



**ticketswap**

Public Consultation on the Resale of Tickets

## Statement

### Introduction

In its current form, the secondary ticketing market is a detriment to consumers, many performers and most live events organisers. Today the public outrage and grassroots movement to fundamentally reform the market has never been louder in its condemnation and calls for legislative action in Ireland and the United Kingdom. Yet a rush to ban all ticket resale above face value will not only have unintended negative consequences for consumers and the live events industry as a whole, it will also likely stifle market innovation from new entrants to the secondary ticketing industry who are working to make it safer, fairer and more consumer-oriented. Moreover, as discussed in the original Consultation, the track record of similar price cap bans in other countries (i.e. Belgium and France) is ambiguous at best as professional touting websites are driven overseas or to the black market, where regulation and enforcement are even more difficult. A crucial factor when considering how to combat the unfair practices of the current secondary ticketing market is transparency. Creating market transparency - from information on sellers and the sourcing of tickets to the fees and commissions earned by marketplaces - will invariably change the behavior of the consumer and encourage major players in the secondary market to adapt in order to compete. This, in turn, will actually help address the main cause of outrage around secondary ticketing: the very real sense that as a consumer, you are being ripped off, not just by a professional tout but the live events industry as a whole.

By way of introduction, we are TicketSwap, a fan to fan e-ticket marketplace based in Amsterdam with 1,200,000 registered users (and growing) around the world including Ireland, the UK and France<sup>1</sup>. We were founded in 2012 by three music fans determined to make the secondhand ticket market safer, fair and more convenient for everyone. Our mission is to help fans with a genuine reason for selling their spare tickets to find other fans who want to buy the ticket and complete the transaction as safely, easily and honestly as possible. The cornerstones of our marketplace are our 120% price cap, which keeps traders and touts away, and our transparent platform, which allows people to see what they are buying, who they are buying from and exactly how much they are paying. When the Dutch government was considering passing legislation regulating the secondary ticket market last year, they consulted with us on the potential impacts of the law and listened to our unique approach to protecting consumers from touts and scammers. We hope that our approach and findings will yield some helpful insights as you consider legislative options and consumer protection regulations. Before diving into specific questions mentioned in your consultation report, we will introduce our perspective, our general approach and discuss the key factors that are at play when combating unfair secondary market practices in Europe.

---

<sup>1</sup> The full list of countries we are active in: Netherlands, Belgium, Germany, the UK, Ireland, Spain, Portugal, Poland, Hungary, Croatia, Sweden, Denmark

The most visible negative effect of the current secondary ticket market is undoubtedly the outrageous prices charged by faceless touts on online marketplaces for tickets. Each time a tour is announced for a big name like Ed Sheeran, U2, Drake, or Adele, the initial excitement is quickly drowned out by the ensuing outrage as thousands of fans miss out on tickets and are forced to consider paying exorbitant amounts for tickets secured by professional touts through the use of bots or backroom deals with organisers, venues or primary ticket sellers.

Moreover, this trend is not exclusively a “megastar” issue. The practice occurs more often than not for any event where demand for tickets outstrips supply, which means sporting events, club nights, festivals, theatre shows, charity events, and boutique gigs can all be plagued by touting. Each such popular event is another opportunity for a ticket to be sold on for a huge markup, and as long as there is a steady stream of potential buyers, professional touts will do whatever it takes to obtain large swathes of tickets to sell. This means breaking laws (such as proposed legislation on bots or regulating above-face value resale), moving operations overseas to avoid regulations (whether on the tout level or on the marketplace level as Viagogo has done), or striking secret preferential deals with primary ticket companies and/or organisers. The best way to fight back against this practice is to create a secondhand market that empowers fans to buy/sell their tickets in a safe, transparent and fair marketplace.

By creating an alternative market where tickets can be bought and sold transparently, and allowing individual fans to sell their tickets for a small profit, TicketSwap brings the secondary market into the public eye and prevents professional touts from maintaining a grip on ticket resale. Why would TicketSwap take this approach? Our platform takes 10% of every transaction, 5% from the seller and 5% from the buyer. This means that someone selling a ticket originally priced at €20 can sell it for a maximum of €24; the buyer will pay €25.21 (including the TicketSwap service fee), the seller will receive €22.79 after the TicketSwap service fee is subtracted. This transparent transaction split allows both seller and buyer to know exactly how much they are paying for the service, and receiving in return for the ticket, thus providing a secondhand ticket market with fair prices and safe transactions.

What encourages users to sell on TicketSwap? The answer is simple: for every event, numerous fans have tickets to sell that they no longer can use. When they sell, most of them are just looking for the quickest and safest way to recoup the full amount of money they paid—not a huge payday. By offering these fans the chance to sell their tickets to another fan without having to spend much effort or risk dealing with anonymous strangers, a fan to fan marketplace creates a new source of tickets that gives a new and fairly priced chance to the thousands of potential buyers that missed out on the primary sell. Moreover, by allowing fans the opportunity to sell slightly above face value, more fans are enticed to do so transparently and safely in the open as opposed to selling them on Ebay, Gumtree or a touting marketplace where they may stand to get a bigger return. Of course, this new batch of tickets will not be enough to make sure everyone who wants a ticket can get one but it does allow for an independent and transparent resale where professional touts, ticket companies or organisers cannot hide behind the cloak of

anonymity and outrageous pricing. We've seen that we make the work of touts a lot harder, since everyone is learning quickly that you have a fair chance of getting tickets on TicketSwap for a fair price.

How can we be sure that this works at all, let alone in Ireland? In late 2012, before the founding of TicketSwap, the secondary ticket resale market in the Netherlands was much like it is currently in Ireland: unsafe, inconvenient, plagued by scammers and unfair prices. For consumers looking to sell or buy spare tickets, the only options were selling to strangers on Facebook or Marktplaats (the Netherlands' equivalent of Gumtree) or face the overprice lottery of touting marketplaces. In this context, it was not only impossible to see who you were buying from but also impossible to determine whether the tickets were real, valid, priced fairly or even referred to the correct event. Moreover, payments were completely unsecured, difficult to verify and impossible to rollback if something went wrong. TicketSwap addressed these issues by introducing transparency, convenience and safety for ticket resales. Our platform validated all of the tickets listed for original price, specific ticket type, and correct event information. By verifying information from sellers and buyers, we were able to prevent attempts at fraud and also ensure that the money paid by buyers actually arrived. Creating this transparent marketplace had the twofold effect of providing fans with a safe and easy way to sell their spare tickets, while also helping event organisers fight against unsafe resale.

For fans, access to this safe resale option has actually changed the behaviour of the Dutch consumers. Within a year of founding, TicketSwap accounted for the lion's share of resale transactions in the Netherlands; ranging from festivals and niche club nights to large concerts and sporting events. An illustrative example: Justin Bieber's two 2016 tour dates in the Netherlands sold out immediately after going on sale on December 17th 2015 - just as they did throughout Europe and the UK. Yet between going on sale and the actual performances (October 8th & 9th 2016), over 7000 tickets were resold between fans on TicketSwap, nearly 10% of the 76,000 total tickets sold over the two dates. Firstly, this gives a clear indication over the intense pressure on fans to buy tickets quickly and far in advance, without any clear idea if they are able to attend on the day. Secondly, all of these transactions occurred within our 120% price cap, meaning thousands fans got a fair chance to buy tickets they originally missed out on without having to pay excessive prices. Overall, the example illustrates that fans, given a safe and transparent alternative to touting websites, will gladly buy and sell spare tickets priced right around the original price paid; moreover, it suggests that such a service of safe and fair ticket resale is a necessity for fans, if organisers continue to demand they buy tickets so far in advance.

The more comfortable fans get with a fair and safe resale market, the less they treat tickets like a non-transferable and non-refundable good and more like a reservation that they can use, refund or give to someone else. Moreover, they are more likely to expect other fans and organisers to facilitate safe resale at fair prices; our platform's transparency makes it easy for us (or any user) to identify when someone is abusing the marketplace for personal gain. Dutch consumers now have the freedom to book far in advance or buy tickets for friends, confident that if they are unable to

use them they can easily get all or most of their money back. Furthermore, the platform allows consumers to buy tickets at their own convenience, even for events that are sold out, because they know that lots of safe tickets will become available closer to the event, sometimes at a slightly higher price but also often at a lower price than face value. It's also worth noting that anyone attempting to sell tickets outside of TicketSwap in the Netherlands is treated with suspicion or disgust, since most fans would suspect that the seller is either a scammer or a tout. Overall, the most important consequence for all fans is the assurance that they don't need to pay over the odds for tickets, as they know they will have a fair chance of obtaining tickets within a transparent resale market.

For organisers, TicketSwap's platform and this massive shift in consumer behavior brings lots of benefits. Firstly, it protects their fans from the dangers of the resale black market, namely scammers and touts, and thus ensures the organizer's reputation is not tarnished by the practices of touts. Alongside doing everything we can to verify each ticket listed on the platform, we work with numerous ticket companies and organisers to create a 100% safe solution, Secure Swap, whereby each ticket sold through the platform is replaced by a brand new one, eliminating any possibility of fake or duplicate tickets. This solution is made possible through an API connection between the ticket provider, the organizer and TicketSwap; it seamlessly checks the tickets on sale for validity in real time, and produces a brand new ticket that has a unique barcode. Secondly, more events sell out faster as consumers are more likely to buy without knowing if they will be able to use all the purchased tickets. When these tickets are put back on sale, the fans that missed out on the primary sale get fair chance at securing safe tickets at fair prices. Thirdly, by bringing the resale black market into the open, we allow organisers to access data about their own resale trade on TicketSwap, which can provide invaluable insights about the popularity of their event. This approach has made TicketSwap the preferred resale partner for top organisers/venues in Netherlands and across Europe such as Sziget Festival (Hungary), DGTL (Netherlands), and Cabaret Aléatoire (France).

In just under four years, TicketSwap has shifted Dutch ticket reselling from a black market dominated by scamming and touting to a transparent and open market that benefits fans and organisers alike. As TicketSwap expands to other countries, we are observing similar results, producing further benefits for international consumers and organisers. Unfortunately, even in the Netherlands, as well as in other countries that have attempted to ban resale entirely through regulation, there will continue to be professional touting as long as demand for event tickets outstrips the supply. However, by creating a culture of (I) transparency, (II) 'consumer-oriented' ticketing and (III) cooperation between organisers and other industry actors in the secondary market, it is possible to minimize the impact of professional touting and even force touting marketplaces to adapt in response consumer demand. These three values are the bedrock of this successful (and ongoing) transformation of the secondary market and the next section will examine each more closely.

## Key Values

### I. Transparency

The ongoing outrage about secondary ticketing practices can be traced to a simple feeling that every fan has felt at one point or another, “I’m being ripped off!” The easiest way to interpret this anger is that the excessively high prices charged for hard to find tickets on professional touting marketplaces is the first place to address when combating touting. By that reasoning, government legislation capping prices or banning resale above face value all together is a logical place to start. Yet these unfair prices are actually just a symptom of larger problem that is present throughout live events ticketing, both primary and secondary: a lack of transparency.

When a ticket is listed for sale on a site such as Viagogo. The only thing that is visible to the consumer is the selling price - (and in the case of Viagogo this usually is not the full price in terms of add-on fees and service charges) - there is usually no information about the seller, the original price or how the ticket ended up for sale. This lack of clarity is no accident or inability of a marketplace to verify its reselling users. Instead, it is a calculated approach for preventing attempts to determine the source of the tickets, the margin that the seller is making (and resulting commission of the marketplace) and the seller’s (and marketplace’s) overall trustworthiness. All the consumer is left with is the notion that this seller indeed has the tickets in question (which too often is not always the case), the high asking price is a standard price and an urgency to buy immediately or let these tickets slip out of your grasp and into the basket of some other, faster-thinking fan. This coordinated opaqueness when making a ticket purchase is replicated by almost all professional touting marketplaces and is the crux of whole the issue plaguing the event industry, including the unfair prices.

Operating behind this smokescreen, professional touts are able to make an awful lot of money without even leaving their room, so long as they obtain a steady supply of tickets to events that are in high demand. The most widely publicised way of obtaining tickets is through the use of Bots. These scripts and computer programs harvest thousands of tickets creating panic and high demand in fans. Recently, on the back of pressure from music industry and primary ticket companies, legislators from the US (already passed) and the UK (pending) have directed their attention towards banning the use of Bots. Every website that sells tickets, including TicketSwap is constantly battling bots, and it is quite telling that several prominent professional touting marketplaces<sup>2</sup> have also submitted their support for anti-Bot legislation. However, we at TicketSwap believe that even more harmful to the consumer, are the secret deals struck between professional touting marketplaces and venues or organisers. These deals allow high-demand tickets to be moved directly onto the secondary market without ever appearing on primary sale. In the past few months, there has been a steady stream of high profile scandals and reports that uncover backroom deals between organisers, venues and artist managers:

---

<sup>2</sup> <https://goo.gl/32As6h>



- Live Nation Italy admitting to moving tickets directly from primary to secondary. (<https://goo.gl/Z4QupO>)
- Robbie Williams' management placing primary tickets directly on secondary sites for exorbitant prices (<https://goo.gl/MLaE9s>)
- The Scottish Rugby Union striking a deal with Viagogo, a professional touting marketplace, to place Six Nations tickets directly on their platform (<https://goo.gl/Eymnh2>)

Yet these revelations are hardly new and despite the initial outrage when they emerge, look set to be repeated over and over again. Why? The truth is that in almost every jurisdiction an organiser has a legal right to exert control over the distribution of tickets to their events and can choose to do so in way they see fit, meaning they can set the prices or issue tickets to sellers to sell on their behalf for a portion of the profits. The underlying lack of transparency in these deals and the resulting confusion created for consumers means that the professional touting marketplaces that dominate the secondary market are able to do business with the absolute bare minimum of consumer choice, consumer protection and customer support. If an organizer, venue, performer or ticket company wants to maximise its profits by selling tickets directly to a professional touting marketplace, at the expense of putting tickets out of reach for the bulk of consumers, they should do so openly, and let fans decide whether they want to pay over the odds purely to the benefit of the dealmakers involved. Requiring marketplaces to provide consumers with this information allows fans make a more informed decision about the costs and actual value of a resale ticket. This consumer awareness, in turn, will exert more pressure on professional touting marketplaces to adapt than any legislation on Bots or blanket bans on resale.

However, to make such transparency an industry standard, governments around the world will need to get involved with regulations and/or legislation that rewards ticket companies (primary and secondary) for making their platforms more transparent and penalises those who refuse to comply. Clear lessons can be drawn from regulations on the secondary market passed in different countries. Firstly, consider the ban on ticket resale above face value in Belgium; legislation that is oft mentioned as a possible template for proposed legislation in Ireland as well as the UK. On the surface, it has led to the blocking or closure of several ticket resale websites, particularly those with records of fraud<sup>3</sup>. Yet it has done little to diminish the practices of the large professional touting marketplaces, such as Viagogo, that still offer tickets well above face value in the face the law, and use prominent advertisements on search engines to gain traffic. This example showcases the difficulty of implementing and enforcing a full ban on resale, when large marketplaces and professional touts operate across borders and jurisdictions . A second lesson can be learned from attempts to place legislative requirements on transparency in ticket resale. With the Consumer Rights Act of 2015, the UK government attempted to hold ticketing websites responsible for disclosing clear information about sellers and the tickets being sold. The intention of this legislation was indeed to increase transparency but it lacked the necessary incentives and penalties to actually force professional touting websites to comply. In most cases they were able

---

<sup>3</sup> <https://goo.gl/i45An1>



to hide behind the defense of “it’s impossible to verify the information of all our users.” The initial law did not push such touting marketplaces far enough to change their practices.. Yet transparency in secondary ticketing is indeed achievable and worth the effort of legislation and enforcement. TicketSwap requires all users (buyers and sellers) to login in with their Facebook account, so that each profile can be verified, buyers can see who they are buying from and users have more choice over who they are doing business with. This ensures that potential buyers are safe in knowledge that tickets on offer were not obtained through backroom deals or the use of bots. We also ensure that all tickets are correctly labeled with sections, seat numbers and any restrictions attached to them so that buyers can make informed decisions about the ‘goods’ they are purchasing. Our approach to transparency makes it very clear that all marketplaces operating in the secondary market can do more to provide their customers with clear information about the purchase they are about to make.

With these two legislative lessons in mind, legislation in Ireland should focus on enforcement of transparency in ticketing instead of attempting to force through a full ban on resale. Transparency-focused legislation backed by strong enforcement could set the European standard and make any such consumer protections powerful enactors of consumer behavior and positive change in the secondary market. Moreover, it must be stressed that any transparency-focused legislation is likely to be more impactful and enforceable than price caps on resaling or blanket bans of resale, which will simply just force the professional touts overseas or back to the black market, with even more risks for consumers likely to ensue. In the case of transparency, TicketSwap’s approach proves that consumers stand to benefit from transparency and demand can be shifted accordingly.

## II. “Consumer-oriented” Mentality

In this digital day and age, finding an event and buying tickets online has become standard practice. The result is that demand for live events has never been higher, while the supply for popular live events has remained limited<sup>4</sup>. Even without taking into account the operations of professional touts to harvest thousands of tickets discussed above, there are simply too many Ed Sheeran fans in the world willing to pay the standard face value of a ticket to see him play live for him to satisfy by doing a tour once a year (or even 5 times in a year). The resulting situation of demand outstripping supply is what brings the secondary ticket market to the fore, as inevitably there will be tickets that will become available because of genuine reasons (i.e. seller can no longer attend) or monetary motivations (i.e. seller wants to capitalize on demand by selling ticket for a high price). Creating a safe way to facilitate transactions for people in the former camp was the reportedly the reason for the creation of the first secondary marketplaces<sup>5</sup>. Of course, the

---

<sup>4</sup> *A live performer, regardless of how in demand they might be, cannot feasibly increase the supply of their live performances as they are limited by 365 days in a year, travel time, fatigue etc.*

<sup>5</sup> *This is still the reason that most professional touting marketplaces like to cite as their main purpose.*



result has been the use of such 'safe marketplaces' for highly organised and coordinated touting, all under the guise of providing flexibility for consumers and protecting them from the black market.

In response, the numerous artists and organisers frustrated with the current state of the secondary market are taking matters into their own hands, through measures aimed at making the resale of tickets more difficult. Various measures that personalise tickets or making tickets non-transferable, while aimed at fighting back against touts, actually can end up harming fans. With fans now expected to buy tickets further in advance than ever before, eliminating their ability to recoup the money they have invested by selling on the ticket is not only unfair but bad business, since some fans may balk at spending money on a ticket in the first place if it may end up going to waste after all. With some organisers passing the cost of personalisation onto the consumer or introducing fees for changing the name on the ticket, it's clear that one way or another fans are more likely to be negatively affected by such measures. The personalisation of tickets in this way does not seem to deter hardened professional touts who continue to obtain and list tickets for some of the most strictly personalised live events in the world (i.e. Adele and Hamilton)<sup>6</sup>. It also makes it harder for fans to give tickets as gifts and often causes confusion and congestion at the entrance, which diminishes the overall experience for all visitors. At the end of the day the people who are turned away at the door for possessing tickets obtained from touts are usually just normal fans and not to blame for buying tickets to their favorite performer from a site they may have confused as an official seller. Another consequence is that seats or venues may end up with empty seats or space, which is a terrible outcome for all involved in the event. In this climate, these measures are actually constricting fans' flexibility and accessibility to live events, reversing the progressive and consumer-centric direction of online ticketing of the past decade.

For TicketSwap, personalisation measures in their current form, while understandable in the current climate of unfair secondary ticketing, are counterproductive. On one hand we recognise the desire for organisers to know the person who bought the ticket is the one using it (so as to identify touts, security threats and for purposes of building up their marketing pool); on the other, we are first and foremost a consumer-facing company and the way personalisation measures are being used directly diminishes the flexibility and control of fans over tickets they spent their own money on. As a result, we've come up with a solution that combines personalisation with the proven power of our platform to making ticket resale safer, easier and fairer for consumers. In concert with some of our partners, our Secure Swap system can be used not only to verify validity of tickets and deliver unique, 100% safe tickets to new buyers, but also to personalise the tickets with the new buyer's personal information. When a TicketSwap buyer completes their purchase of a Secure Swap ticket, before they can download the ticket they must first fill in their personal information for each attendee so that the new ticket can be personalized in real time. The result is a secondary ticketing experience that is flexible, 100% safe and personalised so that organisers

---

<sup>6</sup> Adele: <https://goo.gl/g79Zhb>  
Hamilton: <https://goo.gl/PoruSr>

can be sure they know who is attending with a fairly priced secondary ticket alongside the fans who bought primary ticket.

Our service was launched by fans for the direct benefit of fans. Every update, new feature or country expansion we've launched has been with the goal of making secondary ticketing safer, fairer and more convenient for fans. The live events industry is accordingly dependent on fans and customer loyalty to sell tickets, attend events and create the 'live' atmosphere, which is something that we try never to forget at TicketSwap. Thus, in our eyes, combating touting means protecting fans from touts without diminishing their flexibility. Our Secure Swap personalisation is a clear example that the use of personalisation, when set up to empower fans not punish them, can achieve both goals.

### III. Industry Cooperation

The current dominance of professional touting in the secondary ticket market illustrates the growing rift between fans and performers, organisers and ticketing companies/marketplaces. Frustration with the practices of professional touting marketplaces and the supposed inaction of industry actors gives the impression that the issue can only be solved through intervention from lawmakers or government regulatory bodies. Indeed examples abound of collusion between industry actors and professional touting marketplaces that maximize profits for both parties and result in an overall negative experience for fans. Alongside the three recent scandals mentioned in the Transparency section that revealed the moving of primary tickets directly to the secondary market, there are countless other partnerships between event organisers and professional touting marketplaces operating in the open that provide valuable lessons for lawmakers considering regulating the secondary market.

A crucial lesson comes from the UK's Criminal Justice and Public Order Act 1994, which bans the resale of football match tickets by unauthorized parties<sup>7</sup>. This law was originally passed to prevent to co-mingling of opposing football fans during the height of hooliganism, yet is has come to be known as the UK's only anti-touting law. However, it actually has enabled touting on a massive scale. Some major English football clubs have actually taken the opportunity to create their own fan to fan resale systems, allow fans to easily transfer spare tickets to other fans. Other clubs have struct lucrative deals with professional touting marketplaces as "official resellers," which facilitate thousands of ticket resales at prices far above what normal fans can afford to pay. Similarly France's 'strict' anti-touting regulation bans all resale unauthorised by the event organizer, which in turn, has opened the door to large scale touting by professional touting marketplaces that have managed to strike deals with major organisations such as professional football clubs<sup>8</sup> and major concert promoters. The nature of these "official reseller deals" means that consumers are often confused as the line between primary and secondary tickets is blurred.

---

<sup>7</sup> <https://goo.gl/SwVrrm>

<sup>8</sup> PSG in 2013: <https://goo.gl/fAWXi3>

If an ‘official seller’ is selling tickets at a high price, and there is no mention of the original price, how can a consumer discern whether the price paid is fair or inline with the original value of primary tickets. Moreover, this type of cooperation actually incentivises the ‘sale’ or passing of primary tickets directly to professional touts so that the event organiser can maximise commission margins on the secondary market where prices are not bound by the original face value. All of these relationships are based on essentially the same value proposition put forward by professional touting marketplaces: we are the only way to make ticket reselling safe and prevent ticket fraud, but high prices and touting is the unavoidable tradeoff. Yet the record of such marketplaces tells otherwise: every year new cases of fake tickets sold by fraudsters emerge<sup>9</sup>, using the lack of transparency to con fans who feel safe because they are dealing with an “official reseller.”

Thus, enacting meaningful change to this industry trend is only possible when organisers and venues adopt transparency and consumer-first mentalities in secondary ticketing. TicketSwap’s 80+ relationships with organisations across Europe illustrate that there is indeed an alternative to professional touting marketplaces when trying to safeguard fans from black market ticket resale. Organisers, performers, venues and ticket companies who recognise that it is possible to protect fans from scams and prevent unfair prices are part of a new wave in the music industry that is tackling the current secondary market head on. When given a platform that is easy to use, safe, fair and backed by industry actors, fans are provided the desired flexibility around buying tickets, while still being protected from touts and scammers. In fact, most of our partnerships actually achieve the 100% safety blithely promised by professional touting marketplaces. Our Secure Swap system eliminates the possibility of fraud or misunderstandings that can often plague ticket resale at any level; by checking each ticket for validity with the ticket provider and then swapping the sold ticket for a brand new ticket with a unique barcode, the system guarantees that each buyer can securely use the ticket to attend the event. Moreover, our transparent platform allows our partners to monitor the resale in real-time and provides valuable insights on their events’ secondary market. The safety and transparency afforded by such partnerships results in an excellent overall experience for the consumer who can obtain a ticket for a sold out event at their leisure, at a fair price and with the assurance that their ticket will work. When technology, transparency and industry knowledge is used together, changing the current secondary market for the better suddenly seems very achievable. As TicketSwap expands and other like-minded industry actors emerge, the rolling back of professional touting marketplaces’ dominance is actually well underway. When it comes to legislation and government regulation of the secondary ticketing market, we are in favor of any government involvement that truly puts the interests of consumers first and offers a sustainable approach to changing the unfair practices in the industry, instead of attempting to blindly ban them. In short, the ultimate object must be how we, governments and new entrants to the industry, effect change in this broken system, and ensure that that the market is geared to the interests and protection of its consumers.

---

<sup>9</sup> *Convicted Fraudsters still able to use resale site* <https://goo.gl/dllygz>  
*Fake tickets sold for a charity show* <https://goo.gl/osJZFh>

## Specific Question Responses

**Q12:** 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?

*As a secondary marketplace, we always feel that it is preferable to work together with organisers, in order to provide fans with the best possible resale experience. We often actively work alongside organisers to identify fraudsters and touts that are targeting their events.*

*Ideally, we would work with every organiser to ensure that the secondary resale market around their events is running safely, fairly and transparently. The growing number of organisers that we work with is testament that TicketSwap is recognised as a positive force in the live events industry, with a transparent platform, customer-centric support, and expertise in fraud and touting prevention.*

**Q13:** Should websites which sell tickets for an event on the primary market redirect purchasers to secondary platforms selling tickets to 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?

*There should absolutely be more clarity about the connections between primary ticket companies and secondary marketplaces. Redirecting a consumer from a primary ticket shop to a secondary ticket marketplace without any attempt to inform them about how the prices will likely be higher, the greater likelihood of buying a unsafe ticket, and/or the sourcing of the tickets is not only negligent but also a direct ploy to confuse customers and encourage them to make a purchase at a higher price. This lack of transparency blurs the line between primary and secondary tickets at the expense of the consumer and is exacerbated by the advertising of 'official tickets' from secondary marketplaces on search engine results.*

*When a fan is truly given clear indication that tickets being offered are secondary tickets, they are given the power to decide whether to continue with a purchase that will likely have higher prices and higher risk. Fans also must have the right to know if tickets have been moved directly from primary to secondary without initially going on sale.*

**Q16:** 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?

*A first step would be to recognise that there is a problem to be solved. For many actors in the industry, secondary ticketing is actually a very profitable revenue stream and would like it to be maintained in its current form. There are numerous example of sports teams, performers, venues and promoters striking private or public deals with secondary marketplaces (some highlighted above) in order to sell a large portion of tickets on the secondary market for a huge markup of the original price.*

*The best thing for industry actors to do is to empower fans. Firstly, by introducing transparency into the ticketing process - from primary all the way to secondary ticket sales. Secondly, work with companies like TicketSwap, that can provide a safe and fair alternative to buy on professional touting marketplaces or on the black market. The demand for secondary tickets cannot be eliminated entirely: there will always be reselling activity for popular events. The question is how to ensure the majority of these transactions are transparent, fair and safe and this can done by building a viable alternative and changing behavior. After nearly 5 years operating in the Netherlands, TicketSwap's successful growth in the Netherlands shows that by offering a safe solution in cooperation with organisers and venues, and bring transparency to the market, fans are actually more likely to buy/sell secondhand tickets at face value or slightly above (i.e 120% of the original price) than to head to an uncapped touting marketplace to make a transaction. This change in consumer behavior starts with providing the best possible experience to customers, in terms of safety, transparency and ease of use, coupled with dedicated customer service every step of the way. It continues with continually expanding the network of organisations we work with to make our platform 100% safe no matter to which event or country you're heading. It ends with making transparency and consumer-oriented ticketing industry standard so that the marketplaces used by professional touts are forced to adapt to the new consumer behavior.*

**Q18:** 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?

**Q19:** 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 this facility? If not, what are the reasons why primary sellers do not offer this facility? Would they consider the introduction of such a facility and, if so, under what conditions?

*As discussed above, strictly personalised or paperless tickets are a kneejerk reaction to the dominance of professional touting conducted on secondary marketplaces. They have the stated intention of deterring the unauthorised secondary resale of tickets and protecting fans from touts. Yet the main losers from these measures are real fans and not touts because these 'solutions' are organiser or venue-oriented and not focused on improving the consumer experience. Fans who buy tickets from secondary marketplaces often have no idea about idea*

*about the original price, the fact that they are buying a secondary ticket or that any personalisation ticket policy is in place. Moreover, it is the fan who have to go through the terrible experience of being turned away at the entrance or told that they bought an unauthorised ticket, not the reseller. These measures have been in place for some time and have not successfully stamped out the activities of professional touts who will go to great lengths to circumvent them.*

*Most importantly these measures are part of growing trend to limit customer flexibility when buying a ticket. If organisers and ticket companies expect customers to buy tickets 6 months or more in advance, they should provide an avenue to recoup the value of the ticket. This could be easily be done by introducing the ability of fans to refund their tickets: but most promoters and ticket companies understandably do not want to make tickets refundable because it will create a huge administrative hassle and effect sellouts. The nonrefundable nature of tickets has been a cornerstone of the live events industry for years and changing it would mean a huge amount of extra customer support would need to be provided by organisers and increase uncertainty around the attendance, and thus, revenue promised by events for both organisers and venues.*

*Without a refund policy, the next best alternative for a consumer stuck with a ticket they can no longer use is to resell it safely. As mentioned above, in cooperation with a number of our partners, we actually facilitate the personalisation of resold tickets. As part of our Secure Swap service, tickets listed are checked for validity, and swapped with a brand new ticket when sold. In order to download the ticket, the new buyers need to first enter in their personal information so that the Secure Swap ticket can be personalised accordingly. This helps organisers know exactly who is going to their personalised ticket event while still providing flexibility to fans who can no longer use tickets they bought months in advance.*

**Q21:** 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?

*A brief answer would be to say that legislation introduced to regulate ticket resale should only be undertaken with full consideration of perspectives within and outside the live events industry. Thus, we are very happy to provide our perspective in detail in the above statement and it is helpful when discussing any regulation of the ticket resale market. In short, our record in the Netherlands and across Europe, illustrates that perhaps the most powerful agent of meaningful positive change in the secondary ticket market is transparency and consumer behavior. Ticket reselling is an economic activity that is a natural result of consumers attempting to recoup (or in the case of touts, maximise) the value of tickets they cannot use. Attempting to regulate ticket*

*resale through the capping of prices or a full ban, would invariably lead to higher instances of fraud and have negligible impact on touting prices as the practice would be driven underground or diverted to other countries. Without a concerted and serious investment in enforcement, legislation introducing a full ban or even a price cap is unlikely to make much impact on the prices charged by touts or professional touts' access to tickets. Based on the huge number of transactions that occur for each event and number of such events across a given country, it is impossible to police every single transaction on a certain secondary marketplace, let alone all the informal transactions that occur between individuals. There are thousands of events, millions of sellers and buyers, thousands of ticket outlets and ticket types even in a country the size of Ireland or the Netherlands, let alone a market like the UK or the United States. The cost of monitoring this trade would be enormous with a negligible impact as professional touts and marketplaces seek to circumvent regulations by moving operations abroad. The margins and demand in ticket reselling are simply too high for professional touts and cooperating actors within the live events industry to turn their back on.*

*The most crucial question is not “how do we get rid of ticket resale?” but rather “how do we make it as transparent, safe and consumer-friendly as possibly?”. The TicketSwap model illustrates that if secondary ticketing is approached from the perspective of improving outcomes for fans (not ticket companies, organisers or performers) and introduces transparency in pricing, the sourcing of tickets, and sellers identities, it can actually function as a valuable and accountable service for buying secondhand tickets safely and fairly.*