

What The Bill Says	Issues / Comments
<p style="text-align: center;">Bill</p> <p><i>Entitled</i></p> <p>An Act to render it unlawful for any person to sell or offer for sale tickets for major sporting, musical or theatrical events for a price in excess of the officially designated price.</p>	
<p>Be it enacted by the Oireachtas as follows:</p>	
<p>Interpretation</p> <p>1. For the purpose of this Act—</p>	
<p>“a designated price” means the price, including any service charge, designated by an organiser or the organisers of a specified event for the purchase of a ticket for such event and designated prices shall be interpreted accordingly;</p>	<p>It will be open to argument who is the “organiser” of an event, this should be more accurately defined or expanded upon</p> <p>Different prices will be ‘designated’ for different types of tickets (Seating/Standing/Circle etc)</p> <p>Any (unscrupulous) organiser/promoter who wanted to circumnavigate this and allow for re-sale (Ticketmaster and Seatwave, hello to you) could set a ‘designated’ price that was through the roof, and then a recommended retail price of the actual tickets price (or any number of variations of that logic)</p>
<p>“service charge” means any booking charge or fee imposed and printed on the ticket at the time of the initial sale by an authorised person;</p>	<p>Booking fee may not always be ‘printed on the ticket’</p> <p>Not clear who an ‘authorised person’ is</p>
<p>“specified event” means any sporting, musical or theatrical event at which it is reasonable to anticipate more than 300 people will attend;</p>	<p>Loosely defined.</p> <p>Who decides whether it’s reasonable to anticipate it or not?</p> <p>Would a stand-up comedy event be considered a ‘theatrical’ event</p>

	<p>If an artists did an intimate gig (as happens from time to time), like Ed Sheeran in Whelans, there may be less than 300 tickets, but the potential mark-up on them would be even greater, because of the limited availability of them and the market value of them</p>
<p>“ticket” means any document purchased by a person which entitles such person to gain entrance to and attend at a “specified event”.</p>	<p>Document not defined. Generally taken at law to now include electronic documents, but should be clarified anyway. With the advances in technology, many people will not have a physical ticket and may have it on app, or on their mobile.</p> <p>This is the main issue, as highlighted by me on The Last Word with Matt Cooper on Today FM, you don’t ‘purchase’ any ‘document’ – What you ‘purchase’ is a personal revocable licence</p> <p>It’s arguable that having a tickets doesn’t “entitle” you do gain entrance to and attend at a “specified event” to the extent that the Right of Admission is always expressly reserved.</p>
<p>Offences 2. (1) It is an offence for a person to sell, or offer or expose for sale in any place a ticket for a specified event for a price in excess of the price officially designated on the ticket by the organiser or organisers of such event.</p>	<p>Poorly worded - It’s not clear whether ‘in any place’ would include on the internet, for example.</p> <p>Poorly worded, this should be “<i>for a price in excess of the designated price</i>” and then the definition of “designated price” should be corrected. Here, by not using the designated price, if there doesn’t happen to be a price printed on your ticket (and see above points about e-tickets etc) then you can’t be guilty of the offence.</p> <p>As a matter of proof, say, for example I cut out the part of the ticket with the price on it, can you prove what the price on the specific ticket I’m selling is or was, and if it’s no longer there, is that still a crime?</p>

	<p>If I was a clever criminal (and I would be) I would sell you the ticket at face value, and then charge you a separate fee for printing, or postage and package or any other made up extra charge which was separate and apart from the purchase price of the ticket. Ticket Tout 1, Law 0</p>
<p>(2) It is an offence to publish any advertisement for sale by a person of a ticket for a specified event for a price in excess of the price officially designated on the ticket by the organiser or organisers of such event.</p>	<p>This raises issues of ‘who is a publisher’ when it comes to online content. Generally sites like Seatwave will claim they aren’t publishers, so any ads placed on their sites are ‘published’ by the people who put the ads up.</p> <p>Therefore, while notionally you could still seek to have Seatwave prosecuted for some sort of facilitation crime (aiding and abetting), it would be a seriously uphill struggle</p> <p>Question mark over whether ‘a person’ would include a company</p> <p>Any add that says ‘price on request’ or similar just side-steps this</p> <p>Where is the advertisement ‘published’ if the ad is put up online? Arguable that it’s where the website is hosted, or where the company that owns the website operates. So, for example, Seatwave is run by a UK registered company, and it’ services are governed by the laws of the United Kingdom.</p> <p>If it’s not illegal in the UK, and that’s where the Ad is placed, then this is unenforceable, because you won’t have committed a crime where the advertisement was published</p> <p>Also, you are unlikely to advertise the specific ticket (i.e. Serial number xyz) and that makes it arguably impossible to prove that you have offered to sell a specific tickets above the specific price. Even if you state the seat number (which now ticket touts just wouldn’t do to get around this) the proofs are, I suspect, unworkable.</p>

<p>(3) Subsections (1) and (2) shall not apply to the exposing for sale or the offer for sale or the advertisement for sale or the sale of a ticket for a specified event—</p>	
<p>(a) by or on behalf of a registered charity for the benefit of such charity, or</p>	
<p>(b) by or on behalf of a voluntary or community organisation which undertakes:</p>	
<p>voluntary or community work, which has been authorised in writing by an organiser or the organisers of the specified event to sell a ticket for such event for a price in excess of the designated price to facilitate the voluntary or community organisation obtaining funds to facilitate it achieving its objective or objectives.</p>	<p>I think it's very unlikely that this will/would happen in practice, but I don't see any particular difficulty with it</p>
<p>Power of An Garda Síochána</p> <p>3. If a member of An Garda Síochána has reasonable cause for believing that a person is committing or has committed an offence under section 2(1), that member may—</p>	<p>As drafted, this section only applies to section 2(1), therefore none of the below would apply to anybody advertising for sale, other than when this would come within the scope of 'offer or expose for sale in any place' under section 2(1)</p>
<p>(a) arrest without warrant the person who has so behaved,</p>	<p>I don't practice criminal law, so I'm not 100% on this, but my understanding is that you can't arrest without warrant unless the alleged crime is an "arrestable offence" under the Criminal Law Act 1997, as amended. And that provides (basically) that an arrestable offence is one that's punishable by 5 years in prison. This act doesn't provide for that, so any offence under this act couldn't be an arrestable offence, so this would (I think) be illegal and unconstitutional.</p>

<p>(b) for the purpose of making such arrest, enter, if need be by force, and search any place where the member with reasonable cause suspects such person to be,</p>	<p>This doesn't appear to require a warrant, and I think there would be serious question marks over this, as with the arrestable offence above issue.</p>
<p>(c) confiscate any tickets for a specified event in the possession of the person so arrested or found in any place in which the person is arrested, and</p>	<p>Again, see issue of e-tickets.</p> <p>Not all tickets may be the subject of any illegal activity, and so you may be confiscating personal property which has nothing to do with the alleged crime</p> <p>Firstly, even if you're guilty of an offence (say advertising for sale), I don't think that entitles you to take the tickets. They are still my property if I still have them, the sale may have fallen through, or I might now pull out, or I can't go through with it (because it's illegal) or maybe I advertised them for sale, but they didn't sell, so I'm still entitled to go to the concert myself (subject to being banned by the promoter etc.)</p>
<p>(d) upon arrest, make contact with the relevant sporting authority or concert promoter to have the person who has so behaved to be known by the relevant sporting authority or concert promoter.</p>	<p>Erm.....Firstly, this doesn't make any sense:</p> <p><i>"to have the person...to be known by the relevant sporting authority or concert promoter"</i></p> <p>I assume the point here is to report them to the relevant promoter, which seems logical...but on arrest, you haven't been convicted of a crime. You know that whole 'innocent until proven guilty' thing justice campaigners are always banging on about.</p> <p>I'm not sure what the authority of the Gardaí is to interfere with the private contractual relations of two other parties (the promoter and the person arrested) particularly where there has been no prosecution or conviction</p>

	<p>This opens up a massive possibility of a defamation case, if the Gardaí incorrectly report someone as having committed a crime they are not subsequently convicted of.</p>
<p>Penalty</p> <p>4. A person guilty of an offence under this Act shall be liable in respect of each offence committed on summary conviction to a fine not exceeding €5,000.</p>	<p>There's no penal sanction, just a possible fine. That makes sense, given the nature of the 'crime', but see above about the impact this would have on the ability of the Gardaí to enforce this.</p> <p>Because it's not an arrestable offence, to prosecute someone you would need a search warrant and an arrest warrant from the Courts, so there's two applications there for a start, and the Gardaí and the courts simply don't have the capacity for this, which means they won't do it, which means it's completely unworkable and a waste of time (in my humble opinion)</p>
<p>Short title, citation and commencement</p> <p>5. (1) This Act may be cited as the Prohibition of Above-cost Ticket Touting Bill 2017.</p> <p>(2) This Act comes into operation one month after the date of its passing.</p>	