



## Contribution to the roadmap on a new Consumer Agenda

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### Introduction

Pearle\* - Live Performance Europe is the European employers' federation of live performance organisations. Through our members, we represent more than 10,000 organisations in the sector across Europe, including theatres, theatre production companies, bands and music ensembles, orchestras, opera houses, ballet, dance companies, festivals, concert venues, producers, promoters, agents, comedy, variété, circus, event suppliers and others.

We welcome the opportunity to give input to the new Consumer Agenda to be launched at the end of the year. Although we believe the current rules are still valid, we agree with the European Commission that certain aspects of current legislation in the field of consumer protection need to be updated and further developed considering societal changes, and in particular the digital transition.

In the context of consumer legislation, the live performance sector faces serious problems with a growing online secondary ticketing market, worth €12.14bn in 2019 in the EU. While event organisers are partnering up with online marketplaces to sell tickets for live shows and other events, non-authorised platforms and online traders have created a parallel market on which they sell tickets for prices much higher than face-value to the detriment of consumers, artists and event organisers.

### Stepped-up enforcement

The roadmap outlines ideas about a new governance system and, related to that calls for a more holistic and **coordinated approach to EU and national consumer policies**, together with **stepped-up enforcement**.

It has been observed in recent years that enforcement is a key concern for live event organisers, concert halls and festivals when dealing with secondary ticketing platforms. Secondary ticketing platforms have moved their business outside the EU and as a matter of fact escape from enforcement of European law for companies acting on the territory of the



EU. In this way, even in countries in which the resale of tickets above face-value is prohibited<sup>1</sup>, platforms continue selling tickets to EU consumers from a “safe haven”.

### **A strategic framework for joint actions**

In the recent reform of EU consumer laws, namely the proposed Directive on “Better enforcement and modernisation of EU consumer protection rules”, a ban of certain practices of websites reselling tickets to cultural and sports events was included. The text prohibits the acquisition of tickets by using software such as bots, which allows an online platform to get a high number of tickets minutes after they were released for sale by the organiser.

While this is a step in the right direction, concerns related to the complex secondary ticketing market using different methods to acquire tickets remain.

Several Member States however have already introduced legislative measures against the illegal resale of tickets in recent years. At the same time, the live performance sector took action against secondary ticketing platforms and, in some countries in partnership with consumer organisations, informed consumers in campaigns about the impact of secondary ticketing.

Numerous court cases against online ticketing platforms by governments or consumer organisations<sup>2</sup> – some of them still pending – show the dimension and impact of the problem for consumers, artists and live performance organisations and reveal unfair commercial practices and fraud used by those platforms.

In the context of secondary ticketing, we therefore urge the Commission and Member States authorities to **create a new and ambitious strategic and operational framework for joint actions such as cross-border investigations with “sweeps”, enforcement of pre-contractual information for consumers on secondary ticketing platforms, an exchange of information and coordinated action about secondary ticketing platforms within the CPC network.**

### **The impact of the Covid19 pandemic**

The live performance sector has been, and still is one of the sectors the most hardly hit by the Covid19 pandemic with nearly all live events (within and outside the EU) being cancelled

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<sup>1</sup> This is the case in Portugal, Spain, France, Belgium, Norway, Denmark, Germany, Poland, Croatia

<sup>2</sup> Most recent court cases in Austria, Hungary and Norway. Other court cases in Germany, the UK, Switzerland, Italy, France, Belgium



during lockdown. While some shows, concerts, theatre pieces, opera and festivals shifted to online, they were, at the large majority, available for free.

In order to avoid the collapse of the whole sector at the beginning of lockdown due to immediate refunds for cancelled/postponed events, in most of the European countries "force majeure" legislation applied or new rules on event tickets were introduced to give event organisers flexibility to propose new dates for events to consumers. Many organisations introduced voucher systems so that consumers had the choice whether to attend a postponed event, or another event organised by the same venue, or get a refund.

Pearle\* is currently collecting information from its members in different Member States to draw conclusions of these measures. We stand ready to discuss lessons learnt from this period with the European Commission as well as Member States authorities.

### **Conclusions**

(1) In order to fight online secondary ticketing platforms reselling tickets higher than face-value, clear EU legislation, an ambitious strategic and operational framework and stepped-up enforcement measures (including taking down websites) are needed.

(2) Secondary ticketing platforms often operate from a "safe haven" outside the EU on the European market. Cooperation between Member States as well as with third countries are key to address unlawful practices related to secondary ticketing.

(3) Further discussions are necessary to draw conclusions on new rules during the Covid19 pandemic. Pearle\* is interested in participating in an exchange between the Commission and EU Member States on newly introduced legislation during the Corona crisis.

*Further input will be given in the context of the public consultation on the new Consumer Agenda in October.*

**On secondary ticketing, Pearle\* is partnering with FEAT, the Face-Value European Alliance for Ticketing.**

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