

Testimony of

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H.B. No. 6298

An Act Concerning the Fair Sale of Tickets to Entertainment Events

Before the General Law Committee of the House of Representatives of the

State of Connecticut General Assembly

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Introduction

Good morning, Messrs. Co-Chairmen, Mr. Vice Chair, Mr. and Ms. Ranking Member and members of the committee. My name is John Breyault and I am the Vice President of Public Policy, Telecommunications and Fraud for the National Consumers League (NCL).¹ I appreciate this opportunity to appear before the General Law Committee of the House of Representatives of the Connecticut General Assembly to discuss the issue of event ticketing.

Founded in 1899, NCL is the nation's pioneering consumer organization. Our non-profit mission is to advocate on behalf of consumers and workers in the United States and abroad. From 2009 to 2010, we led a coalition of consumers and public interest groups, independent venue owners and promoters and secondary ticket sellers in opposition to the Ticketmaster-Live Nation merger. It is imperative, in our view, that consumers be protected from anti-competitive practices that have been increasingly introduced in the wake of that merger.

Consumers Are Harmed by Anti-Competitive Ticketing Practices

The live event market today operates in a largely opaque manner with consumers required to pay numerous add-on "order-processing fees," "convenience fees," and even fees to print off tickets at home. To add insult to injury, average consumers stand little

¹ The National Consumers League, founded in 1899, is America's pioneer consumer organization. Our non-profit mission is to protect and promote social and economic justice for consumers and workers in the United States and abroad. For more information, visit www.nclnet.org.

chance of purchasing tickets through ostensibly “public” sale channels. Thousands of tickets are routinely held back from the general public, reserved instead for credit card member rewards programs, artists’ fan clubs, radio stations, sponsors, promoters and venue owners. For example, at a 2009 Taylor Swift show in Nashville, Tennessee, only 1,600 of 13,300 tickets were made available to the public.² This was not an isolated incident. Prior to the public sale date for a 2009 show by country music star Keith Urban, more than 10,400 of 14,900 tickets had already been sold. Thousands of these tickets were reserved for Urban’s fan club and American Express card members.³ At a September 2007 Hannah Montana show in Kansas City, Missouri, only 4,000 seats were made available to the general public for a 13,000 seat venue.⁴ Rarely are consumers made aware of their dramatically reduced odds of purchasing tickets at public sale for such events.

Given these barriers to accessing tickets on the primary market, consumers are increasingly turning to the secondary ticket market. In previous decades, consumers seeking access to sold-out events were forced to deal with shady ticket scalpers with little protection from counterfeit tickets and other forms of fraud. Today, consumers are

² Branch, Alfred. “Ticketmaster, Taylor Swift and Keith Urban ticket holdbacks exposed,” *TicketNews*. November 11, 2009. Available at: <http://www.ticketnews.com/news/Ticketmaster-Taylor-Swift-and-Keith-Urban-ticket-holdbacks-exposed11091198>

³ *Ibid.*

⁴ Kephart, Jason. “10 Things Your Ticket Broker Won’t Tell You,” *SmartMoney Magazine*. April 14, 2009. Available at: <http://www.smartmoney.com/spending/rip-offs/10-things-your-ticket-broker-wont-tell-you-23109/?page=6>

increasingly relying on online ticket marketplaces with strong refund policies to facilitate the buying and selling of tickets. While consumers frequently pay a premium when purchasing tickets via these services, they also offer an opportunity for consumer deals. According to a 2007 survey conducted by Forrester Research, 23% of consumers reported paying face value and 17% reported paying less than the face value of tickets when buying tickets on the secondary market.⁵

Ticketmaster has made little secret of their desire to squeeze out competitors in the secondary ticketing space. In particular, the company has sought to promote the anti-consumer practice of paperless-only ticketing. Beginning in 2008 and used increasingly since, major national tours for artists such as Miley Cyrus, John Mayer, and Justin Bieber have required paperless ticketing. Ticketmaster claims that paperless ticketing provides more convenience for consumers.⁶ However, the practical results of the shift towards paperless ticketing have been that consumers have experienced increased difficulties redeeming their purchases and transferring tickets to friends and family.⁷ Resale of tickets on the secondary market is also greatly complicated, if not prevented by paperless ticketing.

⁵ Sucharita Mulpuru and Peter Hult. The Future of Online Secondary Ticketing: A Forecast of US Online Secondary Ticket Sales, 2007 to 2010, Forrester Research.

⁶ Crockford, Petrina. "Ticketmaster goes 'paperless,'" *TicketNews*. May 16, 2008. Available online: <http://www.ticketnews.com/news/Ticketmaster-goes-paperless58167813>

⁷ Branch, Alfred. "KFC Yum! Center struggles with Justin Bieber paperless tickets," *TicketNews*. November 11, 2010. Available online: <http://www.ticketnews.com/news/KFC-Yum-Center-struggles-with-Justin-Bieber-paperless-tickets111011854>

The ability of consumers to easily resell tickets in a secure marketplace benefits both sellers and buyers. Ticket holders may not be able to attend an event for any number of reasons. For example, a season ticket holder to a professional sports team is may be unable to attend every home game. A transparent, competitive secondary market enables that ticket holder to recoup her ticket investment via the resale service of her choice. Ticket buyers can use the secondary market to gain access to sold-out events, often at a discount off face value of the ticket, as noted earlier. Paperless ticketing takes away this option, ultimately harming consumer choice and competition in the live event marketplace.

H.B. No. 6298 is An Opportunity to Protect Consumers in the Ticket Market

NCL supports the goal of H.B. No. 6298, which seeks to protect consumers' right to sell and purchase tickets on the secondary market. Protections for season ticket holders from having their ticket packages revoked for reselling tickets are common-sense, pro-consumer policy. The requirement that consumers have the option to receive paper tickets as well as paperless tickets allows consumers who wish it to benefit from the convenience of paperless ticketing while preserving the rights of consumers to easily transfer or resell their tickets.

We are concerned, however, with several provisions of Section 1(e) regarding ticket holdbacks. NCL supports clear and prominent disclosure of the number of tickets held back from public sale. In addition, we believe consumers should have fair access to the majority of tickets at public sale. This section of the legislation rightfully seeks to

prohibit holdbacks in excess of 5% of all available seating. However, we fear that the language exempting seats “subject to technical holds or contractual obligations of the venue or for which tickets are distributed or sold to or held” by persons who have made payments that have been applied to venue development or renovation or event production costs or is a member of a fan club or subscription group could be easily used to circumvent the spirit of the legislation. To address these issues, we urge the committee to more explicitly define what constitutes a “technical hold.” In addition, we urge the committee to ensure that exemptions to the 5% threshold are not abused to prevent tickets from being made available to the general public.

Conclusion

The National Consumers League supports efforts to make the live event market more transparent and consumer-friendly. H.B. No. 6298 will ensure that consumers are protected from a number of egregious fees and that their right to sell and buy tickets on a competitive secondary market is preserved.

Thank you, Messrs. Co-Chairmen, for giving the National Consumers League this opportunity to comment on the issue of event ticketing. We applaud you for your leadership in this area and look forward to answering any questions you or other members of the committee may have.