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1. INTRODUCTION

It was not the dramatically lost Champions League semi-final against Tottenham Hotspur. Nor was it goalkeeper Onana popping his wife's pills and being suspended for the rest of his contract. It was not even the acquisition of Feyenoord star Berghuis in the summer of 2021. By the end of the day, it was the realisation that poor investments and infinitesimal interest rates had caused his APB retirement allowances to evaporate, that made Bernt Hugenholtz decide to try and sell his season ticket for Ajax on Marktplaats[1] for a handsome profit. Only to discover that this was not allowed.

Ticket resale or secondary ticketing – derogatorily referred to as touting or scalping – is probably as old at tickets themselves and may occur for various reasons. The focus of this contribution is the resale of tickets for sports events and cultural events such as concerts and theatre performances with the aim of making a profit over the original price – the face value – of the ticket. Below I analyse the economics of ticket resale and the reasons for event organisers to oppose it. In the last section, I discuss some efforts by event organisers to control the secondary market.

2. THE ECONOMIC LOGIC OF TICKET PRICING AND TICKET RESALE

Sports events and cultural events such as concerts and theatre performances are perishable goods with low marginal costs, and limited capacity. Sports arenas and concert halls have a fixed maximum capacity while some of the seats offered have higher quality than others as they offer a better view of the field or stage.

1. The Dutch equivalent of Ebay.

An unsold ticket for tonight's game or show has lost all its value by tomorrow, while the marginal costs of servicing an additional spectator are very small. Although these aspects make events different from most goods and services, they are far from unique. Airline tickets and hotel rooms for instance, share these same characteristics. In these industries, price setting is a highly important and intricate issue. One could almost say price setting in such industries is an art in itself, which makes the difference between making a profit or making a loss.

Against this background, it may be surprising that there is quite some (older) literature that indicates that the demand for performing arts tickets is generally inelastic, implying that organisers of such events can increase their revenues and thus their profits – or in case of subsidised arts: reduce their deficit – by raising their prices.[2] Moreover, the literature repeatedly found that concert organisers benefit from price discrimination, while for a long time, most venues have sold at uniform prices and some still do.[3] On the other hand, ticket prices for concerts have increased by much more than the general inflation rate of the past decades, particularly since the late 1990s, while differentials between the lowest and highest priced tickets have increased.[4] Thus, one may conjecture that event organisers have by now learned the ropes of optimal pricing and know how to extract maximum value out of their attendees.

2.1 Why is Ticket Resale so Persistent?

What these rapidly increasing prices and price dispersion have not eradicated, however, is ticket resale. In 2002, Krueger estimated between 20 and 25% of tickets for a Bruce Springsteen concert in the US had been bought through a 'scalper', ticket broker or 'over the web'.[5] Courty quotes a slightly lower but still substantial figure of 10%, going up to 20–30% for top-tier seats.[6] And in 2020, Behr and Cloonan mention 25% of respondents in a UK survey buying from the secondary market.[7]

2. E.g. see M.V. Felton, 'On the assumed inelasticity of demand for the performing arts', 16 *Journal of Cultural Economics* (1992) 1–12 and references therein. Felton nuances that statement, by pointing out that it is true on average, but not always.
3. P.A. Huntington, 'Ticket pricing policy and box office revenue', 17 *Journal of Cultural Economics* (1993), 71–87. L. Volpano, 'A proposal to rationalise entertainment ticket pricing using price discrimination', 1 *Journal of Revenue and Pricing Management* (2003), 379–382. P. Leslie, 'Price Discrimination in Broadway Theater', 35(3) *The RAND Journal of Economics* (2004), 520–541.
4. M. Connolly and A. Krueger, 'Rockonomics: The Economics of Popular Music', in V.A. Ginsburgh and D. Throsby (eds.), *Handbook on the Economics of Art and Culture*, vol. 1 (2005), 667–719; A. Behr and M. Cloonan, 'Going spare? Concert tickets, touting and cultural value', 26(1) *International Journal of Cultural Policy* (2020), 95–108.
5. Connolly and Krueger, *supra* note 4.
6. P. Courty, 'Some Economics of Ticket Resale', 17(2) *Journal of Economic Perspectives* (2003), 85–97.
7. Behr and Cloonan, *supra* note 4.

So how can this situation exist and persist? Several explanations have been provided in the literature.[8] Uncertainty about demand and positive social externalities of a sold-out event cause event organisers to prefer underpricing to overpricing. They would rather miss out on revenue than not be sold out. Moreover, externalities for the organiser may result from selling complementary goods and services, such as merchandise, making a degree of underpricing a profit-maximising strategy.[9] It has been suggested that the insight from behavioural economics that consumers value being treated fairly may also offer part of the explanation: market clearing prices may be considered unfair and alienate fans from the band or sports team they want to watch.[10]

But all these explanations are partial and unsatisfying. Concerns over fairness did not stop event organisers from increasing prices systematically at rates that are significantly above inflation levels over the last decades. Yet ticket reselling persisted at high levels. Moreover, ticket resellers often charge several times the face value for tickets. Even a ten-fold price increase is not unheard of, and it is hard to believe it is part of a deliberate strategy by event organisers to forego such enormous additional profits.

An important contribution to understanding why ticket resale is so persistent was offered by Courty.[11] Borrowing from the literature on airline ticket pricing, the author does not buy into the fact that organisers deliberately underprice but conjectures that ticket resale offers intertemporal price discrimination (i.e., price variation over time), which is not offered by event organisers themselves. Consumers gain new information about their demand over time, and some consumers will only know quite late that they will be willing and able to visit a sports match or concert, while others prefer to plan in advance. Amongst those who postpone their decision to buy a ticket, some will have a high valuation as the event draws near. However, an event organiser who puts all tickets on sale at once will not be able to extract that extra willingness to pay from late deciders.

> On a sidenote: the distinction between these two stylised types of visitors is often framed in terms of ‘real fans’ versus … well, versus what?[12] Bernt may hate me for saying this, but for an economist, it is hard to swallow that someone with a busy agenda and probably higher opportunity costs of time, who is willing to pay more than people with an emptier agenda, is not a ‘real fan’. On the contrary! These people put their money where their mouth is.

8. See Connolly and Krueger, *supra* note 4 and Courty, *supra* note 6 for a short discussion.
9. D.R. Marburger, ‘Optimal ticket pricing for performance goods’, 18(5) *Managerial and Decision Economics* (1997), 375–381.
10. D. Kahneman, J. Knetsch and R. Thaler, ‘Fairness as a Constraint on Profit Seeking: Entitlements in the Market’, 76(4) *The American Economic Review* (1986), 728–741.
11. Courty, *supra* note 6.
12. E.g. see Behr and Cloonan, *supra* note 4.

> But then again, economists are not like normal people. In a study by Kahneman et al., a majority was found to consider a queue the fairest way to allocate sports tickets, followed by a lottery. Only 4% thought that an auction – the price mechanism – was fairest.[13] In economic terms, a queue for selling tickets equates to an auction in which time is the currency that determines allocation, while the proceeds of the auction are destroyed instantly. Conversely, a monetary action allocates tickets based – at least partly – on the value consumers derive from it, while no welfare is destroyed in the allocation process.

The logic of intertemporal price discrimination becomes most prominent when the act starring in an event is not known in advance. This is the case for matches in sports tournaments – say a world championship soccer final – where at the time tickets are to be sold, no-one knows which two teams will play. For most aspiring visitors, their willingness to pay will depend heavily on which teams will play. This implies that any allocation of tickets before this information is available will be extremely inefficient, while the receipts will be a fraction of what they could have been. Needless to say that this is a recipe for ticket resale on a massive scale.

Whether it is a sense of fairness on behalf of event organisers, underpricing in the face of uncertainty, or intertemporal price discrimination, the consequence is the same: it creates lucrative opportunities for market arbitrage by reselling tickets. Note that this activity is not without risk. Ticket brokers are often also active in events that do not sell out and are sometimes left with unsold tickets themselves.[14]

2.2 Why Do Organisers Resent Resale?

From a welfare-economic viewpoint, the case can be made that ticket brokers improve welfare by improving the allocation of event tickets. They help them land in the hands of those spectators who value them most. From a business perspective, one could argue they help optimise the marketing of event organisers, offering additional points of sale and reaching other customer groups. What is more, they take over some of the risk involved in planning an event by buying tickets in advance. Hence, if demand uncertainty were the primary reason for underpricing tickets and by doing so fuelling the secondary market, one would expect event organisers to applaud ticket reselling or at least accept it as a useful phenomenon. In fact, this may have been behind the long-standing pact between West End theatres and tickets booths throughout London selling to tourists at inflated prices.

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13. D. Kahneman, J.L. Knetsch and R.H. Thaler, 'Fairness and the assumptions of economics', 59(4) *Journal of Business* (1986), 285–300.
14. Courty, *supra* note 6.

In general, however, event organisers condemn secondary ticketing and try to prevent it – or say they do. Why so? One explanation is that event organisers are 'caught in the middle' between ticket brokers and consumers:[15] brokers extract surplus from consumers by improving the allocation of tickets, but they also ration supply by taking tickets from the market in order to resell them later. Consumers will consider what they pay above the face value of a ticket a rip-off, even if they are willing to pay it, and may ask organisers to intervene on their behalf.

A second explanation offered by Courty is that event organisers may want to deter brokers as they want to capture the rents in the secondary market themselves. I have named this desire to control aftermarkets and to expropriate the rents that may be generated in it a 'jealousy tax' in the context of copyrighted works.[16] Put more friendly, the argument would be that event organisers prefer any rents they cannot extract from selling tickets themselves to stay in the pockets of their spectators – framed as the 'real fans' – rather than to land in the pockets of brokers, even if it leads to suboptimal allocation of tickets from a welfare-economic perspective.

3. DISCUSSION: COMBATTING RESALE

Event organisers have made several efforts to prevent ticket resale. The most straightforward approach – alluded to in the introduction – is simply to print on a ticket that it cannot be resold. This opens the debate as to whether a ticket is a piece of property owned by the buyer – an analogy with exhaustion of copyright comes to mind – or perhaps a token signifying a service contract between the organiser and a buyer.[17] Although the validity of this approach is debatable, it is hard to enforce in practice. It requires careful scrutiny of ID cards when thousands of attendants enter a concert hall or stadium within a short time span, and also makes it impossible (at least in theory) to give your ticket to your neighbour if you have a headache on the night of a show or game.

Attempts in the UK to pass legislation to the effect of banning ticket resale have failed by being watered down from a ban, to a financial cap on the markup on the face value of a ticket, to transparency requirements.[18]

Given the strong economic logic behind ticket resale explained above, fighting it is like arm-wrestling with Adam Smith's invisible hand. Where money is left on the table, entrepreneurs will strive to pocket it. Therefore, the most successful ways to deal with ticket resale are to play along with the market. In the case of selling tickets for sports events with yet unknown teams, this has been done by selling options instead of tickets in advance. These options can be exercised only if your team will be playing the match. In this way, organisers are

15. Courty, *supra* note 6.
16. J. Poort, 'Borderlines of Copyright Protection: An Economic Analysis', in P.B. Hugenholtz (ed.), *Copyright Reconstructed. Rethinking Copyright's Economic Rights in a Time of Highly Dynamic Technological and Economic Change* (Kluwer Information Law Series, Alphen aan den Rijn, 2018), 283–338.
17. Behr and Cloonan, *supra* note 4.
18. Behr and Cloonan, *supra* note 4.

able to extract much more consumer surplus from the market and leave much less for resellers. A second strategy was pursued by Ticketmaster when it bought the reselling website GetMeIn in 2008.[19] If you cannot beat them, buy them.

19. Behr and Cloonan, *supra* note 4.