

Contribution to the public consultation for the Fitness Check of EU consumer law on digital fairness

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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 Commission's initiative on digital fairness and the related consultation on consumer law. While current rules on consumer protection are still valid, we agree with the European Commission that certain aspects of current legislation must be adapted to the digital environment, more concretely to digital transactions and business to consumer relations online, bearing in mind compliance costs for small and micro-sized companies.

Illicit secondary ticketing in the event sector remains a problem

As Pearle* highlighted over the last years in its contributions to public consultations, in the context of consumer protection, the live performance sector has been facing serious problems with a growing online secondary ticketing market. Event organisers have been partnering up with online marketplaces to sell tickets for live shows and other events, while at the same time non-authorized platforms and online traders have created a parallel market to sell tickets, often – to the detriment of consumers, artists, and event organisers – for prices much higher than face-value.

Numerous court cases¹ in recent years against online ticketing platforms by governments or consumer organisations 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.

Several Member States have taken action and introduced legislative measures against the illegal resale of tickets. However, in several EU countries, there is no legislative framework protecting consumers, artists and live performance organisations against the illicit resale of event tickets.

¹ More than 60 major legal cases throughout the EU (2016-2023), cases collected by [FEAT](#).

With the aim to raise awareness about the topic, at the beginning of the year, Pearle* joined a new alliance of live industry organisations and professionals from across Europe to launch the campaign "Make tickets fair!"², targeted to both the industry organising live events and consumers buying tickets online. One of the campaign's objectives is to educate and empower music fans to avoid them getting involved with illegal ticket resellers. Event organisers get free resources and tools about ticket sales.

Unfair commercial practices in the resale of events tickets

The commercial practice to use automated means such as bots to buy a large number of event tickets with the aim to resell them, was considered unfair under Directive 2005/29/EC. While this is a step in the right direction, concerns related to enforcement and the complex secondary ticketing market using different methods to acquire tickets remain throughout the EU.

Looking into ways how to better regulate the resale of online tickets, the newly adopted Digital Services Act (DSA) includes provisions which might be of help in this context. However, it is yet to be proven whether enhanced responsibilities and the accountability of online platforms and traders as well as a trusted flaggers system will contribute to tackling issues with online intermediaries and platforms.

A missing part in the Digital Services Act when it comes to the online selling of event tickets is the transparency of the ticket itself. Often, on secondary ticketing platforms, there is no information available regarding the original and official seller of the ticket, the original price of the ticket, detailed information about price categories and general pre-contractual information for consumers. With the aim to better combat unfair commercial practices in the events sector, we call on the Commission to include stricter rules on the transparency of event tickets in reviewed proposals on EU consumer law.

Enforcement of rules through joint actions

In the 2020 New Consumer Agenda, enforcement of consumer rights as well as international cooperation are listed as key priorities of the Commission. In this context, Pearle* advocates that these priorities are considered in the updated EU consumer law on digital fairness.

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 businesses 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 prohibited³, consumers find themselves confronted with fraudulent ticket resales. International cooperation with countries outside the EU is therefore of high importance.

Inside the EU, we urge the Commission and Member States authorities to create an ambitious strategic and operational framework for joint actions and an exchange of information and coordinated action about secondary ticketing platforms within the CPC network. The CPC's cross-border investigations with "sweeps" have proven very effective, as the results of an investigation in online ticketing platforms carried out in 2010 confirmed. A

² <https://maketicketsfair.org/>

³ This is the case in Portugal, Spain, France, Belgium, Norway, Denmark, Germany, Poland, Croatia

newly organised website screening by enforcement authorities of online ticket resale platforms could help to enforce EU wide rules on business to consumer transactions in this field (including newly implemented provisions of the Digital Services Act).

Concretely, we expect Member States to appoint Digital Services Coordinators as foreseen under the DSA so that European wide and international cooperation of national authorities can be strengthened and online platforms as well as traders not complying with new European consumer protection rules can be notified in an easier and more efficient way.

Finally, we ask the Commission to investigate new technologies in the context of the Fitness Check on consumer law, including new applications using the European digital identity, with the aim to secure and better protect official and lawful online purchases of event tickets.

Conclusions

- (1) **Transparency of online tickets** - In the context of the initiative about EU consumer law on digital fairness, we urge the Commission to include provisions on the transparency of events tickets sold online, including information to be disclosed on the face-value of the ticket, on the official seller and applicable (official) price categories.
- (2) **Coordinated approach** - We expect a coordinated approach of Member State authorities to implement new European rules under the DSA which are to be reinforced by new consumer protection rules in the digital environment to be outlined in the Commission's initiative on digital fairness.
- (3) **Enforcement** - Illicit online secondary ticketing remains an issue high on the agenda of live performance organisations and we ask the CPC network to carry out a new sweep on secondary ticketing platforms. Enforcement of rules is a key aspect in the context of consumer protection rules.
- (4) **International cooperation** - Secondary ticketing platforms still operate from "safe havens" 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.
- (5) **New technologies** - We expect new technologies such as the European digital identity to be key to help reinforce consumer protection in the context of the online ticketing sales. Those developments in the digital environment must be monitored closely at the EU level to help tackle problems related to the illegal selling of event tickets.

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