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PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION
TO THE COMMITTEE ON WAYS AND MEANS
THE TWENTY-SEVENTH
REGULAR SESSION OF 2014

MARCH 28, 2014
9:20 AM

WRITTEN TESTIMONY SUPPORTING THE INTENT OF H. B. 2012, H.D. 2, S.D. 1,
RELATING TO CONSUMER PROTECTION.

TO THE HONORABLE DAVID Y. IGE, CHAIR,
AND TO THE HONORABLE MICHELLE N. KIDANI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs, Office of Consumer Protection ("OCP") appreciates the opportunity to submit written testimony supporting the intent of H. B. 2012, H.D. 2, S.D. 1, Relating to Consumer Protection. My name is Bruce B. Kim and I am the Executive Director of OCP.

H. B. 2012, H.D. 2, S.D. 1 would prohibit the sale of tickets at prices greater than the sum of the price printed on the ticket, any lawful taxes collected, and any reasonable charge that shall not exceed an four-hundred percent of the price printed on the ticket, and prohibits the commencement of ticket sales before 8:00 AM, Hawaii

Standard Time, for events located in Hawaii. There are exceptions made for “primary ticket sellers”, as defined by the bill, as well as for persons selling tickets for events outside of the State. This legislation also stipulates that secondary market websites offering tickets for sale must guarantee refunds for certain eventualities and make specified disclosures. Primary ticket sellers must disclose all costs in addition to the face value of the ticket on the same web page or physical display that lists the price of the ticket, as well as the total number of tickets available in any given sale. Violations of the proposed new section would be subject to a per se HRS § 480-2 Unfair or Deceptive Act or Practice (“UDAP”) penalty. Also prohibited is the use of “computer software to circumvent a security measure, access control system, or other control or measure on a ticket seller’s web site . . .” (“bots”), with violations deemed to be a misdemeanor.

The anti-bot section of this legislation tracks with what is recognized as one of the toughest anti-scalping laws recently passed in California, Assembly Bill 329, 2013. By making the use of a ticket bot a criminal act, a misdemeanor, cybercrimes resources that are not available to civil enforcement agencies can be brought to bear on investigating the persons who control the bots.

While it is difficult to predict when another situation such as the one that precipitated this bill may arise, this legislation would provide tools for civil and criminal enforcement authorities to investigate and prosecute allegations of illegal and unfair ticket selling practices, to protect Hawaii’s consumers.

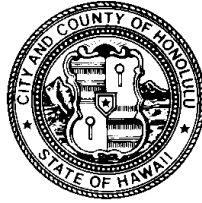
Testimony on H. B. 2012, H.D. 2, S.D. 1
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Thank you for the opportunity to offer written testimony supporting the intent of H. B. 2012, H.D. 2., S.D. 1. I would be happy to answer any questions members of the committee may have.

CITY AND COUNTY OF HONOLULU

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**TESTIMONY OF GERALD H. SAITO
DIRECTOR, DEPARTMENT OF ENTERPRISE SERVICES**

Re: HB 2012, HD2, SD1

**SENATE COMMITTEE ON WAYS AND MEANS
Friday, March 28, 2013, 9:20 a.m.
State Capitol, Conference Room 211**

Chair Ige, Vice Chair Kidani and members of the committee, the Department of Enterprise Services, City and County of Honolulu, would like to offer the following comments on HB 2012, HD2, SD1.

While HB 2012, HD2, SD1 is intended to address the ongoing concerns related to "scalping," the broad language in this bill sweeps in the operations of the legitimate entertainment industry and may adversely impact the ability to sell tickets to the City's entertainment venues such as the Neal S. Blaisdell Center and the Waikiki Shell. As a result, the bill will weaken the City's Department of Enterprise Services' ability to attract world class entertainers and/or book acts at the City's venues, which will, in turn, mean the loss of valuable business and revenues for the City and the State of Hawaii.

The impact of this bill will only be realized when implemented. If limitations on ticket sales by the legitimate entertainment industry are imposed as a result of implementation of this bill, the adverse effects and impact of having to operate under the new law for even one (1) year before the legislation could be amended would be detrimental to Hawaii's entertainment industry. National and international acts and promoters will in all likelihood by-pass Hawaii as a tour destination, as it is already a challenge to attract mainland and international performers based on Hawaii's unique geographic location and economics.

Because the Neal S. Blaisdell Center and the Waikiki Shell are primary ticket brokers that contract with ticket distribution companies to sell tickets, the Department of Enterprise Services believes that that current language of HB 2012, HD2, SD1 may limit the industry's ticket and fee pricing flexibility in Hawaii, and, as a result, negatively impact the City's venues' business operations and ability to provide the residents of the City and County of Honolulu with world class entertainers and acts.

The Department of Enterprise Services believes that this bill does not effectively address that real target of the legislation - the unscrupulous "scalper."

Thank you for the opportunity to provide comments on this bill.



eBay Inc.

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SENATE COMMITTEE ON WAYS AND MEANS
March 28, 2014 - 9:20 a.m.
House Bill 2012, HD2, SD1 Relating to Consumer Protection

Written Testimony of
Dustin Brighton
Director, Government Relations
eBay, Inc.

Chair Ige, Vice Chair Kidani, and Members of the Senate Committee on Ways and Means, my name is Dustin Brighton, Senior Manager Government Relations, eBay, Inc. eBay is the world's largest marketplace with over 50 million active users in the United States who buy and sell almost everything from automobiles to video games and everything in between, including live event tickets. Adding to its legacy of improving inefficient markets, eBay acquired StubHub in 2010 and has grown the company into the largest online marketplace for tickets offering best-in-class consumer protections, including a Fan Protect Guarantee that ensures fans will get into an event or receive 100% of their money back.

At eBay and StubHub, we fundamentally believe that open markets free of artificial restraints are the best way to deliver low prices and value to consumers.

Ticket Availability and Pricing

Often the secondary market is blamed for the inability of consumers to obtain a ticket for their favorite event. The problem stems, however, not from the existence of open, competitive secondary resale markets, but instead from how tickets are distributed.

For high demand events, it is not uncommon for a very small portion of tickets to go on sale to the general public, thus limiting supply. For instance, a 2013 New York Post article divulged that out of 12,118 tickets for a Taylor Swift concert held in Florida, only 1740 tickets were put on sale for the public. The management company and the promoter for the concert reportedly received 3700 tickets and 5700 tickets were held for credit card holders and others. Based on those figures, only 14% of the tickets went on sale to the general public. As a result of these supply constraints, prices on the secondary market were higher.

In addition, in 2011 the Smoking Gun reported that Katy Perry had a rider in her performance contract that allowed her to take tickets and resell them directly on the secondary market. Again, this practice would limit the supply that would go on sale to the general public as these tickets would never have been made available except for purchase on the secondary market.

Imposing price caps would only exacerbate these problems, further reducing supply, increasing prices, and driving consumers to purchase tickets offline where they have little to no consumer protections.

Price Restrictions Don't Work

Consumers should be able to resell a ticket on any consumer protected exchange at any price the market will bear. This should be their right.

Open, competitive markets drive increased competition, increased ticket availability, better pricing, and better service to those consumers who wish to attend an event.

Economic studies have shown that regulatory restrictions on resale prices result in lowered supply and *higher* prices to consumers.

In addition “face value” or the “price printed on the ticket” is not an accurate indicator of the total cost to a consumer who buys a ticket. The total cost to a consumer may include service fees that can be as high as 40% as well as any shipping fees. The price printed on the face of the ticket does not represent the true cost to a purchaser. Therefore, if a consumer wants to resell a ticket but can't unless it is at the price printed on the ticket they will lose money on the transaction.

In addition, prohibiting the resale of a ticket at market prices will force secondary market transactions into the shadows. Open online exchanges that provide consumer protections encourage transactions to take place in the open where the consumer has full recourse. We believe this legislation in its current form will force secondary market transactions to be conducted in an unprotected environment and put the consumer at risk.

The Use of Illicit Software

We at eBay/StubHub applaud the Committee for banning the use of illicit software which allows one to electronically “cut in line” at the expense of the ticket buying public.

Those of us at eBay and StubHub appreciate the review of the ticketing industry and issues associated with this business.

We are truly sympathetic to the concerns of the Legislature regarding the availability of tickets for Hawaii residents for Hawaii events. However, we believe that in addressing those concerns, the web-based secondary sales market should not be impeded if those sales are conditioned upon guarantees of a full refund if the event is cancelled; or the purchaser is denied admission; or if the ticket is not delivered in time for the event; and the website operator is not the reseller and the price of the resold ticket may be higher than the original price paid.

I appreciate the opportunity to submit these written comments.

Thank you.

Dustin Brighton
Director, Government Relations
eBay, Inc.