



Australian Government

**Australian Government response to the
Senate Economics References Committee report:**

Inquiry into Ticket scalping in Australia

JUNE 2014

BACKGROUND

On 11 December 2013, the Senate referred the issue of ticket scalping to the Senate Economics References Committee (the Committee), in particular its prevalence and impact on ticket prices; the efficacy of existing regulations; and issues of illegality.

This is not the first review of ticket scalping in Australia. The Commonwealth Consumer Affairs Advisory Committee (CCAAC), an expert advisory council on consumer policy matters, was provided terms of reference to examine this issue in December 2009. The CCAAC finalised its report, *Ticket on-selling in the Australian market*, in November 2010, and it is available on its website at <http://ccaac.gov.au>.

The CCAAC found, among other things that '[t]he incidence of unauthorised ticket on-selling in Australia is very low, due to few sold out events in Australia each year, where sell out events and sell out ticket category or seating type are a precondition for a strong secondary market'. They also found that while 'ticket on-selling does not cause significant consumer detriment...there are concerns about specific issues related to on-selling...includ[ing] issues such as the transferability of tickets, transparency in ticket allocation and fair access to tickets'.

In this respect, the CCAAC found that ticket on-selling can have both benefits and costs for businesses and consumers. For example, it can provide consumers 'greater access to tickets, convenience and the ability to transfer tickets', and it helps businesses increase 'publicity, revenue and attendance at events'. At the same time, it can prevent certain business objectives in pricing tickets, such as providing fans with affordable tickets, and it can have risks for consumers, including the potential for counterfeit tickets.

The Australian Consumer Law (ACL), which is set out in the *Competition and Consumer Act 2010*, provides a number of important protections for consumers with respect to ticket on-selling. For example, it prohibits suppliers of on-sold tickets from making misleading or deceptive statements regarding whether the tickets they are on-selling are authorised or will provide entry to a particular event. It also includes a set of consumer guarantees, which are aimed at ensuring that consumers get what they paid for. The CCAAC's report identified that the existing consumer protection framework was 'adequate to protect consumers from unfair trading practices in the ticket market'.

The protections in the ACL are supported by specific requirements at all levels of Government. In particular, the CCAAC's report identified certain event or venue specific laws at state and territory level. Australia has previously also implemented specific legislation for events such as the Olympic Games hosted by Sydney in 2000 where additional Commonwealth regulation may have been warranted.

The Government does not consider that there is a need to amend the law with respect to ticket on-selling at this time. In this respect, the Government notes that the Australian Competition and Consumer Commission's (ACCC's) data identifies that it has only received around 50 complaints regarding this issue in the four years since the ACL came into force (on 1 January 2011). By comparison, it received over 185,000 contacts in FY 2012-13 alone. The Government also notes that the majority finding of the Committee was that it 'does not see any need for more regulation of the ticketing industry at the moment'.

At the same time, the Government would support any industry initiatives that further strengthened the market for tickets, including the primary market for tickets.

SUMMARY OF GOVERNMENT RESPONSE

The Government notes that the recommendations in the report are broadly for the industry or the Australian Competition and Consumer Commission (ACCC), which is an independent statutory authority, to undertake steps to further improve the market for tickets in Australia.

The Government would support any action that resulted in net benefits for consumers in Australia seeking to purchase tickets. However, it would primarily be a matter for businesses and the ACCC to determine how they respond in this respect.

GOVERNMENT RESPONSE TO MAJORITY REPORT RECOMMENDATIONS

Recommendation 1

The committee recommends that both COMPSS and LPA review the criticism that has been levelled at the primary market identified in this report and consider how event holders and promoters could adopt or revise a code of best practice to address the criticism.¹ The committee notes particularly the desirability of having greater transparency in the way in which tickets are issued and distributed.

The committee supports the Ticket Brokers Association's suggestion that an industry-wide standard of conduct be established. It recommends that the Australian Competition and Consumer Commission (ACCC) be consulted during the development of this code.

The Government **notes** this recommendation.

The ACCC can provide guidance to industry participants to help them to develop any industry initiatives to this issue. In particular, its *Guidelines for developing effective voluntary industry codes of conduct*, which is based on its experiences in using codes of conduct to regulate market behaviour, may be useful to the industry in developing any industry initiatives.

Recommendation 2

The committee recommends that the ACCC consult with the major participants involved in the sale and re-sale of tickets to sporting and entertainment events with a view to identifying areas where consumer education needs to be strengthened. The aim then would be to devise a consumer education strategy that would arm consumers with the information they need to protect themselves against poor practices in the industry and unscrupulous ticket scalpers.

The committee recommends that, based on the findings of this consultation, the major participants (and their representatives) in the primary and secondary ticketing markets, revise or develop a code of best practice that places a heavy emphasis on, and seeks to strengthen, consumer education.

The Government **notes** this recommendation.

As an independent statutory authority, the ACCC is responsible for setting its own operational priorities. Its responsibilities include administering and enforcing the requirements of the *Competition and Consumer Act 2010*.

¹ COMPSS is the Coalition of Major Professional and Participation Sports and the LPA is Live Performance Australia, which is the peak body for Australia's live performance industry.

The ACCC's compliance and enforcement policy is available on its website, at www.accc.gov.au. It notes in its policy that it 'makes comprehensive use of educational campaigns to provide information and advice to consumers and businesses, and to use persuasion to encourage compliance with the Act'.

It also notes that it 'provides targeted and general information, tips and tools to help consumers via a wide range of channels; [and] it liaises extensively with business, consumer and government agencies about the Act and the ACCC's role in its administration'.

Recommendation 3

The committee recommends that the ACCC, as lead agency, coordinate with the states' Fair Trade Offices to obtain a more accurate understanding of ticket scalping practices within the industry across Australia and the significance for Australia, if any, of overseas trends. The aim would be to:

- allow consumers to present their views on, and recount their experiences of, purchasing event tickets;
- obtain a better understanding of measures that have proven to be effective in protecting consumers from unscrupulous ticket scalping in Australia;
- identify ways to bring greater consistency across all states when dealing with ticket scalping; and
- draw on overseas experiences that could be used to inform government decisions on future regulation of the secondary ticket market if required.

The Government **notes** this recommendation.

The Australian Consumer Law (ACL), which commenced on 1 January 2011, harmonised provisions scattered across 20 national, state and territory consumer laws into one law. It means that all consumers in Australia have the same rights and all businesses have the same obligations, irrespective of where they transact.

This national approach to consumer protection is supported by the systems put in place by ACL regulators to create a national approach to administering and enforcing the ACL. In particular, ACL regulators regularly consult and communicate about their priorities and developments in the marketplace, as well as how they will handle and manage concerns in different markets.

This new national approach, which is underpinned by a memorandum of understanding (MOU) agreed by all ACL regulators, means that ACL regulators can consider matters such as this in a comprehensive manner.

Recommendation 4

The committee recommends that the ACCC consult with the states' Fair Trade Offices to review the procedures for reporting and acting on complaints or concerns about purchasing tickets to sporting or entertainment events, in order to ascertain:

- whether information sharing about ticket scalping could be improved between the states and federally;
- whether consumers are confused about procedures for reporting complaints, including the appropriate agency to receive and act on complaints (the relevant state or federal jurisdiction);
- whether there is jurisdictional overlap that causes unnecessary duplication or conversely gaps that undermine consumer protection; and
- the extent to which consumers are reluctant to report complaints related to purchasing tickets for sporting or entertainment events.

If the consultations uncover weakness, the committee recommends that the ACCC work cooperatively with the states towards remedying the identified deficiencies.

The Government **notes** this recommendation.

The MOU agreed between ACL regulators includes a number of elements aimed at improving coordination between regulators. This includes a commitment by regulators to communicate, cooperate and coordinate with one another in relation to monitoring and enforcing the ACL, and to support the effective sharing of relevant information.

These commitments have been in operation since the ACL commenced and we would not expect that there would be significant concerns with cooperation or information sharing between ACL regulators. The MOU is available on the Consumer Law website, at www.consumerlaw.gov.au.

Recommendation 5

The committee also recommends that, based on the results of the consultations and if required, the ACCC revise the advice it provides to consumers regarding the purchase of event tickets in both the primary and secondary markets.

The Government **notes** this recommendation.

Guidance material prepared by ACL regulators to educate consumers regarding the requirements of the consumer policy framework is ordinarily updated to reflect new developments, including the outcomes of any consultations with businesses or other government agencies.

Recommendation 6

The committee recommends that, in light of the growing sophistication in software, the Federal Government ensure that the effects of such advances on the primary and secondary ticket markets are monitored.

The Government **notes** this recommendation.

The ACCC monitors compliance with the ACL in all sectors of the economy (including the market for tickets), in accordance with its enforcement and compliance policy.

GOVERNMENT RESPONSE TO MINORITY REPORT RECOMMENDATIONS

Recommendation 1

That there be federal laws amending the Australian Consumer Law to outlaw ticket scalping and to empower consumers on the basis set out in paragraphs a) to f) above.

The Government **does not accept** this recommendation.

As identified earlier in this Government response, there is no basis for considering a regulatory response to this matter at this time. In particular, as the majority report identified, there is little firm evidence on the extent of ticket on-selling in Australia. The ACCC's complaints data identifies that there is likely to be only a low level of consumer detriment associated with this issue at present.

Australian consumer agencies and regulators routinely monitor consumer policy matters such as this. If the issue of ticket on-selling became a greater issue in the future and impacted adversely on the market for tickets, that would provide an appropriate opportunity to reconsider whether to take a stronger response.