

ticketing and reflects new rules that came into force from 6 April 2018. These new requirements come into force by way of an amendment under the Consumer Rights Act 2015 and increase the amount of information which must be provided by the seller when reselling tickets. These changes apply whether the seller is a business or an individual.

Currently all sellers and secondary websites must provide certain pieces of key information prior to sale, including:

1. seat name or number; row, seating or standing location;
2. area of the venue;
3. information regarding any admission restrictions (i.e. if under 18s cannot attend); and
4. details of the original face value ticket price.

The new requirement requires sellers to provide any unique ticket number allowing identification of the individual ticket and the seat. The intention is to prevent 'bots' or secondary ticket platforms from offering the same ticket on multiple sites and encouraging the proliferation of forgeries in the secondary ticketing market.

Watch this space...

This modest change has been heralded by many as a seismic shift by the Government in tightening regulation. However, in reality these changes add very little above the existing requirements.

In some ways the changes are better seen as the Government laying down a marker in the sector. The focus on secondary ticketing (and particularly making further information clear to the consumer) are likely to be a precursor to further enforcement. The Government is by no means finished. The Digital Economy Act 2017 allowed the Government to create a new criminal offence meaning touts who use automated software to acquire tickets beyond the purchasing limits may face an unlimited fine. Whilst this offence is not yet in force, the change moved one step closer as Government notified the European Commission of its plans to take forward the proposals.

Whilst it may be too soon to know if 2018 really is the year that the Government "helps real fans get the chance to see their favourite music and sports stars," it will certainly be a year of further change in the secondary ticketing market.

EC proposes 'New Deal' in area of consumer protection

The European Commission ('EC') published on 11 April 2018 two proposed directives to form a 'New Deal for Consumers' in the area of consumer protection and enforcement. The package is comprised of a proposal on 'better enforcement and modernisation of EU consumer protection rules,' and another 'on representative actions for the protection of the collective interests of consumers' (hereafter the 'New Deal').

The EC notes in its press release the current difficulties in enforcing the EU's consumer protection rules. *Inter alia*, the New Deal enables consumer protection authorities to issue greater sanctions, with maximum fines in the case of infringements affecting consumers in several Member States proposed to be at least 4% of that trader's turnover in the affected Member States. The New Deal would also empower qualified entities, such as consumer organisations, to launch representative actions on behalf of consumers in order to obtain redress for groups of consumers that have suffered harm, creating the first EU-wide class action regime. "The threat of substantial fines and greater risk of exposure to claims by consumer groups will force businesses to take greater notice of consumer rights," believes Nick Fenner, Partner at TLT LLP. "While this is a positive move for consumers, there is a risk that those enhanced rights could spawn a new consumer claims industry. That could result in substantial costs being passed on to business as has been seen in other regulated businesses such as financial services." "The true effect of these measures will come with a few test cases that demonstrate the approach of regulators and the courts," add Katie Vickery and Katrina Anderson, Partner and Associate respectively at Osborne Clarke. "This is particularly the case across multiple EU Member States where currently enforcement is inconsistent."

The New Deal sets out to improve transparency in online marketplaces by ensuring consumers are aware as to whether they are buying from traders or private individuals. Online marketplaces will be required to provide certain information as to how their search results are ranked, while online platforms more generally would be required to inform customers when search results are paid for by traders. "Communicating this information in a concise, transparent and easy to understand format on websites will need some careful consideration by digital businesses," note Vickery and Anderson.

The New Deal would extend rights under the EU's Consumer Rights Directive to contracts for free digital services, which would *inter alia* mean that where a consumer provides personal data in return for free digital services, the consumer would be entitled to a 14 day cancellation right. The New Deal proposes to improve conditions for businesses too; **Marc Lempérière, Partner at Almain** explains that "Online businesses will no longer have to accept returns in cases where the consumer has used the product more than was necessary to establish the nature, characteristics and functioning of the product. Online businesses will also no longer be under the obligation to reimburse customers before they have actually received the returned goods. Although an overly generous right of return was probably useful to give consumers the confidence necessary to start shopping online, e-retailing is now common and the restriction of the right to return in order to limit abuses seems justified."