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**CONSULTATION ON THE RESALE OF TICKETS FOR ENTERTAINMENT  
AND SPORTING EVENTS**

Dear Sir/Madam,

First of all, I would like to complement your Department on producing an excellent consultation paper focusing on the global ticketing industry. It is very well researched and gives a very accurate account of the industry today. It also outlines how complex the ticketing industry is and that there is no easy solution if any, to the perceived problems.

***Background***

My background. I have been in the ticketing industry since the 1970's. I founded and became managing director of Ticketshop with partners in 1986. In 1992, we launched Ireland's first nationwide computerised ticketing service. In 1997, we entered into a joint venture with Ticketmaster. We rebranded Ticketshop as Ticketmaster Ireland and I became managing director. After Ticketmaster acquired all the shares in Ticketshop in 2003, I became managing director of Ticketmaster UK & Ireland and in 2004 became executive vice-president of Ticketmaster Europe. I also served on Ticketmaster's global executive management team. I finished my stint with Ticketmaster in June 2013. In August 2013, I became chairman of Accent Media, a London-based internet start-up. We acquired the exclusive global rights to the domain name *.tickets*. We do not sell tickets directly to the public but sell domain names to those who do.

***Consultation***

I understand views are sought on the resale of tickets for entertainment and sporting events where tickets are sold in excess of face value which is a cause of recurring public concern. What is 'recurring public concern'? It is what I call the *Social Media Conspiracy Theory*. Tickets go on sale for an event. They are sold out in minutes and then some appear on secondary websites causing consumers to take to the airwaves, usually venting their (understandable) disappointment. The conversation then usually takes the path of:

*“Ticketmaster is holding back tickets and putting them on Seatwave & Get Me In because they own these sites. They are gouging the consumer for massive profits”*. This conversation immediately extends to Twitter, Facebook and other social media forums. Within minutes the conspiracy theory becomes ‘fact’. Then media and publicity-seeking politicians take up the cause and declare *“something has to be done about this, legislation has to be introduced to ban the sale of tickets above face value”*. This is where it lands on the current Minister’s desk, the focus of ‘recurring public concern’.

Nobody ever bothers to check the ‘facts’. A sensational headline or comment attracts more attention. There is nothing new here. In my 40 years in the business, I have lost count of the number of politicians and Government agencies I have had dealings with where this issue has been raised and then dropped. However, I believe the current consultation is different and deserves support as it is backed up by an excellent informative document.

The current focus is on the above face value market, but it should be taken into context of the overall market. Although there are two political jurisdictions, the island of Ireland has always been accepted as one market and the numbers reflect this. My view is that the above face value market is small and unlikely to grow into a major force primarily due to our low population base. I compare it to the Ferrari or Bentley car market. There is only a limited market for these cars and the same for very high priced event tickets. Only a limited amount of people on the island who will pay €500-€1,000 for a ticket and in reality, nobody hardly ever does.

Let’s look at the numbers. I am taking average figures as events depend on availability of artists and seasonal sporting events.

- 15m tickets are made available for sale each year.
- 9m tickets are sold each year on the island.
- Over 40% of tickets put on sale go unsold (*this is a global number and Ireland is no different*)
- Only 20% of events are ‘sold out’, 80% of events have tickets available for sale.
- Of the 20% ‘sold out’ events, perhaps the last of these tickets are sold only in the days/hours leading up to the event taking place and most would not be described as causing ‘recurring public concern’ i.e. there is not a massive demand but eventually sell out.
- It would not be unreasonable or unusual for an event with 100 tickets remaining out of 10,000 to be declared a ‘sell out’ but consumers could still purchase tickets at face value.
- It should be noted that consumers can nearly always get a ticket for all but a handful of events.
- Only a small amount of events are ‘sold out’ rock solid, with absolutely no tickets available

I would like to look at the numbers for the re-sale market and for those above face value that is causing ‘recurring public concern’....the high-demand events. How big is the resale market in Ireland? How many tickets are sold above face value?

The resale market has been around since Roman times. The common words used today are 'touting', 'ticket touts' or 'scalping'. Traders always lived on their wits. They bought and sold goods including tickets. It has been, and still is, a divisive topic. Some people have no problem with paying over the odds for a ticket, others believe it is a criminal offence. However, the same people who object to above face value prices for a concert, will pay for hotel rooms where the prices have doubled or tripled. The same can be said for airfares on busy routes and peak dates.....it is just the market responding to supply & demand.

The reality is that outside Ireland, the resale market has been a boom to the industry because of additional distribution outlets. I have followed this closely over the years. Industry people will be reluctant to say but this secondary market has contributed to the very healthy growth of the global entertainment and sporting industry in the last 10-15 years. It is particularly strong in the United States where rampant capitalism reigns. Some commentators measure the success of an event by what is paid on the secondary market for tickets. *"The average price for Superbowl tickets was \$10,000 in 2016 but \$12,500 in 2017 and customers paid \$2,000 for Hamilton tickets during Thanksgiving week"*. It is a sense of pride and a booming economy that these prices are achieved. Other commentators will say that the reason there is a secondary market is that the event was not priced correctly in the first place. I will come to that later.

One thing is certain, the secondary market in the US and other countries is here to stay. In the US, some consumers find the secondary market attractive. Everybody assumes that all tickets in the secondary market are sold at vastly inflated prices but the smart purchasers play the market and can get tickets at face value and under face value. For some events, there is no primary box office and the venue just points customers to the secondary market. I had that experience myself last October when looking to purchase a ticket for a Jimmy Buffet concert in San Diego. The venue website said *"no primary box office, go to the secondary market"*. At \$800 a ticket, I had a choice and I declined.

There was a resale market in Ireland for cinema tickets in the 1940's and 50's. This was in the golden days of the cinema industry and cinemas frequently sold out especially on Sunday nights. The touts, I prefer to call them speculators, bought Sunday tickets during the week and stood outside the cinemas selling tickets at a mark-up to willing purchasers. Speculators always bought and sold commodities and tickets are no different.

Although there was a concert business in Ireland in the 1960's and 70's it was on a small scale compared to today. The industry really took off in the 1980's and 90's and it is now recognised as one of the best markets in the world per capita. It should be acknowledged that some of the best promoters in the world operate in Ireland and are responsible for this success. During this time, it was a rare occasion to attend a concert without dozens of people outside venues shouting *'buying or selling tickets'*. Back then, the primary source for speculators buying or selling tickets was in *Buy & Sell* listing magazine, newspapers, notice boards, pubs and on the street etc. The Internet changed everything and nearly all of this activity has now gone online because it is a much better experience for both the buyer and seller. I still see 6-Nations rugby tickets being advertised on the back page of the *Irish Times* but this is an exception.

### ***How big is the re-sale market in Ireland?***

As the consultation document mentioned it is difficult to put a handle on the numbers. My own view is that it is not significant.....less than 1% of the whole market. A recent report in the *Sunday Times* about the forthcoming U2 concert in Dublin stated that approximately 1,200 tickets were listed on *Seatwave* and *Get Me In*. For this exercise, I will add on 800 tickets for the other resale websites... say a total 2,000 out of 80,000 tickets, less than 3% of the capacity. Drilling down further through the numbers, 2,000 is the number of tickets **listed** at inflated prices. What is never queried is what will actually be **paid** for these tickets come showtime? I agree with the analysis in your consultation document where maybe only 30% of the tickets or so on resale sites are sold above face value, less than 1%. When all the emotion and 'noise' is taken out of the equation, 99% of the people who purchase tickets for the U2 concert in Croke Park next July will attend the event at the advertised face value price.

How many high-profile events in Ireland that cause 'recurring public concern'? I have not documented these events, but in the last 12 months, I would say no more than 60-70 of such events, out of 8,000, caused 'concern'. Maybe just 8-10 very high-demand events per year reach the media. It is a very small percentage but cause all the media attention.

### ***Concerts***

Adele, Coldplay, U2, Ed Sheerin, Robbie Williams, Electric Picnic are some that attracted media attention. There are others, but these are examples of some of the main events.

Ed Sheerin performed to 160,000 people on Croke Park in 2015. In 2017, he embarked on a 14-date UK/Ireland tour, with 2 indoor dates in 3 Arena Dublin (capacity approximately 25,000 for both nights). He is arguably more popular today than in 2015 so it is impossible to satisfy the demand. There was an estimated demand for over 200,000 tickets so 200,000 into 25,000 does not fit. Customers understandably get annoyed when they see tickets at inflated prices appearing within minutes on resale websites. Probably less than 1,000 tickets were posted on resale sites. Even if above face value transactions were banned, it would not make a difference or help the other 175,000 who wished to purchase tickets. It was the same in the UK. Over 5 million fans sought tickets but only 180,000 available. When people decide to purchase tickets for a certain event, they assume they will be successful in acquiring tickets. Sometimes this is just not possible due to the demand. I am being sympathetic to the fans but on occasions where the demand vastly exceeds supply, fans will have to learn to accept and manage disappointment.

### ***Rugby***

Probably no more than 6-7 rugby games per year result in huge demand. 2 x 6 Nations, 2 x Autumn Internationals and maybe 2 or 3 x Champions Cup games provided Irish clubs are participating in the later stages. For decades, some rugby clubs sold part of their allocation to the corporate market at prices well in excess of face value. Is this not touting or speculating?

## **GAA**

Only 3 GAA games have big demand. All-Ireland Football & Hurling finals and one semi-final provided Dublin is participating. The second semi-final rarely breaks 60,000 out of the 82,000 capacity. GAA fans can nearly always buy tickets at any time. The GAA has a policy of distributing All-Ireland final tickets to the wider GAA family. Clubs overseas and in non-competing counties get an allocation of tickets. Naturally this policy vastly reduces the availability of tickets for the competing counties at All-Ireland final time causing massive demand.....a perfect storm for speculators.

## **Soccer**

In the last 10 years, only 2 soccer internationals out of maybe 80 have sold out. .... Ireland v Germany and Ireland v Wales. ...virtually no demand.

### ***How many tickets are sold above face value?***

As your consultation document has mentioned, it is difficult to quantify. Some speculators post tickets on multiple websites so there is some duplication. I am probably being generous here but my estimate is that less than 100,000 tickets are posted each year on secondary websites in Ireland. This is tiny compared with the 15m tickets made available for sale. Drilling down further maybe only 30,000-35,000 are **sold** above face value. Again, compared to the 9 million tickets sold, it is a very small market.

### ***Will the secondary market grow extensively in Ireland?***

Difficult to predict the future but I doubt if it will grow into anything significant. There are 330m people in the US, 65 million in the UK, 80 million in Germany, 50 million in France & Italy. It is a question of numbers. There are only about 6 million on the island, roughly the size of the greater Manchester area so the volume of people here suggests that demand cannot generate anything like the numbers in other heavily populated markets. It must be remembered that the vast majority of consumers purchasing tickets will go to an event and have no intention of re-selling their tickets for speculation.

I will come back to the *Social Media Conspiracy Theory*. The questions commentators and media are asking "*Is it right for Ticketmaster to be involved in both the primary and secondary market?*" and "*Is Ticketmaster holding back tickets and putting them on Seatwave & Get Me In for high-demand events?*"

I cannot answer for the current Ticketmaster management policy but only for the time when I was involved. As I mentioned earlier, the Internet changed everything. In the early 2000's, people started posting tickets on eBay who then acquired *Stubhub*. By the mid 2000's numerous secondary companies sprung up selling tickets on the Internet including *Ticket Network, Tickets Now, Seatwave, Get Me In, Viagogo, Vivid Seats, Stubhub* plus many others. By 2007-8 it became apparent that the trend in the market was changing and the secondary market was growing at a notable pace. The Internet fuelled this fast expansion.

I was involved in discussions with our global management team about how we should compete with this new trend. We decided that if we did not get involved in this market we would lose out and we would be left behind.

We already had seen that some of our clients had posted tickets on these new secondary sites. I remember having a discussion around the challenge the music record industry was facing with file sharing and streaming. The record companies failed to confront the disruption in their market and eventually were badly damaged.

We decided that we could not allow this to happen to Ticketmaster. We acquired *Tickets Now* in the US and *Get Me In* which was based in London. I was not involved in the *Seatwave* acquisition but if I was involved today, I would support that decision. I doubt if there is any company in the world that would allow a competitor to disrupt its business if it was in the position to counteract that threat. I can categorically say that in my time, we never put one ticket on *Get Me In* or ever asked to put a ticket on the secondary site by a promoter or event organiser. All tickets posted were by sellers. I doubt if the policy position has changed today. Primary ticketing companies are at the bottom of the food chain and act on instructions of the event organiser or artist/team.

The question "*Is it right for Ticketmaster to be involved in both primary and secondary markets?*" The answer here is if tickets are not posted on *Seatwave* and *Get Me In*, both owned by Ticketmaster, consumers and speculators would post their tickets on numerous other secondary websites. It is a very competitive environment and not confined alone to the island of Ireland. Consumers/speculators have numerous choices. I believe it is safer for the consumer to know that their transaction is being processed by a reputable company who will stand over the transaction, so I believe it is right for Ticketmaster to be involved in both primary and secondary markets. I believe in future years it will all become one market, primary and secondary markets will merge in some fashion. *Rock In Rio* is one of the largest long-standing festivals in the world and have just appointed *Stubhub*, (a secondary company) as their primary ticketing provider. The industry constantly evolves. The issue of fake tickets is a far bigger problem for consumers and I will deal with it in the Question section.

### ***How do people get tickets in advance?***

This is the real question that causes people to take to the airwaves and according to your consultation paper, causes 'recurring public concern'. "*how is it possible for tickets to be on sale at inflated prices 5 minutes after the event going on sale?*". There are numerous ways of getting tickets in advance of an advertised on-sale date and all are featured in your consultation document.....venues, sponsors, artist fan clubs, debenture seat holders etc. They are called pre-sales.

Artists always had fan clubs that connected them to their fans. Pre-Internet times, they sent out newsletters by mail but all this changed when the Internet became popular in the late 1990's, early 2,000's. Artists used the Internet to sell merchandise and other services and in general, provides a great vehicle for connecting to their fans. Artists also make tickets

available to their fans via the artist website for a few days in advance of the general sale. This practice has been in place for maybe 15 years.

Tickets for the forthcoming U2 concert were advertised to go on sale on Monday January 16<sup>th</sup>. The same advertisement also said that fans could purchase tickets from U2.com from Wednesday January 11<sup>th</sup>. Tickets were limited to 4 per person. It does not take rocket science for the speculators to figure out how to get tickets in advance. I am not singling out the U2 event, it happens for practically every event. Take a speculator's family, 6 people, 2 addresses, 2 credit cards each, and instantly they can get 48 tickets to sell on the secondary market. I do not know how many tickets were sold in advance for this event.

### ***Is this fair for the consumer?***

For the genuine fan, it is a great perk and why shouldn't artists provide tickets for their fans via their websites? It does cause a problem for very high-demand events but these are very rare. For thousands of events, fans purchase tickets from artists a day or two in advance of general sales. This is done in the normal course of business. For a 12,000 arena show, it is a great start for the promoters if they can sell 2,000 tickets in advance via the artist fan club.

### ***What is a 'high demand' show.***

There is no formula. Just a handful of events could be classified in advance as a rock solid 'sell-out'. For every sure 'sell-out', the promoter has hundreds of events hoping anxiously to get to a profit or break-even. I have also seen many situations where 'guaranteed' sure events just did not happen and failed to sell as expected, resulting in a major loss. There are events on sale today where tickets are posted on secondary sites, yet plenty of tickets available at face value on the primary websites. No doubt, the tickets for these events on the secondary sites will be dumped at well below face value come show-time. I have never seen a headline: "*Hundreds of tickets dumped below face value*". It happens all the time because speculators get caught with tickets they cannot sell. It is not a sensational headline and of no value to the media and politicians.

### ***What are the alternatives to the current ticket selling model?***

Sporting events are different so I am dealing here with concerts/entertainment events. The current model where tickets are put on sale at face value, i.e. promoter or event organiser calculates what he/she requires to promote the event. This involves the artists guarantee fee + percentage, venue rental, box office, ticket commission, promotion costs, total ticket gross etc. Ticket prices are worked out on the capacity of the venue and put on sale for what would be described as 'face value'. This model has been in place for hundreds of years.

What are the alternatives if the current model is allegedly causing 'recurring public concern'?

- 1) **Selling tickets by ballot:** Would work for some unique events but very impractical. It was tried before but a nightmare when dealing with those who were not successful in the ballot. It would not work where a promoter has hundreds of events on sale each year, just impractical for both consumer and event organiser.

- 2) **Selling tickets by auction:** This could work also but would be very unfair. It would mean that just the rich could afford to buy tickets for special events. Artists depend on their fans and this model would dis-enfranchise a large chunk of the artist's fan base. I would not be in favour of this model.
- 3) **Dynamic Pricing:** This model is used by hotels, airlines, and numerous other entities. It is based on market forces.....supply and demand. This is the model if implemented, would arguably cause greater 'recurring public concern'. Would consumers be prepared to pay according to the market? Again, there would be issues with fairness. Selling tickets for a concert or sporting event is different than selling hotel rooms or widgets. There is emotion involved, a bond between the artist/team and the fan. I believe there would be objections to this model in Ireland. On the other hand, this model is popular on occasions in the US and other markets, but still a small part of the overall business. This model is similar to what is used by airlines where travellers in business and first class subsidise those in economy.
- 4) **Pricing the House:** I was at a conference recently where the issue of above face value and the secondary market was discussed. The keynote speaker was Michael Rapino, CEO of the Live Nation, the largest promoters in the world. Mr. Rapino said that maybe the industry should consider pricing the house differently. In a venue with say 60 seat rows, the first 20 rows would be priced at \$400, the last 20 rows at \$25 and the middle 20 rows priced somewhere in between. There is merit in considering this model although it too has possible problems. Yes, fans could buy tickets cheaply at \$25 but would likely object to those who can afford the \$400 sitting near the stage. I can see another problem. No question is that for a high demand event, there would be a huge secondary market for the \$25 tickets.

It is a very difficult one to call and I believe there is **no** solution where everybody is happy. What is not right is where profits from speculation on secondary markets are not going to the rights holders....the promoters and the artists. Artists could decide to go for higher ticket prices but understandably may not wish to alienate their fan base. It is a very difficult call.

An interesting development took place in the UK recently. Robbie Williams management placed tickets directly on to secondary websites at double the original 'face value' price. There was uproar in the industry as he was accused of touting and 'ripping off' the consumers. The reality here is that the venue was not priced properly. People were prepared to pay more for the tickets. Robbie Williams was just being truthful and the ticket receipts ended up with the rightful owners, the artist and the promoter instead of speculators. In a limited exercise, Robbie Williams took on the speculators and was successful.

Is the Robbie Williams model the way forward? A certain amount of this is already in the market with Platinum Seats. A small selection of seats close to the stage are priced higher than the next price band but not in any significant numbers. Would consumers go for dynamic pricing or pricing the house differently? My view is that it will work when the prices are low but not for the \$400 ticket. The airwaves would be full of complaints.



No doubt the same politicians would protest: *“something has to be done about this rip-off, ordinary fans cannot afford these prices, legislation has to be introduced”*.

***The Department consultation document posed a series of questions. I will answer/contribute to these questions where relevant.***

***Question 1***

*What proportion of primary ticket sales are accounted for respectively by:-*

- a) online sales*
- b) telephone sales*
- c) sales through agents in retail outlets*
- d) box office sales*

A question for the primary ticketing companies.

***Question 2***

*Approximately how many entertainment and sporting events each year in which you are involved or about which you have information give rise to significant level of secondary ticket sales? What characteristics, if any, do these events have in common? Do they wholly or mainly involve large-scale events in major venues?*

Although not involved in selling secondary tickets, I gave my opinion earlier on how many tickets are put on sale and sold in the secondary market. My view is that no more than 60-70 events out of 8,000+ where there is a significant level of above face value secondary sales and 8-10 very high-demand events. However, in the overall context, it is still a very small market in Ireland...maybe 3% of tickets that are put on sale and less than 1% of sales above face value

***Question 3***

*What proportion of tickets offered for sale on secondary marketplaces and platforms are sold-*

- a) for a price above the face value of the ticket (plus any applicable service charge or booking fees)*
- b) at the face value of the ticket*
- c) for a price below the face value of the ticket*
- d) fail to sell*

The consultation paper gives an opinion on the numbers and they are very close to the numbers I have estimated. I would amalgamate (c) & (d). Difficult to know how many are not sold, but once there is no market for a ticket, speculators will dump at any price or just cannot sell.

- a) 35%*
- b) 35%*

c) and d) 30%

#### **Question 4**

*How common is ticket fraud involving the supply of fake tickets or the non-delivery of tickets? How frequently and in what numbers are persons producing fake tickets denied access to entertainment and sporting events.*

I believe this is a bigger problem than selling above face value. This is a criminal offence. I am aware of where convictions were obtained here in Ireland. There would be many more convictions except those duped will not press charges. They feel sheepish in what turned out to be a foolish and expensive purchase. Promoters constantly advise consumers to purchase tickets only from authorised sources but sometimes to no avail. During the 2012 Olympic games in London, fake ticket selling was extensive involving millions of pounds. One particular group was apprehended. They are now serving lengthy jail sentences. I would be in favour of coming down hard and increasing penalties for selling counterfeit or non-existing tickets.

#### **Question 5**

*What proportion of tickets for high-demand entertainment events are typically allocated for pre-sale or other allocation prior to going on general sale to the public? What parties or groups are the main recipients of such pre-sales and pre-allocations?*

Again, your consultation paper outlined where tickets are allocated for presales. These include artists' web sites, venues, sponsors etc. In a recent interview, former U2 manager Paul McGuinness claimed that ticket touts who purchase tickets through artists websites are being given an unfair advantage. It is practically impossible to separate the speculator from the genuine fan. I am not aware of the proportion of tickets that are made available in advance, it varies.

#### **Question 6**

*Are you aware of tickets being supplied to secondary sellers or marketplaces by persons involved in the primary market for entertainment or sporting events such as artists and their representatives, promoters or primary ticket sellers? If so, how prevalent is the practice and what is its scale?*

No, but I refer to the Robbie Williams case. I do not believe that an artist who put tickets directly onto secondary sites is out of order especially if it helps to reduce speculator activity. Maybe they should consider the overall pricing of the venue? The decision for pricing is with the artist and the promoter. Primary ticketing companies are not involved with this process.

#### **Question 7**

*Are parties who engage in ticket resale on a systematic basis and on a significant scale a feature of the secondary ticket market in Ireland. What proportion of secondary sales for high-demand events are accounted for by such sellers? Do such sellers receive more preferential terms, such as early payment, from secondary marketplaces?*

I do not believe this is a huge market as outlined above. The question of asking that sellers receive preferential treatment such as early payment suggests tickets are purchased in advance. I am not aware of this practice in Ireland although it happens in the US and other markets.

#### **Question 8**

*Is there evidence of the use of software (bots) to source multiple tickets for high-demand events on the primary market and to circumvent security measures? How common or extensive is the use of such software for this purpose?*

I am not aware of any bot operators in the market but acknowledge bots are a huge problem in the US and other markets where there is a large population. Bots can Hoover up thousands of tickets in minutes. Former President Obama recently introduced legislation outlawing bot sales. It remains to be seen if this will be successful. My view is that it would take a brave bot operator to acquire thousands of tickets for an event in Ireland as the population is so small. Where is the market for purchasing thousands of tickets at inflated prices? To avoid any doubt, I would support legislation banning bots.

#### **Question 9**

*What means other than bots are used to obtain large numbers of tickets on the primary market for the purpose of resale?*

Already mentioned above. ....Artists, venues, sponsors, credit card companies. Not difficult to purchase tickets in advance.

#### **Question 10**

*What proportion of tickets offered for resale for major entertainment and sporting events in Ireland are listed by sellers from outside Ireland?*

Difficult to work out. This is a global market and many of the secondary sites operate outside the jurisdiction. Viagogo is headquartered in Switzerland but has a major back office operation in Limerick. Seatwave, *Get Me In* and *Stubhub* are based in London. Sellers can be located anywhere.

#### **Question 11**

*What actions are currently taken by primary ticket sellers and ticketing service providers to prevent purchases in excess of the contractually permitted number of tickets or resales in breach of the terms of the primary ticket contract? What is the level of ticket cancellations for the breach of such terms? What is the level of denial of access to venues and stadia for breach of such terms?*

This is a question for the primary ticket sellers currently operating.

### **Question 12**

*Do secondary marketplaces consider themselves to be under an obligation to assist event organisers who wish to identify ticket resellers acting in breach of their contract with the primary seller? Should they do so Should they be required to do so?*

Some do, some don't. Some companies act strictly according to instructions issued by promoters and artists and are responsible. Others act differently and operate a totally free market policy, ignoring everybody. Where most responsible companies attended a recent UK Commons Select Committee hearing on the secondary market, *Viagogo* chose to ignore the invitation which was not very well received.

### **Question 13**

*Should websites which sell tickets for an event on the primary market redirect purchasers to secondary platforms selling tickets for the same event? Should any such redirection be subject to a requirement that the consumer be informed of the status of the secondary site and that ticket prices are likely to be higher?*

This question I would suggest is pointing to *Seatwave*, *Get Me In* and other companies operating in both the primary and secondary markets. I believe they should. These are responsible companies and all transactions on behalf of the consumer are guaranteed. Some other secondary companies are not as consumer friendly. I do believe the responsible companies do already advise consumers that prices may be higher on secondary websites.

### **Question 14**

*How many events in Ireland and what proportion of their tickets, have featured 'Platinum Tickets' or other dynamic-pricing approaches to ticket pricing? What was the average price of such tickets? Did they sell out?*

I do not have the current information on how many events, but Platinum Tickets have been around for a long time. These are just other price points in the general pricing of the event. It is just a version of 'pricing the house'.

### **Question 15**

*Is a dynamic pricing approach to event tickets likely to be adopted on a significant scale? If so, when and for what type of event is this likely to occur? If not, what are the main reasons why it will not be pursued?*

I have commented on this previously and gave the reasons why it might be difficult to implement this model. I doubt if it will be implemented across the board in the near future but could change in future years. The main reason is that the artist/team has a

bond with their fans and may not wish to charge higher prices for an event even though some tickets would be available at a much lower price. The media focus would be on the perceived 'rip-off' price not the bargain at the low price.

### **Question 16**

*What additional steps, if any, could performers and their managements, sporting bodies and event promoters take to minimise secondary ticket selling at inflated prices and ensure fairer access to tickets for fans.*

One solution is to limit or dis-continue presales. I will however point out that presales in the vast majority of cases are a very positive experience for the artist, promoter and the consumer. The problems occur with only a very small amount of events. For thousands of events in Ireland, consumers have a very fair opportunity of purchasing tickets.

### **Question 17**

*What additional technical measures, if any, are primary ticket sellers planning to implement or develop to prevent purchases made with the use of bots?*

I am not qualified to comment on the current technical measures operated by the primary ticket sellers but they do exist. Bot operators are very inventive and when one gap is plugged, they find another way to access the primary ticket inventory. The cyber world is awash with hackers and inventive technicians. The best systems including government systems are vulnerable and are regularly breached. The ticketing industry has a very good record in protecting their systems and security breaches are rare.

### **Question 18**

*Are personalised or paperless tickets an effective method for curbing ticket resale? What drawbacks, if any, are associated with such approaches? Has experience with these methods in Ireland been positive, negative or mixed?*

Paperless ticketing works for some events but not practical to be implemented across the board. Paperless or personalised entry requires the purchaser to turn up at the venue with credit card and ID. There was a famous case some years ago in the US when Miley Cyrus embarked on her *Hanna Montana* tour. There was a massive secondary market. The next time she toured a paperless ticketing policy operated. It was a failure, with thousands of unsold tickets. The primary reason is that parents, grandparents, relatives etc, would purchase tickets for 10-12 year old kids. It was not possible for those people to turn up in person at the venue with their credit card. You could also have a relative in New York purchasing a gift for a niece in Atlanta so how could they turn up at the venue in Atlanta with the credit card? In the US, the secondary market is an integral part of the overall ticket purchase process. The paperless model works better for adult events. This model is in operation for the current *Iron Maiden* UK tour and there is hardly any secondary market. It stands to reason that adults who purchase tickets will

normally go to the event themselves. It will work for occasional events only but not operationally practical for every event.

### **Question 19**

*Do primary sellers or venues offer a facility for the return and refund of tickets that purchasers are unable to use? If so, what conditions apply to the facility? If not, what are reasons why primary sellers do not offer this facility and, if so, under what conditions?*

I do not believe that having an open return facility for primary sellers is feasible. The facility would be abused. The secondary market is the perfect forum for customers who can resell their tickets if they cannot attend an event. It should be noted that promoters allow tickets to be refunded or exchanged where an event has to be re-scheduled due to unforeseen circumstances,

### **Question 20**

*Do secondary ticketing websites consider themselves under obligation to ensure that resellers who qualify as traders under relevant consumer protection legislation inform consumers of their status as traders and of the rights that consumers buying from such sellers have under that legislation?*

That is a question for the secondary websites.

### **Question 21**

*Should legislation be introduced to regulate ticket resale and the secondary ticketing market? If so, what form should such legislation take and what penalties should apply to breaches of its provisions? If not, what are the reasons why legislative measures should not be pursued?*

There is a considerable amount of comment in the media at present about legislation and what form of legislation should be put in place. Some of the politicians are in favour of banning outright, the sale of tickets above face value. I am not sure if banning will work. Speculators will find a way around any ban. There are numerous ways around a ban without breaking the law, two or three come to mind. The consultation document mentioned all the jurisdictions where above face value sales are banned or restricted. What is not known is how successful are these bans?

- a) Mr. Noel Rock T.D. has suggested that the Belgian Government has outlawed selling tickets above face value and it will work in Ireland. As your consultation document has mentioned that other jurisdictions have bans or caps on how much tickets are sold above face value. I believe that buyers/sellers will just find another way. In Belgium, the customers just move to websites in the UK, Netherlands, France or Luxemburg. They also have the option of buying/selling from Viagogo in Switzerland. The Internet is everywhere and generally without borders.

- b) Who will police the legislation? The Gardai?, Civil Servants? The argument could be made that have they nothing better to do than chasing foolish but willing buyers/sellers especially if the market is so small? I also say again that I believe more tickets are sold at face value and below face value than above face value on secondary markets. The consultation document supports this view.
- c) The Irish website *Done Deal* has introduced self-regulation where they have a cap of 20% above the face value of the ticket. This could be an option for legislation but I caution that there will be numerous ways around any legislation.
- d) What penalties should be introduced? It doesn't matter unless it is a very hefty prison sentence. Otherwise it will not deter sellers and willing buyers from finding a way to trade tickets
- e) If legislation is to be introduced banning the sale of above face value tickets, the legislation should be extended to **all** above face value and price surging activity. It would be inconceivable to ban above face value event ticket sales and allow hotels to double & triple prices for the same event. The same applies to airlines. There are many other examples. What is the difference in purchasing a house off the plans and flipping it for 30% above what was paid for the house when built 12 months later? Is this not touting or scalping? The housing market is daily causing 'recurring public concern' but the Minister has not been able to curb rising house prices which everybody accepts is due to lack of supply.....no different to supply of tickets for high-demand events.
- f) Whereas hotels and airlines operate a dynamic pricing model, it is no coincidence that prices jump considerably when a major event takes place in a locality whether it is Dublin, Belfast or Kilkenny. Why introduce legislation just for event ticketing when other industries hike prices to the consumer and benefit greatly from these events?
- g) Would consumers benefit if dynamic pricing was introduced for the events industry? This is a very difficult question and would have to be considered very carefully before introducing it to the market. The model of 'pricing the house' is another similar model but both have risks for event organisers and consumers. Whereas the existing model is causing concern for some events, I go back to the fact that less than 3% of tickets are posted on secondary sites and maybe less than 1% are sold above face value. Is it worth disrupting the existing model when 99% of consumers purchase and attend events at face value? It might be more useful to educate consumers **not** to purchase tickets above face value on secondary sites. If people do not purchase, prices will drop and the consumer wins.

- h) One final item. How can one arm of the Government introduce legislation to ban above face value ticket sales while financially supporting (via the IDA and other agencies) one of the largest secondary ticketing companies in the world? Viagogo, one of the most aggressive and ruthless secondary ticketing companies around, employs up to 200 people in Limerick. The Minister at the time Mr. Bruton, welcomed Viagogo to Limerick and opened the facility in glowing terms. This is the same company that when summoned, would not turn up to the UK Commons Committee hearing on secondary ticketing.

I could sell tickets for that media versus Department of Jobs, Enterprise & Innovation shindig!!!!

### **Summary**

I have no preference either way if legislation is introduced to ban above face value sales or not. It does not affect me. I do believe however that banning will not work. In an ideal world, every ticket for every event would be sold at the advertised price, and every consumer could buy tickets to attend their desired event. It is not an ideal world. Until somebody can accommodate 50,000 people into a 10,000 venue, there always will be a problem that cannot be resolved. Although a very small market, above face value sales has been around forever. The Internet has made it easier for buyers/sellers and highlighted the issue but the market has always been there. The real decisions in the future may have to be made by the artist and the promoter about how they price an event. Speculators are making money that should go to the artist and promoter but there is no easy or practical solution.

I have another view and it is about balance. The internet has been the most wonderful invention and positive experience for the ticket-buying consumer. When I started selling tickets, availability was practically non-existent especially in rural areas. Promoters printed their own tickets and for occasional events sent a book or two to a handful of record shops around the country. If a consumer lived outside maybe 15 towns in Ireland, he/she had no chance of ever getting an opportunity to purchase a ticket.

Later, purchasing tickets by phone was introduced but for a high-demand event, it was not unusual for consumers to hang on for 4 or 5 hours in the hope of purchasing a ticket. Most of the ticket selling took place in the Dublin area. Record shops outside Dublin had to send back unsold tickets 3 days in advance of an event and consumers could not purchase tickets at all, a very unsatisfactory experience. This was more or less the model up to 1992 when Ticketshop introduced Ireland's first nationwide computerised ticketing service. It transformed the ticket purchasing experience and allowed consumers to purchase tickets for every event and at every price point.

The ticket selling experience was expanded when Ticketmaster introduced consumers to the Internet for all their inventory in 2000. Today the consumer in Ireland has unimaginable choices. Consumers are able to purchase tickets for every event, at every price point, to any venue here or worldwide They can purchase from a phone or tablet, and from any



location on the island. It is not long ago that consumers in Ireland could not buy a ticket at all.

I referred earlier to balance. Above face value sales is a concern to some, but just a low percentage of purchases compared to the vast majority of consumers who purchase tickets at the advertised price. I believe the consumer in Ireland never had so much choice. In a perfect world, everybody would get a ticket at the advertised price. Apart from a small series of events where demand far outstrips supply, everybody **does** get a ticket at the advertised price.

When everything is taken into consideration, is the secondary market really that serious an issue in Ireland?

### ***Recommendations***

- A) I believe banning above face value ticket sales will not work. Sellers/buyers will just find another way to conduct business and it will be very difficult to police.
- B) If legislation is to be introduced to ban above face value event ticket sales, it also must be extended to **all** surge pricing activity across the board.... hotels, airlines, taxis, pubs etc.
- C) Introduce stricter fines and jail sentences for fake/counterfeit ticket sales. This is a criminal offense and a much bigger problem than above face value activity. It is a deliberate attempt to defraud the consumer.
- D) I would support legislation banning ticket purchases via computer bots.
- E) Some jurisdictions have introduced a cap on how much a ticket can be resold. It varies from 10% to 30% above the original face value of the ticket. It is an option to be considered but I caution that sellers/buyers will find a way around this also.

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