



The American Antitrust Institute

March 15, 2012

Dear Representative,

The American Antitrust Institute is an independent organization that focuses on competition and consumer protection law and policy. We ask for your support for House File 657, important legislation that will substantially benefit consumers. We support this bill because restrictive paperless ticketing unnecessarily and unreasonably limits consumer choice and restrains marketplace competition. It is anti-competitive and anti-consumer and should be prohibited.

Restrictive paperless ticketing comes in two types: *prohibitions on ticket transfer*, and *restrictions on transfer*. The former denies ticket purchasers the option of giving, donating, or selling tickets. The latter permits transfers, but only with restraints that harm consumers and competition.

When ticket transfer is prohibited completely, consumers, local businesses, workers and taxpayers are harmed. First, consumers who buy tickets but cannot attend an event, lose their money. Friends or charities that might be given tickets also lose. Second, consumers who could not purchase tickets when they were first sold cannot buy them later, if ticket reselling is not permitted. Third, consumers like the assurance of knowing that unused tickets can be resold. Without this assurance, many consumers might not purchase tickets in advance. Fourth, many tickets in non-paperless formats—e.g., paper tickets or print-at-home e-tickets—are resold for prevailing market prices that are well below face value. For example, last season many Twins tickets were resold at discounted rates. Prohibiting transfers will deny consumers access to these low-priced resale tickets, even when the ticket holders are eager to sell. Fifth, limiting ticket resale means more empty seats which in turn means that less food and concessions are sold, and fewer parking spaces and mass transit tickets are purchased. In essence, less revenue means reduced profits, fewer jobs, and less tax revenue for the State of Minnesota.

Similarly, consumers also lose when ticket transferability is limited. Permitting resale transfers through only one exchange—most commonly, the one owned by Ticketmaster—excludes competitors from what would otherwise be a very competitive resale market. Once rivals are excluded, the single reseller has no incentive to reduce service fees, innovate, or provide great customer service.

Eliminating rival resellers also enables the team or concert promoter to set a minimum resale price. When this occurs it prevents ticket-holders from selling their tickets at the prevailing free market price, and it denies fans access to low priced tickets such as the \$5 NFL seats and \$1 NBA seats that were recently available through resale marketers. If restrictive paperless ticketing persists and expands as expected, Ticketmaster, which now has an overwhelming share of the primary ticketing market, will also dominate the resale market. Hundreds of ticket resale businesses—like our own

Ticket King in Minneapolis—will be injured or destroyed. No competitive pressures will remain to inhibit Ticketmaster from increasing fees or restricting consumer choice further.

To the extent that performing artists request reselling restrictions, that does not avoid the anticompetitive, anti-consumer results. In addition, keep in mind that Ticketmaster's parent company, Live Nation Entertainment, manages more than 300 artists, is the world's largest promoter of live events, and is one of the leading owners or operators of the venues where events occur. Whatever the real motive, requiring that transfers be processed by a Ticketmaster subsidiary enables them to charge sellers and purchasers substantial fees, without having to win consumers' allegiance through fair competition.

Assertions that transfer restrictions are needed to defeat "scalpers" and protect "real fans" are absurd. First, even Ticketmaster does not view "scalpers" as all those who purchase tickets for later resale, but rather as only that relatively small, predatory group that use sophisticated tools to acquire large amounts of tickets and then employ unscrupulous methods to sell them. Second, purchasers of resold tickets are not lesser fans than are box office purchasers. Certainly Ticketmaster and its clients are not protecting fans by: requiring their use of Ticketmaster's subsidiary resellers; imposing resale price floors; denying them the ability to give away their tickets to family members, friends, customers, or colleagues; and preventing them from donating their tickets to charities for auction or resale.

To defeat "scalpers" without imposing greater injury on consumers, we should enforce existing laws against ticket bots, establish new laws against bots as necessary, and apply existing consumer protection laws with greater rigor—but we should not take away consumers' right to re-sell or give away THEIR tickets as THEY choose.

HF 657 promotes fairness and will benefit consumers, workers, local businesses, and the local economy. It will not harm Minnesota in any way. We urge you to support it.

Sincerely,



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