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Tickets Gone Wild: Broadway Braces Itself as NY Contemplates Deregulating Scalping

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By Robert Simonson
18 Apr 2007



Ticket scalping is part of the New York theatre landscape.

Everyone has seen those shady characters hawking ducats a safe distance from Broadway theatres. And a sizable percentage of theatergoers has resorted to what's known in professional circles as the "secondary ticket sales market" at one time or another. Some experts contend that on any given night, 100 to 200 seats to a hot show like *Jersey Boys* are procured through scalpers.

That the selling and reselling of tickets is a hot business in Gotham should surprise no one. The city, after all, offers a dizzying array of entertainment options, from concerts to shows to sporting events. As a result, New York City constitutes approximately one-third of all the secondary market ticket sales, according to Donald J. Vaccaro, the founder and president of TicketNetwork.com, a company that includes TicketLiquidator, a sort of cyber-Casbah where promoters, show producers, venues, and assorted others sell tickets to consumers. TicketNetwork also controls the software that many brokers now use.

How high will ticket prices go? photo by Greg Kalafatis

Still, despite the booming business, only one percent of the more than 10,000 employed in the scalping industry actually work in New York City, according to Vaccaro. This odd fact is owing to New York State's ticket scalping law — a law which may soon undergo a change set to shake the industry to its very core.

Currently, the New York law is in the minority in the nation in setting a price cap on the resale of tickets. The current law lets brokers charge up to 45 percent above face value for large events, such as rock concerts and sports outings. However, for venues with fewer than 6,000 seats (read: Broadway theatres), the cap is 20 percent above face value.

In recent years, New York has grown fairly isolated in its attitude to scalping. Florida and Illinois recently dropped their resale caps. And the Connecticut General Assembly in 2006 proposed a bill that would repeal its scalping ban — a bill that, as of press time, looks poised to pass. A similar bill is in play in Massachusetts.

So why has New York stood firm? "It's directly because of the New York theatre lobby," said Vaccaro. "They wanted to protect the New York theatergoer from what they thought were outrageous prices that were hurting the Broadway market." Others have noted that those same producers and theatre owners weren't particularly happy that all that money being made off tickets to their shows was going in other people's pockets.

"The theatre lobby said, 'We don't want to deal with brokers. We don't feel people should be paying that, but we also don't feel we should be losing that money,'" said Mike Rafael, the former director of Ticket Central, a New York-based ticket service which handles primary sales for nonprofits such as Playwrights Horizons and Manhattan Class Company. "They said, 'If someone's paying \$300 for a ticket and we're getting \$100, we're losing \$200.'"

But that may all change in June, when the New York State scalping law is set to expire. In a letter sent to state officials, and quoted by the New York Post, Gerald Schoenfeld, chairman of the League of American Theatres and Producers, wrote, "We believe that ticket prices would probably not skyrocket if the cap placed on the resale of tickets were to be lifted. An increase in the number of legal resellers (who comply with licensing and other regulations) will increase legal competition in the marketplace and drive prices down." The legalization of scalping and elimination of the resale cap is also supported by New York City Mayor Michael Bloomberg and Governor Eliot Spitzer, who has gone on the record saying the laws "don't work."

(The Shubert Organization, as well as many major tickets brokers, declined to be interviewed for this article. The New York State Consumer

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Protection Board also would not comment.)

The Influence of The Internet

Why the sudden change of heart after so many years of opposition? In two words: The Internet.

"The world's gone digital. It's much more efficient. The transfer of money is much quicker," said Mike Rafael, who now works for Playbill in corporate development. "At Ticket Central four years ago, 70 percent of our tickets were sold on the phone. Last year, 65 percent were sold on the Internet. The efficiencies of the Internet have made it so easy for the broker. It's a huge annual market."

The days of ticket brokers operating out of cramped, dusty offices on or around Times Square are long gone. Most transactions now take place in cyberspace in ticket clearinghouse sites like StubHub, RazorGator and TicketLiquidator. "I don't know of any broker nowadays that doesn't have a membership or license to use an electronic exchange," said Vaccaro. "Concierges all have access to brokers who have access to electronic exchanges, or some concierges actually have their own access as well."

The flexibility afforded by The Internet has made the resale of tickets a much simpler and speedier business. It has also enabled the scalping industry to easily circumvent the New York laws by conducting its business out of state, often just across New York borders. A broker in New Jersey selling a *Wicked* ticket to a buyer in Illinois needn't concern himself with what Albany decrees.

"There are state boundaries that are very close," said Sean Pate, public relations director of StubHub. "All these transactions don't really take place in the state of New York. That's up for grabs as far as jurisdiction."

This skirting of borders and rules has forced the theatre lobby to alter its attitude toward scalping. "When the law was written, the world was a different place," said Paul Libin, producing director of Jujamcyn Theatres, which owns and operates five Broadway theatres. "Tickets were sold in a completely different way and brokers would get their tickets in all these nooks and crannies around midtown. The mechanics of selling tickets through the Internet changed that so that the brokers ended up buying tickets just like people did. They all moved out of New York, so they wouldn't have to conform to New York State law; they all did their business in New Jersey or Connecticut and Texas. They're as close as a telephone call or the Internet. It just got crazy, so there was no point in keeping the law anymore. No one was enforcing the law."

Rafael compares the current legislation to the bedeviling recording industry phenomenon of illegally downloaded music. "The record labels are trying to fight illegal downloads by prosecuting random college students," he said. "They can't afford to prosecute them all. It's a way of firing a shot across the bow. But it's not stopping anybody. That's what I'm finding in the theatre industry."

(The slang term scalping, incidentally, is an old one. It was originally used to describe stock and grain speculators of the 1880s, who bought hoping to resell at a profit.)

What Happens Now?

Everyone interviewed for this article expressed the belief that the old scalping law would be scrapped come June, allowing the secondary market to operate freely in The Empire State. About what would happen afterwards, there was much disagreement. The opinion put forth in the Shubert letter — that an open marketplace would inspire competition and keep prices down — is shared by some, but by no means all.

Those who support the theory like to cite circumstances from outside New York. Said StubHub's Pate: "What we've found from empirical data in states that have removed the cap, is you have a market with as many tickets as possible. By removing the cap you essentially give the OK to people out there who might be headed into the resale market. When you open the market and let as many tickets flow in as possible, it actually brings prices down. It levels the market. Illinois removed its cap in 2005, and in just that time since we found tickets came down 20 to 30 percent on average, simply because there are more tickets out there and people can't command as high a price."

Vaccaro, meanwhile, pointed to the example of Las Vegas. "We're seeing the tourism market change in Las Vegas. People are picking out shows before they go out there, whereas before it was the opposite. People have been able to keep a lot of the prices down by dealing directly with brokers. And the brokers have begun to market all their shows."

Rafael thinks some tickets prices might go down, but does not see admissions to shows plummeting across the board. "I do not think the market is going to work in favor of customers getting a better deal. I think the reality is *Jersey Boys* and *Wicked* tickets [which are hot sellers at the moment] will cost a lot more and tickets to some other shows will cost a lot less."

One thing everyone agrees on is that the change in law will bring the scalping business back to New York City. "There's a lot of money on the sidelines right now," said Vaccaro. "If the New York law was changed, the first meeting we'd have in our offices would be: Are we going to open a New York office and are we going to start investing in New York?"

The new business environment may also result in a broker boom. "They're going to come out of the woodwork," joked Rafael. "People who have been kind-of brokers, but not admitting to it, will suddenly have cards printed up saying 'Broker' on it."

The altered market may also lead to that unthinkable notion: producers and scalpers working hand in hand.

"The brokers would love nothing more than to have official relationships with theatres and producers, even if they make less money," said Vaccaro, "because it makes them feel that their longevity is more secure. Right now, they're at odds or there's something of a tacit agreement."

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Whether such partnerships will happen is anybody's guess. Old habits tend to die hard in the theatre, and producers and scalpers have long been at loggerheads. Still, should the secondary ticket market be set free in June, Broadway producers and theatre owners may have to adjust very quickly to the new freedom and power afforded scalpers. As Rafael put it, "It will become the Wild, Wild West in July."

(Robert Simonson is Playbill.com's senior correspondent. Reach him at rsimonson@playbill.com.)

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