THE RELATIONSHIP BETWEEN THE ONLINE SECONDARY TICKET MARKET AND COLLEGE ATHLETICS

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ABSTRACT

Emily Smyth Cozart: THE RELATIONSHIP BETWEEN THE ONLINE SECONDARY TICKET MARKET AND COLLEGE ATHLETICS (under the direction Barbara Osborne, Esq.)

This study examined the relationship between the online secondary ticket market and college athletic departments. A survey was emailed to the highest-ranking ticket office official at National Collegiate Athletic Association member institutions that are categorized as Football Bowl Subdivision. The survey collected data on the existence of a formal contract between the athletic department and an online secondary ticket company; ticket office officials' opinions regarding the online secondary ticket company; and measured levels of agreement that certain factors had on the existence or non-existence of a formal contract between the athletic department and an online secondary ticket company.

Descriptive statistics were run on the collected data, and chi-square tests were run to determine if there were significant ($p<0.05$) relationships between athletic departments and the online secondary ticket market. Descriptive statistics and chi-square results were analyzed and discussed.

To Josh, Mom, Dad and Ben for their continual support and love. To my thesis advisor and committee members for their continual patience and assistance.

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CHAPTER 1

INTRODUCTION

The online secondary ticket market's history begins with ticket scalpers. Concern regarding the online secondary ticket market and its impact on ticket prices is a current and relevant issue facing both college athletic department administrators and college athletics fans. Ticket scalpers first emerged in the late nineteenth century as people who would sell railroad tickets without authorization. Ticket scalping transcended into entertainment when similar entrepreneurs began to scalp tickets to sold-out theater productions; scalpers would purchase large quantities of tickets and then try to sell them outside the venue at a premium. A ticket scalper refers to someone who buys a ticket at face value, and then attempts to resell it without permission at a higher price (Benitah, 2005).

The practice of ticket scalping was technically illegal, but it also showed that there was money to be made through the resale of tickets, the price of which were originally set by promoters. Ticket scalping then evolved into a legal practice of reselling tickets through ticket brokers. Ticket brokers first emerged in the early twentieth century as remote outlets for theaters and ballparks, where customers could buy tickets without walking across town to buy in advance. Brokers actually worked with promoters, in an effort to increase ticket sales, and returned unsold tickets to the box office, while retaining a small service fee. Despite cooperation between event promoters and ticket brokers, illegal ticket scalping still existed (Benitah, 2005).

Beginning in 1905, anti-scalping legislation was drafted, and aimed to prevent harm to the event promoters and allow promoters to control the distribution of tickets. Promoters typically set reasonable ticket prices in an effort to ensure sellouts, continue consumer goodwill and to stimulate demand (Benitah, 2005). However, once tickets were resold on the internet, it became close to impossible for law enforcement to monitor and police. Online secondary ticket sites such as EBay, post state laws on their site, but it is impossible to guarantee that ticket resellers and buyers abide by the laws, as most users do not post their real name or contact information (Drury, 2002).

Enforcement of these laws is difficult. For one, states do not have the monetary means needed to control ticket resale either around the venue or on the internet. In addition, it can be argued that there is no victim in the act of ticket resale. One party willingly sells, and another party willingly purchases. No party reports a crime (Benitah, 2005).

Currently, there are many websites that offer forums for customers to buy and resell athletic tickets (Short, 2005). Online marketplaces include StubHub, TicketsNow and RazorGator (Johnson, 2007). By reselling tickets on these online secondary ticket sites, many users violate their state's scalping laws. Companies that operate these websites are not subject to anti-scalping enforcement because they claim the actual website is not breaking the law; rather, it is the users who are breaking their state's law (Short, 2005). But it is difficult to correctly identify both the sellers and buyers, due to the fact that many online sellers do not list real names, phone numbers or addresses. The best many online secondary ticket sites do is provide links to the laws in each state and depend on sellers and buyers to abide by the law (Drury, 2002).

The result of difficult enforcement by state authorities can lead to lawsuits. One National Football League (NFL) team, the New England Patriots, aware of a thriving online market, tried to prohibit season ticket holders from reselling tickets online (Drury, 2002). The New England Patriots prohibited season ticket holders from reselling tickets, except through the team's official ticket exchange, which required sellers to charge face value (Mohl, 2007). The Patriots argued season tickets were revocable licenses and, therefore, the organization could revoke season ticket holders' rights (*NPS, LLC v. StubHub, Inc*, 2007). The case went to court when the team sought to make StubHub, a major online secondary ticket marketplace, identify those who bought or resold season tickets through StubHub's site. The team then wanted to use that information to cancel the season ticket holders' right to buy tickets, or report them to the authorities, as they were in violation of Massachusetts state law. The court ruled in the Patriots' favor, giving the team the authority to acquire personal information from StubHub, and revoke ticket rights (*NPS, LLC v. StubHub, Inc.*, 2007).

This case epitomizes the stigma attached to the online secondary ticket market as simply another means of ticket scalping. Teams and leagues not only did not want to be a part of the market, but also tried to decrease incentive for fans to do business through them (Bell, 2006).

Scalping used to be about burley men lurking outside stadiums reselling fistfuls of tickets ("Free-market Fleecing," 2006). Therefore, anti-scalping laws were designed to stop scalpers who harassed fans, charged high prices, and at times sold counterfeit tickets (Bell, 2006). But the internet has created a larger and more efficient marketplace. Online secondary ticket marketplaces created a new business model by bringing together buyers and sellers, and then taking a cut of the profits. For instance, for each transaction, the popular online secondary ticket marketplace StubHub takes 25 percent of each transaction ("Free-market Fleecing," 2006). By 2006, the value of tickets resold online was estimated to range from $2 to $6 billion (Johnson, 2007). Online secondary ticket marketplaces were soon being acquired by larger brokering sites, due to the value of the online secondary ticket market. In 2008, TicketsNow was bought by Ticketmaster for $265 million, while in 2007, StubHub was bought by EBay for $300 million (Nocera, 2008).

The growth of the online secondary ticket market-and the potential for revenue-caused owners and professional leagues to set aside initial objections in favor of pursuing these new revenues (Helyar, 2007). The online secondary ticket market was useful not only to get tickets in the hands of fans who wanted to attend games, but, more importantly, to teams or franchises, there was the potential to receive a part of the revenues. It was therefore monetarily beneficial for teams to run their own online secondary market (Nocera, 2008).

In 2002, the owner of the Major League Baseball (MLB) team Chicago Cubs, the Tribune Company, created Wrigley Field Premium Ticket Services, which acted as a franchise-owned online secondary ticket market. Tribune Company bought tickets from the Cubs, and then resold the tickets through Premium at the market price to the general public. For instance, box seat tickets to a 2003 Cubs-Yankees game, normally priced at $45, sold for up to $1,500 through Premium (Benitah, 2005).

The Cubs said the company wanted to provide a service to get tickets into the hands of fans who wanted to attend, as well as protect fans from purchasing fraudulent tickets

(Siporin, 2004). However, MLB was upset because the act of allowing Premium to buy tickets at face value and then resell at a profit meant Premium kept a bulk of the ticket profits, instead of giving back to the MLB as part of the league's revenue-sharing contract (Benitah, 2005). Fans and scalpers were also upset because they argued that since Premium was so closely linked to the Cubs, the team was essentially scalping its own tickets (Siporin, 2004). Cubs fans sued in a class-action case that the team scalped its own tickets, and was, therefore, in violation of Illinois state law. The judge ruled in favor of the Cubs, declaring that Premium was lawfully a separate corporation, and was the only beneficiary of online secondary ticket profits (Benitah, 2005).

It was not long before other franchises began to establish ties with online secondary ticket companies and began receiving part of the profits. In 2003, the MLB team Seattle Mariners joined with the online secondary ticket company, LiquidSeats, in an effort to act as the middleman between sellers and buyers, as well as collect commission on each transaction. The team created the Ticket Marketplace, which allowed season ticket holders to resell their season tickets at market value. For providing this service, the Mariners charged the buyer 15 percent of the final transaction price, and also 10 percent from the sellers (Benitah, 2005). In 2008, the MLB team San Francisco Giants launched an online secondary ticket site, Fan-to-Fan Ticket Marketplace, which provided season ticket holders a chance to resell tickets through the Giants' official home site if they could not attend, and allowed them to price the tickets as determined by the market ("San Francisco Giants," 2008).

Meanwhile, it became increasingly obvious that the online secondary ticket market was too difficult to monitor and control, as far as anti-scalping law enforcement. In addition, online secondary ticket companies began lobbying state legislatures to overturn anti-scalping laws (Nocera, 2008). The repeal of many anti-scalping state laws helped professional teams and leagues in their search for this new revenue stream, and now all four professional leagues have online secondary ticket company deals (Helyar, 2007).

The National Basketball Association (NBA) made the first move when they announced Ticketmaster as the official online secondary ticket market vendor in 2007. The MLB made the next contractual agreement, by signing a $250 million deal with StubHub for five years (Helyar, 2007). Most recently, NFL.com and Ticketmaster.com started "NFL Ticket Exchange," which is the league's first official online secondary ticket company. During the previous season, the NFL sold more than 22 million tickets to all games, including the post-season and the Super Bowl. The league does not provide specific ticket data, but predicts five to 10 percent of those tickets moved to the online secondary ticket market (McCarthy, 2008). The terms for each contract vary by league. In the NFL, Ticketmaster will pay $100 million over five years. Of the 32 teams in the NFL, ten already have deals with other sites, and will continue those until those contracts expire. The sponsorship deals between leagues and online secondary ticket companies basically give a stamp of approval to a business leagues once regarded with disapproval. Professional leagues realized they could capitalize on online secondary ticket profits, and also exert some control over it (Helyar, 2007).

The online secondary ticket market for college athletic tickets is just as prevalent. The rise of the online secondary ticket market has expanded sales by making it easier for resellers and buyers to find one another ("If you can't beat 'em, join 'em," 2007). In the past, the National Collegiate Athletic Association (NCAA) and college athletic departments have not profited from the secondary ticket market, and have maintained a strong stance against unregulated scalping. The NCAA strictly prohibits ticket resale by athletes, employees, and college chancellors and presidents. Those with an NCAA affiliation are allowed to purchase tickets, but cannot resell above face value (Johnson, 2008).

Recently athletic departments, athletic conferences and the NCAA itself began receiving part of the profits by signing revenue-sharing deals with online secondary ticket companies. Event organizers can refer ticketless fans to the online sites with which they have a contract, thus ensuring the legitimacy of the marketplace. In return, online secondary ticket company shares the profit of resold tickets with the event organizers ("If you can't beat 'em, join 'em," 2007).

StubHub broke into collegiate online secondary sales in 2006, when West Virginia Athletics chose the company over three other online secondary ticket companies. The five-year contract and sponsorship fee gave the company advertising and signage rights inside Mountaineer Stadium and on the official athletics website (Biertempfel, 2006). StubHub also has contracts with the following college athletic departments: Texas A&M, Southern Mississippi, San Jose State, Purdue, St. John's, Arizona, University of Southern California, California, Georgetown, Stanford, Oregon State, and Rutgers ("NCAA Basketball Tickets," 2008).

In 2006, Penn State Athletics Department was the first NCAA school to sign an online secondary ticket market deal with Ticketmaster. Season ticket holders are able to resell unused season tickets through Nittany Lion Ticket Exchange, which is powered by Ticketmaster. Penn State then receives a 15 percent fee on every transaction. This is viewed by Penn State Athletics as a legal, efficient and profitable means of getting tickets into the hands of fans who want to come to the game (Biertempfel, 2006).

It is understandable that organizations or teams would want to profit from the online secondary ticket marketplace. Sport teams and leagues have learned they cannot stop ticket reselling, but they can fight for a share of the market. RazorGator, for instance, charges a fee of up to 25 percent on each NCAA ticket resold through its website. This means the NCAA and RazorGator share as much as $454 if a patron spends $1,819 for the highest-priced ticket available prior to the Final Four (Johnson, 2007).

In 2006, the NCAA announced a partnership with RazorGator and Fan2Fan Ticket Exchange as its official online secondary ticket provider, beginning with the 2007 NCAA Men’s Final Four. As one of the most popular sporting events in the country, NCAA Men’s Final Four tickets are in high demand. The NCAA entered the ticket agreement in an attempt to curb unauthorized sale of Final Four tickets, which, in the view of the NCAA, not only limits revenue for student-athlete programs, but also put fans at risk in the form of counterfeit tickets (“NCAA Selects RazorGator,” 2006).

Through RazorGator, fans who plan to forgo either the Final Four semifinals or championship game can auction their tickets to the highest online bidder. Therefore, tickets are resold for over the face value. As part of the agreement, the NCAA receives a portion of the revenue from online secondary ticket sales. Proceeds go toward the overall revenue of the NCAA, which is distributed to its member institutions (Garcia, 2006). In 2008, with tickets provided by the NCAA, RazorGator offered dozens of seats in the lower arena of the Alamodome at five times the face value of $220. The NCAA did not disclose how many tickets were available to RazorGator, how much revenue is generated, or the percentage of profits that went to the NCAA (Brown, 2008).

On one hand, this approach makes sense for all parties concerned. The online secondary ticket market is an efficient way to segment the market, rather than fans acquiring tickets through unauthorized resellers ("If you can't beat 'em, join 'em," 2007). However, the fact that tickets are resold over face value and that select online secondary ticket companies are sanctioned by the NCAA does not always sit well with the general public or college athletic administrators. There exists a perception that the NCAA is promoting the resale of tickets for more than face value for the sole purpose of making more money. The dilemma facing the NCAA is to try to capture profits made in the online secondary ticket market, while dealing with ethical questions surrounding any endorsement of the online secondary ticket industry (Garcia, 2006).

Ticket sales in college athletics are vital to athletic departments and the NCAA. The NCAA Men's Basketball Final Four brings in the vast majority of the NCAA's revenues; subsequently, those revenues are dispersed to member institutions and conferences (McCarthy, 2008). In 2007, the men's basketball tournament generated $503 million in television revenue and $47 million in ticket sales (McCarthy, 2008). Almost 90 percent of the NCAA's revenue comes from that money, with the majority of it going back to NCAA member schools. Specifically, the NCAA pays the travel expenses during the tournament for participants (up to 100 people), and also pays each team's conference $191,000 each of the next six years for every game won, up to five games (Brown, 2008).

Yet some Final Four participating teams actually lose money during the men's basketball tournament. In 2008, the NCAA tournament generated $614 million. The largest source of that revenue is the television rights fee paid by CBS and ESPN. The NCAA uses five percent of that revenue for administrative expenses, and the remaining revenue goes to member schools and conferences. However, in 2008, Final Four participants voiced concern over requirements to pay for unwanted goods and services, such as hotel rooms and a NCAA-sponsored party that cost $32,000. The issue that generated the most controversy centered on the NCAA's deal with the online secondary ticket site RazorGator and Fan2Fan Ticket Exchange. In 2008, the number of Final Four tickets allocated to each team decreased at the same time the NCAA was reselling prime tickets through RazorGator. For the 2008 Final Four, participants received 3,750 tickets, down from 4,500 in 2003. To further fuel controversy, the NCAA did not disclose how many tickets were available to RazorGator, how much the sponsorship fee was worth, or the percentage of ticket revenue split between the two parties (Kobritz, 2008). Additionally, college athletic directors were not briefed on decreases in their university's ticket allotments nor the requirement to pay for the NCAA-sponsored party (Brown, 2008).

Statement of Purpose

The purpose of this thesis is to examine the relationships between the online secondary ticket market and NCAA Football Bowl Subdivision members.

Research Questions

1. What is the relationship between NCAA Football Bowl Subdivision ticket offices and the online secondary ticket market?
2. Why do college athletic ticket offices have or do not have contracts with online secondary ticket companies?
3. Do college athletic departments have a formal internal ticket return program run by the athletic ticket office and/or fundraising office?
4. What is the opinion of NCAA Football Bowl Subdivision ticket office officials regarding the online secondary ticket market?
5. Is there a relationship between the ticket office's status with the online secondary ticket market and the ticket office official's opinion regarding the online secondary ticket market?
6. Is there a relationship between sold out games per season in football and men's basketball, and the ticket office's status with the online secondary ticket market?

Definition of Terms

Ticket scalping is defined as reselling tickets to entertainment or sporting events at the price dictated by the marketplace. The popularity of the event dictates whether scalping occurs and the price of the ticket (Bell, 2006).

Secondary ticket market is a marketplace in which tickets are purchased from the sponsoring organization or venue, and then resold either above or below the ticket's original cost. The secondary market occurs because seats are sold in advance of events (Happel & Jennings, 1995). This study examines the secondary ticket market on the internet.

The NCAA is an acronym for the National Collegiate Athletic Association. The NCAA is the governing body for college athletic departments, and has legislative and enforcement functions (www.ncaa.org).

Football Bowl Subdivision is also known as Division I-A and BCS. These universities have athletic departments that sponsor football, and also average at least 15,000 people in actual or paid attendance (www.ncaa.org).

Face value refers to the cost of a ticket, as set by the event organizer. The face value is the cost that is actually printed on the ticket (Bell, 2006).

Market value refers the price set by the demand for an event. High demand for an event tends to create a higher price for which a fan will purchase a ticket; low demand for an event may drive the price below face value of the ticket (Benitah, 2005).

Assumptions

- The main assumption in this study is the online secondary ticket market and its impact on ticket prices is a relevant issue in college athletics.

- This study also assumes the highest-ranking employee in the athletic ticket office will answer the survey, will do so honestly and is knowledgeable about the online secondary ticket market.

- This study assumes the highest-ranking employee in the athletic ticket office is responsible for making decisions regarding the relationship with online secondary ticket companies.

Delimitations

The delimitation in this study is the NCAA Football Bowl Subdivision ticket office managers, assistant athletic directors for tickets, or associate athletic directors for tickets that answer the survey. The study is limited to the accuracy of their perspective, as well as their knowledge of issues surrounding the online secondary ticket marketplace.

Limitations

- This study is limited by the number of surveys completed, or the survey's response rate.

- The survey only accounts for perspectives from Football Bowl Subdivision ticket office managers, assistant athletic directors for tickets, associate athletic directors for tickets, whoever is the higher ranking employee in the athletic ticket office. The study does not take into account ticket office managers, assistant athletic directors for tickets, or associate athletic directors for tickets from Football Championship Subdivision, Division II, Division III, or non-NCAA entities.

- The survey's validity is based on the assumption that the ticket office manager, assistant athletic director for tickets, or associate athletic director for tickets is the person in the athletic department who makes decisions regarding the online secondary ticket market.

- The study is limited by the newness of online secondary ticket market technology, and ticket office managers', assistant athletic directors for tickets', associate athletic directors for tickets' familiarity with the technology and business of the online secondary ticket market.
- The study is limited if NCAA Football Bowl Subdivision ticket offices cannot support a contract with an online secondary market due to lack of athletic department funding and technical support.

Significance of Study

This thesis is significant because the online secondary ticket market and its relationship to college athletics raise ethical and legal concerns. But the relationship also may demonstrate a trend toward acceptance of the online secondary ticket market as a new revenue stream.

As the governing body of college athletics, the NCAA is the face of amateurism, and helps set the policies among its member institutions. According to Greg Shaheen, NCAA senior vice-president for basketball and business strategies, the NCAA agreement with RazorGator is a strategic step to reaffirm and elevate their commitment to their fan base, member schools and other organizations who desire the NCAA Final Four experience ("NCAA Selects RazorGator", 2006). But what message is delivered when the NCAA makes a formal agreement with a business that resells tickets for more than face value, and gives a certain percentage of those profits to the NCAA? In the past, NCAA Final Four tickets remained a bargain in the athletic ticket world, comparatively. For the 2008 Final

Four in San Antonio, face value of a lower level ticket was $220, compared to the 2008 Super Bowl, where the top ticket price was $900. But, a week prior to the event, Final Four tickets were being resold by RazorGator for $2,500 or more (Johnson, 2008).

There is also revenue to be generated, however, which can go back to the NCAA member institutions. With the majority of revenue from the NCAA men's basketball tournament going back to the member institutions, the NCAA has to make an effort to capture the revenues made through the online secondary ticket market (Brown, 2008). In a 2006 deal with Ticketmaster, Penn State was able to obtain 15 percent on every ticket sale—money the athletic department would not have had before. In addition, making unused tickets available helps retain customers and increases satisfaction of customer bases (Biertempfel, 2006).

The online secondary ticket market is a significant issue facing college athletics. In the past, event promoters sought to eliminate ticket scalping and lobbied for anti-scalping legislation (Benitah, 2005). But the stance of the NCAA and college athletic departments on online ticket scalping is no longer clear (Johnson, 2007). The NCAA once frowned on the reselling of tickets at inflated prices, but is now actively involved in the practice through a contract with an online secondary ticket company (Brown, 2008). Sports leagues, college teams, professional sports teams, concert promoters and entertainers are trying to control-and profit from-the online ticket resale market (Johnson, 2007). It can be said that the NCAA and its member institutions are simply taking advantage of the rules of supply and demand, where free trade allows patrons to sell items at whatever price they can receive (Benitah, 2005). However, it can also be said that the NCAA and member institutions are walking a narrow ethical and legal line by sanctioning an illegal practice in states, and eliminating accessibility to view the country's most popular amateur event to all but the wealthy fans (McCarthy, 2008).

The growth of the internet has created an environment where ticket scalping is even easier and more efficient. Ticket resellers and buyers can conduct business anywhere, anytime, as long as they have internet access, which has helped make the online secondary ticket market a billion dollar industry. In addition, it is a relatively anonymous way of scalping for brokers, and carries much less risk of being caught conducting an illegal activity (Benitah, 2005).

The combination of the popularity of college athletics, legislative efforts to curb online ticket reselling, and the wide scope and anonymity of the internet warrants a theoretical and statistical analysis of the online secondary ticket market. There is little to no published research on the online secondary ticket market and its relationship with college athletics. This thesis strives to discover online secondary ticket market's relationship at NCAA Football Bowl Subdivision member institutions, where limited numbers of tickets for revenue-producing sports are in high demand.

CHAPTER 2

REVIEW OF LITERATURE

To fully understand the intricacies of the online secondary ticket market and its importance relevant to college athletics, this chapter will review related historical literature, legal cases, academic research and industry publications. First, the ticket scalping process and the history of ticket scalping will be reviewed. Next, this paper addresses the public policy effects of ticket scalping and anti-scalping legislation. This section examines the proponent's and opponent's views of anti-scalping legislation. That discussion transitions into the roles the judicial and legislative branches have on anti-scalping measures. Then recent legal trends and the impact of the internet on the secondary ticket market will be reviewed. College athletics and the relationships with the online secondary ticket market is discussed next, followed by a review of economic reasons that support the existence of a secondary market, and existing academic research and industry publications.

The Ticket Scalping Process

Ticket scalping is the reselling of tickets to entertainment or sporting events at a price determined by the marketplace. The popularity of the event determines whether scalping occurs and the price of the ticket (Bell, 2006).

A scalper purchases tickets directly from the promoter at face value, then waits until the event is sold out. The scalper then resells the ticket to consumers; the higher the demand, the higher the profits for the scalper. Because many fans are willing to buy at a higher price than that set by the promoter, scalpers can expect relative success in their business. Ticket scalping revenue is largely unreported, but estimates range from $2 to $14 billion generated by the online secondary ticket market (Bell, 2006).

There are three methods of reselling a ticket on the secondary ticket market. The first is to sell on the street at the event venue. This practice is viewed as disruptive and raises public safety concerns. The second method is to resell as a licensed ticket broker. With a license, in some states, ticket brokering is legal. Those with licenses are permitted to buy tickets in the primary market, and then resell tickets above face value, usually up to a certain maximum price (Bell, 2006).

Third, scalpers can sell tickets through an online auction or online ticket site. Ticket scalping legislation also applies to online transactions, though the legislation depends on where the buyer or seller reside, as well as the state's laws, or lack thereof (Cianfrone & Connaughton, 2004). Online sites are referred to as a marketplace, in order to differentiate themselves from ticket brokers. Online marketplaces do not buy tickets and resell to bidders, but rather facilitate ticket resale by providing a secure environment where sellers post tickets and negotiate with buyers to reach a market-clearing price. Online sites typically charge a percentage fee from buyers and sellers, or a flat membership fee. They also earn revenue by generating enough internet traffic to attract advertisement deals (Short, 2006).

Emergence of Ticket Scalping

Ticket scalpers began as people who resold railroad tickets without authorization in the late nineteenth and early twentieth century. The railroad offered a discount when a patron purchased a round-trip ticket, so scalpers would resell the unused portions. Later, people used a similar entrepreneurial approach to resell tickets to the theater. Theater ticket scalpers, then known as ticket speculators, bought large quantities of tickets and then resold them outside the venue for a profit. Today, a ticket scalper is known as a person who buys a ticket at or below face value and tries to resell it at a higher price (Benitah, 2005).

Event promoters lobbied for anti-scalping legislation in order to protect their business goals. Promoters typically set ticket prices low to continue customer goodwill, ensure sell-outs and stimulate demand. At the time, promoters argued they had the right to control the distribution of tickets to their events. To address theater ticket scalping, the United States legislature passed acts prohibiting the resale of entertainment tickets for an amount greater than the original price charged. As far back as 1905, the legislature passed acts prohibiting the resale of tickets to places of amusement for an amount greater than face value. However, ticket scalpers challenged the statutes on constitutional grounds, and early decisions by the court found in favor of ticket scalpers. Later, courts upheld state anti-scalping legislation on the grounds of the legislations' efforts to promote citizen goodwill (Benitah, 2005). The history of anti-scalping legislation, along with specific case studies is reviewed in the historical segment of this chapter.

Currently, there is no federal legislation regarding ticket scalping (Cianfrone & Connaughton, 2004). The closest move toward federal legislation was in 1998. Congressman Gary Ackerman, a Democrat from New York, tried to introduce the Ticket Scalping

Reduction Act, which called for the prohibition of sales of five or more tickets in a single transaction at a markup over $5.00 or 10 percent of the face value, whichever was greater. Not one congress member co-sponsored the bill, thus no hearings were ever held on Ackerman's bill (Happel & Jennings, 2002).

Public Policy

Most experts agree that government intervention in the market process should pass some efficiency criteria. But one form of intervention both economists, judges and lawmakers find tricky are anti-scalping laws, which aim to limit the resale of tickets to sporting and entertainment events to prevent a secondary market from charging high prices and a potentially unfair ticket distribution (Depken, 2005).

On one hand, there are those who call for extensive ticket market legislation for egalitarian purposes: to protect the public from extortion, and ensure public access to entertainment and sporting events (Happel & Jennings, 2002). The opposing argument states ticket resale increases efficiency by channeling tickets to consumers who value them the most, and the market demand should set the price (Courty, 2003).

Proponents of Anti-Scalping Legislation: Protect the Promoter and Consumer

State legislatures passed laws curbing or prohibiting ticket scalping, in reaction to the negative connotations associated with ticket scalping. Laws have permitted scalping in some form, such as regulating where tickets can be resold, limiting who can engage in ticket resale and capping the amount for which the ticket can be sold above face value. Other laws prohibit ticket resale altogether (Bell, 2006).

The first phase of anti-scalping laws began with an attempt to curb the unauthorized activities of on-site scalpers. At state and local levels, anti-scalping laws were passed, but enforcement was sporadic. The next phase of scalping laws sought to segment on-site scalpers from ticket brokers. Statutes legalized licenses to brokers, thus giving them permission to resell tickets if they met certain licensing criteria (Happel & Jennings, 1995).

The most common argument in favor of anti-scalping legislation is the protection of the promoter and consumer. Ticket promoters intentionally set ticket costs low to ensure tickets are available to the general public, and to achieve a sold out event (Criscuolo, 1995). However, if ticket scalpers exhaust the box office supply and take away tickets that consumers could have purchased at face value, the unavailability of tickets at a decent price may damage a promoter's goodwill with customers (Bell, 2006). In the long run, if tickets are unavailable, consumers become dissatisfied with the promoter, which can eventually lead to a drop in ticket sales (Criscuolo, 1995). Whether it is fair or not to the event promoter, the increase in the price of admission charged by the scalper tends to reflect negatively on the promoter, since the consumer is forced to pay a higher price to a sold out event. This creates an environment of tension and distrust between the consumer and promoter (Bell, 2006).

In addition, promoters claim that scalpers unfairly capitalize off their product when there is high demand for the ticket. Promoters also dislike unregulated scalpers when there is low demand for tickets. In this situation, when the box office has available tickets, scalpers may charge below face value to the consumer. Therefore, the promoter is, again, left with unrealized profits, if they cannot sell tickets at the box office (Happel & Jennings, 1995).

Adding to their irritation, promoters become discouraged with ticket scalpers because many do not pay taxes on their profit gains (Bell, 2006).

Ticket scalping can also be harmful to the consumer. The most common argument in consumer protection is prevention of price gouging by ticket scalpers (Criscuolo, 1995). Usually ticket scalpers are most prevalent during post-season, opening night and weekend athletic events. As these tickets are in high demand, the resale price increases, making it more costly to see an event (Bell, 2006). Proponents of anti-ticket scalping legislation contend the profit scalpers make is unfair, due to the low prices set by the promoter in the first place. Again, when scalpers and brokers can obtain regularly priced tickets and then charge over face value, it leads to an unequal and unfair allocation of tickets (Cianfrone & Connaughton, 2004). There is also the concern for fraud by scalpers and its effect on the public safety of the consumer. Anti-scalping legislation intends to help curb fake tickets sold by unregulated ticket scalpers (Bell, 2006), while it also aims to curb harassment toward fans by scalpers outside of the arena (Criscuolo, 1995).

Opponents of Anti-Ticket Scalping Legislation

The most prevalent criticism of anti-scalping legislation is that it does not work and attempts to enforce legislation are futile. Even though courts uphold anti-scalping laws, they are nearly impossible for city and state officials to enforce because laws lack uniformity, and states and municipalities lack the resources to enforce them (Criscuolo, 1995).

The lack in uniformity in state laws creates loopholes for scalpers to operate (Criscuolo, 1995). For instance, scalpers can resell tickets online to and from states where ticket scalping is legal, or they can sell an item along with the tickets, if tickets cannot be resold in that state. Depending on the state's legislation, if the ticket is resold as a part of a package, the transaction is legal (Benitah, 2005).

Enforcement of anti-scalping legislation is difficult. States and municipalities simply do not have the time or money to track online ticket scalpers or scalpers who resell tickets at the event site (Benitah, 2005). Only federal law may regulate interstate commerce. So, a transaction occurring between two parties who reside in states with different laws are more difficult to regulate because of jurisdiction issues (Elfenbein, 2006). Also, part of the problem facing ticket scalping enforcement is it can be perceived as a victimless crime. The transaction is consensual: there is a willing seller and a willing buyer. If there is no victim to report an alleged crime, then authorities cannot prosecute (Benitah, 2005).

The other argument against anti-scalping legislation is it is an exercise of free enterprise and should not be regulated by the government (Criscuolo, 1995). Scalping is inevitable as long as there are both advance ticket sales for events and consumer pressure to keep prices affordable to the general public (Happel & Jennings, 1995). When a promoter chooses to sell tickets at a value less than the market-clearing price and chooses not to attain additional profits, it does not create automatic privilege for the consumer to receive tickets at the low price. Additionally, when a promoter chooses to set the ticket price below the market-clearing price, this creates conditions for a secondary ticket market. If there is high demand for a sporting event, and tickets are available at reasonable prices, scalpers are able to purchase tickets at face value, and resell them to fans who did not buy tickets from the promoter in time (Benitah, 2005).

Proponents for legislation argue that anti-scalping legislation prevents fans from paying exorbitant prices for tickets. However, this assumes that all tickets-at face value-are affordable for all consumers. Even in the primary market, ticket prices have increased to points that are unaffordable. Thus, attempts to control the prices on the secondary market are ineffective (Mohl, June 2007).

The main reason scalpers are popular is because demand for tickets exceeds the supply. When this occurs, those who have the product create a secondary market, in which they are willing to part with the ticket for a monetary value (Benitah, 2005). From the view of the consumer, scalpers can save them time and energy in terms of acquiring a ticket for a sold out event (Bell, 2006). This is beneficial for those consumers who need tickets and are willing to pay more for them (Cianfrone & Connaughton, 2004). Opponents of anti-scalping legislation argue any law that interferes with the free market practice is unconstitutional (Criscuolo, 1995).

However, it is important to note the Constitution does not guarantee the right to free enterprise, and the right to conduct business may be conditioned. The courts have consistently held that it is within the power of state to regulate businesses, if they find the general public is disadvantaged. If the law's approach is applied with the intent to ensure public good and is not arbitrary or discriminatory, it does not violate the Constitution (Criscuolo, 1995).

From the promoter's perspective, scalpers are beneficial for two reasons. First, tickets purchased by scalpers are guaranteed revenue. For a high demand event, with a limited supply of tickets, a promoter can be confident that tickets will be purchased in advance, even if they are purchased by a scalper. Second, scalpers help maximize revenue by getting tickets into consumers' hands. If the event is sold out, and those who want tickets at late notice can still acquire tickets, the event can still maximize revenues from concessions, parking and merchandise sales (Bell, 2006). The more fans at the event means more profits for all parties involved with the event. Profits from these other sources can offset money that could have been made if promoters raised ticket prices to the market level (Benitah, 2005).

Indirectly, there is another benefit for promoters. The perception of a sold out event enhances the popularity of the event for consumers and attracts some consumers to the marketplace who would not otherwise attend. Just the allure of being able to be a part of an event that not everyone gets to attend fuels some consumers' need to acquire tickets. Bragging rights come at a cost, but it a cost many consumers are willing to pay. Thus, demand for the event is driven even higher by this consumer mentality (Bell, 2006).

History of Anti-Scalping Legislation

It has long been argued that the practice of ticket scalping causes far too many problems for the sport and entertainment industries. According to Criscuolo (1995), ticket scalping creates an unequal distribution of tickets, since ticket scalpers can purchase tickets from the promoter for the purpose of making a profit through the secondary market. Only those with more disposable income can afford the scalper's resale prices. Thus, individuals who cannot afford the resale price are unable attend the event meaning not everyone has a fair shot at obtaining a ticket (Criscuolo, 1995).

Additionally, ticket scalping in or around the arena may be dangerous and disruptive to fans. Scalpers who resell tickets in the venue area create congestion, which leads to concerns regarding the harassment to fans, as well as the sale of fraudulent tickets (Criscuolo, 1995). The stigma of big burley men lurking outside arenas with fistfuls of tickets again comes to mind, thus making the event potentially less enjoyable for fans ("Free-market Fleecing," 2006).

In reaction to the negative connotation surrounding ticket scalping, state legislators began passing anti-scalping legislation as early as 1907 (Bell, 2006). In 1907, Illinois adopted a law that prohibited the resale of tickets for more than the amount printed on the ticket. This law applied to theater and other entertainment events (Siporin, 2004). Over time, as state legislatures set their own legislation, anti-scalping laws varied from state to state. The majority permitted the resale of tickets in some form, but set regulations as far as where tickets could be resold, limits on who could engage in ticket scalping, and set a maximum amount for which a ticket could be resold (Bell, 2006). For instance, California prohibited the act of reselling tickets on the grounds of an arena where an event was held. Other states, such as Georgia and Connecticut were more lenient in restricting the secondary ticket market. These states prohibited the reselling of tickets at a price greater than the value printed on the ticket, but allowed an increase in price to cover taxes and service fees (Criscuolo, 1995).

Other states attempted to regulate the secondary ticket market through licensure. In New Jersey, it was forbidden for a person to engage in ticket scalping unless that individual had a license to resell tickets. In Alabama and New York, a person who wished to resell tickets was required to get a license and pay a fee for the license. Ohio state lawmakers allowed municipal corporations to regulate, by license or other means, the act of reselling tickets to theater and amusement events (Criscuolo, 1995).

As of 2007, 42 states had repealed anti-scalping legislation (Jacoby, 2007). New York State, one of the most recent states to repeal anti-scalping legislation, did so in 2007. Then-governor Eliot Spitzer, stating that anti-scalping legislation did not work, signed a bill in June deregulating the resale of tickets to theaters, concerts and athletic events. Spitzer went on to state that New York would allow the free market to determine ticket resale prices, thus completely allowing the resale of tickets above face value (Jacoby, 2007).

The trend toward deregulating the secondary ticket market by state government begs the question: how does this trend affect college athletic departments? As college athletic ticket offices and the NCAA now endorse and enter contract agreements with online secondary ticket companies, thus engaging in a profit-making manner similar to the exact behavior they once tried to prohibit, they enter into a public policy debate over the accessibility of athletic tickets (Bell, 2006).

Legislature versus Judicial Views: A History of Case Law

The researcher was unable to find documented legal cases that involved college athletic fans or college athletic departments. However, the researcher feels a brief history of anti-scalping legislation and judicial views is pertinent, as it helps provide a history regarding the stigma that follows the secondary ticket market.

The court faces four issues when reviewing the legality of anti-scalping legislation and whether those issues fall within the interest of the state: protection of public welfare; ensuring public access; the state's police power; and the relationship between the legislative goals and enforcement of the law (Pittman & Osborne, 2003).

Early challenges to anti-scalping statutes focused on the legality of the state's police power. During this time, anti-scalping laws were struck down as a violation of the equal protection clause of the 14th Amendment and as a violation of property rights. Ticket scalping was considered to be a private industry, thus courts held that state legislatures were overreaching their boundaries by regulating the business. In addition, the courts determined ticket scalping was not an area of public interest, so the law invaded both the rights of property and freedom of contract (Bell, 2006).

Tyson and Brothers v. Banton (1927)

In *Tyson and Brothers v. Banton*, the United States Supreme Court reviewed a state statute prohibiting the resale of theater tickets or other entertainment tickets for more than $0.50 over face value. The court reversed the New York district court's decision that denied ticket brokers the chance to resell theater tickets. The court held the power to fix prices by the government exists only if the business involved has a public interest. The court did not find the resale of tickets was such a business, thus the state's regulation was a violation of the due process clause of the 14th Amendment (*Tyson v. Banton*, 1927). In order to be upheld, the law had to pass the "Rational Basis" test, which states the law must be rationally related to a legitimate government interest. In *Tyson v. Banton* the court found the anti-scalping law unconstitutional because it was arbitrarily enforced, which violated equal protection (*Tyson v. Banton*, 1927).

Nebbia v. New York (1934)

That view regarding state economic regulations ended with the court's decision in *Nebbia v. New York*, which has since set the court's rationale when deciding anti-scalping cases (Cianfrone & Connaughton, 2004). In *Nebbia v. New York*, the court found the government's power to fix prices was a valid exercise of the state's police power. As the law was instilled to promote a public interest, the state legislature was free to adopt any economic policy deemed necessary, as long as it is reasonably related to promoting public good. Therefore, the state's regulation of the use, or price of the use of one's property, was not necessarily a violation of due process (Bell, 2006).

Gold v. DiCarlo (1965)

Regarding anti-scalping legislation, courts have recognized the state has a legitimate interest in protecting public welfare in terms of public access to tickets and public safety (Criscuolo, 1995). In *Gold v. DiCarlo*, a New York statute that regulated the price at which licensed brokers could resell tickets was challenged but upheld by a state court (*Gold v. DiCarlo*, 1965). New York state law restricted the resale of tickets to only $1.50 over face value (Bell, 2006). The law was challenged by ticket brokers, who argued the state could not regulate the resale of tickets to public events. The U.S. Supreme Court, however, citing the *Nebbia* case, affirmed the state court's ruling. Regulating resale prices is a matter of public interest because it affects the price the public had to pay (*Gold v. DiCarlo*, 1965). The court has found if the law promoted public welfare, is applied fairly and enforcement accommodated the legislative purpose, the state was free to adopt whatever economic policy needed (Criscuolo, 1995).

The State v. Major et al (1979)

Other challenges to anti-scalping legislation have included the claim that such statutes violate the private property right of disposing one's property. In *State v. Major* (1979), the defendants accused of scalping tickets to an Atlanta Falcons football game at an illegal price used this as their defense. The court, however, has continued to rely on *Nebbia v. New York* (1934), and found the anti-scalping statute to be reasonably related to the legitimate state interest in the regulation of the resale price of tickets (*State v. Major*, 1979).

In reviewing the power of the state to regulate business practices, the *Nebbia* court found, regarding due process and in the absence of other constitutional restriction, states are free to adopt economic policies that reasonably promote public welfare. When applied to this case, if the anti-scalping legislation has a reasonable relationship to a legislation purpose, the requirements of due process are satisfied. Therefore, the United States Supreme Court has recognized a legitimate state interest in the regulation of the resale price of tickets in an effort to put all sports fans on an equal level in acquiring tickets (*State v. Major*, 1979).

State of Connecticut v. John M. Leary (1991)

Courts also have upheld the distinction made in the treatment of brokers who do have permission from the promoter to resell and those who do not have permission (Criscuolo, 1995). In *State of Connecticut v. John M. Leary* (1991), the court held the state's anti-scalping legislation did not violate due process or equal protection. Connecticut law stated scalpers could not charge more than $3.00 over face value of the ticket. However, the statute did allow event promoters to enter into contracts with brokers, who charged over face value. The defendant claimed the law benefited a select group, which violated his rights to equal protection (*State v. Leary*, 1991).

In *State*, the Connecticut Supreme Court held the law was reasonably related to its intention to promote access, protect public welfare and prevent economic loss (*State v. Leary*, 1991). The law was not a violation of equal protection because the need for ticket scalping regulation was demonstrated (Criscuolo, 1995). Since the owner was free to enter into contractual relations regarding the resale of tickets, the exemption was appropriate (*State v. Leary*, 1991).

People v. Shepard (1978)

In terms of protecting public safety, the courts recognize anti-scalping legislation intends to provide a safe environment for events, and decrease annoyance, congestion and harassment by on-site scalpers. In *People v. Shepard* (1978), the court found anti-scalping legislation was reasonable because the government had an interest in protecting citizens' well-being. In the case, the defendant was arrested for scalping tickets to a Los Angeles Raiders football game outside L.A. Memorial Coliseum. Ticket scalping was illegal within city limits and in areas of public entertainment use. When the scalper challenged the legislation violated the equal protection clause of the 14^{th} Amendment, the court disagreed. The court held the anti-scalping law was created to eliminate the intrusion of the scalper and the scalper's negative impact on public safety (Cianfrone & Connaughton, 2004). The state had an interest in ensuring public access, which was the intent of the legislation. Thus, the law was within the power of the state (Criscuolo, 1995).

New Jersey Association of Ticket Brokers and Birn-Mar Tickets, Inc. v. Ticketron (1988)

The growth of the ticket broker industry led to another challenge to the state courts regarding anti-scalping legislation. The New Jersey Association of Ticket Brokers (New Jersey Association), an unincorporated association of ticket brokers operating in New Jersey, along with Birn-Mar Tickets, Inc., a New Jersey corporation engaged in the ticket brokerage business, challenged the New Jersey state law that stated each ticket could not be resold for more than 20 percent of the original ticket price or $3.00, whichever was greater. As ticket brokers, the New Jersey Association and Birn-Mar were allowed under municipal law to resell tickets to events at a price over face value. The major component of their business in New Jersey was the resale of tickets for concerts at the Meadowlands and tickets for New York Giants football games (*New Jersey Association v. Ticketron, 1988*).

However, New Jersey state law still prohibited the resale of tickets for more than 20 percent of face value or $3.00, whichever was greater. In order to purchase tickets to resell, both the New Jersey Association and Birn-Mar had to purchase tickets through Ticketron, the exclusive ticket agent for ticket sales for events at the Meadowlands and Giants Stadium. The New Jersey Association of Ticket Brokers and Birn-Mar argued the restrictions imposed on the resale of tickets forced them out of business, thus violating their due process rights accorded by the 14th Amendment (*New Jersey Association v. Ticketron, 1988*).

Citing both *Nebbia v. New York* and *Gold v. DiCarlo*, the court found the law was reasonably related to a legislative purpose and promoted public welfare without discrimination. Concerning the brokers' claim the law was discriminatory because it did not permit them a fair rate of return, the court found a lack of evidence that it was an unreasonable law because the brokers provided no facts to show the ticket brokerage business could not function within the written law (*New Jersey Association v. Ticketron*, 1988).

NPS, LLC et al v. StubHub, Inc. et al (2007)

The evolution of the online secondary ticket market posed many legal issues and concerns. One NFL team, the New England Patriots, chose to fight back against season ticket holders reselling tickets online in an effort to protect their product. NPS, LLC and the New England Patriots, L.P. (the Patriots) alleged a collection of their season ticket holders engaged in the unlicensed resale of tickets to Patriots' home football games. These ticket sales were facilitated by the online secondary website, StubHub. The Patriots claimed this was in violation of Patriots' ticket policies and sought to force StubHub to produce documents identifying season ticket holders who either offered or resold their tickets. The Patriots intended to use that customer information to revoke season ticket rights or to report the violators to state authorities for violating Massachusetts anti-scalping legislation. Naturally, StubHub refused to turn over customer information (*NPS v. StubHub*, 2007).

The court, relying on *Herman v. Admit One Ticket Agency* (2007), allowed the Patriots to acquire documents from StubHub of season ticket holders engaging in the online secondary ticket marketplace. In *Herman v. Admit One Ticket Agency* (2007), the court had ordered Admit One to produce the identity of Red Sox ticket holders who resold tickets through Admit One. Admit One agreed to turn over documentation, but sought a protective order to prevent the use of that information outside the litigation. The court allowed Admit One to enter a protective order that required the plaintiff to keep Admit One's ticket sources confidential and discovery was limited to the plaintiff's litigation needs in that case. In *NPS v. StubHub* (2007), the court found the difference between *Admit One* and the *NPS* case was significance. In *Admit One*, the plaintiff was a potential Red Sox ticket purchaser who said he was quoted "grossly excessive prices," which was in violation of Massachusetts state law. The plaintiff wanted Admit One's sources so that he could report them to authorities (*NPS v. StubHub*, 2007).

The court concluded the Patriots were in a different position than the plaintiff in *Admit One*. In *NPS v. StubHub*, the Patriots claimed the use of their tickets permits customers to enter Gillette Stadium-which is private property-and watch the Patriots play football. The Patriots argued they had a right to regulate that activity, which is unlike the interest of the plaintiff in *Admit One*. The Patriots further claimed that tickets to their games, resold through StubHub, were originally purchased from the Patriots. In *Admit One*, the plaintiff's concern surrounded his interest as a potential buyer. The Patriots' concern surrounded obtaining information on their own customers that violated the Patriots' ticket resale regulations. Thus, the court found the Patriots were in a different position and had legitimate needs that the plaintiff in *Admit One* did not have. In addition, StubHub was not able show sufficient reasoning as far as why discovery could not be allowed. The court found in favor of the Patriots (*NPS v. StubHub*, 2007).

Recent Legal Trends and the Effect of the Internet

Again, as of 2007, 42 states have repealed anti-scalping legislation (Jacoby, 2007). Massachusetts, New Jersey and Arkansas are a few of the only states that still have anti-scalping legislation (Collura, 2007). Currently, lawmakers in Massachusetts are calling for the repeal of the state's anti-scalping legislation, or, at the very least, easing pricing restrictions. New York State, which had one of the strictest anti-scalping legislation and enforcement, repealed its law in 2007. The law does still ban scalpers from operating within 1,500 feet of the venue, and requires a license for anyone selling more than five tickets to an event, but the legislation eliminated all pricing restrictions (Mohl, 2007).

One reason for this trend is, as stated before, laws do not work. With the growth of the internet, ticket scalping is easier and more efficient. Online, scalping can be done in the comfort of one's home, and there is less risk of being caught because of enforcement difficulties (Benitah, 2005). Though sites like StubHub encourage users to comply with state law, it still provides a venue for users to break the law, and the company still profits from the percentage fees it charges (Short, 2005).

Another reason for the trend toward deregulation is that event promoters and lobbyists have pushed for the elimination of anti-scalping legislation. Many companies engaged in the resale of tickets actively lobby state legislatures to remove or limit ticket resale restrictions. The prevalence and success of the online secondary ticket market has not escaped the eyes of event promoters, and many have entered contracts with online secondary ticket market companies (Dreyer & Schwartz, 2007).

The combination of the difficulty monitoring online resales and political pressure to repeal anti-scalping legislation forced teams, leagues and other promoters to gradually accept the online secondary ticket market as a legitimate way of doing business. However, the legal cases did not go away. In the past, legal cases were between fans and the state; more recent legal cases are between fans and teams (Dreyer & Schwartz, 2007).

In *Cavoto v. Chicago Nat'l League Ball Club, Inc.*, Chicago Cubs fans filed a class-action suit, claiming the Chicago-Tribune-owned Cubs resold their own tickets, which violated Illinois law (Siporin, 2004). In 2002, Tribune created Wrigley Field Premium Ticket Services as its ticket broker. Thus, Tribune owned both the Cubs and Premium, where Premium bought unused tickets from the Cubs and resold them to the general public over face value (Benitah, 2005). At issue was whether Premium was an extension of the Cubs organization, or an entirely separate corporation (Siporin, 2004).

Fans were upset because they were paying higher prices; ticket scalpers were upset because the Cubs were doing exactly what Illinois law prevented scalpers from doing; and the MLB was upset because they did not receive any revenues from Premium's ticket profits (Benitah, 2005). The Tribune, however, argued the Cubs wanted to provide a service to the public, by making tickets accessible and protecting fans from ticket fraud. The court ruled the Cubs did not defraud customers or break Illinois scalping legislation (Siporin, 2004).

The court ruled Premium satisfied all requirements in the Ticket Scalping Act as a licensed broker. The plaintiffs failed to prove the Cubs concealed that the team and Premium were not owned by the same organization; in all instances, Premium was forthcoming regarding their relationship with the Cubs. The court also found there was no injustice because there was no arrangement between the Cubs and Premium that involved sharing Premium's profits. They were both separate businesses that undertook risks and benefits of owning tickets (Siporin, 2004).

However, the court's ruling has differed when the suit involves a team suing fans who resell tickets. In *NPS, LLC et al. v. StubHub, Inc. et al* (2007), the New England Patriots sought to make StubHub identify patrons who bought or resold tickets, or even offered to buy and resell tickets. The Patriots claimed season ticket holders engaged in unlicensed resale of tickets, and the organization needed StubHub's information to cancel their season tickets because they were in violation of Massachusetts' anti-scalping law (*NPS v. StubHub*, 2007). StubHub claimed there was a relevant market for Patriots tickets, and the organization had no right to regulate online secondary ticket competitors (*NPS. v. StubHub*, 2007).

The court ruled the team was entitled to StubHub's patron information database. The court stated the Patriots organization had a legitimate interest in knowing the identity of fans who resold tickets because that information was directly related to further prosecution of the case. The Patriots further had a right to regulate scalping activity since the use of tickets took place in Gillette Stadium, which is private property (*NPS v. StubHub*, 2007).

Since the court's ruling, the Patriots created a team-sponsored site with Ticketmaster where season ticket holders can resell unused tickets at face value. The Patriots receive no additional revenue from the exchange, emphasizing the site's purpose is for fans to recover the cost of tickets without violating the team's policy or Massachusetts state law (Dreyer & Schwartz, 2007).

The Growth of Secondary Ticket Sales Online

In America alone, the online secondary ticket market is worth over $10 billion, according to Jeffrey Fluhr, co-founder and former CEO of StubHub. The internet has created a larger and more efficient market. StubHub alone, which was organized in 2000, has revenues of $200 million, and is expected to triple annually ("Free-market Fleecing," 2006). The online secondary ticket market is doing to the ticket industry what it did to the music and movie industries by offering technology that shifts power back to the consumer. The shift online is fueled by supply and demand, with the rise of competing online secondary ticket sites allowing consumers to dictate the market value of tickets. Some in the ticket industry have embraced the change, while others have fought the changes, leading to both increased competition and lawsuits. Either way, if consumer demand exists and technology provides the means to enable it, it is nearly impossible to reverse the trend (Diaz, 2007).

Online sites like EBay and Craigslist have enabled online ticket buyers and resellers to do business for years. However, new reseller sites argue those transactions are as prone to fraud as buying from a street ticket scalper. StubHub, for instance, considers itself a ticket intermediary. The site does not resell the ticket itself, but, rather, provides a safe, reliable site for ticket buyers and resellers to do business. It promises to take risk and uncertainty out of each transaction by providing a ticket guarantee, which is something Craigslist and EBay historically have not provided (Diaz, 2007). Coincidentally, EBay purchased StubHub in 2007 for more than $300 million, giving them a strong foothold in the online secondary ticket marketplace (Nocera, 2008).

Online Ticket Sites and the Relationship with Promoters

The majority of teams, organizations and event promoters have embraced online secondary ticket companies in the last few years. In a 'if you can't beat 'em, join 'em' approach, many recognize the increase in online secondary ticket sites have made anti-scalping laws unenforceable. In addition, online secondary ticket sites have exposed the futility of trying to prevent the growth of a market that is driven by the laws of supply and demand (Nocera, 2008).

More importantly, fans are more accepting of the online secondary ticket market. As more fans utilize the sites to resell unused tickets, teams and promoters become more accepting, as well. Also, organizations find fans are more likely to buy season tickets if they know they will be able to recoup their losses by reselling unusable tickets (Nocera, 2008).

Most scalping now occurs through online secondary ticket sites or through registered ticket brokers, which makes combating scalping on a widespread level impractical (Bell, 2006). The secondary ticket market underwent a radical change beginning in 1999, with the surge and success of ticket scalping through online sites. Online secondary ticket companies with highly refined software packages approached major sports teams and event promoters with an offer to provide a venue to resell season tickets at designated web sites as endorsed by the team (Happel & Jennings, 2002). These agreements benefit teams and organizations because they receive both sponsorship revenues, and they provide an avenue for fans to acquire tickets and fill the stands (Dreyer & Schwartz, 2007).

Online secondary ticket contracts vary, depending on the online secondary ticket company, and the team or organization. In a sponsorship agreement, the online secondary ticket company pays the team a flat fee in exchange for being the sole resale vendor. For instance, StubHub pays a sponsorship fee and receives exclusive access to the team website and logo. In this scenario, the team can make a consistent profit, regardless of the demand for tickets. Another type of online secondary ticket company contract is a percentage fee agreement. In this agreement, the team receives a commission from the resale value of the tickets. Teams that partner with StubHub under this contract agreement usually receive 10 percent of the resale price (Dreyer & Schwartz, 2007).

A third online secondary ticket company contract is team-organized ticket exchanges where season ticket holders can resell tickets on a team-authorized marketplace. The team has its own online secondary ticket site, powered by an online company (Dreyer & Schwartz, 2007). For instance, the Cleveland Cavaliers offer fans the chance to resell or transfer tickets through the online company "Flash Seats," which is offered on their official team website. This agreement allows the team to create its own limits as to which fans can resell and buy tickets, as well as offer a safe online marketplace branded by the team ("Flash Seats," n.d.).

One of the first organizations to endorse an official online secondary ticket company was the San Francisco Giants in 2000. The program was named San Francisco Giants Double Play Ticket Window, and let season ticket holders resell individual game tickets they could not use (Happel & Jennings, 2002). Another MLB team, the Seattle Mariners, sought to capture online secondary market ticket profits. On their official website was an option called "Ticket Marketplace," where, again, season ticket holders could resell unused individual game tickets. By charging 10 percent commission for ticket buyers and 15 percent for ticket resellers, the Mariners were able to earn over $100,000 in 2003 (Bell, 2006).

In 2007, the MLB announced a five-year agreement with StubHub (Jacoby, 2007). On each team's site, they offer a StubHub ticket exchange option that allows fans to freely resell unused tickets at any price ("San Francisco Giants," 2008). In exchange, the MLB collects a share of StubHub's revenue, and StubHub receives 15 percent revenue upon completion of the ticket sale ("San Francisco Giants," 2008). Likewise, in 2007, the National Football League (NFL) named Ticketmaster as its official ticket reseller. In exchange, Ticketmaster pays the NFL $20 million annually for the endorsement (Nocera, 2008).

College Athletics and Ticket Scalping

In 2006, Penn State made a deal with Ticketmaster to take advantage of the online secondary ticket market, making it the first NCAA school to make such a deal. The deal with Ticket Exchange, powered by Ticketmaster, creates an opportunity to get tickets into fans' hands in a way that is legal, efficient and profitable for the Nittany Lions. In the 2006 deal, Penn State received a cut of the 15 percent convenience fee on every ticket resale (Biertempfel, 2006).

Among many college athletic administrators, the rationale to team with ticket companies is simple. Since many season ticket holders are already reselling tickets through online secondary ticket companies, college athletic departments might as well get on board, and officially receive a cut of the profit through contract agreements. In addition, such arrangements can be win-win situations for both the athletic departments and their fans. Making unused tickets available helps retain customers, and increases satisfaction of customer bases (Biertempfel, 2006).

StubHub moves about 300,000 tickets a month, and the company was rated by *Inc. Magazine* as the eighth-fastest growing private firm in the U.S. This profit potential has prompted college athletic departments to cash in by teaming with online secondary ticket companies (Biertempfel, 2006). This figure is a small drop in the bucket, considering some estimates put the annual revenue potential from online secondary tickets at $2 billion, but to many college athletic departments looking for new revenue streams deals with online secondary ticket companies can be beneficial (Biertempfel, 2006). Currently, StubHub is an official ticket sponsor with 14 universities, including, University of Southern California, West Virginia, Texas A & M, Stanford and California ("NCAA Basketball Tickets," 2008). These schools have deals to send football ticket holders and buyers to StubHub, as well as provide a platform on their athletic department sites where fans can access the online secondary ticket marketplace (Johnson, 2007). There was a time when the markets and teams preferred to split the revenue from online secondary ticket sales. Now, however, most deals are sponsorship agreements. Specific financial details are not available on such partnerships, but in exchange for paying a sponsorship fee in a five-year contract, schools provide advertising space inside stadiums and on the athletic department's websites. In this fixed-fee model, athletic departments can predict their revenue, instead of being susceptible to sub-par performing teams that may negatively affect profit percentages (Biertempfel, 2006)

In addition, in many sponsorship deals, the exchange of information can be just as valuable as money. Athletic departments are always trying to obtain demographic data about online ticket buyers in an effort to better cater to their fans. The online secondary ticket companies are just as eager for information and exposure to a team's season ticket holders, who are potential customers (Biertempfel, 2006).

NCAA Deal with RazorGator

As reviewed in Chapter 1, the NCAA recently partnered with RazorGator, a Los Angeles-based online ticket reseller, to allow fans to buy and resell tickets to the NCAA Men's Basketball Final Four (Lemke, 2007). This partnership makes RazorGator the Official Ticket and Hospitality Package Provider for the NCAA Final Four. As advertised on the RazorGator website, the online secondary ticket company is able to secure the best tickets, in addition to exclusive access to pregame festivities. Fans can choose to purchase from all-session, semi-finals or championship game tickets, and, for the 2008 NCAA Final Four had a selection of seats ranging in price from $4,500 each for prime locations to $410 for seats in the upper level behind the basket (RazorGator, 2008). RazorGator then lets fans negotiate the resale of tickets via the PrimeSport fan-to-fan ticket exchange if they are unable to use their tickets or if their team is eliminated ("PrimeSport Inks Extension," 2009).

Though the NCAA still holds a public sale, which is distributed through a lottery, it also sells blocks of tickets at face value to RazorGator to offer for resale. Just prior to the 2008 NCAA Final Four in San Antonio, RazorGator sold all-session ticket packages for almost 15 times the face value of $140-$220. Of these packages, 14 blocks of tickets were available for resale in the lower level of the Alamodome. The tickets sold to RazorGator come from tickets reserved for public sale and the NCAA's use, 22 percent and 10 percent, respectively. Tickets are also allocated to participating schools (35%), the local host committee (10%), the National Basketball Coaches' Association (8%), college athletic directors (8%), and Columbia Broadcasting System (CBS) and corporate sponsors (6%) (McCarthy, 2008).

The exact amount the NCAA makes off the deal is undisclosed. However, Jeff Lapin, CEO of RazorGator states the two parties split the online revenue (McCarthy, 2008). RazorGator does charge a 25 percent fee on each ticket resold on the website (Johnson, 2007). According to Johnson (2007), if a fan spends $1,819 for the highest-priced ticket for the 2007 Final Four, the NCAA and RazorGator will share as much as $454. The NCAA also shares in profits made through RazorGator's hotel packages (Johnson, 2007).

The NCAA had another partnership with Firstdibz.com, in which it received a share of the fees charged by the online secondary ticket company (Johnson, 2008). Fans could purchase options for the opportunity to buy Final Four tickets on Firstdibz. This gave the fan the obligation and right to pay face value for tickets if the fan's team made it to the Final Four. Up until the fan's team was eliminated or the market was closed, the fan could resell the option to buy on the Firstdibz marketplace at a profit ("NCAA Men's Final Four," 2008). A team was eliminated if it did not make the tournament or lost during the tournament, and the online secondary ticket market was closed once Regional games completed and the Final Four field was set (Horton, 2006). The fan could also hold on to the option, but, if the fan's team did not get to the Final Four or decided not to attend after the market closed, he or she could not recoup their costs ("NCAA Men's Final Four," 2008). After receiving negative publicity for the Firstdibz contract because the online trading aspect was perceived as gambling, the NCAA cut ties as an official partner ("NCAA Dissociates," 2009).

While maintaining a firm stance against unregulated scalping, the NCAA seeks to capitalize on the success of the online secondary ticket market (Johnson, 2008). Through RazorGator, large blocks of prime Final Four tickets are resold at markups of hundreds or thousands of dollars (McCarthy, 2008). From the NCAA perspective, this push into the online secondary ticket market makes financial sense for student-athletes and fans (Johnson, 2008). However, the deal between an online secondary ticket company and the NCAA also blurs the line between primary ticket issuers and ticket scalpers (Johnson, 2007).

Financial Incentive for the NCAA

One of the tasks assigned to the NCAA's Greg Shaheen, senior vice president for basketball and business strategies, is to broaden the NCAA's revenue sources to support the needs of college athletics ("The 10 Most Powerful People in College Sports," 2007). The NCAA entered the RazorGator agreement in an effort to maintain the integrity of the championship and capture profits from the online secondary ticket market to increase revenue for NCAA member institutions ("NCAA Selects RazorGator", 2006). The NCAA, which has not disclosed the value of the RazorGator deal, operates with a budget of around $614 million. Ninety percent of the NCAA's revenue is generated from television and ticket sales from the men's basketball tournament (Brown, 2008). In 2008, according to the NCAA, the men's tournament generated $503 in television revenue and $47 million in ticket sales (McCarthy, 2008). Almost all of that money is distributed to member institutions (Johnson, 2008).

According to Johnson (2008), RazorGator most likely paid for the marketing rights for the NCAA Final Four trademark, and shares a percentage of what the company earns from service fees. Fees charged through the online ticket site can add up to 22 percent to the price of the re-sold ticket. If a ticket package costs $2,650, then RazorGator and the NCAA receives $583 in fees. Again, the exact percentage that each receives is undisclosed (Johnson, 2008).

Service to Fans

Not only does the NCAA want to capture profits from the online secondary ticket market, they also want to exert control over ticket scalping, in order to protect fans against ticket fraud (Johnson, 2007). According to Shaheen, over a five-year period, an NCAA study showed fans who had the opportunity to purchase tickets were often reselling them on the online secondary ticket market. Therefore, a concern facing the NCAA was illegitimate ticket arrangements through these unauthorized scalpers (Brown, 2008). Many fans prefer ticket sales sanctioned by a team or organization through online ticket companies because it reduces-or eliminates-ticket fraud (Johnson, 2007). When fans purchase tickets from scalpers-either through unauthorized websites or on the street outside the venue-they run the risk of purchasing illegitimate tickets. However, as the authorized online ticket marketplace for the NCAA Tournament, RazorGator guarantees tickets purchased through their site are authentic and will provide tickets that are comparable or better if a deal falls through (Johnson, 2008).

Fans also ran the risk of ticket fraud when fans whose team lost in the semifinals resold championship tickets. Again, as the transaction did not occur through an authorized website, there was the chance the ticket could be invalid. RazorGator will actually negotiate with fans who want to resell championship tickets if their team loses in the semi-finals through their Fan2Fan Exchange. Again, this provides a way for fans to get tickets and help provide consumer protections through an authorized online ticket marketplace ("NCAA Selects RazorGator," 2006).

Blurred Line

According to Gary Shaheen, NCAA senior vice president for basketball and business strategies, the NCAA recognizes the fact that the resale of tickets has existed in the past with no proceeds going to NCAA programs. From the NCAA's view, they are attempting to provide a legitimate means for people who are willing to make an investment to get tickets, and, at the same time, boosting revenue for NCAA-sponsored programs (Garcia, 2006). But ethical and legal questions surround the online secondary ticket market's prevalence and acceptance with college athletic departments and the NCAA governing body.

According to Russ Haven of the New York Public Interest Group, while eliminating unauthorized ticket brokers is a legitimate idea, the NCAA and RazorGator are essentially trying to replace unsanctioned online brokers with their own sanctioned operation (McCarthy, 2008). The NCAA has maintained a firm stance against unregulated scalping, but has entered a contract in order to share in the wealth of the online secondary ticket market. Marked-up prices on tickets and an up to 25 percent transaction fee means many average fans cannot compete (Johnson, 2008). This sends mixed messages about the ideals college sports should endorse (McCarthy, 2008). It leads to concern among observers that the nonprofit governing body of college sports has essentially gone professional. Though the NCAA adheres strongly to the amateur ideal, its deal with an online ticket broker lends to the perception that it is operating similar to a professional sports enterprise (Johnson, 2008).

In addition, member school officials were never briefed regarding the NCAA's relationship with RazorGator. The total ticket allotment, as well as the number of tickets in the lower level, provided to each participating school was reduced by the NCAA since the deal with RazorGator. In 2003, participating schools received 4,500 tickets to sell for the Final Four, with at least half in the lower level of the arena. For the 2008 Final Four in San Antonio, participating schools only received 3,750 tickets, most of which were in the upper level (Brown, 2008).

Economic Reasons Why the Secondary Ticket Market Exists

To many economists, scalping is a benign activity that creates value. Consumers who will voluntarily buy and sell tickets do so because they will benefit from the transactions (Krueger, 2001). Ticket scalpers offer a useful service to a number of consumers (Criscuolo, 1995). In a ticket economy, demand almost always exceeds supply (Benitah, 2005). Therefore, scalpers resell tickets to those fans that do not have them and are willing to pay the market clearing price of a ticket. Scalpers help ensure that fans who want to attend an event have the opportunity to do so (Criscuolo, 1995). More importantly, in a free market economy, people can buy and sell at whatever price they choose (Benitah, 2005).

Reason One: Promoters Set Low Ticket Prices

According to Swofford (1999), there are three reasons for the existence of the secondary ticket market. The first reason is because ticket firms purposely set ticket prices low. Promoters set low prices to deal with market uncertainty and to avoid risk. It is uncertain from season to season exactly what demand will be for a ticket to an event.

Without prior knowledge of fans' demand for tickets, promoters have no choice but to set the ticket price low to appeal to a wide audience that can afford the ticket. Therefore, ticket firms trade profits for certainty that they can maximize revenues by selling out the event (Swofford, 1999).

In ticket sales, there are two different types of consumers: those who buy in advance to ensure they get a ticket, and others who wait to purchase because they may not know if they can attend until the last minute (Courty, 2003).

This difference in consumer behavior explains the conflict between promoters and the secondary ticket market. It is essential that promoters have tickets available early to satisfy consumers who plan in advance to attend an event. This leaves a profit opportunity for brokers and scalpers, however. They can buy tickets early and then resell them later to consumers who decide to attend the event late, and are willing to pay higher prices (Courty, 2003). Whereas, if a ticket firm sets a high ticket price from the beginning, they may price a number of customers out of the market, running the risk of having unused tickets (Swofford, 1999). In this scenario, promoters cannot capture profits earned by brokers and scalpers, nor prevent them from entering the market (Courty, 2003).

In view of predictable excess demand for a popular sport, for example professional football, it is natural to wonder why the National Football League does not charge more for tickets in the primary market. According to Greg Aiello, NFL vice president for public relations, the organization does not charge more for two reasons. One, the league tries to set a "fair and reasonable price" in order to maintain an "ongoing relationship with fans and business associates" (Krueger, p. 25). Second, the NFL chooses to take a long-term strategic view by charging a fair price, thus promoting consumer goodwill (Krueger, 2001).

In the professional football setting, there are few games during the course of the season, and each game has a great impact on team's post-season futures. In a study by Krueger (2001), tickets for Super Bowl XXXV had a face value of $325 to $400, depending on the seat at Raymond James Stadium in Tampa, Florida. The NFL offers a general public lottery for the chance to buy 1,000 tickets. For Super Bowl XXXV, they received 36,000 applicants. The face-value of the ticket is obviously well below the price that would balance excess demand. According to Krueger (2001), tickets scalped outside the stadium were priced between $1,500 and $3,500. If the NFL chose an average market-clearing ticket price of $2,300, the organization could increase its revenue by about $150 million. In comparison, advertising revenue for the Super Bowl typically generated $200 million during that year (Krueger, 2001). However, when Krueger (2001) surveyed the 1,000 football fans who won the right to buy a pair of tickets at face-value ($325 to $400), if they would have been willing to pay $3,000 a ticket, 94 percent said they would not have been willing to do so. In addition, in Krueger's survey of those attending Super Bowl XXXV, 92 percent thought it would not be fair for the NFL to set the face-value of a ticket to $1,500, even if some tickets were resold for that amount. Even among fans that actually paid more than $1,500 for their Super Bowl ticket, 83 percent thought it would be unfair for the NFL to charge $1,500 per ticket (Krueger, 2001).

Reason Two: Scalpers Have Lower Cost Functions

The second reason the secondary market exists is because scalpers have lower cost functions. Scalpers can get information about the consumer market and can get the product to the consumer at a lower cost than the original producer. For instance, a scalper needs only to either stand on a street corner or go online to bring the product to the consumer. In this informal setting, the scalper can also determine the market demand by simply talking with consumers. In contrast, a ticket firm has a higher cost of conducting business. The producer spends money on ticketing software, printing costs and employees. This cost is in addition to time spent determining who their consumers are, and creating and implementing marketing plans to reach those consumers (Swofford, 1999).

Reason Three: Different Time Frames

The secondary market also exists because ticket promoters and ticket scalpers are concerned with profit and revenue over different time frames. If a promoter's sales in the future depend on its reputation with consumers, then prices need to be lower in order to satisfy consumers. Satisfied consumers lead to greater sales in the future. The ticket firm is more concerned with a positive reputation in the long-term (Swofford, 1999).

A scalper, however, does not expect to regularly resell tickets to particular consumers and has no incentive to create consumer goodwill over a long period of time. The original promoter, in this case, is not able to capture the profit earned by the scalper. Any increase in short-term profits might be lost in future profits associated with the loss of a positive reputation. The scalper is only concerned with maximizing profits over a short period of time (Swofford, 1999).

For instance, in a comparison between busy professionals and extremely loyal fans, the loyal fans are more likely to buy advance tickets through the promoter. This ensures they have a ticket to support their team. Busy professionals, however, may not be able to plan in advance to secure tickets through the promoter. But they may be willing to pay more for the ticket from a scalper, if they can attend at the last minute. If the number of loyal fans is greater than the number of busy professionals, it is in the promoter's best interest to set below-market ticket prices to please loyal fans and maximize profits. For scalpers unconcerned about long-term relationships with consumers, however, this profit maximization by the promoter provides a profit opportunity (Courty, 2003).

Economic Arguments For and Against Anti-Scalping Legislation

Anti-scalping legislation has fueled debate from an economic standpoint. Elfenbein (2006) argues restricting the secondary market leads to inefficient distribution of tickets, and reduces social welfare if those willing to pay higher prices are not able to acquire tickets. Swofford (1999) argues promoters and law enforcement officers cannot stop ticket scalping. First, the cost involved with enforcing the legislation is too high and too time-consuming. Second, in the long run, it is not profitable for promoters to increase the cost of tickets in an attempt to discourage scalpers from purchasing tickets in the primary market. If ticket promoters set the price too high, they run the risk of losing consumer goodwill and losing profits among their most loyal fans (Swofford, 1999).

Courty (2003) offers arguments both for and against anti-scalping legislation. On one hand, anti-scalping legislation prevents ticket scalpers from taking advantage of high demand and making unfair profits. By charging high prices that many fans are unable to afford, events are inaccessible to the general public. Under this argument, ticket scalping should be banned in order to increase public welfare through the elimination of price gouging. If ticket resale is prohibited, scalpers' profits are kept by the promoters or the consumers, depending on the price promoters set on tickets (Courty, 2003).

On the other hand, ticket scalpers provide a service by making tickets available in the late market, creating value in three ways. First, they seek new consumers that might not attend the event otherwise, if the consumer does not have tickets. Second, ticket scalpers aid in market-clearing by helping fill seats that might otherwise go unused. Furthermore, scalpers help give value to the event by buying tickets early, thus endorsing the event, increasing demand and helping ensure a sell-out. Third, scalpers help promoters by putting tickets in the hands of those consumers whom promoters might not reach. For instance, if a consumer is unwilling to wait in line at the box office to buy tickets, he or she may find it more convenient to purchase tickets from a scalper, especially if they have better seats (Courty, 2003).

Empirical Research on Ticket Scalping

Does Anti-Scalping Legislation Increase Ticket Cost?

Throughout the 20th century, 22 states passed laws prohibiting or regulating ticket scalping, due to public scrutiny. As discussed earlier, anti-scalping laws continue to be a source of great controversy. Despite the political and theoretical focus on anti-scalping legislation, empirical work illustrating how anti-scalping laws affect the marketplace is limited (Elfenbein, 2006).

Theoretical models suggest scalpers cause an increase in ticket prices because the scalpers represent an increase in demand. If anti-scalping laws are effective, then they reduce demand for tickets and reduce ticket prices (Depken, 2005). However, these are solely theoretical models. Depken (2005) provides empirical evidence showing how anti-scalping legislation correlates with an increase in ticket price.

Scalpers value tickets only as much as they are profitable in the secondary market. They place little value on a ticket if it is not resold for a profit. In a market where scalping is legal, event promoters face two types of high-demand consumers in the primary market: fans who buy tickets early, do not resell their tickets and desire to attend the event; and scalpers, who do not want to attend the event and desire to resell tickets for a profit (Depken, 2005).

Depken's theory states anti-scalping legislation might actually cause an increase in ticket price in the primary market, which is counter to the legislative purpose. If scalpers are not in the market, Depken predicts it is possible event promoters will increase the price because the only people purchasing tickets are fans that actually plan on attending the event. As attending the game is important to these fans, they may be willing to pay more for the ticket (Depken, 2005).

Depken's empirical evidence examined two professional sports, football and baseball. He examined average per-game season ticket data in multiple cities with varying scalping legislation, from 1991-2003. He found that in the cities with anti-scalping legislation, such laws correlate with higher ticket prices in football and baseball in the primary market. MLB teams charged 14.1 percent more, while NFL teams charged 23.6 percent more for season tickets, per-game. However, Depken (2005) found it more difficult to measure whether anti-scalping legislation improves the social welfare of the athletic ticket market.

The Relationship Between Anti-Scalping Laws and Online Ticket Scalping

Elfenbein (2006) found anti-scalping laws affects online trade where it concerns the amount of tickets offered for resale. Using a sample of 400,000 transactions processed by EBay, Elfenbein's (2006) study explores the effects of anti-scalping legislation on the amount of NFL tickets resold between 2002 and 2005.

Market regulation and enforcement can be targeted at either those buying tickets, or those reselling tickets. If regulations are aimed at resellers, such as licensing fees and penalties for broken rules, these regulations decrease the ticket quantity supplied, thus increasing the ticket price in the secondary market. Legislation aimed at buyers, such as fines for purchasing, reduces demand and reduces scalpers' market-clearing prices (Elfenbein, 2006).

Therefore, Elfenbein (2006) predicted that stronger market regulation and enforcement reduces the quantity of tickets supplied for resale and that ticket resale prices depend on whether the law targets sellers or buyers.

Elfenbein (2006) found NFL tickets resold for an average of 83% over face value. In addition, 927 tickets per NFL game were sold on EBay on average, accounting for roughly 1.4% of game day attendance. These figures represent just tickets resold on EBay, and not through other secondary ticket websites, or outside the arena (Elfenbein, 2006). Elfenbein (2006) estimates EBay sales represent one fourth of all NFL tickets resold online.

Elfenbein (2006) categorized regulation of resale by states in four different manners:

License states: home teams in states with legislation requiring a license to resell tickets

Free market states: home teams in states with no anti-scalping legislation

Not-above-face-value states: home teams in states prohibiting sales above face value

Not-at-site states: home teams in states prohibiting ticket resale at the event site

In a comparison between license states and free market states, on average, 225 fewer tickets per game were resold on EBay in license states. When comparing free market states to not-above-face-value states, there was an average of 500 fewer tickets resold on EBay in not-above-face-value states. Therefore, Elfenbein (2006) found state regulations are related to the number of transactions that occur.

However, the numbers of transactions are only affected as long as the law is enforced. Buyers and sellers learn over time that, if they do not run the risk of being caught, they can buy and resell fairly freely, regardless of the state's law. In the long-run, Elfenbein (2006) found impact of state law dissipated. For example, the percentage of total tickets sold in not-above-face-value states compared to all other states rose from 47% in 2002 to 67% in 2004. Resellers grew to learn that regulations were not enforced (Elfenbein, 2006).

Elfenbein (2006) also examined anti-scalping regulation and the geography of tickets resold online. Completed transactions for tickets to games in license states are about 10% ($p<0.05$) more likely to involve sellers not from the home team's state, when compared to free market states, and 17.5% ($p<0.01$) more likely when compared to not-at-site states. Tickets for games in not-above-face-value states are 24 % ($p<0.001$) and 31% ($p<0.001$) more likely to be resold by out-of-state sellers than in free market and not-at-site states, respectively. These regressions show the supply of secondary tickets from ticket holders in home team states are lower the stronger the anti-scalping laws (Elfenbein, 2006).

Elfenbein's data demonstrates that, in states with resale regulations, the level of online trade is lower. In looking to the long-term effect of ticket scalping regulations, Elfenbein concludes that legislation is disregarded. In states that prohibit resale above face-value, the fraction of potential resellers deterred by anti-scalping legislation is falls. Over time, these states increasingly resemble states with no ticket scalping regulation (Elfenbein, 2006).

CHAPTER 3

METHODOLOGY

This chapter details the methodology used in this study, including the subjects of the study, and the instrument and procedures utilized. This chapter also details the means of obtaining data and the examination of that data.

Subjects

The subjects in this study were the highest ranking ticket office official at NCAA Football Bowl Subdivision athletic departments in the United States. Each institution was selected by using information through athletic conference websites, which had direct links to athletic department websites within the conference. The researcher examined all the titles of ticket office staff, and selected the email address of the highest ranking ticket office official.

Research Instrument and Procedure

The instrument used in this study was an electronic online survey. The survey was developed by forming a couple survey questions that would help answer each research question, and yield quantitative results. The researcher's advisor and thesis committee assisted greatly in the matter of polishing the survey so that the questions on it thoroughly answered the research questions.

A test study was conducted prior to the survey to test its legitimacy. The survey was sent to one associate athletic director, one ticket office manager, and three assistant ticket office managers. The survey was also sent to a graduate intern in the athletic fundraising office, and an employee in the athletic business office. All test subjects work for the athletic department at the University of North Carolina at Chapel Hill.

The survey was distributed through electronic mail to the highest ranking ticket office officials at Football Bowl Subdivision athletic departments. The email included a survey link, and a cover letter explaining the purpose and importance of the study. After 10 days, a follow-up email was distributed to all ticket office officials, whether they had responded or not. At the completion of two weeks since the first email, the survey was closed and the results compiled.

Data Analysis

Research questions were divided into those that warranted descriptive statistics or a chi-square analysis. For descriptive statistics, the researcher looked the frequency of responses for the research questions regarding the relationship between ticket offices and online secondary ticket companies, the reasons why or why not a contract exists, and the opinions of ticket office officials.

The chi-square analysis sought to determine a relationship between the ticket office’s status with the online secondary ticket market and opinions of ticket office officials. It also sought to determine a relationship between the status with the online secondary ticket market and the number of football and men’s basketball games sold out. During the chi-square analysis, percentages were also run in an effort to obtain descriptive statistics, if no relationship was found.

CHAPTER IV

DATA ANALYSIS

Results

The purpose of this study was to examine the relationships between the online secondary ticket market and Football Bowl Subdivision athletic departments. The following chapter will analyze data from respondents. A total of 122 athletic department officials were asked to participate in the survey, which accounts for all of the athletic departments categorized as Football Bowl Subdivision. There are a variety of titles and positions with a collegiate athletic ticket office, and each school's hierarchy is different. For this reason, the highest ranking ticket office official from each institution was asked to complete the survey. A total of 41 completed the survey, for a response rate of 34%.

Descriptive Statistics of the Survey Respondents

The survey was sent to the highest ranking ticket office official at each school, and because schools use a variety of titles, each respondent was asked to provide his or her official job title. The majority (55%) of respondents were either an associate athletic director for tickets, or an assistant athletic director for tickets. The titles assistant athletic director for ticket services, assistant athletic director for ticket operations and assistant athletic director for ticket sales were collapsed, as all titles are similar. One participant did not respond to the question, therefore, a total of 40 provided their official job titles (n=40). Table 1 shows the job titles of respondents, as well as the frequency of each.

Table 1

Job Titles

Title	Percentage	Frequency
Ticket Manager	15%	6
Assistant Athletic Director for Ticket Operations	40%	16
Associate Athletic Director for Ticket Operations	15%	6
Director of Ticket Operations	22.5%	9
Assistant Athletic Director for Corporate Sales & Ticket Operations	2.5%	1
Associate Athletic Director for Tickets & Marketing	2.5%	1
Associate Ticket Manager	2.5%	1

Research Question 1

Q1 - What is the relationship between NCAA Football Bowl Subdivision ticket offices and the online secondary ticket market?

Ticket office officials were asked to choose one of four statements that best described their ticket office's relationship with the online secondary ticket market. It was determined by the researcher that the most concrete form of a relationship would be of a written contract between an online secondary ticket company and the athletic ticket office. The next level of relationship was if the ticket office did not have a formal contract with an online secondary ticket company, but recommended a specific online secondary ticket company. A lack of relationship would be exhibited by ticket offices that did not have a contract nor recommended a specific online secondary ticket company. The majority of respondents fell into this category; 67.5% did not have formal contracts nor recommended a specific online secondary ticket company. The final category indicating a lack of relationship reflected the possibility that schools would not have a relationship with a secondary ticket reseller because state laws prohibited it. One participant skipped this survey question (n=40). Table 2 provides the frequency and percentage of responses for each of the possible relationships.

Table 2

Relationship Between NCAA Football Bowl Subdivision Ticket Offices and the Online Secondary Ticket Market

Relationship	Percentage	Frequency
Formal contract for resale with a specific online secondary ticket company	30%	12
No formal contract, but recommends a specific online secondary ticket company	2.5%	1
No formal contract and does not recommend a specific online secondary ticket company	67.5%	27
Do not allow ticket resale and prosecute ticket holders who try to resell tickets on the online secondary ticket market	0%	0

Research Question 2

Once the relationship was determined, the next question was: Why do college athletic ticket offices have or do not have contracts with online secondary ticket companies?

Existence of a formal contract with an online secondary ticket company

Thirty percent of the survey participants (n=12) indicated that they have a contact with an online secondary ticket company. Those 12 respondents were asked to rate the importance of why their athletic department had the contract. Half of the respondents placed a “strong importance” on the added revenue that a formal contract provides the athletic department. The majority (58.3%) placed a “moderate importance” on the ability for customers to acquire tickets through an official online secondary ticket company, while 50% of the respondents placed a “moderate importance” on an official online secondary ticket company as an efficient way for season ticket holders to sell unused tickets.

Respondents were also given an opportunity to indicate other reasons for existence of a contract, as well as rate the reason. One respondent gave “absolute importance” to a formal contract with an online secondary ticket company as a way to ensure customers using the secondary market would receive valid tickets. Another respondent did not rank the degree of importance, but stated:

> The athletic department and ticket office are in different departments with different opinions. The ticket office believes we could run our own secondary ticket market, with a proper interface and make more money than currently supplied by a sponsorship with a secondary market company.

Table 3 provides the frequency and percentage of responses indicating the degree of importance for why respondents have a formal contract with an online secondary ticket company.

Table 3

The Perceived Degree of Importance for Reasons for Having a Formal Contract with a Specific Online Secondary Ticket Company

Degree of Importance	Absolute Importance	Strong Importance	Moderate Importance	Weak Importance	No Importance
The contract provides added revenue for the athletic department	8.3% (n=1)	50% (n=6)	25% (n=3)	8.3% (n=1)	8.3% (n=1)
It is an efficient way for customers to get tickets	8.3% (n=1)	16.7% (n=2)	58.3% (n=7)	16.7% (n=2)	0% (n=0)
It is an efficient way for season ticket holders to sell unused or unneeded tickets	8.3% (n=1)	33.3% (n=4)	50% (n=6)	8.3% (n=1)	0% (n=0)
The online secondary ticket company provides demographic data about online ticket buyers that helps our ticket office to better market direct sales to potential customers	16.7% (n=2)	16.7% (n=2)	33.3% (n=4)	16.7% (n=2)	16.7% (n=2)

No formal contract with an online secondary ticket company

Twenty seven respondents indicated no formal contract with an online secondary ticket company, nor recommended a specific online company. When asked to measure the degree of importance for reasons why no such contract existed, the majority (59.2%) gave absolute to strong importance that their athletic department wanted to protect customers against ticket fraud from tickets sold through online secondary ticket sites. However, the majority (51%) indicated weak to no importance when asked about the importance of protecting customers against the high prices charged through online secondary ticket sites.

Sixty six percent indicated weak to no importance to ticket resale being illegal in their state, while 22.2% gave absolute to strong importance to that statement. Opinions were fairly evenly distributed regarding reluctance from the University as a reason for not having a formal contract; 34.6% indicated absolute to strong importance, 34.6% indicated moderate to weak importance, and 30.8% indicated reluctance from the University was not at all important as a reason for not having a formal contract. 34.6% indicated moderate importance to a lack of demand as the rationale behind not having a formal contract. Table 4 provides the frequency and percentage of responses for each of the reasons for not having a formal contract.

Table 4

The Perceived Degree of Importance for Reasons for Not Having a Formal Contract with a Specific Online Secondary Ticket Company

Degree of Importance	Absolute Importance	Strong Importance	Moderate Importance	Weak Importance	No Importance
There is reluctance from our University and/or athletic department	23.1% (n=6)	11.5% (n=3)	23.1% (n=6)	11.5% (n=3)	30.8% (n=8)
It is against the law to resell tickets in my state	14.8% (n=4)	7.4% (n=2)	11.1% (n=3)	18.5% (n=5)	48.1% (n=13)

We do not have the demand for a formal contract with a specific online secondary ticket company	19.2% (n=5)	15.4% (n=4)	34.6% (n=9)	11.5% (n=3)	19.2% (n=5)
We want to protect our customers against the high prices charged through online secondary ticket companies	11.1% (n=3)	22.2% (n=6)	14.8% (n=4)	29.6% (n=8)	22.2% (n=6)
We want to protect our customers against ticket fraud from tickets sold through online secondary ticket sites	25.9% (n=7)	33.3% (n=9)	14.8% (n=4)	14.8% (n=4)	11.1% (n=3)

Research Question 3

Online secondary ticket companies such as StubHub or Ticket Exchange are not the only option for athletic departments that seek to redistribute unused tickets. Do college athletic departments have a formal internal ticket return program run by the athletic ticket office and/or fundraising office?

All 41 survey participants answered this question. The majority (56.1%, n=23) did not have a formal ticket return program run through the ticket office and/or fundraising office. However, 43.9% (n=18) of the respondents did have a formal ticket return in place.

Those respondents who did have a formal ticket return program were asked if the internally run ticket return program provided incentives for season ticket holders if unused tickets were returned to the ticket office and/or fundraising office. All 18 respondents who had an internal ticket return program answered this question; 55.6% (n=10) did not provide an incentive and 44.4% (n=8) do provide incentives. Seven of the respondents who indicated that their internal ticket return program provides incentives described those incentives as either a monetary credit, tax credit or donation credit.

Research Question 4

Q4 – What is the opinion of Football Bowl Subdivision ticket office officials regarding the online secondary ticket market?

To address research question #4, survey participants were asked four questions. Two questions asked the ticket office official whether or not the online secondary ticket market was an ethical way for consumers to obtain tickets, and for season ticket holders to resell tickets. Forty survey participants answered these two questions (n=40). The overwhelming majority (90%, n=36) thought the online secondary ticket market was an ethical way for consumers to obtain tickets for a sold out game, while 95% (n=38) thought the online secondary ticket market was an ethical way for season ticket holders to resell unused tickets. Ten percent (n=4) of ticket office officials did not believe the online secondary ticket market was an ethical way to obtain tickets, and five percent (n=2) did not believe it was an ethical way to resell unused tickets. Respondents were not asked to describe why they perceived the online platform as ethical or unethical.

Survey participants were asked if legal contracts between an athletic ticket offices and online secondary ticket companies were an ethical source of revenue for collegiate athletic departments. Thirty eight ticket office officials responded (n=38). Though the majority (71.1%, n=27) agreed that contracts were an ethical source of revenue, a smaller majority held this opinion, compared to the prior two questions; 28.9% (n=11) did not agree that contracts were an ethical source of revenue.

The last question sought the ticket office officials' opinions regarding their relationship with the online secondary ticket market. Forty ticket office officials responded (n=40). The majority (55%, n=22) did not have a formal contract with an online secondary ticket company and did not think the athletic department should pursue one. Twenty percent (n=8) of respondents did have a formal contract, and did not believe it had either hurt or improved relationships with customers. Five respondents (12.5%) did not have a formal contract, but believed the athletic department should pursue one. No respondents indicated they had a formal contract and had a formal contract with an online secondary ticket company and believed it had hurt relationships with customers. Table 4 provides the frequency and percentage of responses indicating the relationship between athletic departments and the online secondary ticket market.

Table 5

Athletic Department's Relationship with the Online Secondary Ticket Market, and Opinion of That Relationship

Relationship	Percent	Frequency
No formal contract but believes should pursue one	12.5%	5
No formal contract and does not believe should pursue one	55%	22
Has formal contract and has improved	12.5%	5

relationships with customers		
Has formal contract but has hurt relationship with customers	0%	0
Has formal contract with a company, and has neither hurt nor improved relationship with customers	20%	8

Research Question 5

Q5 – Is there a relationship between NCAA Football Bowl Subdivision member institution's status with the online secondary ticket market and the ticket office official's opinion regarding the online secondary ticket market?

In order to answer this question, the researcher ran a chi-square analysis between ticket office's statuses with the online secondary ticket market (research question 1) and ticket office official's opinions regarding the online secondary ticket market (research question 4). In an effort to get statistically significant results, the status with the online secondary ticket market variable was collapsed into two categories: existence of a formal contract, or no existence of a formal contract. This was cross-tabulated with the four variables regarding ticket office official's opinions: if the online secondary ticket market is an ethical way to obtain tickets; if it is an ethical way to resell unused tickets; if legal contracts with online secondary ticket companies are an ethical source of revenue for athletic departments; and their opinion on their athletic department's relationship with the online secondary ticket market.

Only one of the criteria in the study produced significant results ($p < 0.05$). There is a significant relationship between a ticket office's status with the online secondary ticket market, and the ticket office official's opinion regarding contracts being an ethical source of revenue for an athletic department. All respondents (100%) that had a formal contract with an online secondary ticket company indicated formal contracts are an ethical source of revenue for athletic departments. Those who had no formal contract were more split in their opinions. A slight majority (59.3%) indicated legal contracts are an ethical source of revenue for athletic departments, while 40.7% indicated they are not an ethical source of revenue. Please see Table 6.

Table 6

Relationship Between Status with the Online Secondary Ticket Market and Opinion on Legal Contracts as an Ethical Source of Revenue for Athletic Departments

Status	Agree (is an ethical source)	Disagree (is not an ethical source)
Formal Contract	100%	0%
No Formal Contract	59.3%	40.7%

Chi-Square Results: N=38 **p-value=.012**

Although the remaining chi-square tests did not yield significant results, they did yield descriptive statistics. All respondents (100%) who had a formal contract with an online secondary ticket company indicated the online secondary ticket market is an ethical way to obtain tickets. Of those with no formal contract, 85.7% indicated it was an ethical way to obtain tickets, while 14.3% indicated it was not an ethical way to obtain tickets. In addition, 100% of respondents who had a formal contract indicated the online secondary ticket market is an ethical way to resell tickets. Of those with no formal contract, 92.9% indicated the online secondary ticket is an ethical way to resell tickets, and 7.1% indicated it was not ethical to do so. In both tests, results were based on 40 valid cases.

There was a significant relationship ($p<0.05$) between the status with the online secondary ticket market and the ticket office official's opinion of that relationship, but 62.5% of the cells had an expected count less than 5. Thus there is no significance. However, there are descriptive statistics gained from the chi-square test. The results were run using 39 valid cases, and are shown in Table 7.

Table 7

Relationship Between Status with the Online Secondary Ticket Market and Opinion of that Relationship

	Opinion of Relationship with Online Secondary Ticket Market			
Status	No formal contract but should pursue one	No formal contract and does not believe should pursue one	Has formal contract and has improved relationship with customers	Has formal contract and has neither hurt nor improved relationship with customers
Formal Contract	0%	0%	41.7%	58.3%
No Formal Contract	18.5%	77.8%	0%	3.7%

Research Question 6

Q6 – Is there a relationship between sold out games per season in football and men's basketball, and NCAA Football Bowl Subdivision member institution's status with the online secondary ticket market?

No significant relationship ($p> 0.05$) was found between status with the online secondary ticket market, and sold out football and men's basketball games. Again, in an effort to get statistically significant results through the chi-square anaylsis, the status with the online secondary ticket market variable was collapsed into two categories: existence of a formal contract, or no existence of a formal contract. The sold out football games variable was collapsed into two ranges: zero to four games sold out, and five to seven games sold out. Sold out men's basketball games variable was also collapsed into two ranges: zero to five games, and six or more games.

Though the chi-square analysis did not yield significant results, there were descriptive statistics to report. The majority (58.3%) of ticket office officials who indicated they had a formal contract with an online secondary ticket company sold out zero to four football games during the 2009 season. Of those with no formal contract, 77.8% sold out zero to four games.

Most (91.7%) ticket office officials with a formal contract with an online secondary ticket company indicated they sold out zero to five men's basketball games during the 2009-10 season. Of those with no formal contract, 77.8% sold out zero to five games. Results are shown in Table 8.

Table 8

Relationship Between Status with the Online Secondary Ticket Market and Number of Games Sold Out in Football and Men's Basketball

	Sold Out Games			
	Football		Men's Basketball	
Status	0-4	5-7	0-5	6 or more
Formal Contract	58.3%	41.7%	91.7%	8.3%
No Formal Contract	77.8%	22.2%	77.8%	22.2%

CHAPTER V

CONCLUSIONS

The purpose of this study was to examine the relationships between the online secondary ticket market and NCAA Football Bowl Subdivision athletic departments. The following chapter will discuss conclusions from the data in Chapter 4, make recommendations and suggest ideas for future research.

The relationship between NCAA Football Bowl Subdivision ticket offices and the online secondary ticket market

At one time, athletic teams tried to prohibit season ticket holders from reselling tickets, as discussed in *NPS v. Stub Hub* (*NPS, LLC v. Stub Hub, Inc*., 2007). However, in 2006, the value of tickets resold online was estimated to range from $2 to $6 billion (Johnson, 2007). Those kinds of numbers make it difficult to ignore the potential revenue that can be gained from the online secondary market (Helyar, 2007). In 2006, Ticketmaster reached an agreement to be Penn State's official online secondary ticket market partner—giving Ticketmaster the first college athletic department contract in the company's history (Biertempfel, 2006). By 2008, the online secondary ticket company StubHub had contracts with 14 NCAA athletic departments ("NCAA Basketball Tickets," 2008). Even the NCAA-the defender of amateurism-has a formal agreement with the online secondary ticket company RazorGator for the NCAA Men's Basketball Final Four ("NCAA Selects RazorGator," 2006).

The evolution of formal contracts with online secondary ticket companies at the college athletic department level is evident in this paper's research. Although the researcher found the majority (70%) of athletic departments did not have a formal contract with an online secondary ticket company, the majority still indicated it was an ethical way to buy and resell tickets. A percentage of athletic departments (30%) indicated they did have a formal contract for resale with a specific online secondary ticket company. This indicates tremendous growth in this market and industry in a relatively short period of time.

Why college athletic ticket offices have or do not have contracts with online secondary ticket companies

According to Biertempfel (2006), many college athletic departments looking for new revenue streams view deals with online secondary ticket companies to be financially beneficial. But, according to this paper's research, the majority of ticket office officials at FBS member institutions do not place absolute importance on the potential for added revenue.

Existence of a formal contract with an online secondary ticket company

Of the 30% of survey respondents that had a formal contract with an online secondary ticket company, 75% indicated strong to moderate importance to the added revenue generated from the contract. However, only 8.3% indicated revenue as holding absolute importance (see Table 3). The researcher believes that, although seeking new revenue streams is important to college athletic departments, a formal contract with an online secondary ticket company has more purpose than just sponsorship money.

The ability for customers to buy and sell tickets held just as much importance among ticket office officials as did the potential for added revenue. The internet has created a larger and more efficient marketplace and the repeal of many anti-scalping laws has made it possible for the online secondary ticket market to thrive (Nocera, 2008). It is a convenient platform for buyers and sellers, and the majority of ticket officials surveyed also held this opinion. The majority (75%) of respondents indicated strong to moderate importance on the ability for customers to acquire tickets through an official online secondary ticket company, and 83.3% indicated strong to moderate importance on the ability for season ticket holders to resell unused or unneeded tickets through an official online secondary ticket company (see Table 3).

The researcher believes this shows an acceptance of the online secondary ticket market as a legitimate way for a college athletic team's fans to buy and resell tickets. It could also mean that a contract with an online secondary ticket market is a way of fostering customer service. Because the internet has created a more efficient marketplace, fans and customers may be more apt to utilize online methods of either reselling tickets they cannot use, or buying tickets (Nocera, 2008). By creating an environment where customers and fans can buy or resell tickets through a specific online company, college athletic ticket offices are customizing their business to the needs of their customers.

In fact, among all survey respondents-both those who did and did not have a formal contract- the percentages were more even regarding whether an internal ticket return program existed, compared to the percentages of whether a formal contract with an online secondary ticket market existed. Of all respondents surveyed, 43.9% had an internal ticket return program in place, while 30% had a formal contract with an online secondary ticket company. It was not measured whether or not the internal ticket return took the place of a formal contract with an online secondary ticket company, but it does show athletic ticket office officials recognize there is a need from a customer service standpoint to provide an option for customers to buy and resell tickets.

No formal contract with an online secondary ticket company

The majority of respondents (70%) did not have a formal contract with an online secondary ticket company. The respondents were asked to indicate a degree of importance for four different statements for not having a formal contract with an online secondary ticket company. There was no clear majority for any degree of importance for any of the four statements, but there are some interesting observations (see Table 4). When asked to indicate the degree of importance on not having a formal contract because of anti-scalping legislation, 66.6% percent indicated weak to no importance. With the repeal of most state anti-scalping legislation (Jacoby, 2007), the fact that the majority indicated weak to no importance is not surprising.

The results in Table 4 could signify that the other 33.4% of ticket office officials are not aware whether their state still has anti-scalping legislation, or the fact that anti-legislation used to exist is enough to deter them from seeking a contract with an online secondary ticket company. Only a few states still have anti-scalping legislation, but there have long been arguments made by anti-scalping legislation proponents that legislation is necessary to ensure public safety and fair access to tickets (Bell, 2006). In Chapter 2, legal cases involving ticket scalping, or that helped set court precedent regarding ticket scalping were discussed. As early as the case *Nebbia v. New York* in 1934, the courts found anti-scalping legislation to be lawful, as it was instilled to promote a public interest and promoted the public good (Bell, 2006). Regarding anti-scalping legislation, courts continued to recognize the state had a legitimate interest in protecting public welfare in terms of public access to tickets. Just because anti-scalping legislation is repealed does not mean concerns over public safety and fair distribution of tickets are eliminated. Certainly no ticket office official wants to be portrayed as condoning anything that would put their fans in an unsafe or unfair environment. State legislatures passed laws curbing or prohibiting ticket scalping in reactions to the negative connotations with ticket scalping (Bell, 2006). In the past, the word ticket scalper would invoke an image of burly men lurking outside stadiums selling fistfuls of tickets ("Free-market Fleecing," 2006). Not only was this dangerous from a public policy perspective, but also a buyer on the street had no idea whether or not the ticket was valid (Bell, 2006). However, by using internet technology to bring the buyer and seller together, and by providing buyer guarantees, companies, such as StubHub, have created a safe, secure environment to exchange tickets ("Guarantee," n.d.). Now the consumer can purchase tickets in the comfort of his or her home and know the ticket-and the ticket buying platform-is legitimate. Despite these secure measures, 33.4% of ticket office officials still place absolute to moderate importance on anti-scalping legislation as a reason for not having a formal contract with an online secondary ticket market. This may show the perception of tickets purchased through the online secondary platform are likely to be fraudulent still exists among ticket office officials. Again, just because the anti-scalping legislation was repealed does not mean the reasoning behind it does, such as, protecting fans from fraudulent tickets. Not all college athletic departments want to venture down a path that could lead to legal liability, or hurt their public image, the cost of which certainly would be greater than any sponsorship revenues from an online secondary ticket company.

Another reason for anti-scalping legislation was to protect the consumer and promoter. Again, a ticket priced below market value would help ensure a sell-out crowd and continue customer goodwill (Benitah, 2005). According to Bell (2006), an increase in the ticket price charged by the scalper reflects negatively on promoters, whether or not they can control ticket scalping. Based on this research, one would expect protecting consumer against high prices found through online secondary ticket sites would still hold strong importance among ticket office officials.

But, the laws of supply and demand do not go away-with or without anti-scalping legislation. Through this thesis' research, ticket office officials indicated they have come to accept the laws of supply and demand when determining the market-clearing price of a ticket. The main reason scalpers exist is because demand for tickets exceeds the supply. When this occurs, a secondary market is created where those with the product can resell at the market-clearing price, and those who want to attend the event can still obtain tickets (Benitah, 2005). The scope of the online secondary ticket market is global, and fans are more accepting of the online platform, because of the security and legitimacy some online secondary ticket companies can provide. Further, online secondary ticket sites have exposed the futility of trying to prevent the growth of a market that is driven by the laws of supply and demand (Nocera, 2008).

An example in the college athletics world is when a game between conference opponents does not seem like a high-demand game in the pre-season. But, through conference play, the game quickly transforms into a hot ticket if the two teams are competing for a top place finish in their division. Those fans who got their tickets early through the ticket office all of a sudden have a more valued item—those fans who waited to get tickets, have a strong desire to attend the game, and are willing to pay over face-value can certainly choose to do so through the online secondary ticket market. If the market-clearing price is above the face-value of the ticket, ticket office officials cannot do much to affect that law of demand, nor the range of people the internet reaches through its global scope.

Protecting consumers against high prices charged through online secondary ticket sites did not hold a strong importance among ticket office officials as a reason for not having a formal contract with an online secondary ticket company. When asked to indicate importance regarding protecting customers against high prices through online secondary ticket site, half placed weak to no importance regarding protecting consumers against high prices (see Table 4). This is in stark contrast to the legal research in Chapter 2. For most of the 20th century courts upheld anti-scalping legislation on the grounds of the legislation reasonably promoting the public good, as found in *Nebbia v. New York*. Further, in *Gold v. DiCarlo*, courts recognized the state had a legitimate interest in protecting public welfare in terms of public access to tickets and the public's safety (*Gold v. DiCarlo*, 1965). The difference, however, between these early legal precedents and the way tickets are resold today, is more tickets are sold online, thus taking away the potential threats encountered if a customer bought tickets outside the venue from a street scalper. The researcher believes protecting customers from the dangers of buying tickets through street scalpers, such as, fraudulent tickets and intimidation from street scalpers, holds more importance than attempting to regulate the laws of supply and demand, as 74% of ticket office officials indicated absolute to moderate importance to protecting fans against fraudulent tickets sold through online secondary ticket sites.

The fact that 74% indicated absolute to moderate importance in protecting fans against fraudulent tickets sold through online secondary ticket sites shows ticket office officials still hold the perception that fraudulent tickets are sold through online secondary ticket sites. Certainly, there are many instances where customers are scammed by online ticket brokers, and are not able to enter an athletic event due to an invalid ticket. However, companies such as StubHub now offer a "Fan Protect Guarantee," in an effort to eliminate fraudulent tickets being resold. StubHub guarantees buyers that their tickets will be authentic, and that sellers will never be able to contact them directly. StubHub guarantees the seller that they will receive payment for fulfilled orders and that buyers will never be able to contact them directly ("Guarantee," n.d.). StubHub's guarantees have eliminated both the potential for illegitimate tickets and intimidation by scalpers—both of which held concern among lawmakers and promoters regarding the public's safety. Furthermore, once a formal contract is established with StubHub, the company will share transaction information with the athletic ticket office, giving the ticket office the ability to resolve any ticket issues (Wolf, 2010). The researcher believes those with no formal contracts place absolute to moderate importance on protecting fans from ticket fraud because they are unaware of the guarantees that online secondary ticket companies can provide.

Contracts with Online Secondary Ticket Companies Function as a Customer Service

There is overwhelming acceptance of the online secondary ticket market as an ethical way for customers to buy and sell tickets, with 90% of all survey respondents indicating the online secondary ticket market is an ethical way for customers to obtain tickets for a sold out game, and 95% indicating it is an ethical way for season ticket holders to resell unused tickets.

The researcher believes this data shows an acceptance among survey respondents regarding the online secondary ticket market as an ethical way for customers to buy and sell tickets. One reason for the acceptance may be the repeal of many state anti-scalping laws. For 30% of respondents, the elimination of these laws has opened the door to pursue contracts with online secondary ticket markets. Further, 66.6% indicated that anti-scalping legislation held weak to no importance as a reason why the athletic department did not have a formal contract (see Table 4).

The researcher believes a formal contract is also a way to service customers, in addition to just a chance to obtain sponsorship revenue or ticket fees from online secondary ticket companies. Contracts with online secondary ticket companies do provide sponsorship revenue (Biertempfel, 2006), but they also provides a safe and secure environment for customers to buy and sell tickets, thus alleviating the concern about ticket fraud. In addition, buying and reselling tickets through an online secondary ticket company is relatively simple. If a season ticket holder cannot attend a game at the last minute, and is unable to call the ticket office to return the ticket, he or she can still recoup some of the ticket price by posting it online. A buyer, who found out he or she can attend the event at the last minute, is able to buy the ticket at the listed price, and, depending on the online company, even print the ticket at home. Ticket office officials surveyed recognize this customer service need to make buying and reselling tickets possible. Of those 30% with a formal contract, just as many ticket office official indicated absolute to moderate importance on revenues gained from online secondary ticket contracts (83.3%), as they did providing customers a place to buy and resell tickets (see Table 3). In fact, even a higher percentage (91.6%) indicated absolute to moderate importance on providing season ticket holders a place to resell unused tickets through the online secondary ticket company.

Ticket office officials acknowledge that not all season ticket holders will be able to attend every game. They also acknowledge that not all fans of a team can afford to buy season tickets, although they may want to at least have the chance to purchase individual game tickets—even if it's through an online secondary ticket site. Therefore, by creating a formal contract with an online secondary ticket company, ticket office officials are ensuring they provide the best customer service possible, as well as try to reach as many fans as possible.

As Greg Shaheen, the NCAA senior vice president for basketball and business strategies, pointed out, many fans were already reselling Final Four tickets on the secondary ticket market, and the NCAA wanted to provide a safe, secure environment to do so through an official contract with RazorGator (Brown, 2008). An extension of customer service is to provide a platform sanctioned by the athletic department to allow fans to buy and resell tickets in an environment that takes ticket fraud out of the equation. With StubHub's Fan

Protect Guarantee, the company will work with the customer to ensure tickets are authentic, and provides a full refund if something goes wrong. Buyers are able to adjust their pricing based on the market, up until the time of sale, and are ensured full payment for all fulfilled ticket orders. Furthermore, tickets bought through StubHub can be downloaded and printed right at your home ("Guarantee," n.d.). If this is how customers are buying and selling tickets, athletic departments can cater to their needs by providing access to an online secondary ticket site through the official athletic department web page, which ensures the tickets they buy off the online secondary ticket market are valid. With added incentives such as sponsorship revenue and a percentage of ticket fees, creating a partnership with an online secondary ticket company makes sense from a business perspective. As Diaz (2007) pointed out, if consumer demand exists and technology provides the means to enable it, it is nearly impossible to reverse the trend.

Acceptance Does Not Translate into Practice

There is still hesitation when it comes to establishing a formal contract between college athletic departments and an online secondary ticket company. The majority of all survey respondents (70%) did not have a formal contract with an online secondary ticket company, and 55% of all survey respondents did not have a formal contract and did not believe their athletic department should pursue one. The researcher believes there may be a 'not-in-my-backyard' mentality regarding the online secondary ticket market. Of the respondents without a formal contract, 85.7% still indicated the online secondary ticket market was an ethical way to obtain tickets, and 92.9% indicated it was an ethical way to resell unused tickets. Regardless of the existence of a formal contract, ticket office officials accept the practice of buying and reselling tickets through the online platform.

However, there is disparity in opinions between those who do and do not have formal contracts when asked if a formal contract with an online secondary ticket company is an ethical source of revenue for athletic departments. All (100%) of ticket office officials who have a formal contract with the online secondary ticket market indicate such a contract is an ethical source of revenue for athletic departments. But only 59.3% of ticket office officials who do not have a formal contract hold the same opinion (see Table 6). This could indicate that, while it is ethical for customers to buy and resell tickets via the online secondary ticket market, ticket office officials who do not have a formal contract are divided over whether the athletic department should establish a formal contract to receive some of the profits and/or provide an online secondary ticket market platform for their customers.

In Chapter 2 it was discussed that even anti-scalping legislation did not completely prevent ticket scalping from occurring around the arena, or online. In fact, the futility of trying to stop scalping is one reason Criscuolo (1995) gives for why such laws have been repealed. It is safe to say the respondents in this survey accept that fans will use the online secondary ticket platform to buy and resell tickets, no matter if a formal contract exists between the athletic department and the online company. The fact that 59.3% of ticket office officials without a formal contract indicated it was not ethical to receive revenue from online secondary ticket companies could show there is resistance towards formal contracts with such companies. Not surprisingly, once anti-scalping legislation began to be repealed in many states, professional sports organizations began forming contracts with online secondary ticket companies as a way to receive revenue and provide a ticket exchange platform for fans. First, professional teams like the San Francisco Giants entered into formal contracts with online secondary ticket companies (Happel & Jennings, 2002). This trend was followed by the professional leagues like Major League Baseball forming contracts with online secondary ticket companies (Jacoby, 2007). But professional teams are always looking to fill the stands and generate as much revenue as possible. What about NCAA member institutions? The role of the NCAA and college athletic departments is to protect amateurism and provide scholarship opportunities. The reason 59.3% of ticket office officials without a formal contract indicated it was not ethical to receive revenue from online secondary ticket companies may be a reflection of the struggle between maintaining the ideals of amateur athletics and succeeding financially in college athletics.

Additionally, there is resistance towards formal contracts with an online secondary ticket company as an ethical source of revenue because college athletic departments always want to maintain a positive public image, and want to avoid being painted by media or watchdog groups as operating like a professional sports enterprise. In 2008, the NCAA received bad press due to a deal with the online secondary company Firstdibz.com, as discussed in Chapter 2. After receiving such negative publicity, the NCAA cut its ties with the company ("NCAA Dissociates," 2009). The NCAA also received negative publicity from the New York Public Interest Group for their current contract with the online secondary ticket company, RazorGator, also discussed in Chapter 2. While the NCAA maintains a firm stance against unregulated scalping, they also seek to capitalize on the success of the online secondary ticket market, sending a mixed message about their role as the defender of amateurism (Johnson, 2008). College athletic departments certainly do not want to be portrayed as acting in a profit-driven manner, nor portrayed as an institution that disregards the ideals of amateurism.

Consumer Demand Gives Way to Consumers' Demand

The researcher found no significant relationship between the number of football and men's basketball sold out games and the ticket office's status with the online secondary ticket market ($p>0.05$). For respondents with a formal contract, a under half (41.7%) sold out five to seven home football games in the 2009 season; only 8.3% sold out six or more home men's basketball games in the 2009-10 season (see Table 8). In a ticket economy, demand almost always exceeds supply (Benitah, 2005). According to the research by Criscuolo (1995), the secondary ticket market exists because people are willing to resell tickets to those fans that do not have them and are willing to pay the market clearing price of a ticket. This helps to ensure that fans who want to attend an event have the opportunity to do so (Criscuolo, 1995). But, based on this thesis' research, ticket offices-with or without a formal contract with an online secondary ticket company-seem to have plenty of supply on the primary market. This prompts the question: why form a partnership with an online secondary ticket company, if consumer demand is not high from a ticket sales standpoint?

The researcher believes the term "consumer demand," might not just mean consumer demand for the ticket. Certainly, it would make sense if the majority of ticket offices with formal contracts sold out five to seven football games and six or more men's basketball games. This could show that there is demand on the primary market-and potentially on the secondary market-warranting a formal contract with an online secondary ticket company where customers can buy and sell tickets based on the market-clearing price. Instead, "consumer demand" might mean the consumer demands efficiency and accessibility—which the online secondary ticket market provides. "Consumer demand" might mean consumers no longer want to pay the full season ticket cost to ensure a ticket to a highly-touted game, nor make large contributions to development offices to ensure a prime seat location. Additionally, customers may be more likely to buy season tickets if they know they can try to resell any unused tickets.

Consumers demand to attend an athletic event on their terms. They demand to acquire tickets on their time table; they demand to pay what they feel is reasonable for the location of the ticket; and they demand the chance to recoup their losses if they cannot attend a game. Consumer demand for tickets has transformed into consumers' demands for accessibility and efficiency of athletic tickets in the free-market. Some athletic departments-as professional teams and the NCAA did previously-recognize this trend, and adapt as fans have become more accepting of the online secondary ticket market.

Need for Revenue

Intercollegiate athletics at the country's most prominent colleges and universities has become a multi-billion dollar enterprise, with a handful of the most visible athletics programs spending $80 million annually on operations. This kind of money comes from donations, ticket revenue, royalties from championship events, licensing and sponsorship revenue and broadcast rights. Most observers of college sports believe that the majority of athletics departments generate large net sums of money. However, the vast majority of athletics programs do not make enough revenue to cover their expenses. In a study by the NCAA, of the then 119 FBS schools, 94% had a deficit for the 2007-08 school year, and averaged losses of $9.9 million (The Knight Commission, n.d.).

FBS schools sponsor football, men's basketball, and at least 15 other sports. There are also other costs: employees (coaches, administrators and sports medicine staff, to name a few) and an average of 500 student-athlete scholarships. The greatest challenge facing athletic departments is dealing with the rapid rise of expenses, which includes university tuition fees for student-athletes; employee salaries; and potentially capital project debt. At the same time, revenues are not keeping a similar pace. In 2009, the NCAA published a report that found median operating spending for athletics increased 43% between 2004 and 2008, but median revenue generated grew by only 33% over the same time period (The Knight Commission, n.d.). This is all occurring at a time when many Americans are unemployed or tightening budgets. Thus, they are not able to make large donations to athletic development offices and are not able to afford season ticket prices (Schmidt, 2008).

Athletic departments around the country face difficult financial decisions. When faced with rising operating costs, college athletic departments have two options: cut expenses (sports and/or employees), or find new revenue streams. As discussed in this thesis, one source of revenue is a formal contract with an online secondary ticket company, in which sponsorship fees can be gained (Biertempfel, 2006). For 30% of respondents in this thesis' research, a formal contract with an online secondary ticket company fit the needs of the athletic department, and what the athletic department felt was best for its customers. This statement is reinforced by the fact that 100% of all ticket office officials who had a formal contract indicated it was an ethical source of revenue for athletic departments. Every athletic department around the county will need to ask important questions before entering into a formal contract with an online secondary ticket company, to ensure it is the best thing to do financially and philosophically. Is this what our fans want and need? Will a formal contract devalue a season ticket's value? Will a formal contract provide much-needed revenue to keep up with rising operations? The answers to these questions will vary from institution to institution, and opinions need to be weighed carefully before making a decision.

Study Improvements

Although this study's response rate was 32.8%, the quality of the sample is an issue. Due to IRB regulations, each respondent's survey answers were kept anonymous, thus not allowing the researcher to track each ticket office official's answers. If this had been a possibility, it could shed some light on whether officials from certain conferences responded in a similar manner; whether officials from schools with well-known men's basketball or football programs responded in a similar manner; or whether officials from certain parts of the country responded in a similar manner. Without this information, the researcher cannot know whether the sample is representative of the population.

Further Research

The researcher believes a formal contract with an online secondary ticket company is not just another revenue stream—it also provides a service to customers by making the buying and selling of tickets accessible and efficient. However, this prompts a need for more research. What are the opinions and relationships between the online secondary ticket market and college athletic fans? Although ticket office officials believe the online secondary ticket market is an ethical way to buy and sell tickets, and do not place a high importance on protecting customers from high prices found through online secondary ticket companies, the customers are the ones spending the money to attend the athletic event, navigating online secondary ticket sites, and paying any fees or percentages associated with the buying and selling of ticket on the online secondary ticket market. To really measure how the existence of formal contracts with online secondary ticket markets affects consumer goodwill, further research is needed to gain the opinions of those who support college athletic departments through the purchase of athletic tickets.

Further research is also needed to obtain information from other college athletic officials. The survey in this study was sent to the highest-ranking ticket office official at each FBS member school. However, the titles of these officials varied. The titles ranged from ticket office manager to associate athletic director for corporate sales and ticket operations (see Table 1). The role and perspective of an athletic department official whose job is to market the athletic department is different than that of a student-athlete development official, or a coach, or an athletic director. An athletic director may have a perspective that is more concerned with the big picture implications of a contract with an online secondary ticket company, and how that could change the image of the athletic department. A student-athlete development official might be concerned over what message is conveyed to student-athletes if the athletic department enters a formal ticket reselling contract. While is against NCAA rules for the student-athlete to sell tickets on the online secondary ticket market, it is acceptable for the athletic department to condone the practice and receive revenue from a formal contract. Ticket office officials represent just parts of athletic departments.

Therefore, more research is needed to understand the complete opinions from other officials regarding the relationship between college athletics and the online secondary ticket market.

From a public policy perspective, one of the most common arguments in favor of anti-scalping legislation was the protection of customers, and prevention of price-gouging by ticket scalpers. With the deregulation of anti-ticket legislation there still exists the potential for high ticket prices resold through the online platform. At this point, with so many tickets being bought and resold through the online secondary ticket market, and formal contracts being established between college athletic departments and online secondary ticket companies, more research needs to be done on the implications this has on the distribution of tickets. Do these factors lead to an unequal and unfair allocation of tickets? Or should the rules of supply and demand determine the ticket price, as those rules determine the price of every other good bought and sold in our country?

There is the perception that all tickets resold on the secondary ticket market are priced exorbitantly over the face-value of the ticket, therefore, only affordable to those with more money. This perception exists for a reason, as one need only go to www.stubhub.com and find tickets on the secondary market for sale for the UNC versus Duke game at the Dean E. Smith Center in Chapel Hill for prices ranging from $419 to $3,500. These are well above the face-value of the ticket: $45 to $65. But, UNC men's basketball tickets for games at home also range from $4 to $555 (the home-opener versus Lipscomb University), and $11 to $555 (home game versus College of William & Mary). More research is needed to determine the effects of the elimination of anti-scalping legislation and trend towards reselling tickets online have on ticket prices.

The online secondary ticket market is still a relatively new way of conducting business, as are contracts between companies and college athletic departments. In the professional sports realm, once states began repealing anti-scalping legislation, legal cases began to be between fans and teams, instead of between fans and the state (Dreyer & Schwartz, 2007). Although the researcher was unable to find any legal cases involving college athletics, one cannot rule out that such legal cases may occur. If there are legal cases, then research will be needed to evaluate the impact of the court's decision has on the relationship between college athletics and the online secondary ticket market. Also, there may be future litigation involving professional athletic organizations and the online secondary ticket market. Court decisions made in such cases could impact college athletic departments and set a precedent that will impact their relationship with the online secondary ticket market. Therefore, there is a need for research on legal trends involving the online secondary ticket market and professional sports organizations.

Closing Thoughts

The relationship between college athletics and the online secondary ticket market is a significant one. A formal contract with the online secondary ticket market can provide an opportunity for college athletic departments to generate revenue, and provide a ticket service for their fans and customers. The decision whether to formally collaborate with an online secondary ticket company is not one to be entered into lightly. Rather, each athletic department needs to assess their financial needs, and the needs of athletic ticket consumers.

Athletic departments' needs for new revenue streams are not going to dissipate, and a close examination of their budget is needed to determine if a formal contract with an online secondary ticket company makes financial sense. This means looking at the cost of implementing the technology; training ticket office staff; and taking the time to educate fans on how to buy and resell tickets through the online platform. Another important cost is how the formal contract with an online secondary ticket company is perceived among fans, local media and public interest groups. Although this is more of a cost in terms of time and effort spent shaping the athletic department's message regarding a formal contract, it still has great importance. Athletic departments need to maintain goodwill towards customers, and adapt to changes in technology, but also be sure they are not portrayed as professional sports organizations. If implementation costs are minimal and the athletic department's image can be efficiently managed, then the revenues generated will most likely be worth the costs incurred. If implementation costs—including the public image of the athletic department—are deemed too risky, then the athletic department may need to re-examine other methods of reaching out to consumers and developing a system to offer fans who are trying to obtain tickets to a sold out event, or are trying to redistribute unused tickets.

Ticket office officials in this study overwhelmingly indicated that the online secondary ticket market was an ethical way for consumers to obtain tickets for a sold out game. They also overwhelmingly indicated it was ethical for season ticket holders to resell unused tickets through the online secondary ticket market. Even though only 30% of respondents have a formal contract with an online secondary ticket market, this percentage is more than would have existed about ten years ago, which shows a trend towards formal contracts. The job of each athletic department is to decide if a formal contract is the best thing to do from a financial and customer service standpoint. It also needs to take a hard look at how technology continually impacts the landscape of college athletics, and how the athletic department can adapt to these changes while still keeping in line with its mission.

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