

Sorry, Tickets are Currently Unavailable: The nature of touting and ticket resale in the UK live music industry.

Josh Cherrington

If one desires a ticket to an event, then the chances are that they will always be available; for a price. The issue of ticket touting has always been prevalent in the events industry, but it is growing, and becoming more of a concern for event professionals and customers alike. But, is there a hidden positive to the secondary ticket market? Or is the doom and gloom of ticket scalping portrayed by the media an accurate representation? This essay explores the nature of ticket resale within the UK live music industry, whilst examining if there does need to be a constraint and, if so, what that could be.

In its most basic form, ticket touting, or scalping, is the name given to the practice of purchasing a ticket for an event from a licensed seller at face value (the original price that a ticket is sold for), before selling it to a third party, often at an increased price (Jones & Davies, 2016). Cloonan (2011) states that this can be done of several different ways.

- The first, the innocent transfer, or selling of tickets at face value to a friend or family member, if the original purchaser can no longer attend the event, for whatever reason that may be.
- The second, a similar process, but instead selling the ticket via auction, using eBay for example.
- The third method, professionalized touting designed to generate income, using websites such as Viagogo and Seatwave, or by the more traditional method of standing outside a venue selling tickets to passers-by.

With some tickets being sold on the secondary market at up to 290 times their face value (Jones & Ratcliffe, 2016), and the seemingly unjustified profits lining the pockets of the touts, ticket scalping is generally thought of as a negative practice within the events and live music industries (Thiel, 1993). Despite these negative opinions, research conducted by primary ticketing agent Ticketmaster suggests that 44% of its customers are happy to pay extra, providing the seats are “worth it”, with 37% of customers willing to pay a premium for guaranteed entry (n.d., quoted in Dredge, 2017).

However, notwithstanding efforts from the wider events industry and government, consumer body ‘Which?’ states that ticket resale is now generally accepted as a social norm, with one in four tickets to any given event appearing on one or more secondary ticketing websites (Cavaglieri, 2017).

Despite ticket touting not being a new issue effecting the events industry, it is still very much a highly debated topic, due to its ability to develop quickly and effect events of all kinds. Although the purpose of this essay is to develop an understanding of touting within a live music context, it is important to note that touting effects all kinds of events globally, particularly within larger sporting events. In fact, touting has proved so much of an issue for some of these events, that separate legislation has been employed in an attempt to control it (McFadden, 2016).

There are several ways that scalping is still a relevant issue for the events industry, all of which affect industry professionals and event organizers, as well as performers, sports teams, venues, and most importantly, the customers.

The first reason why touting is still a pressing issue for the events industry, is because in the United Kingdom at the time of writing this essay, it is still a legal practice, although there are exceptions. There are however, a series of American states and sporting leagues that have opted to restrict touting, as well as a number of European countries that have now moved to ban the process of secondary ticketing (European Consumer Centre, 2017) However, McFadden highlights that these restrictions could well be short-lived and somewhat difficult to enforce, due to the online-nature that the secondary market has now adopted (2016).

The second issue that scalping poses is due to its lack of regulation and transparency. Thanks to internet accessibility, 'street-scalping', the physical sale of tickets outside event venues, has now become the smallest part of the secondary ticketing industry, and with more and more touts operating online it is becoming harder and harder to track, control and restrict. This means that customers purchasing from secondary websites are more likely to be purchasing tickets for more than face value, and could even be investing in counterfeit or invalid tickets (Corey, 2014; Moore, 2010).

The third reason whilst this issue is still an important one, is due to the growing number of event promoters, organizers and performers beginning to oppose the practice, with many moving to act to reduce its impact. McFadden (2016) highlights that amongst others, Adele, Ed Sheeran and Foo Fighters have all spoken about the negatives of touting, warning their customers about the risks and in some cases, even providing them with exclusive pre-sales designed specifically to avoid touts. In 2016, heavy metal band Iron Maiden moved to further this notion, making their entire tour paperless, meaning that customers would not be given a physical ticket for the event. Their manager, Rob Smallwood stated that "we do not want our fans being ripped off either by counterfeit tickets, or through costly markups on so called secondary ticketing websites" (n.d., quoted in Savage, 2016). In another attempt to reduce the power of ticket touts, Reading and Leeds festival promoter 'Festival Republic' released a 5-point guide in 2015 to protect their customers from purchasing tickets from scalpers, pleading with them not to buy from internet auctions, or without seeing the tickets face value first (Yorkshire Post, 2015).

The issue of ticket touting is continually debated across the world, with the emphasis of the discourse commonly being focused on its legal status. In the UK at the time of writing, ticket touting is legal, however parts of the process, that more professionalized touts use, *is* against the law (Digital Economy Act, 2017, c.30)

According to Moore (2010), the birth of anti-touting legislation (or scalping restrictive legislation) was for three reasons, and there are two key acts that help achieve this:

- To protect fans from paying extortionate prices
- To protect fans from harassment by street-scalpers
- To prevent fans from buying counterfeit tickets

The Consumer Rights Act 2015

This act forces anyone selling a pre-purchased ticket to provide information such as face-value, row, block, and seat number. This means that potential secondary customers can check if the ticket is a legitimate one, with the event venue, although this could be a lengthy process and still doesn't necessarily stop the price-increase (Consumer Rights Act, 2015, c.15).

The Digital Economy Act, 2017

This act bans the use of computer software that is used to purchase tickets in bulk, or to bypass security measures such as CAPTCHA systems (Digital Economy Act, 2017. c.30).

Despite the Consumer Rights Act and Digital Economy Act, there is nothing else in place, as of yet, to protect event customers or organizers from touting in the UK. Several other countries including various states in the UK have opted to 'restrict' ticket touting rather than completely ban it, arguing that it is impossible and unrealistic to expect to be able to put an end to the secondary market, purely due to legislation (Corey, 2014). With ticket touting now occurring primarily in the digital domain, a lot of legislation is somewhat ineffective; in part due to problems of enforcement. However, it could still be worthwhile, as states such as Florida, Massachusetts and Michigan have moved to restrict secondary ticketing relatively successfully (Moore, 2010).

In addition, Moore (2010) suggests that a ticket touting restriction or ban should be the responsibility of the league, team or event promoter, rather than simply being enforced at a government level. An example of this was shown by the New York Yankees in 2006, who banned members and cancelled season tickets of those who were found to be redistributing their tickets (Sandomir, 2006)

Despite it not only being one type of event that is targeted by ticket touts, the legislation itself *is* different, depending on the kind of event that is taking place. For example, the resale of tickets for football matches is illegal in the UK under the Criminal Justice and Public Order Act 1994 (Criminal Justice and Public Order Act, 1994, c.33), and ticket touting for the London Olympic and Paralympic Games in 2012 carried a hefty fine of up to £20,000 (London Olympic Games and Paralympic Games act, 2011, c.22).

Regardless of one's position in the music industry, whether it be as an organizer, promoter, artist, or even a customer, it is clear to see that the issue of ticket touting is very much at the forefront of the modern industry. Having said that, it is often debated if this issue is one that has a negative or positive impact, with theory reinforcing both sides of the argument.

The main argument behind the anti-touting movement is that of transparency, and the idea of customers not getting what they have paid for, whether that be a particular seat, row, or sometimes not getting access at all. The ongoing argument is that it is not fair for normal music fans to be forced into paying a premium to purchase a ticket that should be costing them much less.

In 2017, ticket touting companies across the country, including StubHub, were raided by police in an attempt to investigate a potential breach of consumer law (Davies, 2017). The main issue being that websites weren't giving customers enough information before they purchased their tickets. Following legislation, approved in 2015, ticket vendors were obliged to provide information such as block, seat and row numbers, as well as the tickets original face value at the time of purchase (Consumer Rights Act 2015 c.15). In response to the raids, StubHub claimed that 98% of their sellers

declared themselves genuine, however they do not “police or monitor claims” and were under no obligation to do so (n.d., quoted in Davies, 2017). There have so far been four arrests following the raids (Davies, 2017).

A further argument surrounding the topic of scalping is a controversial one, that event promoters are secretly making unjust profits from the secondary ticketing process. This is a claim that has been suspected for some time, following a series of suspicious business moves by some of the industries key players, as shown below.

June 2007

Concert primary ticketing agent ‘Ticketmaster’ write to the UK Parliament’s Culture, Media & Sport Committee, stating that they would “Like to see the legislation which is there for football and the Olympics to be extended...into other sports and music events” (HC 202, 2008).

January 2008

Chair of all-party music group, John Robertson MP, calls for a complete ban on ticket touting, claiming that it is ‘Simply extortion’ (N.d., Quoted in The Guardian, 2008, p.33).

January 2008

Ticketmaster turns around the notion and purchases secondary ticketing agent ‘GetMeIn’ – effectively blurring the lines between primary and secondary ticketing. Ticketmaster justified this move, claiming that it would bring legitimacy and transparency to the secondary market (Cloonan et al, 2010).

March 2008

The Concert Promoter’s Association (CPA) claim they are no-longer *against* ticket touting, yet are more focused on developing a more regulated market (Robinson, 2008).

February 2009

Ticketmaster merges with Live Nation to become Live Nation Entertainment, effectively merging a secondary ticketing company with a concert promoter. Which, according to Cloonan et al, had the potential to make direct touting easier, between the promoter and the secondary agent (2010).

March 2009

Promoter AEG is found guilty of selling Michael Jackson concert tickets directly to secondary ticketing website, Viagogo (Foster et al, 2009).

Along with this, there are worries that the UK government will not back any further legislation to protect the music and events industries, and also the paying public from ticket touts, with members of the government speaking out positively about touting. In 2015, the UK’s business secretary Savid Javid stated that touts “act like classic entrepreneurs” (n.d., quoted in Lee, 2015). Also, one of the

directors in the Department for Culture, Media and Sport has previously acted as a chief executive for ticket touting company, SeatWave (Jones, 2016).

Generally speaking, touting is regarded as a negative practice, farming unjustified profits and misleading un-knowing customers, sometimes selling them effectively nothing in return for their hard-earned cash. However; some argue that ticket touts offer a social service, and actually work in the public interest. Whilst giving customers round-the-clock access to tickets, even after they have sold out, scalping in general gives customers much more flexibility when it comes to purchasing event tickets (Cloonan, 2011). The Economist argues that “touts make money when the demand for their tickets greatly exceeds the supply at official price. Under such circumstances a ticket can be worth less to its owner than to someone else; if so, a sale will benefit both parties. However much the buyer may complain, he acted voluntarily, he is better off than he would have been” (1991, p.21). Thiel argues that sometimes these scalpers are actually *needed*, and can assist event producers if their tickets have originally undersold (1993), this thought is also made by Geloso (2014).

In ‘Ticket Scalping as a Means of Managing Risk’, Geloso (2014) highlights a hypothetical issue in an industry in which touts are absent, where their lack of influence over the industry actually damages those who commonly hold them in negative regard. He argues that, if tickets are priced too high at face value, then the promoter may struggle to sell enough tickets to fill the venue, this risking their bottom line and budget constraints. This not only reduces profit in the short-term but will affect the desire of booking agents and other talent bookers to work with those venues in the future (Geloso, 2014). Likewise, if tickets are priced too *low* at face value, then their demand will outstrip the supply, and the event will ‘sell out’. However, because these tickets are cheaper, it is likely that the customer will not necessarily value the ticket as much as someone who would have paid more for it (Geloso, 2014). With the absence of ticket touts, although the events ticket quotas will could still be fulfilled, this does not necessarily mean that the event will generate as much income from additional streams such as bar spend and merchandise, as fans who do not value their tickets could be less-likely to attend the events in the first place (Geloso, 2014).

However, in an environment in which scalpers thrive, event producers can effectively price tickets as low or as high as they want, because even though the tickets will fall into the hands of a tout, on one hand, they still receive the projected ticketing income, but also receive a technically ‘higher quality’ of customer, as in effect they may have purchased those same tickets for a higher price, through a tout. Because of this, it could be argued that a tout effectively removes some of the risk originally held by the event organizer (Geloso, 2014).

Good or bad, ticket touting certainly effects the events industry in a number of ways. Methods of touting prevention are commonly debated, with some saying that it doesn’t even need to stop. Some argue that a complete halt or ban is the way forward, while others argue that it simply needs restricting, thus letting it happen, just in a controlled manner. Others claim that neither party (promoters or government) *really* desire a change, as the market, as it stands, is lucrative for all involved, apart from the customer (McFadden, 2016).

Arguably the simplest method to reduce the effects of touting is to ban it all together. Seen in countries such as France, and in the UK with football, it could stop touting in its tracks and allow the events industry to continue without its “thorn in the side” (Ellis, n.d. quoted in The Scotsman, 2006). However, as previously mentioned, just because there is legislation existing to stop an act, doesn’t really mean that those who already do it, will stop. This has been shown by the football ticketing ban, which is still an issue despite the legislation that is already in place (Seatwave, n.d.).

It has been proposed before that rather than a ban, a simple 'cap' should be enforced on any tickets that are sold on the secondary market. This means that touting would still take place, but would be discouraged and would put an end to the unjustified profits. This is similar to the legislation enacted in the US state of Florida (capped \$1 above face value) (Moore, 2010). This would be an ideal fix to the problem, but could still cause issues for event organizers, as highlighted by Geloso (2014). A price cap has previously been called for by Adam Tudhope manager of bands Keane and Mumford & Sons (Jones, 2016), and Sharon Hodgson (Labour MP), who also stated that the time for 'Tinkering' is over, and the government should consider "a radical move" (n.d., quoted in McGivern, 2014).

Another method of tout-control is that of dynamic pricing, where, similar to touting websites, the price fluctuates with demand. This means as more customers try to purchase tickets, the more the cost of those tickets increases, and vice versa. For example, having say, 1000 cheaper tickets as 'Tier 1' and then several other tiers which escalate in price, as more tickets are sold. This is a method seen by some UK festivals already, including Y Not and Truck Festival (Y Not Festivals, n.d.).

It is also argued that ticket transparency could be used to control and restrict touts, and is already in motion courtesy of the UK government. It is stated that all tickets sold on the secondary market should display set criteria as a requirement, such as face value, block, seat and row number, as well as any implications, such as restricted viewing or lack of access, in order for the ticket to be 'valid'. This, as previously mentioned, does not mean that the legislation is working, as it is clear that further enforcement is needed, with tickets lacking any of this 'required' information being on sale for multiple concerts through Seatwave (Seatwave, n.d.). It is also possible that further clients are needed to assist customers with their purchases, to protect them even more whilst using secondary agents. Harrington & Harrington (2012) highlight that one particular service that does exactly this, 'SeatGeek', was founded in 2009, and effectively compares tickets on touting websites, and scores them against their predicted quality and estimated market value, giving customers a score that prevents them from purchasing over-the-odds tickets that are not really worth it.

As previously mentioned, another way of curbing the control that ticket touts have over the events industry, is to change the nature of the tickets that they are buying. This is commonly done by paperless, or customer-specific, ticketing. Replacing a physical event ticket being dispatched to the customer with an email confirmation and e-ticket or, in some instances, insisting ticket holders present photo-identification with the payment card used for purchase, for attendees to gain entry to the venue. These methods have previously been implemented by artists such as Iron Maiden and Foo Fighters (McFadden, 2016; Savage, 2016). This removes the opportunity for touts to gain access to tickets, as details are difficult to alter, but it could also pose two issues for customers legitimately purchasing tickets for themselves, as highlighted by McFadden (2016).

- The first being that people often use ticket stubs as a sentimental memento of the event, and the lack of a tangible souvenir could affect their experience negatively.
- The second, being people who are purchasing tickets as gifts for birthdays etc., who will be faced with the issue of non-transferrable tickets.

A final method of controlling ticket touting, and potentially the easiest to execute, is to simply permit ticket resale, but through channels that are authorized by event promoters. This has been

done previously with websites such as ‘Twickets’ acting as an official resale partner for Ed Sheeran in 2017/18, which allowed tickets to be re-sold at face value or lower, designed specifically for those who were no longer able to attend the shows (Twickets, n.d.). This reiterates the point made by Moore, that it should be the responsibility of the promoter or sporting league/team to control their ticket allocations, and any potential touting agreements or issues. As shown in the NFL and NBA, it could be beneficial for these industry bodies to ‘team up’ with official resale partners (such as Sheeran, above), to protect customers, yet providing the secondary market that research suggests is more beneficial for the industry (Moore, 2010).

Ticket touting is the resale of event tickets that have already been purchased from a licensed seller, commonly for seemingly unjustified profits. Touting is generally regarded as a negative practice, with event customers being forced to purchase tickets for much more than face value, only to be let down by counterfeit tickets or those that are drastically different from what was advertised. The practice is commonly done online, and is relatively simple to do, particularly considering that it is legal in the UK for the most part, despite efforts from event managers and government alike. Some however, argue that ticket touting is actually healthy for the events industry, as it provides a somewhat ‘better quality’ of customer, as they value their tickets more than someone who has purchased them from a primary seller such as Ticketmaster. Those customers who have paid more for their ticket are more likely to attend the event, and spend more money on subsidiary ventures such as the bar or food vendors. In short, ticket touting means that the event gains the money projected from ticket sales, as well as extra income from other sources, whilst providing the customer with a round-the-clock stock of event tickets, providing they are willing to pay a premium for the privilege. Despite this, the UK events industry is full of an overwhelming desire to control ticket touting, to protect the customer from “the man loitering outside the match with a fist of grubby tickets” (The Economist, 1991).

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