

By Lorraine Conway

8 November 2022

Ticket resales



Summary

- 1 Introduction
- 2 Relevant legislation
- 3 Responsibility for enforcement
- 4 Non-compliance and enforcement
- 5 Reviews and reports
- 6 CMA calls for further reform
- 7 Parliamentary questions and debate

Image Credits

Holidays: Day 15 by Lachlan Hardy. Licensed under CC BY 2.0 / image cropped.

Disclaimer

The Commons Library does not intend the information in our research publications and briefings to address the specific circumstances of any particular individual. We have published it to support the work of MPs. You should not rely upon it as legal or professional advice, or as a substitute for it. We do not accept any liability whatsoever for any errors, omissions or misstatements contained herein. You should consult a suitably qualified professional if you require specific advice or information. Read our briefing [‘Legal help: where to go and how to pay’](#) for further information about sources of legal advice and help. This information is provided subject to the conditions of the Open Parliament Licence.

Feedback

Every effort is made to ensure that the information contained in these publicly available briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated to reflect subsequent changes.

If you have any comments on our briefings please email papers@parliament.uk. Please note that authors are not always able to engage in discussions with members of the public who express opinions about the content of our research, although we will carefully consider and correct any factual errors.

You can read our feedback and complaints policy and our editorial policy at commonslibrary.parliament.uk. If you have general questions about the work of the House of Commons email hcenquiries@parliament.uk.

Contents

Summary	5
1 Introduction	7
2 Relevant legislation	9
2.1 Consumer rights	9
2.2 Unfair trading	10
2.3 Distance selling	10
2.4 Use of bots to harvest tickets	11
2.5 Information requirements	11
2.6 Price indications	11
2.7 Bespoke legislation: high profile events	12
2.8 Fraud	12
3 Responsibility for enforcement	14
3.1 Trading Standards	14
3.2 Competition & Markets Authority	14
3.3 Police	15
4 Non-compliance and enforcement	16
4.1 Non-compliance	16
Bulk purchase of tickets	16
Consumers deprived of information	16
Use of misleading pressure selling messages	17
Failure to provide a refund	17
4.2 Enforcement action	17
Action taken by the ASA	17
Action taken by the CMA	18
5 Reviews and reports	21
5.1 OFT investigation: 2012	21

5.2	Which? Investigation: 2013	21
5.3	Professor Waterson's review: 2015	21
	Waterson report and recommendations	21
5.4	CMA compliance review: 2016	23
5.5	The CMS Committee: ticket abuse	23
6	CMA calls for further reform	25
6.1	The Online Safety Bill	26
7	Parliamentary questions and debate	27

Summary

The online resale of tickets (known as the ‘secondary ticketing market’) applies to recreational, sporting or cultural events in the UK. Secondary ticketing, especially pricing, is a subject that attracts much public interest. Recently, there have been various investigations of this sector resulting in some enforcement activity.

Following the introduction of the [Consumer Rights Act 2015](#), the Government commissioned an independent review of the effectiveness of consumer protection measures in the secondary ticketing market. [Professor Waterson’s report](#), published in May 2016, made nine recommendations to make this market work better for consumers. Karen Bradley, then Secretary of State for Digital, Culture, Media and Sport, hosted roundtable meetings with enforcement bodies and stakeholders in November 2016. The Government’s written [response](#) to the report was published on 13 March 2017. As well as accepting the report’s recommendations in full, the Government said Parliament would be invited to consider proposals for reform of the secondary ticketing market within the context of the [Digital Economy Bill](#).

The Culture, Media and Sport (CMS) Committee has held two one-off evidence sessions into ticket abuse. The first session took place on 15 November 2016 and considered the problem of software being used by secondary ticketing businesses to harvest tickets from primary sellers, the second session was held on 21 March 2017.

The [Digital Economy Act 2017](#) received Royal Assent on 27 April 2017. In respect of secondary ticketing, the Act:

- Criminalises the use of bots to purchase tickets in excess of a maximum, number.
- Puts the Information Commissioner’s Office [Direct Marketing Code of Practice](#) (currently in draft) on a statutory footing.
- Requires sellers to provide any unique ticket number that may help the buyer to identify the seat or standing area or its location.

In 2018 the [Advertising Standards Authority](#) (ASA), the UK’s independent regulator of advertising across all media, acted against four secondary ticketing websites in respect of misleading presentation of pricing information. Separately, in June 2016, the [Competition and Markets Authority](#) (CMA) began a compliance review of the secondary ticketing market and in December 2016 it conducted a formal investigation into suspected breaches of consumer protection law.

Following on from this investigation, the [CMA](#) began enforcement action in November 2017 against four secondary ticketing websites. Three of those sites

made a formal commitment in April 2018 to overhaul the way they do business. In respect of the fourth site, Viagogo, the CMA issued legal proceedings which resulted in a court order being made on 27 November 2018. The CMA suspended its court action in September 2019 because Viagogo had addressed concerns about how it presented information to consumers.

More recently, on 16 August 2021, the CMA published [Secondary ticketing - Recommendations to government for improving consumer protection](#). In this report, the CMA set out its concerns about continued non-compliance with consumer law in the secondary tickets sector. Its recommendations include a requirement that all secondary ticketing sites acquire a licence to operate in the UK. The Government has not yet responded to this report.

However, the [Online Safety Bill](#), which is currently progressing through Parliament, does include a broad duty on search engines to tackle fraudulent advertising. If enacted, the largest platforms would need to put in place proportionate systems and processes to prevent fraudulent adverts being published or hosted on their service.

This briefing paper outlines the current regulation of the secondary ticketing market. It also considers past enforcement activity and CMA calls for stronger laws to tackle illegal ticket resales.

1 Introduction

What is secondary ticketing?

In the UK, tickets for live events (such as pop concerts, theatre, and sports events) are first made available in the ‘primary’ market. Tickets can be purchased at face value (i.e the amount printed on the ticket) through various sources on the primary market (for example, from the box office, official distributors, or an event organiser). However, tickets can also be bought from certain online platforms. This process of reselling tickets is known as secondary ticketing.

The past two decades have seen unparalleled growth in secondary ticket selling for live music and sporting events.¹ The internet has “made it easier for people to apply for tickets in the first place but [has] also enabled the resale market to thrive.”² In brief, the main ways in which tickets are resold in the UK are:

- **Uncapped secondary ticketing platforms** – online platforms that allow ticket holders (resellers) to resell tickets to buyers at any price that they choose. In the UK, the main operators are Viagogo, StubHub and Gigsberg.³
- **Capped secondary ticketing platforms** – online platforms that set a limit on what the reseller can charge for the ticket. For example, these might be ‘fan-to-fan’ sites, or a capped resale exchange within a primary platform (on which a reseller who initially bought the ticket on the primary platform can resell the ticket via a platform operated by the same primary ticket seller).
- **Non-specialist channels and social media** – such as Gumtree and Facebook.
- **Offline channels** – such as box office return outlets and ticket touts who resell tickets, typically outside venues.

This paper is concerned solely with the uncapped secondary ticketing sector.

¹ Culture, Media and Sport Committee, [Ticket touting](#), 10 January 2008, HC 202 2006-7, p7

² Professor Michael Waterson, [Independent Review of Consumer Protection Measures Concerning Online Secondary Ticketing Facilities](#), May 2016, IND/16/7

³ Competition and Markets Authority, [Secondary ticketing – Recommendations to government for improving consumer protection](#), August 2021, p.13 (accessed 4 November 2022)

Market structure

The CMA has described the character and structure of the uncapped secondary ticketing market as follows:

There are two main secondary platforms in the uncapped UK secondary ticket market – Viagogo and StubHub. In 2019, a CMA merger investigation into the acquisition of StubHub by Viagogo (‘the CMA’s merger investigation’) found between 90% and 100% of tickets by value were sold to UK consumers through these platforms.⁴ Their closest rival Gigsberg had a share of supply of less than 5% during the same period.⁵ These platforms are ‘two-sided’. They enable buyers and sellers to trade tickets for music, sports, theatre and other live events.

Professional resellers buy tickets from the primary ticket market with a view to selling them for a profit on the secondary market. The CMA’s merger investigation also found the majority of tickets that are traded through uncapped secondary ticket platforms are sold by such resellers. The CMA’s merger investigation also found that the 200 largest resellers account for around 50% of the ticket sales (by value) being sold on secondary ticketing platforms.

Based on data provided from all the main secondary platform providers in the UK, the CMA’s merger investigation estimated the value of the tickets sold in 2019 through secondary ticketing platforms was about £350 million.⁶

The Coronavirus pandemic has had a devastating impact on the events industry, with most live events in the UK cancelled or postponed from March 2020 until May 2021. Obviously, this impacted on the secondary ticketing market.

⁴ Competition and Markets Authority, [Secondary ticketing – Recommendations to government for improving consumer protection](#), August 2021, p.5 (accessed 4 November 2022)

⁵ As above

⁶ As above

2 Relevant legislation

As set out below, the resale of tickets for live events (and in some cases the purchase of primary tickets) is regulated in the UK by various general and specific regulations.

2.1 Consumer rights

The [Consumer Rights Act 2015](#) (the CRA 2015) introduced new provisions ([sections 90 to 95](#)) in respect of the sale of tickets via online secondary platforms. They apply even where the person selling the ticket is a private individual. The provisions mean that:

- Anyone (businesses or consumers) offering tickets for resale online must provide clear information about face value, seat location and any usage restrictions. They must also reveal any link with an event organiser or online platform on which the ticket is being resold.
- Secondary ticketing platforms have a legal obligation to report to the police and event organisers any criminal activity they become aware of in relation to tickets.

Crucially, information must be given to the prospective buyer before a contract is made and the ticket sold. For the purposes of the Act, an ‘online secondary platform’ is a website or app where tickets are offered for resale, rather than where the first sale of the ticket is made by or on behalf of the event organiser.

The [CRA 2015](#) also contains provisions in respect of unfair contract terms. Event organisers often want to ensure that tickets are sold to genuine fans rather than to individuals who simply want to buy and resell the tickets. Some organisers take steps to prevent speculative buyers reselling tickets, others may cancel tickets that are offered for resale. The difficulty, of course, is that a genuine buyer may have a good reason for wanting to resell a ticket.

Under the CRA 2015, vendors are protected from having their tickets cancelled by the organisers purely because of resale, unless this is made clear in the original terms of sale, and these terms are not deemed to be unfair. Much would depend on the circumstances of the case, but it is unlikely that any such term could be fair if it was not properly communicated to the consumer at the time the purchase was made.

2.2 Unfair trading

The amount a secondary ticketing operator can charge as a service fee is not restricted by the regulations that protect consumers from excessive card surcharges.⁷ However, the [Consumer Protection from Unfair Trading Regulations 2008](#) (known as the Unfair Trading Regulations),⁸ prohibit unfair commercial practices.⁹ These Regulations not only affect the person who resells the ticket, but also the promoter or venue that sells direct to the consumer.

Under the Unfair Trading Regulations, it is illegal to give consumers misleading information. It is also illegal to make a misleading omission, including hiding or omitting material information that the average consumer needs to make an informed choice. In addition, consumers must not be misled as to the price, location, terms, or any adverse factors that may affect their enjoyment of the event. All ticket sellers must give consumers clear, honest information about prices and tell them about any extra charges on top of the ticket's face value. This means that all compulsory fees (whether fixed or variable) should be clearly disclosed at the outset when the ticket price is first displayed.

2.3 Distance selling

Where tickets are sold at a distance (for example, over the internet or by phone), the [Consumer Contracts \(Information, Cancellation and Additional Charges\) Regulations 2013](#) (the CCRs) may apply. These Regulations require certain information to be given to the consumer before contract and require additional charges like booking fees to be disclosed up front. (In other words, additional charges must not be selected automatically for the buyer using pre-ticked boxes or in any other way). In most cases, tickets are exempt from the cancellation rights that normally apply under the Regulations, as events are usually booked for a specific date.

⁷ [Consumer Rights \(Payment Surcharges\) Regulations 2012](#), SI 2012/3110

⁸ [Consumer Protection from Unfair Trading Regulations 2008](#), SI 2008/1277

⁹ For an overview of the Regulations see Library briefing paper, [Consumer protection: Unfair Trading Regulations 2008](#), (CBP 4678), 26 November 2021

2.4 Use of bots to harvest tickets

Regarding secondary ticketing, the [Digital Economy Act 2017](#)¹⁰ (DEA 2017) introduced new provisions to:

- criminalise the use of bots¹¹ to purchase an excessive number of tickets
- put the Information Commissioner’s Office [Direct Marketing Code of Practice](#) (currently published in draft) on a statutory footing, and
- require re-sellers to provide any unique ticket number that may help the buyer to identify the seat or standing area or its location.

On 5 July 2018, the [Breaching of Limits on Ticket Sales Regulations 2018](#) came into force under the DEA 2017. The Regulations made it an offence to use automated computer programmes to purchase tickets in excess of any limit set out in terms and conditions (regarding the maximum number of tickets a consumer may buy) and where the intent is financial gain.

2.5 Information requirements

The [Electronic Commerce \(EC Directive\) Regulations 2002](#) (the ECRs) as amended by the [Electronic Commerce \(Amendment etc.\) \(EU Exit\) Regulations 2019](#) apply to all sales online. Under the Regulations, certain information must be provided to buyers before a contract is made. The intention is that a buyer should know exactly who is selling the goods or service.

The ECRs impose information requirements on those providing an ‘information society service’, including those operating an online marketplace and engaging in online sales. Secondary ticketing platforms must therefore provide information about themselves and their users. When selling tickets through a secondary ticket platform, a business seller will also be providing an information society service and will also be subject to the requirements of the ECRs, including the requirement to provide information about itself.

2.6 Price indications

Secondary ticketing is also subject to the [Price Indications \(Resale of Tickets\) Regulations 1994](#).¹² The Regulations do not prohibit any method of ticket

¹⁰ [Digital Economy Bill receives Royal Assent](#), Department for Culture, Media and Sport press release, 27 April 2017 (accessed 4 November 2022)

¹¹ A ‘bot’ is a software application that is programmed to do certain tasks, they are automated and often imitate a human user’s behaviour

¹² [Price Indications \(Resale of Tickets\) Regulations 1994](#), SI 1994/3248

resale or place any controls on the level of the price which may be charged for a ticket. Their aim is simply to ensure that the consumer is given sufficient information about the price and quality of a ticket before deciding whether to buy it. In effect, consumers must be given clear and accurate price information before they buy a ticket. Information given to the consumer must be complete, and not mislead. For example, if the consumer is quoted a range of prices, or a 'from' price, the trader should make sure that a reasonable number of tickets are available at the lower price. 'Bait marketing', attracting consumers with a low price with low or limited availability (or other restrictions that are not readily disclosed) is illegal. It is important to note that the 1994 Regulations do not apply to consumer-to-consumer transactions. Accordingly, they do not apply to ticket sales between private individuals.

2.7 Bespoke legislation: high profile events

For certain high-profile sports events, specific legislation may be introduced making it unlawful for anyone other than an authorised person to sell or re-sell tickets to those events. This was the case with tickets for the 2012 London Olympic and Paralympic Games, it was also the case for the 2022 Commonwealth Games.

The resale of tickets for designated football matches by an unauthorised person is an offence under section 166 of the [Criminal Justice and Public Order Act 1994](#), which applies to England and Wales. Where a secondary ticketing platform is not authorised by the organisers of the designated football match, it too may be committing an offence if tickets for a designated football match are advertised for sale on its platform.

On 4 June 2018, FIFA, football's world governing body, filed a criminal complaint against Viagogo based on a breach of the law on unfair competition. Both FIFA and Viagogo are based in Switzerland and the complaint was filed with the public prosecutor's office in Geneva. FIFA warned fans who had used unauthorised distribution channels to buy World Cup tickets (including all tickets purchased through Viagogo AG) that they risked being turned away from matches.¹³

2.8 Fraud

Finally, the law relating to fraud may also be relevant to secondary ticketing. The key piece of legislation for England and Wales is the [Fraud Act 2006](#). It

¹³ [FIFA files criminal complaint against Viagogo](#), FIFA media release, 5 June 2018 (accessed 4 November 2022)

sets out a general offence of fraud that can be committed in one of three ways:

- by false representation
- by failing to disclose information
- and by abuse of position.

In Scotland, criminal fraud is mainly dealt with under the common law and several statutory offences.

Where consumers are deliberately scammed, Trading Standards Services and other enforcement authorities can act against offenders. A fraud can also be reported to the police or [Action Fraud](#). The [Companies Investigations Branch](#) of the Insolvency Service might also take action against companies that trade illegally in the secondary market for tickets.¹⁴

¹⁴ [Consultation on ticketing and ticket touting](#), Department for Culture, Media and Sport, February 2009, p11, [not online]

3 Responsibility for enforcement

No one individual entity has lead responsibility for enforcement in the secondary tickets sector. The division of responsibility is as follows.

3.1 Trading Standards

Local authority Trading Standards is the primary enforcer of the [CRA 2015](#) secondary ticketing provisions and holds fining powers in respect of those provisions. Trading standards collaborates with other enforcement bodies directly and via the 'Consumer Protection Partnership' through the [National Trading Standards](#) (NTS) and [Trading Standards Scotland](#).

[Citizens Advice](#) (and not the NTS) deals with individual complaints from consumers. In serious cases, Citizens Advice can make referrals to local Trading Standards who can issue a penalty notice on a business (i.e impose a fine without the need to go to court). Such notices are available under a range of legislation, including laws relating to secondary ticketing. If appropriate, Trading Standards can refer a complaint to NTS (there are agreed protocols).

3.2 Competition & Markets Authority

The [Competition and Markets Authority](#) (CMA) has powers to enforce breaches of the [Unfair Trading Regulations](#), the unfair terms provisions and the secondary ticketing provisions of the [CRA 2015](#), as well as the [CCRs](#), and [ECRs](#). The CMA principally enforces consumer protection law through civil proceedings brought under Part 8 of the [Enterprise Act 2002](#). This requires the CMA to take traders to court, seeking an order that they cease any breach of consumer protection law and that the court make any appropriate accompanying directions (including enhanced consumer measures). In lieu of a court order, the CMA can accept undertakings from traders that they will change their behaviour.

Under current legislation, the CMA cannot decide for itself that a trader has breached consumer protection provisions and order it to stop - it must go to court. Even when an enforcement order is pursued by the CMA, no civil fines are available nor are there any sanctions targeted at an individual or business unless they breach a court order. In other words, the route to address such a breach is through contempt of court proceedings.

The Government is currently considering how enforcement of consumer law by regulators might be strengthened. On 20 July 2021, the Government published a consultation paper, [Reforming Competition and Consumer Policy](#),¹⁵ in which it outlined proposals to allow the CMA to decide for itself where consumer protection law has been breached and sanction traders that seek to frustrate, delay, or otherwise not comply with the enforcement process (including flouting information gathering powers and breaching undertakings). The Government published its [response](#) to the consultation on 20 April 2022.¹⁶ In this response, the Government outlined the reforms it would be taking forward, including stronger enforcement powers for state enforcers.

3.3

Police

The police enforce the [Breaching of Limits on Ticket Sales Regulations 2018](#). The police may investigate suspected breaches of the Regulations, the sanction for a breach is an unlimited fine.

The police in England and Wales and Northern Ireland also deal with cases of fraud under the [Fraud Act 2006](#) and the [Theft Act 1968](#). The police also have the power to enforce legislation with regard to unlawful sales of football tickets (e.g in England and Wales under the [Criminal Justice and Public Order Act 1994](#)) and unlawful ticket sales for specific events. Police Scotland investigate fraud committed in Scotland.

¹⁵ Department for Business, Energy and Industrial Strategy, [Reforming Competition and Consumer Policy – Driving growth and delivering competitive markets that work for consumers](#), 20 July 2021

¹⁶ Department for Business, Energy and Industrial Strategy, [Reforming competition and consumer policy: government response](#), 20 April 2022

4 Non-compliance and enforcement

4.1 Non-compliance

In recent years, the CMA has identified potential breaches of consumer protection law in the secondary ticket sector. These issues include:

- Bulk-purchasing of tickets in large numbers from the primary market for resale at a profit.
- Tickets being advertised for sale without all relevant information being provided to consumers.
- The use of misleading pressure selling messages.
- Refunds not being provided to consumers who are entitled to them.

Each compliance issue is considered below.

Bulk purchase of tickets

To help genuine fans buy tickets to an event at face value, it is not unusual for the event organiser to put in place limits on the number of tickets that can be bought. It is also illegal under the [Digital Economy Act 2017](#) to use automated bots to harvest tickets. However, some resellers may use fake identities and multiple credit cards to breach ticket limits. This practice may constitute an offence under the [Fraud Act 2006](#), it may also be an offence under the [Companies Act 2006](#) and the [Breaching of Limits on Ticket Sales Regulations 2018](#). The police have powers to investigate suspected breaches of the 2018 Regulations.

Consumers deprived of information

As outlined above, legislation requires certain information to be displayed by a secondary ticket platform to consumers. This includes information on:

- Where a seat is located in the venue (e.g. seat details, standing area or unique ticket number).
- The identity of the seller.
- Any connections the seller may have with the platform or event organisers.
- Whether there are any restrictions on the use of resold tickets which could result in the person being denied access to the event.

Both ticket resellers and platforms have a responsibility to ensure that this information is displayed accurately to consumers. According to the CMA, some tickets are being advertised for sale without all the relevant information being provided to consumers.¹⁷

Use of misleading pressure selling messages

Following its investigation of the sector in 2016, the CMA raised concerns about the use of misleading pressure selling messages by some secondary ticketing platforms. The CMA found the content of some messages to be factually incorrect, creating the false impression that tickets would only be available for a limited time or at a particular price:

[...] the timing, location, content, frequency and persistence of the messages created an artificial sense of urgency and put pressure on consumers to make rushed decisions (including to make a purchase), whilst also distracting them from other information.¹⁸

These messages potentially constitute misleading actions and/or misleading omissions under the [Unfair Trading Regulations](#) since they create a misleading impression about the availability and demand for tickets.¹⁹

Failure to provide a refund

Under the [CRA 2015](#), consumers have a statutory right to a refund where goods are not fit for purpose (e.g. if the purchased tickets are invalid). Any guarantees offered by a secondary ticketing site are in addition to this statutory right.

According to the CMA, consumers are still experiencing difficulties in getting their money back when things go wrong with their purchase.²⁰ The CMA received 1,634 complaints about cancellations and refunds regarding event tickets between 1 March 2020 and 31 July 2021.²¹

4.2

Enforcement action

Action taken by the ASA

The [Advertising Standards Authority](#) (ASA) is the UK's single independent advertising regulator in all mediums, it does this by enforcing the Advertising Codes. There are separate codes for non-broadcast and broadcast

¹⁷ [CMA calls for stronger laws to tackle illegal ticket sale](#), Competition and Markets Authority press release, 16 August 2021, (accessed 4 November 2022)

¹⁸ As above, p29

¹⁹ As above, pp29-30

²⁰ As above, p24

²¹ As above, p31

advertisements, but all adverts are expected to be “legal, decent, honest and truthful”.

A self-regulatory system operates in respect of non-broadcast advertising under the [UK Code of Non-Broadcast Advertising, Sales Promotion and Direct Marketing](#) (known as the CAP Code). The CAP Code applies to online marketing communications, including the marketing of tickets for entertainment and sporting events. The CAP Code prohibits misleading advertising. For secondary ticketing operators, ticket pricing must be transparent with clear information about any additional fees at the beginning of the online transaction.²² The price consumers see at the start of the booking process should be the price they pay at the end – no surprises.

On the 7 March 2018, the ASA announced that it had [ruled](#) against four operators in the secondary ticketing sector, banning the misleading presentation of pricing information on their websites.²³ The four operators were: StubHub UK, Viagogo AG, Seatwave Ltd, and Get me in! Ltd. Following a formal investigation, the ASA found that consumers lured in by attractive prices were hit with big fees towards the end of the online transaction. The ASA gave the four operators until 29 May 2018 to remove misleading price claims on their websites, otherwise they would be referred to [National Trading Standards](#) (NTS) for breaches of consumer protection law.²⁴

On 30 May 2018, only Viagogo was referred to NTS.²⁵ However, on 4 September 2018, the ASA announced that it had secured changes to Viagogo’s website and, as a result, had withdrawn sanctions and its NTS referral.²⁶

Action taken by the CMA

In recent years the [CMA](#) has also taken action against secondary ticketing websites to tackle non-compliance in the sector, including the failure to provide important and accurate information to consumers. In brief, in June 2016, the CMA began a compliance review of the secondary ticketing market, resulting in an announcement on 19 December 2016 that it would conduct a formal investigation. On 28 November 2017, the CMA began enforcement action against secondary ticketing websites suspected of breaking consumer protection law.²⁷

²² [Clamping down on misleading pricing practices by secondary ticketing providers](#), Advertising Standards Authority press release, 7 March 2018 (accessed 4 November 2022)

²³ As above

²⁴ As above

²⁵ [ASA refers Viagogo AG to National Trading Standards for misleading advertising](#), Advertising Standards Authority press release, 30 May 2018 (accessed 4 November 2022)

²⁶ [ASA secures changes to Viagogo’s website – misleading pricing information removed and costs now clearly displayed and transparent to consumers](#), Advertising Standards Authority press release, 4 September 2018 (accessed 4 November 2022)

²⁷ [CMA to take enforcement action on secondary ticketing sites](#), Competition and Markets Authority press release, 28 November 2017 (accessed 4 November 2022)

Three of those platforms - StubHub, GETMEIN! and Seatwave – offered formal commitments on 5 April 2018 to overhaul the way they do business.²⁸ Specifically, their sites would make it clear which seat in the venue the consumer would get; whether there was a risk a consumer might be turned away at the door; and who was selling the ticket (so consumers could benefit from enhanced legal rights when buying from a business).

The CMA raised the same concerns about how information was provided to consumers with a fourth platform, Viagogo. On 27 November 2018, the CMA secured a court order against Viagogo.²⁹ The company had until the 17 January 2019 to overhaul its business methods.³⁰

On 17 January 2019, the CMA published online two open letters:

- The first [open letter to event organisers](#) outlines how ticket information should be properly disclosed on secondary ticketing websites.
- The second [open letter to secondary ticketing website operators](#) outlines how to comply with consumer law.

On 5 March 2019, the CMA [warned](#) Viagogo that it had still not complied with important aspects of the court order, on 4 July 2019 the CMA begun contempt of court proceedings.³¹ On 5 September 2019, the CMA [announced](#) it had suspended court proceedings because Viagogo had finally addressed its concerns about how it presented consumer information:

The Viagogo website UK customers now visit is worlds apart from the one they faced before the CMA took action. Key information needed to make informed decisions before buying a ticket is now much clearer including on where you'll sit in a venue and whether you might be turned away at the door.

What is clearly not acceptable is the time it's taken to get to this stage. Stronger consumer powers are required in the secondary ticketing sector and we will continue to work with the Government on the most effective way to achieve this.³²

Sharon Hodgson MP, co-chair of the APPG on ticket abuse, also criticised Viagogo for not complying sooner and called on the CMA to take immediate action if further evidence against the company comes to light:

²⁸ [Secondary ticketing sites pledge overhaul](#), Competition and Markets Authority press release, 25 April 2018 (accessed 4 November 2022)

²⁹ Competition and Markets Authority, [Summary of the court order secured by the CMA against Viagogo](#), 17 December 2018

³⁰ Competition and Markets Authority, [Guidance - Information about the secondary ticketing websites deadline](#), 17 January 2019

³¹ [CMA to take further legal action against Viagogo](#), Competition and Markets Authority press release, 4 July 2019 (accessed 4 November 2022)

³² [Viagogo fixes concerns in face of further CMA legal action](#), Competition and Markets Authority press release, 5 September 2019 (accessed 4 November 2022)

The Consumer Rights Act was enacted four years ago to protect consumers. For over four years, Viagogo have failed to comply with legislation and thousands of fans have suffered as a result. After progress and pressure put on Viagogo by the CMA over the last two years, it is surprising that the CMA have now suspended preparations for court action against Viagogo.

Viagogo are not fully compliant with the Consumer Rights Act. Viagogo have made vanity changes which can easily be reversed now that the CMA have taken off the pressure. This is a backwards step and could threaten thousand more consumers going forward.³³

As part of the court order made against Viagogo on 27 November 2018, the CMA secured an **independently supervised review** of unpaid claims where there was:

- evidence that the consumer didn't get into an event; or
- specific evidence from the event organiser that their ticket was invalid.

The review looked at claims made between January 2016 and November 2018. The process was completed early in 2019. The order also contained a requirement that an **annual independent review** of Viagogo's compliance with the terms of the order be carried out until 2023.³⁴

On 28 January 2020, the CMA told StubHub to make changes to its website, having identified possible breaches of consumer protection law.³⁵ On 19 August 2020, the CMA announced that StubHub had addressed concerns about its compliance with existing undertakings to the CMA and newer concerns about its use of misleading messages about ticket availability and the use of adverts for event listings on overseas events that may not have been compliant with UK consumer law.³⁶ StubHub provided an expanded set of undertakings to the CMA covering those newer issues as well.³⁷

³³ All Party Parliamentary Group, [Ticket Abuse](#), 5 September 2019

³⁴ [Secondary ticketing websites](#), Competition and Markets Authority press release, 5 March 2015 (last updated 16 August 2021) (accessed 4 November 2022)

³⁵ [CMA demands StubHub fix concerns or face court action](#), Competition and Markets Authority press release, 29 January 2020 (accessed 4 November 2022)

³⁶ [Secondary ticketing websites – The CMA is investigating suspected breaches of consumer protection law in the online secondary tickets market](#), Competition and Markets Authority press release, 5 March 2015 (last updated 16 August 2021) (accessed 4 November 2022)

³⁷ [StubHub makes changes to its UK site to address CMAs concerns](#), Competition and Markets Authority press release, 9 August 2020 (accessed 4 November 2022)

5 Reviews and reports

This section provides an outline of all recent reviews of the uncapped secondary ticketing sector and its regulation.

It should be noted that the issue of secondary ticketing also came up during the later stages of the Consumer Rights Bill (now the [CRA 2015](#)). Details are provided in the Library briefing paper, [Consumer Rights Bill – Lords’ Amendments](#) (18 December 2014), pages 6-8.

5.1 OFT investigation: 2012

In July 2012, the Office of Fair Trading (now disbanded) launched an investigation into the secondary ticketing market. This was to help make sure consumers had all the information they needed before buying tickets from secondary ticket websites.

5.2 Which? Investigation: 2013

In December 2013, the consumer group [Which?](#) launched a campaign, [Play Fair on Ticket Fees](#), questioning why some ticket companies imposed on consumers compulsory fees for booking and postage that can add 18 per cent to the face value of a ticket price. In terms of consumer detriment, it found that some large ticket agencies were charging a £3 delivery fee even if the consumer had elected to collect the theatre tickets in person from the box office.

The consumer advice given by Which? was that those buying tickets online should look for agents signed up to a code of conduct laid down by the [Society of Ticket Agents and Retailers](#), identified by a lock-inside-a-star logo. According to the Society’s website, this code of conduct is designed to ensure ticket buyers are treated fairly.

5.3 Professor Waterson’s review: 2015

Waterson report and recommendations

As outlined above, [Sections 90 to 95](#) of the CRA 2015 came into force on 27 May 2015. Collectively, they introduced certain requirements for the sale of

tickets via online secondary platforms. [Section 94\(1\)](#) of the Act required a review of the online secondary ticketing market to be published within 12 months of the above requirements coming into force.

A call for evidence closed on 20 November 2015 and Professor Michael Waterson was asked to lead an independent review of the uncapped online secondary ticketing market. Its focus was on large-scale, high-profile, exhibitions, festivals, concerts and major sporting events. The review was informed by responses to a [call for evidence](#)³⁸ and a [user survey](#).³⁹

On 26 May 2016, [Professor Waterson's report](#) was published.⁴⁰ In brief, he made the following recommendations:

- Secondary ticketing platforms should ensure sellers on their platforms fully observe the rules set out in the [CRA 2015](#) (where necessary, enforcement action should be undertaken).
- Secondary platforms should be required to play a role in identifying traders and ensuring their details are provided to consumers.
- Primary ticket vendors should be required to guard against the possibility of mass purchase by individuals (who have no intention of attending the event) in breach of contractual terms including by using 'botnets' (i.e computer programmes). This activity deprives ordinary consumers of the chance to acquire tickets at the price originally established by the event organiser.
- Primary market operators need to increase transparency and come together to standardise the way in which information on available ticket outlets and the pricing structure is made available to the public.
- More should be done to inform consumers seeking tickets about how the market operates across both primary and secondary sellers.

As noted by the Government, Professor Waterson did not recommend further significant legislation, a ban on the secondary ticketing market, or a cap on resale prices.⁴¹

The Government published its [response](#) to the Waterson report on 13 March 2017.⁴² It accepted the report's recommendations in full and said that it looked to operators in both the primary and secondary ticketing markets to implement the recommendations. On the use of bots to harvest tickets online,

³⁸ Department for Business, Energy and Industrial Strategy & Department for Business, Innovation and Skills, & Department for Digital, Culture, Media & Sport, [Review of consumer protection measures applying to ticket resale: call for evidence](#), 13 October 2015

³⁹ Department for Business, Innovation and Skills & Department for Digital, Culture, Media & Sport, [Secondary ticketing websites: user survey](#), 26 May 2016

⁴⁰ Professor Michael Waterson, [Independent Review of Consumer Protection Measures Concerning Online Secondary Ticketing Facilities](#), May 2016, IND/16/7

⁴¹ HM Government, [Government Response to Professor Waterson's Independent Review: Consumer Protection Measures Concerning Online Secondary Ticketing Facilities](#), March 2017

⁴² As above

the Government said that it intended to respond with proposals for Parliament to consider within the context of the Digital Economy Bill (see below).

5.4 CMA compliance review: 2016

Following a [compliance review of the secondary ticketing market](#) in June 2016, the CMA opened an enforcement investigation into suspected breaches of consumer law in December 2016.⁴³ The CMA was concerned that people were not getting the full range of information required under consumer law when buying tickets offered for resale.⁴⁴ In November 2017, the [CMA](#) began enforcement action against four secondary ticketing websites (see [section 4](#) above).⁴⁵

Responding to a recommendation made in the [Waterson report](#), the CMA said it would work with representatives of the live events industry to assess how the law on unfair terms applied to secondary ticketing.⁴⁶

5.5 The CMS Committee: ticket abuse

The Culture, Media and Sport (CMS) Committee has held two one-off evidence sessions on ticket abuse.

The first evidence session, on 15 November 2016, considered the problem of software being used to harvest tickets from primary sellers' online sites and selling them on resale sites at inflated prices to the detriment of fans, artists and organisers of entertainment and sporting events. The Committee heard oral evidence from several witnesses, including Professor Waterson.⁴⁷ Written evidence from stakeholders was also considered.

According to the CMS Committee, the evidence session had revealed far-ranging and disturbing factors in the market, including clear indications of too close relationships between those selling tickets on the primary market and sellers on the secondary market. The Committee was concerned that:

Witnesses' failure to give satisfactory answers to the Committee's questions about where companies' main profits are made, the possibility of even Chinese walls between parts of the same company, and the willingness of the ticket selling companies to even

⁴³ Competition and Markets Authority, [Secondary Ticketing Websites – The CMA is investigating suspected breaches of consumer protection law in the online secondary tickets market](#), 19 December 2020

⁴⁴ As above

⁴⁵ [CMA to take enforcement action on secondary ticketing sites](#), Competition and Markets Authority press release, 28 November 2017 (accessed 4 November 2022)

⁴⁶ As above

⁴⁷ Culture, Media and Sport Committee, [Oral Evidence: Ticket Abuse](#), 15 November 2016, HC 823

try to identify, let alone bar, large-scale ticket touts and fraudulent sellers have led us to conclude that a fuller investigation of the whole area of ticketing is needed.⁴⁸

On 22 November 2016, Damian Collins MP, then Chair of the Committee, wrote a [letter](#) to Karen Bradley MP, then Secretary of State for DCMS, urging her to study the submitted evidence regarding the under-reporting of income by known touts and to raise this with HMRC as an area which warranted their investigation. The [Minister's letter](#) in reply, commenting on the Committee's findings, was also published online.

On 21 March 2017, the CMS Committee held a second one-off evidence session on ticket abuse, revisiting some of the issues it had considered earlier.⁴⁹ The Committee also stated its intention to table an amendment on Report Stage of the Digital Economy Bill to ban the use of bots.

Building on the CMS Committee's work into ticket abuse, the Digital, Culture, Media and Sport (DCMS) Committee published a report on [Live Music](#) on 6 March 2018.⁵⁰ In this report, the Committee considered problems in the ticketing market for live music and called on the Government to assess the impact of the new [Breaching of Limits on Ticket sales Regulations 2018](#).⁵¹

⁴⁸ Culture, Media, and Sport Committee, [Ticket selling market disturbing factors prompt further investigation](#), 16 November 2016

⁴⁹ Culture, Media and Sport Committee, [Oral Evidence: Ticket Abuse](#), 21 November 2016, HC 823

⁵⁰ Digital, Culture, Media and Sport Committee, [Live Music](#), 19 March 2019, HC 733 2017-19

⁵¹ As above, pp12-20

6

CMA calls for further reform

The CMA published a report, [Secondary ticketing - Recommendations to government for improving consumer protection](#), on 16 August 2021. In this report the CMA set out its concerns about continued non-compliance with consumer protection law in the uncapped secondary tickets sector and called for stronger laws to tackle illegal ticket resales.⁵² CMA recommendations include:

- A ban on platforms allowing resellers to sell more tickets for an event than they can legally buy from the primary market.
- Ensuring platforms are fully responsible for incorrect information about tickets that are listed for sale on their websites.
- Introducing a new system of licensing for platforms that sell secondary tickets in the UK. This would enable an authority to act quickly in the event of a breach of consumer law, and issue sanctions such as taking down websites, withdrawing a business's right to operate in the sector, and the imposition of substantial fines.

In explaining why reform is necessary, the CMA said:

The CMA and Trading Standards have dedicated significant enforcement resource to tackling non-compliance in the UK uncapped secondary tickets market (where tickets are resold at any price that the seller chooses) for almost a decade, and there have been marked improvements in compliance as a result. The CMA's enforcement has resulted in Viagogo and StubHub, the two major platforms in the uncapped market, gathering key information about tickets from ticket resellers and displaying it to consumers. National Trading Standards (NTS) has secured convictions for fraudulent trading in a criminal case against two professional resellers.

Despite this significant enforcement action by the CMA and Trading Standards and the Coronavirus (COVID-19) pandemic resulting in nearly all live events being cancelled or postponed for a period of over a year, the sector still generates considerable concern from the public, Parliamentarians and campaigners. It also continues to generate national and local media attention.

⁵² [CMA calls for stronger laws to tackle illegal ticket sale](#), Competition and Markets Authority Press Release, 16 August 2021 (accessed 4 November 2022)

The CMA has used its existing powers to the fullest in the sector and is concerned that, without reforms to the way that the uncapped secondary tickets market is regulated, problems in the sector are likely to grow as restrictions on attending live events are lifted.⁵³

The Government has not yet responded to the CMA's report.

6.1 The Online Safety Bill

The [Online Safety Bill](#), which is currently progressing through Parliament, does include a broad duty on search engines to tackle fraudulent advertising. If enacted, the largest platforms would need to put in place proportionate systems and processes to prevent fraudulent adverts being published or hosted on their service.

Further information is provided in a Library briefing paper, [Analysis of the Online Safety Bill](#).

⁵³ Competition and Markets Authority, [Secondary ticketing - Recommendations to government for improving consumer protection](#), 16 August 2021

7

Parliamentary questions and debate

In November 2016, Diana Johnson MP asked a PQ on how many (a) investigations were carried out, (b) fines were issued and (c) prosecutions were made by the Companies Investigation Branch in each year since 2009-10; and how many such investigations, fines and prosecutions concerned companies operating in the secondary ticketing industry in each such year. On 14 November 2016, Margot James, then Parliamentary Under Secretary of State (BEIS), provided the following [written answer](#):

The Companies Investigation Branch (CIB) became part of the Insolvency Service in 2006 and the work formerly undertaken by CIB is now dealt with by the Insolvency Service Company Investigations Live teams. While company investigations are focused on preventing corporate abuse by placing companies into liquidation rather than identifying criminal misconduct, if any evidence of criminal behaviour is found it may result in a prosecution.

The Insolvency Service does not maintain statistics on the number of prosecutions and fines arising specifically from the work of Company Investigations Live teams, nor are any statistics kept regarding companies operating in the secondary ticketing industry. However, there have been a total of 15 investigations in the relevant period with a reference to ‘ticketing’, as detailed below. None of these investigations led to a criminal prosecution or fine.

Live company investigations completed (ticketing cases)

2009/10 269 (5)

2010/11 267 (5)

2011/12 150 (3)

2012/13 162 (0)

2013/14 151 (0)

2014/15 153 (2)

2015/16 151 (0)

(1.4.16 - 31.10.16) 89 (0)⁵⁴

⁵⁴ [PQ 52371](#) [on secondary ticketing], 14 November 2016

On 2 May 2018, there was a Westminster Hall debate on [Ticket touting: musical events](#).⁵⁵ Introducing this debate, Pete Wishart MP said that ticket touting was a hugely profitable business that was threatening the entire music industry, he called on the Government to legislate on behalf of music fans and artists.⁵⁶ One month later, on 7 June 2018, another House of Commons debate on [secondary ticketing](#) was introduced by Richard Bacon MP.⁵⁷ The issue was debated yet again in 1 November 2018, introduced by Sharon Hodgson.⁵⁸

More recently, on 26 January 2022, Tan Dhesi MP asked the Secretary of State (DCMS) two questions about the secondary ticketing market. First, he asked what assessment she had made of the implications for her policies of the CMA's recommendations on illegal sales. Second, what discussions she has had with the Home Secretary on helping to ensure that effective action is taken by the relevant authorities regarding illegal ticket resale. Julia Lopez, then Parliamentary Secretary (Cabinet Office), Minister of State gave the following [response](#):

The Government is committed to cracking down on unacceptable behaviour in the ticketing market and improving people's chances of buying tickets at a reasonable price. DCMS works with all other relevant Departments to ensure this is the case, including the Home Office.

We have strengthened the law in relation to ticketing information requirements and have introduced a criminal offence of using automated software to buy more tickets online than that allowed.

We also support the work of enforcement agencies in this area, such as the Competition and Markets Authority, National Trading Standards, and the advertising industry's own regulator the Advertising Standards Authority (ASA).

The Government is considering its response to the CMA report on Secondary Ticketing which will be issued shortly.

⁵⁵ [HC Deb 2 May 2018 cc161-9WH](#)

⁵⁶ [HC Deb 2 May 2018 c165WH](#)

⁵⁷ [HC Deb 6 June 2018 cc558-66](#)


⁵⁸ [HC Deb 1 Nov 2018 c1033-4](#)

The House of Commons Library is a research and information service based in the UK Parliament. Our impartial analysis, statistical research and resources help MPs and their staff scrutinise legislation, develop policy, and support constituents.

Our published material is available to everyone on commonslibrary.parliament.uk.

Get our latest research delivered straight to your inbox. Subscribe at commonslibrary.parliament.uk/subscribe or scan the code below:



 commonslibrary.parliament.uk

 [@commonslibrary](https://twitter.com/commonslibrary)