



## **HB 701 (Sale and Resale of Tickets) – Favorable with Amendments**

Kevin Callahan

House Economic Matters Committee

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Chair Wilson, Vice Chair Crosby, and members of the House Economic Matters Committee,

Thank you for the opportunity to submit comments regarding House Bill 701, regarding the sale and resale of tickets. StubHub believes that a competitive, transparent, and secure ticket marketplace unequivocally supports fans. Competition can drive affordability and an overall better consumer experience.

While we are supportive of several of the consumer protections included in HB 701 as introduced, such as all-in pricing for the whole industry and codifying Marylanders' ability to transfer the tickets they purchased in the manner they choose, we would appreciate the opportunity to work with Chair Wilson and stakeholders to further public policies that create a competitive, transparent, and secure ticketing marketplace that benefits Maryland consumers.

### **Background on StubHub**

Founded in 2000, StubHub revolutionized the ticket resale marketplace by providing a safe, transparent, and trusted marketplace to buy and sell tickets. Our industry leading FanProtect Guarantee ensures buyers and sellers can transact in confidence, knowing that in the rare instance something goes wrong with a transaction, each order is protected, and our customer service team is available to assist with the issue and find comparable or better tickets, or a full refund.

### **Price and Fee Caps**

We are concerned with the price and fee caps established under HB 701. Sellers on our site dictate the price of the tickets sold on our site. We value the ability of our users to buy and sell tickets at the prices they deem appropriate, without manipulation through mechanisms such as price caps or floors that impact the ability to sell at the market rate.

From a consumer standpoint, price caps have been observed to undermine consumer protections by incentivizing the movement of legitimate business activity off secure platforms and into non-regulated forums such as through social media that lack consumer protections. The trend for states has been to move away from antiquated and ineffective price cap statutes to allow consumers to benefit more from a regulated resale market that provides critical protections.

Additionally, limitations on fees earned by secondary ticket exchanges undermines our ability to protect our users and provide our service to customers wishing to sell or buy tickets to events in Maryland. StubHub only revenue on a transaction is from the fees on the ticket sale which we use to build the world's leading live event marketplace, including funding our security measures, investing in our FanProtect Guarantee, and providing for customer service at a global level.

It is also concerning to see that HB 701 as introduced only targets the fees of secondary ticket exchanges while not addressing the fees assessed by ticket issuers/primary ticketing companies, like Ticketmaster. In comparison, Ticketmaster's secondary ticket exchange platforms do not share the same costs of integration because of their position as a primary ticketer as well. We believe StubHub's fees are competitive with the broader secondary ticketing industry. It is critical that policymakers take action to ensure the live event industry is competitive so that one player cannot unilaterally dictate the price of fees to customers.

### **Data Transfer and Privacy**

Requirements in HB 701 for resellers and secondary ticket exchanges to provide customer data to a ticket issuer is concerning from a privacy and data protection standpoint. The bill is vague in how these requirements would be implemented. Further, we are not aware of any other requirement for us to disclose to other unaffiliated businesses our customer data especially as it is unclear how that data would be collected, maintained, protected, and used by the ticket issuers. We strongly urge striking this language.

### **Transferability**

We would suggest language to amend HB 701 to clarify the ability of a Maryland consumer to transfer or resell the tickets they purchased. As introduced, the provisions are vague ("subject to reasonable restrictions") and may have the unintended consequence of further empowering primary ticket sellers to impose unfair restrictions on the sale of a ticket rightfully purchased by a Maryland consumer. Generally, in the United States, the original sale of a ticket for any event is exclusively conducted by one primary ticket platform. In today's marketplace, 70-80% of primary ticket sales are controlled by one primary ticket platform, Ticketmaster.

### **Additional Consumer Protections for Consideration**

As the General Assembly continues its consideration of HB 701 to provide robust consumer protections for ticket-buying Marylanders, we encourage the Committee to consider the following public policies that will continue to promote competition and transparency in the marketplace:

#### **1. Further review of existing Maryland's deceptive URL law**

We have heard the concern over the potential use of deceptive websites to sell tickets. Maryland enacted a law supported by many of the stakeholders involved in this issue including StubHub to prohibit these types of websites. In addition to ensuring that resources are available for the enforcement of the law, we would be supportive of

updating the law to reflect some recent public policy advancements in this area to further refine the statute.

## **2. Amending Maryland's bots law to require the reporting of bots activity**

StubHub supports strong enforcement of Maryland's bots law. We recognize that enforcement requires collaboration with the industry, particularly with those primary ticket sellers attacked by illegal bots usage. StubHub welcomes the collaboration and encourages those attacked by illegal bots to report the behavior to the Maryland Attorney General and the Federal Trade Commission for further investigation. Some legislative proposals in Congress and in other states have considered requiring the reporting of bots usage to ensure that enforcement of state/federal bots laws can happen.

## **3. Transparency regarding ticket holdbacks and dynamic pricing**

Primary ticket sellers frequently hold back large percentages of tickets from sale to the general public. This practice of holdbacks was identified in a 2016 report by the Office of the New York Attorney General that found on average, only 46% of tickets go on sale to the public during the initial on-sale. The remaining 54% are held back for industry insiders, artists fan clubs, credit card pre-sales, etc. For top shows, the average number of tickets offered to the public falls to 25%.

The practice of holdbacks is a significant factor in ticket availability and can be manipulated to create a false sense of scarcity in ticket supply. When a false sense of scarcity is created, dynamic pricing can then be leveraged to increase primary ticket prices when those held back tickets are later released into the marketplace. We would encourage the Committee to consider how holdbacks and dynamic pricing affect Maryland consumers.

HB 701 incorporates several positive concepts for consumers that we support, such as all-in pricing that is applied across the industry and a consumer's ability to transfer their tickets however they choose. We would welcome the opportunity to collaborate with Chair Wilson and the Committee on amendments which would improve the overall experience for Maryland consumers when it comes to the sale and resale of tickets. We respectfully ask the Committee for further work on the bill to preserve consumer choice and protection in the live event ticketing space and to allow for robust competition to better serve Marylanders.