this is precisely true with the amendment to SB 3441, which would criminalize routine website activities and could prevent a grandparent from gifting a concert or game ticket.

Would Allow TicketMaster's Paperless Ticket System to Deny the Resale or Gifting of Tickets

Although not apparent, a key provision of the amendment would allow the imposition of new restrictions and fees on Tennessee ticket buyers, by allowing venues to use "any ticketing method for the initial sale".

TicketMaster's "paperless tickets" are the likely beneficiary of this provision. When event tickets are issued as "paperless tickets" they require extra convenience fees and impose inconvenient restrictions on subsequent resale and gifting of event tickets.

For a ticket holder to use TicketMaster's paperless tickets, they must present the credit card used to buy the ticket as well as a government-issued identification card for the person who bought the ticket. This means that an uncle could not just give his niece a concert ticket, or give his nephew a seat at the stadium. Instead, the uncle would need to pay another convenience fee for TicketMaster to "transfer" the tickets. Otherwise, he has to accompany his niece and nephew to the door of the concert hall and

stadium gate. And the same is true for firms who use event tickets to entertain current and prospective clients.

In the 20 years since Tennessee allowed open markets for ticket resale, consumers have enjoyed greater choice and opportunity to buy and sell tickets to their favorite events. The rise of online ticket exchanges has brought more competition, safety, and convenience to sports and music fans. But this amendment would allow venues and TicketMaster to revoke this choice and convenience for Tennessee sports and concert fans.

Unintended Consequences for Search Engines and Websites

Amendment section 62-45-106(c) makes it a crime to do something that search engines and web marketplaces do every day: use trademarked terms in page addresses for content related to ticket resale -- without obtaining written consent of the trademark owner. With this amendment, Tennessee would make it a crime for online portals and search engines that fail to get permission from trademark owners, just for responding to user inquiries like this:

A Google search for "tennessee titans tickets" generates a URL that includes the trademarked term "Tennessee Titans": <http://www.google.com/search...=tennessee%20titans&oq=tickets%>

And this bill could make it a crime for YouTube to respond to a user search for "Taylor Swift tickets." In the example screen below, YouTube's software replied by generating a URL that includes "taylor swift" and search results include ticket resale links:

http://www.youtube.com/results?search_query=taylor+swift+tickets&oq=taylor+swift+tickets

The screenshot shows a YouTube search result for "Taylor Swift Concert Tickets". At the top, the YouTube logo is on the left, and the search bar contains "taylor swift tickets" with a search icon and a "Browse" link. Below the search bar, the video title "Taylor Swift Concert Tickets" is displayed, along with the channel name "marketingnext", a "Subscribe" button, and a dropdown menu showing "25 videos". The video player shows a black screen with white text that reads: "Find The Best Taylor Swift tickets, Taylor Swift concert dates and more information here!". Below the video player, there are icons for "Like", "Add to", "Share", and "Download", and a view count of "40 views". The video description below the player reads: "Uploaded by marketingnext on Jul 24, 2011 http://justatickets.com/taylor-swift-concert-tickets/, Taylor Swift Concert Tickets 2011, 2012, Taylor Swift Concert Dates, Find all the information on katy Taylor Swift Dates, Taylor Swift Tour Tickets, Find all Taylor Swift tour tickets, Buy Taylor Swift Tickets and Save Money Now! http://justatickets.com/". To the right of the description, there are statistics: "2 likes, 0 dislikes", "Artist: 4hero", and a music icon with the text "Buy 'Morning Child' on: Google Play, iTunes, AmazonMP3".

I'm sure that this is not what the bill's author originally intended, and this shows that the amendment requires further review to ensure that there are not other unintended consequences.

The Internet has brought accountability and transparency to online consumers buying and selling event tickets in Tennessee. But the amendment to SB 3441 would take Tennessee in the wrong direction, regulating upstream against a nationwide current of liberalizing markets that benefit and protect consumers.

Thank you for considering our views, and please let me know if I can provide further information for your deliberations on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve DelBianco", with a long horizontal flourish extending to the right.

Steve DelBianco
Executive Director, NetChoice

cc: Committee Members

NetChoice is a coalition of trade associations and e-Commerce businesses who share the goal of promoting convenience, choice and commerce on the Net. More information about NetChoice can be found at www.netchoice.org.