

Submission on discussion document: Ticket Reselling in New Zealand

Your name, organisation and submitter category

Name	Richard Thomas, Chief Commercial Officer		
Organisation	New Zealand Rugby		
Submitter category	<i>Please circle/highlight one category:</i>		
	Individual consumer	Consumer Group/Advocate	Business
	Industry Group	Researcher/Academic	
	Other (please describe):		

Responses to discussion document questions

Overview of primary ticket market

1	<p>How is the ticket price for an event determined? Who has input into setting these prices?</p> <p><i>New Zealand Rugby is the official body responsible for the administration and promotion of rugby union in New Zealand. Its responsibilities include managing, promoting and arranging sponsorship for the All Blacks and all other national rugby teams in black. New Zealand Rugby also hosts and organises rugby matches and tournaments, including the All Blacks, Black Ferns and Maori All Blacks New Zealand-based test matches and the New Zealand leg of the World Rugby Sevens Series. As the host and organiser, New Zealand Rugby has the exclusive right to sell tickets to the matches it is responsible for. New Zealand Rugby has appointed official ticketing agents to issue, sell, fulfil, and distribute tickets on its behalf.</i></p> <p><i>NZR sets the prices for its matches through a collaborative process with a number of key stakeholders including the match venue and respective local host rugby entity.</i></p> <p><i>Ticket prices are determined through an evaluation of multiple factors, including:</i></p> <ul style="list-style-type: none"> - <i>Expected market demand</i> - <i>Previous pricing of Test matches not only in the region, but also nationally</i> - <i>Pricing of other rugby matches in the region</i> - <i>Pricing of other events in the region</i>
2	<p>What is the average proportion of event tickets that is released for general public sale (not reserved for industry insiders or pre-sale events for non-public groups)?</p> <p><i>This amount ranges from event to event and is not a set amount. Our ticketing sales strategy focuses on rewarding the rugby community in New Zealand, while ensuring that the majority of tickets are still made available to the general public.</i></p>

Overview of secondary ticket market

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Is there any available data on the size of the secondary ticket market in New Zealand that you could provide? For example, the average

- proportion of event tickets that end up on the secondary market
- proportion of professional sellers operating on secondary markets and where they are operating from
- proportion of resale tickets that are sold above the face value
- fees charged per ticket by secondary markets for facilitating the resale transaction.

Practically speaking, It is not possible to identify the number of tickets that end up on the secondary market, as there is no way to track a physical or pdf ticket. Neither is there any way to verify the validity of listings that appear on secondary websites such as Viagogo, Instatickets, StubHub etc. as generally no specific ticket details are disclosed and in fact, there is no way to verify whether they are reselling actual tickets or just the promise of a ticket.

Ticket scalping is a significant issue for New Zealand Rugby. Over the past 18 months, New Zealand Rugby has receiving an increasing number of complaints from fans who have been ripped off by purchasing severely over-priced and invalid tickets through the secondary (resale) market. The vast majority of these complaints have been from fans who purchased tickets from Viagogo, however we have also received complaints in relation to purchases from other unauthorised reseller platforms such as StubHub and Instatickets.

To illustrate the scale of harm caused to consumers by the secondary ticket market, we outline below a summary of Viagogo related issues experienced by our fans

In September 2016, prior to any tickets for the DHL New Zealand Lions Series 2017 being on sale to the public, New Zealand Rugby became aware that Viagogo was offering ticket packages to the three test matches between the All Blacks and The British and Irish Lions on its website. It is not unusual for resale sites to offer tickets to events which are not yet on public sale, in other words they can be offering tickets which they don't actually possess, essentially selling the promise of a ticket. We have evidence from 2018 matches of Viagogo selling "tickets" which once sent to the purchaser can be identified as having being brought after the initial Viagogo sale took place.

Following a match between the All Blacks and South Africa on 16 September 2017, New Zealand Rugby was made aware that a significant number of people had presented invalid tickets which had been purchased from Viagogo. New Zealand Rugby also received a number of complaints directly from affected consumers. Ticketek subsequently advised that over 200 people were turned away at the gates with invalid tickets, including tickets which were shown as having already been scanned by another attendee.

Given the complaints received about Viagogo, New Zealand Rugby worked together with its ticketing agencies to set up a process to capture information and assist fans by providing documentation to help them seeking a refund from the resale platform or credit card/bank.

New Zealand Rugby kept detailed records of the invalid ticketing issues arising at 2018 All Blacks test matches. By way of example:

- (a) *Records from the match between the All Blacks and France at Eden Park on 9 June 2018 showed over 119 consumers (with over 233 tickets) were declined entry to the match because they held invalid tickets purchased from Viagogo. The vast majority of these consumers were adults with child tickets, ticket sales records revealed that over 300*

children's tickets had been purchased by six individuals from Qatar and Russia. There were at least 14 instances of consumers presenting fraudulently altered tickets which they had purchased through Viagogo.

- (b) Records from the match between the All Blacks and France at Westpac Stadium on 16 June 2018 showed over 113 consumers (with over 214 tickets) were declined entry to the match because they held invalid tickets purchased from Viagogo. Of these, there were at least 10 instances of fraudulently altered tickets which consumers had purchased through Viagogo.
- (c) Records from the match between the All Blacks and Australia at Eden Park on 25 August 2018 showed that 162 consumers (with over 370 tickets) were declined entry to the match because they held invalid tickets purchased from Viagogo. Of those consumers, at least five presented tickets which had already been scanned by other attendees, one presented tickets which appeared to have been obtained through a fraudulent credit card transaction, and at least 94 held fraudulently altered tickets purchased from Viagogo.
- (d) Records from the match between the All Blacks and Argentina at Trafalgar Park in Nelson on 8 September 2018 showed 21 consumers (with over 51 tickets) were declined entry to the match because they held invalid tickets purchased from Viagogo. Of these consumers, at least two presented tickets which had already been scanned by other attendees, and one consumer had purchased tickets from Viagogo but never received the tickets. There were also at least nine instances of fraudulently altered tickets purchased through Viagogo.
- (e) Records from the match between the All Blacks and South Africa at Westpac Stadium on 15 September 2018 showed over 79 consumers were declined entry to the match because they held invalid tickets purchased from Viagogo. For this match there were at least 14 instances of consumers presenting fraudulently altered tickets purchased through Viagogo.

In addition, following the Steinlager Series matches in June 2018, New Zealand Rugby received enquiries from over 100 concerned fans who had purchased tickets from Viagogo for upcoming All Blacks matches in the Investec Rugby Championship. As part of the detailed process put in place to assist customers to claim refunds, NZR recorded Viagogo order details, including the date of the purchase and the price paid. After conferring with Ticketek around the details of the some of the tickets received by Viagogo customers it emerged that, of the 77 complainants who were denied entry to the Nelson and Wellington All Blacks matches, at least 21 had received tickets that were purchased from Ticketek after the date of the complainant's transaction with Viagogo. For example we have evidence showing a Viagogo order was placed on 19 June 2018, and the ticket subsequently provided to fulfil the order was purchased on 10 August 2018.

Further analysis of the Viagogo purchase data recorded before the August and September 2018 matches in the Investec Championship shows that of the Viagogo customers who contacted New Zealand Rugby, at least:

- (a) 11 of the Viagogo customers received fraudulently altered tickets. These included tickets which had been altered to remove the original purchaser's name, the face value and category of the ticket, and relevant transaction details (such as the date of purchase and the confirmation number). We have photographic evidence showing examples of these alterations available for MBIE to review.
- (b) 79 of the Viagogo customers were charged in foreign currencies including Australian dollars, American dollars, Euros, British Pounds or Polish Zloty.
- (c) 91 of the Viagogo customers were charged well in excess of the original sale price or face value of the ticket, with prices ranging from a 40% increase on the face value to a 464% increase.

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Do you think 'ticket onsellors' should be treated differently to 'ticket scalpers' in any options to address ticket reselling practices?

Yes, the harm we are observing being suffered by our fans are at the hands of ticket scalpers not ticket onsellors – we believe efforts should focus on dealing with scalping and fraudulent behaviour.

Key issues and policy objectives

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Do you agree with the issues and objectives we have identified for assessing potential options to address ticket reselling concerns? How significant are these issues? Please provide evidence where possible.

We agree with most of the issues and objectives identified. However, in a rugby context we haven't observed the potential competition problems in the primary ticket market. In our experience, the primary ticketing market doesn't appear to have overly contributed to the issues in the secondary market.

We have received a significant number of complaints from fans who have been misled and deceived when purchasing resale tickets (refer to evidence set out in our answer to question 3 above). In addition, given that All Blacks test match tickets are for some a "once-in-a-lifetime" event, we have received significant anecdotal feedback that consumers that don't have much discretionary income have been negatively impacted by spending much more than face value purchasing tickets from the secondary market even when tickets were still available in the primary market.

As previously outlined above, the majority of harm caused to our fans has been due to resale tickets purchased through the Viagogo platform.

The three main Viagogo-related issues can be summarised as:

- (a) fans who have mistakenly purchased tickets to rugby matches from Viagogo, thinking they were purchasing from an official New Zealand Rugby website – a number of fans were confused by Viagogo's Google advertisements, which typically displayed (and still display) at the top of search results for rugby tickets;*
- (b) fans who have been charged prices which were significantly higher than the face value of their tickets (including significant hidden fees added) and often charges transacted in a foreign currency; and*
- (c) fans who have purchased duplicate or fraudulently altered tickets (such as children's tickets which have been edited to appear as adult tickets) from Viagogo, and who are usually unaware of any issues with their tickets until they are denied entry to a match. .*

Our experience, indicates the role of search engines in misleading consumers and promoting the secondary market is significant. Often secondary market places, through advertising arrangements with search engine providers, are promoted in more prominent positions than the official event page or the primary online market place. By way of example, Viagogo's use of Google AdWords, and the content and placement of those advertisements in Google's search results, is one of the main causes of our fans being misled. Google's stricter advertising requirements have not been effective in dealing with these concerns.

6	<p>Do you have any concerns with the business practices or structures in the primary ticket market, or have these ticketing arrangements negatively impacted on you? Please provide evidence where possible.</p> <p><i>The practical reality in NZ is that there are a limited number of ticketing agencies in the primary market space who have the appropriate systems and resources required to ticket our matches. We have observed that ticketing agencies in NZ don't seem to have access to technology and systems available to ticketing organisations in other parts of the world.</i></p> <p><i>Our concern is that primary ticket providers do not necessarily have effective systems or processes in place to detect and/or mitigate fraudulent or suspicious activity often associated with ticket scalping.</i></p>
7	<p>Could greater competition in the primary ticket market (e.g. between ticketing agents) reduce problems in the secondary ticket market? What could be done to encourage more competition in the primary ticket market?</p> <p><i>In a rugby context, the primary ticket market is a relatively competitive landscape. Across rugby competitions and events in NZ, there are a number of primary ticket providers in operation, yet we still have significant levels of problems in the secondary market. Consequently from our perspective we not believe competition in the primary market solves the problems we see with scalping and other fraudulent behaviour.</i></p>

Option 1: Status quo

8	<p>How effective are the existing consumer protection laws in regards to ticket reselling practices?</p> <p><i>Our experience is that existing consumer protection laws are not effective in preventing consumer harm or addressing issues where consumers have been misled or deceived when purchasing resale tickets.</i></p> <p><i>The majority of ticket resale sites lack basic information about tickets being sold (such as face value, category of ticket, location of ticket, restrictions etc.) meaning that customers are unable to make fully informed decisions in relation to online purchases.</i></p> <p><i>The majority of issues suffered by our fans are at the hands of overseas resellers/platforms – the current civil proceeding commenced by Commerce Commission against Viagogo highlight the considerable complexities of taking action against overseas entities.</i></p>
9	<p>Does the status quo achieve the policy objectives of reducing consumer harm? Are there any other benefits and costs associated with the status quo?</p> <p><i>Our experience has been that even in situations where rugby matches have received protection under the Major Events Management Act (most recently in relation to the 2017 DHL British and Irish Lions Series), MEMA was not effective in dealing with the ticket scalping behaviour witnessed. In particular, we were advised it was unable to address the large scale ticket scalping activity undertaken by overseas resellers/platforms such as Viagogo.</i></p>

Option 2: Price cap on resale tickets

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If a price cap for resale tickets was introduced, which price cap option should be implemented?

NZR believes that a lot more work and research would need to be done before being able to assess the appropriateness of any price cap. Ideally our starting position is that we wouldn't want the original purchaser (assuming they are a "ticket onseller" i.e. a genuine fan no longer able to attend) to be losing money when legitimately reselling their ticket – leading us to Price Cap option C.

However, we appreciate that any price cap needs to be as simple as possible for both enforcers and consumers.

The concept of original sale price is highly variable (with booking fees, delivery fees and credit fees variable, depending on the options selected by the consumer) whereas face value (price printed on the ticket) is fixed by the promoter or event owner. That then leads us toward the first part of Price Cap option A (Face Value +10%). However, we'd want to do more validation to ensure that 10% is sufficient to cover standard transaction costs.

By way of additional comment, we would like to see restrictions on advertising being put in place in addition to any price cap being introduced. Given the harm suffered by our fans over the last 18 months, we would like to see the advertisement made illegal as well as the actual resale (as that removes the need for the ticket to be sold before a breach has occurred).

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How should the original sale price of resale tickets be verified? Who should be responsible for this?

With respect to original sale price, because this is variable (depending on the transaction fees incurred by the original ticket purchaser), it would seem to need to be incumbent on the original ticket purchaser to provide a receipt or other proof of purchase price paid.

In the case of ticket resale platforms, it would seem to need to be on the ticket resale platform to verify the price with the original ticket purchaser prior to allowing the listing of the ticket.

We support mandatory disclosure of ticket prices for all events by event owners/promoters. While we believe it appropriate that event owners or promoters should ensure that ticket prices (complete with breakdown of varying transaction fees) are clearly displayed on relevant websites, without knowing the applicable transaction fees incurred by the original ticket purchasers it will be difficult to verify the exact original sale price of any advertised resale ticket.

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What are the compliance costs that might be generated as a result of imposing a price cap?

Whilst we believe additional work needs to be done to fully understand the implications of imposing a price cap, the following are a summary of some of the likely compliance costs:

Event owners, promoters and primary ticket sellers will likely need to provide clear disclosure of ticket pricing and transaction fees.

Where the price cap applies to limited number of events or all events – there is likely to need to be a process for applying or providing adequate disclosure of ticket pricing by event owners or promoters to the enforcement entity.

Depending on the model put in place there is likely to be monitoring costs for event owners, promoters, primary ticket sellers, advertisers and online platforms. In addition there could be additional compliance costs if a complaints based system was implemented.

	<p><i>Secondary market places will likely need to conduct some verification around ticket cost to ensure listing is within permitted parameters.</i></p> <p><i>Ticket reseller will need to disclose details around original purchase.</i></p>
13	<p>Who is best placed to enforce a price cap? What is the level of resource required to enforce a price cap?</p>
	<p><i>Whilst we believe additional work needs to be done to fully understand the implications and practicalities of imposing a price cap, we think a regulator or specialist agency will be best placed to enforce a price cap. They will need to be a suitably empowered and resourced entity, able to enforce the laws and seek penalties for breaches.</i></p>

Option 3: Greater information disclosure requirements

14	<p>What types of ticketing information should be disclosed, and by whom? How should these disclosures be made?</p>
	<p><i>In order to ensure consumers are able to make fully informed purchase decisions, information disclosure requirements will need to apply to event owner/promoter/primary ticket sellers as well as ticket resellers. In addition, we would support an obligation on search engines to make it more obvious to consumers when search results are paid advertisements as opposed to standard search result. Disclosures should be made prior to sale and information displayed at each point of sale (whether online or in store).</i></p> <p><i>Event owners, promoters and primary ticket sellers will likely need to provide clear disclosure of ticket pricing and transaction fees.</i></p> <p><i>Ticket reseller or ticket resale platform should be required to disclose details of who is selling the ticket and provide full details of the ticket including face value price, ticketing category, seating location, any contractual restrictions imposed on the ticket.</i></p> <p><i>On both primary and secondary market websites any transaction fees should be disclosed upfront.</i></p> <p><i>Secondary market platforms and online search engines need to make prominent disclosures that they ticket resellers and not official ticket site.</i></p>
15	<p>How would any information disclosure requirements be enforced? Who should be responsible?</p>
	<p><i>Whilst we believe additional work needs to be done to fully understand the implications and practicalities of imposing information disclosure requirements, we think a regulator or specialist agency will be best placed to enforce this (i.e. the same entity enforcing any price cap). They will need to be a suitably empowered and resourced entity, able to enforce the laws and seek penalties for breaches.</i></p>
16	<p>What type of compliance costs will be involved in order to comply with such information disclosure requirements? Please provide evidence where possible.</p>

Depending on the extent of the information disclosure requirements, there will at a minimum be time cost on relevant parties in taking the time to ensure all details are appropriately displayed on websites etc. There will likely be additional costs associated with monitoring, verifying and enforcing any requirements.

Option 4: Ban on ticket-buying bots

17 How should a bot be defined? How can ticket-buying bot use be detected? What technologies are required to do this?

NZR is supportive of a ban on ticket-buying bots, however we are not subject matter experts in this field. We are supportive of primary ticketing industry initiatives and technology developments which can detect and disable bots.

18 Who is best placed to enforce a ban on ticket-buying bots? What sort of penalties should apply for the use of ticket-buying bots?

NZR is supportive of any legislative ban on the use of automated software to purchase large quantities of tickets, with penalties imposed on persons found to be using such technologies.

Option 5: Joint industry-government initiatives

19 How effective are existing industry-led initiatives in combatting ticket scalping practices?

In short, we don't believe that industry-led initiatives are effective in combatting ticket scalping practices. They can endeavour to educate and warn consumers, assist consumers in understanding their rights and providing support documentation in the case they were denied access to an event due to an invalid ticket purchased on the secondary market but this is largely the case of being an ambulance at the bottom of the cliff.

NZR has invested significant time and resource around ticket resale issues. We have met with numerous different entities including various ticketing and entertainment industry members, Commerce Commission, Consumer NZ, Google, Victim of Viagogo campaign founder Claire Turnham. We utilise our various comms and social media channels to educate fans to avoid resale platforms, we work with ticketing agencies to put in place detailed processes, and provide support, advice and documentation to assist fans with invalid ticket who then need to claim a refund from the secondary ticket platform or credit card company. However, despite the significant amount of effort expended we haven't seen any reduction in the level of harm being caused to our fans – people continue to get caught out and we have numerous example of people mistakenly purchasing overpriced and invalid tickets from Viagogo.

A comment is made in the discussion document that primary ticket sellers have the most power to directly influence and communicate with would-be ticket purchasers – respectfully we disagree. If our fans had landed on the primary ticket sellers site we wouldn't have spent many many hours dealing with the harm caused by purchases from the secondary market. The reality is that messaging on our primary ticket sellers site, our website and across various social media platforms including facebook, twitter and instagram did not reach the hundreds of people who mistakenly purchased tickets from Viagogo (many of whom thought they were purchasing from an official NZ Rugby website).

Are there any other existing or future industry-led initiatives that address these concerns? Do you have any suggestions for improvements?

Joint industry-government initiatives could prove more effective than efforts currently being undertaken by industry members such as ourselves and our primary ticket sellers.

NZR would support a wider main-stream consumer awareness campaign highlighting the harm and reduction in consumer welfare caused by the secondary market place. We see value in a government funded campaign to address the issues, much like those run around problem gambling, water safety or ACC. Ideally resource could be focused on preventing the harm occurring in the first place.

We are very supportive of the creation of a consumer information guide - we have previously spoken with Consumer NZ and Claire Turnham in relation to the development of a consumer self-help refund tips document similar to that which Claire produced for the UK market.

Facebook groups such as the Victim of Viagogo group set up by Claire Turnham have proven hugely effective in helping vast numbers of people to obtain refunds from banks, credit card companies or resale platform.

Full disclosure of event and ticket information by event owners, promoters and primary ticketing providers should also assist in enabling customers to make more fully informed purchasing decision.

Any other comments

We welcome any other comments that you may have.

NZR has undertaken a significant amount of work in relation to ticket reselling in New Zealand. We have provided a detailed affidavit in support of the Commerce Commission's application for interim injunctions against Viagogo.

Our experience is that ticket scalping behaviour occurs in relation to most of our matches irrespective of whether the event is sold out or not.

We have large amounts of information and evidence to illustrate the harm suffered by our fans due to purchases from the secondary ticket market. The level of fraudulent activity we have witnessed occurring on secondary ticket platforms is very concerning. We are happy to meet with MBIE to discuss these matters further and share any relevant information or evidence.