



**Sports Fans Coalition to the New York Senate Standing Committee on
Investigations and Government Operations and the New York Senate
Standing Committee on Commerce, Economic Development, and Small
Business**

Joint Public Hearing on Ticket Sales for Live Events in New York State

April 22, 2021

Executive Summary

New York's ticket resale laws are strong, promote competition, and are good for the consumer. If New York State Senate were to do anything, it should extend the sunset provisions, preferably, indefinitely. I will focus on a few areas of public policy that impact ticket-buying consumers. I intend to demonstrate that protecting ticket transferability must be a cornerstone of any pro-consumer ticketing law, that price controls harm fans, that white label websites need to be prohibited, and that requiring affordability of primary tickets for tax-funded venues is good for consumers.

Background on Sports Fans Coalition

The Sports Fans Coalition, founded in 2009, is a national non-profit advocacy organization devoted to representing fans wherever public policy impacts the games we love. We are best known for leading the campaign to end the Federal Communications Commission's sports blackout rule, which we accomplished in 2014 despite massive opposition from the NFL and broadcast industry. We are the creators of the Sports Bettors' Bill of Rights, a set of five principles we believe should accompany sports betting legislation to protect consumers while maximizing state revenues, which now governs three jurisdictions: Virginia, Maryland, and Washington, DC.

We've also been on the front lines fighting massive media consolidations, the NFL's concussion cover-up, corruption within the United States Soccer Federation, and their inequitable treatment of women and youth. Empowering consumers in the ticket industry has been a priority of SFC's for many years. We advocate on behalf of sports fans in all of these areas and more in Washington, DC and state capitals around the country.

Transferability

Transferability must be the cornerstone of any pro-consumer ticketing law. Live Nation-Ticketmaster controls 80% of a \$9 billion market.¹ As the industry's dominant primary ticketer, Ticketmaster's embrace of non-transferable ticketing practices does nothing more than to create burdens for consumers, limiting the ability for fans to transfer, give-away, or resell the tickets they have rightfully purchased.

While Ticketmaster claims these barriers prevent ticket scalping, they are often designed to control resale and ensure it occurs on platforms aligned with the primary ticketing company. Designated resale exchanges, commonly used by professional sports leagues, are resale platforms that a league or team and a ticket sales platform have agreed to support.² Such arrangements are especially attractive to ticket issuers. It allows them to "double-dip" the

¹ Bill Pascrell Jr, *Everyone's worst fears about the Live Nation-Ticketmaster merger have come true*, LA Times, May 17, 2018, <https://www.latimes.com/opinion/op-ed/la-oe-pascrell-live-nation-concert-ticketing-20180517-story.html>

² U.S. Gov't Accountability Office, GAO-18-347, Congressional Requesters: Event Ticket Sales Market Characteristics and Consumer Protection Issues (April 2018) (34).

fees on both the initial sale of the ticket and the secondary sale on an affiliated ticket exchange. For example, Ticketmaster's Ticket Exchange platform is the official resale exchange for the National Basketball Association, National Hockey League, Women's NBA, many Major League Soccer teams, and numerous other sports and events. While designated exchanges are not inherently anti-competitive or harmful for consumers, they should not come at the cost of allowing a fan to transfer his or her ticket elsewhere.

Despite claims that these restrictions protect consumers, they do the exact opposite. Restrictions prevent fans who purchased a ticket and can no longer attend the event from easily giving that ticket away to a friend, family member, or charity and possibly recouping their cost. They also eliminate consumer choice, preventing fans from easily utilizing platforms that are not connected to the primary ticket seller.

New York recognized the consumer harm associated with non-transferable ticketing in 2010 when it initially adopted its "paperless" ticketing provision. This provision is paramount to ensure consumers are empowered in the ticket buying process, protecting their right to purchase a freely transferable ticket independent of the primary ticketer or venue. Sports Fans Coalition strongly encourages the renewal of this critical provision.

Price floors and caps limit fans from investing in their fandom.

Buying a ticket is an investment in fandom. Whether that ticket is to a single game or entire season, a fair and open ticket market spurs investment among the fan base. To restrict the cost of secondary tickets serves to stifle this investment.

A few years ago, the New York Attorney General's (NYAG) office investigated the NFL for antitrust violations with its NFL Ticket Exchange, a restrictive marketplace. They found that the NFL's price floor policy (rules that forbid tickets from being sold below a particular value) artificially inflated prices. The NYAG asserted that these price floors led fans to believe they are buying a ticket at the market price, when in actuality, they may be purchasing the ticket for a higher price. In a settlement, the NFL agreed to refrain from this practice.³ While this is a good start, the NFL can still create price floors on events that they are the ticket distributor for, such as the Super Bowl and Pro Bowl. Such price floors prohibit the cost of the ticket from matching demand, especially as tickets for teams with losing records go on sale.⁴

Similarly, price caps harm fans. If I'm a season ticket holder to the Yankees and want to sell my ticket to the Red Sox game, I should be able to sell that for whatever the market will

³ Attorney General of the State of New York Antitrust Division, *In the Matter of NFL Ticketing Investigation* (2016). https://ag.ny.gov/sites/default/files/11.15.2016_-_nfl_tix_investigation_final.pdf

⁴ Eric T. Schneiderman, "Obstructed View: What's Blocking New Yorkers from Getting Tickets" Office of New York (State Attorney General) https://ag.ny.gov/pdfs/Ticket_Sales_Report.pdf

bear. It could be that I am just trying to recoup a bit of my season ticket cost or trying to pay a surprise medical bill. Whatever the reason, a price cap on fan resale limits my ability to reap the benefits of my investment but does little to stop bad actors, who will always find a way to skirt the law.

Sports Fans Coalition advocates against legislation and regulations that attempt to control ticket prices artificially.

White label ticket sites defraud fans.

"White label" ticket resale websites use the ticket inventory, website technology, back-end functionality, customer service, and order processing systems of other, larger ticket resale sites. They are permitted to set prices for tickets and impose fees and surcharges at their discretion, profiting from any markup.

White label ticket sites commonly use deceptive practices to fool fans. By using misleading URLs, link titles, imagery, and logos, these sites led the fan to believe he or she is purchasing a ticket from the primary market or official box office at a ticket's face value. In reality, fans are buying from a third party pretending to be an official site. Because of this deception, white label ticket sites profit from inflating ticket prices and charging significant additional fees — often significantly higher than their affiliated site.

The following example showcases the pricing differentials between white label sites and the ticket resale websites that supported their operations during the 2017 baseball season. Please note this example was pulled before New York's statute on white labels was adopted in 2018. In these instances, for a Yankees ticket with a face value of \$178.60, fans were deceived into spending more than \$300.⁵



⁵ Results pulled July 28, 2017.

New York has led the nation in prohibiting white label ticket fraud. State regulations and Google's Ad Word policy have significantly reduced the prevalence of this practice. White label sites still exist, though the deceptive nature of the URL has been addressed by New York statute. Sports Fans Coalition strongly recommends extending these provisions to continue protecting fans and encouraging the Attorney General to enforce against this kind of deceptive business practice when it is detected.

The "Public Benefits for Professional Facilities Act" is pro-fan and good for the community.

If passed, the "Public Benefits for Professional Facilities Act" would grant local and state taxpayers ticket affordability for publicly funded venues. Sports Fans Coalition has long supported such benefits being tied to public funds. It has been documented repeatedly that publicly financed sports stadiums – especially football stadiums – rarely yield a positive benefit for the community. Requiring discounts or affordable pricing is one way to ensure that a community benefit is achieved. I would urge the Senate to include these provisions in the new ticketing laws you are considering today.

Conclusion

Today, the laws which govern one of the United States' largest live-event marketplaces are robust and consumer-friendly. While these laws are sunseting soon, I urge the members of this committee to extend those laws indefinitely. I would also support incorporating new provisions, such as those found in the "Public Benefits for Professional Facilities Act."