To direct the Federal Trade Commission to prescribe rules to protect consumers from unfair and deceptive acts and practices in connection with primary and secondary ticket sales, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. PASCRELL introduced the following bill; which was referred to the Committee on

A BILL

To direct the Federal Trade Commission to prescribe rules to protect consumers from unfair and deceptive acts and practices in connection with primary and secondary ticket sales, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Better Oversight of Secondary Sales and Accountability in Concert Ticketing Act of 2016”.

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SEC. 2. DEFINITIONS.

As used in this Act the following definitions apply:

(1) The term “ancillary charges” means service fees, convenience charges, parking fees, and other charges associated with the purchase of a ticket and not included in the base price of the ticket.

(2) The term “base price” means the price charged for a ticket other than any ancillary charges.

(3) The term “box office” means a physical location where tickets are offered for primary sale.

(4) The term “bundled series tickets” means packages of tickets for multiple events that are part of the same entertainment series.

(5) The term “distribution method” means the manner in which a primary ticket seller distributes tickets to a particular event, whether through primary sale, limited pre sale promotions, donations to charity, reservations of season ticket holders, or allocated to the primary ticket seller, team, artist, or venue.

(6) The term “face value” means the total price of a ticket including both the base price and any ancillary charges.

(7) The term “primary sale”, with regards to a ticket, means the initial sale of a ticket that has not
been sold previous to such sale, by a primary ticket
seller to the general public on or after the date ad-
vertised such sale.

(8) The term “primary ticket seller” means an
owner or operator of a venue or a sports team, a
manager or provider of an event, or a provider of
ticketing services (or an agent of such owner, oper-
ator, manager, or provider) that engages in the pri-
mary sale of tickets for an event or retains the au-
thority to otherwise distribute tickets.

(9) The terms “resale” or “secondary sale”,
with regards to a ticket, mean any sale of a ticket
that occurs after the initial sale of the ticket.

(10) The term “secondary ticket sales market-
place” means a website, software application for a
mobile device, any other digital platform, or portion
thereof, whose primary purpose is to facilitate the
resale of tickets to consumers.

(11) The term “ticket” means a ticket of ad-
mission to a sporting event, theater, musical per-
formance, or place of public amusement of any kind.
SEC. 3. RULES ON TRANSPARENCY OF TICKET MARKETING, DISTRIBUTION, AND PRICING BY PRIMARY TICKET SELLERS.

Not later than 180 days after the date of enactment of this Act, the Federal Trade Commission shall promulgate rules in accordance with section 553 of title 5, United States Code, that include the following requirements and prohibitions with regard to the primary sale, distribution, and pricing of tickets:

(1) A requirement that a primary ticket seller disclose and display on the website of such primary ticket seller the total number of tickets offered for sale by such primary ticket seller not less than 7 days before the date on which tickets shall be available for primary sale.

(2) A requirement that a primary ticket seller make publicly available, not less than 7 days before the day on which tickets shall be available for primary sale, the total number and distribution method of all tickets not made available for sale to the general public, the distribution of which is the responsibility of that primary ticket seller.

(3) A requirement that the distribution method for each particular ticket and the date and time of the primary sale be printed on each such ticket.
(4) A requirement that the primary ticket seller include, with any listing of the price of a ticket on the primary ticket seller’s website or in any promotional material where the ticket price is listed, all ancillary charges related to the purchase of a ticket, and include such charges and the total cost to the consumer on each individual ticket.

(5) A requirement that a primary ticket seller include all ancillary charges in any refund of a ticket that is provided for in the primary ticket seller’s refund policies.

(6) A prohibition on requiring that a consumer who has purchased tickets from a primary ticket seller only be permitted to resell such tickets in a manner determined by the primary ticket seller.

(7) A requirement that a primary ticket seller provide a full refund to any consumer who purchases a non-tranferrable ticket if requested by the consumer not later than 1 week prior to the event.

SEC. 4. RULES FOR SECONDARY TICKET SALES MARKET-PLACES.

Not later than 180 days after the date of enactment of this Act, the Federal Trade Commission shall promulgate rules in accordance with section 553 of title 5, United States Code, that include the following requirements and
prohibitions with regard to the secondary sale, distribution, and pricing of tickets:

(1) A requirement that if the secondary ticket sales marketplace does not possess the ticket at the time of the sale that such secondary ticket sales marketplace provide—

(A) a clear statement that the secondary ticket sales marketplace does not possess the ticket; and

(B) an explanation of procedures to be followed by the purchaser to obtain a refund from the secondary ticket sales marketplace if the ticket the purchaser ultimately receives does not match the description of the ticket by the secondary ticket sales marketplace.

(2) A prohibition on the use of software to circumvent a security measure, access control system, or other control or measure on a primary ticket seller’s Internet website that is used by the primary seller to ensure equitable consumer access to tickets for any given event;

(3) A prohibition on the sale of any ticket knowingly obtained by a secondary seller in violation of paragraph (2).
(4) A requirement that a secondary ticket sales marketplace and online resale marketplace disclose upon offering a ticket for resale—

    (A) the distribution method and face value of each ticket;

    (B) the precise location of the seat or space to which the ticket would entitle the bearer, or, if information about the precise location of the seat or space is not available, descriptive information about the location of the seat or space, such as a description of a section or other area within the venue where the seat or space is located; and

    (C) if the secondary ticket sales marketplace purchased the ticket during a public sale of tickets to the event, the date and time of the purchase of the ticket by the secondary ticket sales marketplace.

(5) A requirement that an online resale marketplace—

    (A) not make any representation of affiliation or endorsement with a venue, team, or artist, as the case may be, without the express written consent of the venue, team, or artist, as
applicable, except when it constitutes fair use
and is consistent with applicable laws; and

(B) post clear and conspicuous notice on
the website of such online resale marketplace
that the website is for the secondary sale of
tickets and a requirement that the user confirm
having read such notice before starting any
transaction.

(6) A prohibition on the resale of a ticket by an
individual employee of any venue, primary ticket
seller, team, artist, online resale marketplace, or box
office that is involved in hosting, promoting, per-
forming in, or selling tickets if such resale—

(A) is for a higher price than face value of
the ticket; or

(B) is made to any third party and the em-
ployee has actual knowledge, or knowledge fairly
implied on the basis of objective cir-
cumstances, that the third party intends to sell
the ticket for a higher price than face value of
the ticket.

(7) A requirement that an online resale market-
place disclose to the consumer when the secondary
ticket sales marketplace of a ticket is the primary
ticket seller, venue, team, or artist associated with
the event to which the ticket relates.

SEC. 5. ENFORCEMENT.

(a) FEDERAL TRADE COMMISSION.—A violation of a
rule prescribed pursuant to section 3 or 4 or a violation
of section 5(a)(1) shall be treated as a violation of a rule
defining an unfair or deceptive act or practice prescribed
under section 18(a)(1)(B) of the Federal Trade Commis-
sion Act (15 U.S.C. 57a(a)(1)(B)). The Federal Trade
Commission shall enforce this Act in the same manner,
by the same means, and with the same jurisdiction as
though all applicable terms and provisions of the Federal
Trade Commission Act were incorporated into and made
a part of this Act.

(b) STATE ATTORNEYS GENERAL.—

(1) IN GENERAL.—Except as provided in para-
graph (6), in any case in which the attorney general
of a State has reason to believe that an interest of
the residents of that State has been or is threatened
or adversely affected by the engagement of any per-
son in a practice that violates a rule prescribed
under section 3 or 4, the State, as parens patriae,
may bring a civil action on behalf of the residents
of the State in an appropriate district court of the
United States or other court of competent jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the rule;

(C) obtain damages, restitution, or other compensation on behalf of residents of the State; and

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—The State shall serve written notice to the Commission of any civil action under paragraph (1) at least 60 days prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide notice immediately upon instituting such civil action.

(3) INTERVENTION BY FTC.—Upon receiving the notice required by paragraph (2), the Commission may intervene in such civil action and upon intervening—

(A) be heard on all matters arising in such civil action;

(B) remove the action to the appropriate United States district court; and
(C) file petitions for appeal of a decision in such civil action.

(4) **Savings Clause.**—Nothing in this subsection shall prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence. Nothing in this section shall prohibit the attorney general of a State, or other authorized State officer, from proceeding in State or Federal court on the basis of an alleged violation of any civil or criminal statute of that State.

(5) **Venue; Service of Process; Joinder.**—In a civil action brought under paragraph (1)—

(A) the venue shall be a judicial district in which the defendant or a related party is found, is an inhabitant, or transacts business, or wherever venue is proper under section 1391 of title 28, United States Code;

(B) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(C) a person who participated with a defendant or related party in an alleged violation
that is being litigated in the civil action may be
joined in the civil action without regard to the
residence of the person.

(6) PREEMPTIVE ACTION BY FTC.— Whenever
a civil action or an administrative action has been
instituted by or on behalf of the Commission for vio-
lation of any rule described under paragraph (1), no
State may, during the pendency of such action insti-
tuted by or on behalf of the Commission, institute
a civil action under paragraph (1) against any de-
fendant named in the complaint in such action for
violation of any rule as alleged in such complaint.

(7) AWARD OF COSTS AND FEES.—If a State
prevails in any civil action under paragraph (1), the
State can recover reasonable costs and attorney fees
from the lender or related party.

(c) PRIVATE RIGHT OF ACTION.—Any person who
suffers injury as a result of another person’s violation of
a rule prescribed pursuant to section 3 or 4, may bring
a civil action against such person in a United States dis-
trict court and may recover from such person damages
for such injury plus $1,000 for each requirement or pro-
hibited act set forth in such sections that such person vio-
lated with respect to a ticket sold to the person bringing
such action, and reasonable attorneys’ fees and costs.
SEC. 6. NONPREEMPTION.

Nothing in this Act shall affect the authority of any State or local government to establish or continue in effect a provision of law of the State or local government relating to the regulation of the resale of tickets to events or the pricing of such tickets for resale, except to the extent that such provision is inconsistent with this Act or a regulation promulgated under this Act, and then only to the extent of the inconsistency. A provision of law of a State or local government is not inconsistent with this Act or a regulation promulgated under this Act if such provision provides equal or greater protection to consumers than the protection provided under this Act or such regulation.

SEC. 7. FTC STUDY OF TICKET MARKET.

(a) Study.—The Federal Trade Commission shall conduct a study of the ticket market to determine—

(1) who is purchasing tickets from primary ticket sellers and how many of these tickets are later resold by secondary ticket sales marketplaces;

(2) the impact on consumers of non-transferrable tickets and whether all tickets should be required to be transferrable; and

(3) the extent to which automated ticketing-purchasing programs and other computer software is used to purchase tickets or circumvent ticketing website safeguards used by primary ticket sellers.
(b) REPORT.—Not later than one year after the date of enactment of this Act, the Commission shall transmit a report to Congress containing the findings of the study.