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Oireachtais
Houses of the
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An Comhchoiste um Ghnó, Fiontair agus Nuálaíocht

Tuarascáil maidir le Grinnscrúdú ar an mBille um Dhíol Ticéad (Imeachtaí
Spóirt agus Cultúir), 2017 [BCP]

Deireadh Fomhair 2018

Joint Committee on Business, Enterprise and Innovation

Report on the Scrutiny of the Sale of Tickets (Sporting and Cultural Events) Bill
2017 [PMB]

October 2018



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Contents

Introduction	1
Scrutiny Process	1
Procedural Basis for Scrutiny	1
Other Proposals	1
Main Provisions of the Bill	2
Discussions on the Bill.....	3
Observations and Conclusions of the Committee	6
Appendices.....	7
Appendix1: Committee Membership	7
Appendix 2: Terms of Reference.....	8



Introduction

Scrutiny Process

Introduction to the Dáil

The [Sale of Tickets \(Sporting and Cultural Events\) Bill 2017 \[PMB\]](#)¹ (“the Bill”) was introduced into the Dáil by Maurice Quinlivan T.D. on the 1 of March 2017. The Dáil voted² on the 18 May 2017 that the Bill would be deemed to be read a Second Time nine months later to allow for the then Jobs, Enterprise and Innovation Committee to conduct scrutiny of the Bill.

Committee Scrutiny of the Bill

The Joint Committee on Business, Enterprise and Innovation agreed to include the scrutiny of the Bill in its work programme. The Committee met with the Bill sponsor, Deputy Quinlivan and officials from the Department of Business, Enterprise and Innovation (“the Department”) to discuss the Bill on the 22 May 2018³.

The Minister for Business, Enterprise and Innovation was included in the circulation of a draft of this report, in accordance with Standing Order 141(2), as an *ex officio* member of the Committee.

Procedural Basis for Scrutiny

Private Members Bills referred to Select Committee are subject to the provisions of Standing Order 141(2) [Dáil] which provides that a Select Committee “shall undertake detailed scrutiny of the provisions of such Bills...and shall report thereon to the Dáil prior to Committee Stage consideration...” unless the Committee decides in relation to a particular Bill that detailed scrutiny is not necessary.

Paragraph (3) of Dáil Standing Order 141 permits scrutiny of the Bill in Joint Committee, viz. “Nothing in this Standing Order shall preclude a Joint Committee from undertaking detailed scrutiny as set out in paragraph (2) and reporting thereon to both Houses prior to Committee Stage consideration of the Bill by the Select Committee.”

Other Proposals

The Sale of Tickets (Sporting and Cultural Events) Bill 2017 [PMB] is not the only Bill to be introduced on the topic of above-cost selling of tickets. Deputies Noel Rock and Stephen Donnelly introduced the [Prohibition of Above-cost Ticket Touting Bill 2017 \[PMB\]](#) on the 31 January 2017.

¹ <https://data.oireachtas.ie/ie/oireachtas/bill/2017/29/eng/initiated/b2917d.pdf>

² <https://www.oireachtas.ie/en/debates/debate/dail/2017-05-18/44/>

³

https://www.oireachtas.ie/en/debates/debate/joint_committee_on_business_enterprise_and_innovation/2018-05-22/



Main Provisions of the Bill

The main provisions of the Bill are outlined in table 1.

Table 1: Main Provisions of the Bill

Sale of Tickets (Sporting and Cultural Events) Bill 2017 [No. 29 of 2017] (Sponsor: Maurice Quinlivan T.D.)	
Category	
Scope of the Bill	It will be an offence for a person to sell or offer for sale a ticket for a designated event at a price greater than 10% above the face value of the ticket.
Offences	<p>It is an offence for a person to sell or offer for sale a ticket for a designated event at a price greater than 10% above the face value of the ticket.</p> <p>In respect of the sale or advertisement for sale of tickets for events whether designated or non-designated—no person is permitted to be concerned in the sale of a ticket where the primary retailer has not yet released for sale tickets to an event, and no person is permitted to be concerned in the sale of a ticket which they have not purchased from the primary retailer.</p> <p>Failure by a person who provides services for electronic communication or for the storage of electronic data to comply with a request by a member of An Garda Síochána for information regarding the identity of the vendor and any other information who has advertised tickets for sale.</p>
What type of events are covered?	<p>A ‘designated event’ means a sporting or cultural event for which more than 300 tickets have been offered for sale;</p> <p>“sporting and cultural event” includes all live entertainment, including but not limited to sports matches, live music events, theatre and other live performances which will take place or are taking place in the state, and which have not concluded;</p> <p>However- some restrictions apply to non-designated events too under section 2 of the Bill.</p>
Definitions	‘Designated price’ includes the price, including any service charge, designated by an organiser or organisers of a specific event
Penalties	A fine not exceeding €5,000 for each offence on summary conviction
Exemptions	Charities registered in accordance with the <i>Charities Act 2009</i>
Confiscation order	Confiscation orders can be granted by a court under Section 4 of the Bill if a person has benefitted from ticket touting



Discussions on the Bill

The Bill was discussed at second stage in the Dáil on the 11 May 2017. Deputy Quinlivan stated that the aim of the Bill is “to eliminate the persistent problem of ticket touting while at the same time protecting ordinary consumers and charities”⁴.

According to Deputy Quinlivan, the re-selling of tickets “is not benefitting the public, music artist or sports teams involved and is tarnishing the experience for many”⁵.

Deputy Quinlivan stated that the proposed Bill would not have a detrimental effect on the reselling sites, as it does not prohibit the reselling of tickets but places a cap on prices in order to prevent abuse.

Scale of the issue

There was unanimous agreement, both at Second Stage in the Dáil and amongst the Committee that the issue of ticket touting is of significant concern to the public and needs to be addressed.

However, there was some disagreement as to the scale of the problem. Deputy Seán Kyne, Minister of State, taking the second stage of the Bill outlined that “the number of events each year where demand exceeds supply at the level necessary for a sizeable volume of secondary tickets is almost certainly in low double figures”.

The officials from the Department who presented to the Committee provided more detail, stating that while it can vary, probably no more than 50 entertainment events give rise to non-marginal levels of resale and generally no more than 10 give rise to any significant level of resale. As an example, it was highlighted that most of the major concerts in the summer of 2018 had tickets available on the primary ticket market up to (or close to) the event.

Despite disagreeing with the scale of the problem when Deputy Quinlivan’s Bill came before the House for debate, the Department of Business, Enterprise and Innovation have now indicated they intend to bring forward their own legislation to combat the problem of ticket touting in Ireland.

Fewer sporting events, due in large part to the restrictive ticket distribution arrangements, result in an appreciable level of resale. The Department officials estimated that it was between five and ten per year. It was also noted that for some sporting events, such as All-Ireland Finals, no tickets are released for general sale.

The Department’s monitoring of secondary platforms and discussions with the industry suggest that secondary ticket sales typically account for between 1% and 5% of tickets sold. However, this can go up to over 10% for some exceptionally high-demand events.

The officials from the Department highlighted that while secondary sales play a part in some people not being able to secure tickets for a major event, the primary cause is the mismatch between supply and demand. The Department collected data from the primary seller of tickets to two major concerts in 2017 and estimate that demand for tickets outstripped supply by three to one.

⁴ <https://www.oireachtas.ie/en/debates/debate/dail/2017-05-11/29/>

⁵ <https://www.oireachtas.ie/en/debates/debate/dail/2017-05-11/29/>



It was also highlighted that the number of tickets released on general sale is often substantially lower than the capacity for the venue as a significant number of tickets are distributed (e.g. to commercial partners and fan clubs). These tickets are then in a position to be sold on secondary ticket sites immediately following the release of tickets for general sale, when demand is likely to be at its highest.

Charity exemption

The Bill includes an exemption for charities. Deputy Quinlivan explained this was to allow charities to continue to use the sale of tickets for high-profile events as fundraisers.

Deputy Niall Collins, during the second stage debate, highlighted that many sports clubs use the sale of tickets for high-profile and high demand tickets as fundraisers. Deputy Collins questioned how this would be addressed in the Bill.

Deputy Quinlivan told the committee that he “would be happy to look at an amendment that could exempt recognised sporting bodies and clubs from the legislation in the same way as charities.”

International Comparisons

The officials from the Department outlined that reselling above face value was permitted in all but six EU countries⁶. The Department discussed the issue with officials from Belgium, Denmark, Portugal and Norway to gauge their experience with their legislation and its effectiveness. All reported that the legislation had been reasonably effective in preventing the reselling within their borders. However, they continued to see significant reselling on platforms based outside their jurisdiction. None of these countries have attempted to enforce their national prohibitions in other countries.

Support for a Statutory Price Cap

The Department conducted a public consultation on the resale of tickets⁷. There was significant, though not universal, support for some form of price cap legislation. In general, sporting bodies, promoters and consumer bodies were supportive of banning secondary selling, though the European Consumer Centre expressed reservations based on the difficulty of enforcing cross-border transactions. Opposition to the proposal came primarily from the primary ticket sellers and secondary platforms.

Possible Unintended Consequences

The officials from the Department outlined some possible unintended consequences with the Bill. Established secondary ticket marketplaces offer the guarantee of a refund if the tickets do not arrive or are fake. However, it was accepted that there are questions surrounding these guarantees, as in some cases they only guarantee access not the type of access provided. As a result, ticket buyers may end up with significantly inferior seats than they thought they were purchasing.

⁶ Above cost reselling is also prohibited in Norway

⁷ <https://dbei.gov.ie/en/Consultations/Consultation-Resale-of-Tickets-Entertainment-Sporting-Events.html>



It was also highlighted that the secondary marketplaces could leave the jurisdiction, as happened in Denmark, Norway and Belgium. This could result in no guarantees being available to consumers in the secondary market.

Effect of the Bill

The Department officials noted that while legislation along the lines of the Bill would likely help to reduce the level of resale of tickets above face value, it is unlikely to eliminate it entirely. Deputy Quinlivan responded that no law eliminates anything entirely. Deputy Quinlivan stated “I am not citing this Bill as the answer to everything. Rather, it is a starting point. With input from other members, I hope it can become legislation that will make a real difference to consumers.”

Deputy Quinlivan also indicated his willingness to engage on the Bill to address any issues that are identified.

Government Action

The Committee was informed by the officials of the Department that Minister Heather Humphreys had stated, in reply to a parliamentary question, that she was finalising a range of proposals aimed at ensuring that ticket markets work better for consumers.

Minister Humphreys announced in July 2018⁸, that the Government had agreed legislative measures to tackle ticket touting. In order to implement these measures, the Minister stated the Government will support and amend the Prohibition of Above-Cost Ticket Touting Bill introduced by Deputy Noel Rock and Deputy Stephen Donnelly.

⁸ <https://dbe.gov.ie/en/News-And-Events/Department-News/2018/July/24072018a.html>



Observations and Conclusions of the Committee

The Committee agreed, that pursuant to Standing Orders, it would report to Dáil Éireann that it has undertaken and completed pre-Third Stage scrutiny of the Bill, with the following observations and conclusions:-

- The Committee notes the broad support expressed for the principle of the Bill and also notes that the Bill passed Second Stage reading;
- The Committee commends the proposer of the Bill for drafting and introducing the Bill to the House;
- The Committee notes that Department officials agreed that the Bill, or similar legislation, would have an impact on the levels of resale of tickets above face value;
- The Committee notes that the Minister has announced that the Government has agreed legislative measures to tackle ticket touting;
- The committee recognises that the problem of ticket touting must be addressed by legislation, as the continued absence of regulation is leaving consumers vulnerable to exploitation.
- The Committee notes that as part of the conditions agreed with UEFA for the staging of matches in the Euro 2020 championship, Ireland has given a commitment to introduce legislative provisions banning the unauthorised resale of tickets.
- The Committee recommends ticket touting legislation is introduced immediately to ensure consumers are protected.
- The committee recognises that, if introduced, the Sale of Tickets (Sporting and Cultural Events) Bill 2017 would help eliminate the problem of ticket touting in Ireland.
- The Committee notes that, in accordance with Dáil Standing Order 179(2), Committee Stage of a Bill which involves the appropriation of revenue or other public moneys, shall not be taken unless the purpose of the appropriation has been recommended to the Dáil by a Message from the Government;
- The Committee recommends that, subject to the receipt of a Money Message, the Bill should proceed to Committee Stage.



Appendices

Appendix1: Committee Membership

Chairperson: Mary Butler (FF)

Deputies: Lisa Chambers (FF)

Billy Kelleher (FF)

James Lawless (FF)

Tom Neville (FG) [Vice-Chair]

Maurice Quinlivan (SF)

Noel Rock (FG)

Senators: Aidan Davitt (FF)

Paul Gavan (SF)

Kevin Humphreys (LAB)

James Reilly (FG)

Notes:

1. Deputy Gino Kenny replaced Deputy Bríd Smith on 26 October 2017.
2. Senator Kevin Humphreys replaced Senator Ged Nash on 16 November 2017.
3. Deputy James Lawless replaced Deputy Gino Kenny on the 20 February 2018
4. Deputy Billy Kelleher replaced Deputy Niall Collins on the 17 April 2018
5. Deputy Lisa Chambers replaced Deputy Stephen Donnelly on 17 April 2018



Appendix 2: Terms of Reference

a. Functions of the Committee – derived from Standing Orders [DSO 84A; SSO 70A]

- (1) The Select Committee shall consider and report to the Dáil on—
 - (a) such aspects of the expenditure, administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and
 - (b) European Union matters within the remit of the relevant Department or Departments.
- (2) The Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann for the purposes of the functions set out in this Standing Order, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.
- (3) Without prejudice to the generality of paragraph (1), the Select Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments, such—
 - (a) Bills,
 - (b) proposals contained in any motion, including any motion within the meaning of Standing Order 187,
 - (c) Estimates for Public Services, and
 - (d) other mattersas shall be referred to the Select Committee by the Dáil, and
 - (e) Annual Output Statements including performance, efficiency and effectiveness in the use of public monies, and
 - (f) such Value for Money and Policy Reviews as the Select Committee may select.
- (4) The Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies:
 - (a) matters of policy and governance for which the Minister is officially responsible,



- (b) public affairs administered by the Department,
 - (c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,
 - (d) Government policy and governance in respect of bodies under the aegis of the Department,
 - (e) policy and governance issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,
 - (f) the general scheme or draft heads of any Bill,
 - (g) any post-enactment report laid before either House or both Houses by a member of the Government or Minister of State on any Bill enacted by the Houses of the Oireachtas,
 - (h) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,
 - (i) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
 - (j) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in subparagraphs (d) and (e) and the overall performance and operational results, statements of strategy and corporate plans of such bodies, and
 - (k) such other matters as may be referred to it by the Dáil from time to time.
- (5) Without prejudice to the generality of paragraph (1), the Joint Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments—
- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 114, including the compliance of such acts with the principle of subsidiarity,
 - (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
 - (c) non-legislative documents published by any EU institution in relation to EU policy



matters, and

- (d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.
- (6) Where a Select Committee appointed pursuant to this Standing Order has been joined with a Select Committee appointed by Seanad Éireann, the Chairman of the Dáil Select Committee shall also be the Chairman of the Joint Committee.
- (7) The following may attend meetings of the Select or Joint Committee appointed pursuant to this Standing Order, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:
- (a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,
 - (b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
 - (c) at the invitation of the Committee, other Members of the European Parliament.
- (8) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department or Departments, consider—
- (a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and
 - (b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select.



b. Scope and Context of Activities of Committees (as derived from Standing Orders) [DSO 84; SSO 70]

- (1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders; and
- (2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil and/or Seanad.
- (3) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 186 and/or the Comptroller and Auditor General (Amendment) Act 1993; and
- (4) any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under Standing Orders [DSO 111A and SSO 104A].
- (5) The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
 - (a) a member of the Government or a Minister of State, or
 - (b) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle / Cathaoirleach whose decision shall be final.

- (6) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 28. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.