

NetChoice *Promoting Convenience, Choice, and Commerce on The Net*

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September 12, 2016

Senator Jerry Moran, Chairman
Senator Bill Nelson, Ranking Member
US Senate Committee on Commerce, Science, and Transportation
Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security
Senate Russell Building 253
Washington, DC 20510

RE: Support for S.3183 - Better Online Ticket Sales Act of 2016 (BOTS Act of 2016)

Dear Chairman Moran, Ranking Member Nelson, and members of the subcommittee:

NetChoice enthusiastically supports S.3183 - Better Online Ticket Sales Act of 2016 (BOTS Act) which protects fans and primary and secondary ticket marketplaces from the scourge of unscrupulous ticket brokers using automated ticket buying programs.

While more than a dozen states enacted laws similar to the BOTS Act¹ now is the time for a national standard. The BOTS Act creates reasonable prohibitions that can stop unscrupulous ticket brokers from circumventing online security measures.

The problem with bots

Usually when a fan purchases a ticket through an online marketplace or primary ticket seller, those websites use access control systems to ensure that the purchaser is a “human being” and not a computer program. That is because these “bots” (a term for the algorithm used to automatically purchase tickets) have enabled unscrupulous ticket brokers to buy thousands of tickets and shutting fans out of shows and events.

A report by the New York Attorney General² found that these bots allowed brokers to grab hundreds of tickets in the first few seconds after tickets go on sale, as seen in the documented examples to the right.

This has led to just twelve brokers capturing more than \$60-million in tickets as seen in the NY AG report.

1,012 tickets in **1 minute**
U2 2015 Tour
Madison Square Garden
Bought by one bot on December 8, 2014, for a July 19, 2015 concert.

520 tickets in **3 minutes**
Beyoncé
Barclays Center
Bought by one Bot on March 4, 2013 for an August 5, 2013 concert.

15,087 tickets in **1 day**
U2 2015 Tour
Twenty Different Venues
Bought by two Bots on December 8, 2014 for twenty concerts in the same tour across North America.

522 tickets in **5 minutes**
One Direction
Jones Beach
Bought by one Bot on April 14, 2012 for a June 28, 2013 concert.

¹ For example, California, Florida, Indiana, Maryland, Minnesota, Oregon, Pennsylvania, New Jersey, New York, North Carolina, Tennessee, Vermont, Virginia, and Washington have all passed laws making illegal the practice of intentionally using or selling software to circumvent a security measure, access control system, or other control or measure on a ticket seller’s Internet website that is used by the seller to ensure equitable consumer access to tickets for any given event.

² New York Attorney General Eric T. Schneiderman, *Obstructed View: What’s Blocking New Yorkers from Getting Tickets*

This has led the New York AG to call for legislation similar to the BOTS Act.³

Washington Attorney General Bob Ferguson said, “Outlawing ticket bots will keep more fans’ hard-earned money in their pockets, instead of fattening the wallets of scalpers trying to game the system.”⁴ The Washington AG’s bill later passed both Washington houses unanimously and is now law.⁵

Clearly bots prevent consumers from having a fair chance to obtain tickets.

By prohibiting these circumvention techniques, the BOTS Act helps ensure that unscrupulous brokers don’t use “bots” to grab hundreds of tickets the minute they go on sale and help ensure fans have a fair chance to buy tickets.

Fans also face challenges from ticket hold-backs and restricted tickets

While bots are a problem, fans face other challenges when buying, giving-away, selling, and using their tickets.

For example, the NY Attorney General report found that the nearly *half of all tickets are never made available for public purchase*. The report shows that around 54% of tickets are withheld from public purchase – with most going to VIPs and fan club insiders.⁶

This reality is often hidden from the public. The NY AG said, “the industry must provide greater transparency into the allocation of tickets, to increase accountability and enable the public to make informed choices.”⁷

Another challenge that fans face is the growing practice of restricting tickets to prevent fans from giving away or selling their tickets however they may want. Under TicketMaster’s restricted ticket program, fans are required to present their driver’s license and credit cards in order to use their ticket. Fans cannot simply hand a purchased ticket to a friend or family member. Likewise, parents are forced to accompany their teenagers to the event’s doors to show identification of the ticket *purchaser*, rather than allowing the teen to hand their ticket to the usher.

When forced to use a restricted ticket, fans lose the choice and convenience of easy ticket transferability. And fans can’t use competing secondary markets to buy and sell tickets – sometimes being forced into just one platform for ticket exchange – when competition among exchanges is in the best interests of fans.

We support passage of the BOTS Act. However, bots are just one part in a much larger conversation about ensuring that consumers enjoy the choice and convenience of an open tickets marketplace.

Sincerely,



Steve DelBianco
Executive Director, NetChoice

NetChoice is a trade association of e-Commerce and online businesses. www.netchoice.org

³ *Id.* at p35.

⁴ Press Statement from Washington Attorney General, *Attorney General Seeks to Outlaw Malicious Ticket Bots* (Ja. 23, 2015).

⁵ *Id.*

⁶ New York Attorney General Eric T Schneiderman, *Obstructed View: What’s Blocking New Yorkers from Getting Tickets*

⁷ *Id.*