

**FANFAIR**

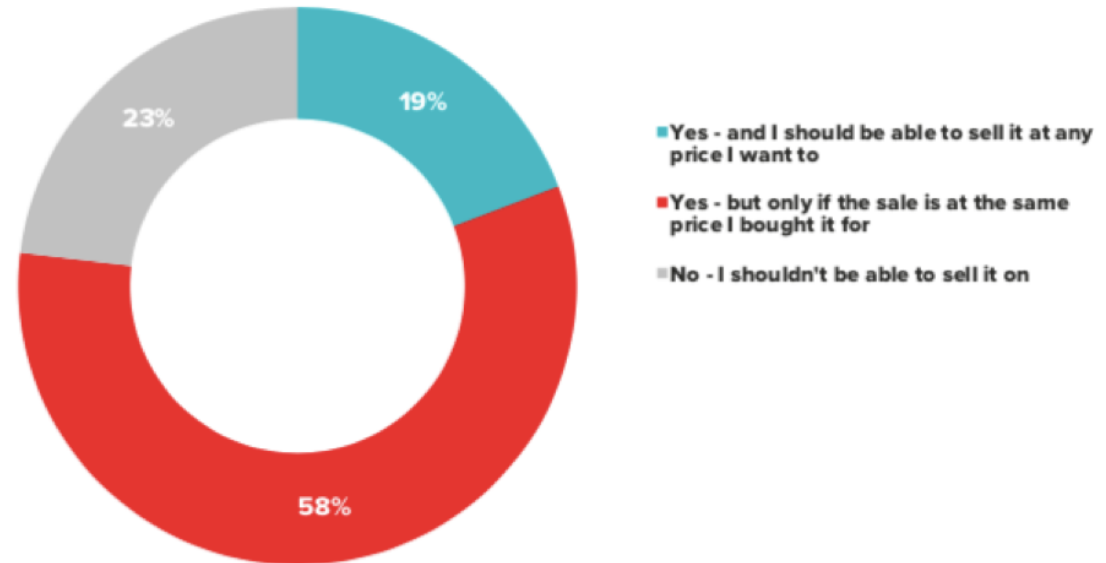
# RECLAIMING “SECONDARY TICKETING”

## AudienceNet / Music Ally research:

77% of the UK public say you should be able to resell a ticket.

58% say resale should be for the price of purchase.

If you purchase a ticket to a live music event, do you feel you should be able to resell it?



## **1. RECLAIMING “SECONDARY TICKETING”**

The phrase “secondary ticketing” has mostly negative connotations.

And we need to reclaim that. Because the public likes the idea of ticket resale.

According to research commissioned by FanFair in 2017, 77% of the general public think you should be able to resell a ticket. 58% think the resale price should be limited to what you paid for it.

However, over 80% of those surveyed said that the current system of ticket resale, as practiced by the Big 4 sites, is a “rip off”.

There’s a big disconnect; and also an incredible opportunity.

Viagogo’s model of secondary is now over 10 years old, and it’s not fit for purpose. It might work for the platforms, and the touts who dominate those platforms, but I’m not sure it works for your customers.

The number of consumer-friendly resale services in the market is increasing. We need to support them and guide music fans towards them.

# “WHAT IS A TICKET?”

2016 WATERSON REVIEW:

An “unresolved question”

“From a legal perspective, are tickets goods, services or something else?”

“Overall...there is very little case law relating to...event tickets specifically.”

Neither the Department for Business, Energy & Industrial Strategy, nor the Consumer Rights Act 2015, “attempts to provide a legal definition of a ticket.”

## **2. WE NEED TO BETTER DEFINE WHAT A TICKET IS.**

This might be difficult.

The 2016 Waterson Review described the definition as an “unresolved question”.

Lawyers and Govt Depts are similarly flummoxed.

Nobody, it seems, can provide a definitive answer.

# A BANANA, A RARE 1938 SUPERMAN COMIC, A CAR, A CD, A HOUSE



### **3. THIS UNCERTAINTY IS BEING EXPLOITED BY TICKET TOUTS & SPECULATORS**

According to Julien Lavalée, one of StubHub's most successful clients, reselling a ticket is the same as reselling a banana.

To Institute of Economic Affairs, it's no different than reselling a rare 1938 Superman comic.

StubHub reckon it's closer to reselling a CD, a car or a house.

In their standard response to media, Viagogo describe any measures that might stop the "free trade" of tickets as "unenforceable and illegal".

It suits their business model to define tickets as a "commodity".

# A PERSONAL REVOCABLE LICENCE?

 ticketmaster®

*"Any Ticket you purchase from us remains the property of the relevant Event Partner and is a personal revocable licence which may be withdrawn and admission refused at any time."*

 axs

*"A ticket means...a personal revocable licence to attend an Event, which is sold or offered for sale via this site."*

 the ticket factory®

*Tickets sold or being offered for sale or commercial gain or profit is strictly prohibited and we reserve the right to cancel such tickets without refund and/or refuse entry to the event.*

 music glue

*The ticket remains the property of the Vendor and is a personal revocable licence...*

 skiddle

*You warrant that the Tickets are purchased for personal use only, and that they have not been purchased as part of any form of business or commercial activity*

**See**

*Tickets you purchase are for personal use. Except as we may agree, you or your party may not re-sell or transfer the tickets in breach of the applicable terms. A breach of this condition will entitle SEE or the Promoter to cancel the tickets without prior notification, refund, compensation or liability.*



#### **4. TICKETS ARE NOT A COMMODITY**

At least according to the small print.

Looking at T&Cs from a range of promoters and ticket companies, the 3 most common inclusions are:

1. That the buyer is purchasing a “personal revocable licence”.
2. That the ticket “belongs” to the event promoter. They set the rules.
3. And it is for personal use only, and can be cancelled if resold for profit.

Clearly there is a chasm between what the music industry thinks a ticket is, and what the secondary platforms think a ticket is.

I’d suggest the former should be driving this conversation.



*Any ticket you purchase from us remains the property of the Event Partner, and is a personal revocable licence which may be withdrawn and admission refused at any time.*



*When you purchase a ticket you obtain a right to attend the event as granted by the relevant Event Partner.*



*Tickets remain the property of the BBC. ID checks may be carried out at the entrance.*



*All Tickets remain the property of AEG at all times and constitute a personal revocable licence from AEG to you which may be withdrawn*



*By ordering tickets with Gigantic you agree that the tickets you buy are for personal use by you and your party only... If you do sell or attempt to resell your tickets at a higher price than you have purchased them for, Gigantic may cancel any and all orders you hold us without notice.*



*Tickets are personal revocable licences and shall at all times remain the property of Live Nation.*



*The Ticket is issued to You for Your personal use only. You purchase the Ticket in Your personal capacity and not as agent for a third party.*

## **5. THE SMALL PRINT MATTERS**

Changes and updates to consumer law that the FanFair campaign has helped deliver means your T&Cs have a greater impact on how tickets are listed and resold in the secondary market.

3 of the 4 biggest resale platforms are committed to following their legal obligations under the Consumer Rights Act 2015.

So, that's a shared responsibility - by seller and secondary platform - to provide a ticket's:

1. Original face value
2. Location, including seat number
3. Any details about restrictions of use - including resale restrictions

And, if the event organiser insists on it, a "Unique Ticket Number" that helps the buyer identify their location.

## **6. THE SMALL PRINT MATTERS [PT 2]**

In April 2018, the Competition & Markets Authority received pledges from StubHub, Get Me In and Seatwave that they will make it clear

- whether there is a risk a customer might be turned away at the door
- which seat in the venue the customer will get
- who is selling the ticket, so customers can benefit from enhanced legal rights when buying from a business

Press release

## **Secondary ticketing sites pledge overhaul**

Following CMA enforcement action, 3 major secondary ticketing websites have pledged a number of changes to the way information is provided to customers.

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Published 25 April 2018

From: [Competition and Markets Authority](#)



In the CMA's words:

“To ensure people can easily find this vital information, the 3 platforms will make significant changes to the way they gather and display it. They will make it mandatory for sellers to provide this information when listing a ticket, routinely carry out their own checks on primary ticket sellers' websites about resale restrictions, and act promptly if event organisers tell them information is missing.”

Viagogo failed to make similar pledges, and are now facing action through the courts.

# USE YOUR T&CS

## COMPETITION & MARKETS AUTHORITY – APRIL 2018 StubHub, GetMeIn! and Seatwave commit to make clear:

- whether there is a risk a customer might be turned away at the door
- which seat in the venue the customer will get
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The CMA notifies **Viagogo** “it will take action through the courts, unless they promptly commit to satisfactorily addressing its concerns.”

## 7. BUT THE SMALL PRINT NEEDS TO BE “FAIR”

However, it is not all one-way traffic.

The CMA have also raised a flag of caution with event organisers, that Consumer Law applies to any resale restrictions.

They have yet to make a definitive announcement on this issue, but have outlined 4 proposed steps for promoters to follow. So, if you want to control resale, you should provide:

- A full and clear disclosure of any resale restrictions upfront -  
ie making sure people know the rules before they purchase
- put in place arrangements for consumers to exchange, return and/or resell tickets that can be effective in allowing the original ticket buyer to recoup or mitigate any financial loss if they're unable to use the ticket  
ie provide a way for anyone who genuinely can't attend to resell get their money back
- provide full refunds to be issued to any consumer whose ticket is voided  
ie the CMA is concerned that processes to cancel tickets could be abused, and a promoter could get paid twice
- put in place arrangements that help to ensure that those people who have bought resold tickets, and have not been fully and clearly informed about these restrictions, won't lose out

ie provide a process for audiences to buy a face value ticket, and guide them towards a refund.

As with the “definition” of a ticket, I'd suggest it'd be desirable for the music business to come to an established and unified position.

# BUT MAKE THEM “FAIR”

## Competition & Markets Authority blog 2018:

While we'll be acting to ensure certain secondary ticket websites do more to avoid fans losing out – **we also think event organisers that use resale restrictions have a role to play as well**. In general, people expect to be able to sell something that they have previously bought – and resale restrictions that prevent this have the potential to be unfair under consumer law.

- full and clear disclosure of any resale restrictions upfront
- putting in place arrangements for consumers to exchange, return and/or resell tickets that can be effective in allowing the original ticket buyer to recoup or mitigate any financial loss if they're unable to use the ticket
- full refunds to be issued to any consumer whose ticket is voided
- putting in place arrangements that help to ensure that those people who have bought resold tickets, and have not been fully and clearly informed about these restrictions, won't lose out



## **8. A SMALL 'TO DO' LIST**

Again this backdrop of changes, there is clear evidence that anti-touting strategies can be highly effective - or at least limit the problem to one site (Viagogo). Going forward, there needs to be more experimentation and testing for artists of different levels. i.e. there is no cookie cutter one-size-fits-all model.

However, saying that, the following considerations should be paramount.

### **i. Planning.**

Complaining when your tickets are all over secondary sites is not a strategy. Speak to your ticket and venue partners in advance of the onsale. Tell them of your plans. Contact all the large resale platforms. Write to tell. Ask them not to list.

### **ii. Communications.**

Tell your fans - in advance! - where your tickets are on sale and at what time. Link to all official ticket agents. Provide them with full information about pre-sales. Communicate on social media. Fans frequently head to a preferred ticket site - if they see the words "sold out", then they often assume everywhere is sold out. And, importantly, tell them which sites not to buy from. If the Culture Minister can warn people against Viagogo, then so can you.

### **Provide a resale mechanism. Encourage audiences to use it.**

There are many options on the market. Make it clear which ones you support. If you don't provide the facility to resell, then you'll risk inadvertently sending fans to Viagogo.

### **Turn your small print into LARGE PRINT**

T&Cs are important. Make sure the small print is prominent. Make sure it's consistent across all your ticketing and venue partners. If there's any rules around ticket resale, then your audience needs to be fully aware of them before purchase. You cannot communicate this enough. Remind buyers of any relevant information in confirmation emails, and on social media. Make sure it's printed on the ticket.

### **Sell to consumers not businesses.**

A bulk of tickets on resale sites are listed by "professional" ticket sellers - ie "professional" ticket touts. Make it clear that tickets are for consumers only. Tickets bought by or behalf of businesses will be invalidated.

### **Enforce your T&Cs.**

Or why have them?

### **Point to FanFair guidance**

FanFair has several guides on our website, to help audiences buy tickets and to help any victims of misleading secondary practices to instigate a chargeback through their bank. Please link to them. Working with Victim of Viagogo, our guidance has resulted in more than £240,000 being refunded to customers.

# SOME FINAL OBSERVATIONS

## **Planning.**

Complaining when your tickets are all over secondary sites is not a strategy. Speak to your ticket and venue partners in advance. Contact all the large resale platforms. Tell them of your intentions.

## **Communications.**

Tell customers in advance where your tickets are on sale. From which agents, and at what time – including pre-sales. Tell them which sites not to buy from. If the Culture Minister can warn people against Viagogo, the so can you.

## **Provide a resale mechanism. Encourage audiences to use it.**

There are many options on the market. If you don't provide a resale mechanism, you'll risk sending fans to Viagogo.

## **Turn your small print into LARGE PRINT**

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## **Enforce your T&Cs.**

Or why have them?

## **Point to FanFair guidance**

Tips For Buying Tickets Online + Victim of Viagogo self-help chargeback manual.



**AND, IF YOU DO WANT  
YOUR TICKETS HARVESTED  
BY TOUTS**

Then ignore everything I've just said,  
and simply do nothing...

## FANFAIR ALLIANCE PRESENTATION - MONDAY MAY 21st 2018

The FanFair Alliance campaign against “industrial scale” online ticket touting was launched in July 2016.

In less than two years, we have helped deliver a raft of legislative and regulatory changes to the so-called secondary ticketing market, including:

### 1. **Competition & Markets Authority enforcement investigation**

Launched in [December 2016](#), extended in [November 2017](#).

As a result of this investigation, in [April 2018](#), Get Me In, Seatwave & StubHub agreed to undertakings under the Enterprise Act. They will now fully comply with their obligations under the Consumer Rights Act - as well as disclosing details of business sellers, and taking responsibility to ensure ticket listings include details of any restrictions. Viagogo failed to comply and now face the prospect of court action

### 2. **Updated and clarified guidance for businesses of their obligations under the Consumer Rights Act 2015**

Published in [February 2018](#), the guidance reemphasised the shared responsibility for both sellers \*and\* platforms to comply with consumer law, and clarified that secondary listings also need to display any applicable resale restrictions - eg if tickets are named, and ID is required for entry.

Event organisers can now also add additional protection and reassurance for buyers by using a Unique Ticket Number.

### 3. **National Trading Standards**

Awarded £15m to undertake enforcement work specifically related to ticketing. [Four arrests are made in December 2017](#).

### 4. **ASA ruling on misleading pricing**

[Announced in March 2018](#), and as the result of FanFair Alliance complaint, Get Me In, Seatwave, StubHub and Viagogo are given until May 26th to stop misleading pricing practices.

### 5. **New Primary Legislation**

To outlaw [the bulk-buying of tickets](#) through automated software - anticipated to be active by Summer 2018.

### 6. **Google certification for ticket resale**

Launched in [February 2018](#), partly as a result of [FFA research](#) on search listings, Google introduces a new ad policy for ticket resellers. This results in prominent disclosures on resale websites. However, the text in paid-for adverts remains unaffected. FFA continues to [pressure Google](#) on this issue, and for secondary sites to make full disclosure of their business in search ad's.

## 7. Research

Music Ally / AudienceNet published the FFA-commissioned report [“Ticked Off”](#) in October 2017 - outlining consumer attitudes to ticket resale and damage to the creative industries.

## 8. Guides

FFA publishes separate guides for [music managers](#) and [consumers](#). The latter is used by Ed Sheeran for his 2018 stadium shows.

## 9. Victim of Viagogo

Published on the FFA website, [self-help guidance](#) developed by FFA and Claire Turnham has resulted in more than £240k in successful chargebacks from Viagogo.

## 10. Select Committees

FFA has been instrumental in two Culture Media & Sport Select Committees. CMS Chair Damian Collins describes secondary ticketing as a [“national scandal”](#) and the Committee [unanimously](#) supported new legislation to criminalise bulk-purchasing of tickets through automated software.

## 11. Media

FFA has been instrumental in keeping the issue of online ticket touting high on the agenda of national, regional and music media.

## 12. Awards

FFA was recognised as [Best Consumer Campaign](#) at the 2018 Sheila McKechnie Awards.

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Presented at an invite-only event at London’s Regent St Cinema, to highlight how different artist teams are using the above changes to implement more effective anti-touting strategies, here are a series of observations by Adam Webb, FFA Campaign Manager, on the past two year’s work.