

CONSULTATION RESPONSE

CCIA Response to “Putting fans first: consultation on the resale of live events tickets”

Question 1: We invite you to share any additional information or evidence you have concerning the live events sector, the pricing of tickets in the primary market, and/or the impacts of secondary ticketing markets on consumers and the live events sector.

No response.

Question 2: What is the maximum uplift that you think should be applied if ticket resales were to be subject to a price cap? Please state the reason for your selection.

Other

We do not believe a price cap is appropriate. High markups for a small number of customers, who can afford to pay for what are non-essential goods, do not create a harm that justifies the inevitable risks associated with price caps in a diverse market, as discussed in response to Q10.

Question 3: Would the introduction of a price cap be likely to impact the service fees charged by resale platforms to both the buyer and the seller? If so, how?

We should expect that in a market with price caps fewer platforms are viable in the UK, with the likelihood that some existing platforms will leave or significantly withdraw their offering from the market and any potential new entrants will be deterred from entering. This would reduce competition (particularly if other regulatory costs are also applied to formal ticketing platforms). This reduced competition is likely to raise service fees and any attempt to restrict this outcome could exacerbate the underlying problem by causing more platforms to avoid the UK market.

Without an accessible, machine-readable interface provided by primary sellers it is unlikely to be possible for secondary marketplaces to verify the original price. Without competition from secondary marketplaces, primary sellers are likely to increase fees or impose non-fee costs on buyers.

Question 4: What would be the main operational requirements that need to be in place for primary sellers and resale platforms, to ensure original ticket prices can be easily identified for the purposes of a resale price cap?

No response.

Question 5: What challenges might exist for primary sellers and resale platforms with a resale price cap?

No response.

Question 6: If ticket resales were subject to a price cap, should the cap apply to all live events taking place in the UK? Please state the reason for your selection.

No response.

Question 7: If a resale price cap did not apply to all live events, what criteria should be used to determine which events are in scope? You may select more than one option. Please state the reason for your selection.

No response.

Question 8: If ticket resales were subject to a price cap, should resale above the price cap be permitted where tickets are resold for charitable purposes?

No response.

Question 9: Aside from charitable purposes, should there be any other circumstances where resale above the price cap is permitted?

No response.

Question 10: What are the risks, unintended effects or practical problems associated with a price cap on ticket resales? How could these be addressed?

Price caps create a disparity between a market-clearing price and the regulated price. That gap will create an arbitrage opportunity for people who circumvent the cap to resell a ticket at the market price, or purchase a ticket at the market price.

This means first more consumers buying and selling tickets in an environment where they do not have the consumer protections available in formal secondary marketplaces. This could include: offline settings; settings not subject to this regulation where people buy and sell tickets despite terms and conditions prohibiting such activity (while platforms may attempt to prevent this, price caps will create an incentive to circumvent those controls); and foreign platforms without a UK presence, where the CMA has a limited practical ability to enforce protections

It would also mean a permanent regulatory task for the CMA attempting to identify platforms that are not implementing a price cap (in many cases because they do not see themselves as ticketing marketplaces, or are not based in the UK and have less awareness of UK consumer regulation). This will distract resources from its existing consumer protection work, unnecessarily worsening wider consumer fraud.

Finally, it would mean secondary marketplaces exiting the UK market, reducing the competitive discipline for an already-concentrated primary seller market that will impose costs on buyers and sellers.

Price caps are also likely to have a disproportionate impact on the adjacent industries such as tourism to the extent that people are paying more to complement a trip to the UK, or travelling to the UK to participate in a popular event. Secondary marketplaces are often easier for international users than primary seller websites and international travelers are less likely to win a pure race for tickets.

Question 11: Should resale platforms be prohibited from allowing sellers to list more tickets for an event than one individual is permitted to buy on the primary market? Please state the reason for your selection.

No

Bulk buying and selling beyond established ticket limits is no easier to police on secondary marketplaces than for primary sellers; all the same challenges in identifying users registering with multiple identities exist. However, secondary marketplaces do not have essential information such as what those established ticket limits are, if they were enforced or willfully ignored, how those limits are implemented when an event has multiple primary ticket sellers, and whether presellers have a direct contractual relationship with the primary market that allows for bulk purchases. This therefore creates an unnecessary increase in

overall compliance cost, solely to transfer the costs of enforcing primary seller purchasing rules, which those platforms often do not do themselves.

It could also inadvertently complicate beneficial innovation such as engagement between some ticketing rights holders and secondary marketplaces or professional ticket brokers to manage uncertain ticket demand and offset immediate fixed costs.

Question 12: What are the risks of introducing new limits on resale volumes? How could these risks be countered?

This therefore creates an unnecessary increase in overall compliance cost, solely to transfer the costs of enforcing primary seller purchasing rules to secondary marketplaces.

It could also inadvertently complicate beneficial innovation such as engagement between some ticketing rights holders and secondary marketplaces or professional ticket brokers to manage uncertain ticket demand and offset immediate fixed costs.

Question 13: Should resale platforms be required by law to verify that the seller owns a ticket before it can be listed for resale on their website?

No

Platform liability requirements, such as ownership verification, could simply be a vehicle to protect primary sellers from competition for resale as no independent party is able to meet verification requirements reliably or at scale. This will undermine competition and therefore consumer value. It is an important principle for wider online regulation, however, that responsibility for meeting all appropriate seller requirements remains with the seller, or it becomes impossible for marketplaces to enable free exchange between buyers and sellers online.

Question 14: Should resale platforms be required by law to verify certain key information provided by a reseller about a ticket (for example, original price and location within the venue) before it can be listed for resale on their website?

Platform liability requirements, such as ownership verification, could simply be a vehicle to protect primary sellers from competition for resale as no independent party is able to meet verification requirements reliably or at scale. This will undermine competition and therefore consumer value. It is an important principle for wider online regulation, however, that responsibility for meeting all appropriate seller requirements remains with the seller, or it becomes impossible for marketplaces to enable free exchange between buyers and sellers online.

Question 15: What steps should ticket resale platforms take to ensure that tickets listed on their websites do not breach requirements under consumer law?

No response.

Question 16: Should resale platforms be responsible for preventing resale of tickets when the primary seller has prohibited resale under their terms and conditions?

No

Generally speaking, prohibitions on resale represent an unfair imposition of losses on consumers and are counterproductive for event organisers and venues who lose ancillary revenue with empty seats. There is a risk, if such conditions are given sanction by government policy, that in a concentrated market for primary resale platforms such terms will be imposed as a means to marginally increase primary sales revenue to the detriment of the entertainment sector overall.

Question 17: Should consumers be able to obtain refunds for resold tickets purchased from professional traders through secondary ticketing platforms? Please state the reason for your selection.

No response.

Question 18: Should the government review the levels of penalties available for breaches of the Consumer Rights Act and if so, what factors should we consider in respect of these?

Any review should reflect on the operation of the Consumer Rights Act in general (albeit, with due caution that such changes can create significant costs as businesses reappraise and redesign their operations). There is no reason that consumer breaches of similar seriousness should be treated differently just because they are conducted online, or relate to tickets.

Question 19: Would a licensing system for resale platforms help to address issues on the secondary ticketing market and improve the enforcement of consumer law? Please state the reason for your selection.

Generalist online marketplaces are unlikely to accept the requirements to be licensed if tickets are a marginal part of their business. The choices would effectively be:

Platforms could make a low effort to exclude tickets, which would mean substantial circumvention, the objectives of this policy not being achieved, and significant reduction in consumer protection for buyers of resold tickets.

Or they could make a high effort to exclude tickets, which would mean high compliance costs and likely significant frictions for non-ticket activity (e.g. activity that looks like tickets for a system reviewing transactions at scale being excluded, or even users facing suspensions or bans).

Any licensing system runs the risk of creating disproportionate costs in the wider e-commerce sector as a large number of platforms would be required to create new systems to address it. Given that the broader e-commerce sector is much larger than the secondary ticketing sector, even if restricted to only the kinds of third-party marketplaces which might be used to sell tickets, there is clearly the potential for very large economic harms relative to any purported benefits in the ticketing market. These potential harms should therefore be considered carefully in any impact assessment for any policy following this consultation.

Question 20: Beyond demonstrating compliance with UK consumer law, should licensed platforms be subject to any further requirements? If so, what should these requirements be?

Onerous requirements for licensed platforms are likely to raise the costs for licensed and unlicensed (see response to Q19) e-commerce platforms.

Question 21: What could be the potential unintended consequences of a licensing system?

First, dedicated platforms are more likely to exit the UK market, particularly if this is combined with other measures such as price caps that lower the returns on the market or make market participation not viable.

At the same time, platforms that do not specialise in selling tickets are likely to do whatever is necessary to avoid meeting whatever threshold is put in place for a requirement to be licensed. This will force the choice described in our response to Q19:

Platforms could make a low effort to exclude tickets, which would mean substantial circumvention, the objectives of this policy not being achieved, and significant reduction in consumer protection for buyers of resold tickets.

Or they could make a high effort to exclude tickets, which would mean high compliance costs and likely significant frictions for non-ticket activity (e.g. activity that looks like tickets for a system reviewing transactions at scale being excluded, or even users facing suspensions or bans).

In both cases, this will worsen the consumer experience, raise costs and increase the extent to which tickets change hands in informal environments where there is little or no protection for consumers.

Question 22: How might a licensing system interact with other proposals set out in this consultation, such as a resale price cap?

It is not clear what purpose platform-level licensing would serve in the status quo ante. It would only be necessitated by the imposition of price caps and other measures which make the necessarily hard to draw line between ticket marketplace and general e-commerce platform more important, increasing the incentive to circumvent through higher fees and price caps. This represents a large (almost certainly disproportionate because it affects the much wider e-commerce sector) cost which the Government should consider in developing policy of the sort considered in this consultation.