

The Digital Economy Act 2017:

A Knockout Blow for Touts?

A record breaking 90,000 fans packed out Wembley stadium recently to witness the heavyweight title clash between Anthony Joshua and Vladimir Klitschko, but how many of them purchased a ticket at face value?

The event sold out within minutes and shortly afterwards, secondary ticket websites featured tickets for resale at extortionate prices. According to Boxing News, Viagogo was advertising an inner ring-side VIP ticket for £88,000 (face value £2,000) and £26,399 for a seat in row 10 (face value £400 - £800). Although many would question how fair this is, it is in fact not illegal to resell tickets and there is no resale price limit

The recently passed Digital Economy Act 2017 (DEA) is set to change that and may now prevent tickets being snapped up and resold at inflated prices.

The most significant change is to the regulation of ticket buying bots (Bots), which use computer software to purchase large amounts of tickets online at high speed – faster than a person. The newly implemented DEA will provide further clarity on the consumer protection laws already in place, primarily by requiring information from the ticket seller and imposing criminal sanctions for acts involving the use of Bots to purchase tickets online.

Amendments have also been made to the Consumer Rights Act 2015 to include mandatory information requirements when sellers (acting as a business or as an individual) wish to trade online. Before a buyer can be bound by any terms of sale, the following information relating to the purchase must now be provided: seat name or number; row, seating or standing location; area of the venue; ticket or booking reference; and specific conditions. It is also important to note that if the ticket has any applicable conditions (for example, restricting the ability to resell) then this has to be disclosed prior to purchase. A failure to provide the information is punishable by way of a fine of up to £5,000. Under the DEA, there is now the ability to create an offence against people breaching the limits on purchasing a number of tickets for a recreational, sporting or cultural event in the UK.

Although the DEA will primarily relate to online purchases, there may still be an impact on the street tout, especially if they've used a Bot to purchase their stock. Although it's not illegal to buy or sell tickets on the street, the tout is still obligated to provide buyers with sufficient information to make an informed decision. It is therefore not the end for touts, however, the new law prevents them using Bots to bulk purchase tickets as they come on sale. This should, in theory, reduce the number of tickets offered for resale both online and on the street.

Aside from the new legislation, more can be done to ensure consumers are both protected and have a fairer chance of obtaining tickets at face value, while still allowing the secondary ticket market to thrive. Promoters can, for example, place terms and conditions on tickets in respect of the ability to resell, or even appoint exclusive resellers.

From the perspective of the secondary ticket market, it could be argued that they should do more to identify buyers who are not interested in attending events and are simply facilitating the mass buying and selling of tickets for profit, particularly those who are acting in a fraudulent manner. The platforms should ideally look to work with organisers, athletes, performers and enforcement bodies to create sustainable measures that will allow them to continue to make profit from the resale of tickets.

The only way that the new laws will have any impact is for enforcement action to take place to demonstrate to the touts that there is a risk and consequence to their actions. The law is focused on protecting consumers, so enforcers should act within their powers accordingly to do so.

We will have to wait to see the true impact of the DEA on the secondary ticket market, but the new law is a step in the right direction – perhaps analogous to Anthony Joshua’s uppercut in the 11th round, it won’t end the fight but it has certainly set up the beginning of the end.

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